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6

7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA

9 SECURITIES AND EXCHANGE)
COMMISSION,)

CASE NO. CV 13-01629-ABC
(VBKx)

10 Plaintiff,

11 vs.

**RECEIVER'S PRELIMINARY
ACCOUNTING AND REPORT (2Q13)**

12 ALVIN R. BROWN, FIRST)
CHOICE INVESTMENT, INC.,)
13 and ADVANCED CORPORATE)
ENTERPRISES, INC., d/b/a A-)
14 CORP ENTERPRISES a/k/a)
ACORP DEVELOPMENT a/k/a A-)
15 CORP INVESTMENT,)

Ctrm: 680
United States Courthouse
Edward R. Roybal Federal Building
255 East Temple Street
Los Angeles, CA 90012-3332
Judge: Hon. Audrey B. Collins

16 Defendants.
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1 Krista L. Freitag (“Receiver”), the Court-appointed Receiver herein, files her
2 Receiver’s Preliminary Accounting and Report (2Q13).

3 **I.**

4 **PROCEDURAL BACKGROUND**

5 On March 7, 2013, the Securities and Exchange Commission (“Commission”)
6 filed a complaint (Docket No. 3) initiating the instant litigation against Defendants
7 Alvin R. Brown, First Choice Investment, Inc. (“Defendant FCI”) and Advanced
8 Corporate Enterprises, Inc. (“Defendant ACorp”) alleging violations of various
9 securities laws. Among other things, the Complaint alleges that Defendants misled
10 investors by:

11 (1) falsely promising 10% annual returns;

12 (2) falsely promising a planned initial public offering at the end of 2012 that
13 would net investors 150% of their initial investment;

14 (3) falsely representing to attract investors that the offering was registered with
15 the Commission;

16 (4) falsely promising high returns and investment safety; and

17 (5) enticing existing investors into investing more money through a phony “re-
18 allocation” program in which an institutional investor would purportedly purchase
19 investor shares at a premium.

20 At the Commission’s request, on March 7, 2013, the Court entered its order
21 (Docket No. 5) appointing Receiver as a temporary receiver for Defendant FCI and
22 Defendant ACorp and the entities they control and manage with full powers of an
23 equity receiver. Thereafter, Defendant Brown stipulated to the appointment of
24 Receiver on a permanent basis (Docket No. 17). On April 8, 2013, the Court so
25 ordered (Docket No. 18).

26 On May 6, 2013, the Receiver filed an interim report and request for
27 instructions regarding the scope of Receiver’s authority (Docket No. 19). On May 23,
28 2013, the Court entered an order extending the Receiver’s rights and responsibilities

1 to two of Defendant's affiliated entities, First Choice Energy Partners, LP, a/k/a First
2 Choice Oil and Gas Energy Partners ("FCEP") and Advanced Concepts Enterprises,
3 Inc. ("ACE").

4 Pursuant to the Court's orders, the Receiver is charged with, among other
5 things, (1) assuming control over the receivership entities and their assets,
6 (2) performing an accounting of the assets and financial condition of the receivership
7 entities, (3) investigating, locating, and accounting for receivership assets, and
8 (4) preparing reports for the Court.

9 Defendant Alvin R. Brown has invoked his right against self-incrimination
10 under the Fifth Amendment. This fact has hampered the Receiver's investigation in
11 locating assets and in contacting individuals who received material sums of money
12 disbursed from subject bank accounts.

13 II.

14 **SUMMARY OF RECEIVER'S RECENT ACTIVITIES**

15 **A. Control Over Premises and Documents**

16 On May 23, 2013, Receiver's staff seized all FCEP and ACE computers and
17 records located in the garage to Defendant Brown's residence located at 240 North
18 Juanita Avenue, Redondo Beach, California, 92077 (from where they conducted
19 business). At the time Defendant Brown again asserted his Fifth Amendment right.
20 As a result, no additional information, explanation or electronic documentation was
21 obtained.

22 As described in the previous Receiver's Report (Docket No. 19), despite the
23 fact that Defendant Brown had represented that the entities had no other offices,
24 Receiver had discovered an undisclosed office located at 8383 Wilshire Blvd., Suite
25 342, Beverly Hills, California 90211, of which she took control. On May 14, 2013,
26 the Receiver noticed the Court of her intent to abandon personal property in the
27 premises (Docket No. 24). And on May 24, 2013, the Receiver turned possession of
28 the premises along with the personal property therein back to landlord.

1 On or about May 16, 2013, through a review of bank records, Receiver
2 discovered a second undisclosed office from which Defendant FCI was conducting
3 business, located at 22148 Sherman Way, Suite 105, Canoga Park, California, 91303.
4 The Receiver immediately reached out to the landlord who informed the Receiver that
5 the office was completely abandoned on May 4, 2013. The landlord informed
6 Receiver that three people had worked in the office, and that all personal property
7 (including the workstations) had been removed. The copy of the lease provided by the
8 landlord reflects Defendant Brown signed this lease on behalf of Defendant FCI on
9 October 31, 2012. The Building Rules contain the following handwritten revision
10 initialed by both landlord and Defendant Brown: "No more than 3 telemarketers or
11 phone sales people permitted to work in the office any time." The original Building
12 Rules language which was revised, reads as follows: "No telemarketer or phone sales
13 people permitted to work in the building at any time."

14 **B. Control of Bank Accounts**

15 In accordance with the Court's orders, the Receiver caused herself to be added
16 as the sole authorized signatory for all Defendant FCEP and Defendant ACE bank
17 accounts. As reflected on **Exhibit A** hereto, the bank accounts associated with
18 Defendant FCEP and Defendant ACE had an aggregate balance of \$23,949.68 as of
19 May 23, 2013.

20 **C. Receivership Asset Recovery Efforts**

21 In the course of her investigation, Receiver discovered significant funds on
22 deposit in the client trust account of The Wilson Law Firm, P.C. in Fort Collins,
23 Colorado on behalf of FCEP. The firm cooperated with Receiver, and ultimately turned
24 over to her the sum of \$182,750 along with documentary evidence regarding investor
25 names, contact information, and respective contributions.

26 **D. Receivership's Current Cash Position**

27 The total cash position of the receivership estate is \$224,946. A breakdown by
28 Defendant and account is also shown on **Exhibit A** hereto.

1 **E. Investor Notices**

2 The Defendant FCI and Defendant ACorp lists provided indicate that there are
3 currently approximately 41 and 149 investors, respectively. As per the lists provided,
4 the investors are located throughout the country as well as outside the United States,
5 and have been notified of the Receiver's appointment.

6 Defendant FCEP lists obtained through sources other than Defendant Brown
7 indicate that there are currently approximately 21 investors. As per the lists provided,
8 both of which are attached hereto as **Exhibit B**, the investors are located throughout
9 the country and have been notified of the receivership expansion to encompass
10 Defendant FCEP effective May 23, 2013.

11 No lists or physical investor files have yet been located for Defendant ACE.
12 Based upon records review, it appears that Defendant ACE operated as a real estate
13 brokerage currently licensed under the Department of Real Estate. A printout of
14 Defendant ACE's current license status with the Department of Real Estate is attached
15 hereto as **Exhibit C**.

16 After reviewing the files and associated notes located within the files, it appears
17 that ACE was primarily involved in the brokerage of residential mortgage loans.
18 There are multiple files for the same borrower and property with different time
19 periods. Also included in the notes on some of the ACE files were statements where
20 ACE sought multiple lenders per transaction who were willing to perform cash-out
21 refinances on loan programs where the income (i.e. ability to repay) of the borrower
22 was not verified.

23 **F. Websites**

24 As previously reported, the Receiver directed all known websites of Defendant
25 FCI and Defendant ACorp to the Receiver's own website for this case, to prevent any
26 further solicitation of potential or current investors via said websites. As it relates to
27 Defendant FCEP, upon researching and contacting the Florida-based web designer
28 regarding the Defendant FCI and Defendant ACorp websites, the First Choice Oil and

1 Gas (“FCOG”) website was and continues to be listed on the designer’s portfolio of
2 websites (<http://netfx.com/portfolio.html>). The website also lists Richard Hersh as
3 the company’s President. When contacted, the individual who answered the call
4 identified himself as Richard Hersh. After conferring briefly, he said that Netfx had
5 nothing to do with FCOG and referred the Receiver back to the domain hosting
6 company, and hung up the call. Subsequent calls were not answered. Shortly
7 thereafter, the Receiver noted that the FCOG website had a large notice indicating that
8 the page was suspended and access to view the website or interact with it (i.e. click on
9 web links) was suspended. The website no longer is accessible.

10 III.

11 **DEFENDANT BROWN’S NON-COMPLIANCE WITH THE INJUNCTION**

12 **A. Defendant Brown’s Exercise of Fifth Amendment Rights**

13 As described above, Defendant Alvin R. Brown has invoked his rights against
14 self-incrimination under the Fifth Amendment. This fact has hampered the Receiver’s
15 investigation in locating assets and in contacting individuals who received material
16 sums of money disbursed from subject bank accounts.

17 **B. Additional Evidence of Defendant Brown Continued Activity**

18 The Receiver has further evidence of continued business by Defendant Brown.

19 **1. Phone Log Records**

20 One telephone vendor did provide the Receiver with ‘Client Call Notes’ for
21 Defendant FCEP, whereby as recent as April 2013, phone calls were ongoing between
22 Defendant Brown and various individuals, some of whom received material
23 compensation out of Defendant FCI bank accounts. Attached hereto as Exhibit D is a
24 copy of the Client Call Notes.

25 **2. Personal Property**

26 In researching value of the workstations abandoned in the Beverly Hills office
27 location, the Receiver contacted the original vendor who sold the workstations to
28 Defendant FCI. The Receiver then confirmed that the vendor supplied office furniture

1 to Defendant FCI in two locations, and only two locations, in Beverly Hills and
2 Canoga Park in 2012. All the furniture was paid for in full for both offices and the
3 vendor included documents reflecting same to the Receiver. The Receiver further
4 learned that the vendor had received a call on May 16, 2013 from Defendant Brown
5 asking the vendor to make him an offer to purchase back the Beverly Hills furniture.
6 Defendant Brown asked the vendor to claim to his landlord that the vendor had
7 leased Defendant FCI the furniture, and that the vendor still owned the furniture –
8 despite the fact that the furniture was paid in full.

9 **3. Additional Undisclosed Defendant FCI Office Location**

10 As described above, through a review of bank records, Receiver discovered a
11 second undisclosed office from which Defendant FCI was conducting business,
12 located at 22148 Sherman Way, Suite 105, Canoga Park, California, 91303 – despite
13 the fact that Defendant Brown had previously represented that FCI had no other office
14 space besides that of the garage to his residence in Redondo Beach.

15 **IV.**

16 **RECEIVER’S PRELIMINARY ACCOUNTING**

17 **A. Accounting Data and Analysis**

18 The accounting records turned over for Defendant FCI and Defendant ACorp
19 are incomplete and primarily Quickbooks based. On March 8, 2013, Defendant
20 Brown represented to the Receiver that there was a “disk crash in 2010 and 2012
21 (which) deleted any other accounting records.” Defendant Brown also purported the
22 tax returns/accounting records were approximately two years behind. Additionally,
23 Defendant Alvin R. Brown has invoked his rights against self-incrimination under the
24 Fifth Amendment. This fact has hampered the Receiver’s investigation in locating
25 assets and in contacting individuals who received material sums of money disbursed
26 from subject bank accounts.

27 Although the Receiver has obtained some documentation and records from
28 various sources, her accounting is based primarily on bank records. The accounting is

1 cross-referenced to the Defendants’ own internal financial records (obtained in very
2 limited quantity by Receiver), where and as noted. The Receiver is awaiting a few
3 supporting documents on the bank accounts analyzed for which an accounting is
4 provided herein [where noted as “TBD”], and does still need to analyze several
5 additional bank accounts as well. The results of this further investigation and analysis
6 will be discussed in future reports. Nonetheless, this accounting does materially
7 address where the funds for the Defendant FCI, Defendant ACorp (Canadian investors
8 only) and Defendant FCEP came from and where they went. The Receiver is working
9 to analyze and obtain missing documentation primarily related to the sources and uses
10 of funds for Defendant ACorp (non-Canadian investors) and Defendant ACE.

11 The Complaint alleges that Defendant FCI and Defendant ACorp (non-
12 Canadian investors) raised about \$1.2 million and \$1.93 million, respectively from
13 investors since 2011 and 2005, respectively. Thus far, bank records show that
14 Defendant FCI, Defendant ACorp (Canadian investors only) and Defendant FCEP
15 raised \$1,316,506, \$1,652,185¹ and \$183,349 from investors. As mentioned,
16 Defendant ACorp bank records are materially not included herein; additionally, \$1.3
17 million of additional receipts (\$165K of Defendant FCI receipts, \$1.1 million of
18 Defendant ACorp receipts and \$62K of Defendant FCEP receipts) reflected in the
19 bank records are still under review. The Complaint also alleges that at least \$325,000
20 of cash was misappropriated through withdrawals and \$972,867 of cash was
21 misappropriated by wiring said money to a Canadian-based health-food supplement
22 distributor with no apparent connection to the real estate business or to Defendant
23 ACorp. Thus far, bank records show that \$523,297 of cash was misappropriated
24 through withdrawals and personal expenses and that \$1,899,936 was wired to
25 Canadian Bank accounts, \$51,183 of which was immediately traceable to the

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27
28 ¹ Bank records thus far show that an additional \$76,250 of non-Canadian investor funds were received by Defendant ACorp. Note that Defendant ACorp bank records are materially not reflected herein.

1 purported Canadian-based health-food supplement distributor with no apparent
2 connection to the real estate business or to Defendant ACorp.

3 **Exhibit E** is a detailed analysis reflecting the Receiver’s preliminary findings.
4 A few bank accounts are still under review. Nonetheless, below is a summary of the
5 material categories of **uses** of funds for the accounts reviewed thus far. For greater
6 detail, see **Exhibit E**:

	Transfers to Canadian Bank Account
Defendant ACorp	\$1,899,936
Total	\$1,899,936
	Defendant Brown Personal Payments
Defendant ACorp	\$213,616
Defendant FCI	\$309,575
Defendant FCEP	\$106
Total	\$523,297
	Payments to Individuals²
Defendant FCI	\$535,875
Total	\$535,875
	Office/Operating/Professional Expenses
Defendant ACorp	\$68,984
Defendant FCI	\$209,967
Defendant FCEP	\$243
Total	\$279,195
	Colorado Funds (Now Recovered)
Defendant FCEP	\$182,750
Total	\$182,750
	‘Going Public’ Expenses
Defendant FCI	\$180,750
Total	\$180,750

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28 ² Payments made to individuals with one or more references to marketing, promotional, commission, etc. on the physical payments or in Defendant Brown’s Quickbooks file.

	Payments to Investors
Defendant FCI	\$167,629
Total	\$167,629

These expenses represent \$3,769,432 or approximately 95% of the total disbursements from the bank accounts reflected on **Exhibit E**.

V.

SERVICE OF THIS REPORT

Local Rule 66-7(c) provides that “[t]he receiver shall give notice by mail to all parties to the action and to all known creditors of the defendant of the time and place for hearing of... [r]eports of the receiver....” At present, no hearing has been set in connection with this report. Accordingly, Local Rule 66-7(c) does not apply.

Receiver provided each known investor in the Receivership Entities with a notice of the receivership via regular mail, in order to be cost-effective. The notice directed investors to Receiver’s own website, www.ethreadvisors.com, which includes a tab for this case and will serve as a cost-effective means of disseminating information about the case and the receivership to investors. This report will be posted on the website. The Receiver directs creditors who contact her to the website for additional information. Given those facts, the Receiver does not believe that the expense of an all-creditors mailing is warranted, and accordingly, she has not served copies of this report on all creditors.

VI.

CONCLUSION

A. Overview

The Receiver is continuing to research and analyze the items as noted herein and on Exhibit E. The Receiver is currently evaluating the cost-effectiveness of possible next steps to attempt to recover investor funds from the parties who received them. Her evaluation will include discussions with the Commission following their evaluation of this current report.

1 **B. Reporting**

2 The Receiver intends to file further reports on her activities and findings on a
3 quarterly basis (with the next report before the expiration of the third quarter of 2013),
4 or as otherwise directed by the Court. In the Receiver's experience, filing reports on a
5 quarterly basis strikes a good balance between (a) keeping the Court and interested
6 parties informed about the Receiver's activities, and (b) minimizing administrative
7 expenses.

8 **C. Claims Review and Distribution Plan**

9 In the event that the Receiver recovers sufficient funds to make distributions to
10 investors, she will evaluate the appropriate method for receiving and analyzing
11 investor claims, as well as the most equitable and efficient manner of distributing
12 assets of the receivership estate to those with valid claims. At the appropriate time,
13 the Receiver will seek Court approval of procedures for determining claims and a plan
14 of distribution.

15 Dated: July 1, 2013

15 BY: 
16 _____
KRISTA FREITAG, RECEIVER

17 Dated: July 1, 2013

17 SULLIVAN, HILL, LEWIN, REZ & ENGEL
18 A Professional Law Corporation

19 By: /s/ Christopher V. Hawkins
20 Christopher V. Hawkins
21 Attorneys for Krista L. Freitag, Receiver