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**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,  
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 SETTLEMENT  
AUTHORITY**

Case No. 2:18-cv-892

Judge Tena Campbell

Magistrate Judge Dustin B. Pead

Jonathan O. Hafen, the Court-Appointed Receiver (the “Receiver”) for the assets of Rust Rare Coin Inc., (“RRC”), Gaylen Dean Rust, R Legacy Racing Inc., R Legacy Entertainment LLC, R Legacy Investments LLC, Denise Gunderson Rust, and Joshua Daniel Rust (collectively, the “Receivership Defendants”), respectfully requests that this Court authorize the Receiver to compromise claims belonging to the Receivership Estate, so long as the settlement amount is within ninety percent of the claim amount as reflected in the books and records of the Receivership Defendants.

On November 27, 2018, the Court entered an Order Appointing Receiver and Staying Litigation (the “Order”). *See* ECF No. 54. Pursuant to paragraph 42 of the Order, the Receiver is “authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Defendants were conducted . . . and may seek, among other legal and equitable relief, the imposition of constructive trusts, disgorgement of profits, asset turnover, avoidance of fraudulent transfers, rescission and restitution, collection of debts, and such other relief from this Court as may be necessary to enforce this Order.” *Id.* ¶ 41. Paragraph 7 of the Order also authorizes the Receiver to pursue any and all claims which may be brought by the Receivership Estate. *Id.* ¶ 7.J. Through this Motion, the Receiver respectfully requests that the Court authorize the Receiver to resolve such claims through settlement agreements where the terms of those agreements meet certain threshold requirements, as set forth below.

Pursuant to his authority under the Order, the Receiver and his staff have engaged in an extensive review of the books and records of the Receivership Defendants to identify any assets—including potential claims—belonging to the Receivership Estate. Through this process, the Receiver has identified in excess of one hundred (100) potential legal claims that the Receiver is currently pursuing, either in active litigation or through negotiations with the

potential defendants. As the Receiver has expressed in his prior status updates to this Court, he is hopeful that he will be able to resolve a significant number of these claims without having to resort to litigation.

However, due to the sheer number of potential settlements, the Receiver does not believe that it is in the best interest of the Receivership Estate to move for Court approval of each individual settlement agreement. Rather, in an effort to preserve judicial economy and minimize fees and expenses to the Receivership Estate, the Receiver asks that this Court pre-authorize the Receiver to enter into settlement agreements that compromise claims of the Receivership Estate, so long as the total recovery under such agreements is at least ninety percent of the claim amount reflected in the books and records of the Receivership Defendants.

In support of this Motion is the long-standing principle that a district court “has broad powers and wide discretion to determine relief in an equity receivership.” *See Broadbent v. Advantage Software, Inc.*, 415 F. App'x 73, 78 (10th Cir. 2011) ((citing *SEC v. Vescor Capital Corp.*, 599 F.3d 1189, 1194 (10th Cir. 2010)); *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir.1986) (“[A] district court's power to supervise an equity receivership and to determine the appropriate action to be taken in the administration of the receivership is extremely broad.”). Courts have explained that the reason for this “broad deference” stems from the fact that “most receiverships involve multiple parties and complex transactions.” *Id.* (citing *Hardy*, 803 F.2d at 1037–38). Moreover, the “primary purpose of equity receiverships is to promote orderly and efficient administration of the estate by the district court for the benefit of the creditors.” *Id.* Here, the Receiver believes that pre-approval of settlements within ninety percent of the claim amount is in the best interest of the Receivership Estate because (i) it eliminates the professional fees that would otherwise be incurred by drafting and filing individual motions for these settlements and

(ii) it helps facilitate the timely resolution of such claims. Furthermore, pre-approval also helps conserve judicial resources and prevents unnecessary review of settlement agreements that are clearly favorable to the Receivership Estate. To ensure that all interested parties remain informed about the current status of the claims of the Receivership Estate and any resulting recoveries, the Receiver will continue to provide the Court with updates about these settlements in his quarterly status reports (which are also posted online and sent out via the Receiver's master mailing matrix).

In cases in which the Receiver is unable negotiate a settlement amount of at least ninety percent of the claim amount reflected in the books and records of the Receivership Defendants, the Receiver will continue his prior practice of seeking individualized approval of such settlements with the Court. Moreover, through this Motion, the Receiver does not intend to suggest that all settled claims will be afforded a ten percent discount. Rather, the Receiver will evaluate all claims on an individual basis to determine—in an exercise of his judgment and discretion—the settlement amount most beneficial to the Receivership Estate. This Motion merely seeks pre-approval to settle claims of the Receivership Estate, so long as the settlement amount is at least ninety percent of the claim amount.

### **CONCLUSION**

For the reasons set forth above, the Receiver respectfully requests that the Court pre-approve any settlement agreement that recovers ninety percent or more of the claim amount reflected in the books and records of the Receivership Defendants.

DATED this 25th day of November 2019.

**PARR BROWN GEE & LOVELESS**

/s/ Cynthia D. Love  
Joseph M.R. Covey  
Cynthia D. Love  
Sarah M. Humphrey  
*Attorneys for Receiver*

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **MOTION FOR SETTLEMENT AUTHORITY** was (1) electronically filed with the Clerk of the Court through the CM/ECF system on November 25, 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.

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*/s/ Cynthia D. Love*

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*Attorneys for Jonathan O. Hafen as Receiver*

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LEGACY INVESTMENTS LLC, a Utah  
limited liability company.

Relief Defendants.

**ORDER GRANTING MOTION FOR  
SETTLEMENT AUTHORITY**

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

Judge Tena Campbell

Magistrate Judge Dustin B. Pead



Jonathan O. Hafen, the Court-Appointed Receiver for Rust Rare Coin Inc., Gaylen Dean Rust, R Legacy Racing Inc., R Legacy Entertainment LLC, and R Legacy Investments LLC (collectively, "Receivership Defendants"), filed a Motion for Settlement Authority (the "Motion"), seeking approval to compromise claims belonging to the Receivership Estate, so long as the settlement amount is within ninety percent of the claim amount as reflected in the books and records of the Receivership Defendants. Based upon the submissions of the Receiver, and good cause appearing, the Court HEREBY ORDERS as follows:

1. The Motion is GRANTED;
2. The Receiver is authorized to enter into any settlement agreement in which the settlement amount is at least ninety percent of the claim amount reflected in the books and records of the Receivership Defendants.

DATED this \_\_\_ day of \_\_\_\_\_, 2019.

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Honorable Dustin B. Pead  
United States Magistrate Judge