

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:19-cv-02594-RM-SKC

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MEDIATRIX CAPITAL INC., et al.,

Defendants,

and

MEDIATRIX CAPITAL FUND LTD., et al,

Relief Defendants.

**PLAINTIFF'S UNITED STATES SECURITIES AND EXCHANGE COMMISSION'S
UNOPPOSED MOTION FOR APPOINTMENT OF A SUBSTITUTE RECEIVER**

Plaintiff United States Securities and Exchange Commission ("SEC") respectfully moves for an Order substituting Mark Conlan of Gibbons P.C. for Brick Kane of Robb Evans & Associates LLC as Receiver in this case.

CERTIFICATION UNDER LOCAL RULE 7.1A

In accordance with the District Court of Colorado Local Rule No. 7.1A, counsel for the SEC conferred with counsel for Defendants and Relief Defendants, who consent to the relief requested herein.

BACKGROUND

On September 11, 2020, the Court granted the SEC’s motion requesting appointment of a receiver finding that the appointment of a receiver was “necessary and appropriate for the purposes of marshaling and preserving all assets of the Defendants” and certain assets of the Relief Defendants. ECF No. 153 at 1. The Court appointed Brick Kane of Robb Evans & Associates LLC “to serve without bond as receiver [] over the (1) Entity Defendants; (2) the Receivership Assets of the Individual Defendants; and (3) the Recoverable Assets of the Receivership Relief Defendants.” *Id.* at 2.

On October 2, 2021, after serving as Receiver for more than one year, Mr. Kane passed away. *See* ECF No. 280. Robb Evans & Associates advised the Court that it was not able to serve as receiver in this matter, but did agree to act as “a short-term interim receiver for a period not exceeding 30 days.” *Id.* at 2.

The Third Quarterly Report of Receiver’s Activities reports that the Receiver is holding over \$8 million in cash, not including over \$10 million held in Defendants’ brokerage accounts with Equiti, and that issues relating to real property, personal property, and unliquidated claims remain unresolved. ECF No. 262.

RELIEF REQUESTED

Due to Mr. Kane’s passing, and because Robb Evans and Associates has stated it can act as an interim receiver for only for 30 days, and because the Receivership Assets are significant and there are unresolved issues relating to those assets, the SEC requests, and Defendants do not oppose, that the Court issue an order substituting Mark Conlan of Gibbons P.C. as Receiver in

this case, to function under the terms and conditions of the existing Order Appointing Receiver.

ECF No. 153.

DATED: October 19, 2021.

Respectfully submitted,

s/ Stephen C. McKenna _____

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