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

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**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 STOCK 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**

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Before this court is the Receiver's Motion and Memorandum for an Order Authorizing the Liquidation of Stock Held by APS for the Benefit of APS Account Holders ("Motion").<sup>1</sup> For

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<sup>1</sup> Dkt. 826.

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 7711, 8748, 9846, and 12045 will further the purpose of the Receivership to treat all account owners equitably.
6. The liquidation of assets from APS Account Numbers 7711, 8748, 9846, and 12045 is fair and reasonable and necessary to allow the Receivership to be administered to a conclusion.
7. The owners of APS Account Numbers Account Numbers 7711, 8748, 9846, and 12045 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).

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<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).

8. The owners of APS Account Numbers 7711, 8748, 9846, and 12045 have not complied with the Liquidation Plan, approved by this court on February 27, 2015.

9. The owners of APS Account Numbers 7711, 8748, 9846, and 12045 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 7711 has a loss allocation of \$24,110.64 and has outstanding management fees of \$0.00.

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

12. Account Number 9846 has a loss allocation of \$34,000.00 and has outstanding management fees of \$5,860.15.

13. Account Number 12045 has a loss allocation of \$31,461.23 and has outstanding management fees of \$533.01.

14. Proceeds from the sale of stock in each of APS Account Numbers 7711, 8748, 9846, and 12045 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.

15. Any excess funds available as a result of the liquidation or public sale of the stock will 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.

16. Statute requires that the stocks 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, or as the court otherwise directs.<sup>4</sup>

17. The Receiver is authorized to conduct the sale of the stocks held by APS Account Numbers 7711, 8748, 9846, and 12045 by engaging a securities broker or securities firm to effectuate the sale of stock not traded on the New York Stock Exchange, NASDAQ, or other national stock exchange.

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

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

20. 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 7711, 8748, 9846, and 12045 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.

21. The Receiver is to use her best efforts to obtain the highest and best value for the stock.

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

22. The respective beneficiaries of APS Account Numbers 7711, 8748, 9846, and 12045 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 stock. 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.

A handwritten signature in black ink, appearing to read 'RJS', is written above a horizontal line.

Honorable Robert J. Shelby  
United States District Court