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**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**AMERICAN PENSION SERVICES, INC.,  
a Utah Corporation and CURTIS L.  
DeYOUNG, an individual,**

**Defendants.**

**ORDER APPROVING RECEIVER’S  
MOTION FOR AN ORDER  
AUTHORIZING THE LIQUIDATION  
OF PROMISSORY NOTES HELD BY  
APS FOR THE BENEFIT OF APS  
ACCOUNT HOLDERS**

**Case No.: 2:14-cv-00309-RJS-DBP**

**Judge Robert J. Shelby  
Magistrate Judge Dustin B. Pead**

Before this court is the Receiver’s Motion and Memorandum for an Order Authorizing  
the Liquidation of Promissory Notes Held by APS for the Benefit of APS Account Holders

(“Motion”).<sup>1</sup> For good cause appearing, and for the reasons stated in the Motion, the court hereby GRANTS the Receiver’s motion.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

1. This court approved the Receiver’s Liquidation Plan on February 27, 2015.<sup>2</sup>
2. The Receiver filed necessary notices of the Receivership in other jurisdictions pursuant to 28 U.S.C. § 754.
3. This court has jurisdiction to authorize the sale of personal property assets pursuant to 28 U.S.C. § 754 and 1692.<sup>3</sup>
4. The liquidation of assets is authorized by statute, 28 U.S.C. §§ 754, 1692, and by the Liquidation Plan.
5. The liquidation of assets from APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 will further the purpose of the Receivership to treat all account owners equitably.
6. The liquidation of assets from APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 is fair and reasonable and necessary to allow the Receivership to be administered to a conclusion.

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<sup>1</sup> Dkt. 825.

<sup>2</sup> Dkt. 458.

<sup>3</sup> See *SEC v. Bilzerian*, 378 F.3d 1100, 1103 (D.C. Cir. 2004); see also *In re Comm’r of Banks and Real Estate*, 764 N.E.2d 66, 88 (Ill. App. Ct. 2001) (holding receiverships and liquidations are *in rem* proceedings and that funds deposited for investment with a company were within the jurisdiction of the Receivership court).

7. The owners of APS Account Numbers Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 received notice of the Liquidation Plan by mail, e-mail, and by posting of the Liquidation Plan to the Receiver's website at [www.apsreceiver.com](http://www.apsreceiver.com).

8. The owners of APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 have not complied with the Liquidation Plan, approved by this court on February 27, 2015.

9. The owners of APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 were either served or the Receiver exercised reasonable efforts to serve a subpoena with a cover letter explaining that they had not complied with the Liquidation Plan. The cover letter also explained that the Liquidation Plan authorized the Receiver to liquidate assets within their accounts.

10. Account Number 3151 has a loss allocation of \$39,046.65 and has outstanding management fees of \$1,775.70.

11. Account Number 7281 has a loss allocation of \$11,000.00 and has outstanding management fees of \$2,543.14.

12. Account Number 8748 has a loss allocation of \$25,000.00 and has outstanding management fees of \$3,130.00.

13. Account Number 8795 has a loss allocation of \$16,824.78 and has outstanding management fees of \$0.00.

14. Account Number 8841 has a loss allocation of \$15,192.83 and has outstanding management fees of \$0.00.

15. Account Number 11713 has a loss allocation of \$24,500.04 and has outstanding management fees of \$0.00.

16. Account Number 13672 has a loss allocation of \$36,254.60 and has outstanding management fees of \$0.00.

17. Proceeds from the sale of promissory notes in each of APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 will be utilized to satisfy each Non-compliant Account's loss allocation, outstanding management fees, and reasonable fees and costs associated with liquidation of the asset.

18. Any excess funds available as a result of the public sale of the promissory notes be deposited to the respective Non-compliant Accounts. These excess funds, as well as any other assets, including a Contingent Repayment Agreement as described in the Liquidation Plan, will be distributed to the account owner. The Receiver will also issue appropriate documents for the purpose of tax reporting, including but not limited to an IRS Form 1099-R.

19. Statute requires that the promissory notes in possession of a receiver be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish or city in which the property is located, or on the premises of the property.<sup>4</sup>

20. The Receiver is authorized to conduct the sale of the promissory notes held by APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 by public sale in a manner the Receiver believes will bring the highest and best value for the property, whether by sheriff's sale or through a public auction.

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<sup>4</sup> 28 U.S.C. §§ 2001(a), 2004.

21. After due diligence, should the Receiver believes a public auction will bring the highest and best value, the Receiver is authorized to engage an auctioneer or auction house for the purpose of conducting a public auction.

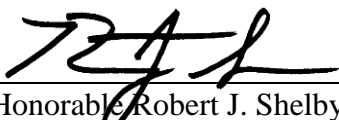
22. The Receiver shall promptly publish a copy of this Order to the Receivership website at [www.apsreceiver.com](http://www.apsreceiver.com).

23. The Receiver shall also mail a copy of her Motion, this Order, and notice of the final date of the sale of the property to the owners of APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 by certified mail or other verified delivery method to the address at which each of the individuals was served or attempted to be served a subpoena.

24. The Receiver is to use her best efforts to obtain the highest and best value for the promissory notes.

25. The respective beneficiaries of APS Account Numbers 3151, 7281, 8609, 8748, 8795, 8841, 11713, and 13672 shall have the opportunity to fund their loss allocation and pay outstanding APS management fees up to five (5) days before the public sale of the promissory notes. If the beneficiary of the account fully satisfies their loss allocation for their respective account, the public sale shall not be performed and shall be cancelled.

DATED this 29<sup>th</sup> day of November, 2016.

  
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Honorable Robert J. Shelby  
United States District Court