

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

COMMODITY FUTURES TRADING  
COMMISSION,

**Plaintiff,**

v.

FIRST STATE DEPOSITORY COMPANY,  
LLC, ARGENT ASSET GROUP, LLC, AND  
ROBERT LEROY HIGGINS,

**Defendants.**

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CASE NO.: 1:22-cv-01266-RGA

**THE RECEIVER’S FIFTH STATUS REPORT**

Kelly M. Crawford, as the court-appointed Receiver (“Receiver”), submits the following Fifth Status Report pursuant to this Court’s *Order Granting Plaintiff’s Motion for an Ex Parte Statutory Restraining Order, Appointment of a Temporary Receiver, and Other Equitable Relief* [Docket No. 12] (the “SRO”).<sup>1</sup> The Receiver’s Initial Status Report, filed on November 29, 2022, covered the first 60 days of the receivership [D.I. 44]. The Receiver’s Second Status Report covered the two month period from November 30, 2022 through January 31, 2023 [D.I. 93]. The Receiver’s Third Status Report covered the period from February 1, 2023 through May 31, 2023 [D.I. 119]. The Receiver’s Fourth Status Report covered the period from June 1, 2023 through June 10, 2023 [D.I. 129]. This Fifth Status report covers the period from June 11, 2023 through August 4, 2023.

**I.**

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<sup>1</sup> The SRO was continued in force by an *Order of Preliminary Injunction, Appointment of A Receiver and for Other Equitable Relief Against Defendants* entered by the Court on December 2, 2022 [D.I. 57]. The Receiver requests the Court to take judicial notice of the pleadings on file in this lawsuit.

## **INTRODUCTION**

With more than \$78 million in precious metals and currency missing from the depository operated by Defendant First State Depository Company, LLC, this may be the largest theft from a depository in the history of the United States.<sup>2</sup> The Receiver's activities during the approximate two month period between June 11, 2023 and August 4, 2023 were primarily focused upon implementing the claims process approved by the Court, returning assets held at the depository to the depository customers, and searching for additional receivership assets.

## **II.**

### **CLAIMS PROCESS**

On January 31, 2023, the Receiver filed his Amended Motion to Establish Claims and Distribution Procedures [D.I. 91] setting forth the Receiver's proposal for returning the assets to the FSD customers and establishing a claims process for those customers who have assets missing. On February 15, 2023, the Court entered an Order approving the Receiver's Amended Motion and established procedures for the Receiver to solicit, review, and report upon claims of depositors and creditors of the Defendants, and to begin the process of returning assets to depositors (the "Claims and Distribution Order") [D.I. 103].

On June 5, 2023, the Receiver filed the Receiver's Revised Claims Report detailing the implementation of the claims process and making recommendations regarding the claims received [D.I. 120] (the "Revised Claims Report"). As set forth in the Revised Claims Report, the Receiver received 1,705 claims and categorized 814 claims as uncompromised; 687 claims as compromised; 191 claims as compromised and part of the Silver Lease program; 7 purchase money claims; and 6 creditor claims.

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<sup>2</sup> The operator of another depository told the Receiver that operators of depositories are well aware of this case and that it is generally recognized as the largest theft of assets from a depository in United States' history.

The Receiver served the Revised Claims Report on the claimants and the claimants were given until July 15, 2023 in which to file an objection with the Receiver if they disagree with the Receiver's recommendations.

The Receiver was able to resolve all objections to his Revised Claims Report except for 43 depositor objections and 2 creditor objections. On July 28, 2023, the Receiver filed his Report Regarding Objections to Receiver's Claims Report, including copies of the unresolved objections and the Receiver's responses to such objections. [D.I. 154]. In addition, the Receiver submitted to the Court his Second Revised Claims Report.

On August 4, 2023, the Court entered a Memorandum Opinion and Order overruling the objections to the Receiver's recommendations and approving the Receiver's Second Revised Claims Report. [D.I. 156].

Of the proof of claim forms sent to potential claimants by the Receiver, 491 potential claimants had not filed a claim as of the date the Receiver filed his Second Revised Claims Report. The Receiver's team has been working diligently to locate these potential claimants and in the last four weeks, an additional 225 proofs of claim were received and processed by the Receiver. There are still 266 potential claimants who have not yet filed a proof of claim. If these persons fail to file a claim, the Receiver will request the Court to order forfeiture of their holdings to the receivership estate.

### III.

#### **DISTRIBUTING HOLDINGS TO DEPOSITORS**

Pursuant to the *Claims and Distribution Order*, in the middle of April, 2023 the Receiver and his team, together with accountants from Baker Tilly who prepared the audit and inventory of the holdings found at the depository, began distributing holdings to First State Depository

depositors. As reported previously to the Court, this process is continuing to take much longer, and is much more time intensive, than the Receiver anticipated. Consequently, the cost to the receivership will be much greater than the Receiver projected. The Receiver continues his effort to offset the costs by continuing the collection of surcharges from those depositors in the uncompromised category and charging every depositor a handling fee of generally between \$50 and \$200 for the cost incurred in distributing the holdings to the depositors.

In his Third Status Report the Receiver detailed the process followed by the Receiver's team in distributing the holdings to the depositors. With the exception of one or two weeks, beginning in the middle of April, 2023 and continuing through the last week of July, 2023, the Receiver, his staff and/or the Receiver's accountants have been at the depository disbursing holdings to the depositors. A majority of the holdings have been distributed. In light of the absence of air conditioning at the depository and temperatures in the 90's in Wilmington, the Receiver suspended operations from the depository for three weeks, from August 1 through August 20, 2023.

To date, the Receiver estimates \$40.8 million of assets have been transferred from the depository to claimants.

The Receiver was hoping to have all of the assets in the depository transferred by the end of July, 2023. However, because of the failure of several hundred depositors to file claims or provide delivery instructions for their holdings, the distribution of assets from the depository is continuing.

#### IV.

#### STEPS TOWARD LIQUIDATION OF RECEIVERSHIP ASSETS

On March 9, 2023, the Court approved the Receiver's proposed procedures for the liquidation of the assets in receivership [D.I. 109]. In November, 2022, the Receiver obtained the Hummer driven by Defendant Higgins and its estimated value, with more than 290,000 miles, is less than \$2,500. In May, 2023, the Receiver learned that Higgins purchased another Hummer and put the title in the name of his wife Maryna Higgins. The Receiver made demand upon Higgins to turn over the Hummer to the Receiver and Higgins refused. Consequently, on June 20, 2023, the Receiver filed a Motion to Compel Turnover of Hummer Automobile. [D.I. 132]. On June 21, 2023, the Court granted the Motion, instructed the Receiver to serve the Order on Higgins and his wife, and to wait for 10 days before executing upon the Order to give Higgins and/or his wife an opportunity to respond to the Receiver's Motion. Neither Higgins nor his wife filed a response to the Receiver's Motion. Consequently, the Receiver's local counsel presented Higgins with the Court's order and made demand upon Higgins to turn over the Hummer. Higgins refused. As a result, on July 7, 2023, the Receiver filed a Motion for Show Cause Hearing to Hold Defendant Higgins in Civil Contempt [D.I. 141]. On July 14, 2023, the Court conducted a Show Cause Hearing and Higgins represented to the Court he would turn over the Hummer to the Receiver. Immediately after the hearing, the Receiver recovered the Hummer from Higgins and his wife.

The most significant assets in receivership are those of Defendant Argent Asset Group, LLC ("Argent"). The Receiver recovered coins and other valuables owned by Argent that were held by third parties. In addition, the Receiver discovered that approximately \$100,000 of Argent's inventory was held by COINS TV. The Receiver negotiated with COINS TV to continue sales of the inventory and to remit the proceeds of such sales to the receivership. To date, COINS TV has

paid the receivership approximately \$49,260 from liquidation of that inventory. COINS TV is continuing to sell the inventory. Also, the Receiver learned of an account receivable payable to Argent by Collector's Alliance in the amount of \$217,563. Collector's Alliance fully paid this account receivable to the Receiver.

The Receiver retained Richard Weaver, owner of Delaware Valley Rare Coin Company, to inspect the Argent inventory and advise the Receiver on the best means of liquidating the inventory. Mr. Weaver visited the Argent office on several occasions to inspect the inventory and provide recommendations to the Receiver regarding liquidation of the inventory. The Receiver divided the inventory into the following categories: 1) coins to be deposited with a bank at face value; 2) precious metals to be sold based on spot value; 3) proofs of coins; 4) specialty coins; and 5) other collectables.

## V.

### **ATTEMPTS BY THE RECEIVER TO IDENTIFY ADDITIONAL ASSETS**

The Receiver continues his search for the precious metals missing from the depository. As reported to the Court in the Receiver's Fourth Status Report, the Receiver obtained an ex parte Order from the Court that allowed the Receiver and persons with metal detectors to search Higgins' house. As a result of the search, the Receiver discovered and seized more than \$70,000 in gold one ounce coins hidden in the ceiling of a basement closet. In addition, the Receiver discovered and seized foreign currency from the home. The Receiver found documents in Higgins' home showing that Higgins was recently selling precious metals. The Receiver seized Higgins' computer, i-pad, blackberry, and cell phone and is having such devices imaged. Higgins continues to assert the Fifth Amendment in refusing to answer questions from the Receiver regarding the whereabouts of the missing precious metals.

On May 11, 2023, the Receiver filed an ex part motion to authorize the Receiver to seize Higgins' cell phone [D.I. 114], and on May 11, 2023, the Court granted the motion [D.I. 115]. Prior to the Receiver seizing Higgins' cell phone, the FBI seized Higgins' cell phone. The FBI recently provided the Receiver with a copy of the imaged cell phone.

In addition, the Receiver served subpoenas and the Statutory Restraining Order on a number of third parties to obtain information regarding the possible disposition of the missing precious metals by Higgins or associates of Higgins. The Receiver intends to continue the search for the missing metals and currency.

Respectfully submitted on August 23, 2023

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