

**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: Feb. 21, 2023

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

PLEASE TAKE NOTICE that 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 February 21, 2023, or as soon thereafter as Counsel may be heard, for an order permitting him to change the bank holding the Receivership Account from Bank of America to WSFS Bank.

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: 1/23/2023

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

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Dated: 1/23/2023

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 provides that the Receiver “shall establish one or more custodial accounts at Bank of America, a federally insured bank, to receive and hold all cash equivalent Receivership Assets (the “Receivership Funds”). Receivership, Order, ¶ 43. In accordance with the Receivership Order, the Receiver opened a bank account with Bank of America to hold all cash Receivership Assets immediately following his appointment (the “Receivership Account”). The Receiver files this motion to seek an amendment of the Receivership Order, to enable him to establish a custodial account with WSFS Bank or another federally insured bank with a presence in New Jersey to hold the Receivership Funds.

II. ARGUMENT

At the time the Receiver opened the Receivership Account, an EIN was not yet available for the Receivership Estate as a Qualified Settlement Fund (“QSF”). Therefore, the Receiver had to open the Receivership Account under Conrad O’Brien’s EIN. The Receiver has previously attempted to have Bank of America change the EIN on the account to the QSF’s EIN once it became available, but Bank of America is not willing or able to change the EIN on the account to the

QSF's EIN, and has advised that the Receiver must instead close the Receivership Account and open a new one.

Given that the Receiver will need to open a new account that is not under Conrad O'Brien's EIN anyway due to his Counsel's upcoming move to Clark Hill, PLC (*see* ECF No. 219), and that based on recent discussions with WSFS the Receiver anticipates getting enhanced customer service from WSFS (which is also federally insured and has locations in New Jersey), the Receiver respectfully seeks an amendment of the Receivership Order permitting him to open a custodial account(s) with WSFS (or another federally-insured bank with a presence in New Jersey, if necessary) to hold the Receivership Funds.

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 Banks be granted, and that an order be entered in the form proposed.

Respectfully Submitted,

Date: 1/23/2023

s/ Robin S. Weiss
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**ORDER APPROVING THE RECEIVER'S MOTION FOR
PERMISSION TO CHANGE BANKS**

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

It is on this _____ day of _____, 2023,

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

FURTHER ORDERED that the Receivership Order (ECF No. 22) is hereby **AMENDED** to provide that the Receiver may open one or more custodial accounts at WSFS Bank or another federally insured bank with a presence in New Jersey, to receive and hold all cash equivalent Receivership Assets; and it is

FURTHER ORDERED that the Receiver may transfer Receivership Funds currently held with Bank of America to the new custodial account(s), as he deems necessary and appropriate.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

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**CERTIFICATE OF
SERVICE**

I hereby certify, this 23rd 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 Banks 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