

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

**SECURITIES AND EXCHANGE COMMISSION,**

Plaintiff,

v.

**KINETIC INVESTMENT GROUP, LLC and  
MICHAEL SCOTT WILLIAMS, Case No: 8:20-cv-394-MSS-SPF**

Defendants, and

**KINETIC FUNDS I, LLC,  
KCL SERVICES, LLC d/b/a LENDACY,  
SCPIO, LLC, LF 42, LLC, EL MORRO  
FINANCIAL GROUP, LLC, and KIH, INC.,  
f/k/a KINETIC INTERNATIONAL, LLC,**

Relief Defendants.

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**RECEIVER’S TENTH INTERIM REPORT**

Mark A. Kornfeld, Esq., in his capacity as the court-appointed Receiver (the “Receiver”) for Kinetic Investment Group, LLC (“KIG”), Kinetic Funds I, LLC (“Kinetic Funds”), KCL Services, LLC d/b/a Lendacy (“Lendacy”), Scipio, LLC (“Scipio”), LF 42, LLC (“LF42”), El Morro Financial Group, LLC (“El Morro”), and KIH Inc., f/k/a Kinetic International, LLC (“Kinetic International”) (collectively, the “Receivership Defendants”), respectfully files his Tenth Interim Report (the “Tenth Report”) covering information and activity occurring from April 1, 2022 to June 30, 2022. In addition to providing notice of the receivership to all

known investors shortly after his appointment, the Receiver has also established an informational website at [www.kineticreceivership.com](http://www.kineticreceivership.com), which is regularly updated with important court filings (including previous and subsequent Interim Reports), announcements, and other news that might be relevant to interested parties.

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**I. INTRODUCTION**

**A. Overview of Significant Activities During This Reporting Period**

**(I) RECEIVER CONTINUES TO INCUR COSTS RELATED TO HOLDING TITLE TO VILLA GABRIELA PROPERTY UNTIL COURT APPROVES SALE AS REQUESTED IN RECEIVER'S APRIL 1, 2022 MOTION TO APPROVE SALE (DOC. 175.)**

During the time period covered by this Tenth Report (April 1, 2022 to June 30, 2021), the Receiver and his team of legal, technology, tax, and accounting professionals (collectively, the “Retained Professionals”) have engaged in significant activities regarding the Receivership Estate, which are discussed more thoroughly in the forthcoming report. On April 1, 2022, Receiver filed a Motion to approve the sale with the Court (Doc. 175) for the Villa Gabriela Property. Subsequent to this Motion, on April 15, 2022, Defendant Williams filed an opposition to the Motion (Doc. 277), which was responded to promptly by Receiver in his Reply Memorandum (Doc. 281). As discussed in Receiver’s Reply and the original Motion for Approval, Receiver has full authority to sell the Villa Gabriela Property to obtain valuable funds for defrauded investors. Receiver retains this authority not only due to the Order Appointing Receiver (Doc. 34) from this Court but also due the Joint Stipulation (Doc. 103) executed by Defendant Williams and Receiver, in which Defendant Williams gives full title to Receiver and specifically affirms to “use reasonable and best efforts to cooperate with the Receiver to effect the transfer of ownership.” (Doc. 103, ¶¶ 5, 6.)

The sale price for the Villa Gabriela Property is over \$2M and will benefit the defrauded investors once it may be obtained for the Receivership Estate. At present, the Receivership Estate is losing money due to holding title of the Villa Gabriela Property by way of having to pay the maintenance costs, real property taxes, and the monthly HOA costs. The payment of these sums, which is detailed more thoroughly in Sections (1) - (2) of the report below, has been taken on by the Receiver since he obtained title. In addition to paying the administrative costs of holding the property, the Receiver is also responsible for paying for any costs related to the physical property-such as plumbing issues or general home maintenance. Once the property title is transferred in the proposed sale, Receiver will no longer have to expend its resources to care for the property. Additionally, the prospective purchaser for the property, who has signed a contract and provided a deposit of \$63,000.00 in escrow, has inquired as to when he may expect to close on the property. Without further information from the Court, Receiver is unable to provide a date of the closing to the purchaser or his real estate professionals.

If the Court necessitates any further documents or information regarding the proposed sale of the Villa Gabriela Property, Receiver is willing to supply anything necessary to facilitate approval and obtain the sale proceeds for investors and cease making continued payments of costs for caring for the property.

1. **Moved to Approve The Sale of the Villa Gabriela Properties with the Court (Doc. 275) and Addressed Defendant William’s Opposition Motion to the Approval of Sale (Doc. 277) with Receiver’s Memorandum in Reply (Doc. 281).**
- In connection with the Receiver’s efforts to transfer title of the Villa Gabriela properties (consisting of two properties and two parking spots) in San Juan, Puerto Rico from Defendant Williams to the Receiver, as provided in the Court’s Order approving the Receiver’s Motion for Turnover (Doc. 72), the Receiver utilized his Puerto Rico counsel to address and resolve several existing deficiencies from the previous sale to Defendant Williams. After obtaining title, the Receiver was able to gain access to, and assess the condition of, the Villa Gabriella properties. The Receiver also worked with his Puerto Rico real estate broker to list all Villa Gabriela Properties for sale. Following extensive marketing efforts and bidding process (which included interest from over two dozen potential buyers), the Receiver ultimately agreed to sell the Properties for \$2,100,000.00 to Allan Rothstein (the “Purchaser”), as set forth in the Purchase and Sale Agreement. Details of the Villa Gabriela Properties were posted to the Receiver’s website, [www.kineticreceivership.com/assets-for-sale](http://www.kineticreceivership.com/assets-for-sale). The proposed sale price is 40% higher than the price previously paid by Williams using funds traceable to investor deposits. To secure the purchase, Mr. Rothstein placed \$63,000.00 in escrow, which remains with the Receiver’s real estate professionals until the sale is approved by the Court. On April 1, 2022, the Receiver filed Receiver’s Motion for Approval of the Sale of the (1) Private Sale of Puerto Rico Real Properties and Parking Spaces; and (2) Proposed Publication, Marketing, and Overbid Procedures Associated with the Sale of the Real Properties. (Doc. 271).
  - On April 15, 2022, Defendant Williams filed a Response in Opposition to the Receiver’s Motion for Approval of Sale of Condos (Doc. 277.) In this Response, Defendant Williams alleges multiple scattered arguments requesting the Court deny the approval of the sale – specifically claiming that he engaged in no wrongdoing. In his Motion, Defendant Williams’ expressly ignores the previously-entered Joint Stipulation (Doc. 103), in which he unequivocally agreed that title to the Real Property would be transferred to the Receiver and that he would facilitate the transition. (Doc. 103.) Specifically, in said Joint Stipulation, Williams agreed to “use reasonable and best efforts to cooperate with the Receiver to effect the

transfer of ownership.” (Doc. 103, ¶¶ 5, 6.) Now, at the point where Receiver is in the final stages of receiving approval of the sale from the Court to bring in necessary funds to distribute to the investors, Williams claims he engaged in no “wrongdoing” and that the sale should not be approved. (Doc. 103.) To address Defendant Williams’ opposition to the approval of the sale, Receiver and Receiver’s staff expended valuable resources in preparing a seven-page memorandum in Reply, addressing Defendant Williams’ arguments. (Doc. 281).

- Additionally, the Receiver’s staff has continued to handle the administrative costs of holding title to the Villa Gabriela Property, which is explained in more detail in Section (2). Furthermore, the real estate professionals, hired by the Receiver to handle and administer the sale, have continued to hold \$63,000.00 of buyer’s escrow deposit for approximately four months. The real estate professionals cannot release the funds to the Receivership Estate until the sale is approved by the Court. As detailed below, every month that Receiver continues to hold title to the Villa Gabriela Property, Receiver must continue to pay administrative costs in the form of Homeowners Association Fees and Real Property Taxes. Receiver will continue to adamantly oppose Defendant Williams’ arguments that the sale should not be approved by the Court.

**2. Administered and paid expenses for continuing costs of holding title to Real Property including Homeowners Association Fees and Real Property Taxes.**

- During the reporting period, Receiver paid certain outstanding administrative costs involving the Receivership’s Real Property including: (1) the Homeowners Association Fees for the Villa Gabriella Property; and (2) the real estate taxes for the Villa Gabriella Property. During the reporting period, Receiver, as title owner of the Villa Gabriella Property, closed out all back-owed Homeowners Association Fees, which totaled **\$35,033.25** and paid all due Real Property Taxes, which totaled **\$11,178.49**. Both the HOA monthly fees and the Real Property Taxes are continuing in nature. As long as title remains with Receiver, Receiver will be responsible for these sums and must continue to make payment to avoid late fees and fines.

**3. Reviewed Potential Third-Party Claims, Sent Demand Letters To Third-Parties, And Obtained Resolutions**

- The Receiver has identified various potential claims with respect to third-parties that may have received improper transfers consisting of investor assets. After the Court granted his Unopposed Motion to Approve Procedure to Pursue Potential Third Party Claims, the Receiver and his professionals continued evaluating those potential claims pursuant to the procedures approved by the Court. In May 2021, the Receiver and his professionals sent out seven demand letters to various individuals seeking the return of funds the Receiver believes are rightfully owing to the Receivership Entities. For several of those claims, the Receiver has reached an agreement to recover the full amount sought. For other claims, the Receiver is continuing to pursue a beneficial outcome which could include filing litigation against those third-parties. For one of those claims, the Receiver filed a motion seeking the Court's approval of a negotiated settlement (Doc. 271). The Receiver received one lump sum payment of \$111,472.12 from one investor.

#### **4. The Ninth Interim Report**

- The Receiver prepared and filed his Ninth Interim Report on March 29, 2022 (Doc. 280), which provided a comprehensive summary, analysis, and supporting documentation of the Receiver's continuing investigation as well as the tracing of investor funds.

#### **5. Continued Investigation And Review of Relevant Documentation and Information**

- The Receiver and his professionals continued their investigation of the business operations of the various Receivership Entities. This included identifying, obtaining, and reviewing relevant documentation and information from the Receivership Entities' offices and interviewing various individuals.

#### **6. Attended To Litigation Matters**

- The Receiver continues to monitor the Court's docket given that the Commission's claims against Mr. Williams remain pending.

#### **7. Continued Investor Outreach and Website Updates**

- The Receiver responded to phone calls and written communications from Kinetic Funds investors and continued to provide updates and



announcements on the informational website at [www.kineticreceivership.com](http://www.kineticreceivership.com) for investors and other interested parties. The Receiver plans to prepare a second Motion for Distribution once the sale of the Vila Gabriela Properties is approved by the Court.

In summary, as of the date of this Report, the Receiver has (i) secured, frozen, marshaled, and liquidated assets for the benefit of victim that resulted in the deposit of **approximately \$20 million**<sup>1</sup> in the Receiver's fiduciary bank accounts during the Receiver's appointment; (ii) secured significant real property assets and commenced the process of marketing and liquidating those assets which shall result in additional proceeds deposited with the Receivership Estate; and (iii) made an initial distribution of **\$13.2 million** to Investor Claimants with approved claims, which amount constitutes 40% of each Investor Claimant's approved claim.

The nearly \$20 million recovered for the benefit of victims is the result of the following actions:

- March 6, 2020: Froze approximately **\$7.6 million** in Receivership bank accounts located at BMO Harris Bank;
- March 20, 2020: Liquidated securities located in Kinetic Funds sub-accounts at Interactive Brokers. After satisfying the account margin

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<sup>1</sup> This amount includes approximately \$251,928.02 in funds previously held in Mr. Williams' prior counsel's trust account and which were subsequently transferred to the Receiver's fiduciary accounts to be held in trust pending further Order from the Court. In the interim, the Court has authorized the payment of various living and legal expenses to or for Mr. Williams' benefit.

obligations, approximately **\$5.5 million** was transferred to the Receiver's bank accounts on January 7, 2021;

- June 25, 2020: Liquidated gold coins held by Kinetic Funds for total proceeds of **\$223,877.75** which were deposited into the Receiver's bank accounts;
- November 10, 2020: Received nearly **\$3.5 million from** two Kinetic Funds investors as part of a settlement that ultimately offset roughly \$8 million of the approximately \$12 million in margin obligations in Kinetic Funds' Interactive Brokers' sub-accounts;
- May 11, 2021: Received approximately **\$4.0 million** in net sales proceeds from the sale of the property located at 152 Tetuan Street, San Jan, Puerto Rico 00901; and
- Through September 30, 2021, the Receiver and his retained legal, accounting, tax, and technology professionals have been paid approximately **\$1,250,000** in fees and expenses for their services.

The Receiver has updated his website and filed a notice with the Court regarding his closing of the sale of the El Banco Espanol building.

The Receiver also continues to evaluate the viability and equities of advancing potential claims against third parties to recover additional funds for the benefit of defrauded victims. Through these efforts, the Receiver has sought to and continues to investigate the relevant issues in order to enforce the Estate's rights and protect and maximize the Kinetic Funds' assets available for future return to investors. The above-referenced activities are discussed in more detail in the pertinent sections of this Tenth Report.

## II. BACKGROUND

### A. Procedure and Chronology

On February 20, 2020, the Commission filed a complaint (the “Complaint”) (Doc. 1) in the United States District Court for the Middle District of Florida (the “Court”) against Defendants and Relief Defendants alleging that Defendants violated the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940 by making false or materially misleading representations to investors and that over \$6 million of investor funds was misappropriated to fund other business ventures and pay for other unauthorized expenses. Doc. 1 ¶¶4, 28-38.

The Complaint alleged that the scheme involved securities offerings made on behalf of Kinetic Funds, a purported hedge fund with a sub-fund structure managed by Kinetic Investment Group and Defendant Williams. *Id.* ¶ 2. Defendants represented to investors that the largest sub-fund, KFYield, invested all of its assets in income-producing U.S. listed financial products hedged by listed options. *Id.* Potential investors were told that KFYield was a liquid investment that would “maintain 90% principle [sic] protection” and that an investor could redeem their principal investment “100% . . . without penalties” with a 30-day written notice. *Id.* ¶¶ 2, 28. Investors in the KFYield fund, which attracted the near-entirety of investor funds entrusted to Kinetic Funds, were routinely provided

with documentation from Bloomberg's reporting service that claimed KFYield had achieved positive annual returns every year since inception. *Id.* ¶ 24. Many, but not all, investors were also attracted to the Kinetic Funds investment opportunity by the advertised ability to obtain low-interest and unsecured loans from Lendacy based on their KFYield investment and with the understanding that 100% of their KFYield investment would continue earning dividends. *Id.* ¶ 28.

On March 6, 2020, the Court entered the Order Appointing Receiver. By separate Order, the Court also granted the Commission's Motion for Asset Freeze and granted other relief as to all Defendants (Doc. 33). Among other things, the Orders froze Defendants' assets and enjoined any further violations of federal securities laws.

On May 12, 2020, Defendant Williams filed his Answer and Affirmative Defenses to the Commission's Complaint in which he denied the Commission's substantive allegations and set forth 13 affirmative defenses (Doc. 56). On May 28, 2020, the Commission filed its Motion for Judgment of Permanent Injunction (Doc. 86) following the Receiver's execution of a Consent Judgment on behalf of the various Receivership Entities named in the Complaint, and the Court entered that Consent Judgment on November 5, 2020 (Doc. 156). The Commission and Defendant Williams mediated this case on August 28, 2020, which resulted in an impasse (Doc. 132). Both the Commission and Defendant Williams have filed

pending dispositive motions seeking judgment in their favor. Docs. 200-202. On July 21, 2021, the Court granted the Commission's request to postpone the trial pending resolution of the pending case-dispositive motions. (Doc. 257).

**B. The Receiver's Role and Responsibilities**

As an independent agent of the Court, the Receiver's powers and responsibilities are set forth in the Order Appointing Receiver which provides, in relevant part, that the Receiver:

- “[S]hall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers and general and limited partners of the Receivership Defendants under applicable state and federal law...” and “shall assume and control the operation of the Receivership Defendants and shall pursue and preserve all of their claims.” Doc. 34 ¶¶ 4-5;
- Shall “take custody, control, and possession of all Receivership Property and records relevant thereto from the Receivership Defendants...” and “manage, control, operate and maintain the Receivership Estates and hold in his possession, custody and control all Receivership Property pending further Order of this Court.” *Id.* ¶ 7(B);
- Is “authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted and...to institute such actions and legal proceedings...as the Receiver deems necessary and appropriate...” *Id.* ¶ 37; and
- Is directed to “develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property...and to “file and serve a full report and accounting of each Receivership Estate” for each calendar quarter. *Id.* ¶¶ 46, 48.

**C. Receivership Defendants**

The Receiver incorporates by reference herein the descriptions of the various Receivership Defendants and Other Relevant Non-Parties set forth in the First Report. *See* Doc. 60 at pp. 12-16.

**III. OVERVIEW OF RECEIVER’S PRELIMINARY FINDINGS**

The Receiver’s issuance of interim quarterly reports is intended to, among other things, present a detailed summary of various preliminary findings and ongoing investigation. Unless specifically indicated herein, those preliminary findings are incorporated herein and remain consistent with the Receiver’s ongoing investigation. The Receiver reserves the right to revise, amend, and/or supplement these conclusions as the investigation progresses. The Receiver presents the following non-exclusive conclusions that he continues to supplement based on his preliminary review of the documents in his possession and with the assistance of his Retained Professionals.

**A. Discrepancies Between Kinetic Funds’ Actual And Reported Performance And Assets**

**i. Performance Discrepancies**

Many investors were attracted to KFYield through promises of consistent investment returns made possible through lower risk, “principle [sic] protection,” and “maximum liquidity.” No later than early 2017, KFYield’s performance and other information were listed on Bloomberg, and those reports were provided to

current and prospective investors showing that KFYield had achieved consistent positive returns. For example, the Q2 2019 Quarterly Report distributed to current investors included a Bloomberg report indicating that the fund had profitable monthly returns for 41 out of the 50 months during the period from April 2015 to June 2019 - including a streak of 21 consecutive months of positive monthly returns from October 2017 to June 2019.<sup>2</sup>

The following chart lists KFYield's annual performance from 2013 to 2019 based on figures reported by Bloomberg and distributed to current and prospective investors:

<u>Year</u>	<u>Bloomberg Reported Performance For KFYield Fund</u>
2013	9.79%
2014	21.27%
2015	.21%
2016	2.24%
2017	1.04%
2018	7.09%
2019 (through June 28, 2019) <sup>3</sup>	2.45%

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<sup>2</sup> With the exception of a -3.33% monthly return in 2015, the fund's performance for the remaining reported eight unprofitable months during that period ranged from -.02% to -.61%.

<sup>3</sup> The Receiver has not seen any information indicating that Kinetic Funds updated the Fund's reported Bloomberg performance figures after September 2019.

Beginning in June 2014, Kinetic Funds moved its brokerage accounts for KFYield and other sub-accounts to Interactive Brokers.<sup>4</sup> According to Interactive Brokers' Portfolio Analyst tool, the KFYield trading account's performance (and change in net asset value) from 2015 (the first full year at Interactive Brokers) to 2019 was:

<u>Year</u>	<u>Actual Interactive Brokers Performance For KFYield Fund</u>
2015	-8.8%
2016	-3.8%
2017	-27.5%
2018	12.8%
2019 (annual)	-1.2%

There are significant discrepancies between the figures reported on Bloomberg and calculated by Interactive Brokers.

For example, in the "Fourth Quarter 2017" quarterly report distributed by Kinetic Investment Group that included the fund's reported performance data on Bloomberg for that period, Defendant Williams stated that "[l]ast year maintained a conservative approach of over-hedging against potential market volatility." The Bloomberg report included with that Quarterly Report showed that, as of

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<sup>4</sup> Prior to June 2014, trading accounts for KFYield and other sub-funds were held at Bank of America/Merrill Lynch by Kinetic Securities Trading ("KST"), a predecessor to Kinetic Funds.



December 29, 2017, the fund had total assets of \$31.78 million and its year-to-date performance was 1.04%.

However, the 2017 annual statement produced by Interactive Brokers for KFYield's trading account showed that the account declined in value by over 25% during that period:

Net Asset Value					
	December 31, 2016	December 31, 2017			Change
	Total	Long	Short	Total	
Cash	-11,437,677.94	0.00	-88,877,936.84	-88,877,936.84	-77,440,258.90
Stock	17,663,496.00	104,667,799.00	-219,768.00	104,438,041.00	86,784,546.00
Options	264,376.52	3,067,374.02	-13,927,674.86	-10,860,300.83	-11,124,677.36
Interest Accruals	-4,140.83	0.00	-99,942.86	-99,942.86	-96,802.03
Dividend Accruals	34,887.82	134,620.11	0.00	134,620.11	99,632.29
<b>Total</b>	<b>6,610,940.57</b>	<b>107,869,693.13</b>	<b>-103,126,312.66</b>	<b>4,734,380.68</b>	<b>-1,776,669.99</b>
<b>Time Weighted Rate of Return</b>					<b>-27.62%</b>

According to this statement, KFYield had a Net Asset Value ("NAV") of \$6,510,940.57 as of December 31, 2016, and that NAV declined to \$4,734,380.58 as of December 31, 2017 - an annual change of -\$1,776,559.99 or -27.62% of the account's NAV. As of December 31, 2017, the account holdings consisted of over \$104 million in stock positions, -\$10.8 million in net options positions, and a cash balance of nearly -\$89 million.<sup>5</sup>

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<sup>5</sup> Unlike previous reports, which included the fund's top 10 holdings as of the end of the relevant quarter, the 2017 Q4 report included the fund's top holdings as of February 13, 2018 - approximately 45 days after the end of the relevant quarter and which were significantly different than the fund's holdings as of December 29, 2017.

Another portion of that statement entitled “Change in NAV” showed a breakdown of the annual change in the NAV during that period:

Change in NAV	Total
Starting Value	6,510,940.67
Mark-to-Market	-3,164,506.38
Position Transfers	16,684.00
Dividends	1,923,148.82
Withholding Tax	-2,036.76
Change in Dividend Accruals	99,632.29
Interest	-439,632.20
Change in Interest Accruals	-95,802.03
Other Fees	-253.30
Commissions	-120,842.30
Transaction Fees	-2,953.13
Ending Value	4,734,380.68

As the statement shows, the KFYield account generated nearly \$2 million in dividends during this period (which appeared to have largely been generated by using significant amounts of margin to purchase dividend-generating equities) but also incurred mark-to-market losses of over -\$3.1 million and paid over \$500,000 in commissions and margin interest charges.

Despite having open equity positions with a value of more than \$100 million as of December 29, 2017, the account statement shows that the vast majority of these holdings were purchased using margin and that the net account value was actually \$4.734 million as of December 29, 2017. In other words, the account’s liquidation would have generated less than \$5 million in net proceeds. The fund’s reported NAV of roughly \$4.7 million (and thus value of its investment holdings)

as of December 31, 2017, differs by over \$25 million compared to the total assets represented in the Bloomberg report for the same time period. Similarly, the account's annual decline of over 27% during 2017 is significantly different than the 1.04% increase represented in the Bloomberg report for the same period. The Receiver has made requests to Defendant Williams' counsel for more information and clarification regarding the calculation of investment performance for KFYield but has, to date, not received any formal response.

**ii. Apparent Shortfall**

Based on the above-identified discrepancies, there appears to have been a shortfall between actual and reported fund assets since at least 2017. Using the late-2017 timeframe as an example, the December 2017 monthly statements distributed to KFYield investors show the total market value of the KFYield fund investments as nearly \$27 million.<sup>6</sup> This theoretically is the amount of funds that were being held and managed on behalf of KFYield investors, and accordingly is the amount that would need to be returned in the event that all investors elected to redeem their investments.

However, it appears that Kinetic Funds had approximately half of the amount represented to KFYield investors readily accessible and available for

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<sup>6</sup> This figure also appears to differ from the Bloomberg report showing total KFYield assets of nearly \$32 million as of December 29, 2017.

withdrawal as of December 31, 2017. As of December 31, 2017, Kinetic Funds' bank account at BMO Harris (which held investor deposits) had a balance of approximately \$9.8 million, and KFYield's sub-account at Interactive Brokers had a value of approximately \$4.73 million. Thus, Kinetic Funds had approximately \$14.5 million of available cash or securities assets to satisfy total KFYield investor obligations of approximately \$27 million (which does not include holdings or margin obligations in Kinetic Funds' other sub-accounts at Interactive Brokers<sup>7</sup>). Although the Receiver understands that Kinetic Funds had extended various Lendacy loans to investors and non-investors, the near-entirety of those loans specifically provided that the loans were unsecured and thus were not assets that could be immediately called or otherwise converted to cash to meet investor redemptions. Indeed, in the event that KFYield's largest investor alone sought to liquidate its \$18 million investment (which did not have a corresponding Lendacy loan), it is unclear how Kinetic Funds would have been able to satisfy that redemption - let alone maintain continuity of operations. The Receiver continues to investigate the origin, extent, and duration of this shortfall.

**B. Analyzing The Use Of Investor Deposits**

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<sup>7</sup> For example, Kinetic Funds' master account had a negative margin balance of -\$7.3 million as of December 31, 2017 for which Kinetic Funds was legally responsible.

From January 15, 2013 to March 4, 2020 (the “Relevant Period”), approximately \$44.1 million was deposited into Kinetic Funds’ BMO Harris bank account with account number ending in x4255 (the “KF Bank Account”). The analysis by the Receiver and his Retained Professionals shows the following flow of funds and transaction activity in the BMO Account holding investor deposits:

- Approximately **\$11 million** was transferred during the Relevant Period from the KF Bank Account to Kinetic Funds’ Interactive Brokers brokerage account in the master account with account number ending in x8796 (the “Brokerage Account”). This included a \$5 million transfer on December 29, 2016 which was used to reduce the then-outstanding -\$12.23 million margin balance to -\$7.24 million as of December 31, 2016, and thus never deposited into the KFYield sub-account. Another \$5 million was transferred to the Brokerage Account on June 29, 2018, of which \$4.995 million was transferred to the KFYield sub-account that same day.
- Nearly **\$13 million** of investor deposits was transferred from the KF Bank Account to Lendacy’s BMO Harris bank accounts ending in x8676 and x1081 (the “Lendacy BMO Accounts”) during the Relevant Period, which was in turn used for various purposes including:
  - Making at least 34 loans totaling **\$6.1 million** to various investors, insiders, and third-parties (excluding Michael Williams);
  - Transferring an additional **\$4.3 million** at the direction, and for the benefit, of Defendant Williams for two separate purchases of real estate in Puerto Rico;
  - Transferring nearly **\$1 million** to Kinetic Investment Group’s BMO Harris bank account;
  - Transferring **\$586,550** to El Morro Financial;
  - Transferring **\$550,000** to LF42; and
  - Transferring nearly **\$500,000** for a private investment in an aerospace company in the name of Kinetic International.

- At least **\$6.1 million** of investor deposits was transferred from the KF Bank Account to current and former investors in the form of redemptions and distributions.
- Nearly **\$3.9 million** was transferred from the KF Bank Account to Kinetic Investment Group's BMO Harris bank account during the Relevant Period.<sup>8</sup> Kinetic Investment Group's bank account also received transfers of nearly \$1 million from Lendacy.
- Over **\$4 million** was transferred by the Receivership Entities to various third parties for professional services or payments, including:
  - Over \$1.53 million to ADP, a payroll processing company;
  - Nearly \$1 million to American Express for credit card payments;
  - Nearly \$700,000 for rental payments for the Sarasota KIG office and the Puerto Rico office used by El Morro and other entities;
  - Roughly \$230,000 for health insurance;
  - Approximately \$122,000 to Bloomberg LP; and
  - Nearly \$500,000 to legal and accounting firms.
- Over **\$1 million** was transferred in connection with Receivership Entity KIH, Inc. f/k/a Kinetic International, LLC's efforts to develop a software exchange platform known as ISX, including:
  - The transfer of **\$550,000** from the KF Bank Account to two Puerto Rico bank accounts established for Kinetic International, LLC;
  - The transfer of over **\$500,000** to fund a "launch event" in March 2019 and to pay outside contractors and developers.

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<sup>8</sup> Kinetic Investment Group also received nearly \$1 million in transfers from the Lendacy Accounts, which received the near-entirety of their funding from the KF Bank Account (\$12.9 million) and payments from loan recipients (\$2.7 million).

On March 5, 2020, one day before the Court's hearing on the Commission's motions seeking an asset freeze and appointment of a receiver, Defendant Williams deposited approximately \$2.9 million with the Receivership Entities which included a \$2.35 million deposit into the KF Bank Account. Prior to that deposit the day before the Court's hearing, the KF Bank Account had a balance of less than \$5.2 million. Following appointment of the Receiver on March 6, 2020, a total of approximately \$7.6 million was frozen in the Receivership Entities' bank accounts at BMO Harris.

**C. Kinetic Funds Management Fees**

The Receiver's investigation shows Kinetic Funds and Lendacy made total transfers of nearly \$5 million to Kinetic Investment Group over the relevant period - including nearly \$3.9 million alone from Kinetic Funds. Although the agreements between Kinetic Funds and its investors specified that Kinetic Funds would pay Kinetic Investment Group a management fee of 1% of assets under management as well as 20% of any profits realized from trading of investor assets, the total transfers of nearly \$5 million appear to be significantly larger than what the 1% "expense ratio" for assets under management would have been even using the numbers reported to investors at the end of each calendar year.<sup>9</sup> Based on the

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<sup>9</sup> This also assumes that Kinetic Investment Group was entitled to receive this "expense ratio" fee even if a majority of investor funds were never deposited into brokerage accounts as represented.

Receiver's investigation, it appears that at least a portion of these transfers were used by Kinetic Investment Group for other unauthorized expenses that did not benefit investors. For example, Kinetic Investment Group made nearly \$1 million in transfers to El Morro Financial during the period of March 2017 to December 2019. *See* First Report pp. 47-53.<sup>10</sup> The Receiver continues to investigate these discrepancies.

**D. Lendacy's Funding Source Was Kinetic Funds**

Lendacy received approximately \$17 million into its bank accounts from February 2013 to March 2020, including nearly \$13 million in transfers of investor funds from Kinetic Funds' bank account. Lendacy used these transfers to fund at least 34 loans to various individuals and entities during that time period. These loans often featured significantly below-market rates, were not typically collateralized, and contained little recourse in the event of default. Of those loans, roughly a third were made to insiders and non-KFYield investors that were necessarily funded using investor assets.

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<sup>10</sup> The vast majority of these transfers appear to have been made pursuant to monthly invoices ranging from \$25,000 to \$50,000 generated by El Morro for purported services relating to "Statement Reporting" and other various expenses apparently for Kinetic Funds investors. El Morro also funded a lavish Kinetic Financial Summit in San Juan, Puerto Rico in early 2019 that had no discernible benefit to Kinetic Funds investors.



For example, a Lendacy loan was made to non-investor M.J. on or about May 4, 2016. It is believed that M.J. is Defendant Williams' niece, and the purpose of the loan appears to have been to fund a summer college program. The loan has been in default since M.J. last made a payment in June 2019. At least four employees also received Lendacy loans for various reasons including a "sales draw" and also to fund employee K.P.'s purchase of Defendant Williams' car. Each of those loans were in default no later than February 2019. Another Lendacy loan was made to Puerto Rico resident A.C. for what appears to be repairs to a business located in Puerto Rico. None of those Lendacy loan recipients were Kinetic Funds investors, meaning that their "loans" were necessarily funded with investor deposits.

A document located in Kinetic Funds' files and prepared by the former office administrator shows that a number of the investor loans were also in default as of December 2019 – including some loan recipients that had not made payments in months or even years. For example, Lendacy loans totaling approximately **\$2.5 million** to investors L.W., M.S., and C.G. appear to have been in default **since at least 2015**.

**E. Significant Losses From Association With VTrader Pro, LLC**

At the March 6, 2020 hearing, Defendant Williams' counsel disclosed that part of the Kinetic Funds asset shortfall identified by the Court was attributable to

losses suffered in connection with Kinetic Funds' previous relationship with a failed broker-dealer named VTrader Pro, LLC ("VTrader"). The Receiver has seen evidence that Kinetic Funds' predecessor, KST, was a Class B, "Entrepreneurial Member Trader" of VTrader before VTrader's registration was terminated in January 2013.<sup>11</sup> As an "Entrepreneurial Member Trader," KST shared in the profits and losses of VTrader and received distributions based on the percentage of profits in its individual trading accounts. There were number of other Member Traders in VTrader that were unrelated to KST or Defendant Williams. KST and every other Member Traders' trading accounts were assets of VTrader and essentially comingled. This meant that KST's trading account was subject to VTrader's obligations and third party claims and exposed to the losses and shortfalls incurred by other Member Traders.

At some point in 2011, VTrader suffered heavy losses and needed a capital infusion to remain viable. To this end, Defendant Williams agreed to exchange \$1 million from the KST Class B investment in VTrader and convert it to Class A stock. VTrader subsequently collapsed, resulting in the loss of KST's \$1 million investment. It appears those losses were satisfied by (and correspondingly

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<sup>11</sup> See <https://brokercheck.finra.org/firm/summary/131920>.

depleted) investor assets.<sup>12</sup> A K-1 was also generated showing a \$1 million loss for Kinetic Partners, LLC.

Between mid-2012 through the end of 2012, it appears KST moved its accounts out of VTrader and over to Bank of America/Merrill Lynch. The Receiver's investigation into these events has been hampered by the passage of nearly ten years from these events and the unavailability of sufficient documentation, but it appears that investor funds were adversely affected.

**F. Williams' Use Of Investor Funds For His Own Benefit**

The Receiver's review of the financial transactions among the various Receivership Entities has allowed him to trace millions of dollars in investor funds that were transferred to or for the benefit of Defendant Williams and without any discernible authorized purpose or benefit to Kinetic Funds. As further detailed in the First Report, these transfers include:

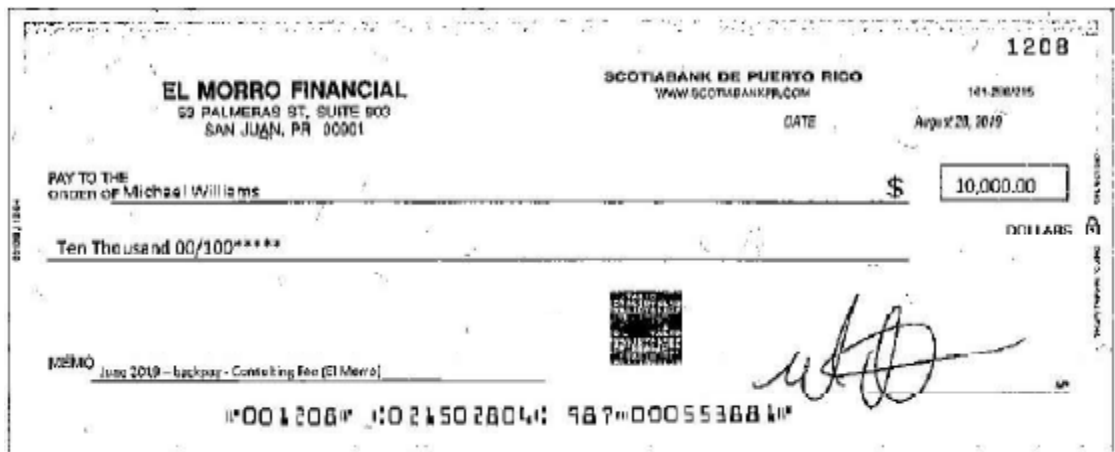
- The use of \$1.5 million in investor funds, later classified as a Lendacy loan, to purchase two luxury apartments in Puerto Rico and corresponding parking spaces. In addition to using one of the apartments as his primary residence, Defendant Williams also rented out one of the units to a tenant for which he received monthly rental income not turned over to Kinetic Funds (Doc. 60 pp. 43-44);

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<sup>12</sup> In January 2012, VTrader informed Williams that most of the \$1 million that KST had converted to Class A stock had been used to pay down debt balances owed by Class B members and was gone. With respect to the \$1 million Williams converted into a Class A investment, it appears that KST received only \$5,000 in the liquidation. Thus, in addition to any trading losses KST incurred on its subaccounts, it also seemingly lost nearly \$1,000,000 as a result of its Class A investment in VTrader.

- The use of \$2.755 million in investor funds, later classified as a Lendacy loan, to purchase a historic commercial bank building in San Juan, Puerto Rico on behalf of Receivership Entity Scipio, LLC (Doc. 60 pp. 45-46);
- The use of \$2 million in investor funds, later classified as a Lendacy loan on behalf of Receivership Entity LF42, for various expenses relating to several Receivership Entities located and operating in San Juan, Puerto Rico, including the funding of the “Kinetic Summit” in February 2019 (Doc. 60 p. 47);
- The payment of nearly \$1 million in investor funds to Receivership Entity El Morro Financial purportedly for statement preparation and other services and the payment of more than \$50,000 in salary to Defendant Williams from mid-2017 to mid-2019. Several \$10,000 checks were also written payable to (and signed by) Defendant Williams in late 2019 that contained the notation “Consulting Fee” in the memo portion:





(See First Report pp. 47-53);

- The structuring of at least one “Consulting Agreement” between Kinetic Investment Group and LF42, Defendant Williams’ entity, including an agreement in September 2019 - after Defendant Williams was on notice of the Commission’s investigation - signed by Defendant Williams on behalf of KIG and LF42 and pursuant to which Kinetic Investment Group transferred \$10,000 per month to LF42 from September 2019 to February 2020 for Defendant Williams’ benefit (See First Report p. 47);
- The sale of Defendant Williams’ car to an employee in the Sarasota, Florida Kinetic Funds office for which the employee signed a Lendacy loan for \$18,000 and the same sum was wired to Defendant Williams (See First Report p. 47); and
- Arranging for who the Receiver understands to be Defendant Williams’ girlfriend to be on the payroll of Kinetic Investment Group despite the lack of any justifiable business purpose or services for value (See First Report pp. 47).

#### IV. ACTIONS TAKEN BY RECEIVER DURING REPORTING PERIOD

During the period covered by this Interim Report, the Receiver took a number of steps to fulfill his duties under the Order Appointing Receiver.

- A. **Moved to Approve The Sale of The Villa Gabriela Properties with the Court on April 1, 2022 (Doc. 275) and Addressed Defendant**

**William’s Opposition Motion to the Approval of Sale (Doc. 277)  
with Receiver’s Memorandum in Reply (Doc. 281).**

In addition to the Bank Building, the Commission’s Complaint also alleged that Defendant Williams “used KFYield funds” to purchase “three luxury apartments and two parking spaces for himself in San Juan, Puerto Rico.” Doc. 1 ¶ 34. The Receiver’s investigation revealed evidence supporting these allegations, including that funds from Kinetic Funds’ bank account were directly traceable to the purchase of the Villa Gabriela Properties. *See, e.g.*, First Report pp. 43-44. On May 15, 2020, the Receiver filed his Motion for Possession of and Title to Residential Real Property (the “Motion for Turnover”) (Doc. 72) seeking turnover of the Villa Gabriela Properties in order to secure and liquidate the property to generate additional funds to be used to compensate Kinetic Funds investors.<sup>13</sup> After the Motion for Turnover was filed, the Receiver was approached by Defendant Williams’ counsel and subsequently entered into an agreement to resolve the Motion for Turnover that was set forth in the Joint Stipulation filed on July 6, 2020, and later adopted by the Court on July 8, 2020 (Doc. 105).

After the mediation between the Commission and Defendant Williams resulted in an impasse, the Receiver reached out to local appraisers and obtained

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<sup>13</sup> On March 6, 2020, Williams’ counsel informed the Receiver’s counsel of their position that the Villa Gabriella property was not subject to the Receiver’s reach since it was held and owned by Williams individually. The Receiver temporarily agreed not to seek possession of the Villa Gabriella property in which Williams (and his girlfriend) were allegedly living.

three appraisals of the Villa Gabriela Properties. In late May 2021, Defendant Williams' counsel communicated to the Receiver that Mr. Williams opposed any sale of the Villa Gabriella property before the case was scheduled for trial. Mr. Williams also refused to discuss turning over possession of the Villa Gabriela Properties, indicating that Defendant Williams' girlfriend and other family members were residing in the penthouse unit of the property.

After learning that the penthouse unit of the Villa Gabriela Properties had been vacant for some time, and also being informed that the tenant in the other property would be moving out, the Receiver has worked with his Puerto Rico local counsel to take steps to transfer title of the Villa Gabriela Properties to the Receiver as provided in the agreement between the Receiver and Mr. Williams. After significant efforts, title was successfully transferred to the Receiver. The Receiver also worked with his Puerto Rico local counsel to address an outstanding administrative issue from the time the property was initially sold to Mr. Williams, and that issue was also resolved during the Reporting Period.

After title was transferred to the Receiver, the Receiver learned from property representatives that there had not been any inhabitants in the penthouse unit (including Defendant Williams' girlfriend or mother) for some time and also that Mr. Williams had been delinquent in paying monthly HOA fees for the penthouse unit to the Council of Owners of Villa Gabriela. The Receiver

subsequently took possession of the Villa Gabriela Properties and has been in contact with the Council of Owners of Villa Gabriela to address the pending deficiencies. The Receiver also worked with his Puerto Rico real estate broker to list the Villa Gabriela Properties for sale. Following extensive marketing efforts and bidding process (which included interest from over two dozen potential buyers), the Receiver ultimately agreed to sell the Properties for \$2,100,000.00 to Allan Rothstein (the “Purchaser”), as set forth in the Purchase and Sale Agreement. Details of the Villa Gabriela Properties were posted to the Receiver’s website, [www.kineticreceivership.com/assets-for-sale](http://www.kineticreceivership.com/assets-for-sale). The proposed sale price is 40% higher than the price previously paid by Williams using funds traceable to investor deposits. On April 1, 2022, the Receiver filed Receiver’s Motion for Approval of the Sale of the (1) Private Sale of Puerto Rico Real Properties and Parking Spaces; and (2) Proposed Publication, Marketing, and Overbid Procedures Associated with the Sale of the Real Properties. (Doc. 271).

On April 15, 2022, Defendant Williams filed a Response in Opposition to the Receiver’s Motion for Approval of Sale of Condos (Doc. 277.) In this Response, Defendant Williams alleges multiple scattered arguments requesting the Court to deny the approval of the sale – specifically claiming that he engaged in no wrongdoing. In his Motion, Defendant Williams’ expressly ignores the previously-entered Joint Stipulation, in which he agreed that title to the Real



Property would be transferred to the Receiver. (Doc. 103.) Williams also agreed to “use reasonable and best efforts to cooperate with the Receiver to effect the transfer of ownership.” (Doc. 103, ¶¶ 5, 6.) Now, at the point where Receiver is in the final stages of receiving approval of the sale from the Court to bring in necessary funds to distribute to the investors, Williams claims he engaged in no “wrongdoing” and that the sale should not be approved. (Doc. 103.) To address Defendant Williams’ opposition to the approval of the sale, Receiver and Receiver’s staff expended valuable resources in preparing a seven-page memorandum in Reply, addressing Defendant Williams’ arguments (Doc. 281).

Additionally, the Receiver’s staff has continued to handle the administrative costs of holding title to the Villa Gabriela Property, which is explained in more detail in Section (2) below. Furthermore, the real estate professionals, hired by the Receiver to handle the sale and administer the sale, have continued to hold \$63,000.00 of buyer’s escrow deposit for approximately four months. The real estate professionals cannot release the funds to the Receivership Estate until the sale is approved by the Court. As detailed below, every month that Receiver continues to hold title to the Villa Gabriela Property, Receiver must continue to pay administrative costs in the form of Homeowners Association Fees and Real Property Taxes. Receiver will continue to adamantly oppose Defendant Williams’ arguments that the sale should not be approved by the Court.

**B. Administered and paid expenses for continuing costs of holding title to Villa Gabriela Real Property including Homeowners Association Fees, Maintenance Costs, and Real Property Taxes.**

During the reporting period, Receiver paid certain outstanding administrative costs involving the Receivership's Real Property including: (1) the Homeowners Association Fees for the Villa Gabriella Property, and (2) the real estate taxes, which all are continuing in nature. During the reporting period, Receiver, as title owner of the Villa Gabriella Property, paid and closed out all back-owed Homeowners Association Fees, which totaled **\$35,033.25**. These Association fees were incurred partially during the time period Williams held the Real Property. Due to potential continuing fines and interest, the Receiver chose to satisfy all outstanding payment as the title holder. The maintenance of the Villa Gabriela Property continues to be managed by the HOA. The monthly HOA payments and potential assessments will continue to be levied on Receiver until the property is fully transferred to purchaser. During the reporting period, a plumping leak occurred in the property, which Receiver promptly handled by professionals in Puerto Rico. The Receivership Estate continues to lose funds while the Receiver remains responsible for all property taxes for the Villa Gabriela Property. During the reporting period, Receiver paid all outstanding taxes, which totaled \$11,178.49. Both the HOA monthly fees and the Real Property Taxes are continuing in nature. As long as title remains with Receiver, Receiver will be

responsible for these sums and must continue to make payment to avoid late fees and fines.

**C. Reviewed Potential Third-Party Claims, Sent Demand Letters To Third-Parties, And Obtained Resolutions**

The analysis performed by the Receiver and his Retained Professionals identified various potential claims with respect to third-parties that may have received improper transfers consisting of investor assets. This included, without limitation, non-investors and/or insiders that received Lendacy loans as well as third-parties that received an inequitable transfer and/or benefit traceable to investor funds. The Receiver filed his Unopposed Motion to Approve Procedure to Pursue Potential Third Party Claims on February 10, 2021, and the Court approved the motion on February 25, 2021 (Doc. 181).

The Receiver identified seven entities and individuals who received loan payments from Lendacy or Kinetic entities which were funded using investor funds. The total of these loans amounted to **\$235,129.92**. To recover these funds for the Estate, the Receiver sent demand letters to each individual or entity in which he agreed to accept repayment of the outstanding loan amount as of the date of the Receiver's appointment in exchange for not pursuing any accrued interest or fees (as well as attorney's fees incurred in that process). All individuals, with the exception of one, have responded to the Receiver's letters and openly communicated regarding the debts. One individual sent the Receiver a check for

repayment of their outstanding loan amount. The Receiver has established a payment plan with multiple investors regarding their debts. Of note, The Receiver obtained a lump sum payment of the full debt owed- **\$111,472.12** from one investor, obviating the need for a debt repayment plan. The Receiver has also evaluated claims of hardship made by individuals who assert they do not have the financial ability to pay the full outstanding debt. In the event the Receiver is not able to reach an amicable resolution regarding an individual's debt, he intends to consider all alternatives including filing litigation.

**D. The Ninth Interim Report**

The Receiver prepared and filed his Ninth Interim Report on April 29, 2022 (Doc. 280), which provided a comprehensive summary, analysis, and supporting documentation of the Receiver's continuing investigation as well as the tracing of investor funds.

**C. Continued Investigation And Review of Relevant Documentation and Information and Tended to Ongoing Litigation Matters**

The Receiver and his professionals continued their investigation of the business operations of the various Receivership Entities. This included identifying, obtaining, and reviewing relevant documentation and information from the Receivership Entities' offices and interviewing various individuals. The Receiver has also, as necessary, continued to monitor the Court's docket given

that the Commission's claims against Mr. Williams remain pending. The Receiver continues to make monthly transfers to Defendant Williams to pay Court-ordered monthly living expenses (Doc. 95). Both the Commission and Defendant Williams filed their respective motions for summary judgment on March 16, 2021, with Defendant Williams also filing his Motion for Judgment on the Pleadings. Those motions are fully briefed and remain pending. On July 21, 2021, the Court entered an Order granting the Commission's request to postpone any trial date pending resolution of several pending case-dispositive motions. Doc. 251. That Order also denied Mr. Williams' request to modify the asset freeze order. *Id.*

**A. Continued Investor Outreach and Administration Of Website**

Throughout the relevant period, the Receiver continued to communicate with investors and other interested parties regarding the status of his efforts and any particular questions or issues brought to the Receiver's attention. The Receiver also continued to administer his informational website located at [www.kineticreceivership.com](http://www.kineticreceivership.com) which is regularly updated with court filings and reports and also allows interested parties to contact the Receiver.

**B. Receivership Accounting**

Receivership funds are currently being held at ServisFirst Bank. The Receiver has attached a standardized fund accounting report showing the total funds on hand and secured as of July 28, 2022 as **Exhibit 1**.<sup>14</sup>

**CI. THE NEXT QUARTER**

**A. Investigation**

The Receiver believes he has identified and, if applicable, frozen or secured all known assets attributable to investor funds, and he continues to investigate the Receivership Defendants' business operations and underlying financial transactions between those operations.<sup>15</sup> These investigative efforts remain ongoing through the review of additional documents from (and, where necessary, interviews with) third parties. The Receiver continues to work diligently and efficiently on this task, which includes a substantial amount of documentation and financial records. The Receiver will continue to attempt to locate additional funds and other assets and will likely institute proceedings to recover assets on behalf of the Receivership Defendants. In an effort to more fully understand the conduct at

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<sup>14</sup> The report includes the bank account holding funds previously transferred by Williams' former counsel to the Receiver.

<sup>15</sup> A further description of these assets and the Receiver's intended liquidation plan is set forth in the Receiver's Liquidation Plan (Doc. 92) available on the Receiver's website and incorporated herein.

issue and in an attempt to locate more assets, the Receiver will continue to conduct interviews and/or depositions of parties and third parties who may have knowledge of the fraudulent scheme. The Receiver believes that continuation of the Receivership (and employment of the Retained Professionals) is necessary and imperative for the continued marshaling, liquidation, and distribution of assets.

**B. Continuing Implementation Of Claims Process**

The Receiver has prioritized the process of returning investor funds as soon as possible, which resulted in a First Interim Distribution being made in November 2021 to Investor Claimants with approved claims. The First Interim Distribution represented the return of 40% of each Investor Claimant's approved claim. Going forward, the Receiver will continue to monitor the Court docket and work with his Retained Professionals to determine the appropriate time to request Court approval for any subsequent distribution(s).

**C. Liquidation of Assets**

The Receiver continues to prioritize the marketing and sale of the Receivership Estate's real property assets. Following his successful liquidation of the Bank Building for net proceeds of **\$4.0 million**, the Receiver worked with his professionals to transfer title of the Villa Gabriela Properties from Defendant Williams to the Receiver and has now listed the properties for sale. Any interested parties can obtain additional details by visiting the Receiver's website at [www.kineticreceivership.com/assets-for-sale](http://www.kineticreceivership.com/assets-for-sale). If and when the Receiver enters

into a contract to sell the Villa Gabriella property, he will file a motion seeking Court approval.

The Receiver has now disposed of all of the remaining personal property secured from Kinetic Funds' office in Sarasota, Florida, which has included donations to three local non-profits. As for the ISX software, the Receiver was previously provided with a "Summary & Valuation of ISX Codebase" prepared by Marshall Swatt which, among other things, concluded that the "codebase is largely a preliminary design, for proof of concept or demonstration purposes, rather than suitable for actual use" and estimated that the software has a current market value of approximately \$45,000. The Receiver intends to explore available options to realize any value from the ISX asset. Finally, the Receiver will continue to engage in discussions with the Zephyr principal regarding the ability to receive any value for that investment. Any interested parties should visit the Receiver's website at [www.kineticreceivership.com](http://www.kineticreceivership.com) for more information.

**D. Potential Third-Party Claims**

The Court granted the Receiver's Unopposed Motion to Approve Procedure to Pursue Potential Third Party Claims on February 25, 2021. The Receiver is proceeding with pursuing some of those potential claims and will report back to the Court as those efforts progress. It is too early to estimate whether or not the Receiver will bring any such claims or whether any claims will result in any recovery to the Receivership Estate, and thus the Receiver is not yet able to



predict the likelihood, amount or effectiveness of any particular claim or the claims as a whole. The Court did approve the Receiver's plan to, in some instances, first offer those who are required to return money to the Receivership Estate the opportunity to do so cooperatively and at a slight discount in an effort to avoid costly litigation for all involved. The Receiver will keep the Court apprised if any such actions are instituted.

Respectfully submitted,  
**BUCHANAN INGERSOLL & ROONEY PC**

By:



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*Attorneys for Receiver Mark A. Kornfeld*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on this 29th day of July, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

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Stephanie N. Moot, Esq.  
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Attorney

SEC vs. Kinetic Investment Group, LLC, et al  
CASE NO.: 8:20-cv-394

## EXHIBIT “1”

**Standardized Fund Accounting Report for**  
**Mark A. Kornfeld as Receiver for Kinetic Investment Group, LLC et al. - Cash Basis**  
**Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF**  
**Reporting Period 04/01/2022-06/30/2022**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 04/01/2022):			\$ 6,747,214.73
	<b>Increases in Fund Balance:</b>			
Line 2	Business Income			
Line 3	Cash and Securities**			
Line 4	Interest/Dividend Income	4,442.55		
Line 5	Business Asset Liquidation			
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	5,000.00		
Line 8	Miscellaneous - Other			
	<b>Total Funds Available (Line 1 - 8):</b>		9,442.55	6,756,657.28
	<b>Decreases in Fund Balance:</b>			
Line 9	<b>Disbursements to Claimants</b>	-		
Line 10	<b>Disbursements for Receivership Operations</b>			
Line 10a	Disbursements to Receiver or Other Professionals	91,375.82		
Line 10b	Business Asset Expenses	37,233.25		
Line 10c	Personal Asset Expenses	8,829.36		
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments	25,860.49		
	<b>Total Disbursements for Receivership Operations</b>		163,298.92	163,298.92
Line 11	<b>Disbursements for Distribution Expenses Paid by the Fund</b>			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator			
	Independent Distribution Consultant (IDC)			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>			
Line 12	<b>Disbursements to Court/Other:</b>			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other:</b>			
	<b>Total Funds Disbursed (Lines 9 - 11)</b>			163,298.92
Line 13	<b>Ending Balance (As of 06/30/2022)</b>			6,593,358.36

**Standardized Fund Accounting Report for  
 Mark A. Kornfeld as Receiver for Kinetic Investment Group, LLC et al. - Cash Basis  
 Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF  
 Reporting Period 04/01/2022-06/30/2022**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			6,593,358.36
Line 14a	Cash & Cash Equivalents			6,593,358.36
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	<b>Total Ending Balance of Fund - Net Assets</b>			<b>6,593,358.36</b>
OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
<b>Line 15</b>	<b>Report of Items Not To Be Paid by the Fund</b>			
	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
Line 15a	Plan Development Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund		-	
Line 15b	Plan Implementation Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund		-	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund:			
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			<b>-</b>
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other Not Paid by the Fund</b>		<b>-</b>	
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			
<b>Line 18</b>	<b>No of Claims</b>			
	# of Claims Received This Reporting Period _____			
	# of Claims Received Since Inception of Fund _____			
<b>Line 19</b>	<b>No of Claimants/Investors:</b>			
Line 19a	# of Claimants/Investors Paid This Reporting Period _____			
	# of Claimants/Investors Paid Since Inception of Fund _____			

**\*Broker accounts U1364167 and U1364170 are not part on the Receivership and not included in above report. Accounts were closed and transferred out to the investors**

Receiver: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_

**Standardized Fund Accounting Report for**  
**Mark A. Kornfeld as Receiver for Kinetic Investment Group, LLC et al. - Cash Basis**  
**Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF**  
**Reporting Period From Inception 03/06/2020 to 06/30/2022**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 03/06/2020):			\$ -
	<b>Increases in Fund Balance:</b>			
Line 2	Business Income			
\\	Cash and Securities	13,652,912.22		
Line 4	Interest/Dividend Income	128,800.13		
Line 5	Business Asset Liquidation	4,025,500.00		
Line 6	Personal Asset Liquidation			
Line 7	Third-Party Litigation Income	3,487,645.95		
Line 8	Miscellaneous - Other	223,877.75		
	<b>Total Funds Available (Line 1 - 8):</b>		21,518,736.05	21,518,736.05
	<b>Decreases in Fund Balance:</b>			
Line 9	<b>Disbursements to Claimants</b>	13,216,050.91		
Line 10	<b>Disbursements for Receivership Operations</b>			
Line 10a	Disbursements to Receiver or Other Professionals	1,484,082.15		
Line 10b	Business Asset Expenses	73,014.43		
Line 10c	Personal Asset Expenses	70,635.18		
Line 10d	Investment Expenses	55,113.36		
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses			
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments	26,481.66		
	<b>Total Disbursements for Receivership Operations</b>		14,925,377.69	14,925,377.69
Line 11	<b>Disbursements for Distribution Expenses Paid by the Fund</b>			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator			
	Independent Distribution Consultant (IDC)			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	<b>Total Disbursements for Distribution Expenses Paid by the Fund</b>			
Line 12	<b>Disbursements to Court/Other:</b>			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other:</b>			
	<b>Total Funds Disbursed (Lines 9 - 11)</b>			14,925,377.69
Line 13	<b>Ending Balance (As of 06/30/2022)</b>			6,593,358.36

**Standardized Fund Accounting Report for  
 Mark A. Kornfeld as Receiver for Kinetic Investment Group, LLC et al. - Cash Basis  
 Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF  
 Reporting Period From Inception 03/06/2020 to 06/30/2022**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>			6,593,358.36
Line 14a	Cash & Cash Equivalents			6,593,358.36
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	<b>Total Ending Balance of Fund - Net Assets</b>			<b>6,593,358.36</b>
OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
<b>Line 15</b>	<b>Report of Items Not To Be Paid by the Fund</b>			
	<b>Disbursements for Plan Administration Expenses Not Paid by the Fund:</b>			
Line 15a	Plan Development Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	<b>Total Plan Development Expenses Not Paid by the Fund</b>		-	
Line 15b	Plan Implementation Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	<b>Total Plan Implementation Expenses Not Paid by the Fund</b>		-	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund:			
	<b>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</b>			-
<b>Line 16</b>	<b>Disbursements to Court/Other Not Paid by the Fund:</b>			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	<b>Total Disbursements to Court/Other Not Paid by the Fund</b>		-	
<b>Line 17</b>	<b>DC &amp; State Tax Payments</b>			
<b>Line 18</b>	<b>No of Claims</b>			
	# of Claims Received This Reporting Period _____			
	# of Claims Received Since Inception of Fund _____			
<b>Line 19</b>	<b>No of Claimants/Investors:</b>			
Line 19a	# of Claimants/Investors Paid This Reporting Period _____			
	# of Claimants/Investors Paid Since Inception of Fund _____			

Receiver:  
 By: \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_