

IN THE UNITED STATES DISTRICT COURT  
FOR THE 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 FOURTH STATUS REPORT**

Kenneth Dante Murena, the court-appointed Permanent Receiver (the "Receiver") in the above-captioned enforcement action, submits his fourth report setting forth his activities and efforts to fulfill his duties under the orders pursuant to which he was appointed for the time period of April 1, 2018 through June 30, 2018 (the "Reporting Period").

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## I. INTRODUCTION

Prior to this Reporting Period, the Receiver had frozen funds in excess of \$7.9 million held in Defendants' various accounts at multiple financial institutions and in an attorney's trust account and had recovered and deposited into his fiduciary accounts more than \$6 million of those funds, pursuant to the Statutory Restraining Order and Preliminary Injunctions. Further, the Receiver had obtained and reviewed tens of the thousands of records from the various financial institutions at which Defendants held accounts and from third parties with which Defendants conducted business, produced those records to the parties to the extent requested, directed his forensic accountant to analyze those records and prepare consolidated account reconstructions for certain of the Defendants (which were nearly completed by the end of the third reporting period), worked with the parties to exchange information and records in the context of discovery for the enforcement action, prepared and filed detailed status reports and fee applications, and appeared at a hearing before this Court on various pending motions.

Since filing the Receiver's Third Status Report [ECF No. 122], the Receiver has continued to work diligently with counsel for the Commodity Futures Trading Commission (the "CFTC") and counsel for certain of the Defendants to identify and marshal additional assets and records of the Defendants. Specifically, during this Reporting Period, the Receiver recovered an additional \$9,191.60, received written confirmation of the existence of more than \$1.4 million (USD) in accounts at three banks in India, obtained numerous additional records from financial institutions and third parties, provided such records to the parties to the extent requested, and directed his forensic accountant to review and incorporate, as appropriate, material information in those records into the consolidated account reconstructions. Therefore, to date, the Receiver has frozen and/or recovered more than \$9.3 million of Defendants' funds, of which more than \$6

million was transferred to the Receiver's fiduciary accounts and approximately \$3.3 million remains frozen at various financial institutions pending further investigation by the Receiver and developments in the enforcement action. After payment of the Court-approved administrative expenses of the Estate for the first and second reporting periods, the total amount in the Receiver's fiduciary accounts for all Defendants, including interest earned, was \$5,674,984.33 as of the end of the Reporting Period.<sup>1</sup>

In addition, during the Reporting Period, the Receiver continued his review and compilation of a preliminary analysis of statements obtained from financial institutions for purposes of determining whether a more extensive forensic analysis is necessary. In this effort, the Receiver and his professionals have reviewed thousands of pages of documentation including various domestic and foreign bank records, transfers, documents and communications produced by internet marketing service providers and Defendants' email and computer records.

The Receiver also continued to work to obtain records and information from some affiliate networks and marketing companies through which the Defendants conducted their businesses for purposes of investigating their operations and identifying the customers of the Defendants. Finally, the Receiver and his lead counsel have participated in responding to subpoenas and discovery, including responding to the Zilmil Defendants' discovery requests and appearing for deposition of the Receiver by the Zilmil Defendants' counsel.

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<sup>1</sup> On June 25, 2018, the Receiver filed his *Unopposed Third Interim Application for an Order Approving and Authorizing Payment of Fees and Expenses of Receiver and His Professionals* [ECF No. 129], seeking \$70,088.50 in fees and \$2,245.48 in costs. That Application remains pending before this Court.

## II. THE APPOINTMENT AND DUTIES OF RECEIVER

A detailed recitation of the appointment and duties of the Receiver is set forth in the Receiver's Initial Report. ECF No. 55.<sup>2</sup>

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

### A. Employment of Professionals

During the last reporting period, the Court issued its ruling on the *Receiver's Application to Employ Vendor to Provide Noticing and Claims Administration Services and Vendor to Provide Cash Management and Distribution Services*. ECF No. 65. At the March 16, 2018 hearing on that Application and other matters, the Court indicated that the Receiver should take no further action, at this time, searching for, or attempting to communicate with, customers of the Defendants. Further, the Court ruled that the Receiver is not authorized at this time (without prejudice) to employ any vendors to provide noticing and claims processing services. The Court, however, granted the Receiver's application to employ BMS to provide depository and cash management (but not distribution) services to the Receiver.

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<sup>2</sup> Consistent with the Initial Report, Defendants, Michael Shah and Zilmil, Inc., collectively, shall be referred to herein as the "Zilmil Defendants." Defendant Jason B. Scharf, who was doing business as [Citrades.com](http://Citrades.com) and [AutoTradingBinary.com](http://AutoTradingBinary.com), and Defendants CIT Investments LLC, Brevspand EOOD, CIT Investments Ltd., A & J Media Partners, Inc., collectively, shall be referred to herein as the "Citrades Defendants." The Zilmil Defendants and the Citrades Defendants, collectively, shall be referred to herein as the "Defendants."

Further, the Court's August 9, 2017 Consent Order for Preliminary Injunction, appointing Mr. Murena as a Permanent Receiver over Jason Scharf, A & J Media Partners, Inc., Michael Shah, and Zilmil, Inc. [ECF No. 32] shall be referred to herein as the "Consent Injunction," and the Court's August 10, 2017 Order for Preliminary Injunction against Defendants CIT Investments LLC, Brevspand EOOD, and CIT Investments Ltd. [ECF No. 35] shall be referred to herein as the "Preliminary Injunction," and, together with the Consent Injunction, as the "Preliminary Injunctions."

The Receiver's other professionals have continued their work to assist the Receiver with marshalling and securing the various assets of the Defendants, identifying and seeking to recover additional assets for the benefit of the Estate, communicating with financial institutions and counsel for the Defendants to obtain information and records, and coordinating with counsel for the CFTC and counsel for the Defendants on various matters in connection with fulfilling the respective duties of the Receiver and Defendants under the Court's Orders.

**B. Efforts to Obtain Information and Records from Defendants**

Under the Statutory Restraining Order and the Preliminary Injunctions, the Defendants were required to provide to the Receiver a detailed accounting of all of their funds and assets and all related records, among other things. *See* Statutory Restraining Order at ¶ 28; Consent Injunction at ¶ 29; Preliminary Injunction at ¶ 40. As previously reported, Defendants CIT Investments LLC, Brevspand EOOD, and CIT Investments Ltd. have not responded to the CFTC's Complaint, retained counsel and made an appearance in the enforcement action, or provided any accounting, information or records to the Receiver. Defendants Scharf and A&J Media Partners, Inc. still have not provided the required accountings or agreed to meet with or be interviewed by the Receiver, indicating that they intend to assert their Fifth Amendment privilege in response to virtually any formal or informal questions from the Receiver. But those Defendants did turn over to the Receiver (i) limited information regarding the existence or absence of certain categories of assets and login credentials for online access to certain bank accounts and email, cloud storage and other online accounts, and (ii) records including bank statements and Defendant Scharf's DropBox account and the digital files stored therein.

With respect to the Zilmil Defendants, while they have not provided and continue to decline to provide the detailed accounting required under the Court's Orders, invoking their Fifth

Amendment right against self-incrimination, Defendant Shah and his counsel have met with the Receiver and his lead counsel after Dr. Shah expressly preserved his Fifth Amendment rights, as explained in previous reports. Further, the Zilmil Defendants have turned over numerous documents and cooperated with the Receiver in connection with turning over (i) accounts at most of the financial institutions where they are known have held funds, (ii) accounts at third-party vendors through which they conducted business, including affiliate networks, marketing companies and payment processors, and (iii) accounts at email, cloud storage and other online service providers. Notwithstanding the foregoing, the Receiver has been unable to gain access to the Zilmil Defendants accounts at ClickSure, Ltd., an offshore affiliate network through which it appears they conducted substantial business, and the Zilmil Defendants have maintained that they are also unable to access those accounts.

During the Reporting Period, in furtherance of fulfilling his obligations under the Court's Orders, the Receiver and his lead counsel have continued to seek information and documents from the Defendants and the financial institutions and third-party vendors through which they conducted business, and continued their review and analysis of the documents and information they have received. The focus of their analysis was to (i) better understand the Defendants' business operations, (ii) identify third parties who received transfers from and/or hold assets of the Defendants, and (iii) discover alternative sources of information and records regarding the Defendants and their assets and business operations.<sup>3</sup> Because the Receiver still has not received some of the information he needs to complete the tasks outlined in the Court's Orders, the Receiver continues to work with the Defendants' counsel to obtain as much information as the

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<sup>3</sup> After the March 16, 2018 hearing, the Receiver ceased his efforts to identify the Zilmil Defendants' customers, pursuant to the Court's rulings at that hearing.

Defendants will offer and is exploring alternative methods of gathering information regarding the Defendants and their assets and business operations from the Defendants and third parties.

After the Reporting Period, the Receiver received from the Zilmil Defendants and reviewed numerous bank statements for their accounts at the three banks in India, the existence of which the Zilmil Defendants had previously disclosed to the Receiver.

### **C. Marshalling and Securing Assets and Records from Third Parties**

During the Reporting Period, the Receiver continued to issue demand letters to a limited number of financial institutions, vendors, and other service providers (including affiliate networks and marketers), providing them with notice of the Preliminary Injunctions and requesting the turnover and freezing of accounts and production of records. Pursuant to previously sent demand letters and subpoenas, the Receiver recovered funds from Broadspring, Inc. and received documents from American Express and Fifth Third Bank. Further, the Receiver and his professionals have monitored the accounts at financial institutions containing funds that remain frozen but were not transferred to the Receiver's fiduciary accounts.

#### **i. Freezing and Recovering Funds in Various Accounts**

##### **a. Zilmil Defendants' Accounts**

During the Reporting Period, the Receiver recovered \$9,191.60 that Zilmil, Inc. held in an account with Broadspring, Inc., a digital content marketing company with which Zilmil, Inc. did business.<sup>4</sup>

Further, as detailed in his previous reports, Defendant Shah's counsel had informed the Receiver that the Zilmil Defendants held at least \$1,000,000 in CD-like products in three banks

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<sup>4</sup> The Receiver and his professionals had previously identified at least 190 accounts held by the Defendants at various financial institutions.



located in India.<sup>5</sup> *See* ECF No. 55 at p. 12. The Receiver had requested that Dr. Shah assist with them and the CD-like products re-titled in the Receiver's name and that the Receiver be named as their sole owner and signatory. Dr. Shah agreed to do so, and, before and during the Reporting Period, Dr. Shah and the Receiver took further steps to help the Receiver complete this task, including filling out forms required by the banks to effect the transfer of those accounts. To date, however, ownership and/or control of the accounts has not been transferred to the Receiver. In addition, the Receiver had requested that Dr. Shah produce records for the accounts at the Indian banks. After the Reporting Period, Dr. Shah provided the Receiver with the bank statements for the accounts for the first full year of the Receivership, from July 2017 through June 2018, which the Receiver reviewed. The bank statements revealed that, as of July 31, 2017 (approximately two weeks after the commencement of the Receivership), the accounts contained funds in savings accounts and CD-like products totaling approximately \$1,257,362.99 (USD), and as of June 30, 2018, the accounts contained funds in savings accounts and CD-like products totaling approximately \$1,402,846.66 (USD). The \$145,483.67 increase in value in the accounts during the Receivership was the result of accrued interest at a rate much higher than the rate at which the funds in the fiduciary accounts are earning interest.

Therefore, as of the end of this Reporting Period, including the funds in India, the Receiver has frozen and/or recovered in excess of \$9.2 million in accounts of the Zilmil Defendants, of which more than \$5.9 million was transferred to the Receiver's fiduciary

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<sup>5</sup> As is detailed in the Receiver's Initial Report, although the Consent Injunction requires the Defendants to repatriate all of their assets located outside of the United States, Defendant Shah's counsel advised the Receiver that there may be significant penalties if the CD-like products are liquidated before their maturity dates. *See* ECF No. 55 at pp. 12-13. Therefore, the Receiver has agreed for now to not seek to liquidate those products and transfer the proceeds to his fiduciary account.

accounts and more than \$3.3 million remains frozen in accounts at various institutions pending further investigation by the Receiver and developments in the enforcement action.<sup>6</sup> The Receiver is seeking to have some of those frozen funds transferred to the Estate and will allow other funds to remain in the frozen accounts because they are investments, potentially exempt assets, and/or jointly owned with non-defendants and the sources of the funds have not yet been confirmed, or until the circumstances of the case change.

b. Citrades Defendants' Accounts

During the initial reporting period, the Receiver recovered \$98,492.05 from the trust account of the attorney for Defendant Scharf. Subsequently, the Receiver identified funds of Defendant Brevspand EOOD in the amount of \$24,796.31 held by Skrill Limited ("Skrill"), an affiliate of Paysafe Group Limited ("Paysafe").<sup>7</sup> During the Reporting Period, the Receiver worked with counsel for Skrill and Paysafe to reach an agreement to have those funds transferred to the Receiver's fiduciary account. After the Reporting Period, the Receiver and Skrill finalized the settlement and memorialized its terms in an agreement that the Receiver executed, subject to this Court's approval. As soon as Skrill executes the agreement, the Receiver will submit it to this Court for approval.

Also, during the Reporting Period, the Receiver continued to investigate other possible accounts to which the funds of the Citrades Defendants were transferred, including the funds that

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<sup>6</sup> Although the Receiver does not have written confirmation from the three banks in India that the accounts of the Defendants are, in fact, frozen and that they will not allow any party, including the Defendants, to access or transfers any funds from those accounts, counsel for the Zilmil Defendants have assured the Receiver that the Zilmil Defendants will not access the accounts or transfer the funds therein.

<sup>7</sup> Several Paysafe affiliates reported to the Receiver that they were holding funds on behalf of other entities that may be related to the Citrades Defendants, but which entities were not named in the Preliminary Injunctions. The Receiver will continue to investigate the relationship between these third-parties and the Citrades Defendants.

were transferred in and out of the four bank accounts held in the name of Defendants CIT Investments, Ltd. or Brevspand EOOD in the Bulgarian bank Investbank.

c. Total Amounts Frozen and/or Recovered from All Defendants

The following table summarizes the amounts of funds the Receiver has identified, frozen, and/or transferred to his fiduciary accounts since the Court entered the Statutory Restraining Order, and the amounts transferred to the Estate during the Reporting Period:

<b>DEFENDANTS</b>	<b>AMOUNTS IDENTIFIED AND FROZEN AND/OR TRANSFERRED TO ESTATE TO DATE</b>	<b>AMOUNTS TRANSFERRED TO THE ESTATE</b>	<b>AMOUNTS TRANSFERRED TO ESTATE DURING REPORTING PERIOD</b>
Michael Shah and Zilmil, Inc.	\$9,248,765.31	\$5,913,454.30	\$9,191.60
Jason Scharf	\$98,492.05	\$98,492.05	\$0.00
<b>TOTAL</b>	<b>9,347,257.36</b>	<b>\$6,011,946.35</b>	<b>\$9,191.60</b>

ii. Investment Accounts

As previously reported, during the course of his investigation, the Receiver identified investment accounts of Dr. Shah at two financial institutions: (i) TD Canada Trust; and (ii) TD Ameritrade. In his Third Status Report, the Receiver reported that the investments at TD Canada Trust were valued at USD \$166,526.45,<sup>8</sup> and the investments at TD Ameritrade were valued at USD \$366,198.54. Since then, the values of these investments have increased. Presently, the investments at TD Canada Trust are valued at USD \$248,331.87 and the investments at TD

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<sup>8</sup> Reports covering previous reporting periods contained an incorrect total for this account due to erroneous currency conversion information.

Ameritrade are valued at USD \$382,636.83. These investments have not been transferred to the Receiver's fiduciary account for the Zilmil Defendants and remain at those institutions, pursuant to an agreement with Defendant Shah in the Consent Injunction that the Receiver will not seek to liquidate those investments and transfer the proceeds to his fiduciary account for the Zilmil Defendants without first providing counsel for those Defendants thirty (30) days' notice.<sup>9</sup> See Consent Injunction, ¶ 29.b. These amounts, however, are included in the total amounts identified and set forth in the table above.

During the initial reporting period, the Receiver received confirmation that the funds in the investment accounts at TD Canada Trust were frozen and began working on having control and ownership of the accounts transferred to the Receiver, enlisting the assistance of Defendant Shah as the signatory on those accounts. Subsequently, Dr. Shah's counsel explained that Dr. Shah had encountered difficulty in adding the Receiver's name to those accounts or having ownership or control of accounts to the Receiver. Rather than investing the time and incurring the expense of domesticating or otherwise seeking to enforce the Court's orders in Canada to transfer to the Receiver ownership of the accounts, the Receiver determined that it would be more cost effective to simply change the password and contact information for the accounts and regularly monitor them to ensure the assets remain frozen and neither Dr. Shah nor any other party can gain access to the accounts, pending further developments in the enforcement action.

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<sup>9</sup> Further, the Receiver believes it is in the best interest of the Estate to not liquidate the investments at this time given the amount their value has increased during the Receivership and the fact that liquidating them and transferring the proceeds to the Estate, while eliminating any market risks, would only allow the investments to earn the interest accruing in the Receiver's fiduciary account.

***iii. Potentially Exempt Accounts and Funds***

As previously reported, the Receiver identified three accounts that may constitute exempt assets associated with Defendant Shah: (1) a Roth IRA (containing \$11,181.02), (2) a 401k account (containing \$138,636.83), and (3) a life insurance policy (with a cash surrender value of \$18,433). The foregoing amounts are included in the total amount identified and frozen in the table on page 11, *supra*, but will not be transferred to the Receiver's fiduciary account until the Receiver concludes his investigation regarding the source of the funds used to open and maintain the accounts, pending further developments in the enforcement action.

***iv. Search for Additional Bank, Investment and Credit Card Accounts***

Because the Defendants have not provided full financial disclosures, the Receiver and his professionals continued their review and analysis of various account records obtained to date in order to identify additional bank, investment and credit card accounts associated with the Defendants that should be frozen and transferred to the Estate. The Receiver did not identify any other accounts of the Defendants during the reporting period.

***v. Personal Property and Other Assets***

During the Reporting Period, the Receiver continued his search for personal or real property owned by or in the name of any Defendant other than the accounts and funds described above. The Receiver did not identify any such assets during the Reporting Period.

***vi. Preliminary Analysis of Defendants' Accounts***

***a. Accounts at Financial Institutions***

During the Reporting Period, the Receiver continued to seek and obtain the production of account records, including without limitation statements, account opening documents, cancelled checks, check registers, deposit slips, ACH and wire transfer confirmation, and written

communications between financial institutions and Defendants. The Receiver provided those newly produced account statements and other records from various financial institutions to his forensic accountants for further analysis and worked with the Forensic Accountant to identify the account records that are still needed to complete their analyses and consolidated account reconstructions.

Further, the Receiver's forensic accountants completed the current phase of their work on consolidated reconstructions of all identified accounts of the Zilmil Defendants and the Citrades Defendants, the catalog of the bank and credit card accounts analyzed, and the account records still needed from the financial institutions. The forensic accountants made significant progress in preparing the account reconstructions, and, by the end of the Reporting Period, they completed their analysis of all account records obtained to date and incorporation of all relevant information into the reconstructions. There still remains missing information regarding the identity of certain sources of funds in, and recipients of transfers from, some of the accounts, and the Receiver and his counsel continue their efforts to obtain the account records that would reflect such information. Regardless, the account reconstructions and the reports that can be generated therefrom, which the Receiver produced to the parties during the Reporting Period, and the readily accessible underlying documents provide a cost-effective means by which the Receiver and his professionals can (i) analyze the Defendants accounts at various financial institutions, (ii) investigate the Defendants' businesses, (iii) identify and recover assets of the Defendants, (iv) commence actions against third parties to recover additional assets and avoidable transfers, when and to the extent appropriate, and (v) otherwise fulfill the Receiver's duties under the Preliminary Injunctions.

The Receiver's forensic accountants perused the documents the Receiver recently received regarding certain of the Zilmil Defendants' American Express accounts and the accounts at the three banks in India and determined that the reconstructions already provide a sufficient analysis of the account activity necessary for this phase of the receivership, and that entering the information in these latest documents into the reconstructions would neither make a meaningful contribution to the reconstructions nor be worth the associated time and expense.

The Receiver's preliminary analysis of the Defendants' accounts reveals that there were numerous transfers between and among the Defendants' various bank accounts and frequent transfers between the Defendants' accounts and affiliate networks and marketers through which the Defendants operated their businesses, attracted customers, received and transferred funds. Further, the consolidated account reconstructions reveal multiple transfers of substantial funds to relatives and affiliates of the Defendants.

During the Reporting Period, pursuant to a subpoena issued by the Zilmil Defendants, the Receiver produced to the Zilmil Defendants the most up-to-date version of the forensic accountants' consolidated reconstructions of the Zilmil Defendants' and certain of the Citrades Defendants' bank and credit card accounts, along with summary reports generated from those reconstructions. The Receiver also produced those reconstructions and summary reports to the CFTC.

***b. Email and Cloud Computing Accounts***

During the Reporting Period, the Receiver and his counsel continued their review of the images of the contents of the email and cloud computing accounts collected by the CFTC, as well as several additional email accounts of the Defendants. Also, the Receiver monitored the activity in the account of the Zilmil Defendants at a cloud computing company (Rackspace) that

maintained their servers. The Receiver had previously taken control of the account and the servers and worked with the CFTC to have them imaged to preserve the information on them. During the Reporting Period, the Receiver received notifications of certain activity on the account and accessed the account to confirm that the activity was the CFTC's accessing the server images they created.

*c. Affiliate Networks and Email and Online Marketing*

The Receiver's previous reports have detailed the Defendants' involvement with several online vendors and service providers who provided customer marketing, marketplace, and management services for the Defendants ("Affiliate Networks"). During the Reporting Period, the Receiver did not spend significant time or resources on the review of documents provided by Affiliate Networks, the pursuit of access to Affiliate Network accounts, or the pursuit of further documents from the various Affiliate Networks based upon the Court's directions concerning contact with customers.<sup>10</sup>

**D. Investigation of Defendants' Business Operations**

During the Reporting Period, the Receiver continued his review of the CFTC's images of the hard drives of the Defendants' computers as part of his investigation of the Defendants' business operations, assets, and business relationship and dealings between the Zilmil

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<sup>10</sup> Gaining access to these accounts may provide the Receiver with records of financial transactions related to binary options trading and marketing operations. The Defendants, however, have not provided, and explained that they no longer have, login credentials for any of these Affiliate Networks. Further, some of these Affiliate Networks are located outside of the United States, which has made gaining access and control extremely difficult. As was detailed in the Receiver's prior reports, the Receiver believes that the Zilmil Defendants had accounts with ClickSure through which it operated a significant part of its business. The Receiver, however, has been unable to gain access or detailed information regarding any ClickSure accounts, in part because ClickSure's headquarters are located in Mauritius. Upon direction from the Court, the Receiver will resume his efforts to gain access to the ClickSure accounts related to the Defendants.



Defendants and the Citrades Defendants (and other binary options trading companies), by, among other things, analyzing the amounts and timing of transfers between those Defendants and the accounts in which the transferred funds were held.

In April, the Receiver's counsel focused their review on learning further details regarding the files related to binary options trading. The files indicate that Zilmil used affiliate networks to launch marketing campaigns to lead customers to binary options trading sites. In addition, Zilmil developed instructional content through web articles and an e-book on trading and various other purported income producing schemes. This content was disseminated to Zilmil's mailing list which included more than 200,000 email addresses through blast emails and banner ads for targeted marketing. Zilmil's computer files contained extensive communications with affiliate marketers and mass email service providers showing the business relationships that Zilmil used to market trading to potential customers. Files of the Citrades Defendants also contained email lists and ads targeted at potential customers of the Citrades trading platform.

#### **E. Defendants' Customers**

As detailed in the Receiver's prior reports, the Receiver had begun, but has not completed, an investigation into the identity of the Defendants' customers and the amounts they transferred to the Defendants. During the Reporting Period, the Receiver continued that investigation until the March 16, 2018 hearing, during which the Court indicated that the Receiver should take no further action searching for, attempting to communicate with, or obtaining information or records from, the Defendants' customers.

If and when the Receiver is directed by the Court to resume his investigation of the Defendants' customers, the Receiver will complete the investigation and seek to provide each customer with notice of and information regarding the Receivership and the CFTC enforcement

action and how they may stay informed of the status of the case, how their rights may be affected, and how they may participate in this Receivership and, to the extent appropriate and subject to Court-approval, submit claims and receive distributions based on any losses they may have sustained as a result of the Defendants' actions.

Also, in that regard, during the Reporting Period, the Receiver continued to update the website ([www.BinaryOptionsReceivership.com](http://www.BinaryOptionsReceivership.com)) created for purposes of keeping all interested parties, including without limitation the Defendants' customers and creditors, apprised of the status of the Receivership and the CFTC's enforcement action, 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 a few customers of certain of the Defendants. The Receiver informed them of the status of the Receivership and directed them to the above-referenced website for further information.

#### **F. Ongoing Legal Proceedings Involving the Defendants**

As of the end of the Reporting Period, the Receiver was unaware of any proceedings (other than this action) to which any of the Defendants are a party or by which their rights, interests or assets may be affected. In the event the Receiver learns of any such proceeding, he will discuss it with counsel for the CFTC and counsel for the Defendants and take any and all actions that are appropriate and necessary to preserve the interests of the Receivership Estate.

During the Reporting Period, in the above-captioned action, the Receiver filed his response to the Zilmil Defendants' Motion to Modify Temporary Consent Injunction. ECF No. 118. While the Receiver took no position regarding the merits of the motion, the purpose of the Receiver's response was to correct certain assertions contained in the motion concerning the Receiver's fees incurred, the scope of his duties, and the nature of the work he has performed.

*See id.* Specifically, contrary to the assertions contained in the Zilmil Defendants' motion, the Receiver was not working outside the scope of the Preliminary Injunctions and did not spend \$300,000 investigating Zilmil customers. As was detailed in the Receiver's response, the Receiver has met, but never exceeded the scope of, his court-ordered duties to Zilmil's customers and the Estate, as is reflected in the time entries attached to his court-approved fee applications that sought substantially reduced fees. *See id.*

### **G. Potential Claims Against Third Parties**

During the Reporting Period, the Receiver and his professionals worked to identify potential sources from which the Receivership Estate could recover funds or other assets belonging to the Defendants, including affiliates, relatives and third parties who received funds or other assets traceable to the Defendants' businesses or customers. The Receiver identified a number of persons and entities who received sizable transfers from the Defendants and will continue to gather evidence of additional transfers for purposes of developing and bringing claims to recover assets of the Estate and/or prosecute recovery claims. If and when such course of action is appropriate and authorized by the Court, the Receiver will pursue those claims he believes are meritorious and likely to result in a significant recovery for the Estate.

To that end, on March 19, 2018, the Court indicated that it will enter the consent judgment containing a permanent injunction and other relief as to Defendants Jason Scharf and A&J Media Partners, Inc. ECF No. 91. Upon entry of the proposed consent judgment, the Receiver will be able to explore filing claims against third parties to recover funds from individuals and entities who received transfers from those Defendants.

In anticipation of the entry of that judgment, the Receiver has been in contact with counsel representing certain customers of the Citrades Defendants and a financial investigator

who works for a company that represents certain Citrades customers seeking to aid in such claw-back actions.

#### **H. Transfers to Individual Defendants**

During the Reporting Period, the refinement of the Receiver's forensic accountant's account reconstructions confirmed that the entity Defendants transferred large sums of money to the individual Defendants. The Receiver and his professionals will further investigate the nature, extent, and source of those transfers and continue to analyze the records of all Defendants, including their bank and credit card account records, and obtain any additional records necessary to complete that investigation.

#### **I. Insurance Policies Applicable to the Defendants' Conduct**

To date, the Receiver has not identified any insurance policies owned by the Defendants or that would cover any of the Defendants' conduct that is the subject of the CFTC enforcement action. The Receiver will continue to search for such policies and, in the event any are discovered, will analyze each policy and, if appropriate, assert a claim on behalf of the Receivership Estate.

#### **IV. CASH ON HAND AND ADMINISTRATIVE EXPENSES**

At the conclusion of the Reporting Period, the Receiver held a total of \$5,674,984.33 in cash on hand, in interest-bearing fiduciary accounts at City National Bank of Florida and UnitedBank, segregated based on the owner(s) of the accounts from which the funds were transferred as follows:

DEFENDANTS	AMOUNT IN FIDUCIARY ACCOUNTS
Michael Shah or Zilmil, Inc.	\$5,666,907.79
Jason Scharf	\$8,077.54
<b><i>Total</i></b>	<b>\$5,674,984.33</b>

As of the end of the Reporting Period, after payment of the Court-approved administrative expenses of the Estate for the first and second reporting periods, the total amount in the Receiver's fiduciary accounts for all Defendants, including interest earned, was \$5,674,984.33. *See* Reconciliation of Receipts and Disbursements of Receivership Accounts, attached hereto as **Exhibit A**.

During the Reporting Period, the Receiver made the Court-approved disbursements from his fiduciary accounts for the Estate's administrative expenses incurred through the end of the second reporting/application period (December 31, 2017), pursuant to the Court's Orders granting the Receiver's Initial and Second Fee Applications. *See* ECF Nos. 62 (Initial Fee Application), 87 (Second Fee Application), 110 (Order granting Initial Fee Application) and 111 (Order granting Second Fee Application). *See* Exhibit A.

On June 25, 2018, the Receiver filed his Unopposed Third Interim Application for an Order Approving and Authorizing Payment of Fees and Expenses of Receiver and his Professionals. ECF No. 129. That Application remains pending before the Court.

## **V. CONCLUSION**

The Receiver and his professionals appreciate the opportunity to assist the Court in this matter. Despite their accomplishments to date, the Receiver and his professionals must 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 10<sup>th</sup> day of August, 2018.

/s/ Russell Landy  
Russell Landy, Esq.  
Florida Bar No.: 0044417  
DAMIAN & VALORI LLP  
1000 Brickell Avenue, Suite 1020  
Miami, Florida 33131  
Telephone: (305) 371-3960  
Facsimile: (305) 371-3965  
Email: [rlandy@dvllp.com](mailto:rlandy@dvllp.com)  
*Counsel for Kenneth Dante Murena,  
Court-Appointed Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that, on this 10<sup>th</sup> day of August, 2018, 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/ Russell Landy  
Russell Landy  
*Counsel for Kenneth Dante Murena,  
Court-Appointed Receiver*