

DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202	DATE FILED: October 5, 2020 4:25 PM FILING ID: 5628B87E738F4 CASE NUMBER: 2019CV33770
<p>Plaintiff: TUNG CHAN, Securities Commissioner for the State of Colorado</p> <p>v.</p> <p>Defendants: MARK RAY; REVA STACHNIW; CUSTOM CONSULTING & PRODUCT SERVICES, LLC; RM FARM & LIVESTOCK, LLC; MR CATTLE PRODUCTION SERVICES, LLC; SUNSHINE ENTERPRISES; UNIVERSAL HERBS, LLC; DBC LIMITED, LLC</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p><i>Attorneys for Court-appointed Receiver Gary Schwartz:</i> John A. Chanin, #20749 Katherine A. Roush, #39267 FOSTER GRAHAM MILSTEIN & CALISHER, LLP 360 South Garfield Street, Suite 600 Denver, Colorado 80209 Phone: (303) 333-9810 Fax: (303) 333-9786 Email: jchanin@fostergraham.com; kroush@fostergraham.com</p>	<p>Case Number: 19CV33770</p> <p>Division/Courtroom: 209</p>
<p style="text-align: center;">RECEIVER’S MOTION TO ESTABLISH CLAIMS ADMINISTRATION PROCEDURE AND TO SET CLAIMS BAR DATE</p>	

Gary Schwartz, the duly-appointed receiver “Receiver” for all of the assets of Mark Ray (“Ray”), Custom Consulting & Product Services, LLC (“Custom Consulting”), MR Cattle Production Services, LLC (“MR Cattle”), Universal Herbs, LLC (“UH”), DBC Limited, LLC (“DBC”), RM Farm & Livestock, LLC (“RM Farm”), Sunshine Enterprises (“Sunshine”) and the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Road, Glencoe, OK 74032 that are in the name of or under the control of Reva Stachniw (“Glencoe Ranch”) (collectively “Ray and the Ray Entities” or the “Estate”), asks the Court to enter an order establishing a claims administration process and setting a claims bar date of February 1, 2021.

I. BACKGROUND

1. On September 30, 2019, David Cheval, then-Acting Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Ray and the Ray Entities. The plaintiff is now Securities Commissioner Tung Chan.

2. On September 30, 2019, the Commissioner and Ray, Custom Consulting, MR Cattle, UH and DBC filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Ray, Custom Consulting, MR Cattle, UH and DBC pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

3. On September 30, 2019, the Court entered a Stipulated Order Appointing Receiver (the “September 30 Order”) appointing Gary Schwartz of Betzer Call Lausten & Schwartz, LLP as receiver for Ray, Custom Consulting, MR Cattle, UH and DBC and their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses (the “Ray Estate”) September 30 Order at ¶ 3.

4. On September 30, 2019, the Securities and Exchange Commission (“SEC”) filed a Complaint against Ray and the Ray Entities and Ron Throgmartin in the United States District Court for the District of Colorado, case no. 19-cv-02789-DDD-NYW (the “Federal Case”).

5. On September 30, 2019 the SEC and Ray, Throgmartin, UH, Custom Consulting, MR Cattle, and DBC filed a stipulated request for the entry of consent orders in the Federal Case.

6. The Court in the Federal Case granted the request for entry of consent orders on October 10, 2019 (the “Ray Consent Judgments”).

7. On October 16, 2019, the SEC and Stachniw, RM Farm and Sunshine filed a second stipulated request for the entry of consent orders in the Federal Case.

8. The Court in the Federal Case granted the request for entry of consent orders on October 18, 2019 (the “Stachniw Consent Judgments”).

9. On October 30, 2019, the Commissioner and Stachniw, RM Farm and Sunshine filed a Second Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over RM Farm, Sunshine, and :the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Road, Glencoe, OK 74032 that are in the name of or under the control of” Stachniw (the “Stanchiw Assets”) pursuant to Colo. Rev. Stat. § 11-51-602(1) and C.R.C.P. 66.

10. On November 4, 2019, the Court entered a Stipulated Order Appointing Receiver (the “November 4 Order” and collectively with the September 30 Order, the “Receivership Orders”) appointing Gary Schwartz of Betzer Call Lausten & Schwartz, LLP as receiver for the Stachniw Assets, RM Farm, and Sunshine and their identified properties, assets, interests and

management rights in related affiliated and subsidiary businesses (the “Stachniw Estate”) and added the Stachniw Estate to the Ray Estate (collectively, the Stachniw Estate and Ray Estate are referred to herein as the “Receivership Estate” or “Estate”). November 4 Order at ¶¶ 3, 4.

11. The Ray Consent Judgments and the Stachniw Consent Judgments both stay the Federal Case during the pendency of the above-captioned litigation.

12. Under paragraph 5(l) of the Receivership Order at 4, the Receiver is authorized to establish a procedure for asserting claims against the Estate or Receivership Property, for resolving any disputes concerning those claims. Paragraph 7 of the Receivership Order at 8, sets out the priority for the distribution of proceeds of the Estate. The Receiver asks the Court to enter an order establishing the procedure for submitting claims against the Estate and setting a claims bar date.

13. One of the primary purposes of a receivership is to “promote orderly and efficient administration of the estate . . . for the benefit of the creditors.” See *Broadbent v. Advantage Software, Inc.*, 415 Fed. Appx. 73, 78 (10th Cir. 2011) (quoting *S.E.C. v. Hardley*, 803 F.2d 1034, 1038 (9th Cir. 1986)). The Court “has extremely broad discretion in supervising an equity receivership and in determining the appropriate procedures to be used in its administration.” *F.D.I.C. v. Bernstein*, 786 F. Supp. 170, 177 (E.D.N.Y. 1992); see *McFarland v. Winnebago South, Inc.*, 863 F. Supp. 1025, 1034 (W.D. Mo. 1994) (recognizing “the receivership court has the power to use summary procedures in allowing, disallowing, and subordinating claims of creditors, so long as creditors have fair notice and a reasonable opportunity to respond.”).

II. BAR DATE REQUEST

1. The Receiver asks the Court to set a claims bar date of **February 1, 2021**, which the Receiver submits will allow putative claimants sufficient time to consult with counsel (if they so choose) and submit their claims with supporting documentation to the Receiver. Time is of the essence in this case for submitting claims so that the Receiver can ascertain potential claims and evaluate contemplated proposals to sell assets of the Estate.

2. The Receiver has compiled a list of all currently known investors in and creditors of Ray, and the Ray Entities with potential claims against the Receivership Estate (“Potential Claimants”). Upon the Court’s approval of this Motion, the Receiver proposes to serve the Notice of Claims Bar Date and Procedure for Filing Claims in the form submitted as **Exhibit 1** (the “Notice”) to the Potential Claimants by U.S. first-class mail.

3. As the Receiver’s investigation progresses, there may be additional, unknown claimants of the Estate. For any unknown claimant that does not receive notice of the claims bar date within time sufficient to file a claim by February 1, 2021, the Receiver proposes that, upon discovering an additional claimant, notice of the claims bar date will be provided promptly to that claimant, and that claimant shall have forty-five (45) days to submit a claim to the Receiver in accordance with the proposed procedures below.

III. PROPOSED PROCEDURES FOR CLAIMS ADMINISTRATION

4. The Receiver requests entry of an order, a form of which is submitted with this Motion, requiring any party with a claim against the Estate, to submit a completed claim form with all supporting documentation to the offices of FOSTER, GRAHAM, MILSTEIN & CALISHER, LLP, counsel for the Receiver, on or before **February 1, 2021**, or for any currently unknown claimants, within forty-five (45) days of the Receiver's mailing of additional notice. A copy of the proposed claim form is submitted with this Motion as **Exhibit 2** (the "Claim Form").

5. The Receiver will accept claims via e-mail, facsimile, and via U.S. Mail. The Claim Form generally requires a statement, signed and certified under the penalty of perjury, that includes:

- a. Claimant(s) complete name(s);
- b. Claimant(s) contact information;
- c. The exact amount, components, origin, and nature of the claim as it existed on September 30, 2019;
- d. The date the claim arose;
- e. The nature, value, and location of any collateral securing the claim;
- f. Whether the claim bears any interest and, if so, the basis for claiming interest;
- g. Documents that support the claim, to the extent claimant has not yet provided those documents;
- h. The nature and value of any offset or counterclaim;
- i. Contact information for any attorney representing the claimant;
- j. The case (or proceeding) number and court (or tribunal) where any claims against Receivership Estate were pending as of September 30, 2019 and/or as of the date of filing a claim; and
- k. A certification providing claimant has dismissed any pending proceedings against Ray, and Ray Entities, related entities that are part of the Receivership Estate, or the Estate, and that it will not file or re-file proceedings without the Receiver's consent or leave from this Court.

6. In the interest of full, fair, uniform, and efficient claims administration, the Receiver requests that the Court's order approving this Motion require, that any claimant – as a condition of obtaining an allowed claim against the Estate – dismiss (without prejudice) any claim or cause of action pending against Ray, and Ray Entities, and any related entities that are part of the Receivership Estate. That condition would allow claims to be administered in a single forum before this Court and conserve the limited resources of the Estate. The certification as contemplated on the Claim Form also requires a statement that claims or causes of action against the Estate will not be filed or re-commenced without the Receiver's consent or this Court's Order.

WHEREFORE, the Receiver asks the Court to enter an order: (a) granting this Motion; (b) approving the Notice of the Claims Process submitted as **Exhibit 1**; (c) directing that claims be filed in writing with the Receiver on the Claim Form attached as **Exhibit 2**; (d) setting a claims bar date of **February 1, 2021**; (e) requiring claimants to dismiss, without prejudice, any claims against Ray, and Ray Entities, and any related entities that are part of the Receivership Estate currently pending in other any other court, or waive their right to participate in the Receivership claims administration process; and (f) for any additional relief the Court deems appropriate.

Dated: October 5, 2020.

FOSTER GRAHAM MILSTEIN & CALISHER, LLP.

By: /s/ John A. Chanin

John A. Chanin, #20749

Katherine A. Roush, #39267

ATTORNEYS FOR THE COURT-APPOINTED RECEIVER,
GARY SCHWARTZ

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2020, a true and correct copy of the foregoing **RECEIVER'S MOTION TO ESTABLISH CLAIMS ADMINISTRATION PROCEDURE AND TO SET CLAIMS BAR DATE** was electronically filed and served on all parties of record via the Colorado Court E-Filing System.

I further certify that on October 6, 2020 a true and correct copy on the foregoing **RECEIVER'S MOTION TO ESTABLISH CLAIMS ADMINISTRATION PROCEDURE AND TO SET CLAIMS BAR DATE** is being served by U.S. Mail on all currently known creditors of the Receivership Estate to the addresses set forth on the service list maintained in the Receiver's records.

/s/ Lucas Wiggins
Lucas Wiggins

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<p style="text-align: center;">NOTICE OF CLAIMS BAR DATE AND PROCEDURE FOR FILING CLAIMS</p>	

NOTICE IS HEREBY GIVEN that Gary Schwartz, the duly-appointed receiver “Receiver” for all of the assets of Mark Ray (“Ray”), Custom Consulting & Product Services, LLC (“Custom Consulting”), MR Cattle Production Services, LLC (“MR Cattle”), Universal Herbs, LLC (“UH”), DBC Limited, LLC (“DBC”), RM Farm & Livestock, LLC (“RM Farm”), Sunshine Enterprises (“Sunshine”) and the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Road, Glencoe, OK 74032 that are in the name of or under the control of Reva Stachniw (“Glencoe Ranch”) (collectively “Ray and the Ray Entities” or the “Estate”), has established a procedure for asserting claims against the Estate as defined by this Court’s November 4, 2019,

Second Stipulated Order for Appointment of Receiver (the “Receivership Order”). On September 30, 2019, Gerald Rome, Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint against Ray, and the Ray Entities.

**THE DEADLINE FOR FILING CLAIMS WITH
THE RECEIVER IS FEBRUARY 1, 2021**

If you have a claim against Ray, the Ray Entities, or the Estate you must submit a completed claim form for each claim to the Receiver no later than February 1, 2021. The Claim Form and supporting documents may be submitted by email or U.S. mail addressed to:

Gary Schwartz, Receiver
rayreceivership@fostergraham.com

If by mail:

Gary Schwartz, Receiver
Foster Graham Milstein & Calisher, LLP
360 South Garfield Street, Suite 600
Denver, CO 80209
Attn: Katherine A. Roush, Esq.
Marilyn Davies
Fax No.: (303) 333-9786

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Plaintiff: TUNG CHAN, Securities Commissioner for the State of Colorado v. Defendants: MARK RAY; REVA STACHNIW; CUSTOM CONSULTING & PRODUCT SERVICES, LLC; RM FARM & LIVESTOCK, LLC; MR CATTLE PRODUCTION SERVICES, LLC; SUNSHINE ENTERPRISES; UNIVERSAL HERBS, LLC; DBC LIMITED, LLC	<p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 19CV33770 Division/Courtroom: 209
CLAIM FORM	

The undersigned Claimant hereby asserts a claim against the Receivership Estate of Mark Ray (“Ray”), Custom Consulting & Product Services, LLC (“Custom Consulting”), MR Cattle Production Services, LLC (“MR Cattle”), Universal Herbs, LLC (“UH”), DBC Limited, LLC (“DBC”), RM Farm & Livestock, LLC (“RM Farm”), Sunshine Enterprises (“Sunshine”) and the real property, equipment, supplies or inventory located at 12700 E. Lone Chimney Road, Glencoe, OK 74032 that are in the name of or under the control of Reva Stachniw (“Glencoe Ranch”) (collectively “Ray and the Ray Entities” or the “Estate”).

1. Amount of Claim as it existed on September 30, 2019.

Claim is asserted against:	
Actual damages:	\$
Consequential and other damages, if any:	\$
Interest, if any:	\$
Attorneys’ fees and costs, if any:	\$
Other:	\$
TOTAL:	\$

2. The foregoing claim arose on _____, and is based upon the following events:

DOCUMENTS SUPPORTING THE CLAIM MUST BE ATTACHED TO THIS CLAIM FORM OR, IF DOCUMENTS HAVE ALREADY BEEN PROVIDED TO THE RECEIVER, PLEASE SO NOTE HERE: _____

3. This claim is (select one):

unsecured; OR,

secured by the following collateral or security:

4. If the claim is secured, please identify the location of all collateral:

5. If the claim includes interest, please specify each of the reasons for such interest and the rate thereof (e.g. contract, statute, etc.):

6. The nature and value of any offset or counterclaim (*i.e.*, money or property that you owe Ray, the Ray Entities, or the Estate, or any claims that Ray, the Ray Entities, or the Estate may have against you):

7. If you are currently represented by an attorney, please complete the following:

Name of Attorney (Please print)

Address (street address, not post-office box)

Telephone Number

Facsimile Number

E-mail Address

CLAIMANT HEREBY CERTIFIES THAT IT HAS DISMISSED ANY OTHER PENDING SUITS OR PROCEEDINGS IT HAS COMMENCED AGAINST RAY, THE RAY ENTITIES, OR THE RECEIVERSHIP ESTATE AND THAT IT WILL NOT FILE (OR RE-FILE) ANY SUIT OR PROCEEDING IN ANOTHER FORUM WITHOUT THE RECEIVER'S PERMISSION OR LEAVE OF THIS COURT.

8. I hereby certify and attest, under the penalty of perjury, that the information contained in the foregoing Claim Form is true and correct:

Claimant Signature

Name of Claimant (Please print)

Address (street address, not post-office box)

Telephone

Facsimile

E-mail Address

Dated: _____, 20____.

IMPORTANT: A FULLY COMPLETED AND SIGNED CLAIM FORM WITH ALL SUPPORTING DOCUMENTATION MUST BE RECEIVED AT THE OFFICES OF FOSTER GRAHAM MILSTEIN & CALISHER LLP NO LATER THAN 5:00 P.M. ON FEBRUARY 1, 2021 (THE “FILING DEADLINE”).

This claim form should be submitted with supporting documents submitted by email or U.S. mail addressed to:

Gary Schwartz, Receiver
rayreceivership@fostergraham.com

If by mail:

Gary Schwartz, Receiver
Foster Graham Milstein & Calisher, LLP
360 South Garfield Street, Suite 600
Denver, CO 80209
Attn: Katherine A. Roush, Esq.
Marilyn Davies
Fax No.: (303) 333-9786

If a Claim Form is received after the Filing Deadline, or if it is incomplete or unsigned, it will not be considered a valid claim.