

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**BRENDA SMITH, BROAD REACH
CAPITAL, LP, BROAD REACH
PARTNERS, LLC, and BRISTOL
ADVISORS, LLC,**

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

Return Date: Feb. 1, 2021

**NOTICE OF MOTION OF RECEIVER, KEVIN D. KENT, ESQUIRE,
FOR PERMISSION TO SELL BRENDA SMITH'S VEHICLE AND
PERSONAL PROPERTY AT SMITH'S RITTENHOUSE APARTMENT**

PLEASE TAKE NOTICE that the undersigned, on behalf of the Receiver, Kevin D. Kent, Esq. will move before the Honorable Madeline Cox Arleo, U.S.D.J., United States District Court for the District of New Jersey, Martin Luther King Jr. Federal Building and U.S. Courthouse, 50 Walnut Street, Newark, New Jersey 07101, on February 1, 2021, or as soon thereafter as the Court permits, at a date and time to be determined by the Court, for permission to sell Brenda Smith's vehicle and personal property retrieved from her former residence in Rittenhouse Square.

PLEASE TAKE FURTHER NOTICE THAT, in support of this Motion, the undersigned will rely upon the accompanying Memorandum of Law, which is incorporated herein by reference.

PLEASE TAKE FURTHER NOTICE that the undersigned requests that the proposed form of Order submitted herewith be entered by the Court.

Respectfully submitted,

Dated: 1/8/2021

s/ Robin S. Weiss
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Andrew S. Gallinaro, Esquire.
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Esq.*

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF RECEIVER,
KEVIN D. KENT, ESQUIRE, FOR PERMISSION TO SELL BRENDA
SMITH'S VEHICLE AND PERSONAL PROPERTY AT SMITH'S
RITTENHOUSE APARTMENT**

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Dated: 1/8/2021

Pursuant to the Court's Order Appointing Receiver dated June 29, 2020, Kevin D. Kent, Esq., Receiver, hereby moves this Court for permission to sell Brenda Smith's vehicle, as well as personal property from her former residence in Rittenhouse Square. In support of this Motion, the Receiver states as follows.

I. STATEMENT OF FACTS

The Receiver, Kent D. Kent, Esq., has been appointed by Order of this Court dated June 29, 2020 ("Receivership Order"), to assume control of, marshal, pursue and preserve the Receivership Assets. (Dkt. No. 22). The Receivership Assets include assets of Defendants, Brenda Smith ("Smith"); Broad Reach Capital, LP; Broad Reach Partners, LLC; and Bristol Advisors, LLC ("Defendants"); and all affiliated companies owned or controlled by one or more of the Defendants, including BA Smith & Associates LLC; Bristol Advisors LP; CV Brokerage, Inc.; Clearview Distribution Services LLC; CV International Investments Limited; CV International Investments PLC; CV Investments LLC; CV Lending LLC; CV Minerals LLC; BD of Louisiana, LLC; TA 1, LLC; FFCC Ventures LLC; Prico Market LLC; GovAdv Funding LLC; Elm Street Investors LLC; Investment Consulting LLC; and Tempo Resources LLC ("Affiliated Entities"), including the assets set forth in Paragraphs 2 and 3 of the Receivership Order. These assets specifically include "personal property at Smith's former residence at 222 West Rittenhouse Square, Penthouse 3, Philadelphia, Pennsylvania" (hereinafter

“Rittenhouse Apartment”) as well as “any vehicles owned by Smith[.]”

Receivership Order, ¶ 2.

The Receiver has taken inventory of the personal property at Smith’s Rittenhouse Apartment, and had the property evaluated by an auction house which is interested in attempting to auction off a vast majority of this property. They are interested in auctioning off furniture, unopened alcoholic beverages and wine, jewelry,¹ coats and clothing, potentially Smith’s rugs,² and other miscellaneous items. The auction house would be paid twenty percent (20%) commissions on whatever property is sold, with the balance of proceeds returning to the Receivership. The auction house would charge a small fee—approximately \$400.00—for retrieval of Smith’s belongings.

Building management is requiring that the Rittenhouse Apartment be promptly vacated so that it can secure a new tenant for the unit. With the assistance of administrative staff, the Receiver is in the process of making arrangements for removal and temporary storage of this property until it can be sold, and is attempting to select the most cost-effective option in this regard. The Receiver will, in his discretion, set aside certain sentimental and/or personal items without

¹ It appears that the jewelry remaining in the apartment is primarily costume jewelry, without significant resale value.

² The Receiver has been advised that certain rugs in the apartment are of significant value. Depending upon the Receiver’s investigation and appraisals performed in this regard, the Receiver may choose to sell these separately. Such sales would likely also involve the payment of commission or other associated fees.

significant resale value for Smith's retrieval, and building management has advised that they will dispose of any remaining items of *de minimis* value which are not eligible for resale through the auction house.

With the assistance of the private investigator, the Receiver has located Smith's 2017 Infiniti, which, apparently unbeknownst to management, was removed from the garage in which it was parked by one of the parking lot attendants and stored at his personal home. It is the Receiver's belief that there is, at present, no insurance coverage on the vehicle, so he is working on making arrangements to safely take possession of, and store, the vehicle, with the assistance of a towing company. The Receiver plans to negotiate a sale for fair and reasonable value of the vehicle, either directly or through a knowledgeable intermediary.

II. ARGUMENT

Pursuant to the Receivership Order, this Court has exclusive jurisdiction and possession of the Receivership Assets, including, *inter alia*, personal property at Smith's Rittenhouse Apartment, as well as any vehicles owned by Smith.

Receivership Order, ¶¶ 1-3. Further, the Receiver, Kevin D. Kent, Esq., has the authority to take custody, control and possession, and manage, control, operate and maintain all Receivership Assets. Receivership Order, ¶¶ 5, 11 (A-C). However, the Order also provides that “[w]ithout further Order of this Court, the Receiver

may not liquidate or otherwise dispose of Receivership Assets, . . . other than in the ordinary course of business or in the Receiver's judgment the asset is of *de minimus* value and/or the costs associated with maintaining the asset is likely to exceed its value." Receivership Order, ¶ 45.

It is the Receiver's opinion that the sale of Smith's vehicle and the personal property in the Rittenhouse Apartment is in the best interest of the Receivership Estate. The Receiver has received mounting pressure from building management to retrieve Smith's belongings, due to their desire to rent the unit to a new tenant. The Receivership Estate is not benefiting in any way from retaining possession of Smith's belongings, and if her belongings are not soon sold, the Receivership will incur storage fees. Likewise, Smith's vehicle is a depreciating asset which requires insurance and maintenance costs. Further, once the Receiver takes possession of the vehicle, he will likely incur storage fees if the vehicle is not promptly sold.

The sale of these Receivership Assets will result in the infusion of additional cash to the Receivership Estate, for the benefit of creditors, investors, and other stakeholders of the Defendants and Receivership Parties. Likewise, once these items are liquidated, the Receiver and his Counsel will no longer need to devote time or resources to these items, which will provide further benefit to the Receivership Estate through reduced fees and costs.

The Receivership Order provides that “[t]he Receiver may seek further Orders of this Court regarding standing powers of the Receiver, operations of Receivership Parties, and administration of Receivership Assets as may be deemed necessary to conserve the Receivership Assets, secure the best interests of creditors, investors, and other stakeholders of the Receivership Parties, and protect the interests of the Receiver.” Receivership Order, ¶ 14. For the reasons set forth herein, it is the Receiver’s position that liquidating Smith’s vehicle and the personal property in the Rittenhouse Apartment will be in the best interests of the creditors, investors and other stakeholders of the Receivership parties. Accordingly, the Receiver hereby requests an Order from the Court authorizing him to liquidate these Receivership Assets, and pay whatever associated fees and/or commissions are necessary in order to effectuate these sales.

The Receiver advised Brenda Smith of his intention to file this Motion, in writing, and has offered her the opportunity to arrange for the retrieval of certain sentimental belongings without significant resale value, as well as some articles of clothing unlikely to generate meaningful income for the Receivership Estate. A copy of the December 10, 2020 letter to Brenda Smith regarding the Motion, without enclosure, is attached hereto as Exhibit “A”. The Receiver is in the process of making such arrangements with Linda Smith and/or another third party on Smith’s behalf, and will set aside and store these items at the Receiver’s office.

Ms. Smith has identified a few specific items of personal/sentimental value which she would like to keep, including specifically needlepoint pieces, unfinished handwork, sensitive documents (e.g. birth certificate, driver's license, etc.), photographs, and any clothing or shoes of little value, including specifically a pair of custom ostrich boots. She also identified a yellow diamond ring and watches, which were gifts holding sentimental value. A copy of Smith's December 17, 2020 letter documenting these requests is attached hereto as Exhibit "B". The Receiver will take these requests under consideration; however, to the extent that the aforementioned boots, jewelry and/or watches have meaningful resale value, the Receiver maintains that they should be sold. Of note, the Receiver has been unable to locate a diamond ring in the apartment.

Other than the aforementioned items of personal/sentimental value which she would like to retain, Smith has advised in writing that she has no objection to this filing. Counsel for the Securities and Exchange Commission has likewise advised that they do not oppose this Motion.

III. CONCLUSION

In light of the foregoing, the Receiver respectfully requests that the Court grant the Receiver's Motion for Permission to Sell Brenda Smith's Vehicle and Personal Property at Smith's Rittenhouse Apartment, and enter an Order in the

form proposed.

Date: 1/8/2021

Respectfully Submitted,

s/ Robin S. Weiss

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EXHIBIT “A”

Conrad O'Brien

Robin S. Weiss
Attorney at Law
Direct Dial: 215.864.8086
Direct Fax: 215.523.9714
rweiss@conradobrien.com

December 10, 2020

VIA REGULAR US MAIL

Brenda A. Smith
Permanent ID 2019-339640
CCIS# 07-571432
U.S. Marshalls Number 72832-050
Essex County Correctional Facility
354 Doremus Avenue
Newark, NJ 07105

RE: SEC v. Smith, et al. Civ. No. 2:19-cv-17213-MCA (D.N.J.)

Dear Ms. Smith:

I am writing to determine whether you have any objection to the Receiver's plan to sell your vehicle and personal property recovered from your Rittenhouse Square apartment in accordance with the Receivership Order. Enclosed, please find our proposed Motion regarding the sale of your vehicle and personal property. Please note that this document is subject to change before filing, particularly with regard to the vehicle, as we may take possession before the Motion is filed.

Please advise if you have any objection to this filing, or whether we can present it to the Court as unopposed.

Additionally, as stated in the filing and as previously advised, before the apartment is cleared, we will give you a final opportunity, through your sister or another representative, to come to the apartment to retrieve personal/sentimental items that the Receiver agrees are not of significant resale value.

Please provide your written response by no later than December 30, 2020 to (a) advise of your position with regard to the Motion and (b) to make arrangements for the retrieval of personal belongings.

Thank you for your prompt attention to this matter.

Sincerely yours,



Robin S. Weiss

Encs.

cc: Linda Smith

EXHIBIT “B”

I received your letter dated December 10, 2020 regarding the auction of my personal property from Rittenhouse Square and car.

I have made arrangements for Linda Smith, or her designated person, to pick up my personal/sentimental items. Of the most sentimental value are needlepoint pieces as well as unfinished handwork, some of these pieces took years to complete and are of little or no value to anyone else. I would also respectfully request that certain documents be kept such as birth certificate, divorce papers, drivers license, etc. There are also pictures that I would like to keep as they have no value to others. Any clothing or shoes that are of little value including custom made ostrich boots would also be appreciated. A yellow diamond ring and all watches were gifts that have sentimental value as well.

Other than these items of personal/sentimental value, I have no objection to this filing. I understand you will coordinate the timing directly with Linda Smith. Thank you for your attention to this matter.

Sincerely,
Bronie Smith
J2019.12346

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

BRENDA SMITH, BROAD REACH
CAPITAL, LP, BROAD REACH
PARTNERS, LLC, and BRISTOL
ADVISORS, LLC,

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

ORDER APPROVING THE RECEIVER, KEVIN D. KENT, ESQUIRE'S
MOTION FOR PERMISSION TO SELL BRENDA SMITH'S VEHICLE
AND PERSONAL PROPERTY AT SMITH'S
RITTENHOUSE APARTMENT

THIS MATTER having come before this Court upon the Motion of Receiver,
Kevin D. Kent, Esquire, for Permission to Sell Brenda Smith's Vehicle and Personal
Property at Smith's Rittenhouse Apartment;

It is on this _____ day of _____, 2021,

ORDERED that the Receiver's Motion for Permission to Sell Brenda Smith's
Vehicle and Personal Property at Smith's Rittenhouse Apartment is APPROVED; and
it is

FURTHER ORDERED that the Receiver may sell Brenda Smith's vehicle, a 2017 Infiniti, Vehicle Identification Number JN8CS1MW7HM416258, for which he possesses the Certificate of Title, and may pay any commissions and fees associated with such sale; and it is

FURTHER ORDERED that the Receiver may sell the personal property at Smith's former residence at 222 West Rittenhouse Square, Penthouse 3, Philadelphia, Pennsylvania, and pay any commissions and fees associated with such sales; and it is

FURTHER ORDERED that the Receiver may arrange for the disposal of any remaining personal property at Smith's former residence at 222 West Rittenhouse Square, Penthouse 3, Philadelphia, Pennsylvania, which is of *de minimus* value and/or otherwise ineligible for resale.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

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Plaintiff,

v.

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ADVISORS, LLC,**

Defendants.

C. A. No. 2:19-cv-17213 (MCA)

**CERTIFICATE OF
SERVICE**

I hereby certify, this 8th day of January, 2021, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin D. Kent, Esquire, for Permission to Sell Brenda Smith's Vehicle and Personal Property at Smith's Rittenhouse Apartment, and all documents in support thereof upon Plaintiff, Securities and Exchange Commission, through counsel of record by electronic filing pursuant to Fed.R.Civ.P. 5(b), and upon Defendant, Brenda A. Smith, on behalf of all defendants, via first-class mail, postage prepaid, as follows:

Brenda A. Smith
Permanent ID 2019-339640
CCIS# 07-571432
U.S. Marshalls Number 72832-050
Essex County Correctional Facility
354 Doremus Avenue
Newark, NJ 07105

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Attorney for Receiver, Kevin D. Kent, Esq.