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11 *Attorneys for Receiver*

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA

14
15 FEDERAL TRADE COMMISSION,
16 Plaintiff,
17 v.
18 DAMIAN KUTZNER, et al.,
19 Defendants.

Case No. LACV16-00999 BRO (AFMx)

RECEIVER'S STATUS REPORT

JUDGE: Hon. Beverly Reid O'Connell
CTRM: 14

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1 **STATUS REPORT OF RECEIVER**

2 **I.**

3 **INTRODUCTION**

4 On June 1, 2016, this Court entered a Temporary Restraining Order with
5 Asset Freeze and Appointment of Temporary Receiver (“TRO”) that appointed me
6 Temporary Receiver of the Receivership Entities.¹

7 I filed a Preliminary Report on June 13, 2016 ([ECF No. 41](#)), which
8 recounted in detail the initial implementation of the receivership, summarized
9 Defendants’ operations and finances, and documented my conclusion that the
10 business could not be operated lawfully and profitably going forward.

11 My appointment as Receiver was confirmed, and the temporary designation
12 removed, by Preliminary Injunctions entered June 24 and June 27, 2016.²

13 I filed a Supplemental Report on July 8, 2016 ([ECF No. 67](#)) which further
14 updated the status of the receivership, summarized our efforts to notify and protect
15 Brookstone/Advantis clients and return possession of the leased premises to the
16 landlord, and reported on the withdrawal (and subsequent return) of \$20,000 from
17 a Brookstone bank account after Defendant Kutzner had received notice of the
18 TRO. The FTC filed a response to that report on July 14, 2016 ([ECF No. 70](#)),
19 which refined the details of the procedures by which the FTC would store and
20 maintain the integrity of paper records and hard drives removed from the site. As

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22 ¹ Receivership Entities are defined at page 8 of the TRO as the Corporate
23 Defendants (Advantis Law P.C., Advantis Law Group P.C., Brookstone Law P.C.
24 (California), Brookstone Law P.C. (Nevada)) and any entities that are part of
25 Defendants’ common enterprise, including but not limited to Broad Base Inc. and
26 Federal Management Systems Inc.

27 ² Preliminary Injunction as to Geoffrey Broderick, Brookstone Law P.C.
28 (California) and Brookstone Law P.C. (Nevada) entered June 27, 2016 ([ECF No. 59](#)) (the “Brookstone PI”); Stipulated Preliminary Injunction as to Defendants Damian Kutzner, Charles Marshall, Jonathan Tarkowski, Advantis Law P.C., and Advantis Law Group P.C. entered June 24, 2016 ([ECF No. 57](#)) (the “Advantis PI”). A Stipulated Preliminary Injunction as to Defendant Vito Torchia was also entered June 24, 2016 ([ECF No. 56](#)), but did not include appointment of a receiver.

1 to the \$20,000 in post-TRO withdrawals, the FTC filed a contempt application on
2 July 25, 2016 ([ECF No. 75](#)), which was denied by Order of July 27, 2016 ([ECF](#)
3 [No. 82](#)).

4 The Preliminary Injunctions confirming my appointment ([ECF No. 59](#) and
5 [57](#)) both include provisions (Section XIX, page 26) directing me to report to the
6 Court by August 1, 2016 as to the following five topics:

7 1. Steps taken to implement the Preliminary Injunction. Operations have
8 been terminated and we have initiated procedures to return the office premises to
9 the landlord which will be completed by August 5, 2016. See further details in
10 Supplemental Report filed July 8, 2016 and FTC Response filed July 14, 2016.

11 2-3. Receivership Entities' assets and liabilities. A current summary of
12 assets available to the receivership is set forth below at Section II. We have not
13 identified any significant liabilities.

14 4. Steps Receiver intends to take to protect assets of the Receivership
15 Entities, pursue assets from third parties, and adjust liabilities. The asset freeze
16 and receivership control (and subsequent liquidation) of the limited business
17 property remain to be the primary vehicles to protect the limited assets available.
18 Other than the \$20,000 removed from Brookstone accounts and later returned to
19 the receivership, we have not identified any additional assets that can be claimed
20 by the Receivership.

21 5. Any other matters which the Receiver believes should be brought to
22 the Court's attention: These matters are set forth below.

23 The Preliminary Injunctions also direct me to file a request for reasonable
24 compensation at the time of filing any report required by the "Receiver's Reports"
25 section of those Orders. Simultaneously with this Status Report, I have, therefore,
26 filed a Second Interim Fee Application for the period June 14, 2016 through July
27 29, 2016.

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II.

FINANCIAL SUMMARY

The receivership account currently has cash funds of \$20,000, representing the \$20,000 returned to the receivership by Defendants. Below is a chart which summarizes Defendants' frozen accounts with aggregate cash balances of \$89,397.93 based on the most recent information from the identified banks. Some of these accounts are denominated personal, not business, accounts and some are identified as attorney IOLTA accounts – as such, some of these frozen funds may not ultimately be available to the receivership.

Account Name	Bank / Merchant Vendor Name	Account No. Ending	Balance Frozen
Advantis Law P.C.	US Bank	6379	\$9.12
Advantis Law P.C.	US Bank	6387	\$1.00
Advantis Law Group P.C.	US Bank	7547	\$5.98
Advantis Law Group P.C. - IOLTA	US Bank	7539	\$5.00
Brookstone Law P.C.	BofA	5293	\$76.02
Brookstone Law P.C.	BofA	7366	\$12,489.39
Brookstone Law P.C.	Citibank	3068	\$78.21
Brookstone Law P.C.	Citibank	7325	\$0.00
Brookstone Law P.C.	Citibank	7333	\$318.28
Brookstone Law P.C.	US Bank	2507	\$10.00
Charles T. Marshall, Attorney at Law	JPMC	4691	\$49,017.79
Broad Base, Inc. dba Serious Pimp	JPMC	3379	\$6,388.42
R. Geoffrey Broderick Dana Broderick	BofA	1362	\$100.37
R. Geoffrey Broderick	BofA	1537	\$30.51
Robert G. Broderick	BofA	2890	\$3.41

Account Name	Bank / Merchant Vendor Name	Account No. Ending	Balance Frozen
Robert G. Broderick ITF Ava Y. Broderick	BofA	1533	\$7.53
Robert G. Broderick ITF Peyton E. Broderick	BofA	2219	\$20.16
Charles T. Marshall	JPMC	6085	\$150.00
Charles T. Marshall	JPMC	7957	\$128.47
Charles T. Marshall	Union Bank	0831	\$7,039.23
Charles T. Marshall	Union Bank	3018	\$4,617.09
Charles T. Marshall	Union Bank	1219	\$50.00
Charles T. Marshall	Union Bank	4299	\$3,456.86
Charles T. Marshall, Attorney at Law - Conn. IOLTA	Citibank	6263	\$20.00
Charles T. Marshall, Attorney at Law - IOLTA	JPMC	2107	\$25.69
Jonathan Tarkowski	Wells Fargo	0754	\$250.31
Jonathan Tarkowski	Wells Fargo	3581	\$5,079.09
Legality Shield, a Professional Law Corporation - Conn. IOLTA	BofA	4683	\$20.00
Total			\$89,397.93

We project that net proceeds from the liquidation of Defendants furniture and equipment on site will net approximately \$800.³ We have also made demand for return to the receivership of the nearly \$12,000 security deposit paid by Advantis to its sublessor. It is also possible that some of the corporate entities deployed by Jeremy Foti, who was added as a Defendant in the First Amended

³ Nearly all of the furniture on site was the property of the master tenant which had subleased the space to Advantis. The computer equipment owned by Defendants was essentially scrap after removal of the hard drives from the CPUs.

1 Complaint filed July 5, 2016 ([ECF No. 61](#)), will hold receivership assets, but we
2 do not yet have adequate information.

3 We anticipate that recovered receivership assets will not be adequate to
4 cover expenses incurred to date and there will be a significant deficit to complete
5 the necessary tasks of the receivership.

6 Dated: August 1, 2016

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8 By: S/ Thomas W. McNamara
9 Thomas W. McNamara
Receiver

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2016, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

I further certify that I have caused the foregoing to be mailed by First Class Mail, postage paid, to the following non-CM/ECF participants:

R. Geoffrey Broderick
20 Paseo Canos
San Clemente, CA 92673

S/ Andrew W. Robertson
Andrew W. Robertson