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**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.

**MOTION FOR PERMISSION TO
LIQUIDATE AND ABANDON
INVENTORY OF RUST RARE COIN,
INC.**

Case No. 2:18-cv-892

Judge Tena Campbell

Jonathan O. Hafen, the Court-Appointed Receiver (the “Receiver”) for the assets of Rust Rare Coin, Inc., Gaylen D. Rust, Denise G. Rust, and Joshua D. Rust (collectively, “Defendants”) and Aleesha Rust Franklin, R Legacy Racing Inc., R Legacy Entertainment LLC, and R Legacy Investments LLC (collectively, “Relief Defendants” and, together with Defendants, “Receivership Defendants”), respectfully requests authority from the Court to sell personal property of the Receivership Defendants, as described below.

On November 27, 2018, the Court entered an Order Appointing Receiver and Staying Litigation (the “Order”). *See* Dkt. No. 54. Pursuant to paragraph 18 of the Order, the Receiver was authorized to take immediate possession of all non-exempt personal property of the Receivership Defendants. *Id.* ¶ 18. Paragraph 36 of the Order authorized the Receiver to “transfer, compromise, or otherwise dispose of any nonexempt Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate.” *Id.* ¶ 36. Through this Motion, and out of an abundance of caution, the Receiver respectfully requests permission to liquidate the existing inventory of Defendant Rust Rare Coin, Inc. (“RRC”).

I. Rust Rare Coin Inc. Inventory

RRC is a coin shop located in Salt Lake City, Utah, that specializes in rare coins and currency, including early Mormon currency. RRC also routinely deals in commodities, including silver and gold bullion. The Receiver has identified three different categories of items at RRC: (1) items subject to alleged consignment agreements, (2) items that have been received by RRC solely for the purpose of conducting an appraisal of their value, and (3) items owned by RRC.

Consignment Items. The individuals the Receiver has been able to identify thus far with whom RRC may have had a consignment arrangement are listed in Exhibit A, attached hereto.

The Receiver understands that those individuals listed on Exhibit A assert that RRC holds their items subject to consignment arrangements and, as such, those items are allegedly not properly assets of the Receivership Estate and not subject to the control of the Receiver. Accordingly, the Receiver does not seek permission in this Motion to sell those items but intends to withhold them from the sale of RRC's other assets while determining the legitimacy of such agreements. The Receiver anticipates that the allegedly consigned items from those individuals listed in Exhibit A will be the subject of future motion practice before the Court.

Appraisal Items. The appraisal items identified by the Receiver are listed in Exhibit B. The Receiver has determined that these items were received by RRC solely for the purpose of conducting an appraisal of their value and that they are not otherwise property of the Receivership Estate. Mr. Joshua Rust, who ran RRC at the time the Receiver was appointed, has confirmed the accuracy of the Receiver's assessment of the appraisal items. Thus, because these items are not properly assets of the Receivership Estate, the Receiver seeks permission to abandon the assets set forth in Exhibit B and return them to their designated owners.

Remaining RRC Inventory. Finally, the Receiver proposes to liquidate all of the remaining inventory of RRC. Broadly speaking, the assets to be liquidated include bullion, coins, and currency. Attached hereto as Exhibit C is a list of the most valuable coins, currency, and bullion from RRC. This list does not include the literally thousands of low value coins, stamps, and other miscellaneous items from RRC. Through this motion, the Receiver seeks permission to liquidate the inventory listed on Exhibit C, subject to any consignment arrangements, as well as the voluminous low value coins and currency not listed therein.

The Receiver has retained a numismatic expert, Ian Russell, to value the specialized coins and currency from RRC and to assist in the liquidation of those assets. Mr. Russel is a member of

the Professional Numismatists Guild and is the President of GreatCollections.com, a California-based company that specializes in the sale of rare coins and other numismatic items. The Receiver intends for Mr. Russel to assist with any necessary grading of the RRC assets and then auction the items through his company. As compensation for his services, the Receiver has agreed to pay Mr. Russell a 5% commission on all RRC assets that sell for \$1,000 or less and no commission for all RRC assets that sell for over \$1,000. The Receiver will also pay a listing fee ranging from three to ten dollars per item, depending on the item's minimum bid at auction, and will reimburse Mr. Russell for all of the reasonable expenses he incurs while inspecting, inventorying, and transporting the RRC assets to his facility. Mr. Russell will also charge all buyers a premium in the amount of 10-12.5% that he will retain for his services.

The Receiver intends to sell commodities, like bullion, directly through recognized commodities markets. The Receiver will also use the services of Erkelens & Olson Auction and Appraisal Company to liquidate all of the low value coins, currency, and other miscellaneous items from RRC.

Consequently, the Receiver seeks permission from the Court to abandon all of the appraisal items listed in Exhibit B and to liquidate all of the remaining RRC assets, other than the items alleged to be the subject of consignment agreements with the individuals listed in Exhibit A.

II. Response Deadline & Objection Procedures

The Receiver recognizes there may be objections to the sale of the RRC assets. Therefore, consistent with the Court's *Order Granting Motion to Allow Summary Disposition Procedure*, Dkt. No. 165, the Receiver will provide notice of this Motion to all potential claimants for whom the Receiver has contact information and will post it on the Receiver's

website (rustrarecoinreceiver.com). *See also* Motion to Allow Summary Disposition Procedure, Dkt. No. 155. Any objection to this Motion **must be sent directly to the Receiver within 30 days of service of this Motion.** The objecting party will not be a party to the overall proceeding, will not intervene in the case, and will not file any pleadings or other documents directly with the Court unless otherwise authorized by the Court; however, discovery documents such as certificates of service and notices of deposition may be filed with the Court without prior Court approval.

If an objecting party specifically requests discovery in their objection, the parties will have an additional 30 days to complete discovery. Discovery will be conducted pursuant to the Federal Rules of Civil Procedure, except that written discovery must be responded to within 14 days. Either side may seek relief from the Court if the requested discovery is unduly burdensome or not proportional to the issues being determined.

Following the filing of the objection or close of discovery (if specifically requested), the Receiver will then file the objections with the Court and schedule a hearing on the matter. If an evidentiary hearing is needed, the Receiver will schedule additional deadlines regarding disclosure of witnesses and exhibits as needed. The Receiver may file a reply to any objection five days before the hearing.

A proposed Order is attached hereto.

DATED this 9th day of May, 2019.

PARR BROWN GEE & LOVELESS

/s/ Joseph M.R. Covey
Joseph M.R. Covey
Cynthia Love
Attorneys for Receiver

IT IS HEREBY CERTIFIED that service of the above **MOTION FOR PERMISSION TO LIQUIDATE AND ABANDON INVENTORY OF RUST RARE COIN, INC.** was (1) electronically filed with the Clerk of the Court through the CM/ECF system on May 9, 2019, which sent notice of the electronic filing to all counsel of record; (2) posted on the Receiver's website (rustrarecoinreceiver.com); and (3) emailed to all those on the master mailing matrix maintained by the Receiver.

/s/ Joseph M.R. Covey