No. 01-23-00618-CV

IN THE COURT OF APPEALS
FOR THE FIRST DISTRICT OF TEXAS
HOUSTON, TEXAS

Great Value Storage LLC, World Class Capital Group, LLC, WC 4th and Rio Grande, LP, WC 4th and Colorado, LP, World Class Holdings, LLC, World Class Holding Company, LLC, WC 707 Cesar Chavez, LLC, WC Galleria Oaks Center, LLC, WC Parmer 93, LP, WC Paradise Cove Marina, LP, WC MRP Independence Center, LLC and WC Subsidiary Services, LLC

Appellants,

v.

Princeton Capital Corporation and Seth Kretzer, Receiver,

Appellees.

On appeal from the 165th District Court of Harris County, Texas
Trial Court Case No. 2019-18855

APPELLANTS GREAT VALUE STORAGE LLC AND WORLD CLASS CAPITAL GROUP, LLC'S REPLY BRIEF

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SUMMARY OF REPLY

This appeal is about whether the Receiver should be awarded millions of dollars in fees for actions that at least two courts of appeals have found he lacked authority to take. As a matter of both law and public policy, courts should not reward rogue receivers who violate clear Texas law and due process rights with millions of dollars in compensation for their improper efforts. Here, the trial court abused its discretion because it failed to perform any reasonableness analysis on the fee request whatsoever, did not hold an evidentiary hearing on the Receiver's fees, and awarded fees that could not be supported by evidence. Moreover, the trial court further abused its discretion by not following the fee calculation formula required by its own prior order. The trial court's Final Order must be vacated.

In an effort to skirt scrutiny for his improper conduct and walk away with millions of dollars in unlawful collections, the Receiver's Response Brief focuses on jurisdictional and standing arguments that, like his other arguments, completely lack merit. The August 2, 2023 Final Order is a distinct order that was rendered more than two years after the order that was at issue in the Defendant Appellants' interlocutory appeal considered by the Supreme Court of Texas. The Supreme Court of Texas's bare, unreasoned judgment in that prior appeal—concerning a different order, different issues, and fewer parties—does not render this appeal moot, nor does it have any bearing on this appeal's live issues. In fact, the Eighth Court of Appeals

just issued a pair of new opinions implicitly finding that: (1) the Supreme Court's judgment mooted *only* Defendant Appellants' prior interlocutory appeal; and (2) confirmed that Intervenor Appellants have a due process right to challenge the Receiver's unlawful conduct. Princeton's assignment of its interest in the judgment and promissory notes at the base of the underlying litigation does not moot this appeal, either. It is entirely irrelevant to the calculation and award of the Receiver's fees.

The Defendant Appellants have standing. As the judgment debtors, Defendant Appellants are responsible for "payment in full to the Receiver of the Fee Award and expenses related thereto, as well as payment of all other expenses that may become due and owing after entry of" the Final Order at the heart of this appeal. *See* CR 13796; *see also* CR 69 ("All Receiver's fees will be taxed as costs against the Debtor"). Because Defendant Appellants have been ordered to pay the Receiver millions of dollars in fees and expenses, they are injured.

The Receiver argues that there is no injury because his fees will purportedly be paid from a fund in a bankruptcy court. But the trial court had no authority or jurisdiction to order the Fee Award to be paid from those funds. And even if it did, Defendant Appellants are still injured because the trial court did not eliminate or abate their fee liability. Moreover, even if the underlying judgment in this case were

satisfied—it isn't—the Receiver's position on standing would have the disastrous effect of insulating receiver fee awards from judicial review.

Finally, as this Court knows, the trial court cannot advocate on its own behalf. Thus, the law of equity recognizes that the Receiver is a "quasi party" to this appeal for the purposes of defending the trial court's order and his entitlement to fees. *Cordoza v. Pac. States Steel Corp.*, 320 F.3d 989, 995-96 (9th Cir. 2003) (quoting *Williams v. Morgan*, 111 U.S. 684, 698-99 (1884)). As the Receiver's conduct demonstrates—and as he himself acknowledges—he is an appellee and a party to this appeal. If he weren't, the right to appeal orders such as the Final Order would be illusory.

In sum, Defendant Appellants have standing, there is a live dispute with the Receiver over his entitlement to fees, and the trial court's Final Order awarding him improper fees must be vacated because it failed to comply with Texas law.

ARGUMENT

The Receiver's Response Brief is riddled with inaccuracies, misrepresentations, and non-sequiturs. From wrongly asserting that the Defendant Appellants' prior appeal became moot in September 2022 (and attributing that conclusion to the Supreme Court of Texas) to falsely claiming that this appeal involves "litigation against the [September 2021] Receivership Order," the Receiver plays fast and loose with both facts and law. Mar. 25, 2024 Receiver's Br. at 18-19.

Not only that, but the Receiver's contentions also depend on disregarding corporate identity—something that Texas law forbids him from doing. The trial court's Final Order did not comply with Texas law, and neither did the Receiver's conduct. This Court should not indulge his last-ditch attempts to shield himself from scrutiny over the millions he looted from third parties and the millions of dollars he was unlawfully awarded for doing so.

I. Correcting the Record

The Receiver makes several misleading statements that must be addressed at the outset. First, the Receiver frequently refers to the "Nate Paul Organization," the "Nate Paul Defendants," or the "Nate Paul Entities." *See, e.g.*, Mar. 25, 2024 Receiver's Br. at 1. Nate Paul is neither a party to this appeal nor a judgment debtor subject to the Receivership. The Receiver's repeated references to Nate Paul are irrelevant and meant to distract from the issues. Nobody in this case ever proved alter ego allegations—and no party in this case is Nate Paul's alter ego. A business entity, such as a partnership or limited liability company, is a distinct legal entity in the eyes of the law and is separate and apart from its partners and members. *See Pike v. Texas EMC Mgmt., LLC*, 610 S.W.3d 763, 778 (Tex. 2020); *see also Rieder v. Woods*, 603 S.W.3d 86, 98 (Tex. 2020). The Appellants are not Nate Paul—they are each individual business entities with unique legal personhood and distinct

ownership structures and interests. The Receiver's arguments cannot be squared with well-settled Texas law.

The Receiver is whistling past the graveyard. He knows he had no basis and no authority to treat all the Appellants as an amorphous blob. Defendant Appellants were the *only* judgment debtors. The Receiver attempts to paper over that critical deficiency at this late stage with inflammatory briefing. He is plainly inviting this Court to ignore a "bedrock principle of [Texas] corporate law"[1] in order to ratify his conduct. Defendant Appellants respectfully submit that this Court must disregard the Receiver's allegations about Nate Paul—none of which have been properly made, supported, or adjudicated.

As this Court knows, Texas black-letter law holds that Defendant Appellants are each individual business entities with their own distinct legal rights and interests. *See Pike*, 610 S.W.3d at 778; *see also Rieder*, 603 S.W.3d at 98. So, too, is each Intervenor Appellant. *See Neff v. Brady*, 527 S.W.3d 511, 525 (Tex. App.—Houston [1st Dist.] 2017, no pet.) (business entities "maintain their independence even though the same persons are directors or managers of both corporations"); *see also SSP Partners*, 275 S.W.3d at 455 (the Texas Supreme Court has "never held corporations liable for each other's obligations merely because of centralized control, mutual purposes, and shared finances."). The Receiver's lumping together of every business

[1] *SSP Partners v. Gladstrong Invs. (USA) Corp.*, 275 S.W.3d 444, 455 (Tex. 2008).

entity that is in any way related to Nate Paul as though they are all judgment debtors (or Nate Paul himself) is thus inappropriate and intentionally misleading. Not only that, but it also violates due process rights—as a sister Court of Appeals just indicated after reviewing the Receiver's conduct under the original receivership order in this case. *See WC 4th and Rio Grande, LP v. La Zona Rio, LLC*, No. 08-22-00073-CV, 2024 WL 1138568, at *8-17 (Tex. App.—El Paso, Mar. 15, 2024, no pet. h.) (mem. op.) (holding that an Intervenor Appellant's due process challenge against the same Receiver in this case must proceed after he wrongfully claimed the Intervenor Appellant was indistinguishable from Defendant Appellants and so he could act on its behalf under the trial court's original receivership order).

The Eighth Court of Appeals is not alone in its criticism of the Receiver: The Fourteenth Court of Appeals recently held that the form receivership order used by Seth Kretzer (the Receiver here) is unlawful because it purports to give him more power than what Texas law can permit. *Bran v. Spectrum MH, LLC*, No. 14-22-00479-CV, 2023 WL 5487421, at *7-11 (Tex. App.—Houston [14th Dist.] Aug. 24, 2023, pet. filed) (mem. op.).[2]

[2] This Court can take notice of the records of the Fourteenth Court of Appeals and the 164th District Court of Harris County in this case. *Freedom Commc'ns., Inc. v. Coronado*, 372 S.W.3d 621, 623 (Tex. 2012). A copy of Seth Kretzer's unlawful form receivership order, which was adopted by the *Bran* trial court despite referring to Defendant Appellants instead of the judgment debtor in *Bran*, is attached as Appendix A. *See* Appendix A at 3.

Second, the Receiver touts four pages of "efforts and results" as justifying his conduct and fees. *See* Mar. 25, 2024 Receiver's Br. at 7-10. But as Appellants have repeatedly demonstrated—now with the agreement of the Eighth Court of Appeals—several of the points the Receiver proudly emphasizes in his Response Brief were nothing short of blatant due process violations, and his collections from non-judgment debtors were completely improper. *See, e.g.*, Mar. 25, 2024 Receiver's Br. at 8 ("Sought dismissal of appeal by Paul in the El Paso Court of Appeals against a secured creditor") (citing Case No. 08-22-00073-CV in the Eighth Court of Appeals, discussed above). The case the Receiver holds up as supporting his Fee Award is *the same case* where the Eighth Court of Appeals squarely rejected his assertion that an Intervenor Appellant in this case was "one and the same" as Defendant Appellants. *La Zona Rio*, 2024 WL 1138568, at *10, 16. To be clear: The Receiver is justifying his fees with conduct the Eighth Court of Appeals *just concluded he had no authority to take. Id*. at *13. What could demonstrate the Receiver's bad faith better than his decision to highlight his own lawless behavior? This Court should be aware that the Receiver's "efforts and results" are demerits, not accolades.

Third, the Receiver says that Appellants never objected to his Fee Award. Mar. 25, 2024 Receiver's Br. at 28. But as Defendant Appellants previously highlighted and included as Appendix B to their Opening Brief, Appellants made 22 specific objections to the Receiver's proposed order below. CR 13133-37. The

Receiver's proposed order, in turn, was then adopted by the trial court with minor edits as its Final Order—*i.e.*, the order at issue in this appeal. CR 13794-98. All Appellants filed notices of appeal, moved for a new trial, and explained why the Final Order was erroneous. CR 13806-20, 13715-93. All Appellants plainly preserved error.

Fourth, the Receiver "identifie[d] pleadings, documents, and records supporting his briefs" that he candidly admits were "NOT FOUND" in the Clerk's Record in this appeal. Mar. 25, 2024 Receiver's Appendix at 2; *id.* at 2-4 (emphasis in original). To the extent that the Receiver's arguments rely on anything that is outside of the record, they should be disregarded.

Finally, the Receiver repeats his mantra that the trial court's March 4, 2021 judgment in the underlying litigation is "fully satisfied." Mar. 25, 2024 Receiver's Br. at 13. As Defendant Appellants have explained—and the Receiver has ignored—the judgment *was assigned* and *is not satisfied*. There was no settlement between Defendant Appellants and Princeton; rather, Princeton agreed to assign its interest in the promissory notes and the underlying judgment in this case to a third party. CR 12581. To avoid confusion, the Defendant Appellants were *specifically excluded* from that agreement. CR 12592. This is not news to the Receiver: The Receiver strenuously objected to the very agreement between Princeton and third parties that he now proudly holds up as proof of his success. *See* CR 12686-87.

That is to say, the Receiver knows the judgment is not satisfied. That is why he tries to mislead this Court with a red herring, arguing (incorrectly) that there was no valid assignment because Princeton assigned only its interest in notes that had already been "merged" into the judgment. *See* Mar. 25, 2024 Receiver's Br. at 22-25. However, Princeton assigned the notes *and the judgment*. CR 12581 (Princeton assigned its interest in the "Note Purchase Agreement," "the Notes" and "the Judgment."). The Receiver cites no authority saying that interests in judgments cannot be assigned (or that they are extinguished upon assignment). That is because it doesn't exist. The judgment is live and unsatisfied in the hands of its new owner, just as it was in Princeton's. CR 12581.

But regardless of whether the judgment was assigned or satisfied, the core of the issue is that the Receiver's fees must be *reasonable*. *Stanfield v. Stanfield*, No. 09-99-453 CV, 2000 WL 1475853, at *5-6 (Tex. App.—Beaumont Oct. 5, 2000, no pet.) (overturning fee award because trial court did not determine fees were reasonable). It is the Receiver's burden to marshal evidence of reasonableness. *See Moyer v. Moyer*, 183 S.W.3d 48, 58 (Tex. App.—Austin 2005, no pet.). The Receiver's position here—that he can sidestep this Court's review of his fees because the underlying judgment was satisfied or assigned—would invalidate all of the cases affirming this Court's supervisory role regarding receiver fees. After all, a receiver

typically gets fees only after the judgment creditor is satisfied. An exception for the Receiver here would swallow the rule ensuring that receiver fees must be reasonable.

In sum, the Receiver's *modus operandi* has been consistent all throughout this case. At every turn, he has treated legally distinct things—business entities, assignments, appeals, legal issues—as though they are all the judgment debtors'. But they are *not*, and this Court should view the Receiver's arguments in light of his willingness to disregard basic facts and law.

II. This Court Has Jurisdiction to Hear This Appeal

This Court carried the Receiver's first and second Motions to Dismiss Appeal with the merits. Jan. 4, 2024 and Apr. 4, 2024 Notices in *Great Value Storage LLC, et al v. Princeton Capital Corp.*, No. 01-23-00618-CV at 1. The Receiver's Response Brief restates his argument that this appeal is moot either because there is no live dispute between parties or because this appeal is an attempt to relitigate Defendant Appellants' prior appeal of the trial court's original receivership order. *See, e.g.*, Mar. 25, 2024 Receiver's Br. at 19-20. The Receiver's arguments lack any merit. He is a party for the purposes of defending the trial court's Final Order awarding him fees and approving his conduct—an order he drafted—and so this is a live dispute.

A. Standard of Review

"A case becomes moot when there ceases to be a justiciable controversy between the parties or when the parties cease to have a legally cognizable interest in the outcome." *State ex rel. Best v. Harper*, 562 S.W.3d 1, 6 (Tex. 2018) (citation omitted). "In other words, 'a case is moot when the court's action on the merits cannot affect the parties' rights or interests.'" *Greer v. Janssen*, No. 01-21-00583-CV, 2023 WL 3357697, at *2 (Tex. App.—Houston [1st Dist.] May 11, 2023, no pet.) (mem. op.) (quoting *Heckman v. Williamson Cnty.*, 369 S.W.3d 137, 162 (Tex. 2012)). But "a *case* is not made moot merely because some *issues* became moot during the appeal." *Brast v. Brast*, 681 S.W.3d 788, 791 (Tex. App.—Houston [14th Dist.] 2023, no pet.), reh'g denied (Feb. 1, 2024) (emphasis added). This Court reviews mootness *de novo*. *Greer*, 2023 WL 3357697, at *2.

B. The Supreme Court of Texas Did Not Issue an Opinion and Did Not Hold That This Appeal is Moot

The Receiver falsely claims that the Supreme Court of Texas concluded that this case "bec[a]me moot months earlier" than the trial court's Final Order. Mar. 25, 2024 Receiver's Br. at 14. If the Receiver were right about that, then the trial court's Final Order awarding the Receiver fees was *ultra vires*—after all, a court has no power to act in a moot case. *Tex. Dep't of Family and Protective Servs. v. N.J.*, 644 S.W.3d 189, 192 (Tex. 2022) ("courts lack subject-matter jurisdiction to decide a moot controversy," and so they "must dismiss a case that is moot for want of

jurisdiction."). But the Receiver is wrong, and the Supreme Court of Texas's judgment has no effect on this appeal.

The Receiver's speculation about the Supreme Court's reasoning is baseless because the Supreme Court did not issue an opinion explaining its conclusion. *See Great Value Storage, LLC v. Princeton Capital Corp.*, No. 01-21-00284-CV, 2023 WL 3010773, at *1 (Tex. App.—Houston [1st Dist.] Apr. 20, 2023, pet. granted) (mem. op.), *judgment and opinion vacated as moot*, No. 23-0722 (Tex. Mar. 8, 2024) (judgment only). The Supreme Court of Texas's judgment did not decide that this entire case was moot, but instead determined only that Defendant Appellants' *prior appeal* was moot. *Id.* Indeed, a sister Court of Appeals has already considered the effect of the Supreme Court of Texas's judgment in related litigation and came to the same conclusion. *See La Zona Rio*, 2024 WL 1138568, at *5 n.12 ("the Texas Supreme Court's judgment (dismissing *the receivership appeal as moot* and vacating the judgment and the opinion of the court of appeals) does not directly impact our analysis.") (emphasis added).

An entire case is not rendered moot just because particular *issues* in a case become moot during the pendency of an appeal. *Brast*, 681 S.W.3d at 791. Indeed, "if only some claims or issues become moot, the case remains live for the claims or issues that are not moot." *Id.* Defendant Appellants' prior interlocutory appeal raised distinct issues relating to the trial court's order establishing the Receivership.

See generally Petition for Review, *Great Value Storage, LLC v. Princeton Capital Corp.*, No. 23-0722 (Tex. Nov. 29, 2023). The Supreme Court determined that the issues raised in that prior interlocutory appeal were moot, but it did not explain why.

One possible reason is that orders providing for the winding-down of a receivership can moot an interlocutory appeal of an earlier order establishing a receivership. *See Fry Sons Ranch, Inc. v. Fry*, No. 03-19-00684-CV, 2020 WL 6685772, at *1 (Tex. App.—Austin Nov. 13, 2020, pet. denied) (mem. op.) (collecting cases). Specifically, orders "terminating the receivership and discharging the receiver ha[ve] rendered the [earlier interlocutory] appeal [of the order appointing the receiver] moot." *R-ZAQ, Inc. v. Mohawk Servicing, LLC*, No. 08-15-00065-CV, 2015 WL 3653258, at *1 (Tex. App.—El Paso Apr. 24, 2015, no pet.) (mem. op.) (citing *Rogers v. PLS Water Co., Inc.*, No. 14-94-1135-CV, 1996 WL 28791 (Tex. App.—Houston [14th Dist.] 1996, writ dism'd w.o.j.)). The trial court's Final Order providing for the winding-down of the Receivership may have mooted Defendant Appellants' prior interlocutory appeal of the earlier order establishing the Receivership. But the Final Order obviously did not moot itself. And the Supreme Court's judgment did not moot any of the distinct issues in this appeal from the Final Order, either.

C. This Appeal Presents New, Distinct Issues

The Receiver has repeatedly argued that this appeal is a second bite at the apple. It is not. Defendant Appellants do not challenge the establishment of the Receivership (the subject of their prior appeal).

This appeal is taken from a different order and raises new issues that were incapable of being presented in Defendant Appellants' prior appeal because they relate to conduct and events that had not yet occurred. Here, Defendant Appellants are challenging the trial court's decision to approve, without hearing or evidence, the Receiver's improper conduct that took place during his Receivership and award him $2.8 million in windfall fees.[3]

In short, this appeal presents new, distinct issues. *See* Feb. 7, 2024 Defendant Appellants' Br. at 3 (three issues); *see also* Feb. 7, 2024 Intervenor Appellants' Br. at xiii (three issues). None of those issues could have been raised in Defendant Appellants' prior appeal because the trial court's Final Order had not yet been issued.

[3] The Final Order approved the Receiver's Report and awarded the Receiver over $2.8 million in fees. CR 13794-98. By approving his report, the trial court rubber-stamped the Receiver's improper appropriation of $2.53 million from non-judgment debtors, nearly all of which was used to pay to his own law firm, his counsel, and undisclosed legal fees and litigation expenses. CR 2018. The Final Order also summarily denied Defendant Appellant's discovery requests relevant to the Fee Award objections to the Receiver's proposed order. CR 13794-98.

D. Defendant Appellants Have an Injury and so This Appeal is Justiciable

The Receiver says that Defendant Appellants will not have an injury "*if*" his fees get "paid from the Bankruptcy Court reserve funds" referenced in the Final Order. Mar. 25, 2024 Receiver's Br. at 28 (emphasis added); CR 13795 ("Sufficient funds" to pay the Receiver's Fee Award "are presently held on reserve under the control of the U.S. Bankruptcy Court, Northern District of Texas"). That contingency does not erase Defendant Appellants' injury. The trial court has no authority or jurisdiction over the bankruptcy court or the parties to that proceeding, which *do not* include Defendant Appellants. And the bankruptcy court has independent discretion over the validity of claims submitted before it.

The trial court's Final Order does not specify *who* is charged with paying the Fee Award. However, it is well established that the judgment debtors—Defendant Appellants—are responsible for paying the Receiver's lawful fees. *See Klinek v. LuxeYard, Inc.*, 672 S.W.3d 830, 841-42 (Tex. App.—Houston [14th Dist.] 2023, no pet.) (holding that receiver's fees "are considered court costs, and a trial court may award reasonable receiver's fees."); *Hartwell v. Fundworks, LLC*, No. 02-23-00100-CV, 2024 WL 46053, at *9 (Tex. App.—Fort Worth Jan. 4, 2024, no pet. h.) (mem. op.) (court costs are recoverable from judgment debtor). Indeed, the Supreme Court of Texas's form order appointing a receiver provides that receiver fees are court costs

taxed against the judgment debtor.[4] So, too, did the order appointing the Receiver in this case. CR 69 ("All Receiver's fees will be taxed as costs against the Debtor"). As the judgment debtors, Defendant Appellants are responsible for paying the Receiver's lawful fees under settled Texas law. They are therefore injured.

Moreover, separate and apart from the Receiver's fees, the Final Order *also* "continue[s]" the Receivership and thereby makes Defendant Appellants responsible for the Receiver's costs and expenses until he concludes "all litigation"—including this litigation against Defendant Appellants. CR 13795-96 ("Receiver is entitled to recovery and reimbursement of any additional litigation expenses" and to "take any other steps necessary to obtain payment in full of the Fee Award and related expenses"). And "all litigation" certainly includes the Defendant Appellants' issues and the Intervenor Appellants' issues in this appeal.[5]

As the judgment debtors, *only* Defendant Appellants can be held responsible for the Receiver's ongoing expenses—which may also exceed the bankruptcy court's limited funds.

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[4] Supreme Court of Texas, Misc. Docket No. 22-9031 (Apr. 25, 2022), available at https://txcourts.gov/media/1454134/form-receiver-order.pdf.

[5] It may also include the Receiver's efforts to defend his actions in *WC 4th and Rio Grande, LP v. La Zona Rio, LLC*, No. D-l-GN-20-007177 (345th Jud. Dist. Ct., Travis Cnty., Tex.); *Colorado Third Street, LLC v. WC 4th and Colorado, LP*, No. D-l-GN-20-002781 (261st Jud. Dist. Ct., Travis Cnty., Tex.); and *Colorado Third Street, LLC v. Natin Paul and World Class Capital Group, LLC*, No. D-1-GN-20-004259 (126th Jud. Dist. Ct., Travis Cnty., Tex.).

Moreover, the Final Order's reference to the bankruptcy court does not align with the original receivership order's provision stating that the Receiver's fees will be taxed as costs against Defendant Appellants. CR 69. The Final Order was therefore an abuse of discretion. *Roberts v. Abraham, Watkins, Nichols, Sorrels, Agosto & Friend*, No. 01-19-00622-CV, 2020 WL 7502052, at *5 (Tex. App.—Houston [1st Dist.] Dec. 22, 2020, no pet.) (mem. op.) (implying that when a trial court fails to award a receiver's fees in accordance with the terms set out in its earlier order appointing the receiver, it abuses its discretion).

To escape the conclusion that Defendant Appellants are injured, the Receiver references Princeton's settlement with third parties, Princeton's assignment of the underlying judgment, and the bankruptcy court. None of these have any bearing on Defendant Appellants' standing and serve only to conceal the disastrous consequences of adopting the Receiver's position, which would give rogue receivers *carte blanche*.

The bankruptcy court's order stated that a "final, non-appealable order" is necessary before funds can be distributed. CR 3526. But orders awarding fees are appealable. *Roberts*, 2020 WL 7502052, at *3. Defendant Appellants were ordered to pay the Receiver's fee, the Receiver's expenses may exceed the funds in the bankruptcy court, and until this appeal is over, the Final Order is not a "final, non-appealable order."

To get around this, the Receiver crafted what he *thought* was an unappealable proposed order. He says the Final Order (which he drafted) is unappealable because the judgment creditor is supposedly "satisfied" and because it purportedly allows a bankruptcy court to pay his fees. But even if this attempt to short circuit appellate review is considered, it does not rob Defendant Appellants of their right to appeal or invalidate decades of caselaw affirming that this Court must ensure a receiver's fees are reasonable by "consider[ing] six factors" on appeal.[6] *Allstate Cnty. Mutual Ins. Co. v. Hill*, No. 2-22-00261-CV, 2023 WL 3113951, at *4 (Tex. App.—Fort Worth Apr. 27, 2023, no pet.) (mem. op.); *see also Roberts*, 2020 WL 7502052, at *5. This Court should not endorse the Receiver's end-run around its supervisory role—which is essential in cases involving rogue receivers like this.

Defendant Appellants are injured, and their injury can only be redressed by this Court's ruling. This appeal is justiciable. *Greer*, 2023 WL 3357697, at *2 (justiciability is satisfied when a party's rights and interests can be affected by this Court's action).

E. The Receiver is a Party to This Appeal

Defendant Appellants' injury in this appeal stems from the trial court's unlawful Final Order awarding the Receiver $2.8 million in fees. But the trial court cannot advocate on its own behalf to defend the Final Order. Because of that, and

[6] Those factors are discussed in Section III.B, *infra*.

because no other party has or would have an interest in defending the Receiver's Fee Award, the law of equity recognizes that the Receiver is a "quasi party" to this appeal for the purposes of defending the trial court's order and his entitlement to fees. *Cordoza v. Pac. States Steel Corp.*, 320 F.3d 989, 995-96 (9th Cir. 2003) (quoting *Williams v. Morgan*, 111 U.S. 684, 698-99 (1884)).

As Defendant Appellants have repeatedly established, a receiver is "a party in the limited sense that he [is] bound by the order setting his compensation." *Cordoza*, 320 F.3d at 996. The Receiver says he is an officer of the court, but the Fifth Circuit recently affirmed "that special masters and other agents of the court can raise issues of compensation in the district court and *defend their interests on appeal*." *Moore as Next Friend to Moore v. Tangipahoa Parish Sch. Bd.*, 912 F.3d 247, 250 (5th Cir. 2018) (emphasis added). The Fifth Circuit, surveying the law of equity, considered the Receiver's argument here and soundly rejected it: "For this purpose [a receiver] occupies the position of a party to the suit, *although an officer of the court*." *Id.* (citing *Hinckley v. Gilman, Clinton, & Springfield R.R. Co.*, 94 U.S. 467, 468–69 (1876) (emphasis added)). The law of equity treats the Receiver as a party in appeals like this.

Not only that, the Receiver has consistently acted as a party in this very appeal. And the Receiver even *openly admitted* that he is an appellee and a party to this

appeal for the purposes of defending his fees.[7] If he weren't a party, the right to appeal orders awarding unlawful fees like the one at issue here would be rendered illusory. But neither a century-plus of recently affirmed caselaw nor sound public policy compels that result. Likewise, if the Receiver were correct here, he could never appeal an arbitrary order refusing to award him fees he lawfully earned. Surely, that is not a position he would advance in any other case. There is a live dispute between real parties here.

The Receiver does not squarely address Defendant Appellants' caselaw establishing that he is a party. Instead, he merely mumbles that the issues were "different" in those cases—including a case where *the Receiver himself* was referred to *by this Court* as the "real party in interest." Mar. 25, 2024 Receiver's Br. at 26 (citing *In re Roberts*, No. 01-20-00370-CV, 2020 WL 5415242 (Tex. App.—Houston [1st Dist.] Sep. 10, 2020, no pet.) (mem. op.)); *see also Roberts*, 2020 WL 7502052, at *1 (this Court referred to the Receiver, Seth Kretzer, as an "appellee[]" and the "real party in interest.") How were the issues different in *Roberts*? The Receiver says he is not a party to this appeal because the appellant in *Roberts* had an injury,

[7] *Compare* Mar. 25, 2024 Receiver's Br. at ii ("The parties and their counsel are correctly identified in Appellants' brief.") *with* Feb. 7, 2024 Defendant Appellants' Br. at v (designating Receiver as "Appellee") *and* Defendant Appellants' Br. at 30-33 (explaining why the Receiver is a party).

but Defendant Appellants don't. Mar. 25, 2024 Receiver's Br. at 26-27.[8] Besides being wrong, *see* Section II.D, *supra*, the Receiver's argument is just plain silly. Whether the appellant in *Roberts* had an injury has no bearing on the separate question of whether the Receiver is a party to an appeal of an order awarding him fees.

The Receiver points to a distinction without a difference and cites no caselaw establishing that he is not a party to this appeal. That is because there isn't any, and this Court has already understood that in appeals like this, the Receiver is a party. *See Roberts*, 2020 WL 7502052, at *1. This Court need not—and should not—issue contrary rulings about whether the Receiver, Seth Kretzer, is a party in these circumstances. It has already answered that question "yes."

III. The Trial Court Abused its Discretion by Not Performing Any Reasonableness Review and Approving the Receiver's Unlawful Conduct

A. Standard of Review

When reviewing receiver fee awards, the question for this Court is whether "the trial court acted in an unreasonable or arbitrary manner, and without reference to any guiding rules or principles." *Bishop v. Smith*, No. 09-08-00185-CV, 2009 WL

[8] When it benefits the Receiver to do so, the Receiver's Response Brief cites this Court's decision in *Roberts* favorably. *See* Mar. 25, 2024 Receiver's Br. at 36 n.105 (citing *Roberts*, 2020 WL 7502052). But the Receiver ignores the very first page of that decision, where this Court referred to the Receiver as an "appellee" and the "real party in interest." *Roberts*, 2020 WL 7502052, at *1. The Receiver cannot have his cake and eat it, too.

5205362, at *3 (Tex. App.—Beaumont Dec. 31, 2009, no pet.) (mem. op.). A trial court abuses its discretion when it awards an unreasonable receiver's fee. *See Congleton v. Shoemaker*, Nos. 09-11-00453-CV & 09-11-00654-CV, 2012 WL 1249406, at *5 (Tex. App.—Beaumont Apr. 12, 2012, pet. denied) (mem. op.).

> [I]n receivership proceedings, a court should cautiously avoid excessive or improper fee allowances. Sufficient fees should be allowed to induce competent persons to serve as receiver . . . however, receiverships should also be administered as economically as possible, and fees for services performed by these court officers should be moderate rather than generous.

Bergeron v. Sessions, 561 S.W.2d 551, 555 (Tex. App.—Dallas 1977, writ ref'd n.r.e.) (internal citation omitted).

B. The Trial Court Abused its Discretion by Not Considering the *Bergeron* Factors and Violated Defendant Appellants' Due Process Rights

Only "reasonable" fees can be awarded to a receiver. *See Stanfield*, 2000 WL 1475853, at *5-6 (overturning fee award because trial court did not determine fees were reasonable). When analyzing the reasonableness of fees, courts must consider: (1) the nature, extent and value of the administered estate; (2) the complexity and difficulty of the work; (3) the time spent; (4) the knowledge, experience, labor and skill required of, or devoted by the receiver; (5) the diligence and thoroughness displayed; and (6) *the results accomplished*. *Bergeron*, 561 S.W.2d at 554-55. It is the Receiver's burden to prove each element of reasonableness. *See Moyer*, 183

S.W.3d at 58 ("There must be evidence to establish reasonableness of the fee"). The reasonableness of a receiver's fee is "measured by the value of his services rendered." *B.B.M.M., Ltd. v. Texas Commerce Bank-Chemical*, 777 S.W.2d 193, 197 (Tex. App.—Houston [14th Dist.] 1989, no writ).

The trial court had an obligation to consider the *Bergeron* factors, but it did not. Similarly, the Receiver had the burden of proof, but he did not put forward competent evidence to support his Fee Award. Even if he had, the trial court did not hold an evidentiary hearing or perform any reasonableness analysis whatsoever. If the trial court had done so, it would have determined that there was no or insufficient evidence for any of the following findings in its Final Order, CR 13794-98, each of which was objected to by Defendant Appellants:

- "Receiver's diligent efforts and litigation resulted in full payment to Princeton Capital of $11,372,698.89 and full satisfaction and extinguishment of this Court's March 4, 2021 Judgment (the 'Judgment'), plus Princeton Capital's related post-judgment interest, legal fees, and expenses." *See* CR 13134 (specific objection).
- "Defendants would not have paid this amount to Princeton Capital but for the efforts and litigation of the Receiver." *See* CR 13134-37 (specific objections).
- "Mr. Kretzer accepted appointment and filed his oath on the terms as set forth in the Receivership Order." *See* CR 13135 (specific objection).
- "Mr. Kretzer and his law firm accepted considerable risk in accepting and pursuing his duties as Receiver. Mr. Kretzer and his law firm carried out his duties appropriately and within the authority granted to him by this Court and in the Receivership Order." *See* CR 13134-37 (specific objections).

- "Mr. Kretzer's advocacy, effort and representation were proper, reasonable, and effective under the circumstances of this case." *See* CR 13134-37 (specific objections).

- "[P]ayment of a 25% fee constitutes a reasonable and necessary fee for the Receiver." *See* CR 13135-36 (specific objections).

- "[P]ayment of a 25% fee … is consistent with similar awards by other courts for receivers." *See* CR 13135-36 (specific objections).

- "Receiver is entitled to receivership fees equal to 25% of $11,372,698.89, which is the amount of $2,843,174.70." *See* CR 13135-36 (specific objections).

- That the Receiver had valid expenses and that "Receiver's expenses through the date of this Order are … reasonable and necessary." *See* CR 13135-36 (specific objections).

As Defendant Appellants emphasized in their Opening Brief, no admissible evidence was submitted for the trial court to rely on. *See* CR 1865-1920; CR 1921-2022; CR 2023-48. The Receiver has since pointed to none. Instead, he parrots the sources and graphics in his own report—the same report the trial court improperly approved without any hearing, supporting findings, or other documented review for reasonableness. *See, e.g.*, Mar. 25, 2024 Receiver's Br. at 30-33. He also presents arguments of counsel as though they are competent evidence supporting the reasonableness of his fees. *See id.* at 34-35. But the Receiver cites no caselaw establishing that *any* of this is competent to support his Fee Award.

Moreover, the Receiver did not perform basic accounting, let alone comply with the trial court's prior order giving him specific instructions to "describ[e] all actions taken, expenses incurred, and property recovered or transferred as Receiver."

CR 1607-08. Instead of doing his job, the Receiver used his report (and his Response Brief in this Court) as a launchpad for a diatribe against Nate Paul. The Receiver's failure to provide competent evidence is fatal to his claim for fees and his unlawful award. As Defendant Appellants previously explained, even basic accounting would show the Receiver earned $0 in fees because he did not collect anything from Defendant Appellants and so there were no lawful "gross proceeds coming into his possession" upon which to base his fee. CR 69; Feb. 7, 2024 Defendant Appellants' Br. at 11.

The trial court's Fee Award was also unlawful because no evidentiary hearing was held prior to its decision to award fees to the Receiver. *See Evans v. Frost Nat'l Bank*, No. 05-12-01491-CV, 2015 WL 4736543, at *4 (Tex. App.—Dallas Aug. 11, 2015, no pet.) (mem. op.) (finding it determinative that, unlike in this case, the trial court there "held an evidentiary hearing" and "reconsidered [its] pre-set fee to confirm that it was reasonable."). Instead of considering the *Bergeron* factors as it was obligated to do, the trial court simply rubber-stamped the Receiver's conduct and his demand for fees without question or hesitation—or a hearing. *See Allstate*, 2023 WL 3113951, at *4 (citing *Bergeron*, 561 S.W.2d at 554-55). That was a clear abuse of discretion.

Not only that, but the trial court's Final Order summarily denied Defendant Appellants' objections, discovery requests, and motion to compel relating to the

reasonableness of the Receiver's conduct and his claim for fees—again, all without a hearing. CR 13797. Defendant Appellants were thus not afforded the opportunity to present contrary evidence or challenge any of the Receiver's purported evidence as to the reasonableness of his claimed fees.

In other words, the Final Order denied Defendant Appellants' due process rights. *See* TEX. CONST. art. 1, § 19 ("No citizen of this State shall be deprived of life, liberty, property, privileges, or immunities, or in any manner disenfranchised, except by due course of the law of the land."); U.S. CONST. amend. 14, § 1 ("No State shall . . . deprive any person of life, liberty, or property, without due process of law . . ."). And as the Eighth Court of Appeals just recently held in related litigation involving the Receiver, trial courts are not free to ignore due process rights such as these just because a receivership is involved. *See La Zona Rio*, 2024 WL 1138568, at *8-11. Had the trial court held a hearing and permitted discovery, it is certain that the Receiver's misdeeds would have come to light sooner—and his demand for millions of dollars in windfall fees soundly rejected. But the trial court instead summarily rejected *everything* Defendant Appellants filed without any opportunity for them to be heard. It therefore violated Defendant Appellants' due process rights and abused its discretion.

C. Proper Review Compels a Finding That the Receiver is Not Entitled to Fees

Had the trial court performed any reasonableness review, it would have determined that the *Bergeron* factors were not satisfied. *Congleton*, 2012 WL 1249406, at *5 ("There must be evidence to establish reasonableness of the fee"). None of the Receiver's actions brought any legitimate value to the Receivership estate, and the Receiver knowingly took actions for which he had no authority and violated Appellants' due process rights. These serious deficiencies in his performance and judgment—along with his distribution of zero dollars to Princeton—justify a fee award of zero. CR 2801; *In re Estate of Mitchell*, No. 05-21-00030-CV, 2022 WL 4092427, at *6 (Tex. App.—Dallas Sep. 7, 2022, no pet.) (mem. op.) (trial court reduced fee where there was "evidence of inadequacies" in receiver's performance).

The record reflects that the Receiver has wreaked havoc on every entity involved in this case—even non-judgment debtors and the judgment creditor. The Receiver evidently does not see the violation of due process rights as a problem; indeed, he happily points to cases where he wrongly appropriated the legal rights of non-judgment debtors to justify his fees. *See, e.g.*, Mar. 25, 2024 Receiver's Br. at 8 ("Sought dismissal of appeal by Paul in the El Paso Court of Appeals against a secured creditor") (citing Case No. 08-22-00073-CV in the Eighth Court of Appeals). That El Paso appeal, of course, is the same case where a sister court of

appeals just concluded the Receiver acted without lawful authority—and so a due process challenge against him could proceed. *See La Zona Rio*, 2024 WL 1138568, at *8-17. Because the Receiver's collections were apparently all from similarly situated non-judgment debtors, he brought little, if any, legitimate value to the Receivership estate. *See* CR 2017-18.

The Receiver reported collecting $2,533,700.50 from non-judgment debtors—and almost all of that money went to pay the Receiver himself and his associates. *See* CR 2017-18. Not only did the Receiver leverage the Receivership estate to line his own pockets, but it is well-documented that the Receiver's efforts resulted in *zero* dollars being distributed to Princeton, the judgment creditor. CR 2801 ("None [of the Receivership estate] has been distributed to Princeton"). Furthermore, because the Receiver was "taking actions that cause[d] direct harm to Princeton" and was acting in his own "exclusive interest," Princeton went so far as to file an emergency motion to stay the Receivership. CR 2798-99. Unsurprisingly, Princeton does not support the Fee Award. *See* CR 3791.

As a matter of sound public policy and common sense, it is unreasonable to award fees to a receiver when he has engaged in and profited from improper and unlawful conduct. Because the Receiver actively harmed non-judgment debtors without lawful authority to do so, because the Receiver's activities opposed the interests of the judgment creditor, because the Receiver made no distributions to the

judgment creditor, and because he virtually exhausted the Receivership estate to line his own pockets, it is unreasonable to award the Receiver *any* fees. *In re Estate of Mitchell*, 2022 WL 4092427, at *6 ("evidence of inadequacies" can justify reduction of receiver's award). The trial court abused its discretion by awarding fees to the Receiver for conduct that violated Texas law and the rights of non-judgment debtors.

D. The Trial Court Abused its Discretion Because it Did Not Follow its Own Fee Order

As noted, only *reasonable* fees may be awarded to a receiver. *See Roberts*, 2020 WL 7502052, at *5; *see also Bergeron*, 561 S.W.2d at 553. It is unreasonable for a trial court to refuse to follow its own fee formula. *See Roberts*, 2020 WL 7502052, at *5. Here, the trial court abused its discretion because its Fee Award did not align with the formula in its own prior order appointing the Receiver.

The trial court pre-set the Receiver's fees at "twenty-five percent (25%) of all gross proceeds coming into his possession, not to exceed twenty-five percent of the balance due on the judgment." CR 69. The Receiver reported that his "Collections to Receivership Estate" (i.e., the "gross proceeds coming into his possession") totaled $2,533,700.50:

Collections to Receivership Estate	$2,533,700.50
Legal Fees, Culhane Meadows	($1,047,754.24)
Legal Fees, Lipp Law Firm	($254,588.71)
Legal Fees, Kretzer & Volberding	($762,833.68)
Legal Fees, Research law firms	($17,050.10)
Litigation Expenses	($238,763.25)
Net to Receivership Estate In IOLTA	**$212,710.52**

CR 2018 (emphasis added). The Receiver reported no other collections, and he possesses no other gross proceeds. Assuming his collections were from lawful sources—they weren't—the Receiver is entitled to $633,425.13 *at most*. The $2,843,174.70 Fee Award in the Final Order cannot be justified by his collections.

The Final Order's Fee Award far exceeds what the trial court's own fee formula could permit, and so it is unreasonable, arbitrary, and cannot be squared with any guiding rules and principles. *Bishop*, 2009 WL 5205362, at *3. The trial court abused its discretion when it entered the Final Order. *See Roberts*, 2020 WL 7502052, at *5 (implying that a trial court's failure to award a receiver's fees in line with its own prior order would be an abuse of discretion). And because the trial court's original receivership order provided, in line with settled Texas law, that "[a]ll Receiver's fees will be taxed as costs against the Debtor," the Final Order's direction that the Receiver can "obtain payment of the Fee Award" from a Dallas bankruptcy court is likewise an abuse of discretion because it didn't follow the original receivership order. CR 69; CR 13795.

PRAYER

Defendant Appellants Great Value Storage LLC and World Class Capital Group, LLC respectfully submit that this Court should follow its own prior decision that the Receiver is a party to appeals like this one. Defendant Appellants similarly submit that this Court should agree with the Eighth Court of Appeals that their due process challenge to the trial court's Final Order is live. For the reasons stated herein and in their Opening Brief, Defendant Appellants respectfully request that this Court vacate the trial court's Final Order and remand the case to the trial court with instructions to award the Receiver nothing or with instructions to undertake the reasonableness analysis required by Texas law. Defendant Appellants respectfully request all other relief to which they may be entitled.

DATED and FILED May 15, 2024.

Respectfully submitted,

/s/ Greg R. Wehrer

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ATTORNEYS FOR APPELLANTS GREAT VALUE STORAGE LLC AND WORLD CLASS CAPITAL GROUP, LLC

CERTIFICATE OF COMPLIANCE WITH APPELLATE RULE 9.4(i)

I hereby certify that this document contains 7500 words, as indicated by the word-count function of Microsoft Word for Microsoft 365 MSO, and excluding the caption, identity of parties and counsel, statement regarding oral argument, table of contents, index of authorities, statement of the case, statement of issues presented, statement of jurisdiction, statement of procedural history, signature, proof of service, certification, certificate of compliance, and appendix, as provided by Appellate Rule 9.4(i).

/s/ Greg R. Wehrer
Greg R. Wehrer

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served in accordance with the Texas Rules of Appellate Procedure on the 15th day of May 2024 on each of the following persons listed below by the means indicated:

VIA EFILETEXAS.GOV E-SERVICE:

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Greg R. Wehrer

INDEX TO APPENDIX

Tab	Item
A	June 11, 2022 Order in *Bran v. Spectrum MH, LLC*, No. 2020-20587 (164th Jud. Dist. Ct., Harris Cnty., Tex.).

APPENDIX A

CAUSE NO. 2020-20587

SPECTRUM MH, LLC, AND SPECTRUM MHU, LLC	§	**IN THE DISTRICT COURT**
	§	
	§	
Plaintiffs,	§	
	§	
	§	
v.	§	**164TH JUDICIAL DISTRICT**
	§	
CHRISTOPHER BRAN, CBMJ INVESTMENTS & DEVELOPMENT, LLC, MONTROSE MULTIFAMILY II HOLDINGS, LLC, AND URBANONE PROPERTIES, LLC	§	
	§	
	§	
	§	
	§	
	§	**HARRIS COUNTY, TEXAS**
Defendants.	§	

ORDER REQUIRING TURNOVER AND APPOINTING RECEIVER

Came to be heard the Motion for Turnover and Appointment of Receiver filed by Spectrum MH, LLC, and Spectrum MHU, LLC ("Applicant"). After review, the Court is of the opinion that a Receiver should be appointed to take possession of and sell the leviable assets of Christopher Bran, CBMJ Investments & Development, LLC, Montrose Multifamily II Holdings, LLC, and UrbanOne Properties, LLC ("Judgment Debtors").

Based on the pleadings, the evidence and the argument of counsel, the Court finds that the Judgment Debtors own non-exempt property and that there exists an unpaid final judgment against them. Notwithstanding any contrary language herein, this order does not compel turn-over of Judgment Debtors' homestead or checks for current wages or other exempt property.

IT IS THEREFORE, ORDERED, ADJUDGED, and DECREED by this Court that Mr. Seth Kretzer, The Minns Building, 9119 South Gessner, Suite 105, Houston, Texas 77074 (713) 775-3050, is hereby appointed Receiver in this case pursuant to the Texas Turnover Statute with the power and authority to take possession of and sell all leviable property of Judgment Debtors, including, but not limited to the following non-exempt property: (1) all documents or records,

including financial records, related to such property that is in the actual or constructive possession or control of the Judgment Debtors; (2) all financial accounts (bank account), certificates of deposit, money-market accounts, accounts held by any third party; (3) all securities including, without limitation, interests in partnerships and limited liability companies; (4) all real property, equipment, vehicles, boats, and planes; (5) all safety deposit boxes or vaults; (6) all cash; (7) all negotiable instruments, including promissory notes, drafts, and checks; (8) causes of action or choses of action; (9) contract rights, whether present or future; and (10) accounts receivable; and that all such property shall be held in custodia legis of said Receiver as of the date of this Order.

Judgment Debtors are **ORDERED** to turnover to the Receiver within ten (10) days from the Judgment Debtors' receipt of a copy of this Order: 1) the documents listed below, together with all documents and financial records which may be requested by the Receiver; 2) all checks, cash, securities (stocks and bonds), promissory notes, documents of title, and contracts owned by or in the name of the Judgment Debtors:

> Any and all records, as hereinafter described, concerning affairs of the Judgment Debtors; unless otherwise noted, for the period January 1, 2018 through the present:
>
> 1. Monthly statements for every financial institution account in which Judgment Debtors have been a signatory or owner since January 1, 2018;
>
> 2. Cancelled checks and wire transfers for every financial institution account in which Judgment Debtors have been a signatory or owner since January 1, 2018;
>
> 3. Copies of the articles of incorporation, Secretary of State charters, operating agreements, membership agreements, and all documents of creation and ownership of any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in Judgment Debtors currently hold or have held an interest since January 1, 2018;
>
> 4. Federal income and state franchise tax returns for Judgment Debtors and any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity

in which Great Value Storage LLC or World Class Capital Group LLC currently holds or has held an interest since January 1, 2018;

5. All motor vehicle Certificates of Title owned or leased by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

6. Stock certificates and bonds owned by Judgment Debtors and any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

7. Promissory notes owned by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

8. Bills of sale owned by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

9. Real property deeds and deeds of trust (regardless of date), owned or interest held by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

10. Business journals, ledgers, accounts payable and receivable files belonging to Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

11. Pledges, security agreements and copies of financial statements owned by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

12. State sales tax reports filed by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

13. Any other record or document evidencing any ownership to real or personal property or to any debt owed or money had (regardless of date) owned or interest held by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently holds or has held an interest since January 1, 2018;

14. All personal property returns filed with any taxing authority, including but not limited to any Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018;

15. All documents listing or summarizing property owned by or held by Judgment Debtors or any limited liability company, professional corporation, corporation, general partnership, limited partnership, trust or any other corporate entity in which Judgment Debtors currently hold or have held an interest since January 1, 2018; and

16. Credit applications and other documents stating Judgment Debtors' financial condition since January 1, 2018.

Judgment Debtors are **ORDERED** to identify and turn over to the Receiver all interests of the Judgment Debtors in any business or venture, including limited liability companies and limited partnerships, and all agreements, stock certificates and other documents pertaining to the Judgment Debtors' ownership in the business or venture. Judgment Debtors are **ORDERED** to continue, until the Judgment in this cause is fully paid to turnover to the Receiver at the Receiver's address all checks, cash, securities, promissory notes, documents of title, and contracts within three (3) days from the Judgment Debtors' receipt and possession of such property, if, as and when Judgment Debtors becomes in receipt and possession of any such property. Paychecks for current wages are exempt from this order.

In light of the refusal of Judgment Debtors to pay the judgment, the Receiver is authorized to provide notice of this order, or any discovery requests, or any other document or motion, to Judgment Debtors, by delivering such notice and order and discovery requests in any of the

following manner: (1) to the Judgment Debtors' home addresses by first-class U.S. Mail, without requiring signature or restricted delivery; (2) to Judgment Debtors' attorney, by fax, U.S. Mail or email, unless he or she indicates that he or she no longer represent the Judgment Debtors, or (3) by email to the Judgment Debtors' email address.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, authority and powers with respect to the Judgment Debtors' property, to: 1) collect all accounts receivable of Judgment Debtors and all rents due to the Judgment Debtors from any tenant; 2) to change locks to all premises at which any property is situated; 3) direct the delivery of the Judgment Debtors' mail and the mail of any business of the Judgment Debtors to the Receiver's address and open all mail directed to the Judgment Debtors and any business of the Judgment Debtors; 4) endorse and cash all checks and negotiable instruments payable to the Judgment Debtors, except paychecks for current wages; 5) hire a real estate broker to sell any real property and mineral interest belonging to the Judgment Debtors; 6) hire any person or company to move and store the property of the Judgment Debtors; 7) (but not the obligation) to insure any property belonging to the Judgment Debtors; 8) obtain from any financial institution, bank, credit union, credit bureau, savings and loan, title company, or any other third party, any financial records belonging to or pertaining to the Judgment Debtors; 9) obtain from any Texas state agency or official, Texas county agency or official, or Texas municipality or official, any government records belonging to or pertaining to the Judgment Debtors, including financial and personal identifying information; 10) obtain from any landlord, building owner or building manager where the Judgment Debtors or the Judgment Debtors' business is a tenant copies of the Judgment Debtors' lease, lease application, credit application, payment history and copies of the Judgment Debtors' checks for rent or other payments; 11) hire any person or company necessary to accomplish any

right or power under this Order; 12) take all action necessary to gain access to all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property of the Judgment Debtors may be situated, and to review and obtain copies of all documents related to same, and 13) file any lawsuit necessary to seize or recover any non-exempt assets from any third parties who have acquired possession or control.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the right, authority and power to request and obtain from the Judgment Debtors' attorney all files, correspondence, emails, records, papers and documents, whether paper or electronic, pertaining to Judgment Debtors' ownership of any property or legal interest, or any negotiation of the purchase, sale, acquisition or creation of any property or legal interest. This order does not compel to provide any documents protected by the attorney-client privilege.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the right, authority and power to request and obtain from providers of utilities, telecommunications, telephone, cell phone, cable, internet, data services, internet website hosts, satellite television services, and all similar services (including Time Warner, AT&T, Verizon, Sprint, Satellite TV, Direct TV, EV1, Google, Yahoo, and internet blogs and chat rooms) compelling the production of any information regarding the Judgment Debtors' payments, payment history and financial information, including account information, telephone numbers, names, service addresses, telephone numbers, IP addresses, call detail records, payment records, and bank and credit card information. This Order specifically serves as the court order required by 47 USC § 551 and satisfies all obligations of the responding party to obtain or receive a court order prior to disclosing material containing personally identifiable information of the subscriber and/or customer.

In addition, the Receiver shall have the authority to cooperate with and provide assistance to, as he deems best, to any law enforcement officer, official or grand jury to provide information or documents pertaining to any possible criminal act committed by Judgment Debtors.

Further, the Receiver is authorized to seize all assets of which Judgment Debtors are a beneficiary of any trust for which no valid spendthrift provision applies. Any trustee holding money or property for the benefit of Judgment Debtors is ordered to turn such money or property over to the Receiver upon request by the Receiver or to deposit said funds into the Court's registry. Any financial institution holding money or property for any trustee for the benefit of Judgment Debtors is ordered to turn such money or property over to the Receiver upon request by the Receiver or to deposit said funds into the Court's registry.

In addition, the Receiver is authorized to seize the membership interest of any Limited Liability Company in which Judgment Debtors are a member, and to sell, manage, and operate the Limited Liability Company as the Receiver shall think appropriate. In addition, the Receiver is authorized to obtain all bank accounts and records and invest accounts and records held by Judgment Debtors from any financial institution.

Applicant is awarded judgment over and against Judgment Debtors for the amount of $5,000 for reasonable and necessary legal fees for this motion and shall pay $1,000.00 of that amount to the Receiver for preparation.

Any Sheriff or Constable, and their deputies, and any other peace officer, are hereby directed and ordered to assist the Receiver in carrying out his duties and exercising his powers hereunder and prevent any person from interfering with the Receiver in taking control and possession of the property of the Judgment Debtors, without the necessity of a Writ of Execution.

The Receiver is authorized to direct any Constable or Sheriff to seize and sell property under a Writ of Execution.

The Court authorizes and orders any Sheriff or Constable, and their deputies, and any other peace officer, to break and open any locks or gates erected by the Debtor as necessary to assist the Receiver and carry out this order.

In light of the circumstances of this case, the Court sets the bond at $50.00.

The Receiver's fee is twenty-five percent (25%) of all gross proceeds coming into his possession, not to exceed twenty-five percent of the balance due on the judgment, plus any out-of-pocket expenses incurred by the Receiver in his scope as a receiver in this case. The Court finds this a fair, reasonable and necessary fee for the Receiver and the Receiver if further directed and authorized to pay Creditors' attorney as Trustee for the Creditors the remaining seventy-five percent (75%) of all proceeds coming into Receiver's possession, with adjustment for Receiver's expenses as necessary. All Receiver's fees will be taxed as costs against the Debtor, which means that the Receiver is authorized to seek and recover 125% of the judgment plus expenses. All payments made by the Receiver to the Judgment Creditor shall be applied to the Judgment as a credit towards the balance of the Judgment.

The Receiver is further ordered to take the oath of his office.

SIGNED _____.

Signed:
6/11/2022

HON. JUDGE C. ELLIOTT THORNTON
164th District Court
Harris County, Texas

Automated Certificate of eService

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Claudia Martinez on behalf of Greg Wehrer
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Envelope ID: 87791459
Filing Code Description: Other Brief
Filing Description: Appellants Great Value Storage LLC and World Class Capital Group, LLC's Reply Brief and Appendix
Status as of 5/16/2024 7:41 AM CST

Associated Case Party: Seth Kretzer, Receiver

Name	BarNumber	Email	TimestampSubmitted	Status
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Associated Case Party: World Class Capital Group, LLC

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