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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 TO APPROVE  
SETTLEMENT AGREEMENT WITH K.  
McCOY LIVINGSTON AND RELATED  
ENTITIES**

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., 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 K. McCoy Livingston and his related entities, as described below.<sup>1</sup>

On November 27, 2018, the Court entered an Order Appointing Receiver and Staying Litigation (the “Order”). *See* 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. *Id.* ¶ 18. Paragraph 41 of the Order authorized the Receiver to compromise claims that, in his discretion, are advisable or proper to recover Receivership Property. *Id.* ¶ 41. Through this Motion, the Receiver respectfully requests permission to enter into a settlement agreement with K. McCoy Livingston and his related entities (hereinafter “Livingston”), as described more fully below.

### **I. Background Information and Proposed Settlement Agreement**

Livingston currently resides in Moroni, Utah. He is retired from operating floral shops known as the Flower Patch. After retiring from the Flower Patch, and using funds that he understood were profits from investments in the Rust Rare Coin silver pool, Livingston formed Nature’s Body Politic, Inc., a Utah non-profit corporation, the purpose of which was to educate

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<sup>1</sup> Mr. Livingston’s associated entities are as follows: the K. McCoy Livingston Revocable Trust, U/T/A Dated May 7, 1997; Papa Bear, LLC, a Utah limited liability company; Mama Bear, Inc., a Utah corporation; Baby Bear, Inc., a Utah corporation; Goldilocks, Ltd., a Utah limited partnership; and Nature’s Body Politic, Inc., a Utah non-profit corporation (collectively, “Defendants”).

citizens concerning Article V of the United States Constitution. Over the years, from approximately 2004 through 2018, Mr. Livingston drew approximately \$3,226,821 in funds from the silver pool, about \$1,676,409 was profit above what had been invested. The withdrawn funds were used to pay Mr. Livingston's living expenses, pay employees of his non-profit organization, and to pay third party vendors that worked to design a web site related to the non-profit organization's missions. When Mr. Livingston learned that the silver pool was a Ponzi scheme, he realized he would not be able to pay his debts and petitioned for bankruptcy protection in the United States Bankruptcy Court for the District of Utah.

The Receiver entered into a tolling agreement with Livingston on November 1, 2019. Since that time, Mr. Livingston has cooperated with the Receiver's counsel and has provided the Verified Financial Statement attached to this Motion as **Exhibit A** along with backup documentation including tax returns, monthly income and distribution statements, and banking records. Counsel for the Receiver and the forensic accountants hired by the Receiver have reviewed the backup information provided. The information provided by Livingston shows that the funds Livingston received from Rust Rare Coin have been largely exhausted and that Livingston has outstanding secured and unsecured debt, not including amounts Livingston may owe to the Receivership, greater than the value of Livingston's personal and real property assets.

The Receiver and Livingston have entered into a settlement agreement (the "Settlement Agreement"), subject to court approval, wherein Livingston has agreed to pay the Receivership Estate \$10,000 (the "Settlement Amount") in settlement of the Receiver's claims against Livingston within 10 days of the Court's Order approving the Settlement Agreement (the "Effective Date"). A copy of the Settlement Agreement is attached hereto as **Exhibit B**. The Settlement Agreement includes representations and Warranties by Livingston that the financial

information contained in Exhibit A is accurate.

The Receiver believes that this Settlement Agreement is in the best interest of the Receivership Estate in light of Livingston's inability to the full value of funds received by Livingston and the likely inability to pay significantly more than the Settlement Amount. Mr. Livingston will in fact borrow the funds to pay the Settlement Amount, which funds will be repaid to the lender from any equity in Mr. Livingston's home upon his demise or earlier sale of the 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 Livingston regarding his financial circumstances, the Receiver believes that the Settlement Agreement with Livingston for \$10,000 of value is in the best interest of the Receivership Estate.

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

DATED this 5th day of October, 2020.

**PARR BROWN GEE & LOVELESS**

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

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that service of the above **MOTION TO APPROVE SETTLEMENT AGREEMENT WITH K. KCCOY LIVINGSTON AND RELATED ENTITIES** was (1) electronically filed with the Clerk of the Court through the CM/ECF system on October 5, 2020, 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* \_\_\_\_\_