

**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 FOURTH QUARTER OF 2013

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 sufficiently aware of the background of the ZeekRewards scheme so as not to require a lengthy introduction. Nearly eighteen months into the life of this Receivership, the

Receiver is on the brink of filing the first legal actions, continuing his recovery of Receivership Assets in seeking to compensate the scheme's victims to the greatest extent possible.

II. SUMMARY OF ACTIVITIES OF THE RECEIVER BETWEEN OCTOBER 1, 2013 AND DECEMBER 31, 2013

A. Operations of the Receiver

1. Investigating the Receivership Defendant's Financial Information

The Receiver continued during the fourth quarter to investigate the financial information of the Receivership Defendant and to marshal, identify, and secure potential assets of the Receivership Estate. Coordinating with the United States Secret Service ("USSS"), the Receiver Team continued to work with various e-wallet vendors, payment processors, and financial institutions to obtain the necessary information for the analysis and reconstruction of the Receivership Defendant's records and to determine the existence and location of any outstanding Receivership Assets and pursue their recovery. Having already recovered a large amount of the assets that were being held in domestic bank accounts in the name of the Receivership Defendant, the Receiver investigated further the extent of any improper transfers or withdrawals from these accounts that were not identified in connection with the initial seizures, which the Receiver may have a legal basis to pursue, and to confirm that there are no additional funds in these accounts. In addition, the Receiver continued to investigate the extent to which there are outstanding Receivership Assets held in accounts in the name of vendors or other individuals or entities and the flow of funds through foreign accounts to determine whether there are additional outstanding assets.

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 the Seized Asset Account during the fourth quarter 2013:

- On November 8, 2013, the Receiver deposited \$855,532.84 seized by the USSS from LST Financial, a payment processor for e-wallet provider NxSystems, Inc.;
- On December 18, 2013, the Receiver deposited \$5,374.32 from the return of gift cards that were found at the Rex Venture Group facility.¹
- On December 24, 2013, the Receiver deposited \$1,181,253.29 seized by the USSS from First Premier Bank, which had been holding the funds for check processor Western Clearing Corporation.

The Receiver also deposited a net total of \$2,414,294.84 into the Affiliate Account during the fourth quarter, which is comprised of payments from various financial institutions for checks and other instruments on which payment had previously been stopped. In addition, the Receiver deposited \$687,702.94 into the Settlement Account during the fourth quarter.

As of December 31, 2013, the Receivership Estate held approximately \$89.7 million in the Affiliate Account, approximately \$230.9 million in the Seized Asset Account, approximately \$466,000 in the Pre-Filing Account, and approximately \$2.1 million in the Settlement Account.

¹ Unlike other retailers the Receiver Team approached, Wal-Mart and Home Depot readily agreed to refund the full amount of their gift cards held by RVG at the time of shut-down. The remaining gift cards were sold at auction, and their value is included in the gross receipts from the personal property portion of the Receivership auction.

b. Cashier's Checks

Through the efforts of the Receiver's conflicts counsel, Erwin, Bishop, Capitano & Moss, P.A. ("EBCM"), the Receiver deposited a net total of \$2,414,294.84 during the fourth quarter of 2013 from payments by financial institutions on cashier's checks and bank money orders for which payment had previously been stopped. As of December 31, 2013, EBCM maintained an additional \$213,107.13 on-site pending resolution of contingencies or conditions set by the issuing financial institution.

During the fourth quarter 2013, EBCM sent demand letters to fifty-four (54) financial institutions seeking reimbursement for teller's checks on which financial institutions were believed to have improperly stopped payment under Section 3-411 of the Uniform Commercial Code and in violation of the Freeze Order.

As of December 31, 2013, thirty-one (31) financial institutions had not responded to the Receiver's demand(s) for payment of stopped payment cashier's checks and bank money orders. Additionally, fifteen (15) issuers of teller's checks had not responded to demand letters. The total value of the stopped payment instruments issued by financial institutions for which EBCM has received no response is believed to be \$712,243. As of December 31, 2013, EBCM was in communication with fifty (50) additional financial institutions regarding obtaining payment for stopped payment instruments (in addition to the 46 "no response" claims). The total value of these open claims is believed to be \$811,302. Therefore, the maximum possible recovery on all known unresolved claims relating to stopped payment instruments is believed to be \$1,523,545.

EBCM advised the Receiver that additional significant recovery is unlikely without litigation activity or compromise of claim amounts. EBCM is working to identify claims that can be effectively pursued through litigation or settled by compromise of the claim amount and

is reviewing legal issues related to possible litigation of unresolved claims. EBCM's litigation review is expected to be complete in the coming weeks, and the Receiver Team will then make decisions about next steps to pursue additional recovery for the Receivership Estate.

c. Funds Held by E-Wallets

During the fourth 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. Specifically, the Receiver obtained additional information, including detailed transactional data, from NxPay and Payza to allow FTI to reconcile the flow of funds and confirm any outstanding amounts, including any improper transfers or withdrawals of Receivership Assets. With respect to NxPay, the Receiver Team identified an outstanding amount of approximately \$12 million, which includes a previously-unaccounted for \$6.7 million transfer to NxPay's account and additional funds that were not turned over after the Freeze Order was entered. In addition, as discussed in the section on Foreign Accounts below, the Receiver Team has analyzed the additional information received from Payza, updating its reconciliation to determine an outstanding amount of approximately \$13 million. The Receiver Team continues to investigate Solid Trust Pay to determine whether there are outstanding funds to pursue. The Receiver Team is continuing to investigate the flow of funds through these entities and their respective accounts and pursue the collection of any recoverable assets.

d. Additional Asset Recovery

The USSS seized outstanding funds in the amount of approximately \$1.1 million that were located at First Premier Bank, and those funds have been transferred to the Receiver's Seized Asset Account.

e. Foreign Accounts

The Receiver Team obtained detailed transactional data from Payza to assist in the reconciliation of the outstanding funds associated with the previously reported foreign account. Based on our records and analysis to date, the funds outstanding that are being held in this foreign account total approximately \$13 million in Receivership Assets. The account holder is the foreign affiliate of the payment processor that facilitated the flow of funds. The Receiver continues to investigate the relationships and flow of funds between these entities and to work with these entities and government officials to recover these funds.

The Receiver Team also continues to work to identify the existence of additional foreign accounts and to determine whether there are any outstanding amounts held in these accounts. In addition to the previously identified foreign account held by Cyber Profit Ltd., the Receiver Team has identified certifications and other account information associated with newly identified foreign accounts. The Receiver Team is investigating whether these accounts were opened and is pursuing any recoverable assets associated with any additional accounts.

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 fourth quarter, FTI continued communications with financial institutions to obtain accurate financial records of transactions

occurring during RVG's operations. These communications led to additional productions by NxSystems, Payza, and GETI. FTI analyzed the additional data and updated the books and records accordingly. All transactional information received from financial institutions through the end of the fourth quarter has been included in the creation of the financial books and records. However, communications with financial institutions are ongoing, and there are outstanding requests by the Receiver for transactional information.

Additionally, the Receiver discovered additional RVG financial accounts during the fourth quarter. Investigation of these accounts and requests for production of transactional data is ongoing with assistance from the USSS and FTI. Due to the ongoing nature of productions by financial institutions, FTI expects that the financial books and records of the Receivership Defendant are not complete.

FTI also continued to reconcile the commission payments recorded in the RVG databases with the disbursements recorded in the financial records. During the fourth quarter, the focus of this reconciliation was on differences in amounts between the two sources of information. FTI will finish this reconciliation in early 2014.

b. Investigating the Receivership Defendant's Operations

During the fourth quarter, the Receiver Team continued its investigation into the operations of the Receivership Defendant. As discussed in earlier reports, the investigation includes review of RVG bank and payment processor records, public records, documents produced by third parties, documents collected from the Receivership Defendant, and interviews of key witnesses with knowledge of the scheme.

In particular, during the fourth quarter the Receiver Team conducted the second phase of its review and analysis of documents and data collected in response to subpoenas and voluntary

document requests. By applying advanced document-culling techniques, the Receiver Team was able to reduce the universe of relevant “phase two” documents from roughly 800,000 to 309,000 before beginning the review. These culling procedures, combined with a streamlined review process that involved outsourced attorneys and a small number of merits-team attorneys, allowed the Receiver Team to advance its factual investigation at significant cost-savings to the Receivership Estate.

The Receiver Team also continued to negotiate with certain individuals regarding document productions and fact interviews in order to aid the Receiver in the fulfillment of his obligations.

c. Privilege Review Team

The Receiver’s internal “taint team” of McGuireWoods LLP (“MW”) lawyers, in conjunction with Mr. Burks’ counsel, drafted a joint submission to the Court requesting a ruling on the classification of disputed privileged documents as either (1) Mr. Burks’ personal privilege, (2) Mr. Burks and RVG’s joint privilege, or (3) RVG-only privilege. The Court has not yet ruled on this submission.

4. Communicating with Affiliates and Creditors

The Receiver Team had various communications with the Affiliates and other Creditors throughout the fourth quarter of 2013. More than 80,000 Affiliates received direct communications from the Receiver that their claim determinations had been completed and were available for review. Further, many communications were made via updates posted on the Receivership website (www.zeekrewardsreceivership.com). Specifically, the Receiver posted updates on:

- the Claims Process and Letter of Determination sent to certain claimants;

- federal criminal charges filed against Dawn Wright-Olivares and Daniel C. Olivares, along with plea agreements that each defendant entered;
- the SEC’s complaint against Dawn Wright-Olivares and Daniel Olivares and the settlement of those actions;
- the Receiver’s December 13, 2013 press conference, with a link to the video of the conference;
- the Motion For Order Approving Distribution Procedures and Certain Other Related Relief;
- the Notice of Auction of Real and Personal Property of Receivership Defendant; and
- the Court’s Order approving an extended claims deadline of December 1, 2013 for certain parties.

Additionally, the “Frequently Asked Questions” portion of the Receivership website was updated in an effort to keep Affiliates apprised of developments particularly concerning the claims process and claim determinations.

The Receiver Team also communicated with certain Affiliates directly about non claims-related inquiries when circumstances warranted such communication, while also engaging in direct settlement communications regarding potential clawback litigation with certain Affiliates.

5. Issues Concerning Federal Taxes and Former Employees

During the fourth quarter, the Receiver Team had discussions with the IRS to determine a payoff amount for outstanding employment-related taxes and related penalties and interest. The Receiver Team has been in the process of reviewing the IRS account transcript and verifying that each payment, penalty, and assessment is correct. The IRS has been able to confirm a substantial payment in the amount of \$31,830.98 that was unconfirmed as of the third quarter.

As previously reported for the third quarter, MW continued to work with FTI and National Law Forms to respond to Affiliate-Investor inquiries regarding 2011 and 2012 1099s. The Receiver Team anticipates that responding to Affiliate-Investor inquiries will be an ongoing process.

The Receiver Team previously reported for the third quarter that the IRS proposed penalties for incorrect information returns filed for tax year 2011. Reviewing the IRS data indicates that the 2011 Forms 1099 filed with the IRS did not contain taxpayer identification numbers. The Receiver Team currently is preparing a penalty abatement request.

In preparing for the Claim Distribution process, the Receiver Team drafted an FAQ answering questions related to tax forms required from Claimants. Also, the Receiver Team continued the process of gathering the data necessary to cause federal and state income tax forms to be prepared and filed, with appropriate extensions, for RVG. 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.

6. Litigation in the SEC Enforcement Action²

The Receiver Team negotiated during the fourth quarter with multiple claimants regarding their potential objections to the Distribution Motion. In addition, the Receiver Team negotiated with a financial institution that had filed a motion seeking an extension of time in which to file a claim on stopped-payment cashier's checks. The Receiver and this financial institution reached an agreement to consent to a stay of the Court's consideration of the motion until the Receiver's collection efforts on improperly stopped-payment financial instruments have concluded. In addition, the Receiver Team worked in responding to objections to the Distribution Motion filed by the plaintiffs of a purported class action that is currently stayed.

B. The Receiver's Fund Accounting

The Receiver's Standardized Fund Accounting Report ("SFAR") for the fourth quarter 2013 is attached hereto as Exhibit A.

² 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.

C. The Receiver's Receipts and Disbursements

The Receiver's Schedule of Receipts and Disbursements ("Schedule") from October 1, 2013 through December 31, 2013, is attached hereto as Exhibit B. The Schedule sets forth the following receipts and disbursements:

1. The Receivership received funds in the amount of \$2,415,694.84 from the deposit of Affiliate-Investor financial instruments;³
2. Received funds of \$2,036,786.13 from the USSS in seized assets;
3. Received funds of \$687,702.94 from third-party litigation settlements with net winners;⁴
4. Received income from other sources, such as interest income, rental income and return of pre-paid funds, totaling \$92,573.43; and,
5. Disbursed funds from the Receiver's accounts of \$2,283,055.40, 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; and other professional services.⁵

Between October 1, 2013 and December 31, 2013, the Receivership Estate received \$5,243,680.26 and disbursed \$2,283,055.40. The Receiver has marshaled total assets of

³ 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. The net funds deposited from Affiliate-Investor financial instruments was \$2,414,294.84 after \$1,400.00 in bank adjustments to deposits made in 2012 and 2013.

⁴ As of the end of the fourth quarter, the Receiver has agreed to approximately \$2.5 million in settlements with net winners.

⁵ See attached Exhibit B for further detail regarding disbursements and receipts.

approximately \$333.5 million during the period between August 17, 2012 and December 31, 2013, while disbursing approximately \$10.7 million during the same period.

D. Description of All Known Non-Cash Receivership Property

During the fourth quarter, the Receiver Team worked with Iron Horse Auction Company to prepare for and conduct the auction of the Receivership Defendant's real and personal property. The auction took place on December 16 and 17, 2013, and generated \$738,275 in gross receipts. The main office building grossed \$240,000, the warehouse grossed \$415,000, and the personal property grossed \$83,275.⁶

E. Description of Claims Held by the Receivership Estate

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

The Receiver incorporates by reference his previously filed Quarterly Status Reports discussing the total value of fraudulently transferred funds and the litigation methods for pursuing those funds.

The Receiver filed a Request for Leave to Institute Actions and For Order Setting Initial Conference on December 11, 2013 (Doc. No. 169). The Court granted the Receiver leave to institute clawback actions on December 19, 2013 (Doc. No. 172), allowing the Receiver to file clawback actions at an appropriate time in the coming weeks.

2. Settlements with Net Winner Affiliate-Investors

The Receiver entered into settlements with 10 additional net winners during the fourth quarter, bringing the total number of settlements to 179. These additional 10 settlements total

⁶ Sale of the main office closed on January 13, 2014, and funds in the amount of \$235,978.83 were deposited into the Receiver's Seized Asset Account. Sale of the warehouse closed on January 16, 2014, and funds in the amount of \$409,196.33 were deposited into the Seized Asset Account. Net proceeds from the personal property sold at auction, totaling \$56,284.43, were deposited into the Seized Asset Account on January 13, 2014.

\$545,300 on \$892,549 in net winnings (61.09%). Overall promised settlement payments to-date total approximately \$2,527,238 on winnings of \$4,457,418, an approximate 56.70% return.

3. Investigating Claims against Receivership Defendant Insiders and Third-Party Advisors

The Receiver Team continued its investigation into potential claims against RVG insiders and third-party advisers as a part of its ongoing fact investigation, continuing its analysis of documentary evidence that will be used in proving such claims. The Receiver Team also responded to requests for assistance and information from the U.S. Attorney's Office that aided the government in obtaining plea agreements from both Dawn Wright-Olivares and Daniel Olivares.

F. Potential Creditors of the Receivership Estate

There have been no major developments regarding potential non-Affiliate creditors of the Receivership Estate. However, as discussed below, the Receiver filed his motion seeking approval of distribution procedures and other related relief on December 12, 2013 (the "Distribution Motion"). The Distribution Motion seeks to subordinate the right to payment of all trade creditors to that of the Affiliates and taxing authorities, based on certain legal and equitable principles. The Distribution Motion also seeks to avoid reconciling the claims of the trade creditors unless and until the Affiliates have been paid in full (without interest, fees or costs) so that the Receivership Estate need not incur the unnecessary costs associated with reconciling subordinated claims that may not be paid. If the Receiver Team determines that it will have assets sufficient to make any distribution to the subordinated class of trade creditors, the Receiver Team will reconcile such claims.

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

Pursuant to the Order Approving the Motion to Extend Deadline for Filing Claims Relating to Financial Instruments Paid to the Receiver on or after August 1, 2013, an additional claim period for certain entities closed on December 1, 2013. Approximately \$6.5 million in additional claims were asserted by approximately 625 claimants. These claims have been added to the claims reconciliation process.

As reported in Section II.F., on December 12, 2013, the Receiver filed the Distribution Motion. The Distribution Motion seeks the approval of: (1) procedures for the resolution of certain Claims reconciliation matters, including, but not limited to, granting the Receiver authority to settle Claims asserted against the Receivership Defendant; establishing a procedure for settling Claims filed against the Receivership Defendant; appointing retired Judge Frank W. Bullock, Jr. of the United States District Court for the Middle District of North Carolina to serve as special master over objections to Claim Determinations that the Receiver Team has been unable to resolve through negotiations with the Claimant; and establishing the method by which a Claimant or the Receiver may appeal an adverse determination of the Special Master (once appointed) to this Court; (2) the establishment of the priority of distributions to the holders of allowed Claims; (3) the establishment of the rising tide methodology for determining the distributions to be made on account of the allowed Claims held by Affiliates; and (4) the procedures for making distributions, including, but not limited to, the collection of necessary information to make distributions to holders of allowed Claims, and the establishment of the procedures for making distributions. It is anticipated that the Distribution Motion will be heard in the first quarter of 2014. If approved, the Distribution Motion will permit the Receiver to make distributions to Affiliates.

Additionally, starting December 28, 2013, the Receiver issued 80,000 letters determining claims of Affiliates. The Receiver is in the process of continuing to reconcile claims of all Affiliates. The Receiver will continue to issue claim determinations on a rolling basis as and when such claims are reconciled.

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: January 30, 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 FOURTH QUARTER OF 2013** 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: January 30, 2014

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