

Cause No. 01-21-00284-CV

GREAT VALUE STORAGE, LLC and	§	IN THE COURT OF APPEALS
WORLD CLASS CAPITAL	§	
GROUP, LLC,	§	
	§	
<i>Appellants,</i>	§	
<i>v.</i>	§	FIRST DISTRICT OF TEXAS
	§	
PRINCETON CAPITAL	§	
CORPORATION,	§	
	§	
<i>Appellee,</i>	§	HOUSTON, TEXAS

RECEIVER'S STATUS REPORT

TO THE HONORABLE FIRST COURT OF APPEALS:

The court-appointed Receiver, Mr. Seth Kretzer, respectfully files his status report pursuant to the Court's September 21, 2022 order directing quarterly reports following remand.

This Court explained in its order, "The receiver, Seth Kretzer, has filed a motion to dismiss this appeal in light of Princeton's settlement, arguing that the appeal is now moot, or in the alternative to remand to the district court for findings and conclusions regarding the validity of the settlement agreement, which Kretzer asserts may be in violation of Texas law and public policy."¹ This Court also remanded "this case to the trial

¹ Order, First Court of Appeals of Texas, Sept. 21, 2022, no. 01-21-00284-CV.

court to allow the parties to effectuate, if possible, the parties' settlement agreement and to wind down the receivership, as necessary."²

Accordingly, on October 30, 2022 Receiver filed in the District Court several documents. The first was a brief in support of his September 16, 2022 motion for order of declaratory judgment. In his brief, Receiver explains that the purported assignment by Princeton Capital of its original note payable agreement, on which it sued, to a newly formed shell entity controlled by Nate Paul, constituted an unenforceable legal nullity because it violated the long-standing Texas "merger doctrine." Under Texas law, it is well established that upon entry of a judgment, the contractual relationship between the parties that gave rise to the debt merges into the judgment.³ *Res judicata* serves the public goals of affording full respect to prior judgments and relieving courts from repetitious litigation, and the private goal of "repose"— to be finally free from the cost and hassle of litigation.⁴

Receiver's brief further explains that Princeton's purported attempt to convey the District Court's March 4, 2021 final judgment to the same newly formed Nate Paul controlled entity violates Texas law and policy. The brief explains that, as a general rule,

² *Ibid.*

³ *Puga v. Donna Fruit Co.*, 634 S.W.2d 677, 679 (Tex. 1982).

⁴ Charles Alan Wright & Arthur R. Miller, 18 Federal Practice and Procedure § 4403, 23-27 (2d ed. 2012).

an assignment of a cause of action is valid in Texas.⁵ However the Texas Supreme Court has unequivocally held that “assignment[s] of choses in action that tend to increase and distort litigation” violate public policy and are therefore invalid and unenforceable.⁶ More specifically, assignments of claims pursuant to settlements are invalid when they (1) “tend to distort the litigation” by causing previously adverse parties to realign against a “nominal adversary,” thereby “skew[ing] the [litigation] process, or (2) “tend to promote litigation rather than settle it.”⁷ Receiver’s brief then explains the details of why and how the purported assignment of the March 4, 2021 final judgment from Princeton to Nate Paul both distorts litigation and promotes more litigation rather than settling.

Finally, the brief explains that because of the “savings clause” incorporated into the settlement agreement, the remainder of the parties’ settlement agreement is valid.⁸ Princeton is entitled to keep the \$11.37 million payment by the Defendants. Princeton

⁵ See *State Farm Fire & Cas. Co. v. Gandy*, 925 S.W.2d 696, 711 (Tex. 1996).

⁶ *Id.*; see also *Miles v. Sunset Logistics, Inc.*, 2011 WL 1532382, at *4 (N.D. Tex. Apr. 22, 2011) (“Texas courts invalidate assignments that tend to increase and distort litigation.”).

⁷ *Gandy*, 925 S.W.2d at 709-10 (quoting *Elboar v. Smith*, 845 S.W.2d 240, 250 (Tex. 1992)); see also *Am. Homeowner Pres. Fund, LP v. Pirkle*, 475 S.W.3d 507, 519 (Tex. App.—Fort Worth 2015, no pet.) (citing *Gandy* for the proposition that, in analyzing assignments of claims, “courts should inquire as to whether there are notions of equity and public policy that would vitiate the assignment ... under the circumstances.”).

⁸ The settlement agreement contains a savings clause that permits the agreement to remain enforceable even if one provision is later held unenforceable: “If any provision of this Agreement is determined to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.” Settlement Agreement, para. 15(f).

promptly informed the Securities and Exchange Commission of the payment and will shortly distribute the funds to its shareholders.

In addition to his brief, Receiver filed a report with the District Court, documenting the Defendants' transfers of property and cash before and after the District Court's September 8, 2021 receivership and turnover order.

Further, Receiver filed a motion for approval of his receivership fees in light of the successful resolution of the case and payment to Princeton. The receivership fees, by agreement of the parties, are held on reserve under the control of the U.S. Bankruptcy Court in Dallas.

In Receiver's September 21, 2022 motion in this Court to dismiss or remand, Receiver predicted that the purported settlement agreement would not end litigation, but would instead foster more: "The Settlement Agreement will (and is obviously intended to) enable Mr. Paul— through his newly formed shell company, Phoenix—to attack every action that the Receiver has taken to collect on the Judgment through further litigation."⁹ That prediction has proved true. Four new attorneys have filed notices of appearance for Defendants in the District Court. Defendants have filed *three* new post-judgment "pleas in intervention" by Paul-controlled shell entities purporting to assert new claims against various secured creditors. Defendants have also filed *sixteen* sets of deposition notices,

⁹ See Receiver's Motion to Dismiss Appeal or to Remand, Sept. 21, 2022, No. 01-21-00284-CV, at 15.

subpoenas, and requests for production of documents. Receiver has filed motions to quash this collection of post-settlement discovery attempts.

The Receiver's brief, report and motions are pending before the 165th District Court. The Court has not signed any orders or set any hearings. Receiver will continue to provide quarterly reports.

Respectfully submitted this 14 day of
December 2022,

Seth Kretzer

SETH KRETZER
KRETZER & VOLBERDING, P.C.
SBN: 24043764

9119 South Gessner Street
Suite 105
Houston, TX 77074
(713) 775-3050 (office)
Email: seth@kretzerfirm.com

RECEIVER

James W. Volberding

By: _____
JAMES W. VOLBERDING
SBN: 00786313

KRETZER & VOLBERDING P.C.
Plaza Tower
110 North College Avenue
Suite 1850
Tyler, Texas 75702
(903) 597-6622 (Office)
(866) 398-6883 (Fax)
email: jamesvolberding@gmail.com

ATTORNEY FOR RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this document has been delivered this December 14, 2022 (by court electronic filing only) to all counsel of record for Appellants and Appellee.

James W. Volberding

JAMES W. VOLBERDING

CERTIFICATE OF COMPLIANCE

As required by Texas Rule of Appellate Procedure 9.4, I certify that the number of words in this pleading is 957, measured from page one through the conclusion, according to Word. This pleading was prepared with Microsoft Word for Apple, version 16.51.

James W. Volberding

JAMES W. VOLBERDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

James Volberding
Bar No. 00786313
jamesvolberding@gmail.com
Envelope ID: 70995867
Status as of 12/14/2022 11:23 AM CST

Associated Case Party: World Class Capital Group, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Brent Clark Perry	15799650	bperry@burfordperry.com	12/14/2022 9:58:54 AM	SENT
Robert R. Burford	3371700	rburford@burfordperry.com	12/14/2022 9:58:54 AM	SENT
Shawn Johnson	24097056	shawn@sajlawpllc.com	12/14/2022 9:58:54 AM	SENT
Matt E.Parks		mparks@burfordperry.com	12/14/2022 9:58:54 AM	SENT
Burford Perry Service		service@burfordperry.com	12/14/2022 9:58:54 AM	SENT

Associated Case Party: Princeton Capital Corporation

Name	BarNumber	Email	TimestampSubmitted	Status
Mark L. D. Wawro	20988275	mwawro@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT
Abigail Noebels	24083578	anoebels@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT
Taylor Biddle		tbiddle@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT
Moustapha El-Hakam		melhakam@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT
Rachel Solis		rsolis@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Seth Kretzer	24043764	seth@kretzerfirm.com	12/14/2022 9:58:54 AM	SENT
James Wesley Volberding	786313	jamesvolberding@gmail.com	12/14/2022 9:58:54 AM	SENT
Ann Kennon		akennonassistant@gmail.com	12/14/2022 9:58:54 AM	SENT
Jessica Wilson		jessica@kretzerfirm.com	12/14/2022 9:58:54 AM	SENT
Daniel Wilson		dwilson@susmangodfrey.com	12/14/2022 9:58:54 AM	SENT
Dana Lipp		dlipp@lipplegal.com	12/14/2022 9:58:54 AM	SENT