IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

COMMODITY FUTURES TRADING COMMISSION, **Plaintiff,**	§	
v.	§	CASE NO.: 1:22-cv-01266-RGA
FIRST STATE DEPOSITORY COMPANY, LLC, ARGENT ASSET GROUP, LLC, AND ROBERT LEROY HIGGINS, **Defendants.**	§	

THE RECEIVER'S TENTH STATUS REPORT

Kelly M. Crawford, as the court-appointed Receiver ("Receiver"), submits the following Tenth 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, 2023 through August 4, 2023 [D.I. 157]. The Receiver's Sixth Status Report covered the period from August 5, 2023 through November 3, 2023 [D.I. 167]. The Receiver's Seventh Status Report

[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.

covered the period from November 4, 2023 through December 4, 2023 [D.I. 172]. The Receiver's Eighth Status Report covered the period from December 4, 2023 through January 17, 2024 [D.I. 185]. The Receiver's Ninth Status Report covered the period from January 18, 2024 through April 8, 2024. This Receiver's Tenth Status Report covers the period from April 8, 2024 through July 11, 2024.

I.

DISTRIBUTING HOLDINGS TO DEPOSITORS

Pursuant to the *Claims and Distribution Order*, the Receiver and his team completed the distribution of holdings to First State Depository ("FSD") depositors or their custodians. Distributions of metals, foreign currency, and other holdings valued at approximately $63,896,305 million were made to 1,761 depositors or their custodians. This process began in the middle of April, 2023 and continued until November 23, 2023.

II.

CLAIMS AND INTERIM DISTRIBUTION

On January 12, 2024, the Receiver filed a *Motion to Approve Third Revised Claims Report* [D.I. 183](the "Third Revised Claims Report"). The Third Revised Claims Report reflected changes in the categories of claims for certain claimants, the amount of claim for certain claimants, and the addition of 195 late filed claims. On January 16, 2024, the Court entered *an Order Granting the Receiver's Motion to Approve Third Revised Claims Report.* The Third Revised Claims Report will be used by the Receiver for distribution of monies available to the approved claimants pursuant to the distribution plan previously approved by the Court. A copy of the Third Revised Claims Report is posted on the receivership website, www.fsdreceivership.com and was mailed to each claimant with a revised or late filed claim.

Prior to the end of July, the Receiver intends to file his *Motion for Interim Distribution,* requesting authority to distribute monies to the approved claims pursuant to the distribution plan previously approved by the Court. The Motion will include a summary of the revenue and expenses to date in the receivership. Upon approval of the Motion, the Receivership will distribute the funds to the approved claimants on a *pro rata* basis.

III.

LIQUIDATION OF RECEIVERSHIP ASSETS

A. Assets Liquidated

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].

The most significant assets remaining in receivership are those of Defendant Argent Asset Group, LLC ("Argent"). 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.

1. Sales of Precious Metals and Proofs

The Receiver made a number of sales of precious metals that were either forfeited to the receivership estate, could not be traced to a FSD Depositor, or were in the Argent inventory. The Receiver completed the sale of precious metals. For each sale, the Receiver filed a Notice of Sale with the Court that identifies the specific metals sold and the prices received. Prior to January 17, 2024, the Receiver filed six Notices of Sale with the Court showing a total of $2,982,486.73 in

metals sold. From January 17, 2024 until April 8, 2024, the Receiver filed three additional Notices of Sale with the Court [D.I. 192, 193, and 195] showing an additional total of $198,594.10 in metals sold. From April 9, 2024 through the present, the Receiver filed four additional Notices of Sale with the Court [D.I. 202, 205, 206, and 107] showing an additional total of $263,010.12 in metals sold. In total, the Receiver filed 13 Notices of Sale with the Court showing a total of $3,444,090.95 in metals sold.

2. Sales of Coins

With the assistance of Mr. Rich Weaver of Delaware Valley Rare Coin Company, the Receiver had additional standard coinage worth $22,095 deposited with the bank.

3. **Sale/Exchange of Foreign Currency**

The Receiver sold the remaining Iraq Dinar in the Receiver's possession in a private sale noticed in a Court filing [D.I. 197] for $750.

4. Sale of Hummers

The Receiver agreed to sell the 2003 Hummer H2 to an individual for $2,000, and the 2006 Hummer H2 to another individual for $3,500. The Receiver noticed the sale with the Court [D.I. 203]. In response to the notice, the Receiver received a higher bid for the purchase of both Hummers for the price of $6,050. Accordingly, pursuant to the procedures approved by the Court, the Receiver sold both Hummers to Eugene Bascou for $6,050. [D.I. 204].

B. Remaining Assets to Liquidate

The Receiver placed the remaining inventory of Argent into the following Lots:

Steel Pennies

Silver Nickels

Eisenhower Dollar Proofs

Prestige Sets

Hall of Fame Coins

The Receiver sent inventories for the above Lots to 12 coin dealers across the country soliciting bids, with a deadline of April 16, 2024. The Receiver received bids that exceeded the reserve price for only two of the Lots – the Eisenhower Dollar Proofs and the Prestige Sets. The Receiver sold the Eisenhower Dollar Proofs for $3,000 and the Prestige Sets for $2,500. The Receiver is continuing his attempt to solicit bids for the remaining Lots.

In addition to the foregoing, the Receiver has a very large number of coins that have also been placed in the following categories:

Commemorative Coins

Silver Proofs

Mint Sets

Non-Silver Proof Sets

The Receiver continues to solicit interest in these large lots of coins from various coin dealers. In addition, the Receiver has a number of collectable pennies, historical documents, and artifacts to sell. The Receiver estimates the value of the remaining lots of Argent coins to be sold at between $200,000 and $300,000.

Several boxes of miscellaneous coins that do not fall in any of the foregoing categories, were placed on consignment with Llewellyn Barker in Texas. She will receive a commission of 20% for each sale. Results of her sales of the miscellaneous coins will be reported to the Court.

The Department of Justice is in possession of 27 one ounce gold coins and 34 quarter ounce gold coins that were found and removed from Higgins' house by the Receiver, and that have a value of approximately $74,550.[2] Once the coins are returned to the Receiver, the Receiver will sell the coins for the benefit of the receivership estate.

IV.

VACATING DEFENDANTS' OFFICE

The Defendants leased the building at 100 Todds Lane, Wilmington, Delaware that served as the headquarters for the Defendants' operations (the "Building"). During the receivership, the Receiver has been paying rent to the landlord of the Building for use of the Building. The Receiver vacated the Building on April 30, 20024 and delivered keys to the Building to the Lessor's attorney on May 1, 2024. The Receiver paid the final rent expenses for use of the Building.

The remaining Argent coins were transported from the Building to a secure storage facility in Wilmington, Delaware.

V.

HIGGINS BANKRUPTCY

Shortly before the receivership, Higgins filed Chapter 13 bankruptcy in the Eastern District of Pennsylvania, Case No. 22-12021. Motions to Dismiss the bankruptcy were filed by the Chapter 13 Trustee, as well as by other creditors, including the Commodity Futures Trading

[2] *See Receiver's Fourth Status Report [D.I. 129]* filed on June 12, 2023. The value of gold continually fluctuates, so this may not be the value at the time the Receiver sells the gold.

Commission ("CFTC"). Higgins is arguing in the bankruptcy that debts owed to depositors in the First State Depository were barred because the debts arose prior to May 20, 2016 when Higgins was previously discharged from a Chapter 7 bankruptcy. In response to this argument, the Receiver reviewed the total claims approved by this Court as part of the Receiver's Third Claims Report, and determined which claimants opened accounts with the First State Depository *after* May 20, 2016. The Receiver and his team prepared a report listing claimants with accounts opened after May 20, 2016 that indicated total losses of $35.9 million. That report is part of a Declaration the Receiver executed for submission in the Higgins bankruptcy proceeding.

Higgins owns a house at 100 Applegate Drive, West Chester, Pennsylvania 19382 that has a Zillow value of approximately $1,028,900. Without bankruptcy court approval, Higgins added his wife to the title to the house. There is no mortgage on the house, but the house is subject to judgment liens and other debts. The Receiver claims an interest in the equity of the house. Depending upon the outcome of Higgins' bankruptcy, the Receiver will seek to recover a portion of the equity in the house.

VI.

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 Defendants waived service.

The Defendants contacted the Receiver and claimed to have insufficient assets to hire an attorney to defend the lawsuit. The Receiver provided the Defendants with a Sworn Statement of

Financial Condition form to complete. Defendant West Hills Capital, LLC completed the statement and provided it to the Receiver. The Defendant Joseph Unger initially agreed to provide a Sworn Statement of Financial Condition but is now refusing to provide the same to the Receiver.

The Defendants informed the Receiver they asserted a claim against the Defendants' insurance company under an insurance policy that insured against business loss. The Defendants indicated a desire to use proceeds received from the insurance company, if any, to fund a settlement of the Receiver's lawsuit. In March, the Receiver spoke with Defendant Unger and the attorney retained by Defendant West Hills Capital to pursue the insurance claim. Defendant Unger provided the Receiver with a copy of the Sworn Statement in Proof of Loss submitted to the insurance company showing an estimated total loss exceeding a million dollars. In light of the pending insurance claim and the Defendants' professed intent to use proceeds received from the insurance claim to fund a settlement with the Receiver, the Receiver and the Defendants stipulated to a stay of the lawsuit until May 29, 2024.

Prior to the expiration of the stay, on May 20, 2024, the Defendant Unger filed a Motion to Dismiss the Complaint [D.I. 9]. The Receiver filed his Response to the Motion to Dismiss the Complaint on June 3, 2024 [D.I. 13], and the Motion to Dismiss remains before the Court for consideration.

Pursuant to the Receiver's Third Claims Report approved by the Court, the Receiver will use the net proceeds recovered from the lawsuit, if any, to pay those claimants in the Uncompromised category who were part of the Silver Lease Program.

VII.

DURATION OF RECEIVERSHIP

Upon the Court's approval of the Receiver's *Motion For Interim Distributions* that will be filed prior to July 31, 2024, the Receiver will make the distributions to approved claimants. Once the Receiver liquidates the remaining Argent coins, the Receiver will seek to make a final distribution to approved claimants, other than the Silver Lease Claimants. The Receiver's only assets that will remain are the fraudulent conveyance claims against West Hills Capital and Joseph Unger. The Receiver is pursuing those claims on a contingent fee basis and does not anticipate any further activities in the receivership other than filing the tax returns for the receivership estate. Finally, the Receiver has been asked to testify at the criminal case of Defendant Robert Higgins scheduled to begin in October, 2024.

Respectfully submitted on July12, 2024

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