

**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 ELEVENTH QUARTERLY  
STATUS REPORT**

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**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. SUMMARY OF THE OPERATIONS OF THE RECEIVER ..... 2

    A. Litigation-Related Activities..... 3

        i. Motion Practice ..... 3

        ii. Lawsuits Filed on Behalf of the Receivership Estate..... 4

    B. Storage & Sale of Belongings and Data..... 7

    C. Louisiana Property ..... 8

    D. Stock Holdings..... 8

    E. Private Investments and Ownership Interests ..... 9

    F. Receivership Bank Accounts ..... 9

    G. Investigation of Overseas Bank Accounts ..... 11

    H. Investigation, Development, Pursuit and Settlement of Claims..... 12

    I. Financial Account Reconstruction and Accounting Support..... 12

    J. Receivership Taxes ..... 13

III. CASH ON HAND, ADMINISTRATIVE EXPENSES, AND UNENCUMBERED FUNDS ..... 13

IV. RECEIPTS AND DISBURSEMENTS ..... 15

V. RECEIVERSHIP ASSETS ..... 15

    A. Receivership Bank Accounts ..... 15

    B. Settlements..... 15

    C. Stock Holdings..... 16

    D. Cryptocurrency ..... 16

    E. Private Investments..... 16

    F. Receivables and Promissory Notes ..... 17

    G. Louisiana Properties..... 17

    H. Additional Bank Accounts and Funds ..... 18

    I. Personal Property ..... 18

VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY RECEIVERSHIP ESTATE ..... 19

VII. CREDITORS..... 19

VIII. STATUS OF CREDITOR CLAIMS PROCEEDINGS ..... 19

IX. RECEIVER’S RECOMMENDATIONS FOR CONTINUATION OR DISCONTINUATION OF THE RECEIVERSHIP ..... 20

X. CONCLUSION ..... 21

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 Eleventh Quarterly Status Report (the “Report”), in accordance with Paragraphs 67 and 68 of the Receivership Order, and reports 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 eleventh 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 eleventh 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 total balance in the Receivership Accounts as of the close of the eleventh quarter was \$7,836,555.30. 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 Eleventh Quarter are outlined in further detail below.

**A. Litigation-Related Activities**

**i. Motion Practice**

On January 13, 2023, the Receiver filed a Motion for Permission to Change Counsel, in light of Conrad O'Brien's planned February 1, 2023 combination with 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).

The Receiver filed his First Omnibus Motion for Order Resolving Disputed Non-Investor Creditor Claims (“First Omnibus Claims Motion”) on March 14, 2023. (ECF No. 232).

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

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

- ***Kevin D. Kent, in his capacity as Receiver v. Emperor Global Enterprises LLP, et al., No. 2:21-cv-13099 (D.N.J.)***: The parties have fully briefed Defendants’ Motion to Dismiss Complaint for lack of jurisdiction as to all defendants (except Emperor Global Enterprises LLP) (ECF No. 72) . The Receiver submitted a response to the Motion to Dismiss on December 28, 2022. (ECF No. 74). Defendants submitted a reply brief on January 24, 2023. (ECF No. 73). The Motion to Dismiss has not yet been ruled upon. Meanwhile, the parties are proceeding with written discovery and have brought various discovery disputes to the Court’s attention for resolution. (*See* ECF Nos. 71, 80, 89, 92) On January 23, 2023, Defendants filed a Motion for Protective Order to Quash the Receiver’s Subpoena to Barclays Bank (ECF No. 71), which the Receiver opposed (ECF No. 81), and the Court ultimately administratively terminated without prejudice pending resolution of various discovery disputes. (ECF No. 85). On March 6, 2023, the Court held a hearing with the parties to resolve the various discovery disputes. Following the hearing, the Court entered an Order stating, *inter alia*, that the Receiver may issue a revised subpoena to Barclays Bank that was limited in scope from January 2017 through the present (ECF No. 88), and on March 8,

2023, the Receiver issued the revised subpoena. As to the Court's ruling on the written discovery disputes, however, the parties filed letters with the Court asking for clarification on the Court's ruling because the parties did not agree on what the Court specifically ordered Defendants to produce to the Receiver. (*See* ECF Nos. 89, 92). On April 3, 2023, the Court entered a Letter Order directing the Entity Defendants to produce unredacted financial documents to the Receiver from January 2017 through the present. (ECF No. 94).

- ***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). However, the defendants have not satisfied all of their payment obligations under the Settlement Agreement. The Receiver is in contact with counsel for the defendants and anticipates filing a breach of contract action, a motion to enforce, or seeking other appropriate legal remedy if this issue cannot be resolved.
- ***Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al., No. 2:21-cv-13105 (D.N.J.):*** The corporate defendants still have not secured replacement counsel, and the Receiver's December 9, 2022 application to strike GIC's counterclaims and the corporate defendants' Answer and Affirmative Defendants (ECF No. 40) remains pending. Meanwhile, the Receiver is proceeding with discovery with Richard Galvin, who continues to represent himself *pro se*.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, No. 2:21-cv-18396 (D.N.J.):*** Discovery is closed. The Receiver filed a Motion for Summary Judgment on April 27, 2023. (ECF No. 34).
- ***Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al., No. 2:21-cv-20691 (D.N.J.):*** Fact discovery closed on April 3, 2023. On April 10, 2023, the Receiver filed a letter with the court regarding a discovery dispute involving Kelly Ulmer's delinquent responses to the Receiver's second set of discovery requests. (ECF No. 41). A status conference was held on April 13, 2023.

- ***Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al., No. 2:21-cv-20754 (D.N.J.):*** On January 4, 2023, the Court entered an Order denying Defendants' Motion to Transfer Venue. (ECF No. 43). A status conference was held on January 13, 2023, and a settlement conference took place on February 21, 2023. Following the settlement conference, the Court entered an order referring the case to mediation and appointing a mediator, and administratively terminating the case pending completion of mediation and the upcoming status conference schedule for May 23, 2023. (ECF No. 58). The parties are engaging in informal settlement discussions before scheduling the mediation.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al., No. 2:22-cv-00388 (D.N.J.):*** The Receiver's January 17, 2023 Motion to Compel and for Sanctions (ECF No. 26) 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 remains pending as of the date of this filing. All previously imposed discovery deadlines are being held in abeyance pending the outcome of the Motion to Compel and for Sanctions. Meanwhile, counsel has now entered an appearance for Jordan Denise, and is in the process of providing Ms. Denise's overdue discovery responses to the Receiver. A status conference was held on April 18, 2023.
- ***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.):*** A Rule 16 conference took place on January 18, 2023. (ECF No. 164). The parties are now 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.):*** On January 27, 2023, Defendants filed an Answer with Counterclaims. (ECF No. 31). On February 17, 2023, the Receiver filed a Motion to Dismiss all Counterclaims. (ECF No. 37). Defendants filed a response in opposition on March 6, 2023. (ECF No. 38). The Receiver filed a Reply in Support of the Motion to Dismiss all Counterclaims on March 13, 2023. (ECF No. 39). Meanwhile, the parties are 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 was 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.):*** 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 sent Brenda Smith's rugs and some additional personal property to Stephenson's Auction in an effort to recover additional funds for the Receivership Estate. The Receiver received two additional payments from Stephenson's Auction during this quarter, totaling \$397.00. In total, the Receiver has recovered \$12,208.20 in proceeds from the sale of personal property through seventeen (17) auctions over the course of the Receivership.

The Receiver continues to hold professional equipment and the original books and records of the Receivership Parties. Brenda Smith arranged for the pick-up of personal, sentimental items without significant resale value on April 6, 2023.

**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 \$80,292.74, 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 may 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. Receivership Bank Accounts**

Pursuant to the permission granted to him by this Court (ECF No. 226), the Receiver opened two additional accounts with WSFS to hold Receivership Assets – a checking account and an interest-bearing trust/savings account. On or about March 7, 2023, the Receiver transferred \$7,524,001.28 out of the Receivership Bank of America Account (“BOA Account”) and into the WSFS Trust/Savings Account (“WSFS Savings”). The Receiver thereafter transferred \$300,000.00 from the WSFS Savings into the WSFS Checking Account (“WSFS Checking”) on March 30, 2023, to enable the Receiver to write checks for expenses of the

Receivership Estate. These bank accounts are hereinafter collectively referred to as the “Receivership Accounts.”

The Federal Deposit Insurance Act provides that the Federal Deposit Insurance Corporation (“FDIC”) will recognize claims for insurance coverage based on a fiduciary relationship if it is expressly disclosed in the deposit account records for the institution. 12 C.F.R. § 330.5 (b)(1). Fiduciary accounts eligible for pass-through FDIC coverage for each beneficiary “include, but are not limited to, relationships involving a trustee, agent, nominee, guardian, executor or custodian pursuant to which funds are deposited.” 12 C.F.R. § 330.5 (b)(1). Where the deposit accounts records disclose the existence of a fiduciary relationship which might provide a basis for additional FDIC insurance coverage, “the details of the relationship and the interests of other parties in the account must be ascertainable either from the deposit account records of the insured depository institution or from records maintained, in good faith and in the regular course of business, by the depositor or by some person or entity that has undertaken to maintain such records for the depositor.” 12 C.F.R. § 330.5 (b)(2).

In light of recent events in the banking industry and in order to further protect the interests of the investors and creditors of the Receivership Parties by furthering the likelihood that the Receivership Accounts would be eligible for pass-through FDIC coverage, on March 31, 2023, the Receiver sent letters to Bank of

America and WSFS to remind them that the accounts were created for purposes of a Receivership, and that the Receiver holds the funds as a fiduciary for the investors and trade creditors of the Receivership Parties. These letters attached 2012 guidance from the FDIC regarding potential pass-through treatment for fiduciary accounts, including those involving Qualified Settlement Funds. The Receiver also provided the banks with an accompanying list of the investors and creditors on whose behalf the funds are being held, and requested that the banks keep this information confidential.

**G. Investigation of Overseas Bank Accounts**

Pursuant to Court Order, Brenda Smith signed a consent directive on January 26, 2023, which directed all financial institutions located outside the territorial United States at which she has or may have had a bank or brokerage accounts to disclose information and documents relating to these accounts to the Receiver.

On February 13, 2023, the Receiver, through counsel, sent copies of the Consent Directive along with document requests to the following overseas banks which previously failed to respond to or cooperate with the Receiver's prior requests: Cidel Bank & Trust Inc. ("Cidel Bank"), National Bank of Fujairah, Barclays Bank PLC, and Al Rayan Bank PLC. Cidel Bank responded and produced responsive account documents on February 22, 2023. The other

remaining banks have not responded to the Receiver's communication and requests.

#### **H. 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 March 31, 2023, valued at over \$3.1 million.

#### **I. 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.

#### **J. 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. The Receiver is seeking to have these claims resolved through the creditor claims process.

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

As of March 31, 2023, total cash on hand in the Receivership Accounts was \$7,836,555.30. The Receiver brought in \$80,292.74 for the sale of the Lyft shares resulting from a settlement, \$397.00 in auction proceeds, and \$12,693.52 in interest earnings during this quarter.

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>1</sup> Another \$12,821.80 is held in the name of CV International Investments Limited with Cidel Bank in Barbados.

Administrative expenses paid during this quarter total \$240,049.16 and include (a) \$139.20 in WSFS bank fees, (b) \$153,378.57 in professional fees and expense reimbursement to the Receiver, his Counsel and Accountant pursuant to this Court’s January 5, 2023 Order approving the Receiver’s Eighth Interim Fee Application (ECF No. 217); (c) \$6,119.78 in reimbursement to Conrad O’Brien for advertising expenses pursuant to the same order (ECF No.); and (d) \$80,411.61 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 and Third Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate, (ECF Nos. 161, 167), which attorneys’ fees and expenses were deducted pursuant to an Order approving the Receiver’s settlement in certain of those cases.

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<sup>1</sup> These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver. (ECF No. 30).



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

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

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

##### **A. Receivership Bank Accounts**

As of the close of the quarter on March 31, 2023, the balance in the Receivership Accounts was \$7,836,555.30, broken down as follows: \$7,236,678.80 in WSFS Savings, \$299,876.50 in WSFS Checking, and \$300,000.00 in the BOA Account.

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

The Receiver's settlement with Jeffrey Bydalek, Credit the Americas LP, FX Algo LLC, Hurricane Holdings, Inc. and M3 Media Group, Inc. ("Bydalek Defendants") (*see* ECF No. 218) was approved by the Court on January 20, 2023. The Receiver received Bydalek Defendants' first installment payment during the tenth quarter, and the remaining Lyft shares were returned to the Receiver on January 23, 2023. The settlement also resolved the Bydalek Defendants' creditor claims, which have since been withdrawn, and his FINRA Action, which is now dismissed.

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.

**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>2</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.

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<sup>2</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.

## **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 has addressed ICBCFS' claimed security and priority interest in these funds in his First Omnibus Claims Motion.

Further, after receiving the signed Consent Directive and the Receiver's letter, Cidel Bank made a production to the Receiver on February 22, 2023. The documents produced reveal the existence of an account in the name of CV International Investments, Ltd. which currently holds funds with an equivalent market value of approximately \$12,821.80 USD. Cidel has also continued to charge quarterly management fees on the account of between \$11.23 and \$11.34 per quarter since the entry of the Receivership Order.

## **I. Personal Property**

The Receiver sent six (6) rugs and additional boxes of clothing, books and appliances not believed to have significant resale value to Stephenson's Auction during the previous quarter, given the burden of continuing to hold and store these materials. Smith arranged for the pick-up of her personal/sentimental belongings on April 6, 2023. 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 has received and processed a total of thirty-seven (37) Investor Creditor Claims totaling

69,373,769.53,<sup>3</sup> and fifteen (15) Non-Investor Creditor claims totaling \$86,921,909.87, for total claims of \$156,295,679.40.<sup>4</sup>

The Receiver filed his First Omnibus Claims Motion on March 14, 2023. (ECF No. 232). On March 28, 2023, the Receiver submitted a proposed briefing schedule for the First Omnibus Claims Motion. (ECF No. 234). In response to this request, the Court set a briefing schedule and administratively terminated the First Omnibus Claims Motion without prejudice on March 29, 2023. (ECF No. 235).

Under the adjusted briefing schedule, all claimants must serve the Receiver with responses to the First Omnibus Claims Motion by May 3, 2023, and the Receiver is to serve the claimants with reply papers in further support of the First Omnibus Claims Motion by July 10, 2023. The Receiver will thereafter file the moving papers, along with a new notice of motion, the response papers, and the reply papers simultaneously by July 13, 2023.

#### **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

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<sup>3</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.

<sup>4</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.

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 Eleventh Quarterly Status Report for the Court's review and consideration.

Respectfully Submitted,

Date: 04/28/2023

s/ Robin S. Weiss  
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*Attorneys for Receiver, Kevin Dooley  
Kent*

# **EXHIBIT “A”**



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(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 01/01/2023 TO 03/31/2023

**STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis**  
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK  
 REPORTING PERIOD 01/01/2023 TO 03/31/2023

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 01/01/23 to 03/31/23			06/29/20 - 03/31/23
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 01/01/23)			\$ 7,983,221.50	\$ -
	<i>Increases in Fund Balance:</i>				
Line 2	Business Income			-	-
Line 3	Cash and Securities			80,550.00	8,320,567.58
Line 4	Interest/Dividend Income			12,694.06	12,699.73
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			965.00	548,219.02
Line 7	Third-Party Litigation Income			-	1,949,990.17
Line 8	Miscellaneous - Other			-	-
	<b>Total Funds Available (Lines 1 – 8):</b>			<b>\$ 8,077,430.56</b>	<b>\$ 10,832,176.50</b>
	<i>Decreases in Fund Balance:</i>				
Line 9	Disbursements to Investors/Claimants			-	258,776.99
Line 10	Disbursements for Receivership Operations			234,755.48	2,718,024.43
Line 10a	Disbursements to Receiver or Other Professionals			234,047.98	
Line 10b	Business Asset Expenses			-	
Line 10c	Personal Asset Expenses			568.00	
Line 10d	Investment Expenses			139.50	
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>\$ 234,755.48</b>	<b>\$ 2,976,801.42</b>
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			6,119.78	18,819.78
Line 11a	Distribution Plan Development Expenses:				
	1. Fees:				
	Fund Administrator			-	
	Independent Distribution Consultant (IDC)			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			6,119.78	
	3. Miscellaneous			-	
	Total Plan Development Expenses			6,119.78	
Line 11b	Distribution Plan Implementation Expenses:				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. Federal Account for Investor Restitution (FAIR)			-	
	Reporting Expenses			-	
	Total Plan Implementation Expenses			-	
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>			<b>\$ 6,119.78</b>	<b>\$ 18,819.78</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>\$ 240,875.26</b>	<b>\$ 2,995,621.20</b>
Line 13	Ending Balance (As of 12/31/22):			\$ 7,836,555.30	\$ 7,836,555.30
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			7,836,555.30	7,836,555.30
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	<b>Total Ending Balance of Fund – Net Assets</b>			<b>\$ 7,836,555.30</b>	<b>\$ 7,836,555.30</b>

[1]

**STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis**  
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK  
 REPORTING PERIOD 01/01/2023 TO 03/31/2023

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>				52
<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] 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: April 27, 2023

**NOTES TO THE STANDARDIZED FUND ACCOUNTING REPORT****Receivership Cash Accounts**

As of March 31, 2023, the Receiver's cash balance of \$7,836,555.30 was maintained in checking and savings accounts at Bank of America and WSFS Bank with the following balances.

**Receivership Cash Account Balances - March 31, 2023**

<b>Financial Institution</b>	<b>Account Type</b>	<b>Balance</b>
Band of America	Checking	\$300,000.00
WSFS Bank	Checking	299,876.50
WSFS Bank	Savings	7,236,678.80
<b>Total Cash</b>		<b>\$7,836,555.30</b>

**Investments, Real and Personal Property**

As described more fully in the Receiver's Eleventh 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 28<sup>th</sup> day of April, 2023, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Eleventh 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.