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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

COMMODITY FUTURES TRADING
COMMISSION, and

STATE OF UTAH DIVISION OF
SECURITIES, through Attorney General
Sean D. Reyes

Plaintiffs,
v.

RUST RARE COIN INC., a Utah corporation,
and GAYLEN DEAN RUST, an individual,
DENISE GUNDERSON RUST, an individual,
JOSHUA DANIEL RUST, an individual,

Defendants;

and

ALEESHA RUST FRANKLIN, an individual,
R LEGACY RACING INC, a Utah
corporation, R LEGACY ENTERTAINMENT
LLC, a Utah limited liability company, and R
LEGACY INVESTMENTS LLC, a Utah
limited liability company.

Relief Defendants.

**RECEIVER'S INITIAL STATUS
REPORT**

*For the period November 15, 2018, to
December 31, 2018*

Civil No. 2:18-cv-00892-TC

Honorable Tena Campbell

Jonathan O. Hafen, the Court-Appointed Receiver over the assets of the following Defendants and Relief Defendants: Rust Rare Coin Inc., Gaylen Dean Rust, R Legacy Racing Inc., R Legacy Entertainment LLC, and R Legacy Investments LLC (collectively, “Receivership Defendants”), hereby submits this Quarterly Status Report for the period November 15, 2018 through December 31, 2018, pursuant to Section XIII, paragraph 53 of this Court’s Order Appointing Receiver and Staying Litigation, dated November 27, 2018 (the “Appointment Order”).

As instructed by the Court, this Report addresses:

- I. A summary of the operations of the Receiver, including significant developments during the quarter.
- II. A summary of the current financial condition of the Receivership.
- III. A summary of the receipts and disbursements of the Receivership.
- IV. A description of known Receivership property, including approximate valuations, and anticipated dispositions.
- V. A description of liquidated and unliquidated claims of the Receivership, including the need for forensic and investigatory resources, approximate values of those claims, and anticipated methods of enforcing such claims.
- VI. A list of known creditors of the Receivership.
- VII. The status of creditor claims proceedings.
- VIII. The Receiver’s recommendations for continuation of the Receivership.

INTRODUCTION AND BACKGROUND

1. Mr. Hafen was approached by the CFTC and Division of Securities on approximately November 7, 2018 regarding his willingness to serve as Receiver in this matter should the Court choose to appoint him. Mr. Hafen indicated his willingness to serve if appointed

and began working with the CFTC and the Division of Securities in preparation for the filing of this action and a potential appointment as Receiver.

2. On November 13, 2018, the above-captioned case was formally commenced by the Commodity Futures Trading Commission (“CFTC”) and the Utah Division of Securities (the “Division”) against the Receivership Defendants. *See* Dkt. No. 1.

3. On November 15, 2018, the Court entered an *Order Granting Plaintiffs’ Ex Parte Motion for Statutory Restraining Order, Appointment of Receiver, and other Equitable Relief*. *See* Dkt. No. 22.

4. On November 21, 2018, the Court entered an order granting the Receiver’s *Motion for Order Authorizing Receiver to Employ Attorneys*, authorizing the Receiver to retain Parr Brown Gee & Loveless (“Parr Brown”) as counsel for the Receivership Estate. *See* Dkt. No. 40. That same day, the Court entered a similar order granting the Receiver’s *Motion for Order Authorizing Receiver to Employ Accountants*, authorizing the Receiver to retain Berkeley Research Group (“BRG”) to perform accounting and investigative services for the Receivership Estate. *See* Dkt. No. 41.

5. Since the initial contact from the Utah Division of Securities, the Receiver has worked in concert with his counsel, Parr Brown, and his accountants, BRG, to identify and secure Receivership Assets, including cash and real and personal property, to wind down the business operations of the Receivership Defendants, and to identify claimants and creditors of the Receivership Estate.

SUMMARY OF WORK PERFORMED BY THE RECEIVER

A. Notices of Receivership and Service of Court Orders.

6. The Receiver provided copies of the Complaint and Appointment Order to the Receivership Defendants, as well as identified investors and creditors, former employees of the Receivership Defendants, and those individuals and entities the Receiver has identified as holding assets of the Receivership Defendants. The Appointment Order has also been made available on the Rust Rare Coin Receivership Information Page at <https://rustrarecoinreceiver.com/>. The Receiver has made a concerted effort to direct investors, creditors, and former employees of the Receivership Defendants to this site, where interested parties can access relevant pleadings that have been filed in the case and where interested parties are asked to provide contact information that the Receiver has used to create a master mailing matrix. The Receiver has sent copies of filings and notices to the individuals for whom he has received contact information.

7. Pursuant to 28 U.S.C. § 754, and the Appointment Order, the Receiver has filed copies of the Complaint, Dkt. No. 1, and either *the Order Granting Plaintiffs' Ex Parte Motion for Statutory Restraining Order, Appointment of Receiver, and other Equitable Relief*, Dkt. No. 22 (the "Temporary Order") or the Appointment Order, in the United States District Courts for the District of New Mexico, Northern District of Ohio, Northern District of Texas, Central District of California, Southern District of California, Eastern District of Kentucky, Western District of Washington, District of Alaska, District of Arizona, Western District of Missouri, Western District of New York, and the Southern District of New York. A table identifying the miscellaneous case numbers for each of these filings was filed with the Court on December 28, 2018. *See* Dkt. No. 74.

8. The Appointment Order stayed all litigation against the Receivership Defendants or affecting the Receivership Estate. Dkt. No. 24 at ¶¶ 31-33. Consistent with the Appointment

Order, the Receiver filed a notice of stay on December 13, 2018, in *Rushton v. Rust Rare Coin, Inc.*, Adv. Proc. No. 18-02094.

B. Tax Notifications.

9. The Receiver obtained a new tax identification number for the Receivership Estate and submitted the required forms to the IRS.

C. Notice of Change of Address.

10. The Receiver instructed the US Postal Service to redirect mail addressed to the Receivership Defendants to the Receiver. The Receiver has been receiving mail addressed to those entities.

D. Winding Down Business Operations.

11. After determining that none of the businesses was profitable, the Receiver worked to wind down the operations of the various businesses and to secure the assets of the Receivership Defendants.

12. The Receivership Defendants operated several businesses, including the following:

- a. Rust Rare Coin – a specialty coin shop located in Salt Lake City, which dealt in bullion, rare coins and currency, and other memorabilia.
- b. Huge Studios – an audio-production studio in Salt Lake City.
- c. Big Door Entertainment – a video-production studio in Provo.
- d. The Brick Room – an event space located in the same building as Big Door Entertainment that was regularly booked for weddings and other events.
- e. Sage & Thistle – an event-planning company located in Lindon.
- f. Musician’s Toolkit – a music education company that specialized in high-end videos designed to teach music students to play various instruments.

Musician's Toolkit also created a custom learning management system to facilitate students' music education.

- g. R Legacy Racing – a horse-racing operation owning approximately 100 thoroughbred racehorses.
- h. YourLDSMusicStore.com – a music retailer based on Layton that distributed and sold music through various online channels.
- i. The Writer's Den – a songwriter's studio in Tennessee.
- j. Torque Media – a music publishing house in Tennessee.

13. While winding down the businesses, the Receiver recognized that securing the help of someone familiar with the employees, inventories, insurance and operations of these businesses, would streamline the wind down process and minimize cost to the Estate. To that end, the Receiver hired Bart Graser, the former chief operating officer of the R Legacy Entertainment dba businesses of Sage & Thistle, Big Door, The Brick Room and Huge Studios, on a contract basis. Mr. Graser has been valuable in identifying the assets of those businesses and then winding them down.

14. The majority of the business operations were suspended within days of the creation of the Receivership. As explained below, the Receiver determined that it would be most beneficial to the Receivership Estate to operate Sage & Thistle—the event-planning company—on a limited basis in order to fulfil several contracts for events scheduled to occur during the holiday season.

15. Also on a limited basis, the Receiver coordinated with former employees of Huge Studios and Big Door Entertainment to complete outstanding projects for customers of those entities. These projects were in their final stages and the completion of these projects meant that the Receivership could avoid additional claims on the Receivership Estate from those customers.

16. **Employee Issues.** The Receiver and his team expended considerable time addressing employee-related issues arising from the winding down of the Receivership Defendants' business operations. This has included recovering company property from approximately 70 employees, placing employees on unpaid leaves of absences, terminating employees, and handling employee pay and benefits issues. Receiver's counsel met with employees of each of the affected businesses and provided them with a copy of the Court's freeze order, supervised their removal of personal items from the relevant businesses, and obtained their contact information.

17. **Meeting with Employees and Removal of Personal Property.** Immediately upon appointment, the Receiver's counsel conducted site visits to each of the Utah businesses operated by the Receivership Defendants. Receiver's counsel met with the employees and informed them of the circumstances that gave rise to the freeze order and provided them with a copy of the same. The employees were then furloughed and were ultimately terminated pursuant to this Court's order. *See* Dkt. No. 54. Receiver's counsel supervised the removal of personal property from the businesses and obtained the personal information of the employees. Receiver's counsel then conducted an informal inventory of each business location.

18. The Receiver secured each facility by changing the locks and the security codes. The Receiver has worked diligently to vacate where possible any leased space that is no longer needed in order to minimize rent costs and to preserve the Receivership Estate.

19. Receiver's counsel or their representatives subsequently allowed supervised retrieval of employee personal effects on a case-by-case basis.

20. **iSolved Paystubs and W2s.** The Receiver and his team also spent considerable time on issues related to payroll and taxes for the former employees. When the accounts of the

Receivership Defendants were frozen, the web portal of the third-party payroll provider, iSolved, went inactive. The Receiver has worked with iSolved and its counsel to reopen the web portal to allow former employees of the Receivership Defendants access to their paystubs in order to obtain unemployment benefits. The Receiver is working with iSolved to provide W2s to all former employees of the Receivership Defendants. These efforts have been especially urgent in light of the fast-approaching tax season.

21. **Sage & Thistle Limited Operations.** The Receiver was appointed just a few weeks before the Thanksgiving and Christmas holiday season. As an event planning company, Sage & Thistle had four major corporate holiday events at various venues and seven wedding receptions at The Brick Room scheduled from December 1, 2018, through January 2, 2019. Approximately 3,400 people were scheduled to attend the corporate events and a few hundred people were expected to attend each wedding reception. The Receiver estimated that about 5,000 people would be adversely affected, and the estate would be subject to breach of contract claims of over \$100,000 unless Sage & Thistle was able to continue to operate on a limited basis for an additional five weeks.

22. The Receiver received \$63,000 in progress payments on those corporate events and wedding receptions *after* the November 15, 2018 freeze order was entered. Instead of returning that money because Sage & Thistle would not fulfil those contracts, the Receiver, with the Court's approval, contracted with a skeletal crew of former Sage & Thistle employees to work on an hourly-rate basis to complete the corporate events and wedding receptions—which they did wonderfully. The total cost to complete those events was about \$55,500, which meant that the Receivership Estate received a net profit of \$7,500 more than the Estate would have received if it

returned the progress payments. And the Estate avoided incurring significant additional contractual liabilities.

23. **Requests for Records.** The Receiver has requested and is in the process of receiving documents from tax preparers who have performed work for the Receivership Defendants and is in the process of receiving documents from those preparers.

24. The Receiver also requested and received records from The Jockey Club and The Jockey Club Information Systems, Inc., which maintained records related to thoroughbred racehorses belonging to the Receivership Defendants.

25. The Receiver requested and was granted access to records of bank accounts held by the Receivership Defendants at Zions Bank.

E. Identification of Liquid Assets and Bank Accounts.

26. **Money at Zions Bank.** Virtually all of the Receivership Defendants' bank accounts were held at Zions Bank. In the days immediately prior to appointment of the Receiver, many of the Zions Bank accounts were significantly overdrawn. Over \$2 million of transfers were made to and from those Zions Bank accounts within the 24-hour period before and after the Receiver's appointment. With the cooperation of Zions Bank, the Receiver has been working to understand the range of transfers into and out of the bank accounts and has already recovered approximately \$750,000 that was transferred out of the Receivership Defendants' bank accounts. The Receiver is also in the process of seeking to recover an additional \$1.6 million, which the Receiver expects Zions Bank will interplead into the Court.

27. Consistent with the Appointment Order, the Receiver has established qualified settlement fund accounts into which the funds recovered from the Receivership Defendants' accounts have been deposited.

28. **Cash at Rust Rare Coin.** The Receiver has recovered just over \$26,000 of cash from the Rust Rare Coin shop located at 242 East Broadway, Salt Lake City, Utah, which has been deposited into the Receiver's qualified settlement accounts.¹

29. **Cash in Life Insurance Policy.** The Receiver has identified a whole life insurance policy held by Gaylen Rust which includes a cash surrender value of at least \$30,000. The Receiver has been working with Mr. Rust's insurance broker to determine whether cashing out the policy or engaging in a viatical settlement agreement would maximize the recovery to the Estate.

F. Identifying and Securing Real and Personal Property.

30. **Identification of Property.** The Receiver and his team have met with Denise Rust and Josh Rust on several occasions to assist in the identification of Receivership property. Both Denise Rust and Josh Rust have cooperated with the Receiver in locating, identifying, and securing Receivership property, which is located in multiple states.

31. **Personal Residence of Gaylen and Denise Rust.** The Rusts' home is located at 2815 W. Gordon Ave., Layton, Utah 84041. Consistent with the Court's instruction, the Receiver has not taken possession of the Rusts' home or any personal property contained therein. *See* Dkt. No. 54 at ¶ 19. The Rusts' personal residence sits on just over six acres outside of Layton. The Receiver understands that the Rusts maintain approximately ten horses at their home.

32. **Ohio Property.** The Receivership includes a home and horse stable located at 5154 Mayham Rd. Northeast, Carrollton, Ohio 44615 (the "Home"), as well as twelve acres of raw ground located in close proximity to the Home (the "Raw Ground"). When the Receiver was appointed, the Home was already under contract for sale to Craig and Leann Henry. The Receiver

¹ After the close of the quarter, the Receiver recovered an additional \$15,000 in cash that will also be deposited into the Receivership's qualified settlement fund accounts.

has investigated the listing agent, the buyers, and the sale process and determined that the sale is arms-length and good faith. Pursuant to 28 U.S.C. § 2001, the Receiver sought an order confirming the appointment of the appraisers to assist the Court and the Receiver in evaluating the proposed sale price of \$475,000. *See* Dkt. No. 82. A hearing was held on January 28, 2018, in which this Court approved the appraisers and the sale process.

33. In connection with the sale of the Ohio Property, the Receiver was required to investigate and address several issues clouding the title of the property, including a prior mortgage that had not been properly released. The Home is also encumbered by a junior lien in the amount of \$132,467.66 in favor of one of the Rusts' investors. With the Court's approval, the Receiver will close the sale of the Home, but place the amount subject to the junior lien in a segregated account until the Receiver can determine the validity of the junior lien in light of the Ponzi activity of Mr. Gaylen Rust. The sale of the Home should close in the coming days.

34. The Receiver is also in the process of finalizing the sale of a tractor for \$9,000 and of a riding lawnmower for \$1,300 that were located at the Home.

35. The Receiver has the Raw Ground listed for sale and is working with the listing agent in Ohio to sell that property.

36. **Big Door and Musician's Toolkit Equipment Auction.** The Receivership includes a video production studio in Provo, Utah, known as Big Door, as well as furniture, fixtures, and equipment used by Musician's Toolkit.

37. After consultation with a well-respected professional auction company known as Erkelens & Olson Auctioneers and Appraisers ("Erkelens & Olson"), the Receiver has determined that sale of the hard assets of Big Door and Musician's Toolkit (not including the intellectual property of Musician's Toolkit) through public auction will maximize recovery for

the Estate. The Court approved this action by Order dated January 23, 2019. *See* Dkt. No. 86.

This auction is scheduled for February 23, 2019, at 9 a.m. at 3365 West 500 South, Ste. 100, Salt Lake City, Utah 84104. The details are provided at the following website:

<https://www.salesandauction.com/>. A schedule of equipment belonging to Big Door and Musician's Toolkit is attached hereto as Exhibit A.

38. **Alaskan Properties.** The Receivership holds title to five properties located in a small fishing community in Homer, Alaska. The Receiver suspects that R Legacy Investment acquired properties in this remote location because that is where Mr. Gaylen Rust's daughter, Aleesha Rust Franklin, and her husband live. Due to the remote location of the Alaska properties, the Receiver has found it difficult from long distance to identify all of the properties owned by the Estate, secure control of those properties, verify their condition, and assess the value of certain personal property used in the operation of one of the properties. Hence, the Receiver recently visited Homer, Alaska, where he met with a real estate broker, visited all of the Receivership properties, inspected the inventory on the business property, met with prospective buyers of one of the properties, met with Aleesha Rust Franklin and her husband, and formulated a plan to sell the Receivership properties in Homer. Consistent with the Appointment Order, the sale of the following Alaskan properties will be the subject of future motions:

- a. Business property. The Receivership owns a two-story business property located at 3657 Main Street, Homer, Alaska, out of which Mr. Gaylen Rust's daughter, Aleesha Franklin, operated a wellness business, Forget Me Not. The Receiver has verified that the property is insured and winterized. The Receiver has located an independent real estate broker who is helping to find three appraisers to value the property. Of the two real estate

appraisers in Homer, neither can appraise commercial properties. The Receiver is in the process of securing independent commercial appraisers before beginning to market the property.

- b. Beach House. The Receivership includes a property located at 1121 Seabreeze Ct., Homer, Alaska, and commonly known as the “beach house”. This property has been used as a bed and breakfast. The Receiver has verified that the property is insured and secure. The Receiver is receiving help from a real estate broker to appraise, market and sell the property consistent with governing law.
- c. Spit Property. The Receivership owns a small building that sits on Homer’s spit, a 5 mile strip of land that runs into the ocean, with an address of 4025 Homer Spit Road, Homer, Alaska. The Spit Property is located on a boardwalk owned by a third party. The Spit Property is rented out during the 17 week summer season that runs from June 1 to Aug 15. The property is insured and has been winterized. The Receiver is looking for appraisers so it can market and sell the property.
- d. 7 and 5 acre parcels. The Receivership includes a 7 acre and a 5 acre piece of raw ground adjacent to the personal residence of Aleesha Rust Franklin located at 65299 Diamond Ridge Road, Homer, Alaska. The Receiver is seeking to appraise and sell the raw ground.

39. **Mortgage on Diamond Ridge, Alaska, Property.** A few years ago Gaylen Rust and/or his company R Legacy Investment sold a personal residence to Mr. Rust’s daughter, Aleesha Rust Franklin. The home is located at 65299 Diamond Ridge Road, Homer, Alaska. The

Receiver holds a seller carryback promissory note from Ms. Franklin for approximately \$400,000, secured by a lien on the residence. Ms. Franklin is making mortgage payments to the Receiver of just under \$1,800 per month pursuant to the promissory note. The driveway to the personal residence runs through the middle of the seven-acre raw ground owned by the Receiver. The Receiver is in discussions with Ms. Franklin's counsel to determine how best to resolve the road issue and a potential agreement with respect to the home.

40. **Sale of Alaska Business Property Inventory.** At the business property located at 3657 Main Street, Homer, Alaska, Ms. Franklin used equipment and inventory that were purchased by R Legacy Investment to operate Forget Me Not. The Receiver has identified the personal property inventory and is in the process of liquidating that property with the expected assistance of Ms. Franklin. A schedule showing the inventory of the property of the Alaska business is attached hereto as Exhibit B.

41. **Sage & Thistle Sale.** The Receivership Defendant R Legacy Entertainment operated an event planning and party equipment leasing company named Sage & Thistle. Sage & Thistle leases a large warehouse in Lindon, Utah, that is full of items built for large corporate events as well as tables, chairs, plates, cutlery, glasses and other items that are rented out for weddings, wedding receptions, and other similar events. Within a day of his appointment, the Receiver secured the property by changing the locks and security code at the warehouse, although the Receiver allowed certain contract employees continued access to the warehouse's inventory in order to complete the holiday jobs referenced in paragraphs 21-22 above. Upon the recommendation of the Receiver's liquidation professional, Erkelens & Olson, the Receiver authorized Erkelens & Olson to move forward with a public auction of the inventory at the warehouse. Before the auction date, the Receiver received an offer from a private party to purchase

the inventory for 25% more than Ereklens & Olson believed the Receiver would recover at public auction. After approval of the Court [Dkt. No. 86], the Receiver is now finalizing an agreement to sell the inventory to a private buyer named Steve Bryner. The Receiver believes the sale will close quickly, which will result in value to the Receivership Estate and will relieve the Receivership Estate of ongoing carrying costs associated with renting the current Sage & Thistle warehouse space.²

42. **Huge Studios.** The Receiver controls a 16,000 sq. ft. music production studio located at 352 South 500 East, Salt Lake City, Utah, known as “Huge Studios.” Huge Studios is a state-of-the-art picture editing, music scoring and sound design studio full of high-end music and sound equipment. Upon appointment, the Receiver immediately secured the property by changing locks and security codes. The Receiver has engaged a well-respected and seasoned real estate and business broker, Highland Commercial, Inc., to help market and sell the property. The Receiver has negotiated a reduced commission schedule with the broker, so that the Estate will not pay a commission of over 5%, and will not pay a commission to Highland Commercial on Huge Sound the equipment if sold separately from the real estate. The Receiver, through its accountants at BRG, has analyzed the financials of Huge Studios and has provided that historical financial data to several prospective buyers. The Receiver, through its broker, will market both the real and personal property for sale. The Receiver will secure Court approval for three appraisers to value the real property before any sale. The Receiver is in the process of inventorying and valuing the Huge Sound equipment and real property.

² The Receiver received the private party bid on Sage & Thistle’s assets after the end of the quarter, but includes a discussion of the anticipated disposition of the Sage & Thistle assets for completeness.

43. **St. George Condo.** The Receivership owns a condominium property located at 1111 S. Plantation Drive, #306, St. George, Utah. The Receiver has secured the property by changing the locks, and has engaged a well-respected real estate broker named Lori Chapman from Coldwell Banker Premier Realty to market and sell the property. The Receiver anticipates seeking court approval for three independent real estate appraisers to value the property, in anticipation of marketing the property for sale.

44. **Horses.** The Receiver has identified approximately 100 racehorses belonging to Relief Defendant R Legacy Racing located in New Mexico and Kentucky. Determining the best way to sell the racehorses has presented a number of challenges. A schedule listing the racehorses is attached hereto as Exhibit C. The Receiver does not have current valuations for the racehorses.

45. The bulk of the racehorses are located in New Mexico, with only three horses located in Kentucky. The Receiver has been evaluating the best way to maximize the value of the racehorses, but the Receivership Estate faces immediate and ongoing costs associated with feeding, boarding, and—for some horses—training the racehorses. The monthly costs required to simply maintain the racehorses are over \$60,000. In light of the extremely high carrying costs, the Receiver has secured Court approval to sell the horses as set forth in more detail below. *See* Dkt. No. 86.

46. As the Receiver has investigated the best way to sell the racehorses while maximizing value to the estate, he has learned that the sale of the horses poses unique challenges. The majority of the New Mexico racehorses are not in active training for racing and are primarily part of a breeding program. A key factor complicating the sale of the New Mexico racehorses is that many have yet to be formally registered, a requirement for sales through traditional channels. Unfortunately, registration is very expensive, and obtaining the required registrations would cost

the Receivership Estate approximately \$32,000. Additional complicating factors include (1) the primary selling season for racehorses is in the fall, which would require the Receivership Estate to carry the high costs of maintaining the racehorses for several more months, and (2) the best traditional sales channels are physically located in Kentucky, which would require the Receivership Estate to incur significant costs associated with transporting New Mexico racehorses to Kentucky. In light of the high costs associated with traditional sales channels, the Receiver has determined that an online auction will be the most effective means of selling the majority of the New Mexico racehorses. The Receiver has finalized an agreement with Flashpoint Bloodstock, LLC (“Flashpoint”), an experienced online horse auctioneer, to promote and conduct an online auction of the New Mexico racehorses to be held in February 2019. The Receiver is confident that the online auction process will maximize the value of the racehorses for the Receivership Estate, while minimizing out-of-pocket costs.

47. Some of the New Mexico racehorses are part of an active training program with Bart Hone Racing, Inc. The Receiver has negotiated an agreement with Mr. Hone to sell a number of the racehorses in his possession immediately to generate funds, and to continue training the remainder of the racehorses. Mr. Hone will enter other racehorses into races in February 2019, where he intends to race the horses and offer them for sale. Mr. Hone will be paid a 15% commission, and the Receiver believes that offering the racehorses for sale at a race event will generate the most value. Finally, Mr. Hone will enter approximately fifteen racehorses in “test” events, wherein he will be able to assess their value, after which he will sell them at the same 15% commission. To the extent Mr. Hone is unable to sell any of the racehorses in his training program, those horses will be included in the online auction through Flashpoint.

48. Additionally, the current caretakers of the racehorses have incurred post-receivership expenses related to care, boarding, and feeding the horses in their care. Some of the caretakers have expressed an interest in purchasing certain of the racehorses in exchange for releasing or reducing any post-receivership claim against the Receivership Estate, with the remainder of the horses' value paid in cash to the Receivership Estate. The Receiver is analyzing these alternatives to determine how best to maximize value to the Estate while reducing the significant on-going carrying costs of the racehorses.

49. Finally, to the extent any of the racehorses cannot be sold through the online auction or otherwise, the Receiver will re-home the racehorses through either university or non-profit shelters. Although such a re-homing process will not generate funds for the Receivership Estate, it will allow the Receiver to avoid the high monthly costs associated with boarding, care, and feeding horses with little to no market value.

50. **Victorian House.** The Receiver owns a Victorian-style home located at 734 East 200 South, Salt Lake City, Utah. A sale of the home fell through the day the Receiver was appointed for reasons unrelated to the Receivership. The Receiver has continued to use the real estate agent that had the home under contract when the Receiver was appointed. Sale of the home will be subject to Court approval.

51. **Rare Coins.** The Receiver has worked to inventory the coins, precious stones, bullion, and collectible money at the Rust Rare Coin facility. The Receiver has also worked to evaluate various claims of consignment and bailment for coins, stones, bullion, and collectible money in the possession of the Receivership Defendants at the time of the Appointment Order. The Receiver will seek an order of this Court prior to selling any assets of Rust Rare Coin. The Receiver has also worked to locate and inventory any coins belonging to, but not in possession, of

Rust Rare Coin and to coordinate the delivery of the same. For example, the Receiver has recently recovered approximately \$250,000 of gold being held by A-Mark, a precious metals dealer that they were holding on behalf of Rust Rare Coin. The Receiver has contacted all of the precious metal wholesalers where Rust Rare Coin had accounts to recover any amounts being held at those wholesalers. The Receiver's counsel has also met with former Rust Rare Coin employees to review the inventory.

52. The Receiver intends to move for permission to liquidate the assets of Rust Rare Coin. The Receiver believes that he has now identified and set aside all of the items subject to alleged consignment and appraisal arrangements. The Receiver intends to ask permission to liquidate all other items. Erkelens & Olson held an on-site sale of certain low-value business furniture and fixtures such as display cases and desks on January 30, 2019. But the remaining inventory of Rust Rare Coin—bullion, coins, collectible items, and other items of numismatic value—will be the subject of a forthcoming motion. A listing of the more valuable inventory belonging to Rust Rare Coin is attached hereto as Exhibit D.

53. **Musician's Toolkit Intellectual Property.** Through Musician's Toolkit, Defendants created thousands of hours of high-quality music instructional videos. Defendants also created a custom learning-management system through which music instructors could access the video content, assign lessons and assignments, and monitor their students' progress. The Receiver believes that the intellectual property created by Musician's Toolkit has significant value and is actively looking for the proper broker to help with the marketing and sale of this unique asset. However, the unique nature of the asset has presented challenges for its valuation, and the Receiver does not currently have an estimated value. Exhibit E, attached hereto, contains an inventory of

the intellectual property created by Musician's Toolkit. Because of the unique nature of that property, the Receiver has not yet determined its value, but believes that value to be significant.

54. **Layton Warehouse.** This property was used by YourLDSMusicStore.com as a base of operations and to store physical copies of the music distributed by the company. The warehouse contains both inventory owned by Defendants and inventory subject to consignment and distribution arrangements. Additional inventory is maintained in digital files, which the Receiver has located and secured. The Receiver has been working with the Defendants to identify which inventory items belong to the Receivership and which are subject to potential claims of third parties. The Receiver hopes to complete that process shortly, at which time the Receiver will seek permission to liquidate those items belonging to the Receivership. The Receiver is currently working to obtain a complete inventory of the Layton Warehouse.

55. **Vehicles.** The Receivership Estate owns three automobiles: a Honda CR-V, a Ford Transit, and a Chevy Tahoe. The Receiver was granted permission to formally abandon the Honda CR-V because the value of the vehicle was less than the amount owed by Defendants on the loan. *See* Dkt. No. 86. The Receiver will transfer the Chevy Tahoe to the buyers of the Sage & Thistle assets, even though the loan on the vehicle exceeds its value. The Receiver will sell the Ford Transit at the Big Door public auction set for February 23, 2019, as approved by the Court. *See* Dkt. No. 86.

56. **Jazz Tickets.** Once the Receiver discovered that Gaylen Rust was a Utah Jazz season ticket holder, the Receiver secured those tickets and worked to liquidate them. To date, the Receiver sold approximately \$8,000 worth of tickets.³

³ A portion of the Jazz tickets were sold after the end of the quarter.

57. **Symphony and Other Tickets.** The Defendants also possessed several tickets to upcoming performances of the Utah Symphony and other performances, which the Receiver is working to liquidate. The Receiver understands that the tickets are worth approximately \$600.

58. **Timeshare Membership.** Mr. Gaylen Rust owns a timeshare membership with Wyndham WorldMark that is fully paid for, although it has monthly maintenance dues that will need to be paid before it can be sold. The Receiver is currently working to value and sell the timeshare.

G. Securing Information.

59. **Documents, Records, and Information from Receivership Defendants.** The Receiver has worked to collect, organize, and preserve any documents, records, and information from the Receivership Defendants. The Receiver has taken possession of computers belonging to Defendants and all employees of the entity Defendants. The Receiver has arranged to have forensic copies made of several key computers, including the computers used by Gaylen Rust, Denise Rust, and Josh Rust, as well as key employees of Rust Rare Coin. The Receiver has also created forensic copies of three file servers located at Rust Rare Coin. The contents of these computers and file servers are being analyzed. The Receiver will maintain the data contained in all of the computers pending resolution of this case.

60. The Receiver has located and secured the email archives of the Defendants and Relief Defendants. The Receiver believes these archives will be invaluable in understanding the activities of the Defendants.

61. The Receiver has also collected physical documents from all of the Utah locations controlled by the Receivership Estate and is working to catalogue and identify those documents that are relevant to this case and the Receiver's duties. This collection and review of physical

documents has been and will be an extensive undertaking but is necessary to create the foundation for the claw back actions the Receiver will bring in the coming months. Over 55 boxes of documents were removed from Rust Rare Coin alone.

62. **Web Hosting for Receivership Defendants.** The Receiver has worked with web service providers Fusion360 and Firetoss to transfer hosting of websites related to the Receivership Defendants' websites to the control of the Receiver. The Receiver has worked with web hosting provider Liquid Web and DevSquad to ensure that the Musician's Toolkit intellectual property is secure and continues to be available on the web for marketing purposes.

63. **Rust Rare Coin eBay Store.** The Receiver has deactivated the Rust Rare Coin eBay store.

H. Investor Communications.

64. The Receiver has compiled a mailing list of approximately 600 individuals and entities who are potential claimants of the receivership estate. This list includes investors, business creditors, customers, and employees of receivership entities.

65. The Receiver has created a website—Rust Rare Coin Receivership Information Page at <https://rustrarecoinreceiver.com/>—where investors, customers, vendors, and tenants can submit their contact information, obtain a copy of the Appointment Order, read news related to the Receivership, and obtain copies of the recent filings before this Court.

66. The Receiver has been posting updates to the website when filings are made to the Court and also distributing copies of filings and notices to the individuals on the mailing list. The Receiver has endeavored to update claimants of hearing and deposition dates and to provide summaries of important developments in the case.

67. The Receiver and his team have been meeting with investors and other potential creditors. The Receiver met with a large group of approximately 30 investors and creditors on December 7, 2018. At that meeting the Receiver attempted to address the investors' questions and explain how the receivership process works. The Receiver and his team have also met with smaller groups of investors on numerous occasions and have had many telephone conversations and email exchanges with investors

68. The investors relate unhappy stories about the impact this case has had on them. Many of the investors are in significant financial distress as a result of the actions of the Receivership Defendants. The Receiver has explained his role and how the process of recovering, liquidating, and distributing assets will generally work. The Receiver has encouraged investors to consult with their own independent legal counsel for questions related to their personal legal or tax circumstances.

I. Insurance

69. The Receiver has ascertained the insurance policy status for receivership real and personal property located in Utah, Ohio, Tennessee, and Alaska. This involved reviewing the assets, both real and personal property, that are part of the Receivership, and engaging in extensive telephone and email correspondence with insurance agents, brokers, and carriers, and review of available documentation, to ascertain the existence, and payment status, of insurance policies relating to Receivership property. The Receiver also obtained, reviewed, and analyzed copies of insurance policies currently in effect to determine the status and scope of coverage currently in place, and evaluated and identified possible need for additional or alternative insurance coverage to either reduce cost or protect assets. The Receiver has also monitored policy status and

coordinated and overseen necessary payments of insurance policy premiums to assure that Receivership property is adequately insured.

III. Description of Receipts and Disbursements.

70. The Receiver has collected outstanding accounts receivable for the Defendants and Relief Defendants. The Receiver is aware of some additional accounts receivable and is in the process of collecting those accounts. A schedule of the receipts and disbursements of the Receiver is attached hereto as Exhibit F.

71. The Receiver is still in the process of identifying and securing the assets of the Receivership Defendants and determining the scope of the Receivership Estate. The Receiver has not made any disbursements to investors or creditors of the Receivership Estate in this quarter.

IV. Description of All Known Receiver Property.

72. A description of the known assets of the Receiver is set forth above. The Receiver is still in the process of determining the value of many assets in the Receivership Estate. The Receiver expects to be able to provide a more complete schedule of assets and asset values in its report for the first quarter of 2019. In addition, the Receiver will provide the asset valuations in each case when it seeks to liquidate individual assets of the Receivership Estate.

V. Description of Liquidated and Unliquidated Claims.

73. The Receiver is in the early stages of identifying potential liquidated and unliquidated claims and expects to be able to provide more detailed information in the next quarterly report.

74. Generally, the Receiver has been investigating a number of suspected fraudulent transfers. The BRG accounting team is diligently working through their analysis of the Defendants' financial records and, as additional fraudulent transfers are identified, the Receiver

will pursue claw back actions. The Receiver is hopeful that at least some of the fraudulently transferred funds can be recovered without having to resort to litigation, but will litigate such fraudulent transfers when necessary

VI. List of Known Creditors.

75. The Receiver has compiled a mailing list of approximately 600 individuals and entities who are potential claimants of the Receivership Estate. This list includes investors, business creditors, customers, and employees of receivership entities, all of whom are likely creditors of the Estate. The Receiver will provide a copy of this list to the Court. Given the extent to which such a list would contain personal information regarding the name and address of investors and creditors, the Receiver will seek to file such a list under seal. A redacted copy of the list of creditors is attached hereto as Exhibit G.

VII. Status of Creditor Claims Proceedings.

76. Official questionnaires have been sent to all investors, and the Receiver has started receiving completed questionnaires and supporting documentation. The data provided by these questionnaires will inform the BRG accountants' "sources and uses" analysis and otherwise assist the Receiver in his investigation and assessment of assets and claims.

VIII. Recommendations Regarding Continuation of the Receivership.

77. As described above, the Receivership Estate is complex and spans multiple states. But the Receiver has determined that there is significant value in the Receivership Estate that can be used to compensate the victims of Mr. Rust's Ponzi scheme. In addition to the real and physical property identified above, the Receiver believes there is also the substantial likelihood of recovering additional assets through claw back actions. Consequently, the Receiver believes that

continuation of the Receivership will result in greater recover for the creditors of the Receivership Estate, including the defrauded investors.

DATED this 31st day of January, 2019.

PARR BROWN GEE & LOVELESS

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CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing Motion for Permission to File under Seal through the Court's CM/ECF system, which sent notice to the following:

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/s/ Cynthia D. Love

Cynthia D. Love