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*Attorneys for Johnathan O. Hafen as Receiver for the Rust Rare Coin Receivership*

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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,  
and 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 PERMISSION TO  
RETURN ITEMS TO CONSIGNORS**

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

Judge Tena Campbell  
Magistrate Judge Dustin 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”), respectfully requests that the Court authorize the Receiver to return property belonging to Lindsay Curtis, Wright Thurston and Glen Stacey. The Receiver has determined that Lindsay Curtis and Wright Thurston had valid consignment agreements with RRC and that Glen Stacey purchased and paid for identified goods prior to the appointment of the Receiver. The Receiver now requests permission to return items not properly assets of the Receivership Estate.

On November 27, 2018, the Court entered an Order Appointing Receiver and Staying Litigation. *See* Dkt. No. 54. Pursuant to paragraph 18, the Receiver was authorized to take immediate possession of all non-exempt personal property of the Receivership Defendants. *Id.* ¶ 18. Paragraph 36 of the Order authorized the Receiver to “transfer, compromise, or otherwise dispose of any nonexempt Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate.” *Id.* ¶ 36. On May 9, 2019, the Receiver filed a *Motion for Permission to Liquidate and Abandon Inventory of Rust Rare Coin, Inc.* (“Motion to Liquidate” or “Motion”), seeking permission to liquidate the coins, bullion, and other inventory remaining at RRC. *See* Dkt. No.168. The Receiver provided notice to all interested parties through his mailing matrix and by posting the Motion on his website.

On March 12, 2020, the Court entered an Order Granting Receiver’s Motion to Liquidate and Abandon Inventory of Rust Rare Coin, Inc (the “Order”). *See* Dkt. No. 294. Paragraph 12 of

the Order directed the Receiver to “maintain possession of the items identified in Exhibit A to the Motion until further order of the Court following further motion practice:” *Id.* ¶ 12. Exhibit A identified Lindsay Curtis and Wright Thurston as having consignment arrangements with RRC.<sup>1</sup> *See* Dkt. 168-1. Consistent with the Order the Receiver through this Motion requests permission to return the items detailed below.

Unfortunately, Mr. Stacey’s items were inadvertently excluded from the Receiver’s prior Motion to Liquidate. The Receiver now seeks permission to return consigned items to Lindsay Curtis and Wright Thurston and to refund to Mr. Stacey the purchase price of his items, as explained below.

A. Lindsay Curtis

Lindsay Curtis (“Mr. Curtis”) has provided receipts evidencing that his items were brought into RRC with the intent to consign. His claim form lists one uncut sheet of Kirtland Notes, one Nauvoo House Stock Certificate, one countersigned PMG 25 \$5 Note numbered 1608C and one Countersigned PMG 15 \$10 Note numbered 1723 B. Mr. Curtis provided signed receipts that clearly indicated that his items were dropped off for consignment only. He also provided pictures of many of the items in question. When the Receiver seized assets Mr. Curtis’s items were set aside and identified as belonging to him and meant for consignment at RRC. The Receiver holds the items identified by Mr. Curtis and now requests the Courts permission to return them to him. Mr. Curtis’ claim is attached as Exhibit A.

B. Wright Thurston

Mr. Thurston provided information and receipts to the Receiver that he had in August of

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<sup>1</sup> Exhibit A also identified Bary Jones as a party having a potential consignment arrangement with RRC. This Motion does not address Mr. Jones, whose relationship with RRC is more complicated. Mr. Jones’ consignment items will be addressed in future motion practice.

2018 left various items at the Rust Rae Coin Company in Salt Lake City intending his items to be consigned by RRC. Mr. Thurston provided a receipt listing, one Deseret Alphabet Book of Mormon, one Patek Philippe watch, one Hawaii ¼ Dollar coin and one Hawaii 1 Dollar coin to be sold on his behalf at RRC. Mr. Thurston's claim and receipt are attached as Exhibit B. Josh Rust has also confirmed to the Receiver that the items listed by Mr. Thurston were meant to be consigned and were never considered property of RRC.

The Receiver requests that the Court allow for the return of his items.

C. Glen Stacey

Mr. Stacey purchased 17 American Silver Eagle coins from the years that his grandchildren were born as gifts. When the Receiver entered the RRC premise the coins Mr. Stacey had chosen were set aside with his receipt and a note that said Mr. Stacey would come by to pick them up, the photo is attached as Exhibit C. Subsequent conversations with Mr. Stacey confirmed that he had already picked out and purchased the coins and only needed to pick them up from the store.

According to the Utah Uniform Commercial Code, which applies to the sale of goods, title passes at the time and place of contracting if the goods are identified, no documents of title are to be delivered, and the parties have not expressly agreed otherwise. *See* UTAH CODE § 70A-2-401(3). It is the Receiver's position that Mr. Stacey has adequately demonstrated that he purchased and paid for an identified set of goods and that the coins belong to Mr. Stacey, not RRC. Mr. Stacey has informed the Receiver that he no longer wants the coins and is requesting a refund of the purchase price of \$298.01 instead. The Receiver respectfully requests permission from the Court to refund Mr. Stacey for his 17 American Silver Eagle coins in the amount of \$298.01.

## OBJECTION PROCEDURE

Consistent with the Summary Disposition Procedure established by the Court, the Receiver will provide notice of this Motion to all potential claimants for whom the Receiver has contact information and will post it on the Receiver's website ([rustrarecoinreceiver.com](http://rustrarecoinreceiver.com)). *See* Dkt. No. 165. Any objection to this Motion **must be sent directly to the Receiver within 30 days** of service of the Motion. An objecting party will not be a party to the overall proceeding, will not intervene in the case, and will not file any documents directly with the Court unless otherwise authorized to do so by the Court.

If an objecting party specifically requests discovery in their objection, the parties will have an additional 30 days to complete discovery. Discovery will be conducted pursuant to the Federal Rules of Civil Procedure, except that written discovery must be responded to within 14 days. Either side may seek relief from the Court if the requested discovery is unduly burdensome or not proportional to the issues being determined. Following the filing of the objection or close of discovery (if specifically requested), the Receiver will then file the objections with the Court and schedule a hearing on the matter. If an evidentiary hearing is needed, the Receiver will schedule additional deadlines regarding disclosure of witnesses and exhibits as needed. The Receiver may file a reply to any objection five days before the hearing.

## CONCLUSION

For the reasons set forth above, the Receiver respectfully requests that the Court allow the Receiver to return the consignment items belonging to Lindsay Curtis and Wright Thurston and to refund Glen Stacey the purchase price of his identified goods.

A proposed order setting forth the objection procedure is submitted herewith.

DATED this 30th day of October 2020.

**PARR BROWN GEE & LOVELESS**

*/s/ Cynthia D. Love*

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Joseph M.R. Covey

Cynthia D. Love

*Attorneys for Receiver*

**CERTIFICATE OF SERVICE**

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing was (1) electronically filed with the Clerk of the Court through the CM/ECF system on October 30, 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 master mailing matrix maintained by the Receiver.

*/s/ Cynthia D. Love*  
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Cynthia D. Love