

**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, )  
 PAUL PALGUTA, an individual, )  
 )  
 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. )

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

**FIFTH 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 Fifth Activity Report.

**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 has been 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 the Plans’ 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 Consent Order requires RMI to report to the Court on at least a monthly basis of all significant actions taken. *Id.*, ¶ 17.

## **II. Fifth 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.

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. Of these twelve (12), ten (10) have returned their laptops to RMI. Of the ten (10) laptops, one (1) employee has not provided login credentials and two (2) laptops will not power on and the credentials cannot be verified. One (1) employee has notified RMI that he is not in possession of any pertinent laptop and one (1) employee failed to pick up their certified letter, and the letter was returned to sender.

c. Established procedures for copying all Plan Data (255 Plans) held by Rule 19(a) Defendant Schwab Retirement Technologies, Inc. (“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.<sup>1</sup>

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 recontacted WorkXpress as a result of the Court’s hearing for software access to view and evaluate the data. WorkXpress told RMI that 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 to WorkXpress, 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. Schwab RT reports, as of June 21, 2024, seven (7) plans remain to identify new recordkeepers and new funds custodians. Of the 7 plans left - 2 are custodied at Charles Schwab Bank and 5 are at Mid Atlantic Trust Company (“MATC”). In addition, there are three (3) terminated Plans for whom RMI is unaware of any new recordkeeper or funds custodian.

Efforts continue to encourage these employers to move forward with these transfers.

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<sup>1</sup> “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.

5. RMI has 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 system. This information involves adoption agreements, enrollment forms, Plan Documents, amendments thereto, loan documents and amortization schedules. RMI continues to receive requests for this information. As the new recordkeepers begin to review the data from Schwab RT, requests for this additional information will continue.<sup>2</sup>

**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. 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 including periods 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.

**III. OTHER MATTERS**

7. As reported earlier, RMI continues to be contacted by several of the employer sponsors of the Mismanaged Plans. Their questions center on asset recovery. RMI continues to encourage these employers to seek ERISA/retirement plan counsel to evaluate potential claims that either they or their sponsored plans may have. Participants have also contacted RMI regarding responsibility to replace missing funds. RMI has encouraged those individuals to seek

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<sup>2</sup> One of the most common questions has to do with reports normally prepared by RiversEdge Defendants for Form 5500 reporting. Those reports were not prepared and many plan sponsors are left to find service providers to prepare this information.

counsel for advice they may need to exercise their rights under ERISA. As reported earlier, the RiversEdge Defendants have reported to RMI some policies of insurance that, in RMI's opinion, may provide some protection. RMI, through its counsel, encouraged the RiversEdge Defendants' counsel to submit notification of the Court's Preliminary Injunction to these insurance carriers. The RiversEdge Defendants' counsel has informed RMI and its counsel that Mr. Palguta has notified all of the insurance carriers, other than RiversEdge's workers' compensation insurer. RMI has no authority under the Preliminary Injunction to notify the RiversEdge Defendants' insurance carriers of potential claims against the RiversEdge Defendants.

8. Several Plan sponsors have contacted RMI about whether any other insurance exists that would indemnify their Plans against alleged losses. RMI has informed those Plan sponsors that it is not authorized to engage in asset recovery for any of the Plans. Rather, it is the duty of each Plan's "administrator" (typically, the Plan's employer/sponsor) to engage its own counsel to assist it in determining what asset recovery actions, if any, may afford recovery of the missing securities.

9. RMI continues to receive requests from service providers for the Seventeen (17) Mismanaged Plans to provide loss allocations among participants within those Plans. Some of the new plan recordkeepers and some employer sponsors believed this work would be completed by RMI. That is not the case, nor does our appointment cover these responsibilities. RMI has reported its belief that these loss allocations are the responsibility of the employer sponsors and their new recordkeepers to those who have contacted RMI and to MATC. RMI believes that any participant-level recordkeeping and allocations are outside of the scope of its appointment.

Respectfully submitted,

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

By: /s/ Bynum E. Tudor III

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