

Joseph M.R. Covey (7492) (jcovey@parrbrown.com)  
Cynthia D. Love (14703) (clove@parrbrown.com)  
Sarah M. Humphrey (16847) (shumphrey@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 as Receiver*

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

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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,  
GAYLEN DEAN RUST, an individual,  
DENISE GUNDERSON RUST, an individual,  
and 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  
CONFIRM PRIVATE SALE OF  
VICTORIAN PROPERTY**

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

Judge Tena Campbell

Magistrate Judge Dustin B. Pead

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

### **INTRODUCTION**

The Receiver is the owner of a Victorian style home located at 734 East 200 South, Salt Lake City, Utah (the “Property”). The Receiver has entered into a Real Estate Purchase Contract for the sale of the Property (the “Purchase Agreement”) with Andrea Golding (the “Buyer”) for a sale price of \$1,400,000, subject to Court approval. A copy of the Purchase Agreement is attached hereto as Exhibit A. The Receiver asks this Court for an order setting a hearing at which the Court may consider and confirm the sale. The Receiver has met all of the statutory requirements under 28 U.S.C. § 2001 to sell the Property. Specifically, the Receiver has secured three independent appraisers to value the Property, the sale price exceeds two-thirds of the appraised value, and the Receiver has published notice of the sale at least 10 days in advance of the sale’s confirmation.

### **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 this Court confirm the proposed sale of the Property as required by 28 U.S.C. § 2001. Section 2001(b) authorizes a court to order the sale of real property at a private sale if the court 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); the terms of the sale are published in a newspaper of general circulation at least 10 days before confirmation; and notice of the hearing is published to all interested parties.

(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).

To comply with his duties under the Order and 28 U.S.C. § 2001, the Receiver filed a motion seeking this Court's approval to engage three independent appraisers to value the Property, which this Court granted. Dkt. No. 209. These appraisals are attached hereto as Exhibits B, C, and D. As reflected in these exhibits, appraiser John M. Blaser of Colliers International valued the Property at \$1,350,000; Travis Keltner of Aegis Realty Services, Inc. valued the Property at \$1,325,000; and Matthew Limpert of Van Drimmelen & Associates Inc. valued the Property at

\$1,250,000. The contemplated sale price of \$1,400,000 greatly exceeds two-thirds of the average appraised price of \$872,221.35, thus satisfying the sale price required by 28 U.S.C. § 2001(b).

On October, 22, 2019, the Receiver published notice of the sale's terms in *The Salt Lake Tribune* and *Deseret News*, which are both newspapers of general circulation throughout Utah, and on [utahlegals.com](http://utahlegals.com) (the "Notice"). Proof of publication and a copy of the Notice is attached hereto as Exhibit E. The Notice identifies the Property, lists the sale price, and invites any higher or better offers. At the time of the hearing, the Receiver will confirm that he has not received any response to the published notice offering a higher purchase price for the Property.

Once the Court sets a hearing date, the Receiver will ensure that all interested parties receive notice of the hearing by publishing this Motion on the Receiver's website ([rustrarecoinreceiver.com](http://rustrarecoinreceiver.com)) and by emailing the hearing date to all those listed on the Receiver's master mailing matrix.

### CONCLUSION

Based on the foregoing, the Receiver believes that he has satisfied all of the requirements of 28 U.S.C. § 2001. Accordingly, the Receiver respectfully requests that the Court set a hearing at which the Court will grant this Motion. A proposed Order is attached hereto.

DATED this 23rd day of October 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*

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **MOTION FOR HEARING TO CONFIRM PRIVATE SALE OF VICTORIAN PROPERTY** was (1) electronically filed with the Clerk of the Court through the CM/ECF system on October 23, 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 Receiver's master mailing matrix.

Kristen R. Angelos UTAH FEDERAL DEFENDER OFFICE 46 W BROADWAY STE 110 SALT LAKE CITY, UT 84101 (801)524-4010 kris_angelos@fd.org	Walter F. Bugden BUGDEN & ISAACSON LLC 445 E 200 S STE 150 SALT LAKE CITY, UT 84111 (801)467-1700 wally@bilaw.net
Jennifer Juniper Chapin COMMODITY FUTURES TRADING COMMISSION 4900 MAIN ST STE 500 KANSAS CITY, MO 64112 (816)960-7746 jchapin@cftc.gov	Andrew G. Deiss DEISS LAW PC 10 W 100 S STE 425 SALT LAKE CITY, UT 84101 (801)433-0226 adeiss@deisslaw.com
Sean N. Egan SOUTH TEMPLE TOWER STE 1505 136 E SOUTH TEMPLE SALT LAKE CITY, UT 84111-1139 (801)363-5181 (801)363-5184 (fax) seannegan@sneganlaw.com	Paula Woodland Faerber UTAH ATTORNEY GENERALS OFFICE 160 E 300 S 5TH FLOOR SALT LAKE CITY, UT 84114 (801)366-0248 pfaerber@agutah.gov
Jacob L. Fannesbeck SMITH WASHBURN LLP 8 E BROADWAY STE 320 SALT LAKE CITY, UT 84111 (801)584-1800 jfannesbeck@smithwashburn.com	Robert K. Hunt UTAH FEDERAL DEFENDER OFFICE 46 W BROADWAY SUITE 110 SALT LAKE CITY, UTAH 84101 (801)524-4010 robert_hunt@fd.org
Jennifer R. Korb UTAH ATTORNEY GENERAL'S OFFICE 160 E 300 S 5TH FL SALT LAKE CITY, UT 84114 (801)366-0310 jkorband@agutah.gov	Thomas M. Melton UTAH ATTORNEY GENERAL'S OFFICE 160 E 300 S STE 500 SALT LAKE CITY, UT 84111 (801)366-0320 tmelton@agutah.gov

<p>Corey Drew Riley  DEISS LAW PC  10 W 100 S STE 425  SALT LAKE CITY, UT 84101  (801)433-0226  criley@deisslaw.com</p>	<p>John Robinson, Jr.  DEISS LAW PC  10 W 100 S STE 425  SALT LAKE CITY, UT 84101  (801)433-0226  jrobinson@deisslaw.com</p>
<p>Thomas L. Simek  COMMODITY FUTURES TRADING  COMMISSION  4900 MAIN ST STE 500  KANSAS CITY, MO 64112  (816)960-7760  tsimek@cftc.gov</p>	<p>Jessica Stengel  FEDERAL PUBLIC DEFENDER  DISTRICT OF UTAH  46 W BROADWAY STE 110  SALT LAKE CITY, UT 84101  (801)524-4010  jessica_stengel@fd.org</p>
<p>D. Loren Washburn  SMITH WASHBURN LLP  8 E BROADWAY STE 320  SALT LAKE CITY, UT 84111  (801)584-1800  lwashburn@smithwashburn.com</p>	<p>Steven T. Waterman  DORSEY &amp; WHITNEY LLP  111 S MAIN ST 21ST FL  SALT LAKE CITY, UT 84111-2176  (801)933-7360  waterman.steven@dorsey.com</p>
<p>Brenda E. Weinberg  DEISS LAW PC  10 W 100 S STE 425  SALT LAKE CITY, UT 84101  (801)933-226  bweinberg@deisslaw.com</p>	<p>Robert G. Wing  UTAH ATTORNEY GENERAL'S OFFICE  (160-5-140872)  160 E 300 S 5TH FLOOR  PO BOX 140872  SALT LAKE CITY, UT 84114-0872  (801)599-6891  rwing@agutah.gov</p>

*/s/ Joseph M.R. Covey* \_\_\_\_\_