

**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)

[Emergency Relief Requested]

**NOTICE OF MOTION OF RECEIVER, KEVIN DOOLEY KENT,
FOR PERMISSION TO CHANGE COUNSEL**

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, for an order permitting him to change his counsel to Clark Hill in recognition of the anticipated lateral hire of his current counsel by Clark Hill.

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: 1/13/2023

s/ Robin S. Weiss

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*Attorneys for Receiver, Kevin Dooley
Kent*

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**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF RECEIVER,
KEVIN DOOLEY KENT, FOR PERMISSION TO CHANGE COUNSEL**

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E-mail: agallinaro@conradobrien.com

Dated: 1/13/2013

I. STATEMENT OF FACTS

The Receiver, Kevin Dooley Kent (“Receiver”), was appointed by Order of this Court dated June 29, 2020 (“Receivership Order”). (ECF No. 22). The Receivership Order authorized the Receiver to retain Conrad O’Brien as his counsel, and set forth certain obligations of the Receiver and his Retained Personnel, including Conrad O’Brien. Receivership Order, ¶¶ 71-81. The Receivership Order authorized payments to the Receiver and Conrad O’Brien for expenses and hourly fees at approved rates. *See id.*, ¶ 79. The Court has entered subsequent orders authorizing payments to Conrad O’Brien as counsel for expense reimbursement and attorney’s fees on a contingency fee basis in certain ancillary litigation. *See* Order Approving the Receiver’s Second and Third Motions for Permission to Initiate Litigation on Behalf of the Receivership Estate (ECF Nos. 161, 167). Additionally, the Receiver anticipates filing a Ninth Interim Fee Application for the period July 1, 2022 through September 30, 2022 in the near future.

On September 16, 2022, the Receiver filed a letter with the Court advising that the Receiver was moving from Conrad O’Brien to Clark Hill. (ECF No. 205). The Receiver moved to Clark Hill on October 1, 2022. *Id.* Conrad O’Brien continued to act as his counsel since that time. However, on or about February 1, 2023, Conrad O’Brien attorneys will be joining Clark Hill, including Andrew S.

Gallinaro and Robin S. Weiss, and Conrad O'Brien will cease to operate in its own name. The Receiver therefore respectfully submits this request for permission to change his counsel from Conrad O'Brien to Clark Hill effective February 1, 2023, and for any order authorizing payment to Conrad O'Brien in connection with this matter or any ancillary litigation be amended to allow for payment to Clark Hill as counsel.

II. ARGUMENT

Since it is anticipated that the Receiver's current counsel – Conrad O'Brien – will move as a group to Clark Hill, the Receiver believes it would be prudent to obtain an order permitting him to retain Clark Hill as counsel, and amending all prior and future orders referencing Conrad O'Brien to also apply to Clark Hill as of February 1, 2023. Since it is possible that the date will change, the Receiver is requesting an order that recognizes that all orders referring to Conrad O'Brien, including any orders that may be issued on already-pending motions, will apply equally to Clark Hill upon the effective date of the move, and that the Receiver need not submit amended orders in connection with any motions already pending or that may be filed prior to the effective date.

Given that the same attorneys will continue to represent the Receiver following the move, he does not expect any material change in their representation of the Receiver in this action or the ancillary litigation, or disruption in

Receivership operations. Counsel will continue to adhere to the same obligations at Clark Hill to which they have been subject in this matter, and will ensure that appropriate ethical obligations are followed.¹

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

III. CONCLUSION

In light of all of the foregoing, it is respectfully requested that the Motion of Receiver, Kevin Dooley Kent, for Permission to Change Counsel be granted, and that an order be entered in the form proposed.

Date: 1/13/2023

Respectfully Submitted,

s/ Robin S. Weiss
Robin S. Weiss, Esq.
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¹ This will include an ethical wall to screen attorneys working on this Receivership from a matter for a Clark Hill client that was previously the subject of document requests, but which client Clark Hill does not represent in this litigation, as well as a two way ethical screen related to Clark Hill's past representation as local counsel for a creditor claimant in this matter.

Philadelphia, PA 19102
Phone: (215) 864-8083
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**ORDER APPROVING THE RECEIVER'S MOTION FOR
PERMISSION TO CHANGE COUNSEL**

THIS MATTER having come before this Court upon the Motion of Receiver,
Kevin Dooley Kent, for Permission to Change Counsel,

It is on this _____ day of _____, 2023,

ORDERED that the Motion of Receiver, Kevin Dooley Kent, for Permission
to Change Counsel is GRANTED; and it is

FURTHER ORDERED the Receiver may retain Clark Hill as counsel in this
matter effective February 1, 2023, or the date of the move by Conrad O'Brien
attorneys to Clark Hill; and it is

FURTHER ORDERED, that all orders previously entered as to Conrad O'Brien, or which will be entered as to Conrad O'Brien, including any orders authorizing the payment of fees and expenses to Conrad O'Brien (including, but not limited to, ECF Nos. 22, 161, 167), shall also apply to Clark Hill effective February 1, 2023, or the date of the move by Conrad O'Brien attorneys to Clark Hill.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

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**CERTIFICATE OF
SERVICE**

I hereby certify, this 13th day of January, 2023, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin Dooley Kent, for Permission to Change Counsel 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