

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

SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
vs.)	
)	No. 3:12-CV-519
REX VENTURE GROUP, LLC)	
d/b/a ZEEKREWARDS.COM, and)	
PAUL BURKS,)	
)	
Defendants.)	
)	
)	
)	

RECEIVER’S STATUS REPORT FOR THE FIRST QUARTER OF 2014

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.

I. INTRODUCTION

The Court is well-aware of the background of the ZeekRewards scheme. During the first quarter of 2014, the Receiver has been busy issuing claim determinations, filing the first two

clawback actions, and continuing his multilayered investigation into RVG and its insiders, advisors, and financial institutions.

II. SUMMARY OF ACTIVITIES OF THE RECEIVER BETWEEN JANUARY 1, 2014 AND MARCH 31, 2014

A. Operations of the Receiver

1. Investigating the Receivership Defendant's Financial Information and Identifying Outstanding Funds

During the first quarter, working with FTI and various government agencies, the Receiver Team made significant progress in obtaining and reconciling outstanding information from various financial institutions, e-wallet vendors, payment processors, and other related entities in furtherance of its identification and recovery of potential Receivership Assets. In addition to identifying any outstanding amounts that were not turned over with initial seizures of funds, the Receiver investigated further the extent of any improper transfers or withdrawals upon notice and/or entrance of the Court's freeze order requiring that all Receivership Assets remain frozen. The Receiver takes very seriously any improper withdrawals or transfers and intends to pursue vigorously the recovery of these assets.

Moreover, the Receiver has begun to investigate possible claims against financial institutions that facilitated the scheme. If the Receiver becomes convinced that there are colorable causes of action against banks and other financial institutions, he will solicit other law firms to undertake this work.

With its collection and investigation of the Receivership Defendant's Financial Information, the Receiver Team also assisted various federal, state, and local government agencies in their own investigations related to the Receivership Defendant, affiliates, and the various entities and financial institutions with which the Receivership Defendant transacted and through which Receivership Assets flowed.

2. Marshaling and Preserving Receivership Assets

a. Accounts for Holding Receivership Assets

As previously reported, the Receiver maintains four interest-bearing bank accounts on behalf of the Receivership Estate: the “Affiliate Account,” the “Seized Asset Account,” the “Pre-Filing Account,” and the “Settlement Account.”

The Receiver deposited the following funds into its accounts during the first quarter of 2014:

- \$251,422.73 into the Affiliate Account from payments from various financial institutions relating to previously dishonored cashier’s checks, teller’s checks and bank money orders;
- \$183,740.46 into the Settlement Account from settlements with net-winners; and
- \$702,059.59 into the Seized Asset Account from business asset liquidations, including proceeds from the December 2013 auction of Rex Venture Group property and returns of gift cards found at the Rex Venture Group facility

As of March 31, 2014, the Receivership Estate held approximately \$90.1 million in the Affiliate Account, approximately \$230 million in the Seized Asset Account, approximately \$323,000 in the Pre-Filing Account, and approximately \$2.3 million in the Settlement Account.

b. Cashier’s Checks

In the quarter ending March 31, 2014, the Receiver’s conflicts counsel, Erwin, Bishop, Capitano & Moss, P.A. (“EBCM”) provided an analysis of litigation issues and strategies to maximize recovery and minimize costs with respect to dishonored cashier’s checks, teller’s checks, and bank money orders. EBCM and the Receiver worked together to develop a strategy to pursue remaining claims against financial institutions that stopped payment on these instruments. EBCM conducted additional research and sent a third round of demand letters to

forty-six financial institutions that did not respond to prior demands. Six additional issuers of teller check issuers were identified and, EBCM sent initial demand letters to those institutions. EBCM re-established communication with forty banks that previously responded but had not yet agreed to pay claims.

As of March 31, 2014, EBCM was working eighty-two unresolved claims with a face value of \$1,325,308. Thirty-six of the unresolved claims, with a face value of \$703,904, are against financial institutions that have ongoing communications with EBCM. Twelve unresolved claims are against financial institutions that have refused payment, with a face value of \$132,152. Thirty-four unresolved claims, with a face value of \$489,252, are against financial institutions from whom EBCM has not received any response to demand letters, six of which are issuers of newly identified teller's checks for which initial demand letters were sent in March 2014.

EBCM's plan going forward is to continue to settle with those entities that are willing, and to sue those entities that are either unwilling to settle or unreasonable in settlement negotiations.

During the first quarter of 2014, the Receiver deposited a net total of \$251,422.73 from payments by financial institutions on cashier's checks, teller's checks and bank money orders for which payment had previously been stopped. As of March 31, 2014, EBCM maintained an additional \$55,097 on-site pending resolution of contingencies or conditions set by the issuing financial institution.

c. Funds Held by E-Wallets

During the first quarter, the Receiver continued to pursue the production of outstanding information and follow up on open questions associated with the production of information from the Receivership Defendant's former e-wallet vendors to determine whether there are any

recoverable funds from these vendors or other financial institutions. These e-wallet vendors do not maintain books and records in the same manner as banks and other more traditionally regulated financial institutions. Consequently, it has taken significant effort and numerous conversations with these vendors to collect complete and accurate data and understand the nature of the various transactions to allow FTI to reconcile the flow of funds and confirm any outstanding amounts, including any improper post-freeze Order disbursements or other fraudulent transfers. The Receiver Team completed its reconciliation of account information for NxPay, determining an outstanding amount of over \$13 million, including improper post-freeze Order disbursements, and is analyzing potential options to recover this outstanding amount. In addition, as set forth in the foreign accounts section below, the Receiver Team is continuing its investigation of and pursuit of any outstanding funds, including any potential transfers or withdrawals, from Payza and Solid Trust Pay.

d. Additional Asset Recovery

The Receiver Team is investigating potential improper transfers totaling approximately \$5.8 million from a Trust Account set up by Preferred Merchants' CEO Jaymes Meyer for which Rex Venture Group was the beneficiary. The Receiver Team has issued a subpoena to Preferred Merchants to obtain additional information and is engaged in conversations with Preferred Merchants' counsel regarding these transfers and the production of this information.

In addition, the Receiver Team is investigating potential improper transfers or withdrawals from Plastic Cash International. This inquiry includes an analysis of the flow of funds through Network Merchants and SecureNet, which facilitated the flow of funds between Rex Venture Group and Plastic Cash International.

e. Foreign Accounts

The Receiver Team continues to analyze options for the recovery of funds processed through foreign entities or held in foreign accounts, including Solid Trust Pay, Payza, Payment World, and CyberProfit. In doing so, the Receiver Team is working closely with various government agencies to pursue these foreign accounts and is investigating other potential avenues of recovery, including pursuing United States-based affiliates of the foreign entities. Further, the Receiver Team is working closely with local counsel in foreign jurisdictions to identify and pursue other potential avenues of relief.

3. Analyzing the Operations of the Receivership Entity

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

The Receiver continues to investigate and validate the Receivership Defendant's electronic databases and financial data. During the first quarter, FTI worked closely with NxPay to reconcile the ownership of all funds frozen by the eWallet under the Freeze Order. FTI finalized the reconciliation of all funds related to the NxPay account and updated the financial records and the net won or lost by username analyses. FTI also received additional transactional data from several credit card processors. All transactional information received from financial institutions through the end of the first quarter has been included in the creation of the financial books and records. The Receiver Team is continuing to communicate with financial institutions and is awaiting responses to its outstanding requests for transactional information. As a result of one financial institution's production, the Receiver Team has discovered an additional financial account and has been in communication with this financial institution. Due to the ongoing nature of productions by financial institutions, the financial books and records of the Receivership Defendant are not complete.

During the first quarter, FTI finalized the reconciliation of commission payments recorded in the ZeekRewards database with the disbursements recorded in the financial records for 2011. FTI has begun a similar reconciliation, focusing on differences in amounts between the two sources of information, for 2012.

b. Investigating the Receivership Defendant's Operations

During the first quarter, the Receiver Team continued its investigation into the operations of the Receivership Defendant. In particular, the Receiver Team's merits attorneys analyzed and cataloged important documents identified during the second phase of its review and analysis of documents and data collected in response to subpoenas and voluntary document requests. (The initial "phase two" review was completed during the fourth quarter of 2013.) The Receiver Team also continued to negotiate with certain individuals regarding document productions and fact interviews. As part of this effort, the Receiver recently conducted an interview of a key fact witness with knowledge of the scheme.

4. Communicating with Affiliates and Creditors

The Receiver Team had numerous communications with Affiliates and other Creditors throughout the first quarter of 2014. The bulk of these communications were related to the claims determination process and the litigation commenced against net winners. More than 40,000 additional claimants received claims determinations in the first quarter of this year.¹ More than 9,000 Affiliates received direct communications from the Receiver regarding the net-winner litigation that was commenced on February 28, 2014. Additional communications with Affiliates were made via updates posted on the Receivership website (www.zeekrewardsreceivership.com), which included the following:

¹ See *supra* Section II.F. for further details regarding claims received and determination letters issued.

- January 17, 2014 – Update concerning the claims reconciliation process and the a claims portal link; and
- March 3, 2014 – Announcement from the Receiver concerning the lawsuits filed in federal court against ZeekRewards insiders and United States net winners.

Following the filing of the “net winner” clawback litigation, the Receiver Team communicated directly with numerous Affiliates (more than a hundred) regarding potential settlements. Additionally, when objections to claim determinations were made, the Receiver Team communicated with these objectors in an attempt to resolve their objections.

5. Issues Concerning Federal Taxes

During the first quarter, the Receiver Team reviewed its internal records of payments to the IRS for outstanding employment-related taxes and related penalties and interest. The Receiver Team had discussions with the IRS to reconcile the IRS account transcript with the Receiver Team’s records to determine the correct payment, penalty, and assessment. The Receiver Team is analyzing whether a penalty abatement request is viable.²

Further, the Receiver Team worked to determine which federal tax filings were necessary with respect to payments made to Affiliate-Investors. The efforts were focused on payments made during the calendar year 2011 and 2012 prior to the appointment of the Receivership. After analyzing the issues, consulting with various entities, and reviewing RVG’s records, the Receiver Team determined that it would be necessary to file and issue amended 1099s to certain Affiliate-Investors. FTI’s database team considered information received from Affiliate-Investors and analyzed the data necessary to issue amended 1099s for 2011 and 2012. The 2011 1099s are being amended to reflect the actual amounts paid to certain Affiliate-Investors during

² The Receiver Team also received a notice of tax assessment withholding from the North Carolina Department of Revenue for an outstanding balance of \$35,266.26. The Receiver Team has begun reviewing payment records to determine the accuracy of the tax amount owed, penalties and interest.

2011. Whereas RVG included all awards and commissions related to a user's account, the amended 2011 1099s will reflect only the amounts actually paid to the user. The Receivership's methodology to amend the 2011 1099s results in lower reported amounts than were reflected in the 2011 1099s issued by RVG in early 2012. Moreover, the 2012 1099s, issued during 2013, are being amended to subtract the sums held by NxPay in a frozen account, which were subsequently paid to the Receiver as Receivership property. The Receiver Team anticipates finalizing the database work and issuing these amended 1099s during the second quarter of 2014.

In addition, the Receiver Team received 1099s from various financial institutions. The Receiver Team has communicated with a handful of these institutions and determined that they erroneously issued 1099s in connection with cashier's checks that were deposited into the Affiliate Account during 2013. The Receiver Team is in the process of resolving these 1099 issues with the remaining financial institutions.

Also, the Receiver Team prepared, reviewed and mailed out various federal and state filings for tax year 2013 to the appropriate offices and individuals. Included in such filings are W-2 submittals and employment tax returns. The Receiver Team continues the process of gathering the data necessary to cause federal and state income tax forms to be prepared and filed for tax year 2013, with appropriate extensions, for RVG.³ The Receiver Team also had discussions with the IRS regarding income tax returns for tax year 2011.

6. Litigation in the SEC Enforcement Action⁴

In the SEC enforcement action, the Receiver Team responded to motions filed by Key Bank and by the Plaintiffs in the *Belsome* class action lawsuit. Key Bank had sought to file a

³ As previously reported, given that RVG is a flow-through entity for federal and state income purposes, the Receiver Team does not anticipate the Receivership to owe federal or state income taxes.

⁴ This section discusses litigation in the SEC Enforcement Action. The Receiver's efforts related to the recovery of fraudulently transferred funds are discussed later in this Report.

claim with the Receivership after the extended claims process had closed. (Doc. No. 171). During the first quarter, the Receiver and Key Bank filed a joint motion to stay the Court's consideration of Key Bank's request, which the Court granted. *See* (Doc. Nos. 179, 184). That stay is currently in place. The *Belsome* Plaintiffs filed an objection to the Receiver's proposed Distribution Plan. The attorneys for these Plaintiffs asked the Court to require the Receiver to send any distribution payments on their clients' allowed claims to their law firm, rather than directly to the claimants. The Court granted the Receiver's proposed distribution procedures in all respects over the objection of the *Belsome* Plaintiffs. *See* (Doc. No. 199).⁵

B. The Receiver's Fund Accounting

The Receiver's Second 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 January 1, 2014 through March 31, 2014, is attached hereto as Exhibit B. The Schedule sets forth the following receipts and disbursements:

1. The Receivership received funds in the amount of \$251,422.73 from the deposit of Affiliate-Investor financial instruments;⁶
2. Received funds of \$183,740.46 from third-party litigation settlements;⁷
3. Received funds of \$701,459.59 from business asset liquidations;

⁵ In addition, these same *Belsome* Plaintiffs appealed the Court's denial of their motion to lift the stay on their lawsuit. *See Belsome et al. v. Burks et al.*, Case No. 14-1028 (4th Cir., filed Jan. 10, 2014). During the first quarter, the Receiver Team addressed this appeal and filed an appellate brief opposing these Plaintiffs' request to have their case reopened, all at a significant cost to the Receivership Estate.

⁶ 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.

⁷ As of the end of the first quarter, the Receiver has agreed to approximately \$2.5 million in settlements with third parties.

4. Received income from other sources, such as interest income, rental income and return of pre-paid funds, totaling \$80,998.68; and
5. Disbursed funds from the Receiver's accounts of \$1,641,545.53, which includes the fees previously approved for payment of FTI and MW. These funds were disbursed for bank fees related to management of the Receiver's accounts; claims process expenses; RVG website and database hosting with InternetDynamo in Miami, Florida; security services; utilities; property insurance; postage for the mailing of tax documents and other professional services.⁸

Between January 1, 2014 and March 31, 2014, the Receivership Estate received \$1,217,621.46 and disbursed \$1,641,545.53. The Receiver has marshaled total assets of approximately \$334.6 million during the period between August 17, 2012 and March 31, 2014, while disbursing approximately \$12.3 million during the same period.

D. Description of Claims Held by the Receivership Estate

On February 28, 2014, the Receiver filed two lawsuits in the United States District Court for the Western District of North Carolina in an effort to pursue funds fraudulently transferred and held by net winners and RVG insiders. The complaints filed in both lawsuits describe in detail the ZeekRewards Ponzi and pyramid scheme and how it was operated from January 2011 to August 2012. In the scheme, over 700,000 participants lost over \$700 million dollars.

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

The action against net winners, *Kenneth D. Bell v. Todd Disner, et al.*, Civil Action No. 3:14-cv-91 ("Net Winner Action"), asserts claims against more than 10 of ZeekRewards' largest net winners in the United States and requests that the Court order Defendants to repay the net

⁸ See attached Exhibit B for further detail regarding disbursements and receipts.

winnings received from the scheme. Each of the named Defendants won in excess of \$900,000 (either individually or together with another family member or through a shell corporation). As described in detail in the filed complaint, because ZeekRewards' net winners "won" (the victims') money in an unlawful Ponzi and pyramid scheme, the Defendants are not permitted to keep their winnings and must return the fraudulently transferred winnings back to the Receiver for distribution to Zeek's victims.

The Net Winner Action also includes class action claims against approximately 9,000 ZeekRewards net winners in the United States who each won more than \$1,000 in ZeekRewards (claims against net winners outside the U.S. will be pursued in future actions). The total amount won by these net winners exceeds \$200 million. The Receiver has asked that the Court appoint the largest net winners sued by name as class representatives because these named Defendants will, by virtue of their own defense to the same claims, be adequate and appropriate representatives for the rest of the net winner class. A list of those individuals whom the Receiver believes won more than \$1,000 and therefore would be included in the class was posted on the ZeekRewards Receivership website.

2. Investigating Claims against Receivership Defendant Insiders

The Receiver also filed a lawsuit against the scheme's insiders, *Kenneth D. Bell v. Paul Burks, Dawn Wright-Olivares, Daniel Olivares, the Estate of Roger Plyler, Alexandre de Brantes and Darryle Douglas*, Civil Action No. 3:14-cv-89 ("Insider Action"). The Insider Action asserts claims for breach of fiduciary duty, unjust enrichment, the return of fraudulent transfers and other claims against six of the scheme's key insiders. The Receiver has asked the Court to order the Defendants to repay the losses caused by their unlawful conduct and return the money RVG paid them.

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

The Receiver continues to evaluate potential claims against RVG's third-party advisors, consultants, and others who received fraudulent transfers but who were not Affiliate Investors. These claims are varied in light of the diverse range of involvement these parties had with RVG. The Receiver intends to file multiple third-party actions, likely grouping defendants in these actions based on the similarity of claims asserted against them.

4. Investigating and Identifying Potential Prejudgment Remedies

Additionally, the Receiver is exploring options of certain provisional remedies to ensure funds fraudulently transferred and held by net winners and RVG insiders are not further dissipated prior to issuance of a judgment in the filed lawsuits. Already, this Court issued an order on August 17, 2012, when the Receiver was appointed, freezing the assets of RVG. *See* (Doc. No. 4). In light of this order along with the availability of prejudgment remedies, the Receiver has been investigating allegations that certain insiders and net winners may be sheltering, hiding, or dissipating assets fraudulently transferred or held. The Receiver intends to fully pursue legal recourse in these situations so that funds are preserved and may be returned to victims of the ZeekRewards scheme.

E. Potential Creditors of the Receivership Estate

The Receiver's motion seeking approval of distribution procedures and other related relief (the "Distribution Plan") was approved on March 26, 2014. *See* (Doc. No. 199). The Distribution Plan includes a framework for making distributions to claimants if, and to the extent, assets exist to pay such claims. Importantly, the approved Distribution Plan subordinates all unsecured claims against the Receivership, other than administrative claims, to the claims of Affiliates.

Additionally, the Receiver reached a settlement with a large creditor of the estate that greatly reduced the amount that might have been required to be paid to that creditor. That settlement will aid the return of additional assets to Affiliates through the Distribution Plan. The Receiver Team also identified one creditor that appears to have taken numerous actions that were in direct violation of the Freeze Order and greatly damaged the estate. The Receiver is in the process of determining what actions should be taken in regard to these violations.

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

The period for filing all claims against the Receivership has closed. The Receivership Team is in the process of reconciling all of the Affiliate claims that have been asserted against the Receivership Estate. More than 120,000 such Affiliate claims had been reconciled by the close of the first quarter of 2014, with work continuing on the other claims.⁹ The Receivership Team is continuing to reconcile claims and has been (and will continue) sending claims determinations to Affiliates on a rolling basis as these claims are reconciled.

Additionally, roughly half of the Affiliates who have received claim determinations have accepted those determinations. The Receiver Team anticipates sending an additional reminder to those claimants who have not yet accepted their claim determination requesting that the claimant provide the required information so that the claimant can receive a distribution from the Receivership Estate.

⁹ As of this filing, approximately 175,000 claims have been finally submitted asserting an aggregate sum of roughly \$645 million, and approximately 150,000 claim determinations have been issued. Of these determinations, over 72,000 claimants have accepted the determination and provided the required information, while 400 claimants have asserted objections to their claim determinations. The Receiver is awaiting the release and other required information for the more than 70,000 remaining claim determinations.

III. CONCLUSION

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

1. The continuing efforts of the Receiver to investigate and marshal assets of the Receivership Estate;
2. The continuing efforts of the Receiver to implement the claims and distribution processes in order to distribute proceeds to injured claimants;
3. The carrying out of any other legal and/or appointed duties of the Receiver as identified in the Receiver Orders or as the Court deems necessary.

Dated: May 7, 2014

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

and

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have electronically filed the foregoing **RECEIVER'S STATUS REPORT FOR THE FIRST QUARTER OF 2014** 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: May 7, 2014

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