

**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 SIXTH STATUS REPORT

Kelly M. Crawford, as the court-appointed Receiver (“Receiver”), submits the following Sixth 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”).¹ 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]. The Receiver’s Fifth Status report covered the period from June 11,

¹ 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.

2023 through August 4, 2023. The Receiver's Sixth Status report covers the period from August 5, 2023 through November 3, 2023.

I.

INTRODUCTION

The Receiver's activities during the approximate three month period between August 5, 2023 and November 3, 2023 were primarily focused upon completing the return of assets held at the depository to the depository customers; beginning the process of liquidating assets; asserting claims against third parties; 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 July 28, 2023, Receiver submitted to the Court his Second Revised Claims Report. [D.I. 154]. On August 4, 2023, the Court entered a Memorandum Opinion and Order overruling objections to the Receiver's recommendations and approving the Receiver's Second Revised Claims Report. [D.I. 156].

To date, the Receiver has processed 1,941 proofs of claim. On October 12, 2023, the Receiver submitted to the Court the Receiver's Motion to Order Forfeiture of Unclaimed Assets

[D.I. 164] and listed 149 potential claimants who did not file a claim despite numerous attempts by the Receiver to solicit claims. On October 16, 2023, the Court entered an Order granting the Forfeiture Motion [D.I. 165] and authorized the Receiver to liquidate the forfeited assets. After the Receiver filed his Motion, the Receiver received claims from six potential claimants and removed them from the list of potential claimants' whose holdings were forfeited to the receivership estate.

During the week of October 30, 2023, the Receiver began liquidating the forfeited assets pursuant to the procedures approved by the Court for the sale of precious metals.

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 inventory of the holdings found at the depository, began distributing holdings to First State Depository ("FSD") depositors. As reported previously to the Court, this process took much longer, and was much more time intensive, than the Receiver anticipated. Consequently, the cost to the receivership has been much greater than the Receiver projected. The Receiver continued to offset the costs by collecting 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.

The Receiver identified 28 claimants in the Uncompromised Category who owed a surcharge to the receivership that had not been paid. Consequently, the Receiver sent a letter to each of these claimants informing them that if they did not pay the surcharge to the receivership, the Receiver would use a portion of their holdings to pay the surcharge, as allowed in the *Claims*

and Distribution Order. A true and correct copy of this letter to the claimants who owed a surcharge is attached hereto as **Exhibit A**. Since sending that letter, 13 of the claimants paid their surcharge. During the week of October 30, 2023, the Receiver took a portion of the holdings of those claimants who still had not paid their surcharge to pay the surcharge, and the Receiver shipped the remaining holdings to the claimant's home address.

With the exception of a few stragglers, the Receiver completed distributing the holdings to the FSD depositors during the week of October 30, 2023. To date, 1,511 claims have been transferred with a value of \$57.2 million. This represents 99 percent of the claims to be pulled and transferred from the depository to the FSD depositors. The Receiver expects to complete the final distribution of holdings the week of November 13, 2023. During the course of distributing holdings to the FSD depositors, in some instances, the Receiver's team found some or all of the metals or foreign currency that were originally believed to be missing from the claimant's holdings. In addition, the claim amount for some of the claimants changed as either additional items were found belonging to the claimant, or the loss to the claimant was greater than originally observed. The revised claim amounts will be set forth in the Receiver's Third Revised Claims Report that will soon be filed with the Court.

IV.

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]. On October 10, 2023, the Court approved the Receiver's proposed procedures for the sale of precious metals in receivership [D.I. 163].

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. On July 14, 2023, the Receiver recovered another Hummer that Higgins purchased and put the title in the name of his wife Maryna Higgins.

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 \$52,000 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 and proofs to be sold based on spot value; 3) specialty coins; and 4) other collectables.

With the assistance of Mr. Weaver, the Receiver had standard coinage worth approximately \$14,000 deposited with Franklin Mint Credit Union.

In addition, during the week of October 30, 2023, the Receiver began selling a large portion of the precious metals in the receivership estate that is expected to yield in excess of \$1 million. A list of the specific metals sold and the prices received will be filed with the Court.

The Receiver identified 200 specialty coins, as listed on **Exhibit B**, to place on consignment for sale at the Whitman Expo, November 9-11, 2023 at the Baltimore Convention Center. The Receiver obtained an appraisal of the 200 coins from Stephen Gehringer, a 50 year life member of American Numismatic Association 2714, to set a reserve price for the sale of the coins. The coins were placed on consignment with Delaware Valley Rare Coin Company. The receivership will receive 100% of the proceeds from the sale of coins up to the reserve value and 50% of the proceeds in excess of the reserve value.

There is a substantial amount of Argent inventory remaining to be liquidated, as well as the furniture, equipment, and supplies at the depository.

V.

**ATTEMPTS BY THE RECEIVER TO IDENTIFY
AND RECOVER ADDITIONAL ASSETS**

On September 29, 2023, the Receiver filed a Complaint against West Hills Capital, LLC and Joseph Unger to recover more than a million dollars in commissions paid by First State Depository that the Receiver contends were fraudulent conveyances. The lawsuit was filed in the United States District Court for the District of Delaware, Case No. 1-23-cv-01076-RGA. The

Receiver is proposing to use the net proceeds recovered from the lawsuit to pay those claimants in the Uncompromised category who were part of the Silver Lease Program.

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 November 6, 2023

ASHBY & GEDDES, P.A.

/s/ Ricardo Palacio

Ricardo Palacio, Esq. (#3765)
500 Delaware Avenue, 8th Floor
P.O. Box 1150
Wilmington, Delaware 19899-1150
Tel: (302) 654-1888
Fax: (302) 654-2067
Email: rpalacio@ashbygeddes.com

-and

SCHEEF & STONE, L.L.P.

Peter C. Lewis, Esq.
500 North Akard, Suite 2700
Dallas, Texas 75201
Telephone: (214) 706-4200
Facsimile: (214) 706-4242
Email: Peter.Lewis@solidcounsel.com

Counsel to Kelly Crawford, Receiver