

**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: March 6, 2023

**NOTICE OF MOTION OF RECEIVER, KEVIN DOOLEY KENT, FOR
APPROVAL OF NINTH INTERIM FEE APPLICATION FOR THE
PERIOD JULY 1, 2022 THROUGH SEPTEMBER 30, 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 March 6, 2023, 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 Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 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: 2/8/2023

s/ Robin S. Weiss

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**RECEIVER, KEVIN DOOLEY KENT'S NINTH INTERIM FEE
APPLICATION, FOR THE PERIOD JULY 1, 2022
THROUGH SEPTEMBER 30, 2022**

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Dated: 2/8/2023

TABLE OF CONTENTS

I. BACKGROUND2

II. CASE STATUS6

 A. Cash on Hand, Administrative Expenses, and Unencumbered Funds6

 B. Administration of Case to Date7

 1. Litigation-Related Activities7

 2. Storage & Sale of Belongings and Data.....12

 3. Louisiana Property13

 4. Stock Holdings13

 5. Private Investments and Ownership Interests14

 6. Investigation, Development, Pursuit and Settlement of Claims14

 7. Insurance Coverage Claim15

 8. Financial Account Reconstruction and Accounting Support.....15

 9. Receivership Taxes.....15

 10. Anticipated Closure of Case16

 C. Summary of Creditor Claims Proceedings16

 D. Receivership Assets.....17

 1. Receivership Bank Account17

 2. Settlements17

 3. Stock Holdings18

 4. Cryptocurrency.....18

 5. Private Investments18

 6. Receivables and Promissory Notes19

 7. Louisiana Properties19

 8. Additional Bank Accounts and Funds.....20

 9. Personal Property20

 E. Liquidated and Unliquidated Claims.....21

III. CURRENT AND PREVIOUS BILLINGS22

IV. REQUEST FOR COMPENSATION FOR FEES AND EXPENSES26

TABLE OF AUTHORITIES

Cases

Donovan v. Robbins, 588 F. Supp. 1268, 1272 (N.D. Ill. 1984)26
Gaskill v. Gordon, 27 F.3d 248 (7th Cir. 1994).....26
Gordon v. Dadante, 2008 WL 1805787 (N.D. Ohio 2008).....28
Securities & Exch. Comm’n v. Elliot, 953 F. Supp. 1560 (11th Cir. 1992) 26, 27
Securities & Exch. Comm’n v. Fifth Ave. Coach Lines, Inc., 364 F. Supp. 1220
(S.D.N.Y. 1973).....27
Securities & Exch. Comm’n v. W.L. Moody & Co., 374 F. Supp. 465 (S.D. Tex.
1974), *aff’d*, 519 F. 2d 1087 (5th Cir. 1975)27
United States v. Code Prods., 362 F.2d 669 (3d Cir. 1966).....27

Pursuant to the Court's Order Appointing Receiver dated June 29, 2020, Kevin Dooley Kent, Receiver, hereby submits this Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 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 \$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, 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.

This interim fee application focuses on developments during the ninth quarter of the Receivership. 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.). 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 the Receivership Parties¹ (hereinafter “Receivership Assets” or “Receivership Estate”). Receivership Order, Whereas ¶ 3; ¶¶ 1–3, 5 (ECF No. 22). The

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

Receivership Order authorized 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 ninth 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	
Seventh Interim Fee Application for the Period January 1, 2022 through March 31, 2022 (ECF No. 197), Filed June 2, 2022					
Law Firm	\$152,256.00	\$121,804.80	\$1,401.86	\$1,121.49	Approved 6/15/22 (ECF No. 199)
Accountant	\$142,877.50	\$114,302.00	\$3,415.70	\$2,732.56	
Eighth Interim Fee Application for the Period April 1, 2022 through June 30, 2022 (ECF No. 209), Filed October 17, 2022					
Law Firm	\$115,067.50	\$92,054.00	\$867.81	\$694.25	

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

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

Advertising Expenses On Behalf of Estate⁵			\$6,119.78	\$6,119.78	Approved 1/5/23 (ECF No. 217)
Accountant	\$73,652.50	\$58,922.00	\$2,135.40	\$1,708.32	

II. CASE STATUS

A. 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 interim fee applications. 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.⁶

⁵ Conrad O’Brien had to cover \$6,119.78 in advertising expenses for the Receivership Estate relating to publication of the Notice of Claims Procedure Bar Date in various states pursuant to the Order Setting Claims Bar Date, Establishing Claims Procedure and Approving Notification Process (ECF No. 168), which payments had to be made by credit card. Because these advertising expenses were incurred in the ordinary course of administration and operation of the Receivership, and would have been paid directly by the Receivership Estate if not for the requirement of a credit card payment, these are not the type of reimbursable expenses governed by the Billing Instructions and subject to the 20% holdback. Receivership Order, ¶¶ 11(D); 70, 72. Accordingly, the Receiver requested permission to reimburse Conrad O’Brien at a rate of 100% for these Estate-related advertising expenses.

⁶ These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30).

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 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.

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

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),⁷ the exhibits to which were filed under

⁷ "Company" or "the Company" is a pseudonym for an entity whose name was disclosed in supporting materials filed under seal.

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 to Approve the settlement 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 (ECF No. 212), which was granted on November 8, 2022. (ECF No. 214).

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). However, because the work performed during the ninth quarter was performed before Conrad O'Brien's move to Clark Hill, this fee application seeks payment to Conrad O'Brien as Counsel.

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).

b. Lawsuits Filed on Behalf of the Receivership Estate

The Receiver's twelve (12) 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.):*** 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.
- 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.):*** This case was closed following the Court's approval of the settlement on August 4, 2022. (ECF No. 28).
- 3) ***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).⁸ 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 default against the corporate defendants. (ECF No. 41). The Clerk entered a default against the corporate defendants that same day. The Receiver is proceeding with discovery with Richard Galvin, who is now representing himself *pro se*.

- 4) ***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.
- 5) ***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.
- 6) ***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), which was previously administratively terminated pending the outcome of the Motion to Transfer.

⁸ The counterclaims were also submitted through the Receivership claims process and will be litigated in connection therewith.

- 7) ***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).
- 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.)***: 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). The parties are now proceeding with discovery.
- 9) ***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.

10) *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 motion to approve the settlement remains pending as of the date of this filing. 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 to Dismiss on January 27, 2023. (ECF No. 38).

11) *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).

12) *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).

2. 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. 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.

3. 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.

4. 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.

5. 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.

6. 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 were reached as of September 30, 2022, valued at over \$1.9 million.

7. 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).

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 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.

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 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.

10. Anticipated Closure of Case

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.

C. Summary 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-seven (37) Investor Creditor Claims and fifteen (15) Non-Investor Creditor claims, totaling \$156,295,679.40.⁹ The Receiver is preparing to file his First Omnibus Motion for Order Resolving Disputed Creditor Claims.

D. Receivership Assets

1. 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.

2. 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 (ECF No. 206), which was approved on November 15, 2022 (ECF No. 215).

⁹ 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.

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.

3. Stock Holdings

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

4. 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.

5. 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.

6. 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 Parties¹⁰. The Receiver has resolved his claims against MCITC based upon loans memorialized by promissory notes.

7. 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.

¹⁰ 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.

8. 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 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. Brenda Smith was initially 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), which was granted on November 8, 2022. (ECF No. 214). Brenda Smith thereafter signed and returned the consent directive to the Receiver.

9. 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.

E. Liquidated and Unliquidated Claims

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.) – settled.

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 filed a Fourth Motion for Permission to Initiate Litigation on Behalf of the Receivership Estate after the close of the quarter, on January 16, 2023. (ECF No. 220).

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:

	Law Firm	Accountant
Total Fees	\$53,462.00	\$47,600.00
Fees Requested (with holdback)	\$42,769.60	\$38,080.00
Total Expenses	\$408.15	\$2,947.60
Total Expenses Requested (with holdback)	\$326.52	\$2,358.08

The Receiver's prior fee applications setting forth the history of fees and expenses charged to the Receivership Estate, the amounts requested, and the status of the Court's approval of those applications, are set forth in the table appearing at pages 5-6 of this fee application.

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,¹¹ 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	41.70	\$13,173.00
Asset Disposition	11.60	\$4,861.00
Business Operations	0.10	\$33.00
Case Administration	61.0	\$20,079.50
Claims Administration and Objections	43.10	\$15,315.50
Totals	157.50	\$53,462.00

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
Accounting/Auditing	1.80	\$745.00
Data Analysis	9.70	\$4,780.00
Forensic Accounting	7.20	\$2,920.00
Litigation Consulting	61.50	\$24,550.00
Status Reports	10.70	\$4,827.50

¹¹ These exhibits are being filed under seal pursuant to Paragraph 73 of the Receivership Order.

Tax Issues	11.40	\$5,302.50
Claims Administration and Objections	9.40	\$4,475.00
TOTALS	111.70	\$47,600.00

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	24.60	\$12,546.00
Andrew S. Gallinaro, Partner	\$365.00	26.50	\$9,672.50
Robin S. Weiss, Associate/Partner	\$330.00	77.60	\$25,608.00
Vanessa L. Huber, Associate	\$330.00	9.30	\$2,418.00
Brianna L. Dinmore, Paralegal	\$165.00	8.4	\$1,386.00
Erika L. Finkernagel, Paralegal	\$165.00	11.0	\$1,815.00
Justin D. Russell, Paralegal	\$165.00	0.10	\$16.50
TOTALS		157.50	\$53,462.00

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	7.90	\$4,345.00
David Medway (Director)	\$475.00	45.60	\$21,660.00
Meghan Morine (Manager)	\$425.00	2.20	\$935.00
Nichole Lunt (Senior Associate)	\$375.00	25.20	\$9,450.00
Cody Putterman (Associate)	\$275.00	1.80	\$495.00

Matthew Ryan II (Paraprofessional)	\$150.00	9.60	\$1,440.00
Forensic Analysis Team Sub-Total		92.30	\$38,325.00
Data Analysis Team			
Bradley Koehler (Senior Director)	\$550.00	2.30	\$1,265.00
James McKenzie IV (Director)	\$475.00	7.40	\$3,515.00
Data Analysis Team Sub-Total		9.70	\$4,780.00
Tax Services Team			
Sean Menendez (Managing Director)	\$550.00	0.90	\$495.00
Jennifer Palacios (Senior Director)	\$550.00	4.00	\$2,200.00
Jadyna Seelye (Senior Associate)	\$375.00	4.80	\$1,800.00
Tax Services Team Sub-Total		9.70	\$4,495.00
OVERALL TOTALS		111.70	\$47,600.00

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 Contingency Fee Agreement, the Receiver and his Counsel's time spent on ancillary litigation 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.¹² 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 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.*

¹² 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).

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, the Receiver and his Retained Personnel are now focusing a majority of their efforts in this action on analyzing and resolving claims asserted against the Receivership Estate, in the interest of moving closer to an interim distribution. Further, their fees have decreased significantly from prior quarters, while the Receiver and his Counsel devote increasing amounts of time to ancillary litigation being handled on a contingency fee basis. Additionally, the fees for the Receivership continue to decrease, 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 over \$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 additional significant funds can be recovered on behalf of the Receivership Estate, primarily through litigation, or pre-litigation 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 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 Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 2022, and thereby authorize the following:

1. Payment to Conrad O'Brien PC in the amount of \$42,769.60, as compensation for services performed from July 1, 2022 through September 30, 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 \$38,080.00 as compensation for services performed from July 1, 2022 through September 30, 2022, such payment representing eighty percent (80%) of its fees for this quarter;
3. Payment to Conrad O'Brien PC in the amount of \$326.52, for expenses incurred from July 1, 2022 through September 30, 2022, representing eighty percent (80%) of its expenses for this quarter; and
4. Payment to Alvarez & Marsal Disputes and Investigations, LLC, in the amount of \$2,358.08, for expenses incurred from July 1, 2022 through

September 30, 2022, representing eighty percent (80%) of its expenses for this quarter.

Date: 2/8/2023

Respectfully Submitted,

s/ Robin S. Weiss

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EXHIBIT “A”

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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 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		-	-	
	Total Funds Available (Lines 1 - 8):		\$ 7,589,296.66	\$ 10,240,067.44	
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants		-	258,776.99	[1]
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		-		
	Total Disbursements for Receivership Operations		\$ 103,784.19	\$ 2,741,854.97	
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		-		
	Total Disbursements for Distribution Expenses Paid by the Fund		\$ -	\$ 12,700.00	
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):		\$ 103,784.19	\$ 2,754,554.97	
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		-	-	
	Total Ending Balance of Fund - Net Assets		\$ 7,485,512.47	\$ 7,485,512.47	

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	Report of Items NOT To Be Paid by the Fund:			\$ -	\$ -
Line 15a	Disbursements for Plan Administration Expenses Not Paid by the Fund:				
	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			-	
	Total Plan Development Expenses Not Paid by the Fund			\$ -	
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			-	
	Total Plan Implementation Expenses Not Paid by the Fund			\$ -	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			-	
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-	-
Line 16	Disbursements to Court/Other Not Paid by the Fund:			-	-
Line 16a	Investment Expenses/CRIS Fees			-	
Line 16b	Federal Tax Payments			-	
	Total Disbursements to Court/Other Not Paid by the Fund:			-	-
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	No. of Claims:				
Line 18a	# of Claims Received This Reporting Period				-
Line 18b	# of Claims Received Since Inception of Fund				56
Line 19	No. of Claimants/Investors:				
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.

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 7th day of February, 2023.

Kevin Dooley Kent, Receiver
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)

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 Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 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: 2/8/2023

s/ Robin S. Weiss

Robin S. Weiss, Esquire
Andrew S. Gallinaro, Esquire
Clark Hill PLC
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
Phone: 215-864-8086
Fax: 215-523-9714
rsweiss@clarkhill.com
agallinaro@clarkhill.com

*Attorneys for Receiver,
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
NINTH INTERIM FEE APPLICATION FOR THE PERIOD
JULY 1, 2022 THROUGH SEPTEMBER 30, 2022**

THIS MATTER having come before this Court upon the Motion of Receiver, Kevin Dooley Kent for Approval of Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 2022;

It is on this _____ day of _____, 2023,

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

FURTHER ORDERED that Payment to Conrad O'Brien PC ("Law Firm") in the amount of \$42,769.60, for services performed from July 1, 2022 through September 30, 2022, representing eighty percent (80%) of the Law Firm's total fee of

\$53,462.00 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 \$38,080.00 for services performed from July 1, 2022 through September 30, 2022, representing eighty percent (80%) of the Accountant’s total fee of \$47,600.00 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 \$326.52 for expenses incurred from July 1, 2022 through September 30, 2022, representing eighty percent (80%) of the Firm’s total expenses of \$408.15 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 \$2,358.08 for expenses incurred from July 1, 2022 through September 30, 2022, representing eighty percent (80%) of the Accountant’s total expenses of \$2,947.60 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 8th day of February, 2023, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin Dooley Kent for Approval of Ninth Interim Fee Application for the Period July 1, 2022 through September 30, 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
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