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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.

**RECEIVERSHIP
INTERPLEADER MOTION**

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

Honorable Tena Campbell

Parallel with the provisions of Rule 22 of the Federal Rules of Civil Procedure, Zions Bancorporation, N.A. dba Zions Bank (“Zions Bank”) by and through its counsel, moves this Receivership Court to resolve competing claims to monies held by Zions Bank in the nature of an interpleader and in support thereof alleges, as follows:

1. On November 15, 2018, at 2:50 p.m. prevailing Mountain Time, this Court entered its Order Granting Plaintiffs’ *Ex Parte* Motion for Statutory Restraining Order, Appointment of Receiver, and Other Equitable Relief (the “Restraining Order”) freezing assets of Rust Rare Coin, Inc. (“Rust Rare Coin”), its principals, and affiliates.

2. Shortly after the Restraining Order was entered, at about 3:15 p.m. prevailing Mountain Time, agents of the Utah Division of Securities (the “Serving Agents”), served a copy of this Court’s Restraining Order on Zions Bank through one of its officers in its legal department (the “Legal Officer”).

3. Upon reading the Restraining Order, the Legal Officer was concerned as to its application to Zions Bank as paragraph 24 was ambiguous. The Legal Officer asked the Serving Agents if the Restraining Order was only to freeze the accounts to prevent monies leaving the accounts or whether the Restraining Order also applied to monies being deposited into the accounts.

4. The Serving Agents at first indicated that the freeze would only apply to outgoing items but then quickly reversed their position: after discussion and a phone call, the Serving Agents informed the Legal Officer that the Restraining Order applied to prevent the transfers of all monies both out of and into the accounts.

5. The Legal Officer repeated the instruction and the Serving Agents reaffirmed the position that all accounts were to be frozen as to both outgoing and incoming monies.

6. In accordance with the instruction given, Zions Bank restricted the Rust Rare Coin accounts to prohibit all outgoing and incoming funds. These restrictions were effective as of approximately 3:40 p.m. prevailing Mountain Time.

7. The Leland S. Jacobson Trust has a depository relationship at Zions Bank.

8. Prior to entry of the Receivership Order, Leland Jacobson (the “Trustee”), as Trustee of The Leland S. Jacobson Trust (“Trust”), instructed Zions Bank to wire transfer \$1.6 million from its account to Rust Rare Coin (the “Jacobson Wire Transfer”) at 12:38 p.m. prevailing Mountain Time.

9. The direction of Leland Jacobson to wire transfer \$1.6 million was verified by four employees of Zions Bank in the branch and in the wire department of Zions Bank, utilizing a confidential protocol with verified personally identifiable numbers.

10. The Jacobson Wire Transfer was received and reflected in the Rust Rare Coin account on November 15, 2018, at 12:44 p.m. prevailing Mountain Time after which—but prior to service of the Restraining Order—Rust Rare Coin transferred monies out of its account to third parties.

11. Overnight postings in the accounting ledgers of Zions Bank occur to customer accounts of Zions Bank.

12. At approximately 3:00 a.m. prevailing Mountain Time on November 16, 2018, the Jacobson Wire Transfer attempted to post to the Rust Rare Coin account but could not because the account was closed to posting due to the Restraining Order and instructions of the Serving Agents. Thus, the funds were redirected to a general ledger suspense account.

13. Shortly after 9:00 a.m. prevailing Mountain Time on November 16, 2018, Leland Jacobson informed a Zions Bank branch employee that he was told by a friend that Rust Rare

Coin had been closed under suspicion of operating a Ponzi scheme, provided a news link and stated he would like to recover the Jacobson Wire Transfer which he caused to be wired on November 15, 2019.

14. Because the Jacobson Wire Transfer was held in suspense and the allegations of operation of a Ponzi scheme, the Zions Bank wire department caused the Jacobson Wire Transfer to be returned to the account of The Leland S. Jacobson Trust.

15. At approximately 11:00 a.m. prevailing Mountain Time on November 16, 2018, counsel for the Court-Appointed Receiver contacted the Legal Officer seeking to permit the accounts of Rust Rare Coin to accept incoming transfers of funds. After discussions with the Serving Agents and others with the Utah Division of Securities, the accounts were changed effective as of about 1:15 p.m. on November 16, 2018, to accept incoming funds.

16. At this point in time, the Jacobson Wire Transfer funds remain in the account of the Trust at Zions Bank but are subject to a legal hold.

17. Regarding the scope of the Receiver's authority, the Restraining Order states in relevant part that the Receiver shall

Take exclusive custody, control, and possession of the Receivership Estate, which includes but is not limited to complete authority to collect, receive, and take possession of all goods, chattels, rights, credits, money, effects, land, leases, books, records, work papers, and records of accounts, including electronically-stored information, contracts, financial records, funds on hand in banks and other financial institutions, and other papers and records of the Receivership Defendants, including any financial interests of investors in the Silver Pool or other investors now held by or under the direction, possession, custody, or control of the Receivership Defendants

18. Based upon this authority, the Receiver has attempted to take custody, control, or possession of the Jacobson Wire Transfer funds. The Receiver contends that the Jacobson Wire Transfer funds belong to the Receivership Estate.

19. In the Receiver's Initial Status Report, the Receiver indicated that he is "in the process of seeking to recover an additional \$1.6 million, which the Receiver expects Zions Bank will interplead into the court." Dkt. no. 98 at 9, ¶ 26, filed Jan. 31, 2019.

20. The Trustee contends that the Jacobson Wire Transfer funds belong to the Trust.

21. Accordingly, Zions Bank has claims of two competing interests to the Jacobson Wire Transfer funds.

PRAYER FOR RELIEF

WHEREFORE, Zions Bank requests that this Court:

1. Determine rightful entitlement to the Jacobson Wire Transfer Funds;
2. Order that Zions Bank act as the custodian of the Jacobson Wire Transfer funds and continue to hold the funds pending this Court's order as to entitlement thereto;
3. Order that Zions Bank maintain the Jacobson Wire Transfer funds in their current status in an interest bearing account until the Receiver's and Trustee's claims to the funds are fully adjudicated; and
4. Order any other further relief this Court deems just and necessary under the circumstances.

DATED this 13th day of March, 2019.

DORSEY & WHITNEY LLP

/s/ Steven T. Waterman

Steven T. Waterman
Attorneys for Zions Bancorporation, N.A.

[Counsel for each of Receiver and Trust will accept service of this Interpleader Motion.]