

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

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**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

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

**Defendants.**

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

**RECEIVER KEVIN DOOLEY KENT'S NINTH QUARTERLY  
STATUS REPORT**

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The Receiver, Kent Dooley Kent, has been appointed by Order of this Court dated June 29, 2020 (“Receivership Order”), to assume control of, marshal, pursue and preserve the Receivership Assets. (ECF No. 22). The Receiver hereby submits this Ninth Quarterly Status Report (the “Report”), in accordance with Paragraphs 67 and 68 of the Receivership Order, and reports to the Court as follows:

## **I. INTRODUCTION**

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.). Smith was sentenced to 109 months in prison on May 4, 2022.

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 Receivership Parties 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 (ECF No. 96), Investment Consulting LLC, and Tempo Resources LLC (hereinafter “Receivership Assets” or “Receivership Estate”). Receivership Order, Whereas ¶¶ 3; ¶¶ 1–3, 5 (ECF No. 22).

This status report focuses on developments during the ninth quarter of the Receivership. The Receiver incorporates by reference his prior status reports with respect to events that took place in prior quarters. This Report provides a full report and accounting of the Receivership Estate for the ninth quarter, reflecting the existence, value and location of currently known Receivership Assets, and the extent and nature of known liabilities.

## **II. SUMMARY OF THE OPERATIONS OF THE RECEIVER**

On June 29, 2020, the Receiver was appointed to assume control of, marshal, pursue and preserve Receivership Assets. The balance in the Receivership Account as of the close of the quarter was \$7,485,512.47. The Receiver and his Counsel continue to focus their efforts on preserving, locating and maximizing Receivership Assets, pursuing claims informally and through litigation, and

identifying, evaluating, negotiating and managing claims asserted against the Receivership Estate. The Receiver's Accountants continue to provide forensic support as needed in connection with the pursuit of affirmative claims, assistance with identifying, quantifying and evaluating claims asserted against the Estate, manage the document repository, perform tax-related services for the Receivership, and support the Receiver in his negotiations with the IRS.

The operations of the Receiver for the Ninth Quarter are outlined in further detail below.

**A. Litigation-Related Activities**

**i. Motion Practice**

After the close of the quarter, on October 14, 2022, the Receiver filed a Motion to Approve a Settlement Resolving the Receiver's Insurance Coverage Claim with the Company (ECF No. 206),<sup>1</sup> the exhibits to which were filed under seal. The Receiver simultaneously filed a Motion to Seal the Exhibits to the Motion. (ECF No. 208 ). The Court granted the Motion to Seal on October 17, 2022 (ECF No. 211).

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<sup>1</sup> "Company" or "the Company" is a pseudonym for an entity whose name was disclosed in supporting materials filed under seal.

On October 24, 2022, the Receiver filed a Motion to Enforce the Receivership Order and to Compel Brenda Smith's Compliance Therewith. (ECF No. 212).

**ii. Lawsuits Filed on Behalf of the Receivership Estate**

The Receiver's twelve (12) lawsuits and their current status are as follows:

- ***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. On June 20, 2022, three defendants filed a Motion to Dismiss (ECF No. 36). The other defendant filed an Answer (ECF No. 39) and a Motion to Transfer Venue (ECF No. 37). Defendants simultaneously filed a Motion for Stay of Discovery (ECF No. 38). On July 5, 2022, the Receiver filed a Response in Opposition to the Motion to Transfer (ECF No. 44) and a Response in Opposition to the Motion to Stay (ECF No. 45). On July 7, 2022, the Court administratively terminated the Motion to Dismiss and granted a stay on discovery pending resolution of the Motion to Transfer. (ECF No. 47). Defendants filed a Reply in Support of the Motion to Transfer on July 14, 2022 (ECF No. 48). After obtaining leave of Court, the Receiver filed a Sur-Reply on July 25, 2022 (ECF No. 52). Oral argument on the Motion to Transfer was held on October 4, 2022.
- ***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. After exchanging written discovery, the parties reached an agreement to resolve the case. The Receiver filed a motion to approve the settlement in that case on July 5, 2022. (ECF No. 20). The exhibits to that motion were filed under seal. (ECF No. 21). The Receiver thereafter filed a motion to seal the exhibits (ECF No. 22). The Receiver filed a notice of the settlement in the main Receivership case on July 5, 2022. (ECF No. 200). The settlement was approved on August 4, 2022. (ECF No. 28).
- ***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. (ECF No. 21). Defendants then filed an Amended Answer with Counterclaims on April 15, 2022. (ECF No. 23). The Receiver filed a Motion to Dismiss Counterclaims on May 6, 2022. (ECF No. 25). Defendants filed a Response to the Motion to Dismiss on June 8, 2022. (ECF No. 29). The Receiver filed a Reply in the Support of the Motion to Dismiss on June 21, 2022. (ECF No. 30). Meanwhile, the parties are proceeding with discovery.

- ***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 Receiver filed a Motion for Leave to File an Amended Complaint on June 1, 2022. (ECF No. 19), which was granted on June 27, 2022. (ECF No. 21). The Receiver filed an Amended Complaint on June 29, 2022. (ECF No. 23). The parties are currently proceeding with discovery.
- ***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. Renato Iregui filed an Answer *pro se* on April 29, 2022. (ECF No. 12). The Receiver filed an Amended Complaint on May 20, 2022. (ECF No. 14). The parties are currently proceeding with discovery.
- ***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). Oral argument on the Motion to Transfer was held on September 28, 2022.
- ***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. Jordan Denise filed an Answer *pro se* on May 24, 2022. (ECF No. 8). A telephone status conference was held on July 11, 2022. Ms. Denise did not participate. The parties are currently



proceeding with discovery.

- ***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's Motion for Leave to File a Complaint in Intervention and to Lift Stay was granted on April 11, 2022, and the stay was lifted on or about June 10, 2022. (ECF Nos. 131, 139). The Receiver filed the Complaint in Intervention on June 10, 2022. (ECF No. 140). The Receiver thereafter filed an Amended Complaint on June 15, 2022. (ECF No. 143). Defendants filed an Answer with Affirmative Defenses to the Receiver's Complaint on September 6, 2022. (ECF No. 161).
- ***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. Defendants filed a motion to dismiss on May 31, 2022 (ECF No. 17). The Receiver filed a response to the motion to dismiss on July 5, 2022. (ECF No. 21). Defendants filed a reply brief on July 25, 2022. (ECF No. 22).
- ***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.
- ***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. After engaging in settlement negotiations, the parties reached an agreement to resolve the case. The Receiver filed a motion to approve the settlement in that case on July 11, 2022 (ECF No. 8). The exhibits to that motion were filed under seal. (ECF No. 9). The Receiver thereafter filed a motion to seal the exhibits (ECF No. 10), which was granted (ECF No. 11). The Receiver filed a notice of the settlement in the main Receivership case on July 11, 2022. (ECF No. 201). The settlement was approved on August 29, 2022. (ECF No. 15).
- ***Kevin Dooley Kent, in his capacity as Receiver v. Edward C. Britton, et al., No. 2:22-cv-02845 (D.N.J.)***: The Receiver filed the Complaint on May 16, 2022.

**B. Storage & Sale of Belongings and Data**

Stephenson's Auction has auctioned off all personal property collected from Brenda Smith's apartment. Total profits from the sale of personal property remain at \$11,811.20. The 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.

**C. Louisiana Property**

The property owned by BD of Louisiana, LLC ("BD of Louisiana Property") in Hammond, Louisiana remains on the market. After consultation with his realtor, the Receiver changed the listing price to \$495,000.00 on August 25, 2022.

**D. Private Investments and Ownership Interests**

The Receiver continues to attempt 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. The Receiver received another

distribution on August 11, 2022, in the amount of \$6,700.00. Through the close of the ninth quarter, distributions totaled \$153,177.52.

**E. Investigation, Development, Pursuit and Settlement of Claims**

The Receiver has filed a total of twelve (12) lawsuits on behalf of the Receivership Estate so far, and has issued demands and/or continues to negotiate with several others. The Receiver anticipates filing additional lawsuits in the near future if those additional claims cannot be resolved.

In total, ten (10) pre-litigation settlements and two (2) litigation settlements have been reached as of September 30, 2022, valued at over \$1.9 million. One of these settlements is the subject of a currently pending Motion to Approve.

**F. Insurance Coverage Claim**

The Receiver negotiated a settlement of an insurance coverage claim on behalf of CV Brokerage during this quarter, which is pending the Court's approval. (ECF No. 206).

**G. 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 continue to support the Receiver in evaluating and quantifying disputed investor and creditor claims.

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.

#### **H. 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 Receiver and his Accountants maintain that tax returns need not and should not be filed for each Receivership Party for pre-appointment time periods, and continue to dispute the Internal Revenue Service's claim that at a minimum, over \$1.3 million in taxes must be paid to the IRS. To date, these disputes have not been resolved.

### **III. CASH ON HAND, ADMINISTRATIVE EXPENSES, AND UNENCUMBERED FUNDS**

As of September 30, 2022, total cash on hand in the centralized Receivership Account (“Receivership Account”) was \$7,485,512.47. The Receiver brought in \$6,700.00 in distributions from a private real estate investment during this quarter. Funds from litigation settlements approved during this quarter were reported in the Receiver’s prior quarterly status report. The Receiver anticipates that his ongoing pursuit of claims and litigation will result in financial benefit for the Receivership Estate through settlements or judgments, and it is possible that the sale of property owned by BD of Louisiana will generate some proceeds for the Receivership Estate. Additionally, \$444,213.08 remains held in two Industrial and Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.<sup>2</sup>

Administrative expenses paid during this quarter total \$103,784.19 and include: (a) \$103,145.21 in professional fees and expense reimbursement to the Receiver’s Counsel earned in connection with ancillary litigation subject to the contingency fee agreement approved by the Court through its Order Approving the Receiver’s Second Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate, (ECF No. 161), which attorneys’ fees and expenses were deducted pursuant to Orders approving the Receiver’s settlements of certain of

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<sup>2</sup> These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30).

those cases; (b) \$629.10 in insurance premiums for Receivership real estate in Tangipahoa Parish, Louisiana; and (c) \$9.88 in banking fees in connection with the Receivership Account.

#### **IV. RECEIPTS AND DISBURSEMENTS**

Pursuant to Paragraph 68 of the Receivership Order, the schedule of the Receiver's receipts and disbursements, in the form of the Standardized Fund Accounting Report ("SFAR") as prescribed by the SEC, is attached hereto as Exhibit "A".

#### **V. RECEIVERSHIP ASSETS**

##### **A. Receivership Bank Account**

As of the close of the quarter on September 30, 2022, the balance in the Receivership Account was \$7,485,512.47.

##### **B. Settlements**

The Court approved the Receiver's settlements of two litigation matters during this quarter, which funds were deposited into the Receivership Account during the prior quarter. The Receiver also reached a settlement on an Insurance Coverage Claim during this quarter, which is the subject of a currently pending motion. (ECF No. 206).

The Receiver is in actively negotiating potential settlements with several other individuals and/or entities. Many of these potential claims are subject to tolling agreements.

**C. Stock Holdings**

Prico Market, LLC's Lyft shares are the subject of currently pending litigation initiated by the Receiver.

**D. Cryptocurrency**

The Receiver has learned that at least some cryptocurrency was distributed to an investor, purportedly as a partial in-kind redemption on their investment. The amount and value of the cryptocurrency transferred is being investigated by the Receiver. The Receiver may need to bring this issue to the Court's attention for resolution.

**E. 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 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 still being investigated.

**F. Receivables and Promissory Notes**

The Receiver's continued pursuit of litigation includes (1) a promissory note from Sunny Ocean 699, LLC and Agostinho Calcada, individually, for over \$1.5 million; and (2) a promissory note from Rose & Thorn Cowlitz, LLC ("Rose & Thorn"), which received nearly \$7.5 million from Receivership Parties<sup>3</sup>. The Receiver has resolved his claims against MCITC based upon loans memorialized by promissory notes.

**G. Louisiana Properties**

The BD of Louisiana Property is listed for \$495,000.00 and can be accessed here: <https://www.redfin.com/LA/10/E-Adams-Rd-70403/home/160606501>.

**H. Additional Bank Accounts and Funds**

ICBCFS continues to hold \$444,213.08 in two clearing accounts for CV Brokerage, pursuant to a Stipulation. (ECF No. 30). The Receiver continues to investigate issues related to ICBCFS' claims of a security interest and priority to these funds in connection with its creditor claim against the Receivership Estate.

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<sup>3</sup> 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.



The Receiver has submitted multiple requests to Brenda Smith for her to sign a consent directive which would authorize the Receiver to obtain information from overseas banks regarding accounts over which Brenda Smith has control. So far, Brenda Smith has been unwilling to sign the requested consent directive. The Receiver therefore filed a Motion to Enforce the Receivership Order against Brenda Smith, seeking to compel her to sign the consent directive, on October 24, 2022. (ECF No. 212).

### **I. Personal Property**

Stephenson's Auction has auctioned off all personal property collected from Brenda Smith's apartment. The Receiver is contemplating selling Brenda Smith's rugs through Stephenson's as well, having been unable to locate alternative options for the sale of the rugs. The Receiver continues to explore options for the potential sale of computer equipment retrieved from the Equinix data center. The Receiver is still holding personal/sentimental items of Smith's without significant resale value.

## **VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY RECEIVERSHIP ESTATE**

The Receiver has filed twelve (12) lawsuits over the course of the Receivership, all of which were filed during prior quarters:

- 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.) – settled.
- 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.)
- 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.)
- 9) *Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al.*, No. 2:22-cv-01195 (D.N.J.)
- 10) *Kevin Dooley Kent, in his capacity as Receiver v. Jeffrey Bydalek, et al.*, No 2:22-cv-01811 (D.N.J.)
- 11) *Kevin Dooley Kent, in his capacity as Receiver v. Larry Hooper, et al.*, No 2:22-cv-01876 (D.N.J.) – settled.
- 12) *Kevin Dooley Kent, in his capacity as Receiver v. Edward C. Britton, et al.*, No. 2:22-cv-02845 (D.N.J.)

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

## VII. CREDITORS

The IRS is claiming that the Receivership Parties owe at least \$1,331,807.00, which is comprised of penalties for late and/or unfiled tax returns of \$416,020.00, estimated unpaid corporate income taxes of \$889,050.00, and estimated unpaid payroll taxes of \$26,737.00 for time periods prior to the Receiver's appointment. This amount is preliminary, and the IRS may seek to assert that liability is actually much higher based on the failure of Smith to file returns for some Receivership Parties.

Additionally, the Receiver has received creditor claim forms from the following:

- Alan S. MacKenzie, Jr. submitted a creditor claim form for \$100,000.00, owned in connection with an employment-related settlement with CV Brokerage.
- Joshua Parker submitted a creditor claim form for \$100,000.00, owned in connection with an employment-related settlement with CV Brokerage.
- Thomas J. McCabe, Esq. submitted a creditor claim form for \$37,620.50 in attorney's fees purportedly owed by CV Brokerage, Inc., in connection with services performed from June 6, 2019 through September 19, 2019.
- Instinet LLC has submitted a creditor claim in the amount of \$375,929.18, plus fees, interest and penalties for services provided to or for the benefit of CV Brokerage.
- Joseph Coleman & Associates, LLC d/b/a Coleman & Quigley, LLC submitted creditor claims for \$21,025.52 and \$7,211.38 for attorneys' fees in connection with its separate representation of Brenda Smith and 2019 Stout Development, LLC, respectively (neither of which are

Receivership Parties). The firm successfully petitioned for attorneys' fees in connection with its representation of Brenda Smith personally in *Galvin Investment Company, LLC v. Brenda A. Smith*, Civ. No. 1:19-cv-00796 (D. Colo.), which it is in the process of attempting to collect. The firm has withdrawn its claims against the Receivership Estate; in exchange, the Receiver disclaimed any interest the Receivership Parties may have in any recovery of attorneys' fees from Galvin Investment Company in connection with the attorneys' fee award.

- Alpha Capital Trading Group, LLC submitted a creditor claim in the amount of \$250,000.00., in connection with a \$4 million deposit it made with CV Brokerage that it was able to partially redeem for a total of \$3.75 million.
- CMCC submitted a creditor claim asserting \$7.9 million in damages.
- ICBCFS submitted a creditor claim asserting indemnity claims in the amount of not less than \$1,429,174.00 purportedly incurred in connection with the defense of claims asserted against ICBCFS relating to CV Brokerage.
- Southern Minerals Group, LLC ("SMG") submitted a creditor claim for nearly \$22 million, exclusive of pre- and post-judgment interest, in connection with an arbitration award obtained against CV Investments LLC in connection with its purported breach of a Magnetite Concentrates Purchase and Sale Agreement ("PSA").
- Corporate investor No. 5, and the individual who owns this investor, have submitted various claims totaling at least \$11,296,817.80, claiming entitlement to certain purported contractual payments, legal fees, purportedly converted funds, and compensation for the Receiver's sale of the Palantir stock. This claim includes a combination of investment and non-investment related activity.
- Richard Galvin, on behalf of Galvin Investment Company, has submitted a creditor claim seeking in excess of \$50 million in alleged damages in connection with Smith's/CV Investment's purported interference with an agreement with SMG for the purchase of magnetite concentrates. These claims are also included in the

counterclaims asserted by Galvin Investment Company in the lawsuit filed against Richard Galvin, Galvin Investment Company, and various related entities.

- Prophecy Alpha Fund, LP has submitted a creditor claim of approximately \$185,000.00, asserting ownership of the balance of funds in the frozen Prophecy Alpha Fund, LP account designated as a Receivership Asset and recovered by the Receiver.
- Prophecy Trading Advisors Master Fund, LP and Prophecy Trading Advisors, LP submitted a creditor claim of approximately \$1.8 million for unpaid advisory fees and costs for services purportedly provided by a sub-advisor of Prophecy Trading Advisors Master Fund, LP.
- William McCormack, who was employed as securities trader with CV Brokerage, submitted two (2) creditor claims, consisting of a \$560,063.50 common law indemnification claim for legal fees for actions brought against him personally, and a \$776,244.45 for alleged unpaid commissions.
- Scott Koppenheffer, who was also employed by CV Brokerage, has submitted a \$141,052.56 claim for common law indemnification, for legal fees incurred defending lawsuits filed against him personally.

The following additional individuals or entities filed lawsuits against Brenda Smith or Receivership Parties, but have not formally submitted a creditor claim and are therefore not participating in the claims process.

- Vivian Williams filed an action against Brenda Smith, CV Fund Partners LLC, CV Special Opportunity Fund LP, and George Heckler in the Court of Common Pleas of Montgomery County in the matter captioned *Williams v. Smith, et al.*, No. 2020-11338. The Court was notified of the stay, and Ms. Williams ultimately entered into a consent judgment with George Heckler only.
- A complaint was filed against Brenda Smith in the Montgomery County Court of Common Pleas on December 28, 2020, in the matter

of *Bank of America v. Smith*, No. 2020-21298. The Receiver has twice advised Bank of America's attorney of the litigation stay.

- The Receiver learned of a lawsuit filed against CV Brokerage in the Chester County Court of Common Pleas, captioned *Chiazza et al. v. Stassen et al.*, No. 2021-09384-MJ. The Receiver filed a Notice of Stay on October 6, 2022.

## **VIII. STATUS OF CREDITOR CLAIMS PROCEEDINGS**

The Receiver provided notice regarding the creditor claims process and claims bar date to investors and creditors in accordance with the terms of the Order Setting Claims Bar Date, Establishing Claims Procedure and Approving Notification Process (ECF No. 168). The claims bar date passed on April 25, 2022.

On May 25, 2022, the Receiver sent notices to all investors and trade creditors whose claims he will recommend that the Court reject, in whole or in part, giving them an opportunity to supplement their claims. The Receiver also provided notice to investors and trade creditors whose claims were being accepted.

In total, the Receiver has received and processed a total of thirty-nine (39) Investor Creditor Claims and seventeen (17) Non-Investor Creditor claims, totaling \$167,592,497.23.<sup>4</sup> The Receiver has prepared an Omnibus Motion for Order Resolving Disputed Creditor Claims, which he is in the process of finalizing.

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<sup>4</sup> These numbers exclude claims that have been withdrawn prior to the time of this filing.

**IX. RECEIVER'S RECOMMENDATIONS FOR CONTINUATION OR DISCONTINUATION OF THE RECEIVERSHIP**

Given the Receiver's continued investigation and pursuit of litigation, the claims asserted by the IRS, the pendency of the Creditor Claims Proceedings and need for those to conclude before any distribution can be proposed and order of preference adjudicated, the Receiver does not have a projected date by which he expects the Receivership to close.

**X. CONCLUSION**

The Receiver, Kevin Dooley Kent, hereby respectfully submits this Ninth Quarterly Status Report for the Court's review and consideration.

Respectfully Submitted,

Date: 10/31/2022

s/ Robin S. Weiss  
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# **EXHIBIT “A”**



Kevin Dooley Kent  
Two Commerce Square  
2001 Market Street, Suite 2620  
Philadelphia, PA 19103  
(215) 640-8500

# STANDARDIZED FUND ACCOUNTING REPORT

CIVIL – RECEIVERSHIP FUND

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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 07/01/2022 TO 09/30/2022

**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 07/01/2022 TO 09/30/2022

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 07/01/22 to 09/30/22			06/29/20 - 09/30/22
Line	Detail	Subtotal	Period Total	Case to Date	
Line 1	Beginning Balance (As of 07/01/22)		\$ 7,582,596.66	\$ -	
	<i>Increases in Fund Balance:</i>				
Line 2	Business Income		-	-	
Line 3	Cash and Securities		-	8,240,017.58	
Line 4	Interest/Dividend Income		-	5.67	
Line 5	Business Asset Liquidation		-	700.00	
Line 6	Personal Asset Liquidation		6,700.00	547,254.02	
Line 7	Third-Party Litigation Income		-	1,452,090.17	
Line 8	Miscellaneous - Other		-	-	
	<b>Total Funds Available (Lines 1 - 8):</b>		<b>\$ 7,589,296.66</b>	<b>\$ 10,240,067.44</b>	
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants		-	258,776.99	
Line 10	Disbursements for Receivership Operations		103,784.19	2,483,077.98	
Line 10a	Disbursements to Receiver or Other Professionals		103,145.21		
Line 10b	Business Asset Expenses		629.10		
Line 10c	Personal Asset Expenses		-		
Line 10d	Investment Expenses		9.88		
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		-		
	<b>Total Disbursements for Receivership Operations</b>		<b>\$ 103,784.19</b>	<b>\$ 2,741,854.97</b>	
Line 11	Disbursements for Distribution Expenses Paid by the Fund:		-	12,700.00	
Line 11a	Distribution Plan Development Expenses:				
	1. Fees:				
	Fund Administrator		-		
	Independent Distribution Consultant (IDC)		-		
	Distribution Agent		-		
	Consultants		-		
	Legal Advisers		-		
	Tax Advisers		-		
	2. Administrative Expenses		-		
	3. Miscellaneous		-		
	Total Plan Development Expenses		-		
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		-		
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>		<b>\$ -</b>	<b>\$ 12,700.00</b>	
Line 12	Disbursements to Court/Other:		-	-	
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees		-	-	
Line 12b	Federal Tax Payments		-	-	
	<b>Total Disbursements to Court/Other</b>		<b>\$ -</b>	<b>\$ -</b>	
	<b>Total Funds Disbursed (Lines 9 - 11):</b>		<b>\$ 103,784.19</b>	<b>\$ 2,754,554.97</b>	
Line 13	Ending Balance (As of 09/30/22):		\$ 7,485,512.47	\$ 7,485,512.47	
Line 14	Ending Balance of Fund - Net Assets:				
Line 14a	Cash & Cash Equivalents		7,485,512.47	7,485,512.47	
Line 14b	Investments		-	-	
Line 14c	Other Assets or Uncleared Funds		-	-	
	<b>Total Ending Balance of Fund - Net Assets</b>		<b>\$ 7,485,512.47</b>	<b>\$ 7,485,512.47</b>	

[1]

**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 07/01/2022 TO 09/30/2022

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 07/01/22 to 09/30/22			06/29/20 - 09/30/22
		Detail	Subtotal	Period Total	Case to Date
Line 15	<b>Report of Items NOT To Be Paid by the Fund:</b>				
	Disbursements for Plan Administration Expenses Not Paid by the Fund:			\$ -	\$ -
Line 15a	Plan Development Expenses Not Paid by the Fund:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Miscellaneous			-	
	<b>Total Plan Development Expenses Not Paid by the Fund</b>			\$ -	
Line 15b	Plan Implementation Expenses Not Paid by the Fund:				
	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			-	
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			\$ -	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			-	
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			-	-
Line 16	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			-	-
Line 16a	Investment Expenses/CRIS Fees			-	
Line 16b	Federal Tax Payments			-	
	<b>Total Disbursements to Court/Other Not Paid by the Fund:</b>			-	-
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	<b>No. of Claims:</b>				
Line 18a	# of Claims Received This Reporting Period				-
Line 18b	# of Claims Received Since Inception of Fund				56
Line 19	<b>No. of Claimants/Investors:</b>				
Line 19a	# of Claimants/Investors Paid This Reporting Period				-
Line 19b	# of Claimants/Investors Paid Since Inception of Fund				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.

Receiver:

By: Kevin Dooley Kent  
 (signature)  
Kevin Dooley Kent  
 (printed name)  
Receiver  
 (title)  
 Date: 10/31/22

**NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT**

**Receivership Cash Accounts**

As of September 30, 2022, the Receiver's cash balance of \$7,485,512.47 was maintained in a checking account at Bank of America.

**Investments, Real and Personal Property**

As described more fully in the Receiver's Ninth 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 anticipates recovering future distributions related to Brenda Smith's personal investment in OTAF LLC.

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 \$495,000 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**

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**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

v.

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

**Defendants.**

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

**CERTIFICATE OF  
SERVICE**

I hereby certify, this 31<sup>st</sup> day of October, 2022, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Ninth Quarterly Status Report, 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  
Register No. 72832-050  
FCI Danbury  
Federal Correctional Institution  
Route 37  
Danbury CT 06811

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