

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIE A. SU, Acting Secretary of Labor,)
U.S. DEPARTMENT OF LABOR,)

Plaintiff,)

v.)

RIVERSEDGE ADVANCED RETIREMENT)
SOLUTIONS, LLC., a Pennsylvania Company,)
JENNIFER PALGUTA, an individual,)

No. 2:24-cv-00104 (MJH)

v.)

MID ATLANTIC TRUST COMPANY dba)
AMERICAN TRUST CUSTODY, a corporation,)
SCHWAB RETIREMENT TECHNOLOGIES,)
INC., a corporation, and CHARLES SCHWAB)
TRUST BANK, a corporation, *solely as Rule 19*)
defendants,)

v.)

BEAVER COUNTY DEFERRED)
COMPENSATION PLAN, CHRISTIAN)
AID MISSION 403(b) PLAN, and)
LCBC CHURCH 403(b) PLAN,)
solely as Rule 19 defendants,)

Defendants.)

EIGHTH ACTIVITY REPORT OF INDEPENDENT FIDUCIARY

1. Receivership Management, Inc. (“RMI”), in its capacity as court-appointed Independent Fiduciary, by counsel and pursuant to ¶ 17 of the Preliminary Injunction entered in this matter [Dkt. 40] (“Preliminary Injunction”), submits to the Court its Eighth Activity Report, which describes its activities through November 30, 2024.

I. Introduction

2. On February 20, 2024, the Preliminary Injunction was entered appointing RMI as

Independent Fiduciary to the “Mismanaged Plans” and “Client Plans,” as defined therein (collectively, the “Plans”), effective February 8, 2024. As Independent Fiduciary, RMI was directed by the Court to secure all Plan records from RiversEdge Advanced Retirement Solutions, LLC (“RiversEdge”) and Mr. Paul Palguta (“Palguta”) (collectively, the RiversEdge Defendants), to assist all Plans in facilitating the transfer of Plan records to one or more other recordkeeping services providers in coordination with the initial Rule 19(a) Defendants, and to conduct an accounting of assets of the named 17 Mismanaged Plans. Preliminary Injunction ¶ 7. The Preliminary Injunction requires RMI to report to the Court on at least a monthly basis of all significant actions taken. *Id.*, ¶ 17.

II. Eighth Report of Independent Fiduciary

A. Securing All Plan Records from the RiversEdge Defendants.

3. Since its Second Activity Report of April 12, 2024, RMI and its data contractor, Lattimore Black Morgan and Cain PC (“LBMC”) have accomplished the following in the securing of Plan records:

- a. Completion of all Plan record downloads from Schwab Retirement Technologies, Inc. (“Schwab RT”)
- b. Receipt of thirteen (13) RiversEdge laptop computers used by the RiversEdge Defendants. On May 2, 2024 RMI issued letters to twelve (12) persons indicated by RiversEdge Defendants as employees or former employees.
- c. Established procedures for copying all Plan data (255 plans) held by Rule 19(a) Defendant Schwab RT, placing same in a secure environment established by

LBMC, and converting same to SQL for ease of query, all verified for accuracy and completeness.¹

d. Identification of two additional Plan records databases/software used by the RiversEdge defendants: Egnyte and WorkXpress. Egnyte's extraction is complete. LBMC has contacted WorkXpress, paid the \$900 for data and re-contacted WorkXpress to inform WorkXpress that it cannot access the data and to request software access to view and evaluate the data. WorkXpress says it will need another \$900 to re-establish the data and \$2,400 for one month's access to their software (reportedly a discounted amount). While RMI understands a subpoena for information was issued, no further information has come to RMI from WorkXpress. As a result, information contained in WorkXpress was not available in the preparation of RMI's Accounting Report to the Court.

B. Assisting All Plans in Facilitating the Transfer of Plan Records to Other Recordkeeping Service Providers.

4. All Plans have completed either a deconversion or a termination as of the date of this Report. One "Plan," the Holy Cross Greek Orthodox Endowment Fund, is neither an employee benefit plan nor subject to ERISA and is therefore outside of RMI's authority under the Preliminary Injunction [Dkt. 40].

5. RMI implemented a form to be completed by a sponsoring employer for the authorization to issue data belonging to its sponsored Plan to others as directed by the sponsoring employer. This includes data and paper record information that is not present on the Schwab RT

¹ "SQL" (pronounced "ess-que-el") stands for Structured Query Language. SQL is used to communicate with a database. According to ANSI (American National Standards Institute), it is the standard language for relational database management.

system. This information involves adoption agreements, enrollment forms, Plan Documents, amendments thereto, loan documents and amortization schedules. All pending requests for this information to be sent to the Plans' new recordkeeping services providers have been completed. One Mismanaged Plan recently requested copies of the documents now under seal with the Court, which RMI denied.

C. Accounting of the Transactions Within the Seventeen (17) Mismanaged Plans.

6. On July 19, 2024, RMI filed with the Court its accounting report regarding the seventeen (17) Mismanaged Plans [Dkt. 93-1]. The total market value, as of February 9, 2024 of the missing securities from the seventeen (17) Mismanaged Plans (with transactions reviewed from January 1, 2017 to January 2024) is \$18.79 million. An expanded view prior to 2017 shows the total market value at February 9, 2024 of the missing securities in the seventeen (17) Mismanaged Plans to be \$20.37 million.

D. Completion of RMI's Duties As To Non-Mismanaged Plans.

7. RMI has completed all of its duties stated in the Preliminary Injunction [Dkt. 40] as to the 238 Client Plans that are not Mismanaged Plans.

III. OTHER MATTERS

8. Disposition of Records, Computers, Data. On September 26, 2024, RMI received a subpoena from William B. Guappone, Assistant United States Attorney, which required RMI to produce all books and records of RiversEdge on or before October 22, 2024 at 9:00 a.m. Several extensions of time were granted for RMI to respond. However, the subpoena has now been withdrawn due to Mr. Palguta's death. In preparation for responding to the subpoena, RMI

downloaded substantially all of the 255 Client Plans' records stored at LBMC and presently retains them on an SSD drive containing only those records.

Pursuant to the Court's October 31, 2024 order, RMI and LBMC continue to hold books and records for all 255 Plans. LBMC continues to invoice RMI for data storage fees.

During the November 25, 2024 hearing in this action, the Court expressed its concerns about the amount of fees LBMC would charge after October 31, 2024 and suggested that the Independent Fiduciary seek other bids for such services. In response to the Court's concerns, RMI, through counsel, sent an email to the representatives of the seventeen (17) Mismanaged Plans on November 26, 2024 requesting comments as to whether they would approve or oppose the termination of RMI's contract with LBMC instead of searching for and engaging a successor data storage subcontractor. Three (3) of the Mismanaged Plans do not oppose such action, another three (3) responded without opinion, and the rest of them have not responded.

9. RiversEdge SOC's audit discovery. On or about October 9, 2024, RMI learned that a Client Plan had obtained a 2022 SOC audit report for RiversEdge. Until that time, RMI did not know that any such report existed for RiversEdge. The auditor furnished a copy of the report to RMI. RMI has reviewed the report and has determined that it does not contain any information that would alter the Accounting Report filed with the Court [Dkt. 93-1]. However, it does contain information that may be useful to the Mismanaged Plans. Further, the RiversEdge 2022 SOC audit report states that RiversEdge represented that it annually received and reviewed type 2 SOC 1 audit reports from Schwab Retirement Technologies Recordkeeping Software ("SRT"), Schwab Retirement Technologies ("Schwab RT"), Schwab ASB ("ASB"), Egnyte, Inc. ("Egnyte"), Mid Atlantic Trust Company and the Charles Schwab Bank. RMI has requested copies of the SOC 1 reports from ASB and Egnyte but has not received them.

Respectfully submitted,

RECEIVERSHIP MANAGEMENT, INC.,
IN ITS CAPACITY AS INDEPENDENT
FIDUCIARY

By: /s/ Bynum E. Tudor III

Bynum E. Tudor III (*Admitted Pro Hac Vice*)
TN Bar #012279
BERRY & TUDOR, P.C.
5123 Virginia Way, Suite B-23
Brentwood, Tennessee 37027
Telephone: (615) 726-1000
Fax: (615) 370-0077
btudor@berrytudor.com

ATTORNEYS FOR RECEIVERSHIP
MANAGEMENT, INC., in its capacity as
INDEPENDENT FIDUCIARY

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JULIA A. SU, ACTING SECRETARY OF U.S.)	
DEPARTMENT OF LABOR,)	
)	
Plaintiff,)	CASE NO. 2:24-CV-00104 (MJH)
)	
v.)	
)	
RIVERSEDGE ADVANCED RETIREMENT)	
SOLUTIONS, LLC a Pennsylvania Company,)	
PAUL PALGUTA, an individual,)	
)	
v.)	
)	
MID ATLANTIC TRUST COMPANY dba)	
AMERICAN TRUST CUSTODY, a)	
corporation, and CHARLES SCHWAB)	
TRUST BANK, a corporation, solely as Rule 19)	
defendants,)	
Defendants.)	

**CERTIFICATE OF SERVICE REGARDING INDEPENDENT FIDUCIARY’S
EIGHTH ACTIVITY REPORT**

I hereby certify that on December 19, 2024, I caused the Independent Fiduciary’s Eighth Activity Report [Dkt. 158] to be filed and electronically served using the Court’s CM/ECF system to counsel for all parties to this action, except as stated otherwise below.

I also hereby certify that on December 19, 2024, I caused the Independent Fiduciary’s Eighth Activity Report [Dkt. 158] to be served upon the following counsel of record whose email address is not in the ECF system:

Max Bernstein
Morgan, Lewis & Bockius
2222 Market Street
19103
Philadelphia, PA 19103

Further, on or before December 20, 2024, the Independent Fiduciary posted/will post a copy of the Independent Fiduciary’s Eighth Activity Report [Dkt. 125-1] on its web site at www.receivermgmt.com/riversedge.

Respectfully submitted,

**RECEIVERSHIP MANAGEMENT, INC., AS
COURT-APPOINTED INDEPENDENT
FIDUCIARY OF MISMANAGED PLANS AND
CLIENT PLANS OF RIVERSEDGE
ADVANCED RETIREMENT SOLUTIONS
LLC,**

/s/ Bynum E. Tudor III

Bynum Tudor III (TN Bar 012279)

Admitted Pro Hac Vice

Berry & Tudor PC

5123 Virginia Way

Suite B-23

Brentwood, Tennessee 37027

(615) 726-1000

(615) 370-0077 (fax)

btudor@berrytudor.com

Counsel for Receivership Management, Inc.