

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

vs.

**REX VENTURE GROUP, LLC
d/b/a ZEEKREWARDS.COM, and
PAUL BURKS,**

Defendants.

No. 3:12-CV-519

RECEIVER'S STATUS REPORT FOR THE SECOND QUARTER OF 2015

I. INTRODUCTION

Kenneth D. Bell, Esq., the Court-appointed Temporary Receiver (the "Receiver") for and over the estate of Rex Venture Group, LLC d/b/a ZeekRewards.com, any of its subsidiaries, whether incorporated or unincorporated, and any businesses or business names under which it does business (the "Receivership Defendant"), submits this Quarterly Status Report (the "Report") in accordance with the Order of this Court entered on August 17, 2012, and for the purpose of providing a status report on the work and findings to date (the "Investigation") of the Receiver, his counsel, agents, consultants, and advisors (the "Receiver Team"). The facts presented herein may be supplemented, amended and/or corrected as the Investigation continues.

II. SUMMARY OF ACTIVITIES OF THE RECEIVER BETWEEN APRIL 1, 2015 AND JUNE 30, 2015

A. Operations of the Receiver

1. Investigating the Receivership Defendant's Financial Information

During the second quarter, the Receiver Team continued to work with FTI and various government agencies to analyze documents and information to support its recovery of Receivership Assets. In addition, the Receiver Team continued to assist government agencies in their own investigations concerning the Receivership Defendant, principals, affiliates, and the entities and financial institutions that provided services to or transacted with Defendants.

2. Marshaling and Preserving Receivership Assets

a. Accounts for Holding Receivership Assets

The Receiver currently maintains five bank accounts on behalf of the Receivership Estate for holding Receivership Assets: the "Affiliate Payments Account," the "Seized Asset Account," the "Pre-Filing Account," the "Settlement Account," and the "Holdback Account." The "Withholding Account" referenced in previous reports was closed during the second quarter of 2015 because the Receiver is no longer withholding taxes from distribution payments.

Excluding earned interest and transfers between accounts, the Receiver deposited the following funds into its accounts during the second quarter of 2015:

- \$3,283,771.91¹ into the Settlement Account from settlements with third parties who were holding Receivership Assets or against whom the Receiver asserted claims for professional negligence;

¹ Of this amount, \$1,000,000.00 was received from NXPay to be held in a segregated account as frozen funds not to be used or distributed in any manner until a further Order of the Court. To this end, this \$1,000,000.00 was transferred to a newly opened segregated account on July 1, 2015 and will remain in this segregated account until further Order of the Court.

- \$96,096.55 into the Seized Asset Account from auction proceeds relating to settlements of claims against former Rex Venture Group insiders; and
- \$10,000.00 into the Affiliate Payments Account from payment by a financial institution relating to a previously dishonored cashier's check.

As of June 30, 2015, the Receivership Estate held approximately \$91.3 million in the Affiliate Payments Account, approximately \$75 million in the Seized Asset Account, approximately \$292,000.00 in the Pre-Filing Account, approximately \$9.5 million² in the Settlement Account, and approximately \$1.4 million in the Holdback Account. The total of sums held in the Receiver Estate's accounts at the end of the second quarter was \$177,492,000.00.

b. Outstanding and Dishonored Negotiable Instruments

In the quarter ending June 30, 2015, the Receiver's conflicts counsel, Erwin, Bishop, Capitano & Moss, P.A. ("EBCM") continued work to resolve claims against financial institutions arising from outstanding and dishonored cashier's checks, teller's checks, official checks, and bank money orders. As of June 30, 2015, EBCM was pursuing thirty-two active claims currently valued at \$394,227.00. EBCM is holding one check for \$1,505.00 subject to completion of settlement documentation. Two additional claims are in the process of being resolved, and EBCM anticipates that this will result in a recovery of \$23,436.00 during the third quarter. The thirty-two remaining claims require litigation activity for collection.

EBCM continues to work on motions seeking orders to show cause or to turnover Receivership Assets against financial institutions that have refused payment. During the quarter, EBCM worked on a reply brief in support of the Receiver's initial motion for the return of assets

² As of July 1, 2015, the Settlement Account held approximately \$8.5 million after the \$1,000,000.00 from NxPay was transferred to the segregated account noted above.

against the financial institution with the largest outstanding claim and prepared affidavits to support similar motions against fourteen other financial institutions.

c. Funds Held by E-Wallets

On June 1, 2015, the Court entered an Order on the Receiver's Motion for an Order Directing NxSystems, Inc. to Turn Over Receivership Assets and/or Find it in Contempt of the Court's Agreed Order. The Court directed NxPay to pay the amount of \$9,069,446.52 to the Receiver to be held frozen in a segregated account, so the assets would be preserved until a final resolution on the merits of the Receiver's Motion. In that Order, the Court also determined that a summary proceeding was an appropriate method to resolve these issues and directed the parties to appear for a status conference before the Court. On June 24, 2015, the parties appeared before the Court for a status conference and set a schedule for further proceedings through November 2015.

d. Additional Asset Recovery

On June 1, 2015, the Court entered a Consent Order Approving Settlement Agreements with Plastic Cash International, Brian Newberry, BBN Holdings, LLC and Travelers Casualty and Surety Company.

e. Foreign Accounts

The Receiver Team is continuing to investigate and pursue outstanding funds from Payza, Payment World, Solid Trust Pay, and CyberProfit. With respect to the outstanding assets from Payza and/or Payment World, the Receiver Team continues to pursue the recovery of assets from VictoriaBank in Moldova. To this end, the Receiver Team has elicited the assistance of McGuireWoods Consulting in Romania and the U.S. Embassy in Moldova in setting up a meeting with Moldovan authorities and VictoriaBank representatives as part of our ongoing efforts to recover the Receivership Assets being held by VictoriaBank.

3. Analyzing the Operations of the Receivership Entity

a. Investigating and Validating the Receivership Defendant's Electronic and Financial Data

The validation of the Receivership Defendant's electronic and financial data is complete. Should additional data be provided in the future, the Receiver Team will validate the data and update the Receivership Defendant's books and records.

During the second quarter, the Receiver Team and FTI continued to investigate the Receivership Defendant's financial data to support efforts to recover Receivership Assets. FTI's financial data investigation activities primarily consisted of (1) reconciling the ZeekRewards database records to disbursement information for specific net winners and insiders to support clawback actions; (2) providing analysis and financial records to support efforts to recover Receivership Defendant assets held by several financial institutions; and (3) research and analysis of specific financial institution transactions to determine potential claims against financial service providers to the Receivership Defendant.

b. Investigating the Receivership Defendant's Operations

During the second quarter, the Receiver's investigation of RVG's operations included the continued analysis of interactions and financial transactions among RVG and certain vendors and third-party advisors. This analysis was performed for various purposes, including the pursuit of Receivership Assets from financial institutions, support for the Receiver's ongoing fraudulent transfer lawsuits, and analysis of current and potential claims against third parties.

4. Communicating with Affiliates and Creditors

The Receiver Team continued to communicate with Affiliates on a daily basis throughout the second quarter of 2015. These communications were largely in regard to the claim allowance and objection processes. The Receivership Team sent broadcast emails to Affiliates who had

received their claim determinations but had failed to respond to it in the months since its issuance. Additionally, the Receivership team communicated with many individual Affiliates in regard to specific issues and/or objections raised to claim determinations and addressing questions regarding status of claims and distribution payments made in the prior quarter. There were also a significant number of inquiries raised by Affiliates that failed to file claims, but sought to assert claims. Additionally, the Receiver Team continued to have conversations and negotiations with various Affiliates regarding the pending net-winner litigation.

In addition to individual communications and the blast email, the Receiver Team posted an update on the Receivership website, regarding the second interim, partial distribution process.

5. Issues Concerning Federal Taxes

During the second quarter, FTI and the Receiver Team tracked and reviewed IRS Form 1099-related correspondence from affiliates. This work included responding to various affiliate questions and comments and reviewing transaction data for each affiliate who inquired about an IRS Form 1099 received from the Receiver. Additional work included performing any necessary analyses and research to respond to various requests from the Receiver and claimants and in some cases working with National Law Forms to generate amended IRS Forms 1099.

In addition, the Receiver Team continued its work analyzing the tax liability for payments received for the sale of assets that closed in the fourth quarter of 2014. The Receiver Team reviewed the documents prepared in connection with such sales and identified tax issues relating to the reporting of the sale information.

6. Litigation in the SEC Enforcement Action³

The Receiver Team litigated the following matters in the SEC Action:

- The Receiver obtained an order directing Bella Vita Ltd. to transfer title and ownership of property in the Turks & Caicos Islands, purchased with Receivership Assets by James Meyer of Preferred Merchants, to the Receiver along with all improvements, attachments and personal property within and related to the property. This property is currently frozen by authorities in the Turks & Caicos, and the Receiver is working to obtain a transfer of the property to the Receivership Estate.
- The Receiver obtained a favorable ruling from the Fourth Circuit, dismissing the Belsome movants' attorneys' appeal of the District Court's order regarding attorney charging liens.
- The Receiver continued litigation against NxPay regarding Receivership Assets that NxPay disputes being owed to the Receivership. A summary proceeding in this dispute has been ordered by the Court and will proceed with discovery during the next quarter.
- The Receiver's conflicts counsel continued litigating a claim against BBVA Compass, and the parties reached a settlement in this dispute shortly after the close of the second quarter.

³ The Receiver's efforts related to the recovery of fraudulently transferred funds and other damages incurred by RVG are discussed later in this Report.

B. The Receiver's Fund Accounting

The Receiver's Standardized Fund Accounting Report ("SFAR") is attached hereto as Exhibit A.

C. The Receiver's Receipts and Disbursements

The Receiver's Schedule of Receipts and Disbursements ("Schedule") from April 1, 2015 through June 30, 2015, is attached hereto as Exhibit B. The Schedule sets forth the following receipts and disbursements:

1. The Receivership received funds in the amount of \$10,000.00 from the deposit of Affiliate-Investor financial instruments;⁴
2. Received funds of \$2,283,771.91 from third-party litigation settlements;⁵
3. Received funds of \$96,096.55 from auction proceeds;
4. Received funds of \$1,000,000.00 from NXPay to be held in a segregated account as frozen funds not to be used or distributed in any manner until further Order of the Court;
5. Received income from other sources, such as interest income and return of pre-paid funds, totaling \$36,116.67; and
6. Disbursed funds from the Receiver's accounts of \$14,176,825.47, the vast majority of which consists of disbursements to victims. These funds were also disbursed for: claims process expenses; fees previously approved for payment of FTI and MW; RVG website and database hosting; bank fees related to

⁴ These funds are the result of financial institutions paying the Receiver for affiliates' cashier's checks upon which those financial institutions had previously wrongfully stopped payment.

⁵ As of the end of the second quarter, the Receiver has agreed to approximately \$3 million in settlements with net winner affiliates. The Receiver has collected over \$8.5 million in total litigation-related settlements since the inception of the Receivership.

management of the Receiver's accounts; other legal services; and utility payments.⁶

Between April 1, 2015 and June 30, 2015, the Receivership Estate deposited \$3,419,985.13 and disbursed \$14,176,825.47. The Receiver has marshaled total assets of approximately \$348.2 million during the period between August 17, 2012 and June 30, 2015, while disbursing approximately \$171.4 million during the same period.⁷ Disbursements to victims from September 2014 to the present total approximately \$157 million.

D. Description of All Known Non-Cash Receivership Property

In the fourth quarter of 2014, the Receiver took possession of a residential home at 5600 Roundhouse Lane in Charlotte, NC, as part of a settlement with the estate of Defendant Roger Plyler. The Receiver retained a real estate agent to sell the home, which went to market in the first quarter of 2015. The Receiver accepted an offer on the home in late March, and sold the home on April 30, 2015. Proceeds in the amount of \$214,533.51 were deposited into the Receiver's Settlement Account on April 30, 2015. In the first quarter of 2015, the Receiver also took possession of several motor vehicles as part of the settlement with Defendant Dawn Wright-Oliveras. The Receiver retained an auctioneer and liquidated the vehicles at auction on May 9, 2015. Proceeds in the amount of \$96,096.55 were deposited into the Receiver's Seized Asset Account⁸ on June 23, 2015.

⁶ See attached Exhibit B for further detail regarding disbursements and receipts.

⁷ A significant amount of the available funds on hand are being reserved in light of the more than 44,000 claimants who have been deemed to have accepted their claims but have yet to complete the required Release and OFAC certification, as well as potential future payments on subrogation claims.

⁸ This sum was later transferred to the Receiver's Settlement Account, as the funds were obtained pursuant to a settlement.

E. Description of Claims Held by the Receivership Estate

1. Identifying and Pursuing Fraudulently Transferred Funds Held by Net-Winner Affiliate-Investors

a. U.S. Net Winner Lawsuit

The Receiver and his counsel attended a status conference with the Court and counsel for two of the named defendants on May 27, 2015. At this conference, the Court determined that Berkeley Research Group (“BRG”) will serve as experts for the defendant class and will report directly to the Court during the course of their engagement on behalf of the defendant class. The Receiver Team has since worked to provide BRG with all records necessary for their review and analysis of the issues.

In addition, the Receiver obtained a default judgment against defendants Trudy Gilmond and Trudy Gilmond, LLC after they refused to appear at a deposition and failed to attend a show-cause hearing. The Receiver’s judgment against these defendants is for \$2,129,522.27.

Regarding judgment collection, the Receiver continued work to collect a judgment obtained against Michael Van Leeuwen. During the quarter, Mr. Van Leeuwen was served with the Notice of Rights to Have Exemptions Designated and the Receiver’s counsel prepared a Writ of Execution for issuance by the Cumberland County Clerk of Court.

b. Claims Against Foreign Net Winners

During the second quarter, the Receiver filed additional lawsuits against foreign net winners in Brazil, Denmark, France, Germany, Ireland, Israel, the Netherlands, and Sweden.⁹ In addition, the Receiver previously filed actions against net winners in Australia, the British Virgin Islands, Canada, New Zealand, Norway, and the United Kingdom. The Receiver has worked extensively with local counsel in each of these countries to locate and serve as many of these

⁹ The actions against net winners residing in Brazil and Ireland were subsequently dismissed without prejudice to the possibility of filing future actions against these defendants.

defendants as possible, and this work is ongoing. Further, the Receiver Team corresponded with individual foreign defendants and attorneys for certain foreign defendants regarding potential settlements and extensions for filing responses to the respective lawsuits.

In the action against Canadian net winners, the Receiver is currently working on enforcing and collecting the judgments with the help of Canadian counsel. In addition, motions for default and default judgment will soon be filed against additional foreign defendants who have failed to respond to the lawsuits as required by federal rules.

2. Investigating Claims against Receivership Defendant Insiders

The Receiver has settled with each of the defendants named in the lawsuit against insiders of the ZeekRewards scheme other than Darryle Douglas, against whom the Receiver has obtained a default judgment. The Court has approved each of these settlements, and the case currently remains open on the Court's docket pending satisfaction of the terms of the various settlement agreements.

3. Investigating Claims against the Receivership Defendant's Third-Party Advisors and Others

During the second quarter, the Receiver filed a lawsuit against Peak USA, LLC; Peak Impact, LLC; and Gary Bessoni. *See Bell v. Peak USA, LLC, et al.*, No. 3:15cv233 (W.D.N.C. filed May 27, 2015). Bessoni, through these entities, sold "customers" to Zeek affiliates that served as a key mechanism in disguising the true nature of the investment scheme. This lawsuit alleges claims of fraudulent transfer and unjust enrichment and seeks the imposition of a constructive trust.

In addition, during the second quarter the Receiver finalized a settlement of the claims against Kevin Grimes and his former law firm, Grimes and Reese.

F. Potential Creditors of the Receivership Estate

As part of the continued proceedings against NxPay, Preferred Merchants, and their principals and affiliates, the Receiver Team is defending against any claim that the entities or individuals are entitled to the funds improperly held or transferred outright or as a set off against amounts owed to the Receivership Estate.

G. Status of Creditor Claims Proceedings, After Such Proceedings Have Been Commenced

On April 30, 2015, the Receiver issued checks to approximately 7,900 Affiliate claimants as part of the third payment of the first interim, partial distribution. These were claimants that held an allowable claim, were not issued a distribution as part of the first interim distribution on 9/30/2014 or second interim distribution on 1/30/2015, agreed to their claim determination, and provided the required Release and OFAC Statement. On May 29, 2015, the Receiver reissued checks to approximately 775 Affiliate claimants. These checks were associated with claimants who had either requested that the check issued to them as their first interim, partial distribution be reissued or for whom such a check had been returned to the Receivership with a forwarding address provided.

Despite the issuance of approximately 175,000 claim determinations, approximately 44,000 Affiliates that hold an allowable claim have failed to provide all necessary documentation to be eligible to receive a first interim, partial distribution. By Order of this Court, an Affiliate who does not provide the required Release and the OFAC Certification is not eligible to receive a distribution from the Receivership. These Affiliates will remain ineligible to receive a distribution until they have completed the claim determination process. At this time, the Receivership Team has maintained adequate reserves to pay all Affiliates whose claims are ultimately allowed (by submission of the required Release and the OFAC Certification) in the

amounts in which such Affiliate's claim is recognized by the Receiver (the reserves are in the amount of either the applicable percentage of the as-recognized amount in an accepted Claim Determination, or the as-filed amount if the claimant has objected to such Claim Determination). In the month subsequent to the end of each quarter, the Receiver will make a first interim, partial distribution to those claimants who have become eligible to receive a distribution in that preceding quarter

The Receiver has determined that a second interim, partial distribution that will raise the rising-tide distribution percentage to sixty percent of an Affiliate claimant's agreed-upon investment in ZeekRewards will be made to claimants holding an allowable claim on July 31, 2015. The magnitude of a third interim and/or final distribution will depend on how much more money can be attained through settlements, clawback litigation, other litigation, and the pursuit of other Receivership Assets through additional avenues.

Approximately 1,900 Affiliates have objected to the claim determination issued by the Receiver Team. The Receiver Team is continuing to address these objections in an effort to resolve such objections before intervention from the Special Master or the Court would be needed. The Receiver Team has been successful in resolving the vast majority of these objections to date.

During the second quarter of 2015, the vast majority of the subrogation claims made by financial institutions against the Receivership Estate were processed and issued claim determinations. Nearly all of these claim determinations recognized claims in favor of the subrogees. The remaining subrogation claims will be issued claim determinations during the early part of the third quarter.

III. CONCLUSION

At this time, the Receiver recommends the continuation of the Receivership for the following reasons:

1. To continue the Receiver's efforts to investigate and marshal assets of the Receivership Estate;

2. To continue the Receiver's efforts to implement the claims and distribution processes in order to distribute proceeds to injured claimants;

3. To continue the Receiver's efforts to liquidate various assets of the Receivership Estate; and

4. To carry out any other legal or appointed duties of the Receiver identified in the Receiver Orders or as the Court deems necessary.

Dated: July 30, 2015

By: /s/ Kenneth D. Bell
Kenneth D. Bell, Esq., Receiver

and

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Attorneys for the Receiver,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have electronically filed the foregoing **RECEIVER'S STATUS REPORT FOR THE SECOND QUARTER OF 2015** with the Clerk of Court using the CM/ECF system, which will send electronic copies to counsel of record registered to receive electronic service.

Dated: July 30, 2015

/s/ Kenneth D. Bell
Kenneth D. Bell, Esq., Receiver