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UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

IN RE: . Case No. 89-11051
.
CUMBERLAND INVESTMENT CORP. .
.
380 Westminster Street
.
Providence, Rhode Island 02903
.
Debtor. .
.
April 6, 2000
.
11:42 a.m.
.....

TRANSCRIPT OF MOTION FOR CLARIFICATION AND ACCOUNTING
OF ESTATE PROPERTY SOLD
BEFORE HONORABLE ARTHUR N. VOTOLATO
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

Pro Se/Creditor: WARREN TAFT, PRO SE
PO Box 52
Mendon, MA 01756

For the Trustee/Debtor: Kirshenbaum & Kirshenbaum
By: JASON MONZACK, ESQ.
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Proceedings recorded by electronic sound recording, transcript
Produced by transcription service

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1 THE COURT: Cumberland Investment Corporation.

2 MR. TAFT: Good morning, Your Honor, the name is
3 Warren Taft.

4 I know this has been probably a long time with the
5 Cumberland Coin, and I'm here as a petitioner and a friend of
6 the Court, and basically looking out for my own interest, along
7 with those other so-called Redemption Coin people. I've been
8 getting many calls.

9 Back in January, I had sent out a notice to Mr.
10 Monzack and Mr. Cadigan, just asking for some information so we
11 didn't have to come to court so I could see if we could get
12 some information for my own purpose about some so-called
13 missing coins. I'm still, again, trying to find my -- or my
14 parents, I should say, which total up about \$45,000, which is
15 still a fair amount of money. And back in January when I
16 submitted this to Mr. Cadigan and Mr. Monzack, I never received
17 a response, and that's why I ended up asking for the help from
18 the Court and sending in a petition to see if I could get it.
19 I did finally receive a response from both parties, and it just
20 made more questions from what I was trying to get answers to,
21 and the items that were sent back to me by Mr. Monzack, and I
22 spent many, many hours, trying to figure out what happened
23 here, and I don't dispute the sale at Christie's or anything
24 else, I do have the documents he did send me, but we're still -
25 - there's a shortage of just about 500 coins that were from the

1 December sale and what was submitted, and I have the breakdown,
2 I won't bore the Court with all of that right this minute.
3 There is an 1128 silver dollars that were shown with the sale,
4 but there was no breakdown on these coins, it just said 1128
5 coins, all the rest were broken down and did match up to what
6 Christie sold. So I was trying to get a breakdown, while I
7 would like that today, or whenever, some type of breakdown of
8 that 1128. But when I did finally receive the response back
9 from Mr. Monzack and Mr. Cadigan, I didn't have enough time
10 before the hearing, to ask the appropriate questions and to
11 really do the research on everything, and that's why I had
12 asked for the two week continuance, because I don't have exact
13 numbers done.

14 There were some questions, again, if I could get a
15 response from Mr. Monzack for this stuff, I wouldn't have to --
16 and I apologize for wasting the Court's time at a hearing like
17 this, but during his response also, Mr. Monzack said that I
18 have no standings at the court because I am not a creditor,
19 which I thought I was classified as a creditor, but I always
20 knew I was a Redemption Coin holder in this case. If I'm not a
21 creditor or, how he put it, I guess I want the Court to just
22 inform me, I guess, what I am in this case, if anything at this
23 point because I don't want to waste your time, Your Honor, or
24 the court's time.

25 There are several items in here, again, that I don't

1 want to get into right this minute, because this is just on a
2 continuance for two weeks, and that's why I did it. The time
3 element from when I did receive the items, didn't give me
4 enough time to look everything over, and it's quite extensive
5 as you know, and that's why I was asking for the two week
6 continuance.

7 THE COURT: Well, do you have any questions that you
8 want to ask Mr. Monzack directly while he's here?

9 MR. TAFT: Well, there were some, yes, Your Honor.

10 THE COURT: Well, go ahead.

11 MR. TAFT: Okay.

12 THE COURT: I assume you're here because you say you
13 can't get answers from him, is that right?

14 MR. TAFT: Well, again, I had sent him a letter
15 asking for some documentation and some answers back in January
16 and I never received any response from him, and the letter I
17 have was January 19th. And then I made the petition to the
18 Court and that was dated, I believe, March 8th, and then later
19 in March, I received a response from Mr. Monzack and Mr.
20 Cadigan, which hasn't given me enough time to really go over e
21 everything that I received.

22 THE COURT: Since March, you say?

23 MR. TAFT: Excuse me?

24 THE COURT: When did you get that response? Well,
25 just roughly.

1 MR. TAFT: I believe it was the second or third week
2 in March, I don't know, I have it right here, I don't have the
3 date on it.

4 THE COURT: Okay, and what do you need more time now
5 for?

6 MR. TAFT: The items that were sent to me by Mr.
7 Monzack from the sale from Christie's and all the coins.
8 There's a batch of 1128 coins which are listed in the things
9 she sent me --

10 THE COURT: Um-hum.

11 MR. TAFT: -- which were not broken down. Everything
12 else was broken down proper, and they all match up and
13 everything is fine on that. But the amount of coins that
14 actually went out there were around 8000 coins and we have a
15 shortage of 500 coins because we've got 7,491 in total of all
16 the coins, but out of that, 1128 of these coins never had a
17 breakdown. And if you look at the 8000 that were sent out
18 there, these only total up to 7,491 coins. That's a shortage
19 of 500 coins.

20 THE COURT: Okay.

21 MR. TAFT: And I'm just trying to find out, because
22 I'm still -- and I'm getting calls on a weekly basis from the
23 Redemption people --

24 THE COURT: All right.

25 MR. TAFT: I'm sorry.

1 THE COURT: What happened to the coins, Mr. Monzack?

2 MR. MONZACK: Mr. Taft characterizes it as a
3 shortage. I don't believe it's a shortage, I believe it's an
4 excess. In fact, the initial inventory sent to me by
5 Christie's shows 7,491 coins. There were approximately 8000
6 that were shipped to Christie's.

7 THE COURT: What do you say, approximately, give or
8 take how many?

9 MR. MONZACK: I believe there were 8,004 coins
10 shipped to Christie's. And when I look back, those coins were
11 shipped directly from U.S. Attorney to Christie's. On the
12 inventory that the U.S. Attorney had, they showed 7,998 silver
13 dollars, the initial inventory that I received back, which
14 everything I've received from Christie's, I gave to the Court,
15 and I gave to Mr. Taft in my response. The initial inventory
16 sent to me by Christie's, the pre-auction inventory, said 7,491
17 coins. That was the number that was referenced in my Notice of
18 Intended Sale. Actually, 8,004 were sold by Christie's. If
19 you add up the coins that are listed in the catalog, which I
20 also sent everyone, the actual coins that were actually sold by
21 Christie's, there were 8,004 coins sold, which actually six
22 more --

23 THE COURT: They said they received seven thousand
24 forty --

25 MR. MONZACK: I will admit this. The documentation

1 that Christie's prepared to put numbers in that sometimes are
2 hard to understand their source, they received -- the coins
3 that were shipped directly by the U.S. Attorney, their
4 inventory says 7,998.

5 THE COURT: And they sold 8,004.

6 MR. MONZACK: The actual coins that were sold were
7 8,004. If you add up the coins that were actually sold and are
8 referenced on the Settlement Advice, that's also part of the
9 documents that I enclosed. On the initial pre-auction
10 inventory that was sent to me by Christie's, and is also made,
11 I think, part of Exhibit 1, they break down the coins by one
12 number -- I don't have the numbers right in front of me, I
13 added them all up, there's probably about -- well, 63 or 6400
14 of the coins are itemized specifically by mint-mark condition
15 quantity, there's an additional 1128, that's where this number
16 comes from, that are separately listed by date range and by
17 their valuation, not by individual coin, but by 191 coins, 194
18 coins, etc., that separate count adds up to 1128 coins. For
19 some reason, on the Settlement Advice -- this was a sale of
20 both bank notes and silver dollars -- on the Settlement Advice
21 that was sent to me by Christie's, they referenced the 7,491,
22 but if you add up the coins, it's actually 8,004, and the bank
23 notes. On the Settlement Advice regarding the actual sale of
24 the silver dollars, which was 8,004 silver dollars that were
25 sold, they say sale of 1128 silver dollars, that apparently

1 gets a number from this, and why they stuck that number on
2 their settlement advice, I don't know. But I do know that
3 there were 8,004 coins sold, that the U.S. Attorney said they
4 were sending them 7,998, and that's what actually happened.
5 Now, some of the documents provided by Christie's, the numbers
6 don't add up perfectly with what was actually sent and what was
7 actually sold. But this shortage, so-called, is actually an
8 excess.

9 MR. TAFT: I apologize for that, Your Honor, that is
10 correct.

11 MR. MONZACK: There's no missing coins. If Mr. Taft
12 has any questions, there ended up being more coins there that
13 were Christie's initially, appeared on Christie's initial
14 inventory. But part of the request, in Mr. Taft's request for
15 continuance for instance, there's a detailed inventory of all
16 the coins that were sold by date and mint-marked. Well, that's
17 what's in here. In this auction catalog is a detailed list of
18 all the coins that were actually sold by date and mint-marked.
19 Mr. Taft has everything that I have.

20 THE COURT: Okay, what's --

21 MR. TAFT: Your Honor, I did go through that book and
22 I've been spending a lot of time, and I do appreciate him
23 sending that. But on the 1128 coins, there is no breakdown in
24 that book, it does not match up to the 1128 in there, okay. He
25 is correct as far as the overage, I was wrong when I was

1 reading my notes. It was my understanding that there were
2 \$7,827 in possessory collateral at Eastland Bank that were
3 going to be sent out to Christie's, and then we ended up with
4 over the 8000 and then where did these extra coins all come
5 from because I can't track any record of these coins. And I
6 did have, along with the other Redemption people, coins that
7 I'm missing coins. Could these be part of that 500 coins that
8 now are gone? And this is why I have been asking for the
9 tracking of this to see if I could -- and I've been going
10 through -- and it's been very helpful, the big section of that
11 book does match up to that -- to the bulk of the 7491 -- of the
12 silver dollars.

13 THE COURT: Well, so you're trying to investigate and
14 trace some coins that may be yours --

15 MR. TAFT: That is correct --

16 THE COURT: Do you feel as though the trustee has
17 given you all the information that he has and that may be you
18 ought to start bugging Christie's or something?

19 MR. TAFT: Everything he sent me, I believe he does
20 have as far as -- I didn't know if he had the ability to get me
21 a breakdown or if I have to go to Christie's, that's what I'll
22 do, Your Honor, for the breakdown of the 1128 coins.

23 THE COURT: Do you have any kind of breakdown
24 material that you haven't given to Mr. Taft?

25 MR. MONZACK: I don't, Your Honor. I will say this,

1 in fact, I'll say two things, one, I've written to Christie's
2 and asked them why they broken it down this way. But two, and
3 I think --

4 THE COURT: And what did they say?

5 MR. MONZACK: I'm waiting for their response. I
6 faxed them a letter.

7 THE COURT: When you get that response, will you copy
8 Mr. Taft?

9 MR. MONZACK: I'd be happy to, Your Honor.

10 MR. TAFT: Thank you.

11 MR. MONZACK: But I would like to say, Your Honor,
12 that there was a class action lawsuit filed by the Redemption
13 claim holders that was settled, that all the coins that were in
14 the vault at Eastland that were identified by Mr. Taft's
15 counsel, Mr. Smith, and a personal visit to the vault as being
16 in that class known as Redemption Coins, were returned. That
17 suit was settled, there were orders entered.

18 THE COURT: I understand. And to clarify -- to clear
19 the air a little bit, I don't think you're here as an adversary
20 with you as one party, Mr. Taft as another, I think you're kind
21 of filling the role now as assisting him to do his
22 investigation for whatever it may be worth to him, okay? And
23 that's as far as Mr. Monzack can go. I think I have to agree
24 with him that your litigation with him has been resolved, and
25 you know, whatever you get now is kind of extra.

1 MR. TAFT: If he could send that, that would be
2 appreciated, Your Honor, on the response from Christie's:

3 THE COURT: When are you expecting a response, or
4 when would you --

5 MR. MONZACK: I would expect a response -- part of
6 what I still have going on with Christie's in this matter is
7 that -- and Mr. Taft probably observed it from the documents
8 that I sent him, was that 380 silver dollars were not sold
9 because there was a reserve price put on the coins, and so 380
10 coins did not meet the reserve price. So Christie still sits
11 and holds 380 of the coins. I haven't done the comparison, but
12 if you looked at the Sales Advice that showed what was unsold
13 and you compared it to the auction catalog, you could actually
14 tell what coins they continue to hold. But, there should be no
15 issues left with regard to this bankruptcy estate with regard
16 to Redemption Coin Holders. And that's why I don't mean to
17 offend Mr. Taft, but there was a claims bar date, Mr. Taft did
18 not file a claim in this bankruptcy estate. There was a class
19 action on behalf of Redemption Coin Holders, that action was
20 settled by returning every coin that Redemption Coin Holders'
21 counsel identified as possible Redemption Coin based upon how
22 they were stored at the vault. It's unfair to the remaining
23 creditors in the bankruptcy estate, that the estate expand
24 additional funds with regard to an issue that was resolved by
25 this Court in 1996, five years ago.

1 THE COURT: I understand. I understand your
2 position, I agree with you. Try to keep the expense of the
3 other creditors to a minimum, give Mr. Taft whatever
4 information might help him -- I understand you settled with him
5 and he was an adversary, but you know, this case was --
6 continues to be a mess --

7 MR. MONZACK: That's true, Your Honor, but if I can
8 also go one more leap backwards in time. Way back when they
9 were identified as three different groups of coins, one was the
10 Redemption Coin, so-called that were segregated.

11 THE COURT: Yes.

12 MR. MONZACK: One was the general inventory which was
13 sold in 1996, and a third group of coins was that group of
14 coins that were separately segregated at the insistence of
15 Eastland Bank when they had some doubts about the financial
16 stability of Cumberland Investment, and it was set aside in a
17 separate vault taken control of, by the U.S. Attorney's Office.
18 That's the group of coins that were shipped directly to
19 Christie's. It had been stipulated five years ago that the
20 only group of coins that were Redemption Coins were those that
21 were separately stored in separate identifiable containers, a
22 portion of a previous memo submitted in case I attached to my
23 memo in which Mr. Taft himself said it would be impossible to
24 identify a specific coin as his Redemption Coin because a 19
25 something with a particular mint-mark coin could be anybody's

1 coin. That's not the way to identify it. The only possible
2 way of identifying it, as it was resolved back in 1996, is if
3 it was in a specific canister with a specific redemption coin
4 holder identifying number, every canister that bore those sort
5 of numbers, was turned over in the settlement of that suit. So
6 I don't know where -- besides the fact that I don't believe Mr.
7 Taft has a standing before the Court, I don't know where we end
8 up on this. Even if you find a coin there that bears the same
9 mint-mark as a coin that Mr. Taft may have had, because
10 remember the issues back then was for the guarantee of
11 Cumberland Investment to stay in full force and effect, you had
12 to have never opened your canister of coins and never actually
13 observed what was in the canister of coins. So, it seems we're
14 -- I feel badly for Mr. Taft, you know, that those coins were
15 not included in the Redemption Coins that apparently were
16 turned over, that didn't file a claim as a creditor, he's not
17 going to get any percentage return based upon a claim that he
18 could have had, but I don't see where any of these proceedings
19 can possibly go.

20 THE COURT: It's not your problem. I would say
21 probably your remaining obligation, and you don't have to agree
22 with me, you can refuse, but I would say furnish Mr. Taft with
23 a copy just for informational purposes, of your response from
24 Christie's. He wants to read it. Is that a problem?

25 MR. MONZACK: As I said, I gave -- you know, in

1 responding to Mr. Taft's petition, I gave him everything I had
2 in this --

3 THE COURT: Right.

4 MR. MONZACK: And as you can tell, I changed none of
5 the numbers that Christie's supplied to me because some of the
6 numbers don't make a lot of sense, I agree. But it's not a
7 shortage of coins, in an excess -- in fact, I ended up with six
8 more coins that were sold than the U.S. Attorney said they had.

9 THE COURT: I understand.

10 MR. TAFT: That is correct, Your Honor. I know he
11 just brought it up, and I'm not going to hash this all over,
12 he's wrong on a few points that he made about back when, when
13 these coins were in the tubes and all that, the markings, and
14 I'm not going to get into all that, but he's wrong in his
15 statements, I know that's a dead issue at this point. I just
16 want to make sure what he's saying, I know it is not correct
17 everything he's saying because I have the transcripts from
18 that. My tubes were sealed, there were bearer numbers. I did
19 see these -- my particular coins put in my tubes, I was there
20 when they did it. A gentlemen by the name of Raymond Cadara
21 (phonetic), but when they did go to get these coins, they had
22 all been opened, it had all been taken out of these tubes and
23 had been put back in at some point. So, without getting into
24 all that, some of what he's saying is the truth on that, but
25 the other part is not. I only asked him for any documentation

1 to help us out. He could have -- we wouldn't even be in court.
2 I asked him to just send me some documentation in January, we
3 wouldn't be wasting the Court's time at this point. Unless he
4 wants to send me a letter saying I'm not going to do anymore,
5 if he wants to, that's fine, and I won't bother him anymore,
6 Your Honor. If he could just send me that thing on the 1128
7 from Christie's, that will be -- I'll leave him alone, you
8 know, if he could.

9 MR. MONZACK: I'm happy to provide Mr. Taft with
10 whatever I have regarding that sale that took place in December
11 of 1999, Your Honor, if that's what Your Honor would like me to
12 do.

13 THE COURT: I understand, you've given him everything
14 that you feel as though he's asked for up to now, we have one -
15 -

16 MR. MONZACK: I'm given him everything that I have
17 with regard to that second --

18 THE COURT: Okay. I'm just trying to put this to
19 bed. And when you receive whatever response it is that
20 Christie has given to Mr. Taft, and based on his
21 representation, you've heard the last of him. How's that?

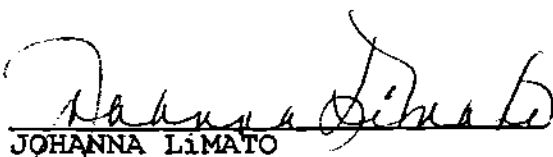
22 MR. MONZACK: Well, Your Honor, I had hoped to
23 finally resolve this issue.

24 THE COURT: Best wishes.

25 * * *

CERTIFICATION

I, JOHANNA LIMATO, certify that the foregoing is a correct transcript to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.


JOHANNA LIMATO

Date: April 27, 2000

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