

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:18-cv-61991-BB

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

1 GLOBAL CAPITAL LLC, and
CARL RUDERMAN,

Defendants, and

1 WEST CAPITAL LLC,
BRIGHT SMILE FINANCING, LLC,
BRR BLOCK INC.,
DIGI SOUTH LLC,
GANADOR ENTERPRISES, LLC,
MEDIA PAY LLC
PAY NOW DIRECT LLC, and
RUDERMAN FAMILY TRUST,

Relief Defendants.

RECEIVER'S SIXTH STATUS REPORT

Jon A. Sale, not individually, but solely in his capacity as the Court-appointed receiver (the "Receiver") for Bright Smile Financing, LLC ("Bright Smile"); BRR Block Inc. ("BRR Block"); Digi South LLC ("Digi South"); Ganador Enterprises, LLC ("Ganador"); Media Pay LLC ("Media Pay"); Pay Now Direct LLC ("Pay Now"); the Ruderman Family Trust; and the Bright Smile Trust (collectively, the "Receivership Entities"), respectfully submits this Sixth Status Report covering the period of March 21, 2020 through August 20, 2020 (the "Reporting Period").

I. INTRODUCTION

The Receiver and his professionals achieved significant results for the benefit of the Receivership Estate during the Reporting Period by: (1) making a first distribution of funds to approved claimants through the Court-approved claims process; (2) recovering funds in connection with the previously-reported-upon settlement of claims related to Ganador; and (3) negotiating and litigating clawback (fraudulent transfer) actions against several third-parties.

II. RECEIVER'S APPOINTMENT AND DUTIES

On August 23, 2018, the United States Securities & Exchange Commission ("SEC") initiated this action against Defendants 1 Global Capital, LLC ("1 Global") and Carl Ruderman, and Relief Defendants 1 West Capital LLC ("1 West"), Bright Smile, BRR Block, Ganador, Media Pay, Pay Now, and the Ruderman Family Trust. [D.E. 1]. The SEC alleges that Defendants engaged in a four-year long unregistered securities fraud totaling more than \$287 million, victimizing thousands of investors nationwide. *Id.*, ¶ 1. The SEC seeks, among other relief, permanent injunctive relief, civil penalties, and disgorgement. *Id.*, pp. 33-34. The same day, the SEC requested an asset freeze and the appointment of a receiver over Relief Defendants Bright Smile, BRR Block, Digi South, Ganador, Media Pay, and Pay Now. [D.E. 6; D.E. 7]. The Court entered a sealed order appointing Jon A. Sale, Esq. as Receiver for the Receivership Entities (the "Receivership Order").¹ [D.E. 12]. The Court also entered an order freezing Defendants' assets (the "Freeze Order"). [D.E. 13].

Pursuant to the Receivership Order, the Receiver is obligated to, among other things: (1) take immediate possession of the Receivership Entities' property, assets, and estates of every kind;

¹ The Court later expanded the Receivership over the Ruderman Family Trust and the Bright Smile Trust, on November 21, 2018, and the Receivership Order is controlling over them as well. [D.E. 115.]

and (2) investigate the way the affairs of the Receivership Entities were conducted and institute actions and proceedings for the benefit of investors and other creditors. [D.E. 12, ¶¶ 1-2].

The Receivership Order requires the Receiver to prepare quarterly status reports. [D.E. 12, ¶ 3]. This Sixth Report summarizes the Receiver's and his professionals' relevant activities during the Reporting Period.

III. ACTIVITY DURING REPORTING PERIOD

On April 1, 2020, the Receiver filed his Fifth Status Report with this Court, which covered the period of November 5, 2019 through March 20, 2020. [D.E. 252]. In it, the Receiver explained the results he and his team of retained professionals achieved in connection with: (1) recoveries related to the settlement of claims related to Ganador; (2) liquidating the Receivership's crypto currency holdings; and (3) litigating clawback actions against third-parties. *Id.*

In this Sixth Status Report, the Receiver addresses similar issues, including the completion of payments under the settlement agreement related to Ganador, including the Court approved second amendment to the settlement with Ganador, the status of clawback negotiations and litigations, the Receiver's first distribution of funds to approved claimants through the claims process, and the general maintenance of the Receivership Estate.

A. Recoveries Related to Ganador Settlement

As previously reported, on December 10, 2018, the Receiver agreed to and finalized a written settlement agreement (the "Ganador Settlement") with Unified Analytics, LLC ("Unified") and National Techmark Inc. ("Techmark"). On December 27, 2018, the Court entered its order approving the Ganador Settlement. [D.E. 124].

As previously reported, in or about February 2020, Unified and Techmark expressed to the Receiver a need to amend the Ganador Settlement to extend the Maturity Date because of a lack

of liquidity. In February 2020, the parties agreed to enter into a First Amendment to the Ganador Settlement, which, after being approved by the Court, extended the Maturity Date and amended the agreed payment schedule (the “Amended Payment Schedule”). The Court approved the First Amendment and Amended Payment Schedule on April 1, 2020. [D.E. 254]. Thereafter, Unified and Techmark made the payments due under the Amended Payment Schedule.

In early May 2020, counsel for Unified and Techmark contacted counsel for the Receiver to inquire whether the Receiver would consider a second amendment to the Ganador Settlement under which Unified and Techmark would make an immediate lump-sum payoff to the Receiver in exchange for a reduction of the total principal amount owed (“Discounted Payoff”). Unified and Techmark claimed they were requesting this second amendment because COVID-19 was negatively impacting their businesses (servicer to an installment lender and lender to an installment lender respectively). Among other things, they claimed that COVID-19 was causing a reduction of employment which was resulting in a corresponding reduction in new installment loans and collectability on outstanding installment loans. For Unified, they claimed these market conditions were negatively impacting servicing fees which is its primary source of revenue. For Techmark, they claimed that its borrower was being negatively impacted by these market conditions and, therefore, payment of Techmark’s loan to borrower was impaired and/or at significant risk. As a result of the forgoing, ultimate payment of Unified’s and Techmark’s’ obligations were uncertain absent a restructuring.

After conducting substantial due diligence of Unified and Techmark’s past and present financial condition and prolonged negotiations, and in consultation with his retained professionals, the Receiver agreed to a second amendment to the Ganador Settlement (“Second Amendment”) memorializing a Discounted Payoff of \$1,950,000.00. The Receiver filed a motion for Court

approval of the Second Amendment on August 4, 2020. [D.E. 262]. On August 19, 2020, the Court approved the Second Amendment. [D.E. 264].

On August 20, 2020, Unified and Techmark made the Discounted Payoff of \$1,950,000 to the Receiver. As a result, the Receiver has recovered a total of approximately \$3.57 million of the \$4 million Settlement Amount (as defined in the Receiver's motion for approval of the Ganador Settlement). [D.E. 120]. That represents a greater than 60% recovery of \$5.8 million that was transferred from Ganador to Unified and Techmark—a significant achievement for the benefit of the Receivership Estate and, ultimately, approved claimants.

B. Clawback Litigation

1. Original Seven Lawsuits

As previously reported, on August 23, 2019, Damian Valori, the Receiver's contingency counsel, filed seven lawsuits against defendants that received funds from the Receivership Entities (the "Clawback Actions"), including: (1) Bank of America, N.A.; (2) J.P. Morgan Chase Bank, N.A., related to credit cards; (3) J.P. Morgan Chase Bank, N.A., related to mortgage payments; (4) Citibank, N.A.; (5) Mercedes Benz Financial Services, USA, LLC ("Mercedes Benz"); (6) American Express Company ("AmEx"); and (7) Ferrari Financial Services Inc.

As previously reported, the Court has approved the Receiver's settlements with three of these entities: (1) Citibank, N.A. [D.E. 246] (resulting in a greater than 60% recovery for the Receivership); (2) Bank of America, N.A. [D.E. 248] (resulting in a 55% recovery for the Receivership); and (3) JP Morgan Chase Bank related to credit card payments [D.E. 250] (resulting in a 59% recovery for the Receivership).

As for AmEx and Mercedes Benz, the Receiver has agreed to settlements with them and anticipates filing motions for approval of those settlements within the next month.

As for J.P. Morgan Chase Bank, N.A., the Receiver previously reported that he agreed to dismiss that action without prejudice, pending attempts to sell Carl Ruderman's condominium. This claim is subject to a tolling agreement. The Receiver's understanding is that the condominium has not yet sold.

2. Lawsuit Against Jumbleberry

On February 19, 2020, the Receiver filed a clawback lawsuit against Jumbleberry, a Canadian entity. On August 6, 2020, the Receiver served Jumbleberry in accordance with the Hague Convention. It took the Receiver several months to serve Jumbleberry given COVID-19 related business closures, Jumbleberry's prior counsel's refusal to respond to requests to waive or accept service, and other government restrictions in Toronto, Ontario, Canada where Jumbleberry's principal address is located.

3. Lawsuit Against Valentina Radchuk

On August 14, 2020, the Receiver filed a clawback lawsuit against Valentina Radchuk. The Receiver was engaged in settlement discussion with Ms. Radchuk's counsel but learned in August that her counsel was no longer representing her. After several unsuccessful attempts to contact Ms. Radchuk to discuss settlement or the extension of the tolling agreement concerning claims against her, the Receiver filed suit.

4. Remaining Potential Litigation

Rather than initiating litigation, when able the Receiver has entered into tolling agreements to provide the parties the opportunity to further investigate and discuss a consensual resolution of potential claims relating to subject transfers received from the Receivership Entities (collectively the "Tolled Entities"). At this time, the Receiver's counsel is engaged in settlement discussions with three Tolled Entities.

C. Claims Process and First Distribution

As previously reported, the Receiver filed a motion for approval of a claims process on November 30, 2019. [D.E. 244]. The Court approved the proposed claims process on December 4, 2019 (the “Claims Order”). [D.E. 245]. Pursuant to the Claims Order, potential claimants had until March 3, 2020 (the “Bar Date”) to submit proof of claim forms and related documents to the Receiver. Approximately seven claims were submitted to the Receiver. One of the seven claims accounts for approximately 99% of the total claimed amount. The Receiver will keep claimants’ identities anonymous unless and until he receives approval from each claimant to do otherwise.

On June 2, 2020, the Receiver filed his motion for Court approval of claims recommendations (“Recommendations”). [D.E. 257]. In his Recommendations, the Receiver recommended approval of all claims that were submitted and proposed distribution percentages for each claimant. There were no objections to the Receiver’s Recommendations. Thereafter, on July 8, 2020, the Court entered an order approving the Receiver’s Recommendations. [D.E. 260].

In or about early August 2020, the Receiver made distribution payments to claimants totaling \$5,500,000.² The Receiver anticipates making a second and final distribution to claimants after closing out all clawback litigation.

² To date, only one claimant has failed to respond to the Receiver’s inquiries as to where to send its distribution payment. The Receiver will continue to attempt to reach this claimant, and his difficulty in doing so is likely COVID related. If the Receiver is not able to verify instructions for this distribution, he will notify the Court.

IV. BANK ACCOUNTS

In connection with his duty to marshal the Receivership's assets, the Receiver opened Receivership bank accounts at BankUnited. The following is a list of bank accounts and their corresponding balances:³

Jon Sale as Receiver for Bright Smile Financing, LLC	\$768,869.78
Jon Sale as Receiver for Ganador Enterprises LLC	\$2,067,890.00
Jon Sale as Receiver for BRR Block Inc.	\$586,897.49
Jon Sale as Receiver for Pay Now Direct LLC	\$188,646.60
Jon Sale as Receiver for Digi South LLC	\$154,071.53
TOTAL	\$3,766,375.40

V. ASSET IDENTIFICATION

A. Bright Smile

As explained in the Receiver's prior reports, the Receiver sold Bright Smile's assets to Buyers, which sale was approved by the Court on February 20, 2019. The Receiver has investigated whether there are any additional claims or other sources of recovery available as it relates to Bright Smile. Currently, the Receiver does not believe there are any additional claims or other sources of recovery related to Bright Smile.

B. Ganador

As explained in the Receiver's prior reports, in December 2018, the Receiver settled claims that Ganador had against Unified and Techmark, two entities to which it transferred a total of approximately \$5.8 million. The Ganador Settlement was approved by the Court on December 27, 2018. [D.E. 124]. Unified and Techmark made their Discounted Payoff, the last payment due under the Ganador Settlement, on August 20, 2020, with Court approval.

³ The account balances are as of the afternoon of August 26, 2020.

C. BRR Block

The Receiver has liquidated the most of the Receivership's digital currency holdings, which were purchased using funds from BRR Block. The Receiver retained a digital currency consultant to assist with the liquidation, as approved by the Court on October 15, 2019 [D.E. 240]. The Receiver is strategizing with the consultant to determine the most effective means of liquidating the remaining crypto currencies, valued at approximately \$15,000-\$20,000.

D. Digi South

The Receiver's professionals continue to investigate Digi South to identify other possible sources of recovery for the benefit of the Receivership Estate. The Receiver has obtained tolling agreements from several entities that received transfers from Digi South, which are included within the Tolled Entities. The Receiver is actively engaged in settlement negotiations with one of these Tolled Entities, which received approximately \$250,000 from Digi South. The Receiver continues to negotiate and exchange information with this Tolled Entity toward a resolution of this issue.

In addition, as described above, on August 23, 2019, the Receiver filed a lawsuit against Ferrari Financial Services, Inc. for recovery of fraudulent transfers the Receiver contends it received from Digi South.

E. Media Pay

The Receiver's professionals continue to investigate Media Pay and review related documents to locate other possible sources of recovery for the benefit of the Receivership Estate. The Receiver has obtained tolling agreements from several entities that received funds from Media Pay, which are included within the Tolled Entities. At least one of these Tolled Entities has agreed to an extension of its tolling agreement.

In addition, as described above, on February 19, 2020, the Receiver filed a lawsuit against Jumbleberry for recovery of fraudulent transfers the Receiver contends were made by Media Pay.

F. Pay Now

As explained in the Receiver's prior reports, there are no remaining assets related to Pay Now. Pay Now never had any business operations and was only used to pay Defendant Ruderman's personal and family expenses including his mortgage and condominium related fees. Pay Now had a bank account at Bank of America, which was closed in early August 2018 before the Receiver's appointment. The bank account contained approximately \$2,348.00, which funds were remitted by 1 Global representatives to the Receiver after the Receiver's appointment. The cash was transferred to a Receivership bank account.

The Receiver's professionals continue to investigate Pay Now and review related documents to locate other possible sources of recovery for the benefit of the Receivership Estate, including records made available to the Receiver by 1 Global. The Receiver has obtained tolling agreements, and extensions on those tolling agreements, from several entities that received funds from Pay Now, which are included within the Tolled Entities.

In addition, as described above, on August 23, 2019, the Receiver filed several lawsuits for recovery of funds the Receiver contends were the subject of fraudulent transfers made by Pay Now, including complaints against: (1) Bank of America, N.A.; (2) J.P. Morgan Chase Bank, N.A.; (3) J.P. Morgan Chase Bank, N.A.; (4) Citibank, N.A.; (5) Mercedes Benz Financial Services, USA, LLC; and (6) American Express Company.

Finally, the Receiver also filed suit against Valentina Radchuk on August 14, 2020, as reported above.

G. The Ruderman Family Trust and Bright Smile Trust

The Receiver's professionals continue to investigate the Ruderman Family Trust and Bright Smile Trust, and to review related documents to locate other possible sources of recovery for the benefit of the Receivership Estate. The Receiver does not anticipate that this will be a time consuming or expensive process and does not believe that his efforts in this regard will be duplicative of the efforts of the SEC and 1 Global. The Receiver will work with them to avoid duplication of claims and efforts wherever possible. Currently, the Receiver does not believe there are any additional claims or other sources of recovery available as it relates to the Ruderman Family Trust and Bright Smile Trust.

H. Witness Interviews

As previously reported, the Receiver and his counsel interviewed several witnesses, who have only recently been made available, to determine whether there are any additional sources of recovery that could benefit the Receivership Estate. Those interviews were productive in providing the Receiver with information about existing and potential claims.

VI. FEES AND COSTS

The Receiver and his team are especially cognizant of the impact their professional fees have on the return of monies to defrauded investors. The Receiver and his team have worked diligently through complex issues to maximize recoveries while billing at substantially discounted rates. In addition, the Receiver has sought to work collaboratively with the SEC and 1 Global in sharing information, identifying recovery sources and targets, and reducing duplication of efforts. Thus far, the Receiver has utilized his and his team's collective experience to avoid costly litigation while also securing significant cash recoveries. In certain instances where litigation has become necessary, the Receiver has obtained counsel to pursue those claims under a contingency fee

agreement, where such counsel only receives payment for fees if there is a recovery to the Receivership Estate.

CONCLUSION

The foregoing is a summary of the Receiver's and his retained professionals' activities during the Reporting Period. Further information is available upon request. The Receiver will be filing additional reports with the Court on a quarterly basis, as required by the Receivership Order.

Dated: September 10, 2020.

NELSON MULLINS BROAD AND CASSEL
Attorneys for Receiver
One Biscayne Tower, 21st Floor
2 S. Biscayne Boulevard
Miami, FL 33131
Telephone: 305.373.9400
Facsimile: 305.995.6449

By: s/Daniel S. Newman
Daniel S. Newman
Florida Bar No. 0962767
Gary Freedman
Florida Bar No. 727260
Christopher Cavallo
Florida Bar No. 0092305

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2020, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing is being served this day on all counsel of record identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel who are not authorized to receive electronically Notices of Electronic Filing.

s/Daniel S. Newman
Daniel Newman

SERVICE LIST

<p>SECURITIES AND EXCHANGE COMMISSION Miami Regional Office 801 Brickell Avenue, Suite 1800 Miami, Florida 33131 Robert K. Levenson Chris Martin Senior Trial Counsel levensonr@sec.gov martinc@sec.gov Telephone: 305.982.6300 Facsimile: 305.536.4154</p>	<p>MARCUS NEIMAN & RASHBAUM LLP 2 South Biscayne Boulevard Suite 1750 Miami, Florida 33131 Jeff Marcus jmarcus@mnrlawfirm.com Telephone: 305.400.4262 <i>Attorneys for Defendant Carl Ruderman</i></p>
<p>GREENBERG TRAUIG, LLP 333 S.E. 2nd Ave., Suite 4400 Miami, FL 33131 Paul J. Keenan Jr. keenanp@gtlaw.com Telephone: 305.579.0500 <i>Attorneys for Defendant 1 Global Capital, LLC and Relief Defendant 1 West Capital, LLC</i></p>	