

**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)

Motion Date: Nov. 21, 2022

**NOTICE OF MOTION OF RECEIVER, KEVIN DOOLEY KENT, TO
ENFORCE THIS COURT'S JUNE 29, 2020 ORDER APPOINTING
RECEIVER AND TO COMPEL BRENDA SMITH'S
COMPLIANCE THEREWITH**

PLEASE TAKE NOTICE that as soon as counsel may be heard, the undersigned, on behalf of the Receiver, Kevin Dooley Kent, 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 21, 2022, for an order enforcing the Order Appointing Receiver against Brenda Smith, and compelling her compliance therewith.

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.

PLEASE TAKE FURTHER NOTICE that Counsel for the Securities and Exchange Commission does not oppose this Motion.

Respectfully submitted,

Dated: 10/24/2022

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 Dooley
Kent*

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

**SECURITIES AND EXCHANGE
COMMISSION,**

(MCA)

Plaintiff,

v.

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

Defendants.

C. A. No. 2:19-cv-17213

Motion Date: Nov. 21, 2022

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF RECEIVER,
KEVIN DOOLEY KENT, TO ENFORCE THIS COURT'S JUNE 29, 2020
ORDER APPOINTING RECEIVER AND TO COMPEL BRENDA
SMITH'S COMPLIANCE THEREWITH**

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Phone: (215) 864-8083
Facsimile: (215) 864-7403
E-mail: agallinaro@conradobrien.com

Dated: 10/24/22

I. STATEMENT OF FACTS

The Receiver, Kevin Dooley Kent, was appointed by Order of this Court dated June 29, 2020 (“Receivership Order”), to assume control of, marshal, pursue and preserve the Receivership Assets. (ECF No. 22). The Receivership Assets include all 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. (“CV Brokerage”), 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 Investments LLC, Investment Consulting LLC, and Tempo Resources LLC (“Affiliated Entities”), that (1) are attributable to assets derived from Defendants’ investors or clients, (2) are held in constructive trust for the Defendants, (3) were fraudulent transferred by Defendants, and/or (4) may otherwise be included as assets of the estate of the Defendants or Affiliated Entities. *Id.*, ¶ 3; ECF No. 96. These assets are collectively known as the “Receivership Estate” or “Receivership Assets.” *Id.* The Receivership Assets are further specifically defined to include “bank or

brokerage accounts held or controlled by [Brenda] Smith.” Receivership Order, ¶
2.

As reported in prior quarterly status reports and fee applications, financial institutions outside the United States have been unwilling to turn over information or documents to the Receiver relating to bank accounts Brenda Smith opened and/or controlled overseas. Without being able to confirm the balance of any overseas accounts, the Receiver did not consider the retention of local counsel or the domestication of the Receivership Order overseas to be a feasible option for securing the cooperation of overseas banks.

On May 11, 2022, the Receiver, through Counsel, sent Brenda Smith a letter requesting that she sign a consent directive, which would authorize financial institutions overseas to release information and documents to the Receiver regarding accounts for which Smith was a principal, signatory, controller or beneficiary. The Receiver enclosed the proposed consent directive with the letter, and made arrangements for a notary to obtain Smith’s signature. However, Smith declined to sign the consent directive, advising the notary that she was sending a letter to the Receiver. A copy of this communication, along with the proposed consent directive, is attached hereto as Exhibit “A”.

After the letter explaining Smith’s refusal to sign the consent directive never arrived, the Receiver sent a follow-up letter to Smith on July 12, 2022, requesting

that she respond in writing whether she will agree to sign the consent directive or, if not, to explain her reasons for refusing to do so, by no later than August 15, 2022. A copy of this communication, without enclosures, is attached hereto as Exhibit “B”.

After not receiving a response by the August 15, 2022 deadline, Counsel sent an e-mail to Smith via CorrLinks on August 19, 2022, requesting that she advise of her position by no later than Wednesday, August 31, 2022. Smith responded by e-mail on August 31, 2022, again requesting the appointment of legal counsel. Her message stated in its entirety:

Ms. Weiss –

I respectfully request that pro bono legal counsel be appointed for my legal representation regarding this consent directive request and other legal issues related to this SEC case. I believe there are complex issues for which I need to be appointed legal counsel. In the alternative, please assign legal counsel to be paid from the Receivership assets. As you know, I am not able to retain legal counsel on my own behalf as all assets have been surrendered. I do not have legal training and am not able to present my own case nor pursue investigation necessary to resolve this complex legal questions and/or issues. Thank you for your attention to this matter.

Brenda

A copy of these e-mail communications, including Smith’s request for the appointment of counsel, are attached hereto as Exhibit “C”.

Counsel advised Ms. Smith of the Receiver’s intention to file a motion with the Court seeking an order requiring her to cooperate with the Receiver’s request

for a signed consent directive, and indicated that Brenda Smith's request for the appointment of counsel would be attached to the filing. However, Counsel suggested that if Smith wished to make a more general request for an attorney with respect to other unrelated issues, she should separately submit that request to the Court. Counsel also reminded Smith that her previous request for the appointment of counsel had been denied. A copy of this e-mail communication is attached hereto as Exhibit "D".

Smith's conduct in refusing to sign the consent directive is in contravention of the letter and spirit of the Receivership Order. The Receiver respectfully seeks the intervention of this Court to enforce the Receivership Order and compel Smith's compliance therewith.

II. ARGUMENT

The Receivership Order provides, in relevant part:

15. Smith and the past and/or present officers, directors, agents, managers, general and limited partners, trustees, attorneys, accountants, and employees of the Receivership Parties, as well as those acting in their place, including third parties storing financial and other business information and/or email communications, or other assets or documents, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Parties and/or all Receivership Assets; such information shall include but not be limited to books, records, documents, accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, details of items deposited, and check registers), client lists, title documents, writings, drawings, graphs, charts, photographs, audio and video recordings, computer

records, computer files, databases and other data compilations, including but not limited to records relating to any investments or other transfers of money or other assets made by or on behalf of Receivership Parties, including but not limited to all electronically stored records and information, including any information stored by third parties or using cloud-based services, access codes, security codes, passwords, safe deposit keys, combinations, and all other instruments, papers, and electronic data or records of any kind or nature. This does not, however, include any documents or files of Smith's personal attorneys, if any, that are protected by the work-product doctrine and/or attorney-client privilege.

19. The Receivership Parties' past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners, and other appropriate persons or entities shall answer all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Parties, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Parties.

23. All banks, brokerage firms, financial institutions, and **other persons** or entities which have possession, custody, or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, the Receivership Parties that receive actual notice of this Order by personal service, facsimile transmission, electronic mail, or otherwise shall:

A. Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Parties except upon instructions from the Receiver;

B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;

C. Within thirty (30) days of receipt of that notice, serve on the Receiver and counsel for the SEC a certified statement setting forth, with respect to each such account or other asset, the balance in the

account or description of the assets as of the close of business on the date of receipt of the notice; and,

D. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.

Receivership Order, ¶¶ 15, 19, 23 (emphasis added).

Further, Paragraph 35 of the Receivership Order provides that persons in possession of Receivership Assets, and all persons receiving notice of the Receivership Order, “are hereby restrained and enjoined from directly or indirectly taking any action or causing any action to be taken, without the express written agreement of the Receiver, which would . . . Fail to notify the Receiver of any Receivership Assets, including accounts constituting Receivership Assets held in any name other than the name of a Receivership Party, or by any person other than the Receivership Parties, or fail to provide any assistance or information requested by the Receiver in connection with obtaining possession, custody, or control of such Receivership Assets; [or] . . . [r]efuse to cooperate with the Receiver or the Receiver’s duly authorized agents in the exercise of their powers, duties, or authority under any order of this Court[.]” Receivership Order, ¶ 35.

The Receiver respectfully submits that by refusing to sign the consent directive, Smith, as a former officer, director, manager and employee of the Receivership Parties, is preventing the Receiver from accessing information regarding overseas financial accounts which may hold Receivership Assets, in

contravention of the Receivership Order. The Receiver respectfully requests that the Court enter an order enforcing the Receivership Order and compelling Brenda Smith to sign a consent directive in the form attached hereto as Exhibit “E”.

“A federal court has at its disposal an array of means to enforce its orders . . . [and] its powers include those furnished by federal rule . . . and by inherent authority.” *Degen v. United States*, 517 U.S. 820, 827 (1996). “The details of these steps are committed to the discretion of the District Court.” *Id.*; *see also Greenfield Mills, Inc. v. Carter*, 2008 WL 4757323 at *1, n. 1 (N.D. Ind. Oct. 29, 2009) (“It is axiomatic that the court possesses the inherent authority to enforce its own orders.”); *S.E.C. v. AmeriFirst Funding, Inc.*, No. 3:07-CV-1188-D, 2010 WL 997388, at *8 (N.D. Tex. Mar. 18, 2010) (“A federal court has inherent authority to ensure that its orders are enforced and carried out.”).

A federal court “may act upon its inherent authority to preserve its ability to render an effective judgment, and it may exercise that authority to enjoin third parties from action threatening the viability of its order.” *S.E.C. v. AmeriFirst Funding, Inc.*, No. 3:07-CV-1188-D, 2010 WL 997388, at *8 (N.D. Tex. Mar. 18, 2010) (citing *United States v. Texas*, 2005 WL 1868844, at *42 (E.D. Tex. Aug. 4, 2005)). This includes, *inter alia*, the authority to enforce receivership orders regarding receivership assets. *Id.* Even if a court finds that there are insufficient grounds to hold someone in civil contempt, such a finding “does not infringe upon

the district court’s authority to [preserve] receivership assets through other means, including enforcement of the . . . receivership order.” *Whitcraft v. Brown*, 570 F.3d 268, 273 (5th Cir. 2009).

In *Fed. Trade Comm’n v. Productive Mktg., Inc.*, 136 F. Supp. 2d 1096, 1105-06 (C.D. Cal. 2001), where a third party’s refusal to relinquish receivership assets to the Receiver would “unquestionably disrupt the court’s power to enforce the permanent injunction” which provided for redress to defrauded consumers, the Court held as follows:

If the court cannot compel ACCPC to turn over assets in its possession belonging to the receivership estate, the Receiver will be unable to provide adequate redress to consumers who have been defrauded by Defendants. Because ACCPC’s conduct imperils the court’s ability to render an effective judgment, the court may properly enjoin it, even though it is not a party to the action.

Id. at 1106. Here, Brenda Smith is not a third party – she is a defendant in this litigation and is refusing to comply with the terms of the Receivership Order. An order compelling her compliance to enable the Receiver to ascertain the existence, and balance of, any overseas accounts holding Receivership Assets—so he can thereafter take appropriate steps to recover those assets if they are sufficient to justify the costs involved in doing so—is respectfully requested.

Counsel for the Securities and Exchange Commission have advised that they do not oppose this filing.

III. CONCLUSION

In light of all of the foregoing, it is respectfully requested that the Motion of Receiver, Kevin Dooley Kent, to Enforce this Court's June 29, 2020 Order Appointing Receiver and to Compel Brenda Smith's Compliance Therewith be granted, and that an order be entered in the form proposed.

Respectfully Submitted,

Date: 10/24/2022

s/ Robin S. Weiss

Robin S. Weiss, Esq.
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1500 Market Street, Suite 3900
Centre Square, West Tower
Philadelphia, PA 19102
Phone: (215) 864-9600
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Phone: (215) 864-8083
Facsimile: (215) 864-7403
E-mail: agallinaro@conradobrien.com

EXHIBIT “A”

Conrad O'Brien

Robin S. Weiss
Attorney at Law
Direct Dial: 215.864.8086
Direct Fax: 215.523.9714

May 11, 2022

VIA REGULAR 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.)
Consent Directive

Dear Ms. Smith:

We appreciate your expressed willingness to assist the Receiver in locating and recovering assets on behalf of the Receivership Estate.

As you may have learned from the Receiver's prior quarterly status reports and fee applications, financial institutions outside the United States have not been willing to turn over information or documents to the Receiver relating to bank accounts you opened overseas. Given the costs involved in hiring local counsel and having the Receivership Order recognized in other countries, we are hopeful that we can obtain this information instead through your signing of a Consent Directive, which we will then mail to the financial institutions where we have identified accounts. The Consent Directive will authorize these financial institutions to release information and documents to the Receiver regarding accounts for which you were a principal, signatory, controller, or beneficiary.

A copy of the proposed Consent Directive is enclosed. We have been advised that the Essex County Correctional Facility has notaries who can assist with getting the Consent Directive signed in their presence and notarized; alternatively, there are mobile notaries who can travel to the correctional facility for this purpose. You do not need to sign the enclosed copy of the Consent Directive; I have enclosed it only to inform you of our intention to proceed in this fashion. We will work on making the necessary arrangements with the notary.

Brenda A. Smith
May 11, 2022
Page 2

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Thank you for your anticipated cooperation and assistance with this matter. Please feel free to contact us if you have any questions or concerns.

Sincerely yours,



Robin S. Weiss, Esq.

Encs.

cc: Kevin Carlucci (via electronic mail at Kevin_Carlucci@fd.org)

**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)

CONSENT DIRECTIVE

I, BRENDA A. SMITH, a United States citizen, do hereby direct any bank, trust company, financial services company, brokerage entity, and other financial institution or branch thereof, and its officers, employees and agents (“Financial Institution”), located outside the territorial United States, at which I may have or may have had a bank or brokerage account of any kind however described upon which I am or was authorized to draw (“Accounts”), to disclose all information and deliver copies of all documents of every interest in the Financial Institution’s possession or control which relate to the Accounts, together with a certificate attesting to the authenticity of any and all such documents, to any agent or attorney of Kevin Dooley Kent, who presents a copy of this Consent Directive.

This Consent Directive has been executed pursuant to Order of the United States District Court for the District of New Jersey dated June 29, 2020.

This Consent Directive is intended to apply to the laws of the United States and all foreign jurisdictions, without limitation, including bank confidentiality laws, and shall be construed as consent as the same shall apply to any bank or brokerage accounts however described for which I may be or may have been a relevant principal, signatory, controller, or beneficiary.

Dated: _____, _____, _____

Brenda A. Smith

THE STATE OF NEW JERSEY

COUNTY OF _____

On _____, 20____, before me, _____, Notary Public in and for said county, personally appeared _____, (signer/witness) who has/have satisfactorily identified him/her/themselves as the signer(s) or witness(es) to the above-referenced document.

Notary Public Signature

Print _____

My Commission Expires _____.

EXHIBIT “B”



Robin S. Weiss
Attorney at Law
Direct Dial: 215.864.8086
Direct Fax: 215.523.9714

July 12, 2022

VIA REGULAR MAIL

Brenda A. Smith
Register No. 72832-050
FCI Danbury
Federal Correctional Institution
Route 37
Danbury, CT 06811

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

Dear Ms. Smith:

You may recall that on May 11, 2022, I sent you a letter regarding a proposed consent directive we would like you to sign to authorize financial institutions to release information and documents to the Receiver regarding accounts you opened overseas. A copy of that letter is enclosed, for your reference.

After we sent you this letter, we had a notary visit you from the Essex County Correctional Facility to secure your signature on the consent directive. However, we were advised that you declined to sign the form, and stated that you would be sending a letter to the Receiver setting forth your response. To date, we have not received that letter.

Please respond to us in writing advising whether you will agree to sign the consent directive (which will need to be updated to reflect that it would be signed and notarized in Connecticut, rather than New Jersey) and, if not, please set forth your reasons. If you are not willing to cooperate, we will file a Motion with the Court seeking an order compelling you to sign the consent directive, and will advise the Court of your reasons for refusing to do so, assuming those reasons have been provided to us.

In connection with this request, we remind you of the following provisions of the Receivership Order:

15. Smith and the past and/or present officers, directors, agents, managers, general and limited partners, trustees, attorneys, accountants, and employees of the Receivership Parties, as well as those acting in their place, including third parties storing financial and other business information and/or email communications, or other assets or documents, are hereby ordered and directed to preserve and turn over to the Receiver forthwith all paper and electronic information of, and/or relating to, the Receivership Parties and/or all

Brenda A. Smith
July 12, 2022
Page 2

CONRAD O'BRIEN PC

Receivership Assets; such information shall include but not be limited to books, records, documents, accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, details of items deposited, and check registers), client lists, title documents, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, computer files, databases and other data compilations, including but not limited to records relating to any investments or other transfers of money or other assets made by or on behalf of Receivership Parties, including but not limited to all electronically stored records and information, including any information stored by third parties or using cloud-based services, access codes, security codes, passwords, safe deposit keys, combinations, and all other instruments, papers, and electronic data or records of any kind or nature. This does not, however, include any documents or files of Smith's personal attorneys, if any, that are protected by the work-product doctrine and/or attorney-client privilege.

19. The Receivership Parties' past and/or present officers, directors, agents, attorneys, managers, shareholders, employees, accountants, debtors, creditors, managers and general and limited partners, and other appropriate persons or entities shall answer all questions which the Receiver may put to them and produce all documents as required by the Receiver regarding the business of the Receivership Parties, or any other matter relevant to the operation or administration of the receivership or the collection of funds due to the Receivership Parties.

23. All banks, brokerage firms, financial institutions, and **other persons** or entities which have possession, custody, or control of any assets or funds held by, in the name of, or for the benefit of, directly or indirectly, the Receivership Parties that receive actual notice of this Order by personal service, facsimile transmission, electronic mail, or otherwise shall:

- A. Not liquidate, transfer, sell, convey, or otherwise transfer any assets, securities, funds, or accounts in the name of or for the benefit of the Receivership Parties except upon instructions from the Receiver;
- B. Not exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;
- C. Within thirty (30) days of receipt of that notice, serve on the Receiver and counsel for the SEC a certified statement setting forth, with respect to each such account or other asset, the balance in the account or description of the assets as of the close of business on the date of receipt of the notice; and,
- D. Cooperate expeditiously in providing information and transferring funds, assets, and accounts to the Receiver or at the direction of the Receiver.**

Brenda A. Smith
July 12, 2022
Page 3

CONRAD O'BRIEN PC

Receivership Order, ¶¶ 15, 19, 23 (emphasis added).

Please provide your response by no later than August 15, 2022. Thank you for your prompt attention to this matter.

Sincerely yours,



Robin S. Weiss

Encs.

cc: Kevin Carlucci (via electronic mail at Kevin_Carlucci@fd.org)

EXHIBIT “C”

Robin Weiss

From: SMITH BRENDA (72832050)
Sent Date: Wednesday, August 31, 2022 2:21 PM
To: rweiss@conradobrien.com
Subject: RE: Consent Directive

Ms. Weiss -

I respectfully request that pro bono legal counsel be appointed for my legal representation regarding this consent directive request and other legal issues related to this SEC case. I believe there are complex issues for which I need to be appointed legal counsel. In the alternative, please assign legal counsel to be paid from the Receivership assets. As you know, I am not able to retain legal counsel on my own behalf as all assets have been surrendered. I do not have legal training and am not able to present my own case nor pursue investigation necessary to resolve these complex legal questions and/or issues. Thank you for your attention to this matter.

Brenda

-----Weiss, Robin on 8/19/2022 4:51 PM wrote:

>

Dear Brenda:

I am writing to follow-up on our requests of May 11, 2022 and July 12, 2022 that you sign a consent directive authorizing financial institutions to release information and documents to the Receiver regarding accounts you opened overseas.

We requested a response from you to our latest letter by no later than August 15, 2022. To date, we still have not received a response.

Please advise us of your position with regard to the consent directive by no later than Wednesday, August 31, 2022.

Thank you,
Robin

EXHIBIT ‘D’

Robin Weiss

From: rweiss@conradobrien.com
Sent Date: Tuesday, September 27, 2022 7:53 AM
To: BRENDA SMITH (72832050)
Subject: RE: Consent Directive

Dear Ms. Smith:

Please be advised that we intend to file a motion with the Court, seeking an order requiring your cooperation with the Receiver's request for a signed consent directive. We will, of course, mail you a copy of the motion when it is filed.

We will attach your response, below, to our filing. However, if you wish to make a more general request for an attorney with respect to other issues unrelated to that motion, we suggest that you separately submit that request to the Court. Please recall, however, that the Court previously denied your prior request for counsel on September 12, 2021 (ECF No. 122) with a text order, which is copied below.

Sincerely,

Robin Weiss

Notice of Electronic Filing
The following transaction was entered on 9/12/2021 at 10:18 PM EDT and filed on 9/12/2021
Case Name: SECURITIES AND EXCHANGE COMMISSION v. SMITH et al
Case Number: 2:19-cv-17213-MCA-ESK
Filer:
Document Number: 122(No document attached)
Docket Text:
TEXT ORDER: The Court has reviewed defendant Brenda Smith's request for pro bono counsel dated August 20, 2021 (Request) (ECF No. 116 pp. 2, 3), along with responses to the request filed by the Receiver (ECF No. 119) and by plaintiff (ECF No. 120). The Request fail to satisfies the applicable criteria for appointment of pro bono counsel. (See Id. p. 4.) The Request is, accordingly, DENIED without prejudice. So Ordered by Magistrate Judge Edward S. Kiel on 9/12/2021. (sms)

BRENDA SMITH on 8/31/2022 2:21:36 PM wrote
Ms. Weiss -

I respectfully request that pro bono legal counsel be appointed for my legal representation regarding this consent directive request and other legal issues related to this SEC case. I believe there are complex issues for which I need to be appointed legal counsel. In the alternative, please assign legal counsel to be paid from the Receivership assets. As you know, I am not able to retain legal counsel on my own behalf as all assets have been surrendered. I do not have legal training and am not able to present my own case nor pursue investigation necessary to resolve these complex legal questions and/or issues. Thank you for your attention to this matter.
Brenda

-----Weiss, Robin on 8/19/2022 4:51 PM wrote:

>

Dear Brenda:

Robin Weiss

I am writing to follow-up on our requests of May 11, 2022 and July 12, 2022 that you sign a consent directive authorizing financial institutions to release information and documents to the Receiver regarding accounts you opened overseas.

We requested a response from you to our latest letter by no later than August 15, 2022. To date, we still have not received a response.

Please advise us of your position with regard to the consent directive by no later than Wednesday, August 31, 2022.

Thank you,
Robin

EXHIBIT “E”

**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)

CONSENT DIRECTIVE

I, BRENDA A. SMITH, a United States citizen, do hereby direct any bank, trust company, financial services company, brokerage entity, and other financial institution or branch thereof, and its officers, employees and agents (“Financial Institution”), located outside the territorial United States, at which I may have or may have had a bank or brokerage account of any kind however described upon which I am or was authorized to draw (“Accounts”), to disclose all information and deliver copies of all documents of every interest in the Financial Institution’s possession or control which relate to the Accounts, together with a certificate attesting to the authenticity of any and all such documents, to any agent or attorney of Kevin Dooley Kent, who presents a copy of this Consent Directive.

This Consent Directive has been executed pursuant to Order of the United States District Court for the District of New Jersey dated June 29, 2020.

This Consent Directive is intended to apply to the laws of the United States and all foreign jurisdictions, without limitation, including bank confidentiality laws, and shall be construed as consent as the same shall apply to any bank or brokerage accounts however described for which I may be or may have been a relevant principal, signatory, controller, or beneficiary.

Dated: _____, _____, _____

Brenda A. Smith

THE STATE OF CONNECTICUT

COUNTY OF _____

On this the _____ day of _____, 20____, before me, _____

_____, Notary Public in and for said county, personally appeared _____

_____, (signer/witness) satisfactorily proven to be the signer(s) to the above-referenced

document, subscribed to the within instrument and acknowledged that she executed the same for

the purposes therein contained.

In witness whereof I hereunto set my hand.

Notary Public Signature

Print _____

My Commission Expires _____.

**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 ENFORCING THIS COURT'S JUNE 29, 2020 ORDER
APPOINTING RECEIVER AND COMPELLING BRENDA SMITH'S
COMPLIANCE THEREWITH**

THIS MATTER having come before this Court upon the Motion of Receiver, Kevin Dooley Kent, to Enforce this Court's June 29, 2020 Order Appointing Receiver and to Compel Brenda Smith's Compliance Therewith,

It is on this _____ day of _____, 2022,

ORDERED that the Motion of Receiver, Kevin Dooley Kent, to Enforce this Court's June 29, 2020 Order Appointing Receiver and to Compel Brenda Smith's Compliance Therewith is GRANTED; and it is

FURTHER ORDERED that Brenda Smith is required to comply with the June 29, 2020 Order Appointing Receiver by signing the consent directive attached as Exhibit “E” to the Receiver’s Motion.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

**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)

**CERTIFICATE OF
SERVICE**

I hereby certify, this 24th day of October, 2022, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin Dooley Kent, to Enforce this Court's June 29, 2020 Order Appointing Receiver and to Compel Brenda Smith's Compliance Therewith, 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
Register No. 72832-050
FCI Danbury
Federal Correctional Institution
Route 37
Danbury CT 06811

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