

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

MAURICIO CHAVEZ, GIORGIO
BENVENUTO and CryptoFX, LLC,

Defendants.

CBT Group, LLC,

Relief Defendant.

CIVIL ACTION NO. 4:22-CV-03359

JUDGE ANDREW S. HANEN

**RECEIVER'S UNOPPOSED MOTION TO APPROVE PRIVATE SALE OF PERSONAL
PROPERTY AND TO EXPEDITE CONSIDERATION AND BRIEF IN SUPPORT**

John Lewis, Jr. ("Receiver"), the court-appointed Receiver for Mauricio Chavez ("Chavez"), Giorgio Benvenuto ("Benvenuto"), CryptoFX, LLC ("CryptoFX") and CBT Group, LLC ("CBT"), pursuant to the Order Appointing Receiver ("Receivership Order") [Doc. No. 11] files this Unopposed Motion to Approve Private Sale of Personal Property and to Expedite Consideration and Brief in Support, showing the Court as follows:

I. INTRODUCTION

1 On September 19, 2022, the United States Securities and Exchange Commission (SEC) filed a Complaint against Defendants Chavez, Benvenuto, CFX, and CBT, along with an application for the appointment of a receiver for the Receivership Entities. [Doc. Nos. 3 & 6]. On

September 29, 2022, the Court appointed John Lewis, Jr. to serve as Receiver over all the assets of the Receivership Defendants [Doc. No. 11].

2 The Receivership Order grants the Receiver various powers, including, but not limited to, the authority to “transfer, compromise, or otherwise dispose of any Receivership Property, other than real estate, in the ordinary course of business, on terms and in the manner the Receiver deems most beneficial to the Receivership Estate, and with due regard to the realization of the true and proper value of such Receivership Property.” Receivership Order at ¶ 35.

3 Pursuant to his responsibilities as a Receiver, the Receiver has taken control and possession of certain personal property owned by Receivership Defendant, Chavez, including a 2020 Volkswagen Tiguan (VIN: 3VV3B7AX4LM041309) (“Subject Vehicle”). *See* Receiver’s First Interim Report, Doc. No. 33; *see also* Receiver’s Second Interim Report, Doc. No. 50. The vehicle is part of the Receivership Estate and, as described below, may be sold by the Receiver upon the Court’s approval. *See also* Receiver’s Liquidation Plan, Doc. No. 47.

4 The Receiver is now prepared to proceed with the sale of the 2020 Volkswagen Tiguan with the goal of realizing the highest reasonable value for the personal property under the circumstances of this receivership.

II. ARGUMENT AND AUTHORITY

5 Where the administration of a receivership estate requires the sale of personal property, 28 U.S.C. § 2004, requires the Receiver to follow the general procedures outlined in 28 U.S.C. § 2001. Specifically, subsection (b) establishes the following procedures for a private sale of real and personal property:

(b) After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and

conditions as the court approves, if it finds that the best interests of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

28 U.S.C. § 2001(b)

6 Notwithstanding the processes outlined in section 2001(b), in overseeing equity receiverships, district courts have wide discretion in overseeing the sale of personal property. Accordingly, except in cases of abuse, appellate courts will not disturb the exercise of the district courts' discretion in setting the conditions for judicial sales or the confirmation thereof. *See Salaymeh v. Plaza Centro, LLC*, 258 S.W.3d 236, 240 (Tex. App. 2008); *see also SEC v. Safety Fin. Serv., Inc.*, 674 F.2d at 373.

7 The primary goal of a receivership is to provide a conduit through which assets can be held, liquidated and distributed to the particular beneficiaries of the receivership, in this case, thousands of investors that invested over \$300 million with Receivership Defendants. *See SEC v. Stanford Int'l Bank, Ltd.*, 927 F.3d 830, 840 (5th Cir. 2019). To that end, the Court has extremely broad powers and wide discretion to supervise the receivership and to determine the appropriate action to be taken in the administration of the receivership. *See SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986); *SEC v. Lincoln Thrift Ass'n*, 577 F.2d 600, 606 (9th Cir. 1978); *see also SEC v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (holding that a court overseeing a receivership is accorded "wide discretionary power" in light of "the concern for orderly administration") (citations omitted).

8 In light of the purposes and principles underlying the administration of this Receivership, and in an effort to minimize additional costs incurred by the Receivership Estate in disposing of the Subject Vehicle, the Receiver proposes the sale of the vehicle pursuant to the terms set forth below.

III. THE PROPOSED SALE MEETS THE REQUIREMENTS OF 28 U.S.C. §§ 2001, 2004.

9 As part of his duties, and pursuant to 28 U.S.C. § 2001 and 2004, and the Receivership Order, the Receiver requests that he be allowed to sell the Subject Vehicle through a private sale and that, in connection with the sale, the Court approve the proposed sale described herein.

10 The Receiver employed Michael Poutous Auto Sales to assist with the sale of the Subject Vehicle. *See also* Receiver's Liquidation Plan, Doc. No. 47.

11 On February 28, 2023, the Receiver entered into a contract with Maria Luisa Lemke to sell the vehicle for \$19,437.21, including costs. A copy of the contract is attached hereto as **Exhibit A**.

12 The contract for sale of the vehicle is the result of substantial arms-length negotiations between the Receiver and the proposed Purchaser.

13 Prior to entering into the contract, the vehicle was listed for sale for 7 days, with an asking price of \$18,995. The offer made by the proposed buyer is the highest offer received for the Subject Vehicle.

14 The Receiver requests that the Court declare title and ownership of said vehicle to the Receiver, free and clear of all liens and competing interests, and allow the Receiver to sell the vehicle via private sale on behalf of the Receivership Estate without notice by publication other

than by posting this motion on the Receiver's website. The Receiver will notify the Court promptly if he receives an offer at least 10% higher than the contracted purchase price prior to the Court's approval of the sale.

15 As required by 28 U.S.C. § 2001, the Receiver has considered the following three "appraisals" to arrive at the sales price:

- (a) The February 27, 2023 Vehicle History Report provided by Carfax placing a fair market value of \$22, 860 on the Subject Vehicle, a true and correct copy of which is attached hereto as **Exhibit B**.
- (b) The February 27, 2023 Manheim Market Report provided by Manheim placing a fair market value of \$22,800 on the Subject Vehicle, a true and correct copy of which is attached hereto as **Exhibit C**.
- (c) The February 27, 2023 Vehicle History Report provided by Kelley Blue Book placing a trade-in value of \$17,855 on the Subject Vehicle, a true and correct copy of which is attached hereto as **Exhibit D**.

16 These documents are sufficient to satisfy section 2001(b)'s appraisal requirements because each was provided by a party who is independent from the Receiver and has no interest in the proposed sale of the vehicle. The Receiver deems that said documents accurately reflect the value of the vehicle and save the Receivership Estate significant expenses and undue delay of the proposed sale.

17 As required by 28 U.S.C. § 2001, the \$19,437.21 sales price exceeds two-thirds of the appraised value. Moreover, selling the vehicle will allow the Receivership Estate to avoid additional expenses associated with maintaining the vehicle in the future.

18 Allowing the Receiver to liquidate the vehicle through the proposed private sale will most expeditiously further the goals of the Receivership and will result in additional funds being deposited into the Receivership Estate.

19 Additionally, because the proposed sale of the vehicle satisfies the prerequisites established by 28 U.S.C. § 2001 for the reasons described herein, the Receiver contends that the sale is in the best interest of the Receivership Estate and should be permitted to close as requested.

IV. REQUEST FOR EXPEDITED CONSIDERATION

20 The Receiver respectfully requests that the Court allow for expedited consideration and determination of this Motion.

21 The Receiver advises the Court that the SEC and Counsel for the Receivership Defendants do not oppose this Motion or the relief requested herein.

22 No party to this action will be prejudiced by a decision to shorten time for objections to be filed or a decision to expedite consideration of this Motion. Rather, doing so will ensure a timely sale of the vehicle, which will result in the resolution of the property interest for the Receivership Estate—these proceeds are needed to fund the ongoing investigation for cash and assets held by Defendants for ultimate payout to creditors of the Estate, including investors.

23 Pursuant to Local Rule 7, counsel for the Receiver has conferred with counsel for the Plaintiff SEC and counsel for Defendants Mauricio Chavez and Giorgio Benvenuto, and they do not oppose this Motion.

24 Therefore, the Receiver respectfully requests that this Court enter an order granting this unopposed Motion and approving the private sale of the 2020 Volkswagen Tiguan. A proposed order authorizing this request has been separately submitted to the Court in accordance with the local rules.

V. CONCLUSION

25 WHEREFORE, the Receiver respectfully requests that this Court enter an order granting Receiver's Unopposed Motion and approving the private sale of the 2020 Volkswagen Tiguan.

Respectfully submitted, March 1, 2023.

SHOOK, HARDY & BACON L.L.P.

By: /s/ Sonila Themeli

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Counsel for Court-appointed Receiver

CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that she has conferred with counsel for the Plaintiff SEC and counsel for Defendants Mauricio Chavez and Giorgio Benvenuto, and they do not oppose this Motion.

/s/ Sonila Themeli

Sonila Themeli

CERTIFICATE OF SERVICE

I hereby certify that on this the 1st day of March, 2023, the above and foregoing document was filed electronically through the CM/ECF system, which sent notification of such filing to all known counsel of record, addressed as follows:

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AND EXCHANGE COMMISSION
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***Attorney for Defendant,
Giorgio Benvenuto***

/s/ Sonila Themeli
Sonila Themeli

EXHIBIT A

BUYER'S ORDER

DATE: 2/28/2023

STOCK #: LM041309

BUYER INFORMATION:

MARIA LUISA LEMKE
10122 HRDGE WAY DR
HOUSTON, TX 77065
COUNTY: HARRIS
HOME: CELL: 832-876-5004 WORK:
D.L./STATE ID #: 09509595 STATE: TX EXP. DATE: 3/04/23
D.O.B.: 04/03/72

DEALER/SELLER INFORMATION:

MICHAEL POUTOUS AUTO SALES LLC
4601 KELVIN DR
HOUSTON, TX 77005
713-791-4203

SALESPERSON:

VEHICLE INFORMATION:

YEAR: 2020 COLOR 1: WHITE VIN: 3VV3B7AX4LM041309 STOCK: LM041309
MAKE: VOLKSWAGEN COLOR 2: STYLE: SE CYL: 4
MODEL: TIGUAN BODY: 4DR MILEAGE: 59029 TRANS: AUTO

TRADE-IN INFORMATION:

YEAR: COLOR:
MAKE: MILEAGE:
MODEL: BODY:
VIN:
BALANCE OWED TO:

BALANCE OWED: \$ 0.00 GOOD THROUGH:
ALLOWANCE: \$ 0.00 QUOTED BY:

SETTLEMENT

*The Dealer's Inventory Tax charge is intended to reimburse the dealer for ad valorem taxes on its motor vehicle inventory. The charge, which is paid by the dealer to the county tax assessor-collector, is not a tax imposed on a consumer by the government, and is not required to be charged by the dealer to the consumer.

REMARKS:

**A documentary fee is not an official fee. A documentary fee is not required by law, but may be charged to buyers for handling documents relating to the sale. A documentary fee may not exceed a reasonable amount agreed to by the parties. This notice is required by law.

Un honorario de documentación no es un honorario oficial. Un honorario de documentación no es requerido por la ley, pero puede ser cargada al comprador como gastos de manejo de documentos relacionados con una venta. Un honorario de documentación no puede exceder una cantidad razonable acordada por las partes. Esta notificación es requerida por la ley.

LIEN HOLDER INFORMATION:

COMPANY:
STREET:
CITY, STATE, ZIP:

INSURANCE INFORMATION:

COMPANY:
AGENT:
PHONE: POLICY #:

Dealer's Inventory Tax*: 34.96
Payoff on Trade-in: N/A

Documentary Fee**: 150.00

TOTAL DUE 19,437.21

TRADE-IN ALLOWANCE N/A
DEPOSIT N/A
DOWN PAYMENT 19,437.21

TOTAL CREDIT 19,437.21

☒ Cash ☐ Finance BALANCE DUE 0.00

If financed, please see your installment sales contract for information about finance charge, insurance, and terms of payment (other than cash).

WARRANTY DISCLAIMER: Unless Seller provides a written warranty, or enters into a service contract within 90 days from the date of this contract, this vehicle is being sold "AS IS - WITH ALL FAULTS" and Seller makes no warranties, express or implied, on the vehicle, and there will be no implied warranties of merchantability or of fitness for a particular purpose. This disclaimer does not affect any warranties by the vehicle manufacturer. Seller neither assumes nor authorizes any other person to assume for it any liability in connection with the sale of the vehicle and the related products and services.

CONTRACTUAL DISCLOSURE STATEMENT (USED VEHICLES ONLY) The information you see on the window form for this vehicle is part of this contract. Information on the window form overrides any contrary provisions in the contract of sale. Spanish Translation: Guía para compradores de vehículos usados. La información que ve en el formulario de la ventanilla para este vehículo forma parte del presente contrato. La información del formulario de la ventanilla deja sin efecto toda disposición en contrario contenida en el contrato de venta.

Buyer hereby declares that they are of legal age to transact business and that no unfair inducement has been made by Seller. This agreement and the related documents that Buyer signs contemporaneously with this agreement, including any retail installment contract, contain the entire agreement between Buyer and Seller and cancels and supersedes any prior agreement including oral agreements relating to the sale of the motor vehicle. Any change to this agreement must be in writing and Seller must sign it.

X  2/28/23
Accepted by Authorized Representative of Seller Date

X 2/28/23
Buyer Date

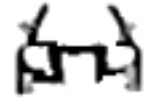
X N/A
Co-Buyer Date

EXHIBIT B

Here's how

CARFAX History-Based Value

Curious about how this was calculated?



2020 VOLKSWAGEN TIGUAN

VIN: 1W157ZG41M041309

[Change Car](#)
\$22,860
Retail Value ⓘ

[Shopping for a Used Car?](#)
\$21,200
Private Party Value ⓘ

[15 Records Found! Get the Report](#)
\$18,730
Trade-In Value ⓘ

[Get CASH Offers](#)

CONDITION

FAIR

GOOD

EXCELLENT

TRIM & OPTIONS

[Reset](#)

Select Trim

SE

Zip Code

77005

Mileage

59145

Select Color

White

Features

☐ Extended Moonroof / Sunroof

EXHIBIT C



Manheim Market Report

February 27, 2023 US Edition

2020 VOLKSWAGEN TIGUAN FWD 4D SUV SE

3VV3B7AX4LM041309

Base MMR
\$22,800Avg Odometer (mi)
39,166Avg Condition
4.2

MMR Adjustments

Odometer
59,045 mi • -\$2,220Region
Southwest • -\$30Condition Report
4.2 • \$0Color
White • +\$70Numbers may not add exactly due to rounding
** AutoGrade™ or Manheim Express GradeMMR Range
\$19,300 - \$22,000Adjusted MMR
\$20,600Estimated Retail Value
Based on Automotive Retail Transactions**\$22,900**

▼ Transactions Showing 25 of 39

Date ↓	Price	Odo (mi)	Grade	Eng/T	Ext Color	Type	Region	Auction
2/24/23	\$23,800	39,327	4.2	4GT/A	Silver	Regular	Southeast	Fort Lauderdale...
2/22/23	\$23,500	29,943	4.4	4GT/-	-	Lease	Midwest	myCentralAu...
2/21/23	\$19,900	74,882	4.4	4GT/A	Black	Regular	Southeast	Georgia
2/21/23	\$27,750*	20,951	4.9	4GT/A	Blue	Lease	Southeast	Orlando
2/21/23	\$24,250	14,483	5.0	4GT/A	-	Regular	Southeast	myCentralAu...
2/21/23	\$24,300	36,764	4.6	4GT/A	Gray	Regular	Southeast	Orlando
2/21/23	\$19,300	60,229	-	4GT/-	-	Regular	West Coast	Fresno
2/20/23	\$25,200	18,319	4.8	4GT/-	-	Lease	Southeast	myCentralAu...
2/17/23	\$17,800	63,709	4.1	4GT/A	Gray	Regular	Southeast	Fort Lauderdale...
2/16/23	\$20,000	58,474	4.3	4GT/A	White	Regular	Southeast	Atlanta
2/16/23	\$22,000	17,117	3.6	4GT/A	White	Regular	Southeast	Palm Beach
2/16/23	\$21,900	43,764	3.9	4GT/A	White	Regular	Southeast	Atlanta
2/16/23	\$15,600	68,292	2.7	4GT/A	Black	Regular	West Coast	Fresno
2/15/23	\$18,600	61,565	4.5	4GT/A	Black	Lease	Southeast	Central Florida
2/15/23	\$25,750	10,194	4.4	4GT/A	Black	Regular	West Coast	California
2/14/23	\$23,000	33,077	4.2	4GT/A	White	Regular	West Coast	Riverside
2/14/23	\$24,500	25,768	3.6	4GT/A	Blue	Regular	Southwest	Dallas
2/14/23	\$20,500	58,379	4.3	4GT/A	Gray	Regular	West Coast	Riverside
2/9/23	\$22,600	32,753	4.3	4GT/A	White	Regular	Southwest	Texas Hobby
2/9/23	\$24,250	23,676	4.6	4GT/A	Silver	Regular	Southwest	Texas Hobby
2/9/23	\$25,750	23,111	4.7	4GT/A	White	Regular	West Coast	Southern Cal...
2/9/23	\$20,000	58,464	4.4	4GT/A	White	Regular	Southeast	Palm Beach

* Transactions not in sample
Condition Reports from AutoGrade™ or Manheim Express Grade

EXHIBIT D



2020 Volkswagen Tiguan Pricing Report

Style: SE Sport Utility 4D

Mileage: 60,000

KBB.com Consumer Rating: 4.4/5

Trade in to a Dealer

Trade-in Range
\$16,752 - \$18,957

Trade-in Value
\$17,855



Valid for ZIP code 77005 through 02/27/2023

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SECURITIES AND EXCHANGE
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MAURICIO CHAVEZ, GIORGIO
BENVENUTO and CryptoFX, LLC,

Defendants.

CBT Group, LLC,

Relief Defendant.

CIVIL ACTION NO. 4:22-CV-03359

JUDGE ANDREW S. HANEN

**[PROPOSED] ORDER APPROVING RECEIVER’S UNOPPOSED MOTION FOR
APPROVAL OF PRIVATE SALE OF PERSONAL PROPERTY**

On February 28, 2023, John Lewis, Jr., the Court-appointed Receiver for Mauricio Chavez (“Chavez”), Giorgio Benvenuto (“Benvenuto”), CryptoFX, LLC (“CryptoFX”) and CBT Group, LLC (“CBT”), filed an Unopposed Motion for Approval of Private Sale of Personal Property. No objections were filed in response to the Receiver’s Motion.

Having considered the Receiver's Unopposed Motion and all exhibits in support thereof, as well as previous pleadings filed by the Receiver, the Court finds that the 2020 Volkswagen Tiguan (VIN: 3VV3B7AX4LM041309) is part of the Receivership Estate. The Court further finds that the Receiver has complied with all requirements necessary for the sale of the subject vehicle. Therefore, the Receiver's Unopposed Motion is hereby GRANTED.

Accordingly, IT IS HEREBY ORDERED that the Court approves the sale of the personal property as described in the Receiver's Unopposed Motion for Approval of Private Sale of Personal Property.

IT IS SO ORDERED this ____ day of _____, 2023.

JUDGE ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE