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**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.

**SUBMISSION LODGING NONPARTY
OBJECTIONS TO RECEIVER’S
PROPOSED DISTRIBUTION PLAN,
OBJECTION PROCEDURE, AND
CLAIM ANALYSIS**

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 D. Rust, Denise G. Rust, and Joshua D. Rust (collectively, “Defendants”) and Aleesha Rust Franklin, R Legacy Racing Inc., R Legacy Entertainment LLC, and R Legacy Investments LLC (collectively, “Relief Defendants” and, together with Defendants, “Receivership Defendants”), hereby lodges all objections timely received by the Receiver’s counsel pursuant to this Court’s Order Establishing Objection Procedure (“Objection Procedure”). *See* Dkt. No. 302.

On April 23, 2020, the Receiver filed a Motion to Approve Proposed Distribution Plan, Objection Procedure, and Claim Analysis (the “Motion”). *See* Dkt. No. 298. Among other relief sought, the Motion asked the Court to establish a procedure whereby interested nonparties could submit objections to the proposed plan of distribution directly to the Receiver, who would then lodge those objections with the Court. *Id.* at 21-23. On April 30, 2020, the Court granted the Receiver’s request and established an Objection Procedure. Dkt. No. 302. Pursuant to the Objection Procedure established by the Court, the Receiver hereby lodges the Formal and Informal Objections with the Court and respectfully requests that the Court set a hearing to (1) rule on the Objections received by the Receiver in opposition to the Receiver’s Proposed Distribution Plan and (2) grant the Receiver permission to move forward with the claims analysis and plans to distribute funds.

OBJECTIONS RECEIVED

The Receiver provided notice of his Proposed Distribution Plan, Objection Procedure and Claims Analysis (“Proposed Distribution Plan”) to all interested parties through his mailing matrix and by posting the Motion on his website. The Receiver also mailed physical copies of the Proposed Distribution Plan to all parties who had submitted claims for payment from the

Receivership Estate. After sending out the Proposed Distribution Plan the Receiver's office received 14 separate objections or communications that could be construed as such within the prescribed 30-day period. A total of 30 claimants were represented by these 14 objections.

Consistent with the Court's Objection Procedure the Receiver merely lodges claimants' objections in this motion, reserving reply to objections for five days prior to the hearing date that the Court sets. The objections received by the Receiver fall roughly into three categories, (1) objections to the methods proposed by Receiver for Distribution of Funds and Claim Analysis, (2) objections requesting that unsecured creditors be grouped in a higher priority class than investors and, (3) objections requesting that investors be grouped in a higher priority class than unsecured creditors. The Receiver also received an objection from Peter Guyon, which sought to engage in broad-ranging discovery as to the underlying merits of the Plaintiffs' enforcement action against Receivership Defendants. Having responded to or completed all other discovery requests the Receiver now lodges all objections received from nonparties.

Each of the objections received and the claimants signed to each are summarized below and all objections are attached as exhibits.

1. OBJECTIONS TO THE METHOD OF DISTRIBUTION

The Receiver received Objections from five nonparties who object to various features of the method proposed by the Receiver for distribution of recovered funds.

Alan Lambert ("Mr. Lambert") objects to the Receivers use of the "rising tide" method of distribution asserting that the method creates a "virtual claw back." Mr. Lambert's objection is submitted as Exhibit A.

Wayne Hall ("Mr. Hall") also objects to the Receivers proposed method of distribution. Mr. Hall's objection is submitted as Exhibit B.

Adam Wells (“Mr. Wells”) objects generally to claims being treated by class and requests that claims be treated more individually. Mr. Well’s objection is submitted as Exhibit C.

Catherine and Jim Binsacca (“Binsaccas”) object to the lack of consideration for the fact that some distributions were to pay taxes and fees on loans taken to invest in the scheme. The Binsacca’s objection is submitted as Exhibit D.

Thomas Williams (“Mr. Williams”) objects to the lack of a class for those who believed that they bought silver to be kept at RRC and only anticipated a warehousing relationship with RRC. Mr. William’s objection is submitted as Exhibit E.

2. OBJECTIONS REQUESTING UNSECURED CREDITORS BE GROUPED IN A SEPARATE AND HIGHER CLASS THAN INVESTORS

The Receiver received three separate objections signed by five nonparties that were objecting that unsecured creditors were not classed above investors for the purposes of distribution.

Sara McCormick (“Ms. McCormick”) objects to unsecured creditors being classed at the same level as investors who were trying to make a profit. Ms. McCormick’s objection is submitted as Exhibit F.

Daxson Hale (“Mr. Hale”) similarly objects to the inclusion of unsecured creditors and investors into the same class for purposes of distribution, pointing to the generally lower economic standing of unsecured creditors as compared to investors. J. Rakozy, Jared Gay, and Chase Taylor signed onto Mr. Hale’s objection. Mr. Hale’s objection is submitted as Exhibit G.

3. OBJECTIONS REQUESTING INVESTORS BE GROUPED IN A SEPARATE AND HIGHER CLASS THAN UNSECURED CREDITORS

The Receiver received three separate objections signed by 18 nonparties that were objecting that investors were not classed above unsecured creditors for the purposes of distribution.

Alice Jones (“Ms. Jones”) objects to the combination of investors with unsecured creditors asserting that unsecured creditors engaged in “risky” behavior. Jennifer Jones Clawson, Bryan Douglas Jones, Lindsay Erin Jones, and Courtney Jones Nielsen were all signed on to Ms. Jones’ objection. Ms. Jones’ is submitted as Exhibit H and Exhibit K¹.

Kathleen Barlow (“Ms. Barlow”) separately sent in the same objection as Alice Jones. Ms. Barlow’s objection is submitted as Exhibit I.

Gloria Barlow (“Gloria Barlow”) separately sent in the same objection as Alice Jones with nonparties; Phillip and Gloria Bowman Living Trust, Gloria Barlow Bowman Family Trust, Gloria Barlow Loan, Phyllis Bowman, David Bowman, Katherine L Bowman, Sarah Bowman, Five West Properties LLC, Schwab One Trust Account Barlow/Dieman Martial Trust, Jeannette Dieman FOB Eric Frederickson, and Jeannette Dieman FOB Steven Frederickson. Gloria Barlow’s objection is submitted as Exhibit J.

4. GUYON OBJECTION

Mr. Guyon lodged a broad objection challenging various actions of the Receiver and this Court’s jurisdiction over the above-captioned matter. Mr. Guyon further asserted various legal challenges to the propriety of the Receivership and sought to have certain questions of law certified to the Utah Supreme Court. Mr. Guyon’s objection is submitted as Exhibit L. Mr.

¹ On June 12, 2020, Ms. Jones sent in another similar objection to the Receiver in reply to the Receiver’s response to Ms. Jones’ discovery request. This objection was signed by Jennifer Jones Clawson, Bryan Douglas Jones, Lindsay Erin Jones, Courtney Jones Nielsen, Gloria Bowman, Philip and Gloria Bowman Living Trust, Gloria Bowman Bowman Family Trust, Gloria Bowman Loan, Phyllis Bowman, David Bowman, Katherine L. Bowman, Sarah Bowman, Five West Properties LLC, Schwab One Trust Acct. Barlow/Dieman Marital Trust Jeanette Dieman FOB Eric Frederickson, Jeannette Dieman FOB Steven Frederickson, and Kathleen Bowman.

Guyon also sought broad-ranging discovery into the merits of potential claims the Receiver might assert against Mr. Guyon, as well as the allegations that Receivership Defendants were operating a Ponzi scheme. Following a meet and confer process with the Receiver's counsel, Mr. Guyon agreed to withdraw his discovery requests until such time as the Court rules on his objection.

CONCLUSION

Having responded to the discovery requested, the Receiver hereby lodges the Formal and Informal Objections with the Court and respectfully requests that the Court set a hearing to (1) rule on the Objections received by the Receiver in opposition to the Receiver's Proposed Distribution Plan and (2) grant the Receiver permission to move forward with the claims analysis and plans to distribute funds.

DATED this 7th day of July, 2020.

PARR BROWN GEE & LOVELESS, P.C.

By: /s/ Cynthia D. Love
Joseph M.R. Covey
Cynthia D. Love
Attorneys for Court-Appointed Receiver
Jonathan O. Hafen

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 7, 2020, a true and correct copy of the foregoing was (1) electronically filed with the Court through the CM/ECF system, (2) posted to the Receiver's website (rustrarecoinreceiver.com), and (3) emailed to all those on the Receiver's master mailing matrix.

/s/ Cynthia D. Love

Cynthia D. Love