UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

MITCHELL WAX, Individually and On Behalf of All Others Similarly Situated, Plaintiff, vs. CROSS RIVER BANK, Defendant.	Civil Action No. 2:24-cv-09510-BRM-JRA **ORDER APPOINTING LEAD PLAINTIFF AND APPROVING LEAD PLAINTIFF'S SELECTION OF COUNSEL**

This matter having come before the Court by way of Plaintiff Mitchell Wax's motion to be appointed lead plaintiff and to approve lead counsel (the "Motion"), pursuant to the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), codified under 15 U.S.C. § 78u-4, ECF No. 9;

and the above-captioned securities class action having been filed against Defendant Cross River Bank ("CRB") alleging violations of the federal securities laws, ECF No. 1;

and Plaintiff and Counsel from Berger Montague PC having issued a notice to potential class members of the action on October 2, 2024, pursuant to the PSLRA, 15 U.S.C. § 78u-4(a)(3)(A)(i), informing them of their right to move to serve as lead plaintiff within 60 days of the date of the issuance of said notice, ECF Nos. 9-1 at 6, 9-4;

and the PSLRA providing, *inter alia*, that the most-adequate plaintiff to serve as lead plaintiff is the person or group of persons that has either filed a complaint or has made a motion in response to a notice, has the largest financial interest in the relief sought by the class, and satisfies the pertinent requirements of Rule 23 of the Federal Rules of Civil Procedure, 15 U.S.C. § 78u-4(a)(3)(B)(iii);

and Plaintiff Mitchell Wax having filed his Motion on December 2, 2024, for appointment as lead plaintiff and for approval of his selection of counsel stating that he suffered approximately $606,375.61 in financial losses on a "last-in-first-out basis" in connection with his purchase of Sunlight Financial Holdings, Inc. f/k/a Spartan Acquisition Corp. II ("Sunlight") securities, ECF No. 9-1 at 2;

and Sunlight allegedly being a "publicly traded technology-enabled point-of-sale financing platform that provided residential solar and home improvement contractors the ability to offer point-of-sale financing when customers purchased residential solar systems or certain other home improvements[,]" ECF No. 9-1 at 3;

and such financing being allegedly "funded by Sunlight's capital providers, including [CRB,]" *id.*;

and "CRB [having allegedly] engaged in a plan or scheme that enabled Sunlight to originate loans to solar panel installers of dubious credit quality, and then, by warehousing those loans on CRB's own balance sheet (as opposed to Sunlight's), allow[ing] Sunlight to conceal its liabilities associated with those risky loans from its investors[,]" *id.*;

and there being no other member of the class having filed a motion on or before December 2, 2024, for appointment as lead plaintiff and for approval of their selection of counsel;

and CRB having filed a limited response to Plaintiff's Motion on December 23, 2024, noting that it takes "no position with respect to [P]laintiff's [M]otion," but "reserv[ing] all rights and defenses as to the underlying claims, including without limitation all defenses based on standing or the appropriateness as a class representative of any appointed lead plaintiff in addition to all other defenses to class certification[,]" ECF No. 15;

and the Court finding that Mitchell Wax has the largest financial interest in this action;

and the Court further finding, for the sole purpose of this Motion, that Mitchell Wax has made a preliminary showing that his claims satisfy the typicality requirement under Fed. R. Civ. P. 23(a)(3) because he alleges, as all members of the class allege, that Defendant engaged in a fraudulent scheme in violation of the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* (the "Exchange Act"), by failing to disclose material facts about Sunlight's business and financial condition, *see* ECF No. 9-1 at 8;

and the Court further finding, for the sole purpose of this Motion, that Mitchell Wax has made a preliminary showing that his claims satisfy the adequacy requirement under Fed. R. Civ. P. 23(a)(4) because he shares a close alignment of interests with other members of the class in prosecuting this action, ECF No. 9-1 at 9-10;

and the Court further finding that Mitchell Wax is presumed to be the "most adequate plaintiff" because he: (1) filed the initiating Complaint (ECF No. 1); (2) has the largest financial interest as he suffered approximately $606,375.61 in financial losses (ECF No. 9-1 at 2); and (3) has made a *prima facie* showing of typicality and adequacy requirements pursuant to Fed. R. Civ. P. 23(a) and 15 U.S.C. § 78u-4(a)(3)(B)(iii);

and the Court further finding that other members of the class have failed to rebut the presumption that Mitchell Wax is the "most adequate plaintiff," 15 U.S.C. § 78u-4(a)(3)(B)(iii);

IT IS, on this 8th day of January 2025, HEREBY ORDERED THAT:

APPOINTMENT OF LEAD PLAINTIFF AND LEAD COUNSEL

1. Pursuant to § 21D(a)(3)(B) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B), Mitchell Wax's Motion (ECF No. 9) is **GRANTED**.

2. Mitchell Wax is appointed as Lead Plaintiff of the class, as he filed the initial Complaint (ECF No. 1), has the largest financial interest in this litigation, and otherwise satisfies the requirements of Fed. R. Civ. P. 23(a).

3. Pursuant to § 21D(a)(3)(B)(v) of the PSLRA, 15 U.S.C. § 78u-4(a)(3)(B)(v), Mitchell Wax's choice of counsel is approved, and accordingly, Rosca Scarlato LLC and Berger Montague PC are appointed as Lead Counsel.

4. Lead Counsel, after being appointed by the Court, shall manage the

prosecution of this litigation. Lead Counsel is to avoid duplicative or unproductive activities and is hereby vested by the Court with the responsibilities that include, without limitation, the following: (1) to prepare all pleadings; (2) to direct and coordinate the briefing and arguing of motions in accordance with the schedules set by the orders and rules of this Court; (3) to initiate and direct discovery; (4) to prepare the case for trial; and (5) to engage in settlement negotiations on behalf of Lead Plaintiff and the Class.

SO ORDERED:

HON. JOSÉ R. ALMONTE
UNITED STATES MAGISTRATE JUDGE