

**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, )

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. )

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

## **II. Second Report of Independent Fiduciary**

### **A. Securing All Plan Records from the RiversEdge Defendants.**

3. Commencing on February 8, 2024, RMI and its data contractor, Lattimore Black Morgan and Cain PC (“LBMC”) held meetings with the initial Rule 19(a) Defendants and their counsel. Also present was counsel for the RiversEdge Defendants. Since that meeting, the following has been accomplished in the securing of Plan records:

a. Travelled to offices of RiversEdge by RMI personnel and the securing of 34 boxes of paper plan document files now held at the offices of RMI. An additional 4 boxes have been secured in the offices of RMI.

b. Received four (4) of approximately eight (8) RiversEdge laptop computers used by the RiversEdge Defendants and duplicating the contents of same and the duplicating of the contents of a desktop RiversEdge computer. Login credentials for only Mr. Palguta’s laptop computer have been provided. The three RiversEdge employee laptop computers are not accessible due to no receipt of login credentials. The remaining four (4) RiversEdge computers have not been received.

c. Established procedures for copying all Plan Data (according to Schwab RT, nearly 400 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. Identified two (2) additional Plan records databases/software used by the RiversEdge defendants: Egnyte and WorkXpress. LBMC reports that it has completed extraction of 80% of the data contained on Egnyte. WorkXpress has withheld access to its database, as it alleges it has unpaid fees. Recently WorkXpress has agreed to provide a backup of the data held, pending the payment of \$900.

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

4. Schwab RT reports, as of March 29, 2024, it has transferred Plan records (which Schwab RT refers to as “deconversion data files”) of 230 plans, which it states is 89% of the total Plans.<sup>2</sup> Schwab RT states that of the Plan Records yet to transfer, three (3) Plans were in progress on March 29, 2024, six (6) Plans have identified a new recordkeeper, which leaves sixteen (16) Plans needing to identify a new recordkeeper.

5. RMI has implemented a form to be completed by the 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

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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 systems.

<sup>2</sup> There is a discrepancy in the total number of Plans, as reported by Schwab RT.

requests for this information. As the new recordkeepers begin to review the data from Schwab RT, requests for this additional information will continue.

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

6. RMI has requested and received the following information from the RiversEdge Defendants, or on their behalf:

- a. QuickBooks and General Ledgers of RiversEdge
  - b. PNC Bank Statements<sup>3</sup>
  - c. Four (4) of eight (8) laptop computers containing transactional databases; Access to those databases remains pending and is expected to show the invoicing of service fees of RiversEdge and other service providers to the Mismanaged Plans.
  - d. ERISA Bond and Insurance Information for the current policy years only (July 1, 2023 to June 30, 2024).
  - e. Full IRS Form 1040 information for tax years 2017 to 2022, inclusive.
  - f. Mrs. Palguta has also provided transcripts, prepared by the Internal Revenue Service, of her and her husband's joint federal income tax returns for 2020, 2021, and 2022.
  - g. Access to the tax return preparer for Mr. Palguta's 2017-2022 federal and state income tax returns.
7. RMI has requested and not received from the RiversEdge Defendants:
- a. Four (4) remaining laptop computers belonging to RiversEdge.

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<sup>3</sup> The bank statements failed to include copies of cancelled checks.

b. Defendant RiversEdge's fee/rate sheet(s) that told its clients about the fees RiversEdge charged during 2017-2023.

8. RMI requested from Schwab RT information or access to persons familiar with the internal control environment in relation to entry of information and changes to participant records within the Mismanaged Plans. Schwab RT, through counsel, indicated there were no such internal controls regarding the entry of information or changes to participant records administered by Schwab RT. As understood by RMI, once application is made to use the service, Schwab RT has no further controls on the use of its platform.

9. RMI has continued to work with Rule 19(a) Defendant Mid Atlantic Trust Company ("MATC") on its report regarding transactions within the Mismanaged Plans during 2017-2024. RMI has requested the report be revised to further detail technical terms in the securities industry to be defined. As the report is currently structured, it provides the value of missing securities and missing dividends and capital gains (due to those securities missing from the Mismanaged Plans).<sup>4</sup> Although the missing securities are identified by CUSIP number, RMI has requested the securities be identified by name so as to provide an easier way for Plan sponsors to read the report. Testing of the information used by MATC should be completed by next week.

### **III. OTHER MATTERS**

10. 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

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<sup>4</sup> The MATC report does not provide a participant level allocation of missing securities. Further, there has been no work to verify how funds transferred to RiversEdge's PNC account were used. The Plaintiff has told RMI not to perform this work.

their sponsored Plans may have. Participants have also contacted RMI regarding responsibility to replace missing funds. RMI has encouraged those individuals to seek 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 indicated to RMI and its counsel that notifying the insurance carriers is outside of the scope of his engagement. RMI believes that the RiversEdge Defendants should notify their insurance carriers of potential claims. RMI has received no new information in this regard. RMI has no authority under the Preliminary Injunction to notify the RiversEdge Defendants' insurance carriers of potential claims against the RiversEdge Defendants.

11. 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 whether recoveries can occur from filing claims with (1) the Securities Investor Protection Corporation (SIPC); (2) the ERISA bond purchased by the Plan's sponsor/employer to protect the Plan from theft losses; or (3) other sources, including without limitation, general liability insurance.

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*)

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