

Joseph M.R. Covey (7492) (jcovey@parrbrown.com)  
Rita M. Cornish (11293) (rcornish@parrbrown.com)  
Cynthia D. Love (14703) (clove@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 Jonathan O. Hafen, Receiver*

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

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JONATHAN O. HAFEN, in his capacity as  
Court-appointed Receiver,

Plaintiff,

v.

ERIC R. ENLOE, *et al.*,

Defendants.

**MOTION TO APPROVE  
SETTLEMENT AGREEMENT WITH  
ENLOE PARTIES**

Case No. 2:19-cv-00876-TC

Judge Tena Campbell

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Jonathan O. Hafen, the Court-Appointed Receiver (the “**Receiver**”) for the assets of Rust Rare Coin Inc., Gaylen Dean Rust, Denise Gunderson Rust, Joshua Daniel Rust, Aleesha Rust Franklin, R Legacy Racing Inc., R Legacy Entertainment LLC, and R Legacy Investments LLC (collectively, the “**Receivership Defendants**”), respectfully requests authority from the Court to enter into a settlement agreement with Eric R. Enloe, Sharlene W. Enloe, Jayhawk Enterprises, LLC, Jackson E. Enloe, and Eric R. Enloe, in his capacity as legal guardian of C.E., H.E., and O.E. (collectively, the “**Enloe Parties**”).

On November 27, 2018, the Court entered an Order Appointing Receiver and Staying Litigation (the “**Order**”) in the related action, *Commodity Futures Trading Commission v. Rust*

*Rare Coin Inc.*, Case No. 2:18-cv-892 (the “**Main Action**”). *See* Main Action, ECF No. 54.

Pursuant to paragraph 18 and 19 of the Order, the Receiver was authorized to take immediate possession of all non-exempt personal property and real property of the Receivership

Defendants, other than the personal residence and associated real property of the Rusts. *See id.* ¶

18. On November 8, 2019, the Receiver filed this ancillary suit against the Enloe Parties seeking to recover net winnings they had received from their investments in the Ponzi scheme operated by the Rust Defendants (the “**Silver Pool**”). *See* Complaint, ECF No. 2. Since the filing of the Complaint, the Receiver and the Enloe Parties have informally exchanged documents and engaged in settlement discussions. Paragraph 41 of the Order authorized the Receiver to compromise claims that, in his discretion, are advisable or proper to recover Receivership Property. *See* Main Action, ECF No. 54 (Order) ¶ 41. Through this Motion, the Receiver respectfully requests permission to enter into a settlement agreement with the Enloe Parties, as described more fully below.

#### **I. BACKGROUND INFORMATION AND PROPOSED SETTLEMENT.**

Eric Enloe (“**Eric**”) and Sharlene Enloe (collectively, the “**Enloes**” or “**Parents**”) are the parents of Jackson Enloe (“**Jackson**”), and minor children H.E., O.E., and C.E. (collectively, the “**Children**”). Eric organized Jayhawk Enterprises, LLC (“**Jayhawk**”) in August 2017 to hold investments in startups, early-stage, and emerging companies. Eric is the sole member of Jayhawk.

The Enloes, directly and through Jayhawk, began investing in the Silver Pool in 2012 and, after what they believed was initial success, opened and funded investment accounts for each of the Children. In total, the Enloe Parties collectively invested \$678,500 in the Silver Pool

between August 2012 and January 2016. Between September 2013 and October 2018, the Enloe Parties collectively drew a total of \$2,012,996.12 from the Receivership Defendants, of which \$1,334,496.12 was profit above what had been invested.<sup>1</sup>

The Enloes, believing the funds they drew were profits from their investments in the Silver Pool, used the funds for various purposes, including renovations to the Enloes' home, living expenses, tuition and school expenses for the Children, and family contributions for missions. In addition, the Enloes used their draws from the Silver Pool to acquire minority interests in some early-stage, emerging, closely held companies. For example, the Enloes directly or through Jayhawk purchased a ~1.3% interest in Reef Capital Partners, LLC; and a ~1% interest in Ecoloop Energy, Inc. These investments, like the other investments held by the Enloes, lack a ready market for liquidation not only because they are minority equity positions in closely-held business entities but also because the organizational documents for many of the entities include involuntary transfer restrictions.

The Receiver filed this ancillary suit against the Enloe Parties on November 8, 2020, seeking to recover net winnings they had received from their investments in Silver Pool. *See* Complaint, ECF No. 2. Since the filing of the Complaint, the Enloe Parties have cooperated with the Receiver's counsel and has provided the Verified Financial Statement attached to this Motion as **Exhibit 1** along with backup documentation including tax returns, corporate organization and financial records, profit and loss statements, investment records, monthly income and distribution statements, and banking records. Counsel for the Receiver and the accountants hired

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<sup>1</sup> The Enloe Parties have objected to the collective accounting across the Enloe Parties' accounts on the ground that the Children may have claims against the Receivership Defendants for investment losses on their individual accounts.

by the Receiver have reviewed the backup information provided. The information provided by Enloes shows that the funds Enloe Parties received from Rust Rare Coin have been largely exhausted and that Enloe Parties have outstanding secured and unsecured debt that, when taken with the amounts Enloe Parties may owe to the Receivership Defendants, is greater than the value of Enloe Parties' personal and real property assets.

Nonetheless, the Enloe Parties have negotiated a settlement with the Receiver wherein the Enloe Parties have agreed to repay the Receivership Defendants a total of \$570,000 on the following terms: (1) the Enloes shall make a lump sum payment of \$375,000 within sixty days of the approval of the Settlement Agreement; and (2) the Enloes shall make six additional payments of \$32,500 quarterly, beginning April 1, 2020. A copy of the Settlement Agreement is attached hereto as **Exhibit 2**. The Settlement Agreement includes representations and warranties by the Enloes that the financial information provided in Exhibit A is accurate. Moreover, the Enloes have agreed to defend and indemnify the Receivership Defendants against claims, if any, by the Children.<sup>1</sup>

The Receiver believes that this Settlement Agreement is in the best interest of the Receivership Estate in light of Enloe Parties' inability to return the full value of funds received by them, their likely inability to pay significantly more than the Settlement Amount, the compromise of the Children's potential claims against the Receivership Defendants, and the difficulties posed by collecting a judgment against assets that consist primarily of minority interests in closely held companies. The Enloes will in fact borrow funds to pay a substantial portion of the Settlement Amount, secured by any equity in the Enloes' home. The Receiver believes any attempt to recover more than the Settlement Amount through litigation would not be

cost effective. Thus, based on the representations and other financial documentation received from the Enloe Parties regarding their financial circumstances, the Receiver believes that the Settlement Agreement with Enloe Parties is in the best interest of the Receivership Estate.

Accordingly, the Receiver respectfully requests that the Court approve the Settlement Agreement with the Enloe Parties. A proposed Order is attached hereto.

DATED November 22, 2020.

PARR BROWN GEE & LOVELESS, P.C.

          /s/ Rita M. Cornish          

Rita M. Cornish

*Attorneys for Jonathan O. Hafen, Receiver*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the date indicated below, I caused the foregoing **MOTION TO APPROVE SETTLEMENT AGREEMENT WITH ENLOE PARTIES** to be served on the following by the indicated method:

Brady Brammer  
Brenton Ranck  
**SPAULDING LAW**  
1955 W. Grove Parkway, Suite 250  
Pleasant Grove, UT 84062  
bbrammer@spauldinglaw.com  
branck@spauldinglaw.com

*Attorneys for Defendants Eric R. Enloe, Sharlene W. Enloe, Jayhawk Enterprises, LLC, Jackson E. Enloe, and Eric R. Enloe, in his capacity as legal guardian of C.E., H.E., and O.E.*

- U.S. Mail
- Hand Delivery
- Facsimile
- Email
- CM/ECF

Dated: November 22, 2020.

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*/s/ Rita M. Cornish*