

**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 Day: Sept. 5, 2023

**NOTICE OF MOTION OF RECEIVER, KEVIN DOOLEY KENT,
TO APPOINT ROBIN S. WEISS AS LEAD COUNSEL**

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 September 5, 2023, or as soon thereafter as the Court permits, for an order appointing Robin S. Weiss as lead counsel in this matter.

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: 8/10/2023

s/ Robin S. Weiss

Robin S. Weiss, Esquire
Clark Hill PLC
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
Phone: 215-864-8086
Fax: 215-523-9714
rsweiss@clarkhill.com
*Attorney for Receiver, Kevin Dooley
Kent*

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Motion Day:

**MEMORANDUM OF LAW IN SUPPORT OF MOTION OF RECEIVER,
KEVIN DOOLEY KENT, TO APPOINT ROBIN S. WEISS
AS LEAD COUNSEL**

Robin S. Weiss, Esq.
Clark Hill PLC
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
Phone: (215) 864-8086
Facsimile: (215) 523-9714
E-mail: rsweiss@clarkhill.com

Dated: 8/10/2023

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 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 was later amended to permit Clark Hill PLC to serve as counsel for the Receiver, following his counsel’s move to Clark Hill. (ECF No. 223).

In connection with the Securities and Exchange Commission’s application for the Receiver’s appointment (ECF No. 20), the Receiver submitted a Declaration dated May 15, 2020 (ECF No. 20-2), stating that Andrew S. Gallinaro would serve as lead counsel in this matter, with Robin S. Weiss to assist Mr. Gallinaro in the performance of his duties. Biographies for Mr. Gallinaro and Ms. Weiss were attached to the Declaration, as were affidavits confirming their lack of interest in this suit and the parties involved pursuant to L.Civ.R. 66.1(g). Andrew S. Gallinaro was identified as the Receiver’s counsel in the Receivership Order, at an approved hourly rate of \$365.00. (Receivership Order, ¶ 79).

Robin Weiss has continued to represent the Receiver alongside Andrew Gallinaro since the entry of the Receivership Order, and sponsored Mr. Gallinaro’s

admission *pro hac vice* in this matter. Ms. Weiss has submitted all filings on the Receiver's behalf, has been heavily involved in all aspects of the Receivership, and has managed the majority of the ancillary litigation initiated by the Receiver. She is intimately familiar with the facts and history of this case and the Receivership. Now, due to Mr. Gallinaro's impending departure from Clark Hill, the Receiver respectfully submits this request for the appointment of Robin S. Weiss as his lead counsel in his matter, at Mr. Gallinaro's approved rate of \$365.00 per hour.

II. ARGUMENT

Ms. Weiss, who is a Senior Attorney at Clark Hill, has dedicated thousands of hours to the representation of the Receiver in this matter. (*See* ECF Nos. 43, 50, 88, 112, 137, 174, 197, 209, 229, 247, 251).¹ Ms. Weiss has also devoted hundreds of hours to ancillary litigation being handled on a contingency fee basis. Through her representation of the Receiver, Ms. Weiss has become intricately familiar with the facts and circumstances that led to the creation of the Receivership and the basis for litigation initiated and demands asserted by the Receiver. Ms. Weiss has been closely involved with every aspect of this Receivership and is well-prepared and suited to serve as the Receiver's lead counsel in this matter, and will continue to carry out her duties and serve the Receiver in good faith as a fiduciary for all of

¹ Through the close of the Eleventh Quarter, Ms. Weiss' total hours exceeded 2,000.00.

the beneficial owners and creditors of the Receivership Estate, as she has done to date.

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, to Appoint Robin S. Weiss as Lead Counsel be granted, and that an order be entered in the form proposed.

Respectfully Submitted,

Date: 8/10/2023

s/ Robin S. Weiss
Robin S. Weiss, Esq.
Clark Hill PLC
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
Phone: 215-864-8086
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**ORDER APPROVING THE RECEIVER'S MOTION TO APPOINT
ROBIN S. WEISS AS LEAD COUNSEL**

THIS MATTER having come before this Court upon the Motion of Receiver, Kevin Dooley Kent, to Appoint Robin S. Weiss as lead counsel,

It is on this _____ day of _____, 2023,

ORDERED that the Motion of Receiver, Kevin Dooley Kent, to Appoint Robin S. Weiss as lead counsel is **GRANTED**; and it is

FURTHER ORDERED that Robin S. Weiss is appointed as lead counsel to the Receiver in this matter; and it is

FURTHER ORDERED that the approved hourly rate for Robin S. Weiss in this matter is now \$365.00 per hour.

BY THE COURT:

HONORABLE MADELINE COX ARLEO
UNITED STATES DISTRICT JUDGE

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**CERTIFICATE OF
SERVICE**

I hereby certify, this 10th day of August, 2023, that I caused to be served a true and correct copy of the Notice of Motion of Receiver, Kevin Dooley Kent, to Appoint Robin S. Weiss as Lead 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