

**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: Nov. 1, 2021

**NOTICE OF MOTION OF RECEIVER, KEVIN D. KENT, ESQUIRE,
TO APPROVE A SETTLEMENT RESOLVING THE RECEIVER'S
CLAIMS AGAINST BRFP**

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 November 1, 2021, or as soon thereafter as the Court permits, at a date and time to be determined by the Court, to approve a settlement resolving the Receiver's claims against BRFP.

PLEASE TAKE FURTHER NOTICE THAT, in support of this Motion, the undersigned will rely upon the accompanying Memorandum of Law—the

exhibits to which are being filed under seal—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: 10/6/2021

s/ Robin S. Weiss
Robin S. Weiss, Esquire
Andrew S. Gallinaro, Esquire.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: 215-864-9600
Fax: 215-864-9620
rweiss@conradobrien.com
agallinaro@conradobrien.com
*Attorneys for Receiver, Kevin D. Kent,
Esq.*

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Return Date: Nov. 1, 2021

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF RECEIVER,
KEVIN D. KENT, ESQUIRE, TO APPROVE A SETTLEMENT
RESOLVING THE RECEIVER'S CLAIMS
AGAINST BRFP**

Robin S. Weiss, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-9600
Facsimile: (215) 864-9620
E-mail: rweiss@conradobrien.com

Andrew S. Gallinaro, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-8083
Facsimile: (215) 864-7403
E-mail: agallinaro@conradobrien.com

Dated: 10/6/2021

Pursuant to the Court's Order Appointing Receiver dated June 29, 2020, Kevin D. Kent, Esq., Receiver, hereby moves this Court for an order approving a settlement resolving the Receiver's claims against BRFP.¹ 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, *inter alia*, assets of the Defendants and Affiliated Entities that "were fraudulently transferred by the Defendants." *See* Receivership Order, Whereas Clause 3.

BRFP has been identified by the Receiver and his Accountants as a net-winner investor in Broad Reach Capital, LP ("Broad Reach Capital"). Following negotiations, the Receiver has agreed to resolve his net winner claim against BRFP. A description of the claims, the terms of the proposed settlement, and the basis for the settlement are included in a Declaration attached hereto as Exhibit "A", which is being separately filed under seal. A copy of the executed Settlement

¹ BRFP is a pseudonym for an investor whose full name will be disclosed in supporting materials attached hereto under seal.

and Release Agreement is attached hereto as Exhibit “B”, which is also being separately filed under seal.

II. ARGUMENT

The Receiver submits that the proposed settlement is a fair and equitable resolution and is in the best interest of the Receivership Estate, for the reasons set forth in Declaration attached hereto as Exhibit “A”. Accordingly, and for the reasons set forth therein, the Receiver respectfully requests that the Court approve the proposed settlement.

Counsel for the Securities and Exchange Commission has advised that they do not oppose this Motion.

III. CONCLUSION

In light of the foregoing, the Receiver respectfully requests that this Court enter the attached Order approving the settlement resolving the Receiver’s claims against BRFP.

Respectfully Submitted,

Date: 10/6/2021

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Conrad O’Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-9600
Facsimile: (215) 864-9620
E-mail: rweiss@conradobrien.com

Andrew S. Gallinaro, Esq.
Conrad O'Brien PC
1500 Market Street, Suite 3900
Centre Square, West Tower
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Phone: (215) 864-8083
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ADVISORS, LLC,

Defendants.

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

**ORDER APPROVING SETTLEMENT RESOLVING THE RECEIVER'S
CLAIMS AGAINST BRFP**

THIS MATTER having come before this Court upon the Motion of Receiver, Kevin D. Kent, Esquire, to Approve a Settlement Resolving the Receiver's Claims Against BRFP;

It is on this _____ day of _____, 2021,

ORDERED that the Receiver's Motion is **GRANTED**; and it is

FURTHER ORDERED that the Receiver may resolve and settle his claims against BRFP pursuant to the terms set forth in the Declaration and proposed Settlement Agreement attached to the Motion, which have been filed under seal.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

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Defendants.

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**CERTIFICATE OF
SERVICE**

I hereby certify, this 6th day of October, 2021, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin D. Kent, Esquire, to Approve a Settlement Resolving the Receiver's Claims Against BRFP, upon Plaintiff, Securities and Exchange Commission, through counsel of record, and counsel of record for all other parties, 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.