

Joseph M.R. Covey (7492) (jcovey@parrbrown.com)  
Cynthia D. Love (14703) (clove@parrbrown.com)  
Stephen C. Mouritsen (16523) smourtsen@parrbrown.com)

**PARR BROWN GEE & LOVELESS, P.C.**

101 South 200 East, Suite 700  
Salt Lake City, Utah 84111  
Telephone: (801) 532-7840  
Facsimile: (801) 532 7750

*Attorneys for Johnathan O. Hafen as Receiver for the Rust Rare Coin Receivership*

---

**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.

**MOTION FOR HEARING TO  
APPROVE PRIVATE SALE OF  
RECEIVERSHIP PROPERTY**

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

---

Jonathan O. Hafen, the Court-Appointed Receiver, hereby submits this Motion to Confirm Private Sale of Receivership Property (this “Motion”).

### **INTRODUCTION**

The Receiver is the owner of 11.82 acres of raw ground located at V/L Nordic Rd., 5 14 3/4 E1/2 NE PT SE 11 Washington Twp, Carrollton, Carroll County, Ohio 44615 (the “Property”). The Receiver has entered into a Real Estate Purchase Agreement (the “Agreement”) for the sale of the Property with Elon Hunsberger (the “Buyer”). The Agreement is attached hereto as Exhibit A. The Agreement contemplates a sale price of \$48,500. The Receiver asks the Court for an order setting a hearing at which the Court may consider and confirm the sale. The Receiver has met all the statutory requirements under 28 U.S.C. § 2001 to sell the Property. Specifically, the Receiver has secured three appraisers to value the Property, the sales price exceeds two-thirds of the appraised values, and the Receiver has published notice of the sale for at least 10 days.

### **MEMORANDUM**

This Court’s November 27, 2018 Order Appointing Receiver and Staying Litigation, Dkt. No. 54 (the “Order”), authorizes and directs the Receiver to take control of Defendants’ assets and provides: “Upon further Order of this Court, pursuant to such procedures as may be required by this Court and additional authority such as 28. U.S.C. § 2001 and 2004, the Receiver will be authorized to sell, and transfer clear title to, all real property to the Receivership Estates.” (Order, Dkt. No. 54, at 15 ¶ 38). The Order also contemplates that the Receiver would employ professionals to assist him in discharging his duties, including financial and business advisers as well as real estate agents:

To engage and employ persons in his discretion to assist him in carrying out his duties and responsibilities hereunder, including, but not limited to, accountants, attorneys, securities traders, registered representatives, financial or business

advisers, liquidating agents, real estate agents, forensic experts, brokers, traders or auctioneers;

(Order, Dkt. No. 54 at 5 ¶ 8(F)).

The Receiver requests that his Court confirm the proposed sale of the Property as required by 28 U.S.C. §§ 2001, *et seq.* Section 2001(b) authorizes a court to order the sale of real property at a private sale if it finds that the sale is in the best interest of the estate after considering the evaluation of three court-appointed appraisers (the sale may not be less than two-thirds of the appraised value) and after providing notice of the sale at least ten (10) days before the hearing confirming the same.

(b) After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interests of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

28 U.S.C. §§ 2001(b).

The Receiver previously requested, and the Court previously approved, the retention of three professional and disinterested appraisers to provide appraisals to assist the Court and the Receiver in evaluating the reasonableness of the private sale. *See* Dkt. No. 103. These appraisals are attached hereto as Exhibits B, C, and D. As reflected in these exhibits, appraiser Patricia Miller appraised the value of the Property at \$50,800; James Liotti of Appraisal Comp Valuations appraised the Property at \$49,000; and Todd Kreps of Charles G. Snyder Co. appraised the Property at \$47,500.

The contemplated sale price of \$48,500, exceeds two-thirds of the average appraised price of \$49,100, thus satisfying the appraised value required by 28 U.S.C. §§ 2001(b).

On Tuesday, April 30, 2019, the Receiver published a “Notice of Real Property Sale” (the “Notice”) in the Columbus Dispatch, a newspaper of general circulation in Carroll County, Ohio—where the Property is located. The Notice is attached hereto as Exhibit E. The Notice identifies the Property, lists the sales price, and invites any higher or better offers. The Receiver has not received any offer to purchase the Property for an amount above the sales price.

### CONCLUSION

Based upon the foregoing, the Receiver believes he has satisfied all of the requirements of 28 U.S.C. § 2001 by obtaining valuations from three disinterested appraisers, publishing notice of the sale for at least 10 days, and selling the Property at a price of more than two-thirds the appraised value. Therefore, the Receiver respectfully requests that the Court grant this Motion.

DATED this 14th day of May, 2019.

**PARR BROWN GEE & LOVELESS**

/s/ Joseph M.R. Covey  
Joseph M.R. Covey  
101 South 200 East, Suite 700  
Salt Lake City, UT 84111  
(801) 532-7840  
jcovey@parrbrown.com  
*Attorney for Receiver Jonathan O. Hafen*

