

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BRENDA SMITH, BROAD REACH
CAPITAL, LP, BROAD REACH
PARTNERS, LLC, and BRISTOL
ADVISORS, LLC,

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

Return Date: Feb. 7, 2022

ORDER ESTABLISHING CLAIMS PROCEDURE AND SETTING
CLAIMS BAR DATE

THIS MATTER having come before this Court upon Motion of the Receiver, Kevin Dooley Kent, for Order Establishing Claims Procedure and Setting Forth Claims Bar Date;

It is on this 22nd day of February, 2022,

ORDERED that the Receiver's Motion at ecf no. 160 is **GRANTED**; and it is **FURTHER ORDERED** as follows:

1. All persons and entities wishing to submit a claim to the Receivership must do so in the format specified herein within sixty (60) days from the entry of this Order ("The Claims Bar Date").

2. All claims or demands against the Receivership that are not submitted to the Receiver on or before The Claims Bar Date shall be barred from recovery.

3. The Receiver is authorized and directed to distribute a Notice of Claims Procedure and Claims Bar Date to known or unknown persons and entities who may have a claim against the Receivership Entities by (1) direct mailing; (2) posting on his website, <http://www.broadreachreceiver.com>; and (3) newspaper publication, as provided herein.

INVESTOR CREDITOR CLAIMS PROCEDURE

4. The Receiver has identified a number of investors whose contributions exceeded their withdrawals resulting in a net loss, and that these investors may have claims against the receivership in the amount of the net loss they incurred in connection with their investment(s) (the “Investor Creditors”).

5. The Receiver is directed to mail to each known Investor Creditor an Investor Creditor Notice Of Claims Procedure And Claims Bar Date (“Investor Notice”) in the form attached as Exhibit “A” to the Receiver’s Motion within seven (7) days of the entry of this Order.

6. The Investor Notice shall include a schedule setting forth the Receiver’s preliminary determination of the total net loss of each Investor Creditor in the form attached as Exhibit “B” to the Receiver’s Motion (“Transaction Schedule”).

7. Investor Creditors must complete the Transaction Schedule as instructed and return a copy of the same to the Receiver on or before the Claims Bar Date. Any investor failing to respond to the Receiver's Investor Notice by completing and returning the enclosed Transaction Schedule shall be deemed to have waived any right to dispute any Receiver determinations based on that schedule, including that Investor's transactional activity and final net loss.

8. Any Investor Creditors that do not receive an Investor Notice because they are unknown to the Receiver, may submit a claim by filling out and submitting to the Receiver the investor questionnaire currently available on the Receiver's website at www.broadreachreceiver.com, or by requesting a questionnaire from the Receiver, provided such Investor Creditor makes his/her submission prior to the expiration of the Claims Bar Date. The Receiver shall review and respond to such submissions in conformance with the procedures authorized by this Order. Unknown investors that fail to submit a questionnaire prior to the Claims Bar Date shall be barred from asserting a claim against the Receivership and from participating in any future Receivership distributions.

9. The Receiver is directed to provide notification to all responding Investor Creditors within thirty (30) days of the expiration of the Claims Bar Date providing either final confirmation or a notice of rejection of the Investor

Creditor's claim as reflected in the Transaction Schedules and/or any supporting documentation provided.

10. Any Investor Creditors receiving notification that his/her claim has been rejected shall have fourteen (14) days to further supplement his/her response to the Receiver.

11. Upon the expiration of fourteen (14) days, if there shall remain any dispute regarding an Investor Creditor's claim, the Receiver is directed to file with this Court a regularly noticed motion seeking final determination of the claim. The Receiver may in his discretion submit all such disputed claims in one omnibus filing.

TRADE CREDITOR CLAIMS PROCEDURE

12. The Receiver is directed to mail to each known creditor other than an Investor Creditor ("Trade Creditor") a Trade Creditor Notice Of Claims Procedure And Claims Bar Date ("Trade Creditor Notice") in the form attached as Exhibit "D" to the Receiver's Motion within seven (7) days of the entry of this Order.

13. The Trade Creditor Notice shall include a Trade Creditor Claim Form in the form attached as Exhibit "E" to the Receiver's Motion.

14. Trade Creditors must complete the Claim Form as instructed and return same to the Receiver on or before the Claims Bar Date. Failure to do so will result in a waiver of any and all claims against the Receivership Estate or its assets.

15. Any Trade Creditors that do not receive a Claim Form because they are unknown to the Receiver, may submit a claim by filling out and submitting to the Receiver the creditor claim form currently available on the Receiver's website at www.broadreachreceiver.com, provided such Trade Creditors do so prior to the expiration of the Claims Bar Date. The Receiver shall review and respond to such submissions in conformance with the procedures authorized by this Order. Unknown Trade Creditors that fail to submit a creditor claim form prior to the Claims Bar Date shall be barred from asserting a claim against the Receivership and from participating in any future Receivership distributions.

16. The Receiver is directed to provide notification to all responding Trade Creditors within thirty (30) days of the expiration of the Claims Bar Date providing either final confirmation or a notice of rejection of the Trade Creditor's claim.

17. Creditor's whose claims are rejected by the Receiver shall have fourteen (14) days following the Receiver's Response to supplement the claim.

18. Upon the expiration of fourteen (14) days, if there shall remain any dispute regarding a Trade Creditor's claim, the Receiver is directed to file with this Court a regularly noticed motion seeking final determination of the claim. The Receiver may in his discretion submit all such disputed claims in one omnibus filing.

ADDITIONAL PUBLICATION REQUIREMENTS

19. Notice of this Order shall be posted on the Receiver's website:

<http://www.broadreachreceiver.com> within ten (10) days of entry of this Order.

20. The Receiver is further directed to publish notice of this Order with a description of the Claims Procedure in the form attached as Exhibit "F" to the Receiver's Motion in the following newspapers within ten (10) days of entry of this Order:

- a. The Philadelphia Inquirer in one business day edition and on the Inquirer's website (Philadelphia, Pennsylvania);
- b. The Denver Post (Denver, Colorado);
- c. The Advocate News group (Baton Rouge, New Orleans);
- d. New York Post (New York, New York);
- e. The Star Ledger (Newark, New Jersey);
- f. Los Angeles Times (Los Angeles, California).
- g. The New York Times or The Wall Street Journal

BY THE COURT:



HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE