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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

11 Bureau of Consumer Financial Protection;
12 et al.,

13 Plaintiffs,

14 v.

15 Consumer Advocacy Center Inc., d/b/a
Premier Student Loan Center; et al.,

16 Defendants.

Case No. 8:19-cv-01998-MWF (KSx)

**RECEIVER’S THIRD INTERIM
STATUS REPORT**

JUDGE: Hon. Michael W. Fitzgerald
CTRM: 5A

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19 Thomas W. McNamara, as Court-appointed receiver (“Receiver”), submits
20 this report of receivership activities for the period of May 1, 2021 through October
21 31, 2021.

22 **I.**

23 **RECEIVERSHIP ACTIVITIES**

24 During this period, the Receiver and his team were able to mediate with a
25 third-party leads vendor and obtain a settlement, which will ultimately pay the
26 Receivership Estate \$675,000 and provide the Receiver with an assignment of
27 rights to pursue claims against one of the settling party’s insurers. In addition, the
28 Receiver commenced an action against National Merchant Center, Inc. (“NMC”), a

1 third-party independent sales organization and its employee/agent, alleging a
2 variety of claims. The Receiver’s team also continues to investigate financial
3 transactions and potential receivership claims against additional third parties.

4 **A. Settlement with Lead Provider**

5 Beginning in early 2020, the Receiver began his investigation of The Brea
6 Financial Group, LLC d/b/a Pub Club Leads, and its owner’s (collectively “Pub
7 Club”) relationship with the Defendants and their role as the imbedded lead
8 provider for their operations. The Receiver subsequently obtained documents from
9 Pub Club and, on September 14, 2020, entered into a tolling agreement with the
10 Pub Club in order to continue his investigation while exploring potential settlement
11 opportunities. The Receiver and the Pub Club subsequently continued to exchange
12 information/documents and engaged in settlement discussions.

13 On July 28, 2021, the Receiver, Pub Club, and the Chapter 7 Trustee for
14 defendant Consumer Advocacy Center, Inc. (the “Trustee”) participated in a full
15 day in-person/online hybrid mediation with Charles H. Dick, Jr., Esq. and reached
16 settlements of both the Receiver’s and the Trustee’s claims.

17 The parties reached a global settlement, whereby Pub Club agreed to pay a
18 total of \$875,000 to the Receivership Estate and the Trustee. Pursuant to its
19 settlement with the Receiver, Pub Club agreed to pay a total of \$675,000 to the
20 Receivership Estate, with \$600,000 paid up-front and \$75,000 paid over a 9-month
21 period. (ECF No. 318-3). In addition, the Receiver received assignment of Pub
22 Club’s rights to pursue claims against one of its insurers.¹ The settlement was
23 recently approved by the Court on October 20, 2021 (ECF No. 341). Pub Club
24 also settled its claims with the Trustee for Consumer Advocacy Center, Inc. by

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27 ¹ The Receiver has conferred with outside insurance coverage counsel regarding
28 the viability of pursuing the assigned claims and has recently retained counsel to
represent the Receiver in this matter.

1 agreeing to pay an additional \$200,000. U.S. Bankr. S.D. Fla. Case No. 19-10655-
2 SMG, ECF No. 335.

3 **B. Lawsuit Against the NMC Defendants**

4 As the Receiver has previously informed the Court, the Receiver identified
5 NMC, Jimmy Lai, and Swift Payments (collectively the “NMC Defendants”) as
6 third parties in possession of receivership assets. The Receiver’s investigation of
7 the NMC Defendants has included issuing subpoenas to and obtaining additional
8 documents from NMC and third parties and pursuing pre-lawsuit settlement
9 discussions with NMC, including a mediation.

10 The Receiver filed a complaint against the NMC Defendants on June 28,
11 2021. *See McNamara v. National Merchant Center, Inc., et al.*, C.D. Cal. Case
12 No. 8:21-cv-01122-MWF (KSx) (“NMC Case”). Following a meet and confer
13 with defense counsel, and pursuant to a stipulated briefing order (NMC Case, ECF
14 No. 20), on October 18, 2021, the Receiver filed his First Amended Complaint
15 (NMC Case, ECF No. 21) alleging claims against Defendants for (1) Civil
16 Conspiracy, (2) Aiding and Abetting Fraud, (3) Aiding and Abetting Breach of
17 Fiduciary Duty, (4) Violation of California Penal Code § 496; (5) Violation of
18 California Business & Professions Code § 17200; and (6) Request for an
19 Accounting. Defendants filed a motion to dismiss on November 15, 2021, which
20 the Receiver will oppose.

21 **C. Potential Litigation Against Third Parties**

22 The Receiver continues to investigate additional individuals and/or
23 companies that aided and abetted or profited from the subject fraudulent scheme at
24 the expense of the Receivership Defendants. In connection with the Receiver’s
25 investigation, counsel for the Receiver has reviewed records subpoenaed from
26 multiple parties, researched potential claims, and analyzed potential litigation and
27 settlement strategies. The Receiver will continue to update the Court as his
28 investigation continues.

1 The Receiver’s forensic accountant has reviewed and analyzed Defendants’
2 tax records and followed up with taxing authorities regarding various issues. She
3 has additionally reviewed records and provided analysis in connection with the Pub
4 Club mediation, the complaint against the NMC Defendants, and responded to
5 inquiries from the CFPB.

6 **D. Consumer Contact**

7 The Receiver’s office continued to respond to inquiries from consumers
8 during this period by email and telephone, as well as by posting information and
9 pertinent case filings to the Receiver’s website.

10 **II.**

11 **RECEIVERSHIP ACCOUNTING**

12 Attached as Exhibit A is a Receipts and Disbursements Summary for the
13 period May 1, 2021 through October 31, 2021. During this time period, receipts
14 were \$485,067.30, comprised of True Count Staffing reserve funds being returned
15 by National Merchant Center. Disbursements were \$211,586.74, primarily
16 comprised of legal fees and expenses (\$138,667.89), Receiver’s fees and expenses
17 (\$64,878.80), maintenance of telephone lines (\$3,600.00), and Relativity hosting
18 (\$3,236.05). The current aggregate balance of the bank accounts is \$3,787,747.70.

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20 Dated: November 19, 2021

By: /s/ Andrew M. Greene
Andrew M. Greene
Attorney for Receiver,
Thomas W. McNamara

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CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of November, 2021, 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.

/s/ Andrew M. Greene
Andrew M. Greene
Attorney for Receiver,
Thomas W. McNamara