

Kevin Kent

Conrad O'Brien, PC

Member Profile as of June 23, 2022

National Association of Federal Equity Receivers



Kevin D. Kent, 63298303

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STATEMENT OF INTEREST FORM
NAFER BOARD OF DIRECTORS

Name: Kevin Dooley Kent

Address: 1500 Market Street, West Tower, Suite 3900

City, State, Zip: Philadelphia, PA 19102

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Years you have been a receiver: 2 Years you have been a NAFER Member: 10 years

Profession: Attorney Average annual number of cases: 2

1. Describe why you would like to be a member of the NAFER Board:

Over the last eleven years, I have continuously gained substantial experience in federal equity receivership matters, and I feel that my experience will complement the organization and assist in furthering its interests, particularly in the Northeastern United States.

I have been a member of NAFER since 2012 and a member of its International Committee for many years. I want to help build the organization. I especially want to get involved now as NAFER (along with many organizations) is entering uncharted territory in how to grow and maintain this organization with the uncertainty surrounding the post-pandemic world. I view it as an exciting time to become a member of the Board of Directors as NAFER evolves while continuing to build upon its foundational blocks.

I am the federally appointed receiver in SEC v. Smith, have been the lead counsel to federally appointed receivers in both the FTC v. National Check Registry and FTC v. Click4Support matters, and was co-lead counsel to the receiver in the matter of SEC v. Young. Those receiverships and my role therein are summarized below:

- By court order dated June 29, 2020, I was named the federally appointed receiver in SEC v. Smith, No. 2:19-cv-17213 (D.N.J.), an SEC enforcement action against an operator of a fraudulent scheme, Brenda Smith, who was arrested August 2019 after collecting tens of millions of dollars from investors to use for obscure projects, credit card bills, and other personal expenses. This matter involves over \$1.5 billion in transactional activity. As receiver, my duties thus far include, but are not limited to, determining the nature, location and value of, and taking custody and control of, all assets and property interests of the receivership parties—including all real estate, personal property, office space, bank and brokerage accounts, and company interests, managing the receivership estate, utilizing receivership assets for the benefit of the estate, and taking whatever actions are necessary and appropriate for preservation of receivership assets. I am also responsible for defending all suits and claims brought against the receivership parties and receivership assets and facilitating the dissemination of information to defrauded investors. My team is now in the process of determining investor/creditor claims and pursuing several claw-back and damages claims against parties believed to be liable to the receivership entities.
- In SEC v. Young, No. 2:09-cv-01634 (E.D. Pa.), we achieved a nearly 80% rate of return on average for the victims of a complex ponzi scheme. This was an SEC enforcement action against an operator of a Ponzi scheme that defrauded tens of millions of dollars from investors in hedge funds he managed. Despite losses to investors and others exceeding \$34 million, we recovered



on the receiver's behalf more than \$30 million through litigation as well as the recovery and liquidation of property. This matter involved several litigations and claims against dozens of persons and entities, including but not limited to company insiders, investors, professional firms, brokers, non-profit organizations, and political organizations. Our efforts in that case involved securing, maintaining and selling numerous types of unique property, including real estate in Pennsylvania, Florida and Maine, horses, automobiles, boats, fine art, jewelry, silverware, and firearms. We also liquidated the defendant's interests in several limited partnerships and established a liquidating trust to maintain two outstanding but illiquid investments, one of which regularly produces income for the estate and the other of which may produce material income upon redemption. I currently serve as the Liquidating Trustee in that matter. I am in the process of taking steps to wind down the trust and distribute remaining funds.

- Federal *Trade Commission v. Click4Support, LLC et al.*, No. 2:15-cv-5777 (E.D. Pa.). I served as lead counsel to the Receiver in this Federal Trade Commission enforcement action against several related entities and individuals in the technical support services industry who are alleged to have made misrepresentations regarding their services in violation of the Federal Trade Commission Act and related statutes. The subject tech support scam involved services rendered to tens of thousands of customers, who have paid at least \$17.9 million for the allegedly fraudulent services. This receivership was recently completed.
- *Federal Trade Commission v. National Check Registry, LLC. et al.*, No. 2014-CV-490-A (W.D.N.Y.). I served as lead counsel to the receiver in this Federal Trade Commission enforcement action brought against several related entities and individuals in the debt collections industry found to be conducting business in violation of the Fair Debt Collections Act and related state statutes. The FTC determined that an excess of eight million dollars was collected by the agencies from individual consumers using a variety of unlawful practices. We worked in conjunction with the government to assess the nature of the agencies' practices, halted all collection activities, managed the remaining operations of the agencies, handled a variety of employment, payroll and tax issues, collected, analyzed and responded to a variety of claims made against the agencies and worked with forensic accountants to maximize the assets of the receivership by managing and limiting liabilities, liquidating certain physical assets and pursuing claw back claims related to the misappropriation of receivership funds. This receivership is in the process of being wound up.

2. Describe any significant efforts you have participated in on behalf of NAFER:

I have been on NAFER's International Committee for several years, and appreciate that involvement given that I am licensed as a lawyer (solicitor) overseas in England and Wales. I am usually licensed in Ireland as well but am not currently maintaining my practicing certificate (annual license) due to regulatory changes requiring an office in Ireland, which I do not have, but I remain on the Roll of Solicitors there. I have been part of the planning for the 2021 and now 2022 International Conference that has been postponed due to the pandemic to June 2022. Years ago, I also contributed to the initial work-up of possible strategies in which to enhance NAFER's profile with the media, including the International Consortium of Investigative Journalists, in the time following the release of the Panama Papers. Similarly, in connection with potentially expanding NAFER's international footprint, I researched and provided to the committee a compilation of professional firms (primarily law and accounting) most heavily involved in receivership and insolvency work in Ireland. Most of the that work was from 2015-2017.



3. Describe any significant efforts you have participated in to improve the receivership process:

I worked with the SEC and IRS in attempts to determine a more efficient manner of addressing the victim / creditor distribution process while minimizing personal exposure to a receiver under 31 U.S.C. § 3713(b) after the IRS ceased its policy of entering closing agreements for that purpose. Essentially, this was an effort to address the problem recognized in *SEC v. Credit Bancorp*, 297 F.3d 127 (2d Cir. 2002) (reversing, due to lack of subject matter jurisdiction and IRS' sovereign immunity, District Court's grant of receiver's motion for declaration that debts of corporation to its customers had priority over tax liabilities, and that receiver could use and distribute receivership assets without being held personally liable for defendants' or receivership's federal tax obligations). This resulted in a meaningful dialogue with the IRS and SEC, as well as a tailored resolution addressing this problem in the context of a specific case. I continue to explore with the IRS more efficient ways to address similar tax issues in my current role as a receiver.

4. Describe any significant efforts you have participated in on behalf of your specific profession:

I wrote the Chapter on Ireland for the American Bar Association's "Guide to International Bar Admissions" which was published in June 2012.

I was one of the Co-Chairs, a Member of the Planning Commission and a Presenter for the U.S.-Ireland Law and Business Symposium in 2011, 2012, and 2013, which brought lawyers and judges from both sides of the Atlantic together to address various transatlantic legal issues. Each of the events also featured the then Taoiseach (Prime Minister) of Ireland, Enda Kenny.

I was our firm's first board member of the Philadelphia Diversity Law Group (PDLG), serving from 2017-2019. The PDLG is committed to fostering participation of a more diverse group of lawyers in the Greater Philadelphia Region. Although I am no longer on the board, I continue to contribute to my firm's efforts with PDLG in supporting events and those that are the current firm representatives. I also continue to support our firm's diversity recruitment in my role on the firm's three-person Executive Committee.

In an effort to explore options beyond the billable hour and as clients look to redefine their billing arrangements with legal providers, I have become the lead partner in my firm in creating and implementing Alternative Fee Arrangements (AFAs) with our clients. In 2018, I was named a 2018 "Law Firm Innovator" by The Legal Intelligencer (an ALM publication) for my work using AFAs. This award recognized lawyers who "think outside the box and have demonstrated an ability to distinguish their brands in a crowded market." I was recognized for emerging within the firm and legal profession as a leader in developing alternative fee arrangements.

Particularly relevant to NAFER, I presented "Red Flags: The Moving Target of 'Notice' in Fraudulent Transfer and Clawback Litigation" to the Philadelphia Area Chapter of the Association of Certified Fraud Examiners.

5. Describe any other items you would like for the voters to consider:

I would ask that the committee consider my firm's involvement generally in receivership work. Conrad O'Brien has a robust receivership practice: <https://conradobrien.com/our-expertise/commercial-litigation#receiverships>. Retired partner and Chief Judge Emeritus of the U.S. District Court for the Eastern District of Pennsylvania, Judge Louis C. Bechtel, served as the receiver in the highly successful *SEC v. Young* receivership for which I was counsel, and which resulted in an approximately 80% cumulative return to investors. Similarly, my partner Patricia Hamill has served as lead counsel to receivers in many federal receivership matters. Patricia joined NAFER in 2012 and was one of NAFER's original board members. My colleagues Andrew Gallinaro, Megan Guernsey, and Robin Weiss also have extensive experience representing federal equity receivers.



By submitting this statement of interest, I acknowledge receipt of the criteria and obligations of a board member and attest that, to the best of my knowledge, I can meet such criteria and obligations at this time.

/s/ Kevin Dooley Kent
Signature of Candidate

May 6, 2022
Date

*These forms will be sent to all NAFER Full members. Please limit responses to two pages.
Please return forms to Jennifer Brinkley at naferstaff@nafer.org.*