

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

Case No. 17-cv-774-J-32MCR

Commodity Futures Trading Commission,

Plaintiff,

v.

Jason B. Scharf (d/b/a Citrades.com and  
AutoTradingBinary.com); CIT Investments  
LLC; Brevspand EOOD; CIT Investments  
Ltd; A&J Media Partners, Inc.; Michael  
Shah; and Zilmil, Inc.,

Defendants.

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**RECEIVER'S ELEVENTH STATUS REPORT**

Kenneth Dante Murena, the court-appointed Permanent Receiver (the “Receiver”) in the above-captioned enforcement action, submits his Eleventh Status Report setting forth his activities and efforts to fulfill his duties under the orders pursuant to which he was appointed for the sixth-month time period of January 1, 2021 through June 30, 2021 (the “Reporting Period”).<sup>1</sup>

**I. INTRODUCTION**

During this Reporting Period, the Receiver and his professionals focused on:

A. Administering the Court-approved claims process, including reviewing and making determinations concerning the validity of more than 600 filed claims, assisting claimants in navigating the claims

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<sup>1</sup> On July 27, 2020, the Court ordered the Receiver to file status reports covering six-month reporting periods. ECF No. 299 at 1.f.

process, making initial and final determinations after a review of the filed claims and claimants' requests for reconsideration of certain determinations made by the Receiver, and seeking and obtaining Court authority to make a 100% distribution to claimants' holding allowed claims.

- B. Performing various administrative tasks, including without limitation preparing and filing the Receiver's tenth status report and tenth fee application.

## **II. THE RECEIVER'S ACTIVITIES AND EFFORTS DURING THE REPORTING PERIOD**

### **A. Marshalling and Preserving Defendants' Assets**

As of the close of the Reporting Period, the Receiver's fiduciary account had a total balance of \$10,021,398.61. The Receiver did not identify or recover any new funds or assets of the Defendants during the Reporting Period.

### **B. Recovery Claims Against Relatives, Insiders, Affiliates and Third Parties**

#### *i. Zilmil Defendants*

During previous reporting periods, the Receiver and his counsel investigated, negotiated settlements, and pursued claims through litigation in connection with the recovery of fraudulent transfers of Zilmil, Inc. business proceeds to various third parties. All such claims were resolved during the prior reporting period.

During a prior reporting period, the Receiver obtained a final judgment against Mr. Manoj Kumar and an affiliated company, Tejolaya Builders, Inc. ("Tejolaya Builders"), which did business with Zilmil, Inc. and collectively received more than \$400,000 in fraudulent transfers from Zilmil, Inc. (the "Kumar Fraudulent Transfer Action"). *See Murena v. Kumar and Tejolaya Builders*, Case No. 3:19-cv-812-J-32JRK at

ECF No. 23. Based upon the difficulties experienced by the Receiver in serving Mr. Kumar and Tejolaya Builders through The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the “Hague Convention”), and their situs in the United Kingdom and India, respectively, the Receiver is exploring selling that final judgment rather than seeking to execute on it.

*ii. Citrades Defendants*

For reasons detailed in the Receiver’s Tenth Status Report (ECF No. 319 at p. 10-11), during the Reporting Period, the Receiver filed a motion to be discharged as Receiver for the Citrades Defendants (ECF No. 323), which the Court granted on April 9, 2021. ECF No. 324.

**C. Noticing and Claims Process and Distribution Plan and Communications with Claimants and Potential Claimants**

During the Reporting Period, the Receiver and his professionals devoted significant time and effort to the claims administration process. The deadline for potential claimants to submit proofs of claims was November 25, 2020, prior to the start of this Reporting Period. During the Reporting Period, the Receiver’s counsel together with the claims processing agent, Stretto, began an initial review of the 624 claims received through the online claims portal. Most of the claims submitted lacked supporting documentation and were summarily disallowed. With Stretto’s assistance, the Receiver then completed a review and made an initial determination regarding approximately 200 claims that contained at least some supporting documentation and a completed or nearly completed claim form, and disqualified claims (a) without any

supporting documentation, (b) without affirmations and signatures, and (c) that failed to demonstrate a net loss of the claimant's investment.

The Receiver's counsel then drafted an initial claims determination letter and sent it out by email to each claimant that submitted an online claim prior to the January 25, 2021 deadline for the Receiver to send initial determinations to claimants. See ECF No. 318. That initial determination email prompted many claimants to ask for assistance in completing or amending their claim forms and in submitting supporting documentation. The email also served to assure, and in many cases convinced, potential claimants that this claims process is a legitimate Court-approved process rather than just another binary options fraud. As a result, during the Reporting Period, the Receiver collected and reviewed 43 requests for reconsideration and/or amended claims.

After a complete review of those claims and requests for reconsideration, the Receiver made his final determinations regarding all allowed claim amounts. Prior to the March 20, 2021 deadline, the Receiver sent his final determination of allowed claim amount to each claimant that had filed a request for reconsideration, an amended claim, or a late claim at that point in the claims process.

After the mailing of the final determinations, some claimants asked for clarification or additional assistance in correcting their claims, and 22 late-filed claims were submitted by claimants that the Receiver determined had not received notice during the noticing phase of the claims process. In an effort to be as inclusive as possible, the Receiver processed all claims and requests for reconsideration, allowing

all properly supported claims that were filed or amended by April 19, 2021 – the claimants’ appeal deadline. *See* ECF No. 318.

Thus, during the Reporting Period, the Receiver’s counsel expended significant efforts reviewing all claims and documentation and communicating with claimants to assist them in correcting their submissions in an effort to give all potential claimants an opportunity to participate in the claims process and to recover their losses from the Estate. Indeed, because the Receiver could not obtain from the Zilmil Defendants information or documents that would corroborate the claims of the potential claimants, the Receiver had to strictly require documentation showing the transfer(s) from individual customers to the various binary options platform. Such strict proof requirements led to significant interaction between the Receiver’s office and claimants. During this process, the Receiver discovered many legitimate claimants that had lost their life savings through fraudulent binary options trading platforms and who will greatly benefit from the Estate’s distribution.

After reviewing all submitted claims, supporting documentation and requests for reconsideration and responding to all claimant inquiries, the Receiver determined that 141 claims with a total dollar amount of \$4,589,356.59 would be allowed or partially allowed. And, the Receiver disallowed 505 claims because they were either wholly unsupported by any documentation, fraudulent claims for excessive amounts, claims submitted with falsified documentation, and/or incomplete, lacking affirmations and signatures.

The Receiver and his professionals assisted all claimants who expressed an interest in submitting and proving their claims to list their transfers to binary options traders, total their net losses from binary options trading, and gather documents supporting those transfers and losses, including bank statements, credit card statements, cash transfer receipts, and cryptocurrency purchase and transfer receipts. In cases where claimants could not locate any supporting financial documents, the Receiver and his counsel reviewed and accepted emails memorializing deposits to binary options trading accounts and police reports and sworn statements of losses attached to those reports.

On May 19, 2021, the Receiver then sought approval of a proposed 100% distribution to claimants holding allowed claims, and on June 29, 2021, the Court entered an Order approving that proposed distribution. *See* ECF No. 325 (Motion) and No. 326 (Order). The Receiver and Stretto are now preparing the checks to allowed claimants and verifying their mailing addresses in order to send out all payments by July 29, 2021. In addition, after the close of the Reporting Period, the Receiver began preparing a proposal regarding use of the funds that will remain in the Estate after the distribution to allowed claimants.

Also, during the Reporting Period, the Receiver continued to update the receivership website ([www.BinaryOptionsReceivership.com](http://www.BinaryOptionsReceivership.com)) created for purposes of keeping all interested parties, including without limitation the Defendants' customers and creditors with knowledge of the Receivership and CFTC enforcement action,

apprised of the status of same, posting Court filings, notices, orders and important dates and deadlines, and answering frequently asked questions.

Finally, during the Reporting Period, the Receiver was contacted by customers of certain of the Defendants inquiring about the status of the Receivership and, in particular, the claims process and distribution plan. The Receiver informed them of the status and directed them to the above-referenced website for further information.

#### **D. Receiver's Status Report and Fee Application**

During this Reporting Period, the Receiver prepared and filed a Status Report and a Fee Application for the tenth reporting/application period, covering the six-month period from July 1, 2020 through December 31, 2020. *See* ECF No. 319 (Report) and ECF No. 320 (Application). Soon after filing this Eleventh Status Report, the Receiver will file a fee application seeking approval of and authority to pay the fees and expenses incurred during this Reporting Period.

### **III. CASH ON HAND, INTEREST EARNED, RECEIPTS AND DISBURSEMENT**

After payment of the Court-approved administrative expenses of the Estate for the first through the tenth reporting/application periods, the total amount of funds in the Receiver's fiduciary account for the Zilmil Defendants maintained at East West Bank, including interest earned, is \$10,021,398.61 as of the end of the Reporting Period (June 30, 2021). *See* Reconciliation of Receipts and Disbursements of Receivership Accounts, attached hereto as **Exhibit A**. During the Reporting Period, the Receiver earned \$499.53 in interest on all funds held in that account. And, the disbursements

by the Estate were for payment to Stretto for the noticing and claims process, to the Receiver, his counsel, and the Receiver's tax accountants, and for maintenance of the Zilmil email servers, pursuant to prior Orders of this Court. *See id.*

#### IV. CONCLUSION

The Receiver appreciates the opportunity to assist the Court in this matter. The Receiver and his professionals will continue their efforts, as discussed herein, to fulfill the Receiver's duties under the Court's Orders and will do so in the most cost-effective manner possible.

Respectfully submitted this 27<sup>th</sup> day of July, 2021.

/s/ Kenneth Dante Murena  
Kenneth Dante Murena, Esq.  
*Court-Appointed Receiver*  
Florida Bar No. 147486  
DAMIAN & VALORI, LLP  
1000 Brickell Avenue, Suite 1020  
Miami, Florida 33131  
Telephone: (305) 371-3960  
Facsimile: (305) 371-3965  
Email: [kmurena@dvllp.com](mailto:kmurena@dvllp.com)

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 27<sup>th</sup> day of July, 2021, I electronically filed the foregoing Report with the Court using the CM/ECF system, which provides notice of the filing upon all counsel of record and parties who have appeared in this case and are registered to receive electronic notice of all court filings.

/s/ Kenneth Dante Murena  
Kenneth Dante Murena,  
*Court-Appointed Receiver*