UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GEOFF WINKLER, as court-appointed Receiver for J&J CONSULTING SERVICES INC., ET AL.,

Plaintiff,

v.

Warren Rosegreen,

Defendant.

Case No.: 2:22-cv-00612-CDS-EJY

ORDER GRANTING DEFENDANT'S DAUBERT MOTION TO EXCLUDE RECEIVER'S PROPOSED EXPERT TESTIMONY AND FORENSIC ACCOUNTING ANALYSIS

Before the Court is Defendant **Warren Rosegreen** 's **Daubert Motion to Exclude Receiver's Expert Testimony and Forensic Accounting Opinions** (the "Motion") in the above-captioned case. Having reviewed the Motion, the accompanying briefing, the evidence, and arguments of the parties presented during the hearing conducted on **[Insert Date]** the Court hereby GRANTS the Motion for the reasons set forth below.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. **Rule 702 and Daubert Standard**
   Federal Rule of Evidence 702 requires that expert testimony be based upon sufficient facts or data, be the product of reliable principles and methods, and consistently apply those principles and methods to the facts of the case. **Daubert v. Merrell Dow Pharm., Inc.**, 509 U.S. 579 (1993), and its progeny further clarify that the court must ensure the testimony is both relevant and reliable.

2. **Receiver's Opinions Fail Rule 702's Reliability Requirements**
   After careful consideration, the Court finds that the Receiver's forensic accounting analyses, tracing methodologies, net-winner conclusions, and related recoverability determinations fail to satisfy the reliability and sufficiency requirements of Rule 702 and Daubert. The deficiencies identified include, but are not limited to:

   - Reliance upon **incomplete or reconstructed records**, which undermines the factual basis of the conclusions drawn.

- The use of **aggregate Money-In/Money-Out ("MIMO") calculations** as a substitute for individualized transfer-specific analysis, failing to account for value exchanged, good-faith defenses, offsets, credits, or prior settlements.
- The inability to reliably bridge the analytical gap between tracing of funds and legal conclusions of liability, recoverability, or entitlement to relief.
- Assumptions concerning knowledge, standing, and fraudulent intent that remain actively disputed, rendering the resulting analyses speculative.

3. **Improper Testimony on Legal Conclusions**
The Receiver's proposed testimony improperly includes opinions that direct or imply ultimate legal conclusions, including liability, fraudulent transfer status, recoverability, or standing under the applicable legal framework. Such testimony invades the province of the Court and factfinder and is therefore inadmissible under established Ninth Circuit precedent. See, e.g., **Nationwide Transp. Fin. v. Cass Info. Sys., Inc.**, 523 F.3d 1051, 1058-59 (9th Cir. 2008).

4. **Insufficient Individualized Transfer-Specific Analysis**
The Court finds that the Receiver's expert opinions rely disproportionately on generalizations and aggregate summaries rather than individualized analysis of the key factual and legal elements required to establish liability, recoverability, and equitable relief under the legal claims brought. Without such transfer-specific analysis, the conclusions presented are neither reliable nor probative.

5. **Rule 403 Concerns**
Even if portions of the Receiver's opinions were otherwise admissible under Rule 702, the probative value of such testimony is substantially outweighed by the danger of unfair prejudice, misleading the Court, and confusion of the issues under Federal Rule of Evidence 403. Presenting incomplete or speculative conclusions as expert testimony risks undermining the fairness of these proceedings while imposing improper evidentiary burdens on Defendants.

ORDER

Based on the foregoing findings of fact and conclusions of law, IT IS HEREBY ORDERED:

1. Defendant's **Daubert Motion to Exclude Receiver's Testimony and Forensic Accounting Analysis** is GRANTED.
2. The Receiver is prohibited from offering expert testimony regarding the following matters:
    - **Tracing Analyses and Net-Winner Calculations:** Including any conclusions regarding money-in/money-out summaries, tracing, or aggregate financial calculations suggesting liability or recoverability.
    - **Legal Conclusions:** Including opinions that characterize transfers as fraudulent, funds as recoverable, or Defendants as liable based upon financial records or forensic analyses.
    - **State of Mind:** Including testimony regarding intent, knowledge, good faith, or participation in alleged misconduct without evidentiary proof or proper factual foundation.

3. The Receiver shall not present forensic accounting reports, tracing exhibits, or related financial summaries as evidentiary proof of liability or entitlement to recovery absent independent, admissible evidence establishing the factual and legal elements of each claim.

4. **Daubert Hearing Findings:** The Court has determined that the Receiver's methodology and conclusions do not reliably apply accepted forensic principles to the specific facts of this case. Any further expert testimony by the Receiver must address:

   - Specificity in transfer-by-transfer analysis;
   - Proper consideration of defenses, offsets, settlements, and credits;
   - Verification of complete and accurate source records to confirm conclusions.

5. **Limitation on Scope of Expert Opinions:** Any remaining testimony by the Receiver must be confined to factual explanations regarding data collection and neutral reporting of computational outcomes. Opinions addressing liability, entitlement to relief, recoverability, or intent are excluded.

6. Defendant is awarded reasonable costs and fees associated with bringing this Motion under Federal Rule of Civil Procedure 54(d), subject to submission of a supporting memorandum of costs within **[insert deadline, e.g., 14 days]**.

7. The Court reserves the right to revisit these determinations should new evidence or arguments warrant reconsideration.

ADDITIONAL ORDERS

Pursuant to Rule 16 and to ensure orderly proceedings, IT IS FURTHER ORDERED:

1. The Receiver is directed to disclose and produce any and all supporting materials, including underlying workpapers, data reconciliation logs, transaction records, tracing methodologies, calculations, and assumptions relied upon in preparing the forensic accounting opinions. Failure to comply may result in sanctions or further exclusionary rulings.

2. Any further evidentiary challenges requiring judicial resolution shall be raised no later than **[insert date]** pursuant to scheduling constraints established in the Court's procedural order.

IT IS SO ORDERED.

DATED this **[Insert Date]** day of **[Insert Month, Year]**.

[Judge's Full Name]
UNITED STATES DISTRICT JUDGE