

**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)

Motion Day: July 5, 2022

**NOTICE OF MOTION OF RECEIVER, KEVIN DOOLEY KENT, FOR
APPROVAL OF SEVENTH INTERIM FEE APPLICATION FOR THE
PERIOD JANUARY 1, 2022 THROUGH MARCH 31, 2022**

PLEASE TAKE NOTICE that the undersigned, on behalf of the Receiver, Kevin Dooley Kent, will move before the Honorable Madeline Cox Arleo, U.S.D.J., United States District Court for the District of New Jersey, Martin Luther King Jr. Federal Building and U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101, on July 5, 2022, or as soon thereafter as the Court permits, at a date and time to be determined by the Court, for Approval of the Receiver's Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022.

PLEASE TAKE FURTHER NOTICE THAT, in support of this Motion, the undersigned will rely upon the accompanying Interim Fee Application with exhibits attached thereto, which incorporates and is in lieu of a more formal brief, and which is incorporated herein by reference.

PLEASE TAKE FURTHER NOTICE that the undersigned requests that the proposed form of Order submitted herewith be entered by the Court.

Respectfully submitted,

Dated: June 2, 2022

s/ Robin S. Weiss
Robin S. Weiss, Esquire
Andrew S. Gallinaro, Esquire.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: 215-864-9600
Fax: 215-864-9620
rweiss@conradobrien.com
agallinaro@conradobrien.com
*Attorneys for Receiver, Kevin Dooley
Kent*

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**RECEIVER, KEVIN DOOLEY KENT'S SEVENTH INTERIM FEE
APPLICATION, FOR THE PERIOD JANUARY 1, 2022
THROUGH MARCH 31, 2022**

Robin S. Weiss, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-9600
Facsimile: (215) 864-9620
E-mail: rweiss@conradobrien.com

Andrew S. Gallinaro, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-8083
Facsimile: (215) 864-7403
E-mail: agallinaro@conradobrien.com

Dated: 6/2/2022

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Pursuant to the Court's Order Appointing Receiver dated June 29, 2020, Kevin Dooley Kent, Receiver, hereby submits this Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022, and moves for approval of payment of fees and expenses invoiced by the Receiver, counsel for the Receiver, Conrad O'Brien PC, and the Court-appointed accountant to the Receiver, Alvarez & Marsal Disputes and Investigations, LLC ("the Application").

The balance in the Receivership Account as of the close of the quarter was \$6,870,777.21. The Receiver and his Counsel have continued to focus their efforts on locating, marshaling, and preserving Receivership Assets; selling and liquidating Receivership Assets; continuing document review and investigation; and investigating and pursuing claims, either informally or through the initiation of litigation, against third parties. The Receiver's Accountants have continued to focus on providing forensic analysis and support to the Receiver in connection with the identification, negotiation and pursuit of potential claims, performing tax-related services for the Receivership, and managing the document repository to allow for efficient review and organization of substantial amounts of data from various sources. The Accountants are supporting the Receiver in his negotiations with the IRS regarding Receivership tax liabilities for the years prior to the Receiver's appointment.

Going forward, in the interest of brevity, the Receiver will focus his interim fee applications on the applicable reporting period rather than developments in the

case to date. The Receiver incorporates by reference his prior interim fee applications with respect to events that took place in prior quarters.

I. BACKGROUND

This action involves an investment advisory fraud in connection with which Defendants, Brenda A. Smith (“Brenda Smith” or “Smith”), Broad Reach Capital, LP, Broad Reach Partners, LLC and Bristol Advisors, LLC, are alleged to have raised in excess of \$100 million from at least forty (40) investors, based upon false representations regarding trading strategies to be implemented when, in reality, the vast majority of these investments were funneled into unrelated companies, used to pay back other investors, or utilized for personal use. (ECF No. 1). It is estimated that investors are still owed approximately \$60 million in principal. Brenda Smith pled guilty to committing securities fraud in connection with Broad Reach Capital on September 9, 2021, in *USA v. Smith*, No. 2:20-cr-00475-MCA (D.N.J.).

On June 29, 2020, this Court appointed Mr. Kent as Receiver to assume control of, marshal, pursue and preserve assets of Defendant, Brenda Smith, and the Receivership Parties¹ (hereinafter “Receivership Assets” or “Receivership

¹ The Receivership Parties include Broad Reach Capital, LP, Broad Reach Partners, LLC, Bristol Advisors, LLC, BA Smith & Associates LLC, Bristol Advisors LP, CV Brokerage, Inc., Clearview Distribution Services LLC, CV International Investments Limited, CV International Investments PLC, CV Investments LLC, CV Lending LLC, CV Minerals LLC, BD of Louisiana, LLC, TA1, LLC, FFCC Ventures LLC, Prico Market LLC, GovAdv Funding LLC, Elm Street Investments, LLC, Investment Consulting LLC, and Tempo Resources LLC

Estate”). Receivership Order, Whereas ¶ 3; ¶¶ 1–3, 5 (ECF No. 22). The Receivership Order authorizes the Receiver to retain the law firm of Conrad O’Brien PC (“Conrad O’Brien”, “Law Firm” or “Counsel”) and Alvarez & Marsal Disputes and Investigations, LLC (“Alvarez” or “Accountant”) as his counsel and accountant, respectively (collectively “Retained Personnel”). *Id.*, ¶ 71. The Receivership Order further provides that, subject to the Court’s approval, the Receiver and his Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estate. *Id.*, ¶ 72.

The Court-approved fee schedules, which provide substantial discounts from the standard rates of the Law Firm and the Accountant, and which hourly fee rates the Court has already found to be reasonable, are as follows:

<u>Receiver</u>	
Name	Rate
Kevin Dooley Kent	\$510.00
<u>The Law Firm</u>	
Name/Position	Rate
Andrew Gallinaro, Partner	\$365.00
Associate	\$240.00 - \$330.00
Paraprofessional	\$165.00
<u>The Accountant</u>	
Name/Position	Rate
Michael Shanahan, Managing Director	\$550.00
Managing Director/Senior Director	\$550.00 - \$725.00
Directors/Managers	\$425.00 - \$525.00
Sr. Associates/Associates	\$275.00 - \$375.00

Id., ¶¶ 79-83. For the Law Firm, this represents an average discount of approximately twenty-five percent (25%) for the active billers on this matter. Additionally, the Receiver, Law Firm and Accountant have not sought increases in their hourly rates; thus, the discounts have grown more significant.

Pursuant to the Receivership Order and the U.S. Securities and Exchange Commission’s Billing Instructions for Receivers (“Billing Instructions”), the Receiver, Counsel and the Accountant are to be paid their reasonable fees and expenses out of the Receivership Estate. Upon Order of this Court approving such Application, the Receiver may pay up to eighty percent (80%) of the compensation/professional fees and expenses of the applicants.² *Id.*, ¶¶ 75, 81, 84.

The Receiver previously submitted this Application to the SEC, in accordance with the Billing Instructions and the Receivership Order. The SEC has advised the Receiver that it does not have any objection to the Application.

This is the seventh interim application for approval of fees and expenses of the Receiver and his Retained Professionals. A summary of the prior interim fee applications is as follows:

² At the close of the Receivership, the Receiver will file a final fee application for reasonable compensation and expense reimbursement, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the Receivership. Although Interim Fee Applications are subject to a twenty percent (20%) holdback, “[t]he total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership.” *Id.*, ¶¶ 74-75.

	Total Fees	Fees Requested ³	Total Expenses	Expenses Requested ⁴	Status
First Interim Fee Application for the Period June 29, 2020 through September 30, 2020 (ECF No. 43), Filed November 13, 2020					
Law Firm	\$171,760.80	\$137,408.64	\$12,434.25	\$9,947.40	Approved 4/5/21 (ECF No. 70)
Accountant	\$43,577.50	\$34,862.00	\$0.00	\$0.00	
Second Interim Fee Application for the Period October 1, 2020 through December 31, 2020 (ECF No. 50), Filed February 12, 2021					
Law Firm	\$101,076.50	\$80,861.20	\$441.58	\$353.26	Approved 7/6/21 (ECF No. 103)
Accountant	\$155,977.50	\$124,782.00	\$170.00	\$136.00	
Third Interim Fee Application for the Period January 1, 2021 through March 31, 2021 (ECF No. 88), Filed May 28, 2021					
Law Firm	\$210,921.00	\$168,736.80	\$510.87	\$408.70	Approved 7/6/21 (ECF No. 104)
Accountant	\$454,867.50	\$363,894.00	\$3,280.70	\$2,624.56	
Fourth Interim Fee Application for the Period April 1, 2021 through June 30, 2021 (ECF No. 112), Filed August 16, 2021					
Law Firm	\$230,164.50	\$184,131.60	\$7,431.85	\$5,945.48	Approved 9/10/21 (ECF No. 121)
Accountant	\$396,202.50	\$316,962.00	\$4,574.34	\$3,659.47	
Fifth Interim Fee Application for the Period July 1, 2021 through September 30, 2021 (ECF No. 137), Filed November 24, 2021					
Law Firm	\$170,406.50	\$136,325.20	\$551.38	\$441.10	Approved 2/22/22 (ECF No. 166)
Accountant	\$184,725.00	\$147,780.00	\$5,126.90	\$4,101.52	
Sixth Interim Fee Application for the Period October 1, 2021 through December 31, 2021 (ECF No. 174), Filed March 17, 2022					
Law Firm	\$174,076.00	\$139,260.80	\$716.30	\$573.04	Approved 5/5/22 (ECF No. 193)
Accountant	\$239,300.00	\$191,440.00	\$3,236.60	\$2,589.28	

³ This represents eighty percent (80%) of the total fees.

⁴ This represents eighty percent (80%) of the total expenses.

II. CASE STATUS

A. Cash on Hand, Administrative Expenses, and Unencumbered Funds

As of March 31, 2022, total cash on hand in the centralized Receivership Account (“Receivership Account”) was \$6,870,777.21. Additional funds have since been received as a result of, *inter alia*, various settlement agreements recently approved by the Court, and will be reported in the next interim fee application. The Receiver is continuing to negotiate with several other individuals and/or entities and is hopeful that additional settlement funds will soon be obtained.

The Receiver anticipates that his ongoing pursuit of litigation will result in financial benefit for the Receivership Estate,⁵ and remains hopeful that the sale of real property owned by BD of Louisiana will generate additional proceeds for the Receivership Estate. Additional assets include nearly \$200,000.00 in funds from a frozen account which was the subject of a motion approved by the Court on May 5th, 2022,⁶ which funds were transferred after the close of the quarter, as well as

⁵ Collectively, these claims involve attempts to recover several millions of dollars; however, this does not include the potential for offsetting counter-claims that may be at issue, potential collectability risks, or uncertainties inherent in any litigation concerning the ultimate disposition of the claims.

⁶ The Receiver filed a Motion to Determine Ownership of this account on March 22, 2022 (ECF No. 180).

\$444,213.08 held in two Industrial and Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.⁷

Administrative expenses paid during this quarter total \$303,508.63 and include: (a) \$288,647.82 in professional fees and expense reimbursement to the Receiver, his Counsel and Accountant pursuant to this Court’s February 22, 2022 Order approving the Receiver’s Fifth Interim Fee Application (ECF No. 168); (b) \$441.04 in professional fees paid to Special Counsel, which was retained to perform document review in connection with a subpoena to produce documents served upon the Receiver up until the entry of the Order Approving the Creation of Document Repository and Protective Order on September 2, 2021 (Dkt. No. 118); (c) \$1,796.74 in 2021 real property tax payments paid to the Tangipahoa Parish Sheriff’s Office for Louisiana property owned by Smith and BD of Louisiana; (d) \$355.00 in publication fees in connection with the publishing of notice of the sale of Brenda Smith’s property;⁸ (e) \$12,210.00 in publication fees paid to the New York Times for nationwide publication of Notice of Claims Procedure and Claims Bar Date;⁹ and (f) \$58.03 to Bank of America for account analysis fees.

⁷ These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30).

⁸ This notice was published pursuant to this Court’s December 9, 2021 Order Granting the Receiver’s Motion Regarding the Confirmation and Sale of Receivership Real Property in Louisiana Owned by Brenda Smith (ECF No. 145).

⁹ This notice was published pursuant to this Court’s February 22, 2022 Order Establishing Claims Procedure and Setting Claims Bar Date (ECF No. 168). It is

For further detail, the Receiver has attached the Standardized Fund Accounting Report (“SFAR”) for this quarter as Exhibit “A” to this Application.

B. Administration of Case to Date

1. Litigation-Related Activities

a. Motion Practice

With respect to the sale of real property owned by Smith in Louisiana, after publishing notice of the proposed sale, the Receiver filed a Notice of Submission of Timely and Qualifying Competing Bids on January 3, 2022. (ECF No. 154). Following a January 10, 2022 Hearing, the Court entered an Order confirming the sale of the property for \$351,000.00 on January 12, 2022 (ECF No. 158).

On January 14, 2022, the Receiver filed a Motion for Order Setting Claims Bar Date, Establishing Claims Procedure and Approving Notification Process. (ECF No. 160). That Motion was granted on February 22, 2022. (ECF No. 168).

The Receiver filed Motions to Approve Settlements Resolving Ownership of the Rybicki Capital Partners, LLC Account (ECF No. 169) and Resolving the Receiver’s Claims Against M.C. and M.S.C. (ECF No. 170)¹⁰ on February 24, 2022. On March 17, 2022, the Receiver filed a Motion to Approve a Settlement

anticipated that additional publication fees will be reported in the Receiver’s next interim fee application.

¹⁰ The Exhibits to this Motion were filed under seal. (ECF No. 71). The Receiver also filed a Motion to Seal the Exhibits on February 24, 2022. (ECF No. 71). The Motion to Seal was granted on February 25, 2022. (ECF No. 173).

Resolving the Receiver's Claims Against Sanville & Company.¹¹ (ECF No. 176).

On April 15, 2022, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's Claims Against L.H.¹² (ECF No. 181). These motions were all granted on May 5, 2022. (ECF Nos. 188, 189, 190 and 191).

On March 22, 2022, the Receiver filed a Motion to Determine Ownership of the frozen Awootton Consulting, LLC Account. (ECF No. 180). William McCormack filed a response on April 19, 2022, noting that he has no objection to the assets of the Awootton Consulting, LLC Account being considered part of the Receivership Estate. (ECF No. 185). The motion was granted on May 5, 2022. (ECF No. 192).

b. Lawsuits Filed on Behalf of the Receivership Estate

The Receiver's First (ECF No. 49), Second (ECF No. 98) and Third (No. 147)¹³ Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate were granted on August 31, 2021 (ECF No. 117), January 27, 2022 (ECF No. 161) and February 22, 2022 (ECF No. 167), respectively.

¹¹ The Exhibits to this Motion were filed under seal. (ECF No. 177). The Receiver also filed a Motion to Seal the Exhibits on March 17, 2022. (ECF No. 178). The Motion to Seal was granted on March 18, 2022. (ECF No. 179).

¹² The Exhibits to the Motion were filed under seal. (ECF No. 182). The Receiver filed a Motion to Seal the Exhibits on April 19, 2022. (ECF No. 184). The Motion to Seal was granted on April 20, 2022. (ECF No. 186).

¹³ The Receiver filed a supplemental exhibit to the Third Motion to Initiate Litigation on February 22, 2022 (ECF No. 164) before the Motion was approved.

The Receiver's eleven (11) lawsuits and their current status are as follows:

- 1) ***Kevin D. Kent, in his capacity as Receiver v. Emperor Global Enterprises LLP, et al., No. 2:21-cv-13099 (D.N.J.)***: The Receiver filed the Complaint on June 29, 2021. The case is currently subject to a temporary litigation stay. A telephone conference took place on April 19, 2022, and a status conference is scheduled for May 20, 2022.
- 2) ***Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center, et al., No. 2:21-cv-13104 (D.N.J.)***: The Receiver filed the Complaint on June 29, 2021. The parties are currently proceeding with discovery. A telephone status conference took place on April 27, 2022.
- 3) ***Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al., No. 2:21-cv-13105 (D.N.J.)***: The Receiver filed the Complaint on June 29, 2021. Defendants filed an Answer on March 25, 2022. Defendants filed an Amended Answer with Counterclaims on April 15, 2022. The Receiver filed a Motion to Dismiss Counterclaims on May 6, 2022. A scheduling conference took place on May 9, 2022, and the parties are proceeding with discovery
- 4) ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, No. 2:21-cv-18396 (D.N.J.)***: The Receiver filed the Complaint on October 11, 2021. The parties are currently proceeding with discovery.
- 5) ***Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al., No. 2:21-cv-20691 (D.N.J.)***: The Receiver filed a Complaint on December 23, 2021. Service has been effectuated and/or waived. Renato Iregui filed an Answer on April 29, 2022. (ECF No. 12). The Receiver filed an Amended Complaint on May 20, 2022. (ECF No. 14).
- 6) ***Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al., No. 2:21-cv-20754 (D.N.J.)***: The Receiver submitted the Complaint for filing on December 23, 2021. Defendants filed Motions to Transfer Venue (ECF No. 26) and to Dismiss (ECF No. 29) on March 15, 2022. The Court administratively terminated the Motion to

Dismiss pending resolution of the Motion to Transfer. (ECF No. 34). The Receiver filed a Response to the Motion to Transfer on April 4, 2022. (ECF No. 35). The Defendants filed a Reply on April 11, 2022. (ECF No. 37).

- 7) ***Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al., No. 2:22-cv-00388 (D.N.J.)***: The Receiver filed the Complaint on January 26, 2022. All defendants have been served. Jordan Denise filed an Answer on May 24, 2022. (ECF No. 8).
- 8) ***Surefire Dividend Capture, LP and Kevin Dooley Kent, Esq., as Receiver v. The Nottingham Company, et al., No. 19-CV-04088-BMS (E.D. Pa.)***: The Receiver filed a Motion for Leave to File a Complaint in Intervention and to Lift Stay on February 10, 2022. (ECF No. 131). After an opposition was filed, the Receiver filed a Reply in Support of the Motion on March 3, 2022. (ECF No. 137). The Receiver's Motion was granted on April 11, 2022, with the stay to be lifted on or about June 10, 2022. (ECF No. 139).
- 9) ***Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al., No. 2:22-cv-01195 (D.N.J.)***: The Receiver filed the Complaint on March 4, 2022. All defendants have waived formal service.
- 10) ***Kevin Dooley Kent, in his capacity as Receiver v. Jeffrey Bydalek, et al., No 2:22-cv-01811 (D.N.J.)***: The Receiver filed the Complaint on March 31, 2022.
- 11) ***Kevin Dooley Kent, in his capacity as Receiver v. Larry Hooper, et al., No 2:22-cv-01876 (D.N.J.)***: The Receiver filed the Complaint on April 1, 2022. All defendants have waived formal service.

2. Storage & Sale of Belongings and Data

Stephenson's Auction continues to sell Smith's personal property on a rolling basis. During this quarter, this resulted in proceeds of \$3,849.60.¹⁴ The

¹⁴ To date, the Receivership Estate has received \$11,811.20 in total profits through (15) auctions, after payment of storage fees and commissions.

Receiver continues to hold rugs, professional equipment, and non-marketable property of Smith's, as well as the original books and records of the Receivership Parties retrieved from their offices in Conshohocken.

3. Louisiana Properties

The Receiver sold real property owned by Brenda Smith ("Smith Property") for \$351,000.00 on January 27, 2022, pursuant to the Court's approval (ECF No. 158). After payment of the realtor's commission and closing fees, the Receivership Estate received a net of \$328,917.41 from the sale of the Smith Property.

A buyer backed out of the last tentative sale of the property owned by BD of Louisiana ("BD of Louisiana Property"). The BD of Louisiana Property is currently listed for \$599,000.00.

4. Private Investments and Ownership Interests

The Receiver is attempting to resolve and/or liquidate Smith's interest in Bluwater Holdings Corp. through her entity Rocmen Holdings, LLC, as well as a potential interest in a gold mine as a result of payments made to Calais Management Corporation. If these interests cannot be liquidated to the Receiver's satisfaction, the Receiver will seek to initiate litigation against the entities involved in order to protect the interests of the Receivership Estate.

The Receiver continues to receive distributions in connection with Smith's \$100,000.00 investment in OTAF (Holgate) LLC. Through the close of the seventh

quarter, distributions totaled \$127,477.52. The Receiver received another distribution on April 5, 2022, in the amount of \$19,000.00. It is anticipated that additional distributions will be made on this investment.

5. Investigation, Development, Pursuit and Settlement of Claims

The Receiver and his Counsel, with the assistance of the Accountants, continue to research, investigate, analyze and develop potential claims. Nine (9) pre-litigation settlements have been reached so far, valued at in excess of \$1.2 million. Several of these settlements are subject of currently pending motions for approval. (ECF Nos. 169, 170, 176 and 181).¹⁵ The Receiver has filed a total of eleven (11) lawsuits on behalf of the Receivership Estate so far, and has issued demands and/or continues to negotiate with several others.

6. Fidelity Bond Claim

Negotiations are continuing on CV Brokerage's fidelity bond claim. The Receiver's Counsel has had numerous communications with the insurer and its Counsel during this quarter.

7. Analysis and Resolution of Frozen Contested Accounts

On February 24, 2022, the Receiver filed a Motion to Approve a Settlement Resolving Ownership of Rybicki Capital Partners LLC PNC Account (ECF No.

¹⁵ One net winner investor voluntarily returned the funds demanded by the Receiver without requiring a release.

169). On March 22, 2022, the Receiver filed a Motion to Determine Ownership of the frozen Awootton Consulting, LLC Account. (ECF No. 180). Both motions were granted on May 5, 2022. (ECF Nos. 190, 192).

8. Financial Account Reconstruction and Accounting Support

The Receiver's Accountants at Alvarez and Marsal continue to support the Receiver's efforts. The Accountants' financial account reconstruction allowed them to make determinations regarding investor capital account activity, and they prepared supporting documentation distributed to investors in connection with the claims process. They will continue to support the Receiver throughout that process, particularly to the extent any investor or creditor claims are the subject of disputes.

The Accountants have continued to support the Receivers' demands issued to, and negotiations with, third-party recipients of investor funds, and their work has allowed the Receiver to initiate litigation against various individuals and entities on behalf of the Receivership Estate. The Accountants remain available to the Receiver, at his request, to provide assistance with specific issues that may arise in connection with certain claims and/or lawsuits the Receiver is pursuing.

9. Receivership Taxes

Alvarez and Marsal continues to provide tax-related services to the Receivership Estate. They continue to assist the Receiver in discussions with the

IRS about negating or minimizing tax liabilities, and will be preparing a plan for the ultimate dissolution of most, if not all, of the Receivership Parties.

The Receivership Parties did not file tax returns for at least the two years preceding the Receiver's appointment. The IRS is claiming that in excess of \$1.3 million is owed in connection with unfiled federal returns. It is the Receiver's preliminary position that historical tax returns need not and should not be filed for each individual entity in Receivership.¹⁶ The Receiver and his Accountants further dispute the amounts claimed to be owed.

10. Anticipated Closure of Case

Given the ongoing nature of his investigation, the collectible assets still outstanding, the pursuit of litigation on behalf of the Estate, the claims asserted by the Internal Revenue Service, the pendency of the Creditor Claims Proceedings and need for those to conclude before proposing a distribution methodology or specific distributions, the Receiver does not have a projected date by which he expects the Receivership to close.

C. Summary of Creditor Claims Proceedings

The Receiver filed a Motion for Order Setting Claims Bar Date, Establishing Claims Procedure and Approving Notification Process on January 14, 2022. (ECF

¹⁶ The filing of historical tax returns for pre-appointment time periods would force the Receivership to incur substantial additional professional fees, which the Receiver hopes to avoid.

No. 160). The Motion was granted on February 22, 2022. (ECF No. 168). The Receiver provided notice to investors and known creditors in accordance with the terms of that Order. The claims bar date passed on April 25, 2022. The Receiver sent notices to all investors and trade creditors whose claims are being rejected, in whole or in part, on May 25, 2022, giving them two (2) weeks to supplement their claims.

D. Receivership Assets

The Receiver believes that he has identified the majority of Receivership Assets, and his Accountants have traced the funds from the bulk of the investments that were made with Broad Reach. However, some funds do not appear to be recoverable. Other funds likely cannot be recovered without litigation.

1. Receivership Bank Account

As of the close of the quarter on March 31, 2022, the balance in the Receivership Account was \$6,870,777.21, which represents an increase of \$320,481.09 from the close of the prior quarter.

2. Pending and Upcoming Settlements

The Receiver anticipates that additional funds will soon be forthcoming through the settlement of claims. The Receiver has collected settlement funds from four (4) settlements so far. Five (5) additional settlements were the subject of the motions for approval (ECF Nos. 169, 170, 176 and 181) granted on May 5, 2022.

(ECF Nos. 188, 189, 190 and 191). Total settlement value for all settlements so far exceeds \$1.2 million. The Receiver is in active negotiations with several other individuals and/or entities, and anticipates filing additional motions to approve settlements in the near future.

3. Stock Holdings

Prico Market, LLC no longer holds its Lyft shares, because they were taken by a third party. The Receiver initiated a lawsuit against the individual who took possession of the Lyft shares, in which he seeks, *inter alia*, the return of the shares still in his possession, and compensation for the shares that have been sold.

4. Private Investments

The Receiver is in the process of attempting to liquidate Smith's purported interests in Bluwater Holdings Corp. and the Calais Gold Mine through buyout and/or a negotiated settlement. The Receiver is prepared to initiate litigation if any proposed resolution fails to appropriately compensate the Receivership for Smith's interest and/or the Receivership Assets transferred. The Receiver will make these determinations based upon the best interests of the Receivership Estate. The Receivership continues to receive distributions on Smith's \$100,000.00 investment in OTAF (Holgate) LLC. The potential value of Smith's one (1) share in CMCC Development Corp. ("CMCC") is currently being investigated.

5. Receivables and Promissory Notes

The Receiver's pursuit of litigation involves numerous promissory notes: (1) three promissory notes from Medical Consultants Instructional Training Center ("MCITC") totaling \$450,000.00; (2) a promissory note from Sunny Ocean 699, LLC and Agostinho Calcada, individually, for over \$1.5 million; and (3) a promissory note from Rose & Thorn Cowlitz, LLC ("Rose & Thorn"), which received nearly \$7.5 million from Receivership Parties¹⁷. The Receiver is continuing to investigate the existence and recoverability of other outstanding promissory notes/loan obligations.

6. Louisiana Properties

The Receiver sold Brenda Smith's property for \$351,000.00 on January 27, 2022, resulting in total proceeds of \$328,917.41 to the Receivership Estate.

A buyer backed out of the last tentative sale of the property owned by BD of Louisiana ("BD of Louisiana Property"). The BD of Louisiana Property is currently listed for \$599,000.00. The property listing can be accessed here:

<https://www.redfin.com/LA/10/E-Adams-Rd-70403/home/160606501>.

¹⁷ The Receiver's lawsuit against Richard Shawn Ellis, Rose & Thorn, and other affiliated entities primarily involves fraudulent and voidable transfer claims, but seeks certain relief, in the alternative, under a breach of contract theory.

7. Additional Bank Accounts and Funds

The Receiver filed a Motion to Determine Ownership of the Awootton Consulting, LLC Account (ECF No. 180), which held nearly \$200,000.00 in frozen funds. That Motion was granted on May 5, 2022. (ECF No. 192). The Receiver reached a settlement with respect to ownership of the Rybicki Capital Partners, LLC Account, which was approved by the Court on May 5, 2022 (ECF No. 190), and resulted in an infusion of over \$18,000.00 into the Receivership Account after the close of the quarter.

ICBCFS continues to hold \$444,213.08 in two clearing accounts for CV Brokerage, pursuant to the Stipulation to Resolve ICBCFS' Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30). The Receiver anticipates taking steps to determine the rights to these funds in the near future. The Receiver is in the process of investigating whether any other clearing deposits may exist.

8. Personal Property

Stephenson's Auction continues to sell Smith's personal property on a rolling basis. The Receiver is exploring his options to sell rugs from Smith's Rittenhouse Apartment, but so far has been unable to find any interested buyers. The Receiver has likewise been unable to sell computer equipment retrieved from the Equinix data center. Administrative staff at Conrad O'Brien will make

arrangements to have someone retrieve personal / sentimental items without significant resale value for Ms. Smith at the appropriate time.

9. Insurance

The Receiver continues to negotiate CV Brokerage's fidelity bond claim.

E. Liquidated and Unliquidated Claims

The Receiver has filed eleven (11) lawsuits over the course of the Receivership, as follows:¹⁸

- 1) *Kevin D. Kent, in his capacity as Receiver v. Emperor Global Enterprises LLP, et al.*, No. 2:21-cv-13099 (D.N.J.)
- 2) *Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center, et al.*, No. 2:21-cv-13104 (D.N.J.)
- 3) *Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al.*, No. 2:21-cv-13105 (D.N.J.)
- 4) *Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada*, No. 2:21-cv-18396 (D.N.J.)
- 5) *Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al.*, No. 2:21-cv-20691 (D.N.J.)
- 6) *Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al.*, No. 2:21-cv-20754 (D.N.J.)
- 7) *Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al.*, No. 2:22-cv-00388 (D.N.J.)

This lawsuit involves the transfer of \$1,040,000.00 to Defendant, Entercore, Inc., which the Receiver believes were at least partially

¹⁸ The Receiver is only including descriptions of lawsuits filed after the close of the sixth quarter. For details regarding previously-filed lawsuits, see the Receiver's prior interim fee applications and quarterly status reports.

used for a deposit on a home for the benefit of one or more of the named defendants. The Receivership Parties never recouped any of the funds paid, nor did they receive any apparent benefit in exchange for these transfers. The Complaint includes claims for action to avoid fraudulent and voidable transfers, unjust enrichment, and a demand for an accounting.

8) *Surefire Dividend Capture, LP and Kevin Dooley Kent, Esq., as Receiver v. The Nottingham Company, et al., No. 19-CV-04088-BMS (E.D. Pa.)*

The Receiver filed a motion on February 10, 2022 seeking leave to file a Complaint in Intervention in this existing action filed by Surefire Dividend Capture against multiple defendants arising out of its investments with Broad Reach and Brenda Smith. Prior to moving to intervene, the Receiver secured the agreement of Surefire to dismiss all of its claims against Receivership Entities, which were filed prior to the existence of the Receivership. The Receiver seeks to intervene in this case to pursue claims against Nottingham and its CEO, Kip Meadows. The Receiver's claims arise out of Nottingham's role as the independent third-party Fund Administrator for the Fund. In this role Nottingham confirmed for Smith's investors the total assets under management with the Fund, calculated fund performance, and provided individual investor statements purporting to show the value and growth of each investors' ownership interest in the Fund. The Receiver's complaint alleges that in performing these valuation services and other recordkeeping functions for Smith and her investors, Nottingham ignored significant warning signs of questionable information supplied by Smith. The Receiver's complaint also asserts that Nottingham's CEO, Kip Meadows was alerted to these facts by his employees but chose to ignore the warning signs because Nottingham needed revenue and he believed he could avoid liability for relying on information supplied by Smith, even though he suspected it was false. In addition to performing these functions, Nottingham also assisted Smith in attracting new investors to the Fund by vouching for the legitimacy and success of Smith and the Fund, despite the concerns Nottingham expressed internally.

9) *Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al., No. 2:22-cv-01195 (D.N.J.)*

This lawsuit involves the transfer of nearly \$5 million to/for the benefit of Defendants, \$500,000.00 of which represented a fee for a Standby Letter of Credit that was never delivered, which should have been refunded, and approximately \$2.5 million of which was used to purchase a home in Atlanta, Georgia. The Receivership Parties never recouped any of the funds paid, nor did they receive any apparent benefit in exchange for these transfers. The Complaint includes claims for action to avoid fraudulent and voidable transfers, unjust enrichment, breach of contract, and a demand for an accounting.

10) *Kevin Dooley Kent, in his capacity as Receiver v. Jeffrey Bydalek, et al., No 2:22-cv-01811 (D.N.J.)*

This lawsuit seeks to recover fraudulent transfers relating to investment activity, loans, tax payments, and the sale of the Lyft shares belonging to Prico Market LLC. It also seeks the return of the remaining Lyft shares that have not been sold. The Complaint includes claims for action to avoid fraudulent and voidable transfers, unjust enrichment, conversion, creation of a constructive trust, and a demand for an accounting.

11) *Kevin Dooley Kent, in his capacity as Receiver v. Larry Hooper, et al., No 2:22-cv-01876 (D.N.J.)*

This lawsuit seeks to recover profits earned in connection with the defendants' sale of magnetite owned by CV Investments which was being stored on Hooper Ranch, less the reasonable expenses incurred by Hooper Ranch and reasonable past due storage fees owed by CV Investments. The Complaint includes claims for conversion, unjust enrichment and breach of contract.

The Receiver believes that additional claims may exist, and anticipates filing additional motions to initiate litigation and/or additional lawsuits in the near future.

III. CURRENT AND PREVIOUS BILLINGS

The total fees and expenses incurred by the Receiver/Law Firm and Accountant for the period covered by this Application, which are subject to a twenty percent (20%) holdback pending completion of the case, are as follows:

	Total Fees	Fees Requested (with holdback)	Total Expenses	Expenses Requested (with holdback)
Law Firm	\$152,256.00	\$121,804.80	\$1,401.86	\$1,121.49
Accountant	\$142,877.50	\$114,302.00	\$3,415.70	\$2,732.56

A summary of amounts requested in prior fee applications is as follows:¹⁹

	Fees	Expenses	Status
First Interim Fee Application for the Period June 29, 2020 through September 30, 2020 (ECF No. 43), Filed November 13, 2020			
Law Firm	\$137,408.64	\$9,947.40	Approved 4/5/21 (ECF No. 70)
Accountant	\$34,862.00	\$0.00	
Second Interim Fee Application for the Period October 1, 2020 through December 31, 2020 (ECF No. 50), Filed February 12, 2021			
Law Firm	\$80,861.20	\$353.26	Approved 7/6/21 (ECF No. 103)
Accountant	\$124,782.00	\$136.00	
Third Interim Fee Application for the Period January 1, 2021 through March 31, 2021 (ECF No. 88), Filed May 28, 2021			
Law Firm	\$168,736.80	\$408.70	Approved 7/6/21 (ECF No. 104)
Accountant	\$363,894.00	\$2,624.56	
Fourth Interim Fee Application for the Period April 1, 2021 through June 30, 2021 (ECF No. 112), Filed August 16, 2021			
Law Firm	\$184,131.60	\$5,945.48	Approved 9/10/21 (ECF No. 121)
Accountant	\$316,962.00	\$3,659.47	
Fifth Interim Fee Application for the Period July 1, 2021 through September 30, 2021 (ECF No. 137), Filed November 24, 2021			
Law Firm	\$136,325.20	\$441.10	Approved 2/22/22 (ECF No. 166)
Accountant	\$147,780.00	\$4,101.52	
Sixth Interim Fee Application for the Period October 1, 2021 through December 31, 2021 (ECF No. 174), Filed March 17, 2022			
Law Firm	\$139,260.80	\$573.04	Approved 5/5/22 (ECF No. 193)
Accountant	\$191,440.00	\$2,589.28	

¹⁹ These numbers represent eighty (80%) of the Law Firm and Accountant's total fees and expenses for each quarter.

As evidence of the continued substantial time and effort the Receivership has required, and in support of the fee compensation and expense reimbursement sought herein, the Receiver will submit the following exhibits under seal for the Court's review and consideration:

Exhibit "B" – Summary of Legal Professional & Paraprofessional Time and of Expenses by the Receiver and his Counsel; and

Exhibit "C" – Summary of Accounting Professional & Paraprofessional Time and Expenses.

These exhibits,²⁰ as well as the narrative descriptions in this Application, evidence the time and labor employed in this matter.

The following includes a breakdown of the Receiver and Law Firm's hours and fees during this quarter, as defined by the SEC's billing guidelines:

Activity Category	Hours	Fee Amount
Asset Analysis and Recovery	291.10	\$99,036.00
Asset Disposition	40.40	\$17,090.00
Business Operations	0.50	\$179.00
Case Administration	55.00	\$21,694.00
Claims Administration and Objections	45.50	\$14,257.00
Totals	432.50	\$152,256.00

The following includes a breakdown of the Accountant's hours and fees during this quarter, as defined by the SEC's billing guidelines:

Activity Category	Hours	Fee Amount
Data Analysis	13.40	\$6,625.00

²⁰ These exhibits are being filed under seal pursuant to Paragraph 73 of the Receivership Order.

Forensic Accounting	70.80	\$29,980.00
Litigation Consulting	89.70	\$41,942.50
Status Reports	9.20	\$4,302.50
Tax Issues	60.10	\$30,125.00
Claims Administration and Objections	67.70	\$29,902.50
Totals		\$142,877.50

The following includes a breakdown of the Receiver and the Law Firm's hours and fees, broken down by biller for this quarter:

Name/Position	Hourly Rate	Hours	Fee Amount
Kevin Dooley Kent, Receiver	\$510.00	78.60	\$40,086.00
Andrew S. Gallinaro, Partner	\$365.00	131.30	\$47,924.50
Robert N. Feltoon, Partner	\$365.00	5.50	\$2,007.50
Robin S. Weiss, Associate	\$330.00	154.90	\$51,117.00
David K. Lukmire, Associate	\$330.00	5.20	\$1,716.00
Brianna L. Dinmore, Paralegal	\$165.00	53.90	\$8,893.50
Erika L. Finkernagel, Paralegal	\$165.00	1.10	\$181.50
Justin D. Russell, Paralegal	\$165.00	2.00	\$330.00
TOTALS		432.50	\$152,256.00

The following includes a breakdown of the Accountant's hours and fees, broken down by biller for this quarter:

Name/Position	Hourly Rate	Hours	Fee Amount
Forensic Analysis Team			
Michael Shanahan (Senior Director)	\$550.00	27.90	\$15,345.00
David Medway (Director)	\$475.00	156.00	\$74,100.00
Nichole Lunt (Senior Associate)	\$375.00	14.80	\$5,550.00

Meghan Morine (Manager)	\$425.00	56.00	\$23,800.00
Matthew Ryan II (Paraprofessional)	\$150.00	12.10	\$1,815.00
Forensic Analysis Team Sub-Total		266.80	\$120,610.00
Data Analysis Team			
Bradley Koehler (Senior Director)	\$550.00	8.60	\$4,730.00
James McKenzie IV (Director)	\$475.00	2.00	\$950.00
Curtis Stecke (Manager)	\$425.00	3.20	\$1,360.00
Ahmed Salim (Analyst)	\$225.00	0.60	\$135.00
Data Analysis Team Sub-Total		14.40	\$7,175.00
Tax Services Team			
Sean Menendez (Managing Director)	\$550.00	3.90	\$2,145.00
Jennifer Palacios (Senior Director)	\$550.00	18.70	\$10,285.00
Jadyna Seelye (Senior Associate)	\$375.00	7.10	\$2,662.50
Tax Services Team Sub-Total		29.70	\$15,092.50
OVERALL TOTALS		310.90	\$142,877.50

The fees and expenses included herein were incurred in the best interests of the Receivership Estate. With the exception of the Billing Instructions and the proposed Contingency Fee Agreement for the pursuit of litigation which was submitted under seal in support of the Receiver's Second and Third Motions for Permission to Initiate Litigation, (ECF No. 98, 99, 147, 148), the Receiver has not entered into any other agreements concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

Significantly, in accordance with the proposed Contingency Fee Agreement, the Receiver and his Counsel's time spent preparing the complaints filed during the seventh quarter, and the significant amount of work performed in connection with the lawsuits the Receiver sought permission to file in his Second and Third Motions to Initiate Litigation have not been, and will not be, billed to the Receivership on an hourly basis.²¹ Rather, the Receiver will only receive payment in connection with those lawsuits if and when a settlement or judgment is obtained, pursuant to the terms set forth in the proposed Contingency Fee Agreements.

IV. REQUEST FOR COMPENSATION FOR FEES AND EXPENSES

This Court has the power to appoint a receiver and to award the receiver fees for his services and for expenses incurred by the Receiver in the performance of his duties. *See Donovan v. Robbins*, 588 F. Supp. 1268, 1272 (N.D. Ill. 1984) (“[T]he receiver diligently and successfully discharged the responsibilities placed upon him by the Court and is entitled to reasonable compensation for his efforts.”); *see also Securities & Exch. Comm’n v. Elliot*, 953 F. Supp. 1560 (11th Cir. 1992) (noting that the receiver is entitled to compensation for faithful performance of his duties). The case law on equity receiverships sets forth the standards for approving

²¹ This does not include the lawsuit filed against Nottingham and Kip Meadows as well as against Jordan Denise and her entities, as these lawsuits were the subject of the Receiver's First Motion for Permission to Initiate Litigation and are not subject to a contingency fee agreement (ECF No. 49).

receiver compensation and the fees and expenses for the receiver's counsel. The District Court has discretion to determine compensation to be awarded to a court-appointed equity receiver and his counsel and "may consider all of the factors involved in a particular receivership in determining the appropriate fee." *Gaskill v. Gordon*, 27 F.3d 248, 253 (7th Cir. 1994). Many authorities provide "convenient guidelines," but in the final analysis, "the unique fact situation renders direct reliance on precedent impossible." *Securities & Exch. Comm'n v. W.L. Moody & Co.*, 374 F. Supp. 465, 480 (S.D. Tex. 1974), *aff'd*, 519 F. 2d 1087 (5th Cir. 1975).

In allowing counsel fees in Securities Act receiverships, "[t]he court will consider . . . the complexity of problems faced, the benefit to the receivership estate, the quality of work performed, and the time records presented." *Securities & Exch. Comm'n v. Fifth Ave. Coach Lines, Inc.*, 364 F. Supp. 1220, 1222 (S.D.N.Y. 1973); *see also United States v. Code Prods.*, 362 F.2d 669, 673 (3d Cir. 1966) (noting that court should consider the time, labor and skill required—but not necessarily expended—the fair value of such time, labor and skill, the degree of activity, the dispatch with which the work is conducted and the result obtained). "[R]esults are always relevant." *Securities & Exch. Comm'n v. Elliot*, 953 F.2d 1560, 1577 (11th Cir. 1992) (*quoting Moody*, 374 F. Supp. at 480). However, a good result may take a form other than a bare increase in monetary value. *See id.* ("Even though a receiver may not have increased, or prevented a decrease in, the

value of the collateral, if a receiver reasonably and diligently discharges his duties, he is entitled to compensation.”).

Another “basic consideration is the nature and complexity of the legal problems confronted and the skill necessary to resolve them.” *Moody*, 374 F. Supp. at 485. Moreover, “[t]ime spent cannot be ignored.” *Id.* at 483. While the Receiver and his Accountants continue to expend significant time locating and recovering assets on behalf of the Receivership Estate in this complex case, primarily through their focus on the pursuit of claims, their fees have further decreased from the prior quarter, and have generally been lower for the last three (3) quarters as compared to the first year of the Receivership, consistent with the Receiver’s prediction that fees would be front-loaded in the first year. *See Gordon v. Dadante*, 2008 WL 1805787 at *11 (N.D. Ohio 2008) (recognizing that, with receiverships, as is “common in cases of this nature, the bulk of the effort—and expense—is frontloaded.”).

Under these standards, the Receiver has adequately demonstrated that the amount of fees requested is appropriate. The Receiver, his Counsel and Accountants acted quickly to take control of the Receivership Entities and to prevent the further dissipation of assets. The liquid cash on hand has increased significantly since the inception of the Receivership, when the existence of substantial valuable assets was in serious question. The amounts at issue in this

case are substantial, where the investment scheme involved approximately \$100 million during its operation, at least \$1.5 billion of financial transactions occurred in accounts controlled by Smith over its last several years, and it is currently estimated that investors are still owed approximately \$60 million in principal.

The issues being addressed by the Receiver, his Counsel and Accountants are extremely complex and involve the investigation of widespread, international fraud perpetrated across a complex web of various entities managed or controlled by Smith over a multi-year period. Following numerous bizarre transactions involving restaurants, property development projects, mineral mining, extraction and transport endeavors, and overseas companies—most of which caused material losses to the Receivership Parties—as well as what appear to be substantial “gifts” to friends and/or colleagues of Smith without any known benefit to the Receivership Parties, the Estate has been left with few assets still in the Receivership Parties’ possession. However, the Receiver remains optimistic that, with additional time and effort, additional significant funds can be recovered on behalf of the Receivership Estate, primarily through litigation and settlement of claims.

This Court has already found that the rates charged by the Receiver and his Counsel and Accountant are reasonable for the experience of the individuals performing the work and in light of the complexity of the work performed, and are

consistent with the rates charged for similarly complex work done by other, similarly experienced professionals in this geographic region. Receivership Order, ¶¶ 80, 83. As noted previously, the Receiver and the Law Firm are performing this work at an average discount rate twenty-five percent (25%). The Receiver and his Retained Personnel have not sought to increase their approved hourly rates in 2021 and 2022, thereby resulting in even more significant rate reductions.

The Receiver has attempted to maximize cost savings and administer the Estate as efficiently as possible, by, for example, assigning professionals and paraprofessionals with the lowest billable rate appropriate for the task at issue, which the Accountant has likewise done where appropriate. Additionally, the Receiver and his Counsel have extensively utilized non-billing administrative personnel where appropriate. Most significantly, the Receiver and his Law Firm's willingness to pursue litigation under a contingency fee arrangement as set forth in his Second and Third Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate, will result in significant cost savings for the Receivership Estate.

The Receiver and his Retained Professionals' compensation in this matter is subject to the final approval of this Court. The Court should consider that the Receiver as well as his attorneys and accountants have assumed the risk of non-payment and/or substantial delay in payment in accepting the Court appointment,

particularly with so little known regarding the amount and availability of Receivership Assets. The risk is even greater with regard to the pursuit of litigation on behalf of the Receivership Estate on a contingency fee basis, in connection with which the Receiver and his Law Firm risk non-payment entirely if the claims are unsuccessful and/or the prospective defendants are judgment-proof.

Based on the foregoing, the Receiver respectfully submits that the compensation sought by the Receiver and his team is wholly warranted.

WHEREFORE, the Receiver respectfully requests that the Court grant the Receiver's Motion for Approval of the Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022, and thereby authorize the following:

1. Payment to Conrad O'Brien PC in the amount of \$121,804.80, as compensation for services performed from January 1, 2022 through March 31, 2022, such payment representing eighty percent (80%) of its fees for this quarter;
2. Payment to Alvarez & Marsal Disputes and Investigations, LLC in the amount of \$114,302.00, as compensation for services performed from January 1, 2022 through March 31, 2022, such payment representing eighty percent (80%) of its fees for this quarter;

3. Payment to Conrad O'Brien PC in the amount of \$1,121.49, for expenses incurred from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of its expenses for this quarter; and

4. Payment to Alvarez and Marsal Disputes and Investigations, LLC in the amount of \$2,732.56 for expenses incurred from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of its expenses for this quarter.

Respectfully Submitted,

Date: 6/2/2022

s/ Robin S. Weiss

Robin S. Weiss, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-9600
Facsimile: (215) 864-9620
E-mail: rweiss@conradobrien.com

Andrew S. Gallinaro, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-8083
Facsimile: (215) 864-7403
E-mail: agallinaro@conradobrien.com

*Attorneys for Receiver,
Kevin Dooley Kent*

EXHIBIT “A”

Kevin Dooley Kent
1500 Market Street, Suite 3900
Philadelphia, PA 19102
(215) 864-9600

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL – RECEIVERSHIP FUND

Brenda Smith, Broad Reach Capital, LP, Broad Reach Partners,
LLC, and Bristol Advisors, LLC
Civil Action No.: 2:19-cv-17213-MCA-ESK

REPORTING PERIOD 01/01/2022 TO 03/31/2022

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK
 REPORTING PERIOD 01/01/2022 TO 03/31/2022

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 01/01/22 to 03/31/22			06/29/20 - 03/31/22
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 01/01/22)			\$ 6,550,296.12	\$ -
	Increases in Fund Balance:				
Line 2	Business Income			-	-
Line 3	Cash and Securities			-	8,027,623.19 [1]
Line 4	Interest/Dividend Income			-	5.67
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			355,776.00	521,518.02
Line 7	Third-Party Litigation Income			291,251.51	396,251.51
Line 8	Miscellaneous - Other			-	-
	Total Funds Available (Lines 1 – 8):			\$ 7,197,323.63	\$ 8,946,098.39
	Decreases in Fund Balance:				
Line 9	Disbursements to Investors/Claimants			-	258,776.99 [1]
Line 10	Disbursements for Receivership Operations			314,336.42	1,804,334.19
Line 10a	Disbursements to Receiver or Other Professionals			289,088.86	
Line 10b	Business Asset Expenses			183.51	
Line 10c	Personal Asset Expenses			25,006.02	
Line 10d	Investment Expenses			58.03	
Line 10e	Third-Party Litigation Expenses				
	1. Attorney Fees			-	
	2. Litigation Expenses			-	
	Total Third-Party Litigation Expenses			-	
Line 10f	Tax Administrator Fees and Bonds			-	
Line 10g	Federal and State Tax Payments			-	
	Total Disbursements for Receivership Operations			\$ 314,336.42	\$ 2,063,111.18
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			12,210.00	12,210.00
Line 11a	Distribution Plan Development Expenses:				
	1. Fees:				
	Fund Administrator			-	
	Independent Distribution Consultant (IDC)			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			12,210.00	
	3. Miscellaneous			-	
	Total Plan Development Expenses			12,210.00	
Line 11b	Distribution Plan Implementation Expenses:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			-	
	Total Plan Implementation Expenses			-	
	Total Disbursements for Distribution Expenses Paid by the Fund			\$ 12,210.00	12,210.00
Line 12	Disbursements to Court/Other:			-	-
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			-	-
Line 12b	Federal Tax Payments			-	-
	Total Disbursements to Court/Other			\$ -	-
	Total Funds Disbursed (Lines 9 – 11):			\$ 326,546.42	\$ 2,075,321.18
Line 13	Ending Balance (As of 03/31/22):			\$ 6,870,777.21	\$ 6,870,777.21
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			6,870,777.21	6,870,777.21
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	Total Ending Balance of Fund – Net Assets			\$ 6,870,777.21	\$ 6,870,777.21

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK
 REPORTING PERIOD 01/01/2022 TO 03/31/2022

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 01/01/22 to 03/31/22			06/29/20 - 03/31/22
		Detail	Subtotal	Period Total	Case to Date
Line 15	Report of Items NOT To Be Paid by the Fund:				
	Disbursements for Plan Administration Expenses Not Paid by the Fund:			\$ -	\$ -
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund:</i>				
	1. Fees:			-	
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Miscellaneous			-	
	Total Plan Development Expenses Not Paid by the Fund			\$ -	
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. FAIR Reporting Expenses			-	
	Total Plan Implementation Expenses Not Paid by the Fund			\$ -	
<i>Line 15c</i>	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			-	
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-	-
Line 16	Disbursements to Court/Other Not Paid by the Fund:			-	-
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>			-	
<i>Line 16b</i>	<i>Federal Tax Payments</i>			-	
	Total Disbursements to Court/Other Not Paid by the Fund:			-	-
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	No. of Claims:				
<i>Line 18a</i>	<i># of Claims Received This Reporting Period</i>				20 [2]
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>				20 [2]
Line 19	No. of Claimants/Investors:				
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period</i>				-
<i>Line 19b</i>	<i># of Claimants/Investors Paid Since Inception of Fund</i>				1 [1]

Notes

[1] In accordance with the Motion of Receiver, Kevin D. Kent, Esquire, to Approve a Settlement Resolving the Receiver's April 9, 2021 Motion to Determine Ownership of Taylor Trading, LLC Account (ECF No. 130) ("Taylor Trading Motion") and the Order Confirming Ownership of Taylor Trading, LLC Account Proceedings (ECF No. 134), the Receiver arranged for the transfer of 50% of the balance of the Taylor Trading, LLC bank account maintained with PNC Bank ("Taylor Trading Account") to investor Surefire Dividend Capture, LP ("Surefire") on November 19, 2021. Surefire had filed claims against, *inter alia*, Scott Koppenheffer in a lawsuit it filed in the Eastern District of Pennsylvania captioned *Surefire Dividend Capture, LP v. Smith et al.*, No. 2:19-cv-04088 (E.D. Pa.) (the "Surefire Action"). Surefire agreed to resolve its claims against Mr. Koppenheffer in exchange for, *inter alia*, an assignment of Mr. Koppenheffer's rights (if any) to the Taylor Trading Account. The Receiver and Surefire then agreed to resolve the Taylor Trading Motion by splitting the balance in the Taylor Trading Account, which amount will be deducted from any future distribution made by the Receiver to Surefire. This settlement resulted in a meaningful recovery for the Receivership Estate while eliminating the risk and cost of litigating the issue of account ownership with Mr. Koppenheffer and/or Surefire.

[2] The Receiver received 17 Investor Creditor claims and 3 Trade Creditor claims during this reporting period.

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK
REPORTING PERIOD 01/01/2022 TO 03/31/2022

Receiver:

By: Kevin Dooley Kent
(signature)

Kevin Dooley Kent
(printed name)

Receiver
(title)

Date: 4/28/22

NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT

Receivership Cash Accounts

As of March 31, 2022, the Receiver's cash balance of \$6,870,777.21 was maintained in a checking account at Bank of America.

Investments, Real and Personal Property

As described more fully in the Receiver's Seventh Quarterly Status Report, the Receiver is in the process of identifying and liquidating all the investments, real and personal property of the Receivership Parties.

In addition to the transactions reflected within the Standardized Fund Accounting Report, the Receiver recovered a \$19,000 distribution related to Brenda Smith's personal investment in OTAF LLC on April 8, 2022, and anticipates recovering additional future distributions.

Lastly, the Receivership has an interest in two parcels in Tangipahoa Parish, Louisiana, owned by BD of Louisiana, LLC ("BD of Louisiana Property"). The BD of Louisiana Property is currently listed for sale for \$599,000 and is subject to a mortgage with an outstanding principal balance of approximately \$345,000.

**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)

STATEMENT IN LIEU OF BRIEF PURSUANT TO L.CIV.R. 7.1(d)(4)

Pursuant to Local Civil Rule 7.1(d)(4), the undersigned, on behalf of the Receiver, Kevin Dooley Kent, hereby submits this Statement in lieu of the submission of a formal brief in support of the Motion for Approval of Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022. Inasmuch as the attached Interim Fee Application complies with the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission and otherwise satisfies the requirements for Interim Fee Applications as set forth in this Court's June 29, 2020 Order Appointing Receiver, and contains all information and documentation required by the SEC as well as legal

argument in support of the Interim Fee Application, and until any opposition to the Motion is filed, it is respectfully suggested that any additional, formal brief in support of the Motion and attached Application would be duplicative and unnecessary at this time.

Respectfully submitted,

Dated: 6/2/2022

s/ Robin S. Weiss
Robin S. Weiss, Esquire
Andrew S. Gallinaro, Esquire.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: 215-864-9600
Fax: 215-864-9620
rweiss@conradobrien.com
agallinaro@conradobrien.com
Attorneys for Receiver,
Kevin Dooley Kent

therein are true and accurate and comply with the Billing Instructions;

- (c) All fees contained in the Application are based on the rates listed in the Applicant's fee schedule attached hereto and such fees are reasonable, necessary and commensurate with the skill and experience for the activity performed;
- (d) I have not included in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth herein for photocopies and facsimile transmission); and
- (e) In seeking reimbursement for a service which the Applicant justifiably purchased or contracted for from a third party (such as copying, imaging, bulk mail, messenger service, overnight courier, computerized research, or title and lien searches), the Applicant requests reimbursement only for the amount billed to the Applicant by the third party vendor and paid by the Applicant to such vendor. With regard to such services performed by the Receiver or his staff, the Receiver certifies that he is not making a profit on such reimbursable service.

2. I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 2nd day of June, 2022.


Kevin Dooley Kent

**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)

**ORDER APPROVING THE RECEIVER, KEVIN DOOLEY KENT'S
SEVENTH INTERIM FEE APPLICATION FOR THE PERIOD
JANUARY 1, 2022 THROUGH MARCH 31, 2022**

THIS MATTER having come before this Court upon the Motion of Receiver, Kevin Dooley Kent for Approval of Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022;

It is on this _____ day of _____, 2022,

ORDERED that the Receiver's Seventh Interim Fee Application is APPROVED; and it is

FURTHER ORDERED that Payment to Conrad O'Brien PC ("Law Firm") in the amount of \$121,804.80, for services performed from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of the Law Firm's total fee of

\$152,256.00 for this quarter, is APPROVED and may be paid by the Receiver at this time; and it is

FURTHER ORDERED that payment to Alvarez & Marsal Disputes and Investigations, LLC (“Accountant”) in the amount of \$114,302.00 for services performed from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of the Accountant’s total fee of \$142,877.50 for this quarter, is APPROVED and may be paid by the Receiver at this time; and it is

FURTHER ORDERED that payment to Conrad O’Brien PC in the amount of \$1,121.49 for expenses incurred from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of the Firm’s total expenses of \$1,401.86 for this quarter, is APPROVED and may be paid by the Receiver at this time; and it is

FURTHER ORDERED that payment to Alvarez & Marsal Disputes and Investigations, LLC in the amount of \$2,732.56 for expenses incurred from January 1, 2022 through March 31, 2022, representing eighty percent (80%) of the Accountant’s total expenses of \$3,415.70 for this quarter, is hereby APPROVED and may be paid by the Receiver at this time.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

**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)

**CERTIFICATE OF
SERVICE**

I hereby certify, this 2nd day of June, 2022, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin Dooley Kent for Approval of Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022 upon Plaintiff, Securities and Exchange Commission, through counsel of record, and upon counsel of record for all other parties, by electronic filing pursuant to Fed.R.Civ.P. 5 (b), and upon Defendant, Brenda A. Smith, on behalf of all defendants, via first-class mail, postage prepaid, as follows:

Brenda A. Smith
Permanent ID 2019-339640
CCIS# 07-571432
U.S. Marshalls Number 72832-050
Essex County Correctional Facility
354 Doremus Avenue
Newark, NJ 07105

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Attorney for Receiver, Kevin Dooley Kent