

**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 TENTH 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 Tenth 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 tenth 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 tenth 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 tenth quarter was \$7,983,221.50. 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, assist 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 Tenth Quarter are outlined in further detail below.

**A. Litigation-Related Activities**

**i. Motion Practice**

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), which was granted on October 17, 2022 (ECF No. 211). The Court granted the Motion on November 15, 2022. (ECF No. 215).

On October 24, 2022, the Receiver filed a Motion to Enforce the Receivership Order and to Compel Brenda Smith's Compliance Therewith, in

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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.

connection with Ms. Smith's refusal to sign a consent directive which would enable the Receiver to obtain bank account information from overseas banks. (ECF No. 212). The Court granted the Motion on November 8, 2022. (ECF No. 214). The Receiver is attempting to make renewed arrangements to have Brenda Smith sign the consent directive.

On January 13, 2023, the Receiver filed a Motion for Permission to Change Counsel, in light of Conrad O'Brien's anticipated February 1, 2023 move to Clark Hill. (ECF No. 219). The Court granted the Motion on January 17, 2023. (ECF No. 223).

On January 16, 2023, the Receiver filed his Fourth Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate (ECF No. 220), the exhibits to which he filed under seal (ECF No. 221). The Receiver simultaneously filed a Motion to Seal the Exhibits to the Motion (ECF No. 222), which was granted on January 17, 2023. (ECF No. 224).

On January 23, 2023, the Receiver filed a Motion for Permission to Change Banks. (ECF No. 225). The Court granted the Motion on January 24, 2023, authorizing the Receiver to open one or more custodial accounts at WSFS Bank or another federally insured bank with a presence in New Jersey, to receive and hold all cash equivalent Receivership Assets. (ECF No. 226).

**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.):*** Oral argument on the Defendants' Motion to Transfer Venue (ECF No. 37) was held on October 4, 2022. On November 1, 2022, the Court entered an Order denying the Motion to Transfer. (ECF No. 66). A status conference took place on November 16, 2022. The parties have submitted briefs on Defendants' Motion to Dismiss (ECF No. 36), which was previously administratively terminated pending the outcome of the Motion to Transfer. The parties are also proceeding with discovery.
- ***Kevin D. Kent, in his capacity as Receiver v. Medical Consultants Instructional Training Center, et al., No. 2:21-cv-13104 (D.N.J.):*** This case was closed following the Court's approval of the settlement 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.):*** On September 23, 2022, counsel for Defendants filed a motion to withdraw as counsel. (ECF No. 33). Following a hearing held on October 11, 2022, the motion to withdraw was granted on October 13, 2022, and the corporate defendants were given until November 30, 2022 to secure replacement counsel. (ECF No. 36). The corporate defendants failed to secure replacement counsel by the November 30, 2022 deadline. A telephone status conference was held on December 7, 2022. Following the status conference, the Court entered an Order (ECF No. 39) staying Galvin Investment Company's ("GIC") counterclaim which was the subject of the Receiver's Motion to Dismiss (ECF No. 25).<sup>2</sup> Following the status conference, the Receiver filed an application to strike GIC's Counterclaims, and the corporate defendants' Answer and Affirmative on December 9, 2022, based upon the corporate defendants' failure to obtain substitute counsel and inability to proceed *pro se*. (ECF No. 40). On December 12, 2022, the Receiver filed a Request for Entry of

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<sup>2</sup> The counterclaims were also submitted through the Receivership claims process and will be litigated in connection therewith.

default against the corporate defendants. (ECF No. 41). The Clerk entered a default against the corporate defendants that same day. Meanwhile, the Receiver is proceeding with discovery with Richard Galvin, who is now representing himself *pro se*.

- ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, No. 2:21-cv-18396 (D.N.J.)***: Fact discovery closed on December 14, 2022. The parties are now proceeding with expert discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al., No. 2:21-cv-20691 (D.N.J.)***: Renato Iregui and Kelly Lynn Ulmer filed Answers to the Receiver's Complaint on April 29, 2022 and July 18, 2022, respectively. (ECF Nos. 12 and 23, respectively). The corporate defendants never responded to the Complaint. On August 1, 2022, the Receiver filed a Request for Entry of Default against the corporate defendants. (ECF No. 25). The Clerk entered a default against the corporate defendants on August 3, 2022. Meanwhile, the Receiver is proceeding with discovery with Renato Iregui and Kelly Ulmer.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al., No. 2:21-cv-20754 (D.N.J.)***: Oral argument on Defendants' Motion to Transfer Venue (ECF No. 26) was held on September 28, 2022. On January 4, 2023, the Court entered an Order denying the Motion to Transfer. (ECF No. 43). A status conference was held on January 13, 2023, and a settlement conference is scheduled for February 21, 2023. The parties are in the process of submitting briefs on Defendants' Motion to Dismiss (ECF No. 29), with the Receiver's response due March 23, 2023.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al., No. 2:22-cv-00388 (D.N.J.)***: Jordan Denise filed an Answer to the Complaint *pro se* on May 24, 2022 (ECF No. 8). The corporate defendants never responded to the Complaint. On October 11, 2022, the Receiver filed a Request for Entry of Default against the corporate defendants. (ECF No. 18). The Clerk entered a default against the corporate defendants on October 12, 2022. Further, after Jordan Denise failed to participate in discovery, the Receiver filed a letter with the Court on October 19, 2022, requesting an order compelling



her to provide initial disclosures and responses to the Receiver's written discovery requests. (ECF No. 19). Following a telephone status conference held on November 1, 2022, the Court entered a Text Order requiring Ms. Denise to respond to the Receiver's written discovery requests by December 15, 2022. (ECF No. 23). After Ms. Denise failed to provide her discovery responses by the deadline, the Receiver filed a request for leave to file a motion to compel and for sanctions on January 3, 2023. (ECF No. 24). Leave was granted on January 4, 2023. (ECF No. 25). The Receiver filed a Motion to Compel and for Sanctions on January 17, 2023 requesting, *inter alia*, that Ms. Denise's Answer to the Complaint be stricken and a default entered against her due to her failure to participate in discovery. (ECF No. 26).

- ***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.)***: Defendants Nottingham Company and Kip Meadows filed an Answer with Affirmative Defenses to the Receiver's Amended Complaint (ECF No. 143) on September 6, 2022. (ECF No. 161). On October 15, 2022, these defendants filed an Answer with Affirmative Defendant to Plaintiff Surefire Dividend Capture, LP's ("Surefire") Amended Complaint. (ECF No. 163). A Rule 16 conference took place on January 18, 2023. (ECF No. 164). The parties are in the process of conducting discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al., No. 2:22-cv-01195 (D.N.J.)***: The Court entered an Order denying Defendants' Motion to Dismiss (ECF No. 17) on December 30, 2022. (ECF No. 24). On January 27, 2023, Defendants filed an Answer with Counterclaims. (ECF No. 31). The Receiver intends to challenge the counterclaims. Meanwhile, the parties are in the process of proceeding with discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Jeffrey Bydalek, et al., No 2:22-cv-01811 (D.N.J.)***: The parties reached an agreement to resolve this case, which had been administratively terminated pending the outcome of the parties' settlement discussions. The Receiver filed a letter requesting that the case be reopened on January 5, 2023, so he could seek Court approval of the settlement. (ECF No. 26). The Receiver filed a motion to approve the settlement in that case on

January 9, 2013. (ECF No. 28). The exhibits to that motion were filed under seal. (ECF No. 29). The Receiver thereafter filed a motion to seal the exhibits (ECF No. 30), as well as a motion to seal the Redacted Complaint (ECF No. 31). The Receiver filed a notice of the settlement in the main Receivership case on January 9, 2013. (ECF No. 218). The Receiver's motions to seal were granted on January 19, 2023 (ECF Nos. 33, 34), and the Court entered an order approving the settlement on January 20, 2023. (ECF No. 35). The Receiver filed a Stipulation of Dismissal on January 27, 2023. (ECF No. 38).

- ***Kevin Dooley Kent, in his capacity as Receiver v. Larry Hooper, et al., No 2:22-cv-01876 (D.N.J.):*** This case was closed following the Court's approval of the settlement 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.):*** After the defendants failed to plead or otherwise respond to the Complaint, the Receiver filed a Request for Entry of Default on October 12, 2022. (ECF No. 5). The Clerk entered a default against Defendants on October 14, 2022. The Receiver filed a Motion for Default Judgment against the defendants on January 4, 2023. (ECF No. 6).

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

The Receiver has sent Brenda Smith's rugs and some additional personal property that was being held in storage to Stephenson's Auction in an effort to recover additional funds for the Receivership Estate. After the close of the quarter, the Receiver received an additional \$397.00 from Stephenson's Auction, bringing the total proceeds from the sale of personal property to \$12,208.20 through seventeen (17) auctions so far. The Receiver continues to hold professional equipment, some other non-marketable personal property of Smith's, and the original books and records of the Receivership Parties.

**C. Louisiana Property**

Despite aggressive marketing efforts and numerous price reductions, including a reduction to \$495,000.00 on August 25, 2022, the Receiver has been unable to secure a private buyer for the Louisiana property owned by BD of Louisiana, LLC (“the Property”). Based upon conversations with his real estate broker, the Receiver does not believe he can conduct a private sale of the Property which complies with the minimum requirements 28 U.S.C. § 2001(b). The Receiver is therefore attempting to work out a resolution with the bank holding a mortgage on the Property. In the meantime, the Receiver paid property taxes for the Property for 2022.

**D. Stock Holdings**

The Receiver took back possession of the 5,000 Lyft shares owned by Prico Market, LLC on January 24, 2023. The Receiver sold the Lyft shares for \$16.11 per share on January 26, 2023, resulting in net proceeds of \$80,292.20, after payment of commissions and fees to Raymond James.

**E. 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 or bought out 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 has received distributions totaling \$153,177.52 on Smith's \$100,000.00 investment in OTAF (Holgate) LLC through the close of the tenth quarter.

**F. 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 three (3) litigation settlements have been reached as of December 30, 2022, valued at over \$3.1 million.

**G. Insurance Coverage Claim**

The Receiver's settlement of his insurance coverage claim submitted on behalf of CV Brokerage was submitted the Court for approval on October 14, 2022 (ECF No. 206) and approved on November 15, 2022. (ECF No. 215).

**H. 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 and pursue 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, and to provide necessary litigation and/or expert support.

#### **I. 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 December 31, 2022, total cash on hand in the centralized Receivership Account (“Receivership Account”) was \$7,983,221.50. The Receiver brought in \$497,900.00 in settlement proceeds during this quarter.<sup>3</sup> The Receiver anticipates that his ongoing pursuit of claims and litigation will result in financial benefit for the Receivership Estate through settlements or judgments. Additionally, \$444,213.08 remains held in two Industrial and Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.<sup>4</sup>

Administrative expenses paid during this quarter total \$190.97, consisting of property taxes paid to the Tangipahoa Parish Sheriff’s Office for 2022.

### **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

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<sup>3</sup> A portion of these settlements consists of a first installment payment recovered through ancillary litigation pursued by the Receiver. That settlement is governed by the contingency fee agreement approved by the Court through its Orders Approving the Receiver’s Second and Third Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate. (ECF Nos. 161, 167). After the close of the quarter, attorneys’ fees and expenses were deducted from that settlement payment following the Court’s approval of that settlement, which payments will be reflected in the next quarterly status report.

<sup>4</sup> These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30).

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 December 30, 2022, the balance in the Receivership Account was \$7,983,221.50, which represents a nearly \$500,000.00 increase from the close of the prior quarter.

### **B. Settlements**

On November 15, 2022, the Court entered an order approving a pre-litigation settlement resolving an insurance coverage claim. (ECF No. 215). Those settlement funds were deposited into the Receivership Account during this quarter.

The Receiver also reached a settlement in a litigation matter he filed against Jeffrey Bydalek, Credit the Americas LP, FX Algo LLC, Hurricane Holdings, Inc. and M3 Media Group, Inc. (“Bydalek Defendants”) (*see* ECF No. 218), which was approved by the Court on January 20, 2023. The Bydalek Defendants also submitted a creditor claim through the Receivership claims process, and previously filed a FINRA Complaint against Brenda Smith and CV Brokerage, Inc., which was stayed. Without any admission of liability, the parties agreed to resolve all claims between them, in exchange for the return of the 5,000 shares of Lyft stock

remaining in Bydalek Defendants' possession to the Receiver,<sup>5</sup> and Bydalek Defendants' payment of \$1,200,000.00 to the Receiver, to be paid through four installment payments over the course of three years.<sup>6</sup> Funds from the first installment payment were deposited in the Receivership Account during the tenth quarter, and were to be subject to a refund if the settlement was not approved. Proceeds from the sale of the returned Lyft shares were also deposited in the Receivership Account after the close of the quarter.

In total, nearly \$500,000.00 in settlement proceeds were brought in during the tenth quarter. The Receiver is actively negotiating potential settlements with several other individuals and/or entities. Many of these potential claims are subject to tolling agreements.

### **C. Stock Holdings**

The remaining 5,000 Lyft shares owned and previously held by Prico Market, LLC were returned to the Receiver on January 23, 2023, pursuant to the litigation settlement with the Bydalek Defendants, and sold by the Receiver on January 26, 2023, at a price of \$16.11 per share.

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<sup>5</sup> It is the Receiver's position that these Lyft shares were owned by Receivership Party Prico Market LLC.

<sup>6</sup> There are prepayment discounts available for any payment made at least one (1) year before the specified due date.



**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.

**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 a buyout and/or 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>7</sup>. The Receiver has resolved his claims against MCITC based upon loans memorialized by promissory notes.

#### **G. Louisiana Properties**

The Receiver believes that the Property owned by BD of Louisiana in Hammond, Louisiana will likely need to be sold through a public sale, because he has been unable to secure a buyer willing to pay the minimum amounts required for a private sale under 28 U.S.C. § 2001. Meanwhile, interest on the mortgage continues to accrue. The Receiver is attempting to work out a resolution with the counsel for the bank holding the mortgage, and anticipates bringing any such resolution to the Court’s attention for approval.

#### **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.

The Receiver has submitted multiple requests to Brenda Smith for her to sign a consent directive which would authorize the Receiver to obtain information

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<sup>7</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.

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). The Motion was granted on November 8, 2022. (ECF No. 214). The Receiver has notified Smith of the Order, and is attempting to make arrangements for Smith to sign the consent directive with the assistance of personnel at FCI Danbury Federal Correctional Institution or a nearby mobile notary.

#### **I. Personal Property**

The Receiver sent six (6) rugs to Stephenson's Auction, having been unable to locate alternative options for the sale of the rugs. The Receiver is still holding certain personal/sentimental items of Smith's; however, he sent additional boxes of clothing, books and appliances not believed to have significant retail value to Stephenson's Auction, given the burden of continuing to hold and store these materials. Smith so far has been unable to make arrangements for the pick-up of remaining personal/sentimental items being stored by the Receiver. The Receiver has not been able to locate viable options for the sale of computer equipment retrieved from the Equinix data center.

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

The Receiver has filed twelve (12) lawsuits over the course of the Receivership. Three of those lawsuits are settled and closed – *Kent v. MCITC, et al.*, 2:21-cv-13104 (D.N.J.) and *Kent v. Hooper, et al.*, No. 2:22-cv-01876 (D.N.J.). Additionally, another lawsuit – *Kent v. Bydalek, et al.*, 2:22-cv-01811 (D.N.J.) – was resolved through settlement and dismissed by Stipulation. The Receiver filed a Fourth Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate on January 16, 2023. (ECF No. 220).

## **VII. CREDITORS**

The Receiver summarized the trade creditor claims that have been submitted through the Receivership claims process and identified additional potential creditors who filed lawsuits but did not submit creditor claims in his ninth quarterly status report, which is incorporated herein by reference.

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

Through the creditor claims process, the Receiver received and processed a total of thirty-seven (37) Investor Creditor Claims totaling \$69,373,769.53,<sup>8</sup> and fifteen (15) Non-Investor Creditor claims totaling \$86,921,909.87, for total claims

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<sup>8</sup> For purposes of this filing, this includes investors who invested money in any of the Receivership Parties, not just Broad Reach Capital or TA1.

of \$156,295,679.40.<sup>9</sup> The Receiver is preparing to file his First Omnibus Motion for Order Resolving Disputed Creditor Claims.

**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, and the extended payout schedules associated with certain settlement agreements, 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 Tenth Quarterly Status Report for the Court’s review and consideration.

Respectfully Submitted,

Date: 01/30/2023

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<sup>9</sup> This includes a claim from the IRS which the Receiver is treating as part of the claims process. These numbers exclude claims that have been withdrawn prior to this filing.

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# **EXHIBIT “A”**

Kevin Dooley Kent  
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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 10/01/2022 TO 12/31/2022



**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 10/01/2022 TO 12/31/2022

FUND ACCOUNTING (See Instructions)		Current Reporting Period - 10/01/22 to 12/31/22			06/29/20 - 12/31/22
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 10/01/22)			\$ 7,485,512.47	\$ -
	<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			-	547,254.02
Line 7	Third-Party Litigation Income			497,900.00	1,949,990.17 [1]
Line 8	Miscellaneous - Other			-	-
<b>Total Funds Available (Lines 1 – 8):</b>				<b>\$ 7,983,412.47</b>	<b>\$ 10,737,967.44</b>
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants			-	258,776.99 [2]
Line 10	Disbursements for Receivership Operations			190.97	2,483,268.95
Line 10a	Disbursements to Receiver or Other Professionals			-	-
Line 10b	Business Asset Expenses			190.97	-
Line 10c	Personal Asset Expenses			-	-
Line 10d	Investment Expenses			-	-
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>\$ 190.97</b>	<b>\$ 2,742,045.94</b>
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			-	12,700.00
Line 11a	<i>Distribution Plan Development Expenses:</i>				
	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	<i>Distribution Plan Implementation Expenses:</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. 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>\$ 190.97</b>	<b>\$ 2,754,745.94</b>
Line 13	<b>Ending Balance (As of 12/31/22):</b>			<b>\$ 7,983,221.50</b>	<b>\$ 7,983,221.50</b>
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			7,983,221.50	7,983,221.50
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	<b>Total Ending Balance of Fund – Net Assets</b>			<b>\$ 7,983,221.50</b>	<b>\$ 7,983,221.50</b>

**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 10/01/2022 TO 12/31/2022

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 10/01/22 to 12/31/22			06/29/20 - 12/31/22
		Detail	Subtotal	Period Total	Case to Date
<b>Line 15</b>	<b>Report of Items NOT To Be Paid by the Fund:</b>				
	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			\$ -	\$ -
<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			-	-
	<b>Total Plan Development Expenses Not Paid by the Fund</b>			\$ -	\$ -
<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			-	-
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>			\$ -	\$ -
<i>Line 15c</i>	<i>Tax Administrator Fees &amp; Bonds Not Paid by the Fund</i>			-	-
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			-	-
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>				
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>			-	-
<i>Line 16b</i>	<i>Federal Tax Payments</i>			-	-
	<b>Total Disbursements to Court/Other Not Paid by the Fund:</b>			-	-
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			\$ -	\$ -
<b>Line 18</b>	<b>No. of Claims:</b>				
<i>Line 18a</i>	<i># of Claims Received This Reporting Period</i>				-
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>				56
<b>Line 19</b>	<b>No. of Claimants/Investors:</b>				
<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

**Notes**

- [1] Includes funds derived from settlement of a litigation matter during the current reporting period that is pending Court approval. These funds are subject to a refund if the settlement is not approved by the Court.
- [2] 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: January 27, 2023

**NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT**

**Receivership Cash Accounts**

As of December 31, 2022, the Receiver's cash balance of \$7,983,221.50 was maintained in a checking account at Bank of America.

**Investments, Real and Personal Property**

As described more fully in the Receiver's Tenth 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"), which are subject to a mortgage with an outstanding principal balance of approximately \$345,000. Due to an inability to secure a private buyer for the BD of Louisiana Property, the Receiver is attempting to work out a resolution with the bank holding the mortgage.

**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 30<sup>th</sup> day of January, 2023, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Tenth 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.