

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

SECURITIES AND EXCHANGE COMMISSION, §
V. § Civil Action No. 5:22-cv-114-C
BORON CAPITAL, LLC, et al. §

RECEIVER'S THIRD INTERIM REPORT

Receiver Albert C. Black III reports to the Court as directed, respectfully stating:

Summary

1. On June 15, 2022, the Court entered its Order Appointing Receiver.
2. On August 3, 2022, the Receiver filed his First Interim Report.
3. On December 5, 2022, the Receiver filed his Second Interim Report.
4. Since his last report, the Receiver received input from investors, who favor a reorganization plan and the continued operation of the Dallas Oasis, and, in light of that input, the Receiver worked to put together a detailed distribution motion and accompanying analysis to accomplish these objectives, as well a means of resolving the receivership in relation to the other entities and assets.

Receivership Accounting

5. The Receiver provides herewith fourth quarter ending 2022 financial reports, specifically a cash report for all entities (Ex. 1), a second quarter income statement (Ex. 2), and a sub-financial report for the Dallas Oasis (Ex. 3).
6. The Receiver has collected claims and claims information from the records of the Defendants. The Receiver believes the claims are correctly segregated and stated in the ledgers tendered herewith (Ex. 4).

Assets and Liabilities – Three Pools

7. In working to resolve the proper disposition of the assets and resolution of the claims, the Receiver has further examined whether the receivership estate should be treated as a single pool, or as three separate pools. The Receiver has concluded there are three pools. The following explains why.

The Three Pools – Real Estate, Digital Assets, Elevation Capital

8. The Defendants hold real estate assets principally derived from a series of offerings in which the Defendants sold notes to investors in order to raise money for the purchase and/or development of real estate (the “Boron Real Estate” offerings) under the direction of Defendant Blake Templeton (“Templeton”).

9. Templeton separately raised a fund that was intended to and did actually invest in cryptocurrency, and, although there are some overlapping investors, the funds were kept separate and the fund was managed by a third-party fund manager (the “Boron Digital” offering).

10. Templeton separately raised money for a fund called Boron Fund 8 that was intended to and did invest in a fund created and managed by Elevation Capital called Elevation Fund 8, and, although there are some overlapping investors, the funds were kept separate and the fund was managed by Elevation Capital (the “Boron Fund 8” offering).

Pool 1 - Boron Real Estate

11. Boron Capital, LLC (“Boron Capital”), BC Holdings 2017, LLC (“BC Holdings”), and United BNB Fund 2018, LLC (“United BNB”) raised money by selling notes and similar debt investments purportedly for the purpose of improving commercial real estate. The business operated under the leadership of Blake Templeton (“Templeton”). This business stemmed from an earlier residential house-flipping business Templeton conducted principally through The Texas

District Agency, LLC (“TDA”). Originally, Templeton secured funds from investors, bank mortgages and construction loans. Later, he sold individual notes that were secured by deeds of trust in particular properties. In 2014, he undertook a larger project to develop 29 acres in Midland, Texas located at 9505 W. County Rd. 60 that TDA had acquired (the “Midland Ranch”). He caused TDA to contribute two tracts through Secure Purpose LLC (“Secure Purpose”) to a partnership called Midland Corporate Ranch, L.P. (“Midland Corporate Ranch”), which, with funds contributed by two partners, established a mobile home park that provides temporary housing to oil field workers known by the name of the partnership. He caused 5.5 acres to be contributed to Boron Capital to be developed as Corporate Housing as well (the “Midland Project Back Units”). The remaining unimproved land was contributed to Boron Capital (the “Midland Project Raw Land”). Meanwhile, he continued to improve and flip residential real estate, such as a property on Fairwood in Midland (the “Midland Project at Fairwood”). In 2018, he also identified a home built on ten acres in Red Oak, Texas that he believed could be developed into a venue and performing arts center that he named The Dallas Oasis (“Dallas Oasis”). Originally, investors in notes Templeton sold were secured by deeds of trust in particular properties. However, over time, Templeton began to sell more than one note per property and to list groups of investors on a single deed of trust. Investors would be rolled over into a subsequent project. Ultimately, nearly all of the investors were consolidated into three entities that continued to raise additional funds. When fundraising ceased, the books of Boron Capital carried promissory notes with a total principal amount of \$10,552,154.06; BC Holdings reflected promissory notes with a total principal amount of \$5,350,000; and United BNB showed on its books limited partnership interests (that promised interest payments similar to the notes issued by the other two entities) for which total invested

capital was shown to be \$4,467,240.02. The total principal amount of \$20,369,394.08 in notes or debentures was broken down into 77 investments held by 56 investors.

12. The principal assets that remain are (a) the Dallas Oasis; (b) the Midland Corporate Ranch; (c) the Midland Project Raw Land; (d) the Midland Project at Fairwood; and (e) the Midland Project Back Units. Five investors have the best legal claims to the first four of these assets: the holder of a first-filed deed of trust against the Dallas Oasis; the two original partners in the Midland Corporate Ranch; one investor with a first-filed deed of trust against the Midland Project raw land; and one investor in the Fairwood project who received a first-filed deed of trust in that property (the “Boron Capital Secured Investors”).

13. If the claims of these five Boron Capital Secured Investors are treated as priority secured claims, the remaining investors would receive very little from a liquidation, in the Receiver’s estimation.

14. As for the Dallas Oasis, the Boron Capital Secured Investor holding a deed of trust has a note for which he paid at least \$3.5 million and as to which he asserts the current balance due is in excess of \$4.6 million, taking into account 18% interest since March 15, 2022. As stated in the Receiver’s Second Interim Report, a CBRE appraisal commissioned by the Receiver estimates a market value of the property at \$4.3 million. The Receiver believes this is a high appraisal, and that the property is not likely to have a market value this high. The Receiver’s assessment is set forth in the Second Interim Report, which also notes Defendants’ belief that the business onsite might ultimately succeed (Doc. 39). As of yet, however, there is no basis for a positive value against which to borrow further, nor to be considered in a liquidation, because the business is unproven and has not been able to sustain positive cash flow.

15. As for the Midland Corporate Ranch, the problem is that legal title is vested in a partnership, which, if respected, yields no benefit to general investors of the Boron Capital entities.

16. As for the Midland Project raw land, the Boron Capital Secured Investor holding a deed of trust has a note with a face value of \$1 million, such that this property alone may have equity if its value is actually \$1.6 million as the Receiver has, thus far, only estimated.

17. As for the Fairwood property, the Boron Capital Secured Investor holding a deed of trust has a note with a principal amount of \$1.6 million. An appraisal of the partially renovated property obtained by that investor determined a value of \$1.25 million. The Receiver's due diligence likewise indicates a value of approximately \$1.3 million. So, the Receiver sees no means of recovery for other investors from that property.

18. Taking away the claims of the five Boron Capital Secured Investors from the remainder leaves notes whose principal balances total \$14,269,394.08 in favor of investors who have, at best, secondary rights in either second-filed or subordinated deeds of trust (the "Boron Capital Unsecured Investors"). Considering that there is very little equity in the principal assets and any other assets have a low value and mortgages of their own, the Receiver would be challenged to provide more than 3% distribution to the Boron Capital Unsecured Investors.

19. In regard to Boron Capital, the record further contains evidence submitted by the Securities and Exchange Commission ("SEC") in the form of an appendix (Doc. 7) in support of the motion for an asset freeze and for appointment of a receiver (Doc. 6). The SEC asserts the Boron Capital Unsecured Investors had been promised that their investments would be secured by mortgages in real estate, and the SEC also complained (a) investors in United BNB were promised balance sheets that were never published that would have showed the lack of security for those investors, (b) Templeton was using later invested funds to pay interest to earlier investors, which

created a false appearance of creditworthiness, permitting Templeton to claim, for example, that no investor had lost money, even though the enterprise as a whole was increasingly insolvent, with even the holders of first-filed deeds of trust being under-secured and the enterprise being unable to pay promised interest without continuing to raise new money. In regard to the segregation of the Receivership Estate, the important point is that the SEC views the Boron Capital Unsecured Investors as having invested in real estate and that the funds were used in a commingled fashion to make interest payments. While the Defendants dispute the SEC's allegations of fraud, they generally agree the Boron Capital Unsecured Investors were told their investments would pertain to real estate development and interest was paid to other investors from later investor funds.

20. In addition to the claims of the Boron Secured Investors, the Boron Capital group of entities are unable to pay their debts as they become due and cannot afford customary accounting and investor reporting.

21. There is a difference of view between the Receiver and the Defendants as to whether the operations of the Dallas Oasis may become successful enough to produce a larger return for these investors than liquidation. The Receiver's Second Interim Report examines this business closely (Doc. 39). The business has continued to lose money as reflected on the accompanying financial reports, approximately \$300,000 as of December 31, 2022. As such, it requires working capital to survive.

22. The Defendants have propose to sell the Dallas Oasis as a going concern to TDO Enterprises, LLC ("TDO"), which has offered:

- a. To pay approximately \$4.6 million in cash in order to repay in full the outstanding principal and accrued interest under the note held by the Boron

Capital Secured Investor holding a first-filed deed of trust against the Dallas Oasis;

- b. To issue up to 80% of the common units (being the sole class of equity) in TDO on a pro rata basis to any Boron Capital Unsecured Investors, United BNB Investors, and BC Holdings Investors who elect into the reorganization;
- c. To pay all Boron Capital Unsecured Investors, United BNB Investors, and BC Holdings Investors who elect liquidation 25% of their net cash losses (as reflected on Exhibit A to the Receiver's Motion);¹
- d. To pay all approved administrative costs; and
- e. To provide, through equity capital or debt financing, working capital for the Dallas Oasis in an amount not less than \$1,000,000.

23. TDO requires in exchange the following:

- a. Title to the Dallas Oasis, together with all improvements, fixtures, personal property and other assets located on the Dallas Oasis premises and any other assets and contracts held for use in connection with the Dallas Oasis;
- b. The right to pledge the Dallas Oasis assets as security for a credit facility provided by a third-party lender with a principal amount of up to \$7,000,000;
- c. Satisfaction and full release of claims of the Boron Capital Unsecured Investors relating to the Defendants and/or the Dallas Oasis;
- d. Satisfaction and full release of claims of the Boron Capital Secured Investors with respect to the Dallas Oasis;

¹ NTD: To confirm "net cash losses" will be unreturned principal investment amounts.

- e. Abandonment to Templeton of the below remaining real estate, subject to the acknowledged liens of the Boron Capital Secured Investors and notwithstanding the asset freeze:
 - i. 9305 W. CR 60, Midland (19.51 acres vacant land) (part of the Midland Project Raw Land);
 - ii. 9305 W. CR 60, Midland (1.37 acres vacant land) (part of the Midland Project Raw Land);
 - iii. 9305 W. CR 60, Midland (corporate back units) (the Midland Project Back Units);
 - iv. 1809 18th Street, Lubbock, Texas;
 - v. 2009 Ave. K , Lubbock, Texas;
 - vi. 1813 East Private Rd. 7330, Lubbock, Texas; and
 - vii. 4804 60th Street, Lubbock, Texas.
- f. Release of any claim against Midland Corporate Ranch, LP;
- g. Treatment of the Midland Project at Fairwood property as the Court may direct;
- h. Treatment of Boron Digital and Boron Fund 8 as provided below;
- i. A Sale Order agreed by the Receiver, the SEC, the Defendants and TDO approving the reorganization, approving the sale free and clear of all liens and encumbrances, and containing other customary provisions; and
- j. Termination of the receivership.

24. TDO's cash offer exceeds what the beneficiaries of that offer could receive from liquidation.

25. The offer of up to 80% of the common units of TDO is at least the substantial equivalent of where the investors functionally stand now, given the relative legal arguments of the Boron Capital Secured Investor holding the first-filed deed of trust against the Dallas Oasis.

26. Following the issuance of the Receiver's Second Interim Report, investors were polled as to whether they would prefer a liquidation or to let the Dallas Oasis attempt to proceed

as a going concern even if that meant it consumed considerable remaining value from the receivership estate. The investors overwhelmingly preferred the latter.

27. The Defendants have not agreed to any form of liquidation.

28. The Receiver believes it is appropriate to take steps to accelerate the timetable for liquidation, so that, in the event TDO fails to contribute an adequate sum to complete its cash obligations under its proposal or the reorganization proposal otherwise fails, then the Receiver will be able to liquidate all of the real estate in the receivership estate, and make a pro rata distribution. One consideration is that this approach would forestall further collection efforts from the Boron Capital Secured Investors that hold first-filed deeds of trust, and the fact that the Dallas Oasis continues to incur operating losses that would have to be deducted from any sale proceeds along with any administrative expenses.

29. The Boron Capital Secured Investor holding the first-filed deed of trust against the Dallas Oasis has demanded that a sale process be initiated and his credit bid recognized. Given the status of matters, this is a reasonable demand that the Receiver believes the Court should accommodate, subject to the reorganization proposal set forth above.

30. The Boron Capital Secured Investor holding the first-filed deed of trust against the Midland Project at Fairwood property seeks similar treatment, ideally a deed-in-lieu of foreclosure. As that property has been improved in the course of the receivership, the Receiver believes those improvements should be taken into account out of the proceeds of a sale. The amount of the funds invested in such improvements is \$267,068.04 and the nature of the improvements is provided in the attached summary (Ex. 5).

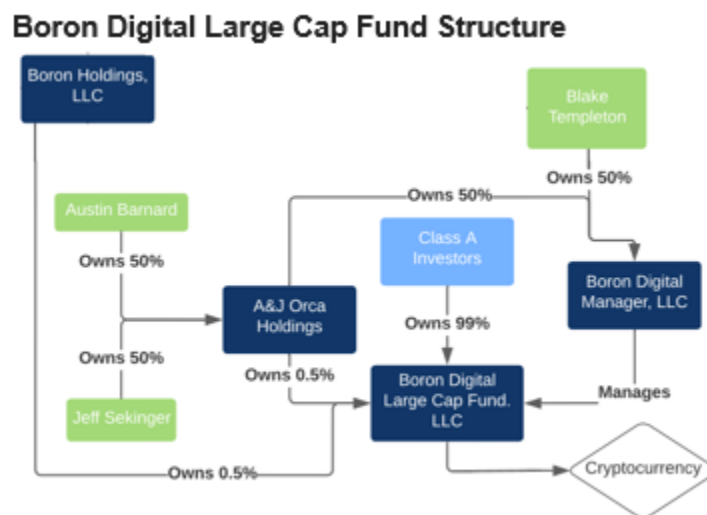
Boron Digital

31. Separate and apart from the foregoing, Templeton undertook a separate venture in late 2021 to raise a fund to invest in cryptocurrency. The fund had a separate fund manager. The fund raised \$3,544,603.00 from 13 investors.

32. Templeton employed the same network of relationships and means of advertising to raise investments in the fund. Some of the investors are investors in the other offerings. Some are new investors.

33. All of the invested funds were entrusted to the fund manager. None of the funds were invested in the above-described real estate ventures, nor in Boron Fund 8 described below.

34. The Defendants have provided the following chart that presents the structure of the cryptocurrency fund:



35. The “Class A Investors” hold limited partnership interests in the Boron Digital Large Cap Fund, LLC.

36. Boron Digital Manager, LLC is the manager of the fund. Templeton controls the manager.

37. The fund lost over half of this value by pursuing a strategy of buying and then continuing to hold cryptocurrencies, primarily Bitcoin, notwithstanding a persistent decline in value. The Receiver halted this decline by selling the assets, and, after the digital asset exchanges further destabilized, removed the cash to a bank account whose current balance is \$1,531,499.96.

38. Templeton seeks a release of the fund from the receivership.

39. To date, the investors in the fund have not opposed this result.

Boron Fund 8

40. Separate and apart from the foregoing, Templeton raised money for Elevation Fund 8. He established Boron Fund 8, LLC. That entity sold limited partnership interests to 13 investors for a total of \$3,825,000.00.

41. The Receiver presently believes the funds were transferred to Elevation Fund 8.²

42. Boron Fund 8 received equity membership shares and a promised preferred rate of return of 10%.

43. Boron Fund 8 is not presently entitled to redeem its investment.

44. In the past 6 months, Boron Fund 8 has received distributions from Elevation Fund 8 of approximately \$150,000.

45. Elevation Fund 8 purportedly holds self-storage and manufactured home communities. Elevation Fund 8 has declined to provide financials or details as to the assets actually held.

46. Templeton seeks a release of the fund from the receivership.

47. To date, the investors in the fund have not opposed this result.

² In recent inquiries, Elevation Fund 8 has declined to confirm the amount transferred. The corporate documents indicate the Boron Fund 8 manager is entitled to be compensated with an annual management fee to the Manager equal to the greater of 2.0% of the assets under management or (ii) \$125,000.00. Templeton reports the Manager has, thus far, deferred any payments.

Plan for Administration, Restructure, Liquidation and Distribution

48. A plan for restructure and liquidation is being presented by separate motion.
49. A plan for the handling of the Midland Project at Fairwood will be presented by separate motion.

Respectfully submitted,

/s/ Dennis Roossien
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COUNSEL FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of March, 2023, a true and correct copy of the foregoing instrument was served electronically in compliance with the Court's Electronic Filing Procedures on all counsel of record who are deemed to have consented to electronic service.

/s/ Dennis Roossien