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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>FEDERAL TRADE COMMISSION; and UTAH DIVISION OF CONSUMER PROTECTION,</p> <p>Plaintiffs,</p> <p>vs.</p> <p>ZURIXX, LLC, a Utah limited liability company; <i>et al.</i>,</p> <p>Defendants.</p>	<p>RECEIVER'S STATUS REPORT</p> <p>Case No. 2:19-cv-00713-DAK-DAO</p>
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David K. Broadbent, the Court-appointed receiver (the "Receiver"), submits the following report to advise the Court and parties of the status of work being done by the Receiver and his professionals:

REPORT

The Court appointed the Receiver on November 1, 2019. (*See* ECF No. 54 (the "Appointment Order") at 17 § XIV.) In its Appointment Order, the Court spelled out the "Duties

and Authority of the Receiver.” (*Id.* at 17-21 § XV.) The Receiver will use the framework set out in the Court’s order to report his activities.

I. The Receiver has assumed control of Receivership entities and assets.

A. *The Receiver has identified Receivership Entities.*

The Court directed the Receiver to “[a]ssume full control of Receivership Entities,” (*id.* at 17 § XV.A), which the Appointment Order identified as follows:

“**Receivership Entities**” means the Corporate Defendants as well as any other entity that the Receiver determines is controlled or owned by any Defendant and (1) conducted any business related to Defendants’ advertising, marketing, distributing, promoting, or selling of any real estate-related investing products and services, (2) commingled or pooled Assets with any Defendant, or (3) otherwise participated in the transfer of Assets stemming from the advertising, marketing, distributing, promoting, or selling of real estate-related investing products and services, including, but not limited to, Dorado Marketing and Management, LLC, Zurixx Financial, LLC (Puerto Rico), RE Cash Source, LLC, and Brand Management Holdings, LLC.

(*Id.* at 5-6 ¶ M.) The Appointment Order further identified the “**Corporate Defendants**” as “Zurixx, LLC, Carlson Development Group, LLC, CJ Seminar Holdings, LLC, and Zurixx Financial, LLC, and each of their subsidiaries, affiliates, successors, and assigns.” (*Id.* at 4 ¶ C.)

Based on those definitions, the Receiver has identified the following as Receivership Entities beyond the specifically identified Corporate Defendants and Receivership Entities:

- The direct and indirect subsidiaries of Brand Management Holdings LLC:
 - Advanced Education (CA) MGMT, LLC,
 - Advanced Education (CA), LLC,
 - Attainable Events MGMT LLC,
 - Attainable Events LLC,
 - Breakthrough Events MGMT LLC,
 - Entrepreneur MGMT LLC,
 - Success Formula LLC,
 - Fast Track Flips MGMT LLC,
 - Fast Track Flips LLC,

- High Point Training MGMT LLC,
 - High Point Training LLC,
 - NV Wealth Corporation MGMT LLC,
 - NV Wealth Corporation LLC,
 - Omni Wealth MGMT LLC,
 - Omni Wealth LLC,
 - Premium Education (CAL) MGMT, LLC,
 - Premium Education (CAL) LLC,
 - Professional Education MGMT LLC,
 - Professional Education LLC,
 - Real Estate MGMT LLC,
 - Real Estate Education LLC,
 - Real Estate Elevated, LLC,
 - Will to Win MGMT, LLC, and
 - Will to Win, LLC.
- Entities that Zurixx personnel described as “inactive or not needed”:
 - Breakthrough Events Mgmt LLC,
 - Breakthrough Events LLC,
 - Continuing Real Estate Education fka Success Path Education,
 - Education Annex MGMT LLC,
 - Education Annex LLC,
 - Misc Real Estate MGMT LLC, and
 - Zurixx Marketing, LLC.
 - RE Cash Source LLC.

To facilitate stays of pending litigation, and at the Receiver’s request, the Court has also expressly identified Real Estate Elevated, LLC and Advanced Education (CA), LLC as Receivership Entities. (See ECF Nos. 69 & 164.)

B. *The Receiver has suspended business operations.*

After identifying the Receivership Entities, the Receiver suspended their business operations, determining that “such operations cannot be continued legally and profitably[.]” (ECF No. 54 at 18 § XV.G.)

C. *The Receiver has largely taken control of Receivership Assets.*

The Receiver and his professionals have interviewed witnesses and reviewed significant amounts of the Receivership Entities' business records. The Receiver also continues to work with former Zurixx personnel regarding the Receivership Entities' business records and financial information. Based on that work, the Receiver believes that he has now "[t]ake[n] exclusive custody, control, and possession of all Assets and Documents of, or in the possession, custody, or under the control of, any Receivership Entity, wherever situated" with some exceptions. (*Id.* at 17 § XV.B; *see also id.* at 18 § XV.D.)

The most notable exceptions are the assets related to the Zurixx office space in Puerto Rico, which the landlord took possession of despite actual notice of the Appointment Order. On July 27, 2020, the Court entered its Memorandum Decision and Order holding the landlord in contempt and ordering the landlord "(1) to allow the Receiver and his representatives access to the office to recover and remove Zurixx's assets or (2) to compensate the Receiver for the value of those assets that Efron Dorado and/or Efron took or otherwise disposed of in violation of the Injunction," *i.e.*, the Appointment Order. (ECF No. 166 at 4-5.) As a result, the Receiver hopes to recover these assets shortly.

The Receiver and his professionals also successfully negotiated with merchant service providers to turn over to the Receiver approximately \$4,465,600, which funds the providers previously held in various reserve accounts. The Court entered stipulated orders related to the turnover of funds by three of the merchant service providers. (ECF Nos. 130, 131, & 136.) The Receiver believes one merchant service provider must turn over an additional amount of approximately \$346,000, and is currently negotiating with that provider for the same. The

merchant service providers have reserved their rights to assert claims to the reserve funds in this case, and the Receiver anticipates that either (1) disputes with the merchant service providers regarding the reserve funds will be resolved through negotiated stipulations, or (2) such disputes will be brought before the Court for resolution.

D. *Receivership funds.*

While serving as the Court-appointed Monitor, the Receiver previously submitted an Accounting Status Report prepared by his retained accounting professionals, Rocky Mountain Advisory (“RMA”), as of October 31, 2019. (*See* Monitor’s Report (ECF No. 71) Ex. 2; *see also* Appointment Order at 19 § XV.L (directing the Receiver to submit an accounting).) Since then, the Receiver has worked to liquidate receivership assets. (Appointment Order at 17 § XV.C.) The Receiver has, accordingly, sold personal property that was part of the Receivership estate. (*See* ECF Nos. 63, 65, & 81.) As the attached Cash Receipts and Disbursements Summary indicates, the Receiver currently holds \$7,263,126.71. (*See* Ex. 1.)

The Receiver also negotiated a settlement with Cornerstone Title Holder, LLC, the landlord for Zurixx’s primary office space located in Cottonwood Heights, Utah. The lease had an additional year on the term and the monthly base rent was \$86,756.81. The Receiver negotiated a termination of the lease and waiver of all claims by the landlord, in addition to a return of \$51,907.95 of the security deposit to the Receiver in exchange for a portion of the personal property on site. The Receiver sought and obtained Court approval of the settlement with the landlord. (*See* EFC Nos. 79 (Motion) & 94 (Order).)

II. The Receiver has taken steps to halt claims against Receivership Entities.

The Receiver has taken steps to ensure that pending litigation regarding Receivership Entities has been stayed at least as to those Entities. (ECF No. 54 at 20 § XV.M.) In that regard, *Blackstone Hamilton v. Tarek El Moussa, et al.*, 2:19-cv-08182-CJC-AFM (C.D. Cal.), has been stayed as to Zurixx, LLC and Real Estate Elevated, LLC only. Similarly, *Zurixx, LLC v. Deloriea*, Case No. 53286-7-II (Wash. Ct. App.), has been stayed in its entirety. The Receiver has also engaged counsel in Canada to obtain an order staying *Poll v. Advanced Education (Ca) LLC o/a Will to Win Entrepreneur*, Action No. 1990103922, which is pending in the Provincial Court of Alberta.

The Receiver has also stayed a number of wage claims that were filed with the Utah Labor Commission after the Receivership Entities ceased doing business:

- Wage Claim No. 20-00882 (Bret Ehlers)
- Wage Claim No. 20-00883 (Jacob Rex Berry)
- Wage Claim No. 20-00884 (William Walker)
- Wage Claim No. 20-00885 (Randy Cochrane)
- Wage Claim No. 20-00886 (Carter Brown)
- Wage Claim No. 20-00887 (Paul McGraw)
- Wage Claim No. 20-00888 (Michael Hilkey)
- Wage Claim No. 20-00895 (Deborah Price)
- Wage Claim No. 20-01052 (Lorin Hardy)
- Wage Claim No. 20-01183 (Kayla Kobayashi)
- Wage Claim No. 20-01202 (Karl Benson)
- Wage Claim No. 20-01325 (Hamid Mortezaadeh)

With Court approval, the Receiver dismissed *Zurixx, LLC v. Jeannie Keller*, Case No. 190900238 (3rd Dist. Ct. Utah). (See ECF No. 103.) The Receiver also negotiated the dismissal of *Windham v. Zurixx, LLC*, Case No. 2:18-cv-00056-JNP (D. Utah). Windham is the receiver for Marquis Properties, LLC, which had operated as a Ponzi scheme. Windham sued Zurixx,

LLC for disgorgement of \$214,500 in marketing fees that Zurixx, LLC had been paid to allow Marquis Properties, LLC to promote and sell properties at Zurixx events. Windham and the Receiver agreed to dismiss the matter with prejudice.¹

III. The Receiver has filed ancillary litigation and is considering filing additional ancillary litigation.

After interviewing witnesses and analyzing the Receivership records, the Receiver determined that he had viable claims under Utah's Voidable Transfer Act against several individuals. Accordingly, to date, the Receiver has filed eight ancillary actions:

- *Broadbent v. Altamirano*, Case No. 2:20-cv-00544
- *Broadbent v. Davis, et al.*, Case No. 2:20-cv-00545
- *Broadbent v. Freier, et al.*, Case No. 2:20-cv-00546
- *Broadbent v. Grow*, Case No. 2:20-cv-00548
- *Broadbent v. Olson*, Case No. 2:20-cv-00549
- *Broadbent v. Hrisko, et al.*, Case No. 2:20-cv-00550
- *Broadbent v. Swails*, Case No. 2:20-cv-00551
- *Broadbent v. Young*, Case No. 2:20-cv-00552

The Receiver continues to analyze additional potential litigation claims, as well. (*Id.* at 17-18 § XV.C.)

IV. On a day-to-day basis, the Receiver has worked to address inquiries regarding the Receivership.

Not surprisingly, the formation of the Receivership created a stir with individuals and businesses connected with the Receivership Entities. The Receiver has endeavored to provide appropriate information and materials as requested in response to numerous inquiries regarding

¹ The Receiver agreed to dismissal of the *Windham* case without Court approval because there was no compromise of Receivership claims. While Zurixx, LLC had filed counterclaims, they had been previously dismissed with prejudice.

the Receivership. In doing so, the Receiver provided access to Receivership Entity records as appropriate, which records the Receiver has carefully maintained.

The Receiver has responded to numerous complaints and inquiries from Zurixx consumers, and has used the website www.zurixx.com to provide frequently requested information regarding the Receivership to consumers and other third parties as well.

One common inquiry the Receiver has fielded relates to Automated Clearing House, or ACH, payments. ACH is a financial network used for “direct payments,” *i.e.*, electronic payments without using checks, credit cards, wire transfers, or cash. Zurixx frequently used ACH payments for payments from consumers. Upon the formation of the Receivership, many consumers reached out to their banks seeking to stop or reverse ACH payments to Zurixx. Their banks, in turn, reached out to the Receiver to confirm whether, in fact the payments were authorized by the consumer. The Receiver has provided responses to all such inquiries. Notably, these inquiries – and the Receiver’s responses – do not address the value of services provided, merely whether the payment was authorized by the consumer.

V. Conclusion.

As the Receivership continues, the Receiver will provide additional reports as requested by the Court or upon material changes in the Receivership.

RESPECTFULLY SUBMITTED this 26th day of August, 2020.

HOLLAND & HART LLP

/s/ Cory A. Talbot _____

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*Attorneys for David K. Broadbent as the Court-
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INDEX OF EXHIBITS

1 - Cash Receipts and Disbursements Summary.

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EXHIBIT “1”

Zurixx, LLC Receivership
CASH RECEIPTS AND DISBURSEMENTS SUMMARY

For Period: 11/01/2019 to 8/20/2020

CASH FLOW SUMMARY

Cash Receipts	
Remaining reserve deposit from Zurixx	131,942.85 *
Auction proceeds - asset sale	103,225.00
Zurixx Entity Bank Account Transfers	3,404,790.29
Mortgage loan payoff	63,170.33
Reserve funds turnover from credit card processors	4,465,600.10
Other (Interest & Refunds)	18,802.06
Total Cash Receipts	\$ 8,187,530.63
Cash Disbursements	
Bank fees	289.65
Contract services - former employees	52,598.66
Expense reimbursements approved by Court 11/12/2019	26,472.03
Property and business insurance	11,343.04
Health Insurance approved by Court 11/12/2019	43,899.59
Web, computer and I.T. Support	26,859.49
Legal fees - Puerto Rico Counsel	19,631.73
Payroll and benefits funding for 10/31/2019 pay period	328,823.02
Payroll and benefits replacement checks approved by Court 11/12/2019	52,036.17
Storage	3,409.57
Taxes and tax preparation	10,187.42
Professional fees: Receiver's Accountant Fees	30,507.59
Professional fees: Receiver and Receiver's counsel fees	318,345.96
Total Cash Disbursements	\$ 924,403.92
Net Cash Flow (Total Cash Receipts less Total Cash Disbursements)	\$7,263,126.71
Ending Cash Balance	\$ 7,263,126.71

CASH BALANCE SUMMARY

	<u>Book Balance</u>
Operating Account 3366	\$ 40,158.12
RE Cash Source Account 3367	63,170.33
Operating Account 3368	\$2,694,198.16
Reserve Segregated Account 3369	4,465,600.10
TOTAL	\$ 7,263,126.71

** The Monitor was paid a \$400,000 reserve in October 2019 from Zurixx, LLC. The reserve was applied toward fees of the Monitor and the Monitor's professionals during October 2019 with this balance remaining.*