

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 12-60504-CIV-SCOLA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

PREMIER PRECIOUS METALS, INC.,

RUSHMORE CONSULTING GROUP, INC.,

PPM CREDIT, INC., and

ANTHONY J. COLUMBO, individually and
as an owner, officer, and director of PREMIER
PRECIOUS METALS, INC., RUSHMORE
CONSULTING GROUP, INC., and PPM
CREDIT, INC.,

Defendants.

FIRST REPORT OF RECEIVER CURTIS MINER

Curtis Miner, Esq., in his capacity as Court-appointed Temporary Receiver for Premier Precious Metals, Inc., Rushmore Consulting Group, Inc., and PPM Credit, Inc. (the "Receivership Entities"), hereby submits the following Report.

I. BACKGROUND

The Federal Trade Commission (FTC) brought this action on March 20, 2012. The FTC's Complaint alleges that the Defendants have collectively operated an investment scheme in which telemarketers promise consumers, many of whom are senior citizens and retirees, that the consumers can earn large profits quickly and safely by purchasing precious metals, such as gold, silver, platinum and palladium. In particular, the FTC alleges that the Defendants made misrepresentations to consumers that (1) consumers are likely to earn high or substantial profits in a short time period on the precious metals sold by Defendants, and (2) the precious metals sold by Defendants are low or minimal risk investments. In truth, the FTC alleges, consumers are not likely to earn high or substantial profits in a short time period, and the precious metals sold by Defendants are not low or minimal risk investments.

The FTC also alleges that the Defendants failed to adequately disclose to consumers material information, including (1) the total fees, commissions, interest charges, and leverage balances that consumers are required to pay, and (2) that consumers are likely to receive equity calls that will require consumers to pay additional money or liquidate their precious metals. The FTC seeks damages from the Defendants and seeks to enjoin the Defendants from an alleged deceptive telemarketing operation that allegedly scammed

millions of dollars from consumers by advertising, marketing, distributing, and selling precious metals.

On March 20, 2012, the Court entered a Temporary Restraining Order (the "TRO"). I was appointed by this Court to serve as Temporary Receiver for the Receivership Entities. The TRO requires me to assume full control of the Receivership Entities, take exclusive possession of their books and records and assets, and take all steps necessary to prevent further damage or injury to consumers. I am also required to file periodic Reports, and, although only a short time has passed since the entry of the TRO, I am filing this First Report in advance of the hearing scheduled on the FTC's motion for a preliminary injunction.

II. STEPS TAKEN BY THE RECEIVER TO DATE

A. Control of the Business Premises

On March 22, 2012, with the assistance of FTC personnel and the Broward County Sheriff's Office, I secured the business premises of Rushmore Consulting Group at 600 W. Hillsboro Boulevard, Suite 490 in Deerfield Beach, Florida. (The TRO had also identified a second location at 4701 N. Federal Highway, Suite 380 in Pompano Beach, Florida, but it was determined that no use was being made of those premises.) When we arrived at the premises, defendant Anthony Columbo was present, along with an administrative assistant and seven telemarketers/account representatives

who communicated with consumers about the sale of precious metals for the Defendants. Defendant Columbo advised me that all of the telemarketers are considered independent contractors and not salaried employees.

I notified Mr. Columbo and the staff of the action that had been filed by the FTC, of the TRO and of the nature of the receivership, their duty to cooperate, and the asset freeze over Defendants' assets and accounts. Mr. Columbo and his administrative assistant were interviewed to gain an understanding of the location and nature of the Receivership Entities' books and records and assets. The telemarketers were each asked to complete an information form and provide a copy of their license and were interviewed to determine whether they had books and records or property of the Receivership Entities in possession. The telemarketers were then sent home and instructed not to return to the premises until further notice.

The lock on the entry to the premises has been changed. All known books and records, both physical and electronic, of the Receivership Entities have been secured. With the assistance of the FTC, the computers on the premises were inventoried, and the server and certain of the hard drives on the premises were imaged. I have the key to the Receivership Entities' mailbox at the building in which they are a tenant and have monitored the incoming mail.

Pending the Court's determination of whether to enter a Preliminary Injunction, I have tried to preserve the status quo and take no irreversible steps. As discussed below, however, if a Preliminary Injunction is entered in this case, and based on my investigation of the Receivership Entities' business practices to date, I would cease all business of the Receivership Entities, vacate the premises and seek to terminate the lease with the landlord in order to avoid the expense of maintaining the premises. I would also determine whether any of the office furniture, fixtures and equipment on the premises belong to the Receivership Entities and, if so, whether any value could be realized from their sale.

B. Preservation of Assets

The TRO contains an asset freeze provision. The TRO has been served on all known bank and investment accounts belonging to the Defendants. The Receivership Entities appear to have two active bank accounts at SunTrust:

Rushmore Consulting Group = \$34,896

PPM Credit, Inc. = \$ 800

If a Preliminary Injunction is entered, I will request that SunTrust transfer to me the funds in these accounts to be deposited in a Receiver's account to be opened at Northern Trust Bank.

The Receivership Entities previously utilized bank accounts at TD Bank, Bank Atlantic, and Wells Fargo Bank (f/k/a Wachovia Bank); however, it appears that those accounts have been closed and are no longer in use. I will nonetheless obtain complete records for these bank accounts in order to perform an analysis of the use of funds by the Receivership Entities and defendant Columbo.

It appears that Defendant Columbo used a single operating account for Rushmore to receive investor monies and pay the operating costs of the business (such as phone bills and payments to the telemarketers). The operating account was also used to pay personal expenses of Anthony Columbo, ranging from Home Depot to Nordstrom's to groceries to meals and entertainment.

Pursuant to the TRO, Defendant Columbo was required to provide the FTC and the Temporary Receiver with completed financial statements and with his past three years of federal income tax returns within 5 business days of being served with the TRO (that is, by March 26). As of the filing of this Report, he has not done so. A bank account in Mr. Columbo's individual name has been frozen at Suntrust, and a trading account at E*Trade has been frozen as well.

C. “Forensic Accounting”

Given the minimal size of the Receivership estate, I am attempting to keep the Receiver’s expenses to a minimum at this stage and have not utilized any other professionals, other than a paralegal, to assist to date. Although a forensic accountant (Scott Bouchner of Berkowitz Dick Pollack & Brandt) is prepared to assist if and when needed in this matter, I have not yet engaged his assistance in order to avoid the expense.

The Receivership Entities do not appear to have maintained any accounting records of their own, such as QuickBooks or other computerized accounting records. They do not even appear to have maintained old-fashioned paper accounting records, other than a check book. However, it is possible to obtain an understanding of the Receivership Entities’ financial operations using the on-line data maintained by Hunter Wise Commodities, LLC, the precious metals trading dealer with which the Receivership Entities exclusively did their trading business.

of Customers

The Receivership Entities have had **113 customer accounts** from the inception of their business to date. (Some customers may have had more than one account listed, so there are not necessarily 113 distinct customers of the Receivership Entities.) 44 of those customer accounts are active accounts; 69 of those customer accounts have been closed.

Customer Funds Received

The Receivership Entities (originally through Premier Precious Metals and subsequently through Rushmore Consulting Group) appear to have first taken in customer funds in July 2010. The Receivership Entities have taken in a total of **\$5,320,467.73** from customers. To date, customers have received back a total of \$1,291,181.28.

Profit/Loss for Customer Accounts

Of the 44 active customer accounts, every account shows a loss on the original investment. As of March 29, 2012, the total **loss** for these 44 active investors was **-\$821,965.94**. (This figure can fluctuate up or down with changes in the market price of the precious metals involved.)

Of the 69 closed customer accounts, 64 of the accounts show that they were closed with a loss. The total losses experienced by these 64 accounts were **-\$2,689,158.88**. The 5 customer accounts that experienced gains had total gains of **+\$101,724.84**.

Thus, the combined total loss (as of March 29) for the customer accounts is **-\$3,511,124.82**.

Receivership Entities "Earnings"

The Receivership Entities made money by charging customers several types of fees. A customer would be charged a \$200 fee to open an account. Typically, a customer would leverage their purchase by taking a "loan" from

Rushmore (which was in turn getting a “loan” from Hunter Wise) to purchase more metals. Rushmore would charge a commission (as high as 15%) on the total value of the metals purchased (and not just the amount invested by the customer). Rushmore would then earn “spread revenue” on the difference between the market price of the metal and the marked-up price it was sold at to the customer.¹ The Receivership Entities would also charge a mark-up on the interest rate it was being charged by Hunter Wise to its customers in order to make interest revenue. Finally, the Receivership Entities charged customers a monthly service fee to maintain their accounts.

Based on my review of Hunter Wise’s records, it appears that the Receivership Entities “earned” the below amounts (not including account opening fees):

Commissions	=	\$ 2,299,424.76
Spread revenue	=	\$ 380,189.84
Interest	=	\$ 73,662.05
Service fees	=	\$ 117,498.78
Total	=	\$ 2,870,775.43

For a concrete example, it is helpful to look at an actual customer’s experience. I have chosen the lowest numbered (i.e., first) active customer

¹ When the metals are sold by Hunter Wise to the customers, there is a mark-up from the market price to the price Hunter Wise sells at to a customer. This is referred to as the “spread.” “Spread revenue” is the share of that “spread” that goes to the Receivership Entities.

account on Rushmore's customer list (Account # 1005). The customer (G.W.) invested \$16,490 with Rushmore to purchase precious metals. In addition to the \$200 account opening fee, Rushmore charged G.W. a total of \$15,698.01 in commissions. Rushmore also charged G.W. a total of \$6,808.06 in interest and service fees. G.W. has withdrawn \$10,000 from his account and has a balance of \$1,715.42 in equity in it. So, at present G.W. has a net loss of \$4,774.58, and Rushmore has "made" \$22,706.07 from G.W.'s account.

Again, this is only one of 113 customer accounts and is just meant to provide a concrete example of a customer's experience. An incomplete review of customer files by the undersigned, however, indicates that this is a fairly representative example of customer's experiences with the Receivership Entities.

I provide this information with the caveat that I am not trained as a forensic accountant and have obtained this information by running reports from the customer accounting database maintained by Hunter Wise.

D. Website and Voicemail

I have established a Receivership website, which currently informs consumers that Rushmore Consulting Group (and Premier Precious Metals and PPM Credit) are currently in receivership and provides links to copies of the FTC's Complaint and the TRO. The Receivership website is

www.rushmoreconsultingreceiver.com. Anyone who attempts to access Rushmore Consulting Group's website (www.rushmoregroup.net) is now automatically re-directed to the Receiver's website. Going forward, I will update the website and provide links to download additional relevant filings in the case.

The Receivership Entities have a phone system. Oddly, they have no voicemail or message system, so I have not been able to place a new message on the system informing callers of the status of the Receivership Entities.

I obtained a list of the available e-mail addresses of all customers (active and closed) of the Receivership Entities and sent an e-mail to the customers containing the same information included on the website. As a result, I have been fielding a number of calls from customers with complaints about the Receivership Entities and with concerns about what has happened to their money. The most common complaint that I have heard is that the customer was told that he could double his money quickly by investing in gold or silver and that they felt pressured into making the investment, but when they had questions about what had happened with their money, they either could not get answers or were given answers that they did not understand.

Several customers have called me with urgent concerns, because Rushmore Consulting Group has apparently sent them an IRS Form 1099

showing revenue from trading precious metals on which the customers are concerned they are liable to pay taxes (and the April 15 tax deadline is fast approaching). However, in fact, they have suffered losses in their accounts, and my spot reviews of their accounts for them have likewise confirmed that they have not realized any gains from trading and instead have losses. Why they have been sent these IRS Form 1099's is something that I will investigate further.

III. CONCLUSION

Pending the Court's ruling on whether to enter a Preliminary Injunction, I have endeavored to secure the Receivership Entities' books and records and assets without taking any irreversible steps. If a Preliminary Injunction is entered, I will continue my investigation of the Receivership Entities' business practices and financial affairs; I will take steps to vacate its premises and wind up its affairs; and I will investigate potential claims against third parties for the benefit of the Receivership estate. I will also file additional Reports with additional information when appropriate.

Dated: April 1, 2012

s/ Curtis B. Miner
Curtis Miner, as Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 1, 2012, I filed a true and correct copy of the foregoing document with the Clerk of the Court using the CM/ECF system. I also certify that the foregoing document is being served this day on all counsel of record identified on the below Service List in the manner specified, either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

s/ Curtis Miner
Curtis Miner

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