

**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)

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

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The Receiver, Kent Dooley Kent, has been appointed by Order of this Court dated June 29, 2020 (“Receivership Order”), to assume control of, marshal, pursue and preserve the Receivership Assets. (ECF No. 22). The Receiver hereby submits this Thirteenth 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 Capital”), 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 Investments”), CV Lending LLC, CV Minerals LLC, BD of Louisiana, LLC, TA1, LLC (“TA1”), FFCC Ventures LLC, Prico Market LLC, GovAdv Funding LLC, Elm Street Investments, LLC (ECF No. 96), Investment Consulting LLC (“Investment Consulting”), 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 thirteenth 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 thirteenth 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 thirteenth quarter was \$7,773,911.13.

The Receiver and his Counsel continue to focus their efforts on preserving, locating and maximizing Receivership Assets, pursuing claims informally and through litigation, and 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, including serving as the Receiver's expert witness when appropriate, assist with 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 thirteenth quarter are outlined in further detail below.

A. Litigation-Related Activities

i. Motion Practice

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). 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).

Pursuant to the Court's adjusted briefing schedule, the Receiver re-filed the First Omnibus Claims Motion, with new notice of motion and amended proposed

order, on July 13, 2023. (ECF No. 254). The Receiver thereafter filed the responses of Galvin Investment Company, LLC (ECF No. 255), Industrial and Commercial Bank of China Financial Services LLC (ECF No. 256), and Alpha Capital Trading Group, LLC (ECF No. 257). Finally, the Receiver filed his Omnibus Reply in Support of the First Omnibus Claims Motion, which had been served upon all interested parties on July 10, 2023. (ECF No. 258).¹ Alpha Capital Trading Group, LLC thereafter filed a further Reply on August 3, 2023. (ECF No. 263). The First Omnibus Claims Motion has not yet been ruled upon.

¹ The Receiver filed a July 11, 2023 Supplement to the Omnibus Reply, advising the Court that Robert Cornish (former counsel for William McCormack) e-mailed counsel for the Receiver advising that “[w]e are in the process of opening an estate in Collier County, Florida so that we can oppose dismissal of Bill’s claim and deal with his other litigation matters . . . , assuming the Florida court appoints us as counsel. I would ask that you reference that Bill’s claim remains outstanding until his estate appoints counsel to deal with the objection.” (ECF No. 258-1). Mr. Cornish requested that the disposition of Mr. McCormack’s claims be held in abeyance “until his estate appoints counsel to litigate such matters.”

Since that time, the Receiver has attempted to investigate the status of Mr. McCormack’s estate proceedings, which are captioned *In Re: Estate of William Thomas McCormack*, No. 11-2023-CP-001853-0001-XX, proceeding in the Circuit Court for Collier County, Florida. The Receiver only has limited electronic access to the public docket. Based on a review of the public docket, it appears that there is an active dispute regarding who will serve as personal representative over Mr. McCormack’s estate. The Receiver has e-mailed all known counsel involved in the action, requesting that they provide an update once the personal representative issues are resolved and/or decided.

The Receiver filed a Motion to Permit b1BANK to Initiate Mortgage Foreclosure Proceedings and Proceed with the Public Sale of Real Property Owned by BD of Louisiana, LLC on July 18, 2023 (ECF No. 259). The Motion was granted on July 19, 2023. (ECF No. 260). B1Bank initiated executory proceedings on or about August 11, 2023.

On August 11, 2023, the Court granted the Receiver's Motion (ECF No. 264) to appoint Robin S. Weiss as lead counsel in this matter. (ECF No. 266).

ii. Lawsuits Filed on Behalf of the Receivership Estate

The Receiver filed twelve (12) lawsuits during prior quarters. Three (3) of those lawsuits have been settled and closed:

- ***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, and two of the defendants have filed for bankruptcy protection. The Receiver submitted a claim on behalf of the Receivership Estate in the bankruptcy action filed by Medical Construction Industrial Training Center, LLC in the District of New Jersey on June 28, 2023. The Receiver also submitted a claim on behalf of the Receivership Estate in the bankruptcy action filed by Carol Johnston in the District of New Jersey on August 24, 2023.
- ***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. Jeffrey Bydalek, et al., No 2:22-cv-01811 (D.N.J.):*** This case was dismissed on January

30, 2013 (ECF No. 39), following the Court's approval of the settlement on January 20, 2023. (ECF No. 35).

Another lawsuit has been closed following the entry of a default judgment:

- ***Kevin Dooley Kent, in his capacity as Receiver v. Edward C. Britton, et al., No. 2:22-cv-02845 (D.N.J.):*** The Receiver obtained a default judgment against the defendants on August 16, 2023. (ECF No. 8). The Receiver filed a request for the award of pre- and post-judgment interest on September 15, 2023. (ECF No. 10). On October 4, 2023, the Court entered an amended default judgment award against the defendants in the amount of \$1,739,863.50, inclusive of the principal sum of \$1,129,845.50, plus pre- and post-judgment interest, and closed the case. (ECF No. 11).

The status of the remaining eight (8) lawsuits is 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.):*** Defendants' Motion to Dismiss Complaint for lack of jurisdiction as to all defendants (except Emperor Global Enterprises LLP) (ECF No. 72) was fully briefed (*See* ECF Nos. 73, 74), and oral argument took place on July 24, 2023. On July 25, 2023, the Court entered an Order denying the Motion to Dismiss. (ECF No. 100). The parties are proceeding with discovery.
- ***Kevin D. Kent, in his capacity as Receiver v. Richard C. Galvin, et al., No. 2:21-cv-13105 (D.N.J.):*** Counsel for the corporate defendants re-entered their appearance on May 23, 2023. Accordingly, following a status conference held on June 27, 2023, the Court entered an order directing the clerk to vacate the default entered against them on June 27, 2023. (ECF No. 54). The parties are proceeding with discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Agostinho Calcada, No. 2:21-cv-18396 (D.N.J.):*** Discovery is closed. The Receiver filed his Motion for Summary Judgment on April 27, 2023 (ECF No. 34), which was administratively terminated without prejudice, to be re-filed pursuant to an adjusted briefing schedule. Defendant submitted his response on July 6, 2023. The Receiver submitted his reply on August

7, 2023. The Receiver thereafter re-filed the Motion (ECF No. 45), Defendant's Response (ECF No. 47), and the Receiver's Reply (ECF No. 48) on August 11, 2023 pursuant to the Court's adjusted briefing schedule.

- ***Kevin Dooley Kent, in his capacity as Receiver v. Renato Iregui, et al., No. 2:21-cv-20691 (D.N.J.):*** Fact discovery is now closed, and the parties are proceeding with expert discovery. In connection therewith, the Receiver produced the expert report of his Accountant on September 22, 2023. A settlement conference is scheduled for January 22, 2024.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Richard Shawn Ellis, et al., No. 2:21-cv-20754 (D.N.J.):*** The parties have reached a settlement, subject to the Court's approval. The Receiver filed a Motion to Approve the Settlement on September 21, 2023. (ECF No. 74). The Receiver likewise filed a Notice of Settlement in this action that same day. (ECF No. 270). The Receiver's Motion to Approve the Settlement remains pending as of the date of this filing.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Jordan Denise, et al., No. 2:22-cv-00388 (D.N.J.):*** The parties have been involved in a discovery dispute regarding Ms. Denise's failure to appear for her deposition. (ECF No. 54). Ms. Denise has been ordered to appear for deposition by no later than November 20, 2023. (ECF No. 58).
- ***Surefire Dividend Capture, LP and Kevin Dooley Kent, Esq., as Receiver v. The Nottingham Company, et al., No. 19-CV-04088-BMS (E.D. Pa.):*** The parties are conducting discovery.
- ***Kevin Dooley Kent, in his capacity as Receiver v. Ronald Hightower, et al., No. 2:22-cv-01195 (D.N.J.):*** The Receiver's Motion to Dismiss Defendants' Counterclaims (ECF No. 31) was fully briefed (ECF Nos. 38, 39), and oral argument took place on July 24, 2023. On July 25, 2023, the Court entered an order staying the Counterclaims until the termination of the Receivership and the lifting of the Stay imposed by the Receivership Order. (ECF No. 48). The parties are proceeding with fact discovery.

Additionally, the Receiver filed a thirteenth lawsuit on behalf of the Receivership Estate captioned *Kevin Dooley Kent, in his capacity as Receiver v. Hector Valdes, et al.*, No. 2:23-cv-20475 (D.N.J.) against Bluwater Holdings Corp. (“Bluwater”), Hector Valdes, Doggtek, LLC, FOGO Resources, Terranovus Corp., Underground Resources, Ltd., Valdesco, Ltd., and ZROC International, Ltd. on September 19, 2023. The Complaint asserts fraudulent/voidable transfer and unjust enrichment claims against Bluwater, seeking to recover a net of \$7,752,976.43 in Receivership Assets transferred to Bluwater from Broad Reach Capital, TA1, Investment Consulting, and CV Investments, and asserts a demand for accounting against all defendants.

B. Storage & Sale of Belongings and Data

In total, the Receiver has recovered \$14,188.20 in net proceeds from the sale of personal property through eighteen (18) auctions over the course of the Receivership, after payment of commissions and related expenses.² The Receiver does not currently possess any other marketable personal property.

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.

² Gross sale proceeds to date total \$19,516.50, which are offset by commissions and other related expenses totaling \$5,328.30 to date.

C. Louisiana Property

Despite aggressive marketing efforts and numerous price reductions, including a reduction to \$495,000.00 on August 25, 2022, the Receiver was unable to secure a private buyer for the Louisiana property owned by BD of Louisiana, LLC (“the Property”) at a price which would satisfy the requirements of 28 U.S.C. § 2001(b) and cover the balance of the mortgage held by b1BANK. Accordingly, on June 30, 2023, the Receiver entered into a Creditor Agreement with b1BANK, authorizing it to initiate mortgage foreclosure proceedings against BD of Louisiana, LLC in Louisiana.

The basic terms of the Agreement are as follows:

- The Receiver was to file a motion in this action to lift the stay for the limited purpose of allowing b1BANK to proceed with an executory process (e.g., foreclosure) proceeding in Louisiana state court—specifically, the 21st Judicial District Court for the Parish of Tangipahoa.
- Following Louisiana’s requirements for executory process proceedings, b1BANK will remit payment of all fees, deposits, and commissions in connection with the foreclosure proceedings.
- B1BANK will have the discretion to determine whether to pursue a Sheriff’s sale with or without appraisal and will complete all necessary requirements if it decides to pursue an appraisal.
- B1BANK will credit bid up to a maximum bid of \$450,000.00, such that any third party who bids more than \$450,000.00 will be allowed to purchase the Property.
- If no competing bids are received, b1BANK may choose to defer the Sheriff’s sale to a second sale as provided by Louisiana law, provided that the same bidding limitations and requirements will apply.

- If a third party purchases the Property at the Sheriff's sale for not less than \$450,000.00, the net sale proceeds (after deduction of the Sheriff's commission, any outstanding property taxes, costs, and superior liens and encumbrances) will be allocated as follows:
 - \$395,000 to b1BANK;
 - Any sums over \$395,000 to the Receiver
- If b1BANK is the successful bidder at the Sheriff's sale and takes title to the property, it will use its commercially reasonable best efforts to sell the Property on the private market for not less than \$415,000. B1BANK will, at its sole discretion, select and engage a realtor and determine the listing price and terms and conditions of any sale.
- If a private purchase agreement is executed within six (6) months after b1BANK receives title, b1BANK will allocate the net sale proceeds (after reimbursement of the Sheriff's commission and costs, insurance and property taxes paid in the interim) in the same manner as with a Sheriff's sale, e.g., \$395,000 to b1BANK and the excess to the Receiver. Further, if the property is subject to any IRS lien, the six month period referenced herein will not begin until the IRS' right of redemption has expired.
- If, despite its commercially reasonable best efforts, b1BANK is unable to sell the property within 6 months after it receives title, it will no longer be obligated to share net proceeds with the Receiver.
- In no event will b1BANK pursue recovery of any deficiency amount from BD of Louisiana, the Receivership Estate, the Receiver, or Brenda Smith, and b1BANK waives any and all rights to recover from them any remaining balance owed under the Promissory Note after the sale of the Property.

Proceeding in this fashion is in the best interest of the Receivership Estate because (a) the Receiver has already exhausted his efforts to privately sell the Property pursuant to 28 U.S.C. § 2001(b), without success; (b) if the Receiver has to proceed with a public sale pursuant to Section 2001(a), the Receivership Estate will

be forced to incur additional upfront costs and run the risk of selling the Property for less than the mortgage balance; (c) the Property holds no beneficial purpose for the Receivership Estate and is only costing the Estate money in the form of administrative costs while interest on the mortgage continues to increase; (d) the proposed sale through the foreclosure process includes the potential that the Receivership Estate will make a recovery from the public sale; and (e) the arrangement will eliminate the risk that the Receivership Estate could owe any deficiency to b1BANK if the Property ultimately sells for less than the mortgage balance.

The Receiver filed a Motion to Permit b1BANK to Initiate Mortgage Foreclosure Proceedings and Proceed with the Public Sale of Real Property Owned by BD of Louisiana, LLC on July 18, 2023 (ECF No. 259). The Motion was granted on July 19, 2023. (ECF No. 260). B1Bank initiated executory proceedings on or about August 11, 2023.

D. Private Investments and Ownership Interests

The Receiver continues to attempt to resolve and/or liquidate Smith's potential interest in a gold mine as a result of payments made to Calais Management Corporation. If this interest 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 received an additional \$4,000.00 distribution from OTAF (Holgate) LLC on July 17, 2023, bringing total distributions on Smith's \$100,000.00 investment to \$167,627.52 through the close of the thirteenth quarter. The Receiver thereafter received an additional distribution of \$179.06 on October 17, 2023.

E. Investigation of Overseas Bank Accounts

Aside from Cidel Bank & Trust Inc. ("Cidel Bank"), the overseas banks to which the Receiver sent Brenda Smith's signed consent directive have failed to respond to the Receiver's communications and document requests. However, Cidel Bank returned the funds held in that overseas account to the Receiver during the thirteenth quarter.

F. Investigation, Development, Pursuit and Settlement of Claims

The Receiver has filed a total of thirteen (13) 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 four (4) litigation settlements have been reached as of September 30, 2023, valued at over \$4.7 million. Of this amount, \$2,350,000.00 represents future payments due to be paid through December 2025.

Based on existing settlements with extended payout schedules, including the settlement described above, the Receiver anticipates bringing in an additional \$2,350,000.00 in settlement funds through December 2025.³

G. Financial Account Reconstruction and Accounting Support

The Receiver's Accountants at Alvarez and Marsal continue to support the Receiver's efforts. The Accountants' financial account reconstruction allowed them to make determinations regarding investor capital account activity, and they prepared supporting documentation distributed to investors in connection with the claims process. They continue to support the Receiver in evaluating and quantifying disputed investor and creditor claims.

The Accountants have continued to support the Receivers' demands issued to, and negotiations with, third-party recipients of investor funds, and their work has allowed the Receiver to initiate and pursue litigation against various individuals and entities on behalf of the Receivership Estate. The Accountants are available to the Receiver 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. The Accountants have already issued two (2) expert reports in connection with the Receiver's ancillary litigation,

³ These amounts are subject to certain prepayment discounts if the funds are delivered earlier than anticipated.

and completed a detailed insolvency analysis for certain Receivership Parties in connection therewith. The Accountants are actively working on expert reports in connection with other affirmative litigation being pursued by the Receiver.

H. Receivership Taxes

The Receiver is in the process of negotiating with the Internal Revenue Service regarding the \$1.3 million minimum claim it has asserted against the Receivership Estate. Meanwhile, Alvarez and Marsal continues to provide tax-related services to the Receivership Estate, and will be preparing a plan for the ultimate dissolution of most, if not all, of the Receivership Parties.

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

As of September 30, 2023, total cash on hand was \$7,773,911.13. The Receiver brought in \$4,000.00 in distributions from OTAF (Holgate) LLC, \$12,887.22 in Receivership Assets held by CV International Investments Limited in an overseas account with Cidel Bank, and \$54,528.56 in interest earnings on the WSFS savings account during the thirteenth quarter.⁴

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

⁴ Additionally, WSFS credited \$119.65 in maintenance fees back to the Receiver on July 6, 2023.

Commercial Bank of China Financial Services (“ICBC”) clearing accounts for CV Brokerage.⁵

Administrative expenses paid during this quarter total \$3,531.58 and include (a) \$15.73 in Bank of America account analysis fees, (b) \$358.80 in WSFS bank fees, (c) \$297.95 in check order fees, (d) \$2,230.00 to the State of Delaware in state taxes for certain Delaware-based Receivership Parties, and (e) \$629.10 for liability insurance coverage renewal for the BD of Louisiana Property.

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 thirteenth quarter on September 30, 2023, the balance in the Receivership Accounts was \$7,773,911.13, broken down as follows:

⁵ These funds are being held pursuant to the Stipulation to Resolve ICBCFS’ Motion to Amend the Amended Order Appointing Receiver (ECF No. 30) and are the subject of a disputed creditor claim asserted by ICBCFS, which is addressed in the First Omnibus Claims Motion described herein.

\$7,346,137.44 in the WSFS Trust/Savings Account, \$183,988.76 in WSFS Checking Account, and \$243,784.93 in the Bank of America Account.

B. Settlements

The Receiver has reached a settlement in a litigation matter he filed against Richard Shawn Ellis (“Ellis”) and Rose & Thorn Cowlitz, LLC, Rose & Thorn HQ, LLC, Rose & Thorn Denver, LLC, Mainspring, LLC, Semper Genus LLC, Frolic & Revelry, LLC, Hotel Carbon HQ, Inc., and Hotel Carbon 19.06, LLC (collectively “Entity Defendants”) (*see* ECF No. 270), which is the subject of a pending Motion to Approve filed in that action on September 21, 2023. (*See Kent v. Ellis, et al.*, No. 2:21-cv-20754 (D.N.J.), ECF No. 74). The Motion to Approve remains pending as of the date of this filing.

Without any admission of liability, the parties agreed to resolve all of the Receiver’s claims against Ellis and the Entity Defendants in exchange for the Entity Defendants’ payment of \$1,550,000.00 (“Settlement Amount”) on the following schedule: \$100,000.00 to be paid within 90 days of the settlement, and the balance to be paid within 18 months from the date of the settlement.⁶ There is a 15% prepayment discount if payment is made in full within 12 months of the settlement date.

⁶ The settlement also includes certain security protections for the Estate. *See Kent v. Ellis, et al.*, 2:21-cv-20754 (ECF No. 74).

Based on existing settlements with extended payout schedules, including the settlement described above, the Receiver anticipates bringing in an additional \$2,350,000.00 in settlement funds through December 2025.⁷ Additionally, given that MCITC and Carol Johnston have defaulted on their settlement agreement with the Receiver and have since filed for bankruptcy, the Receiver's claims for additional funds owed by them need to be resolved through the bankruptcy proceedings.

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. Judgments

The Receiver has obtained a default judgment against Edward C. Britton and Natural Impact Health and Fitness LP in the amount of \$1,739,863.50, inclusive of pre-judgment interest and partial post-judgment interest. Meanwhile, post-judgment interest continues to accrue pursuant to 28 U.S.C. § 1961. The Receiver is beginning to explore options for the collection of this judgment.

⁷ These amounts are subject to certain prepayment discounts if the funds are delivered earlier than anticipated.

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.

E. Private Investments

After efforts to negotiate with Bluwater, stalled, the Receiver file a lawsuit seeking to recover the Receivership Assets transferred to Bluwater on September 19, 2023. *Kent v. Valdes, et al.*, No. 2:23-cv-20475 (D.N.J.) (ECF No. 1).

The Receiver is continuing to attempt to negotiate a resolution relating to Smith's purported interest in the Calais Gold Mine, and 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 has continued to receive distributions on Smith's \$100,000.00 investment in OTAF (Holgate) LLC through the thirteenth quarter. However, the Receiver has been advised that the last portfolio holding of the project has been sold, and that OTAF (Holgate) LLC is in the process of closing down the fund. The Receiver has been advised that there may be a few additional investor distributions over the next year for New Jersey non-resident withholding taxes for 2022 and 2023, and from the residual cash balance of the Fund.

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 pursuit of litigation continues to include a promissory note from Sunny Ocean 699, LLC and Agostinho Calçada, individually, valued at over \$1.5 million, plus interest.

G. Louisiana Properties

The Receiver reached an agreement with the mortgaging bank for the BD of Louisiana Property for the sale of the property through an executory process, which was approved by the Court on July 19, 2023. (ECF Nos. 259, 260).

If B1 Bank is able to sell the Property for more than a certain dollar threshold, either through auction or privately, the Receivership Estate may recover some proceeds from that sale.

H. Additional Bank Accounts and Funds

ICBCFS continues to hold approximately \$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 (ECF Nos. 254, 256, 258).

As of February 22, 2023, Cidel Bank held an account in the name of CV International Investments, Ltd., which had the equivalent market value of

approximately \$12,821.80 USD. Cidel had 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. On July 18, 2023, the Receiver requested that Cidel cease charging management fees on the account given the Receivership Order, Consent Directive, and the Receiver's numerous requests for the turnover of these funds, and reiterated his request for the return of those funds. Cidel Bank thereafter agreed to reverse the management fees and to return these assets to the Receivership Estate. Cidel Bank transferred the updated balance of \$12,957.22 to the Receiver on July 21, 2023 which, less a \$70 wire transfer fee, resulted in the repatriation of \$12,887.22 in Receivership Assets.

I. Personal Property

In total, the Receiver has recovered \$14,188.20 in net proceeds from the sale of personal property through eighteen (18) auctions over the course of the Receivership, after deduction of commissions and related expenses. Additionally, Smith arranged for the pick-up of her personal/sentimental belongings on April 6, 2023. Further, as previously reported, the Receiver has not been able to locate viable options for the sale of computer equipment retrieved from the Equinix data center. The Receiver believes he has exhausted all efforts to market and sell Smith's personal property.

VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY RECEIVERSHIP ESTATE

The Receiver has filed thirteen (13) lawsuits over the course of the Receivership. One of those lawsuits has been closed following the entry of a default judgment – *Kent v. Britton, et al.*, 2:22-cv-02845 (D.N.J.). Three of those lawsuits are settled and closed – *Kent v. MCITC, et al.*, 2:21-cv-13104 (D.N.J.), *Kent v. Hooper, et al.*, No. 2:22-cv-01876 (D.N.J.), and *Kent v. Bydalek, et al.*, 2:22-cv-01811 (D.N.J.), and one settlement remains pending subject to the Court’s approval - *Kent v. Ellis, et al.*, 2:21-cv-20754 (D.N.J.). However, two of the defendants in the MCITC case, Medical Construction Industrial Training Center, LLC (“MCITC”) and Carol Johnson, with whom the Receiver settled his claims, have failed to fulfill their full payment obligations and have filed for bankruptcy. The Receiver submitted his claim in the MCITC bankruptcy case on June 28, 2023, seeking payment of the remaining \$100,000.00 owed, plus interest, pursuant to the terms of the settlement agreement approved by this Court. *See In re Medical Construction Industrial Training Center, LLC*, 23-bk-13260-JNP (Bankr. D.N.J.). The Receiver likewise filed his claim in Ms. Johnston’s bankruptcy case on August 24, 2023. *See In re Carol Ford Johnston Olive*, 23-15398-ABA (Bankr. D.N.J.).

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. The creditor claims are further summarized in the Receiver's First Omnibus Claims Motion. (ECF No. 254).

VIII. STATUS OF CREDITOR CLAIMS PROCEEDINGS

Pursuant to the Court's adjusted briefing schedule, the Receiver re-filed the First Omnibus Claims Motion, all responses, and the Receiver's Reply on July 13, 2023. (ECF Nos. 254 – 258).

At the time the Receiver initially filed his First Omnibus Claims Motion, the Receiver had received and processed a total of thirty-seven (37) Investor Creditor Claims totaling \$69,373,769.53,⁸ and fifteen (15) Non-Investor Creditor claims totaling \$86,921,909.87, for total claims of \$156,295,679.40.⁹ However, the Receiver has since resolved the disputed creditor claim of Southern Minerals Group. The Receiver has now confirmed the creditor claim of Southern Minerals Group in the amount of \$160,000.00, which negotiated amount represents the

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

⁹ This includes a claim from the IRS. These numbers exclude claims that were withdrawn prior to the filing of the First Omnibus Claims Motion. They also exclude claims for amounts that were submitted after the Claims Bar Date.

claim amount that will be attributed to SMG for purposes of a future distribution process when the Receiver proposes a plan of distribution to the Court.¹⁰

With the resolution of Southern Minerals Group's claim—previously asserted in the amount of \$21,929,259.00—the amount of total claims against the Receivership Estate has been reduced to \$134,526,420.40, and the total amount of non-investor creditor claims has been reduced to \$65,152,650.87.

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

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

X. CONCLUSION

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

Respectfully Submitted,

Date: 10/30/2023

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Clark Hill PLC

¹⁰ Southern Minerals Group has represented that it has not assigned its claim.

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Kent*

EXHIBIT “A”

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

STANDARDIZED FUND ACCOUNTING REPORT

CIVIL – RECEIVERSHIP FUND

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 07/01/2023 TO 09/30/2023

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 07/01/2023 TO 09/30/2023

FUND ACCOUNTING (See Instructions):		Current Reporting Period - 07/01/23 to 09/30/23			06/29/2020 - 09/30/2023
		Detail	Subtotal	Period Total	Case to Date
Line 1	Beginning Balance (As of 07/01/23):			\$ 7,705,907.28	\$ -
	Increases In Fund Balance:				
Line 2	Business Income			-	-
Line 3	Cash and Securities			12,887.22	8,333,454.80
Line 4	Interest/Dividend Income			54,528.56	120,178.37
Line 5	Business Asset Liquidation			-	700.00
Line 6	Personal Asset Liquidation			4,000.00	565,144.02
Line 7	Third-Party Litigation Income			-	1,949,990.17
Line 8	Miscellaneous - Other			-	-
Total Funds Available (Lines 1 – 8):				\$ 7,777,323.06	\$ 10,969,467.36
	Decreases In Fund Balance:				
Line 9	Disbursements to Investors/Claimants			-	258,776.99
Line 10	Disbursements for Receivership Operations			3,411.93	2,917,959.46
Line 10a	Disbursements to Receiver or Other Professionals			-	-
Line 10b	Business Asset Expenses			927.05	-
Line 10c	Personal Asset Expenses			-	-
Line 10d	Investment Expenses			254.88	-
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			2,230.00	-
	Total Disbursements for Receivership Operations			\$ 3,411.93	\$ 3,176,736.45
Line 11	Disbursements for Distribution Expenses Paid by the Fund:			-	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			-	-
	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			\$ -	\$ 18,819.78
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):				\$ 3,411.93	\$ 3,195,556.23
Line 13	Ending Balance (As of 09/30/23):			\$ 7,773,911.13	\$ 7,773,911.13
Line 14	Ending Balance of Fund – Net Assets:				
Line 14a	Cash & Cash Equivalents			7,773,911.13	7,773,911.13
Line 14b	Investments			-	-
Line 14c	Other Assets or Uncleared Funds			-	-
	Total Ending Balance of Fund – Net Assets			\$ 7,773,911.13	\$ 7,773,911.13

[1]

STANDARDIZED FUND ACCOUNTING REPORT for Consolidated Broad Reach Capital Receivership Entities - Cash Basis
 Receivership; Civil Court Docket No. 2:19-CV-17213-MCA-ESK
 REPORTING PERIOD 07/01/2023 TO 09/30/2023

OTHER SUPPLEMENTAL INFORMATION:		Current Reporting Period - 07/01/23 to 09/30/23			06/29/2020 - 09/30/2023
		Detail	Subtotal	Period Total	Case to Date
Line 15	Report of Items NOT To Be Paid by the Fund:			\$ -	\$ -
	Disbursements for Plan Administration Expenses Not Paid by the Fund:				
<i>Line 15a</i>	<i>Plan Development Expenses Not Paid by the Fund:</i>				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Miscellaneous			-	
	Total Plan Development Expenses Not Paid by the Fund			\$ -	
<i>Line 15b</i>	<i>Plan Implementation Expenses Not Paid by the Fund:</i>				
	1. Fees:				
	Fund Administrator			-	
	IDC			-	
	Distribution Agent			-	
	Consultants			-	
	Legal Advisers			-	
	Tax Advisers			-	
	2. Administrative Expenses			-	
	3. Investor Identification:				
	Notice/Publishing Approved Plan			-	
	Claimant Identification			-	
	Claims Processing			-	
	Web Site Maintenance/Call Center			-	
	4. Fund Administrator Bond			-	
	5. Miscellaneous			-	
	6. FAIR Reporting Expenses			-	
	Total Plan Implementation Expenses Not Paid by the Fund			\$ -	
<i>Line 15c</i>	<i>Tax Administrator Fees & Bonds Not Paid by the Fund</i>			-	
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-	-
Line 16	Disbursements to Court/Other Not Paid by the Fund:			-	-
<i>Line 16a</i>	<i>Investment Expenses/CRIS Fees</i>			-	
<i>Line 16b</i>	<i>Federal Tax Payments</i>			-	
	Total Disbursements to Court/Other Not Paid by the Fund:			-	-
Line 17	DC & State Tax Payments			\$ -	\$ -
Line 18	No. of Claims:				
<i>Line 18a</i>	<i># of Claims Received This Reporting Period</i>				-
<i>Line 18b</i>	<i># of Claims Received Since Inception of Fund</i>				52
Line 19	No. of Claimants/Investors:				
<i>Line 19a</i>	<i># of Claimants/Investors Paid This Reporting Period</i>				-
<i>Line 19b</i>	<i># of Claimants/Investors Paid Since Inception of Fund</i>				1

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 D. Kent
 (signature)
Kevin D. Kent
 (printed name)
Receiver
 (title)
 Date: October 26, 2023

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

As of September 30, 2023, the Receiver's cash balance of \$7,773,911.13 was maintained in checking and savings accounts at Bank of America and WSFS Bank with the following balances:

Receivership Cash Account Balances - September 30, 2023

Financial Institution	Account Type	Balance
Bank of America	Checking	243,784.93
WSFS Bank	Checking	183,988.76
WSFS Bank	Savings	7,346,137.44
Total Cash		\$7,773,911.13

Investments, Real and Personal Property

As described more fully in the Receiver's Thirteenth 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"). Due to an inability to secure a private buyer for the BD of Louisiana Property, on June 30, 2023, the Receiver entered into a Creditor Agreement with b1BANK, authorizing it to initiate mortgage foreclosure proceedings against BD of Louisiana, LLC in Louisiana. Any third party who bids more than \$450,000 will be allowed to purchase the Property, and proceeds will be allocated as \$395,000 to b1BANK and any sums in excess of \$395,000 to the Receiver.

**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 30th day of October, 2023, that I caused to be served a true and correct copy of the Receiver Kevin Dooley Kent's Thirteenth 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.