UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

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In Re:	)	Case No. 1:24-bk-10646-MB
	)	
SYNAPSE FINANCIAL TECHNOLOGIES, INC.,	)	Chapter 11
	)	
	)	Woodland Hills, California
Debtor.	)	Friday, August 30, 2024
_______________________________	)	10:00 a.m.

DEBTOR'S EMERGENCY MOTION FOR ENTRY OF AN ORDER: (I) AUTHORIZING THE CONTINUED USE OF ITS CASH MANAGEMENT SYSTEM; (II) AUTHORIZING THE MAINTENANCE OF CERTAIN PRE-PETITION BANK ACCOUNTS; AND (III) AUTHORIZING BANKS TO RELEASE ADMINISTRATIVE HOLDS AND/OR FREEZES ON THE DEBTOR'S PRE-PETITION ACCOUNTS

CHAPTER 11 STATUS CONFERENCE

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MARTIN R. BARASH
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Chapter 11 Trustee:

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Proceedings recorded by electronic sound recording; transcript produced by transcription service.

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WOODLAND HILLS, CALIFORNIA FRIDAY, AUGUST 30, 2024 10:00 AM

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(Call to order of the Court.)

THE COURT: All right. Thank you, Madame Deputy.

Good morning, everybody, or good afternoon if you're in a different time zone. Today is August 30th, and this is our 10:00 a.m. hearing in Synapse Financial Technologies.

Let me -- a couple of reminders. Number one, there is no recording of these proceedings permitted. The Clerk of the Court is maintaining an audio record. That is the only record, and the official record. There is no video, photography, screenshots, anything like that permitted.

Number two, when you speak, when it's your turn to speak, please say your name, and that way we get a good record of who is speaking at the hearing.

Third, I want to tell you that we're going to have a slight change going forward in our meeting technology. Up until now, we've posted an AT&T conference line in addition to Zoom. That will be discontinued after today. The reason it's being phased out is that the contract between the federal judiciary and AT&T for that conference line is about to expire. So I don't want a situation where folks unexpectedly dial in and find that the service is gone.

Now, if you've been connecting by telephone through the AT&T conference line, you will be able to continue connecting by telephone, but using the Zoom credentials, rather than the AT&T credentials. The Zoom credentials for each of our status conferences are available on the Court's web site, under the public calendar. You've got to look for my name, Barash, and look for the date of the hearing, and the calendar sheet where we list all the matters that are being heard that day has the Zoom credential information. Okay? It changes with each hearing. It changes with each day, quite frankly. But you can connect by telephone through Zoom going forward. Okay?

I think that's everything I want to say, and, if not, when I remember it, I'll let you know.

All right. Ms. McWilliams, you have the floor.

MS. MCWILLIAMS: Thank you, your Honor. This is Jelena McWilliams, the bankruptcy trustee for Synapse.

Since the last status conference on August 14th, my advisors and I have continued to facilitate the partner banks' reconciliation work. Since the last status conference, Lineage has begun making distributions of FBO funds, and is (indiscernible) report that it has distributed approximately 80 percent of the end users' funds it holds. Forty-nine million of the total 61,000,000 in FBO accounts has been distributed, according to Lineage, or commenced the distribution of.

AMG has also distributed approximately $3,000,000 in additional FBO funds. No additional demand deposit funds have been paid out by Lineage or Evolve, and Evolve and American Bank have not paid out any FBO funds to date.

Evolve and the trustee's team continue to make progress on Evolve's reconciliation work. As of this week, the MongoDB data transfer to Evolve is complete, thanks to the diligent efforts of the trustee's and Evolve's teams. Specifically, this process required extensive close cooperation between the trustee's advisors at B. Riley and Evolve's consultants at Ancora to successfully resolve several technical challenges of transferring a large amount of data and verifying data integrity.

I will defer to Evolve's counsel to speak in more detail about the bank's reconciliation progress and time line for distributions, but Evolve has continued to report to me that they expect to be able to begin making distributions approximately eight weeks after data collection efforts are complete.

AMG, Lineage, and Evolve have each submitted reports in their own words, with more details about each bank's reconciliation progress and distributions. I will defer to the banks' counsel to speak to these reports, but I encourage end users and fintech partners to read these reports and to respond to all partner banks' outreach and requests for information.

In particular, as I have mentioned in previous status conferences, certain partner banks are in need of additional information from fintech partners or end users to be able to make distribution. I urge all fintech partners to work efficiently to respond to partner bank outreach and their information requests to facilitate payments.

I also urge all end users to check their information in their fintech apps or web sites, and provide current bank routing and account numbers to receive payments or, in the alternative, current mailing address to receive paper checks.

Last week -- I also would like to comment on something, because last week Sankaet Pathak, the founder and former CEO of Synapse, made several public statements regarding a possible shortfall of FBO funds at Evolve. My partners and I have been aware of this information and views of Mr. Pathak, based on previous conversations and Synapse's records, and we continue to have open lines of communication with Mr. Pathak and other former Synapse executives regarding these and other topics related to the reconciliation. Although the immediate goal is enabling partner banks to pay out funds that are acknowledged to be property of the end users, my advisors and I will continue to investigate the sources of any shortfall, and pursue them to the extent we can.

I respectfully propose, subject to the preference of the Court, to submit my next status report in approximately two weeks, during the week of September 9th, and I would also like to encourage the counsel for the partner banks who are present on this call to give their updates as well, because there has been a lot of outreach to me from the end users, many of whom are, again, you know, a very, very dire situation with their funds, including active duty military who are being deployed, and won't be able to have access to their funds before they are deployed abroad. So I do urge the partner banks to be very transparent in their communication, either directly or to the counsel, in addition to their report.

Thank you, your Honor.

THE COURT: Okay. Thank you, Ms. McWilliams.

I just remembered what it was that I wanted to say. The Court, a week or so ago, issued an order setting some omnibus hearing dates, and those are all set in the afternoon, of certain dates on the calendar. I just wanted to make clear the Court's intention there was to set some omnibus dates for hearings that might need to be heard, other than these status conferences, and so that's what they're there for.

As I do in every Chapter 11 case, I set some omnibus hearing dates. If there is nothing to be heard, if there are no motions, applications, or anything to be heard at that time and date, then I'll simply take them off calendar, but that was the intention. Hopefully, that was clear to the counsel involved. All right?

Mr. Glenos.

MR. GLENOS: Chris Glenos, your Honor, of Bradley Arant Boult Cummings, counsel for Lineage Bank. Lineage has made substantial progress in its reconciliation efforts. Since the last hearing, Lineage has distributed approximately 49,000,000 in FBO funds to end users of Synapse.

These distributions to date are the result of a tremendous amount of work by Lineage, but there remains a lot of work to be done to complete the job. Lineage hopes and expects to make additional distributions in the weeks to come, as its reconciliation work continues.

THE COURT: Okay. Thank you.

And I'll just again note that Lineage provided a report in its own words that's attached to Ms. McWilliams' status conference report, and so I recommend that to everybody for more information, including, if I'm not mistaken, some information on if you get a -- unless I'm getting my reports mixed up, there was some information in there about how to identify a legitimate e-mail regarding distributions, which I think came up last time.

Ms. Stapleton.

MS. STAPLETON: Thank you, your Honor. Caroline Stapleton from Orrick on behalf of Evolve Bank and Trust. I want to thank the trustee for giving an update, and thank you again for the opportunity to provide status reports as an appendix to her reports.

Evolve did submit a status report this week. It contains information not only about why the reconciliation continues to be necessary that Evolve and Ancora are performing, but also an update on the progress that Ancora has made, and thanks again to the trustee's service provider, B. Riley, for working closely with the Ancora team to facilitate a very difficult data transfer of nearly 10 terabytes of data from Synapse to Ancora so they can continue the analysis portion of the reconciliation.

Again, the reconciliation is necessary because there are two critical pieces of information that Evolve needs in order to be able to distribute the end user funds in its possession, and that is who the end users are that are entitled to these funds, and the amounts of which they are entitled to receive, and to calculate those balances, the Ancora team is performing a three-step reconciliation, and step one is complete. That is the data collection step.

Step two is to analyze the data, both Evolve data, federal reserve data, and Synapse data, which was the subject of the collection efforts, to basically track the inflow and outflow of funds into and out of end users' accounts, Synapse brokerage end users' accounts as part of this program, and then to ultimately, step three, calculate what the actual true end user balances are, so that Evolve can pay out funds that it owes to those end users in the proper amounts.

And, again, I encourage everyone to look at the status update for more information. Thank you for the opportunity to speak.

THE COURT: All right. Thank you.

All right. Who else would like to be heard?

Mr. Gottfried.

MR. GOTTFRIED: Thank you, your Honor. Michael Gottfried with Elkins Kalt on behalf of Yotta Technologies.

Your Honor, again, we do appreciate these status conferences, and the trustee's continuing efforts. The trustee made a statement about hoping that she'd get the cooperation of the fintechs, and I can certainly say on behalf of Yotta that we are anxious to cooperate in any ways that we can, and if Ms. McWilliams has any questions, issues, needs for information from us, we're happy to provide that.

I would like to note with respect to the Evolve status conference report that they did include certain information and an e-mail from October from Yotta. There's been a lot that's happened since October, and that e-mail is certainly one that, in our view, does not present the situation as it is today. We're not looking to litigate this at a status conference, but I just wanted it to be clear that that e-mail we believe to be somewhat misleading in terms of Yotta's position.

THE COURT: I understand.

MR. GOTTFRIED: Thank you, your Honor.

THE COURT: Thank you, Mr. Gottfried.

All right. Who else would like to be heard?

All right. Joshua Nelson.

MR. NELSON: Thank you, your Honor. This is Joshua Nelson, end user for Yotta.

I had raised a question last week regarding if the funds that are still held up at Evolve are currently gaining interest. I'd like to have an update on that, please, and that's it. Thank you.

THE COURT: Thanks.

Is somebody able to respond to that? Yes, Ms. Stapleton.

MS. STAPLETON: Yes, your Honor. This is Caroline Stapleton, Orrick, on behalf of Evolve.

I did follow up on that, and can confirm that there are interest-bearing accounts at Evolve, and so, once the reconciliation is complete, Evolve is committed to paying interest as it owes under those agreements, based on the accurate balances, pending the reconciliation.

THE COURT: Okay. Thank you.

MR. NELSON: Can I respond to that, your Honor?

THE COURT: Sure.

MR. NELSON: Sure. Joshua Nelson, end user for Yotta. I just want to kind of point something out, and maybe somebody could shed some light on this, but it's our money that's been held up at Evolve currently, which is quite a substantial amount, is gaining interest, I'm sure some of that interest is going back to Evolve as well.

Would that be a conflict of interest as far as, you know, Evolve wanting to reconcile the accounts, knowing that, as soon as they reconcile the accounts, every single end user is going to pull out their money? So not only are they going to have a bank run, but they are now going to stop getting any interest on that money. Is that not a conflict of interest? Thank you.

THE COURT: Yes. So I'm going to -- yes, go ahead, Ms. Stapleton. Your hand is up. I'll let you --

MS. STAPLETON: Sure. Thank you, your Honor. Again, this is Caroline Stapleton, Orrick, on behalf of

Evolve.

So, at the very beginning of this process, I think back in late May, Evolve was proposing to send the end user funds in its possession to the trustee, to a third party, to try to understand how it would be possible to bring together all of the funds in the system, you know, pending a reconciliation.

It has not been Evolve's intent to hang on to these end user funds for the purpose of earning interest or any other purpose, but, at this point, Evolve is in possession of the funds, and has realized it has to perform the reconciliation itself in order to be able to determine who they belong to and in what amounts, but just responding to that statement.

THE COURT: Yes. And I think -- you know, Mr. Nelson, I think just sort of the rest of your question is probably something that you need to direct to a lawyer, in terms of what you might be owed. I think it's premature, because I don't think you know, I certainly don't know, what Evolve is going to do voluntarily, but, you know, the question of what they may owe you as a result of -- if anything -- as a result of this series of events, or who may owe you what, is a question that you're probably not going to get a satisfactory answer to from any of the lawyers representing any of the parties right now, and I would encourage you to try to seek, you know, legal advice on what your rights and remedies are from an attorney.

Mr. Gonzales.

MR. GONZALES: Thank you, your Honor. Jordon Gonzales, end user. Just got two questions. First, we were told eight weeks from data collection. Can we confirm, is the data collection completed or is it still ongoing?

THE COURT: Ms. Stapleton?

MS. STAPLETON: Thank you. Caroline Stapleton, Orrick, on behalf of Evolve.

Data collection is complete, and we are on track for that eight-week time line.

MR. GONZALES: All right. Thank you very much. And the second question is just a reiteration of the question from last week. If there is a shortfall, is there going to be any withholding of payment?

THE COURT: Ms. Stapleton, are you --

MS. STAPLETON: Your Honor, can I respond to that --

THE COURT: Yes. Yes, yes. Please.

MS. STAPLETON: -- or at least from Evolve? And this is Caroline Stapleton, Orrick, on behalf of Evolve.

Other bank counsel would have to speak to their positions, but what I can tell you from Evolve's perspective is that the purpose of this reconciliation isn't to find the right answer for Evolve. It's to find the right answer, and that's why Ancora has been engaged to do this work. Whatever Ancora finds are the balances owed by Evolve to end users Evolve will pay to end users.

THE COURT: Okay. Thank you, Ms. Stapleton.

Matt Walla.

MR. WALLA: Thank you, your Honor. Matt Walla, an end user. I have a question for Evolve. I believe they verified during the last session, in response to one of my questions, that there was a deficit before the Synapse brokerage. I just want to know if there was any additional information on the cause or the source of that deficit.

THE COURT: Yes, Ms. Stapleton.

MS. STAPLETON: Caroline Stapleton from Orrick on behalf of Evolve.

Yes. So that deficit is the subject of a commercial dispute that existed prior to the migration between Evolve and Synapse, and those issues have not been fully resolved, so they continue to be unresolved commercial dispute, and I really can't speak more to it than that, just to say that Evolve did set aside appropriate reserves to cover that dispute.

It was known prior to migration, and that's why Evolve increased the reserve balance required for the program, to cover that known deficit, and those funds are still set aside, and Evolve expects that most, if not all, of those funds will be appropriately distributed to end users following the reconciliation. And, again, that amount has been previously disclosed to this Court and the public. It's about $35,000,000.

MR. WALLA: Your Honor, do you mind if I ask one more follow-up question?

THE COURT: No, go right ahead. Yes.

MR. WALLA: So I guess my follow-up would be, if there was a deficit that you were aware of, how could the Mercury migration have taken place? Because, if there was a deficit pre that migration, wouldn't that essentially just be passing along the deficit to everyone else?

THE COURT: Yes, go ahead, Ms. Stapleton.

MS. STAPLETON: Thank you. Caroline Stapleton from Orrick on behalf of Evolve.

So that concern is exactly why Evolve increased the reserve requirements and ensured that that reserve account received the additional funding. So the 35,000,000 that is set aside as reserves now actually exceeds the expected deficit that was identified prior to the migration.

THE COURT: All right. Thank you, Mr. Walla.

MR. KRAUSE: Your Honor, may I also respond to the question by the last questioner?

THE COURT: Yes. Yes, Mr. Krause.

MR. KRAUSE: Thank you, your Honor. Jeffrey Krause of Gibson, Dunn on behalf of Mercury Technologies.

UNIDENTIFIED SPEAKER: Recording stopped.

I think it is incredibly important each time somebody raises this question of whether --

UNIDENTIFIED SPEAKER: This call is being recorded.

THE COURT: Okay. Could you stop right there.

MR. KRAUSE: Yes.

THE COURT: Whoever is trying to make their own recording, you need to stop now.

I don't know where that --

MR. KRAUSE: Your Honor, should I --

THE COURT: Did you see where that was coming from?

MR. KRAUSE: Should I proceed or --

THE CLERK: I think it was the telephone number ending in 800.

THE COURT: Okay. Hold on.

MR. RYBAK: That was me. That would be my phone. I didn't press "Stop."

THE COURT: Okay. I want to reiterate that no one but the courtroom deputy should be recording these proceedings. Please stop the recording now.

UNIDENTIFIED SPEAKER: Recording stopped.

THE COURT: Thank you.

All right. Go ahead, Mr. Krause.

MR. KRAUSE: Thank you, your Honor. The funds that were held for Mercury end users were at all times, at all relevant times to the migration, in a separate FBO account. They were not in the same account with the other funds, so that the movement of funds from the FBO account that was administered by Synapse for the benefit of Mercury's customers to an FBO account administered by Mercury for the benefit of its customers could not have moved money, did not move money, from any other accounts at Evolve, including the FBO account that may now be short.

And so, each time somebody tries to question the Mercury movement of money, I think they're missing the key point that the movement of money for Mercury's end users, which is still in accounts for Mercury's end users, not Mercury, was from a separate account, completely segregated from the accounts that are now being reconcile, and cannot have impacted a shortfall in the accounts that are being reconciled, because they weren't the same account.

THE COURT: All right. Thank you.

Adam Moelis.

(No response.)

THE COURT: There's a hand up from Adam Moelis. If you want to be heard, you need to unmute yourself in

Zoom. If you don't want to be, you can put your hand down.

All right. Anthony Serino. All right. Hand down from Anthony Serino.

Ms. Caliguire.

MR. SERINO: Sorry, your Honor. Anthony. I was stuck on mute, and I just hit the wrong button. Thank you for the opportunity.

Just to follow up briefly on the Mercury point, would the counsel for Mercury be willing to support evidence to, you know, prove that FBO structure and movements to the trustee, and just put this to rest? You know, I think a lot of claims are being made, but no evidence is being provided.

I have a couple points to maybe lift them up, and then await responses.

THE COURT: Well, I'm going --

MR. SERINO: All right.

THE COURT: I'm going to take a stab at this. I think that -- and this is just as an observer. Okay? I'm not one of the parties. But, as a judge who kind of sees this stuff all the time, as you -- as your questions get closer to the things that are the subject of potential litigation, you're going to start to hear from people their competing versions of what the facts are, and you're probably not going to get satisfying answers. It just is just my friendly observation.

I can start to hear it when the lawyers start chiming in with "Hey. I need to tell my side of the story." There are disputed versions of what happened here, and, you know, while I'm hoping and encouraging as much money to get back to people as possible, at some point, that effort is going to dry up, and there may be a shortfall, and what may be left is litigation.

So, anyway, you know, take that for what it is, you know, sort of an uninvited observation, but I just think that's what you're beginning to hear. You're beginning to hear competing versions of what happened, and I don't think you're going to get all of your questions answered by these lawyers. I don't think some of these questions are going to be known until the reconciliation process is done, and, if the results are not satisfactory, until there's some amount of litigation.

MR. SERINO: Okay. I understand that. It just seems like a fairly simple exercise to dispel the rumors, if they are indeed rumors, just, you know, evidence that --

THE COURT: All right. Well, anybody else that would like to chime in in response to Mr. Serino is welcome to.

MR. KRAUSE: Your Honor, if I may, very briefly, again --

THE COURT: Sure, Mr. Krause.

MR. KRAUSE: -- on behalf of Mercury? Mercury and the trustee have cooperated with each other. The trustee is not the party that keeps asking about Mercury's movement of money. That's individual end users who I believe have been -- at some level, the question has been raised in their minds because Synapse made comments early on in the process, but I can assure all parties and the Court that we have cooperated with the trustee, we will cooperate with the trustee, and if the trustee has any questions about our process that have not already been answered in what we've already provided, we're more than happy to continue to cooperate with the trustee.

THE COURT: Thank you, Mr. --

MR. SERINO: Thank you.

THE COURT: Thank you, Mr. Krause.

Ms. Caliguire. Okay. Your turn.

MR. SERINO: I'm sorry. I had one more follow-up question for Ms. McWilliams.

THE COURT: Okay. I guess it's not your turn.

Mr. Serino, one more. Go ahead.

MR. SERINO: Ms. McWilliams, you've referenced several times that there are fintech partners that have been nonresponsive. Can we -- can you disclose who they are? Can that be made public so that, you know, the end users know the fintech that we have an agreement is not responding, so that we can follow up with them?

MS. MCWILLIAMS: Sure. I'd like to defer all the difficult questions to my counsel, Alex.

MR. GERTEN: Sure. This is Alex Gerten from Cravath on behalf of the trustee.

So I think, to get the exact list, we would have to speak with the partner banks that are in the process of making distributions. I feel comfortable saying on the call that the very large fintechs with the most money on -- or intermediated through the Synapse system, I think, have been responsive. I think it's largely smaller ones, with smaller dollar amounts. If any of the banks disagree with that, their counsel should feel free to chime in, but I believe that's correct.

I would need to consult with the banks before giving any sort of commitment on publicly disclosing names of fintechs that have not been cooperative, and, you know, would like to, you know, give those companies the opportunity to respond before, you know, putting them out there without -- or putting their names out there without having made sure in each case, from the perspective of the trustee, that they actually haven't been responding to inquiries.

But I think that's where it stands. I think it's mostly -- you know, you've seen the trustee's -- the reports, for example, that there's, you know, certain amounts sitting in DA accounts that are undistributed, or small amounts that -- relatively small amounts that have not been distributed by AMG. I think it primarily relates to those, to those particular fintechs.

MR. SERINO: Okay. That --

MS. MCWILLIAMS: And, Alex, are we able to give a --

MR. SERINO: -- in context. Thank you.

MS. MCWILLIAMS: Yes. And I apologize to interrupt, but this is Jelena Williams, the trustee.

Alex, are we able to give the number of the smaller fintechs that have not been responsive, like --

MR. GERTEN: Yes, I think we can do that. I don't know it off the top of my head.

MS. MCWILLIAMS: And if the individual banks maybe have that data, maybe just tell the number of the fintechs, but they are very small. They're not large holders of end user funds.

THE COURT: And I noticed in the report that you referred to one of them being out of business, maybe, or did I misunderstand that?

MS. MCWILLIAMS: Your Honor -- no, no, you did not, your Honor. You're absolutely correct. Needless to say, the Synapse and the end user funds accessibility has been really difficult, not just for the end users, in terms of accessing their money and getting their bills paid, but also a number of fintechs that have acquired significant costs in this process, and I can't speak for any fintechs individually, but I wouldn't be surprised if, for some of them, that was a breaking moment. So, yes, at least one is, we believe, inoperable.

THE COURT: All right. Thank you.

All right. Mr. Serino is muted. I'm assuming you're good.

All right. Ms. Caliguire, thank you for your patience. Sorry for the false starts. Go right ahead.

MS. CALIGUIRE: Okay. Andreatte Caliguire, end user. I want to thank you again for your time. Also, I wanted to let everyone know that a couple of us do ask questions on behalf of some other folks who can't be here because of work, and not just their own personal questions, but a lot of them are from collective groups.

Mainly to Evolve, at our last hearing, you had committed to giving more frequent updates, working on, you know, updating, possibly, the web site link to make it a little simpler to follow or to track down. When you look on the web site, it's been two weeks since the last update. So, in between hearings, we really have no updates at all, and the update that is up there is terribly generic.

It would be helpful to know how far along you're in the process, whether it's X amount of accounts or this amount of accounts, or percentage, or something, but, again, a lot of us are waiting not just for an update, but also for clarity, you know, as we try to combat fraud and other, you know, things that we're dealing with right now.

So I have some -- a few other folks who have received fraudulent e-mails. You know, it seems that there's some preying going on because of this issue. So we want to understand where you're at, so we can make sure what we're opening and what we're reviewing is not fraudulent and valid. So can you give us an update on when we can expect more frequent updates and, potentially, an easier web site to navigate to?

MS. STAPLETON: Yes. This is Caroline Stapleton, Orrick, on behalf of Evolve.

Thank you for raising this. I will take that back, and we will make sure that there is a new update on the web site very shortly. I will take this back to the client, but I will ask them to aim for early next week for a new update on the web site, at the latest.

MS. CALIGUIRE: And then, when you said that the data jump is complete, can you discuss what date that happened, so we can back the eight weeks into it and understand what we're looking at for a time line?

MS. STAPLETON: Yes. This is Caroline Stapleton, Orrick, on behalf of Evolve.

The data collection was complete as of August 23rd.

MS. CALIGUIRE: And then one other question that was out there was, when this is complete, in the event that one of us may dispute the amount that you settle with, as you go through this process, are you coming up with a process during this to handle those should they arise, or is it going to be, you know, there's a distribution, there could be issues, and we're having to start with a (indiscernible) process to resolve that?

Is that something that you can do along with this so, when you're ready to fire and send money, if something comes up, there some process that already exists that people can follow to -- you know, whether it's file a dispute or speak to somebody? There's just been so many delays. I'd hate for us to get to that point and then have to start again, then wait another four, six, eight, 12 weeks to figure out how to resolve something that has come up. Thank you.

MS. STAPLETON: Thank you. This is Caroline Stapleton, Orrick, on behalf of Evolve.

Thank you for that feedback, and it's feedback like that -- we take it very seriously. We think about it, how we can have multiple tracks happening at one time to plan for the distributions, and that is certainly, you know, part of that multiple track that reconciliation is ongoing, but, also, how do we make sure that distribution is facilitated in a way that is timely, but also confirms the accuracy of everyone's identities? All of these considerations are being discussed in parallel.

THE COURT: Okay. Thank you.

Greg Lerner.

MR. LERNER: Hi. Thanks a lot for taking the time. My name is Greg Lerner. I'm an end user of Yotta.

I just have a question on the chronology of my account. So, when I initially signed up for Yotta, I do have a user agreement with Evolve, direct deposits, and my debit card was issued by Evolve -- or, sorry, direct deposits for specifically with a routing number to Evolve. I got an e-mail on my information being leached with a data breach. I'm just curious, when was my account closed, and why wasn't I notified?

THE COURT: Ms. Stapleton?

MS. STAPLETON: Thank you, your Honor. This is Caroline Stapleton, Orrick, on behalf of Evolve.

Mr. Lerner, thank you for your question. I would encourage you just, when we're talking about specifics of your account, to reach out directly to customer care at

GetEvolved.com, so that we can -- and I will make a note of your name and understand -- you know, pass along this contact, so that that can be already in the bank's possession for that conversation, but I can't talk about specifics of any individual end user's account in this public forum. But please, you know, reach out, and we will discuss your specific account with you one on one.

MR. LERNER: Got it. Thank you. Just in generalities, just a follow-up, when were accounts closed?

MS. STAPLETON: This is Caroline Stapleton, Orrick, on behalf of Evolve.

Again, accounts -- I can't speak to any particular end user's account or any closure date, but many accounts are still open, and that's the purpose of the reconciliation, is to determine what funds, if any, are in those accounts at Evolve, so that Evolve can make the distribution.

So it may be that your account at Evolve continues to be open. It may be that it was closed at some point. I just can't speak to that on an individual level because, number one, I don't have your information available directly to me, but, also, even if I did, I couldn't discuss that with you here on this forum. But some accounts remain open, and the purpose of the reconciliation is to determine which accounts at Evolve have funds that need to be distributed.

MR. LERNER: Understood. Thank you. When I do call Evolve customer service, they tell me to speak with Yotta or Synapse, because they say I do not have an account.

THE COURT: Okay. I am just going to note that, and I will follow up on -- so thank you for that feedback.

MR. LERNER: Thank you.

THE COURT: And, Ms. Stapleton, in case you didn't notice, I see Ms. Caliguire nodding. So I'm inferring that Mr. Lerner is not the only one who's heard that.

MS. STAPLETON: I'll pass that along as well, your Honor.

THE COURT: So make sure you catch that. It sounds like maybe more than an isolated incident.

MS. STAPLETON: Okay.

THE COURT: All right.

MS. STAPLETON: Thank you.

THE COURT: Mr. Lerner, anything else?

MR. LERNER: Can I ask a follow-up? Yes. Thank you. I just have a -- and I apologize. Undoubtedly this was already asked, but can you comment on if there was any discrepancy with the Mercury -- when Mercury left? Because there's been some public reports on a big discrepancy with the balances in Mercury. Can you comment on any truth to that report or, in general, with any discrepancies with the banks and Mercury?

MS. STAPLETON: This is Caroline Stapleton with Orrick on behalf of Evolve.

I can say that we are definitely aware of those claims, you know, particularly from the former CEO of Synapse. That's something that we are researching, to make sure that, if there is any discrepancy, that we are aware of that, but no, we're aware of those claims.

MR. LERNER: Got it. But no comment on the validity, or if anything has been verified?

MS. STAPLETON: No comment on the validity or if anything has been verified, because that's something the bank is looking into actively.

THE COURT: All right.

MR. LERNER: Okay. Thank you.

THE COURT: All right. I understand that David Ryback wanted to speak, and his hand -- he's unable to raise his hand. So, for some reason, somehow, he got a message to my staff.

So, Mr. Ryback, you want to speak?

MR. RYBACK: Yes. Yes. Thank you, your Honor. Apologies about the recording being initiated before. That was me. The instructions on the Court's web site said to enter star, nine, to raise your hand on the telephone, but, inadvertently, I was beginning the recording.

THE COURT: I see.

MR. RYBAK: So my name is David Rybak -- sorry, your Honor.

THE COURT: Go ahead.

MR. RYBAK: So my name is David Rybak. I'm an attorney with Cohen, Tauber, Spievack and Wagner in New York City. I represent a number of fintech clients who will be coming forward in due course.

I wanted to thank AMG Bank and Lineage Bank, who have and continue to work with the fintechs, and have reconciled data with them, and are paying us customers. In contrast, Evolve and its CEO, Scott Lenoir, are involved in a process that we believe is suspicious and designed to delay paying customers the money they are owed.

As background, Evolve, under Scott Lenoir, has a regulatory record. There's been a recent FDIC order restricting them from making certain wire transfers. Evolve has experienced a serious data breach, and Evolve agreed to make payments to customers it discriminated against as part of a regulatory investigation and settlement.

Now, somehow, Evolve and Mr. Lenoir expect us to believe that the other banks are wrong in their reconciliation process, and Evolve, which still can't tell us when they are going to be done, is right. My clients don't believe Evolve. In fact, we know that Mr. Lenoir refused to work with fintechs and former Synapse employees, unlike the other banks.

To that end, I have several questions for Evolve's counsel, if your Honor would let me ask those questions.

THE COURT: Well, I have to say, Mr. Rybak, it sounds like you represent folks that have -- or about to initiate litigation, and I'm not sure this is the right forum for that kind of adversarial confrontation.

MR. RYBAK: Your Honor, I've discussed with my clients, and we're not currently contemplating initiating litigation at this time. Just, we wanted to, you know, get -- they wanted to get answers to their questions, and I believe this is the proper forum for them to try to, you know, get those questions -- or get answers to their questions.

THE COURT: Well, all right. Why don't you go ahead, but I'm not going to -- you know, this is -- let's see what your questions are, and let's see if folks are willing to answer them. So go ahead.

MR. RYBAK: Thank you, your Honor.

So why has Evolve ignored the specific information on line to demonstrate their deposit shortfall?

THE COURT: Ms. Stapleton?

MS. STAPLETON: Thank you, your Honor.

MR. RYBAK: I can continue and ask them all -- sorry.

MS. STAPLETON: Your Honor, I'd be happy to answer that. This is Caroline Stapleton, Orrick, on behalf of Evolve.

First, I will say that I do not think this is the appropriate forum to discuss allegations like what I imagine -- what this question is, and what I imagine the other questions are going to be, which is questions, but they're basically a disguise for allegations that belong in a different forum. But I will answer that question. Evolve is considering every piece of information that it sees that might be relevant to the situation, including tweets from the former CEO of Synapse talking about allegations related to the shortfall. Evolve looks at all of this information, and considers it and researches it in due course.

THE COURT: Thank you.

Mr. Rybak.

MR. RYBAK: Thank you.

How is it that Evolve reports holding only 46,000,000 in funds, when their general ledger shows that it's currently in possession of over $100,000,000?

THE COURT: Anyone want to -- yes, Ms. Stapleton.

MS. STAPLETON: Thank you, your Honor. Caroline Stapleton, Orrick, on behalf of Evolve.

Orrick (sic) is holding 46,000,000 in end user funds related to the Synapse brokerage program.

THE COURT: Ms. Stapleton.

MS. STAPLETON: Pardon.

THE COURT: Orrick is your law firm. Are you holding any funds?

MS. STAPLETON: Sorry. I'm sorry. Pardon me. It's not Orrick. Thank you, your Honor.

THE COURT: Yes.

MS. STAPLETON: Evolve. Evolve, to be clear, is holding $46,000,000 in end user funds belonging to Synapse brokerage end users as a result of payment processing activities that Evolve did in connection with the transition of certain fintech platforms away from the program and to the Synapse brokerage cash management program. That is different than all funds held by Evolve. This is one program that Evolve has, and one set of deposits that Evolve holds.

THE COURT: Okay. Mr. Rybak, I'll give you one more. My rule of thumb is about three, three follow-ups or three questions.

MR. RYBAK: Thank you, your Honor. Thank you, your Honor.

We would just like to understand, what is different from the Evolve reconciliation process that the other banks have not done, and what additional information and data that the other banks did not believe was necessary that Evolve believes is necessary to complete the reconciliation process?

MS. STAPLETON: This is Caroline Stapleton from Orrick on behalf of Evolve. I can't speak to the other banks' reconciliation processes, what they're doing, what they're not doing, what data they're using, what data they're not considering. What I can say is that Evolve is using all of the data that Evolve and Ancora -- and Ancora is a world-class firm with significant experience in complex reconciliations -- all of the data, information, and processes that Ancora believes are necessary to perform a reconciliation of this size, and we're talking about nearly 10 terabytes in data from Synapse alone, as well as all of Evolve's transaction data, compared with the federal reserve transaction data. All of this comes together to track the flow of funds at the end user level, at the transaction level, in and out of Evolve accounts across the time period from the migration to the time when the last letters were provided, and so that's what the exercise is, and it unfortunately takes time, and I know everyone is frustrated with that, but the amount of time that it takes just simply is a fact of the size of this and the complexity of the number of transactions and end users.

THE COURT: Okay. All right. Thank you.

Sheryl Bollinger.

MS. BOLLINGER: Thank you, Judge. Sheryl Bollinger with AMG National Trust.

I just wanted to respond to an earlier question about the responsiveness of the platforms, and say that all the platforms that we have paid out for have been very responsive, and the platforms that we are currently making payments for their end users are being very responsive. The couple that are not being quite as responsive have small balances at AMG, and have larger balances assigned to them at other banks. So, if AMG is currently processing for your platform, that platform is being very responsive right now.

THE COURT: Thank you, Ms. Bollinger.

MS. BOLLINGER: Yes.

THE COURT: All right. Steve Massis.

MR. MASSIS: Thank you, Judge. That's actually a good segue to -- I'm Steve Massis.

THE COURT: I'm sorry. Can you speak up a little, Mr. Massis? I'm having a hard time hearing you.

MR. MASSIS: Yes. Let me -- I'm sorry. Let me turn up my mike. Is that better?

THE COURT: Yes. Thank you.

MR. MASSIS: Okay. Thank you, Judge. Steve Massis representing Triple2.

We're a fintech. We were working with Synapse as well. We have end users calling us constantly asking where their money is at. We've been -- along the same lines of what the previous caller was talking about, we have been trying to get hold of Lineage to see what's going on with the money, and no response.

I e-mailed Ms. McWilliams after the last hearing. She was kind enough to put me in contact with the acting CEO of Lineage, and I've sent three e-mails since the last hearing, with no response.

So it doesn't matter if there's 10 dollars in the account or 20,000 in the account for a holder. Somebody needs that money, and we were fortunate enough early on to be able to get some of the money out, but we have a small sum of holdings left in those accounts, and e-mail back. Just let us know.

THE COURT: Okay. I'm sorry.

MR. MASSIS: Are you working on it? Do you need help reconciling?

THE COURT: Can you say who you've been --

MR. MASSIS: It's --

THE COURT: Can you say who you've been e-mailing, so that --

MR. MASSIS: Yes, I can. I could give you the dates as well.

THE COURT: No, no, just -- I think -- Mr. Glenos, why don't you -- this is really your issue. I'll let you ask what you need --

MR. MASSIS: Carl and Sean (phonetic). Carl and Sean are the ones we've been e-mailing.

THE COURT: Okay. Yes.

Mr. Glenos?

MR. GLENOS: Yes. Mr. Massis, Chris Glenos of Bradley for Lineage Bank. I apologize you're having that issue. It certainly is the intent of Lineage to respond to all inquiries, and I'm sorry yours has not been responded to. As you might expect, the bank has been inundated by, you know, the stressed users and platforms. You've given me the names that you sent the e-mails to. I will confer with my client and make sure we get a response out to you as soon as possible.

MR. MASSIS: Sure. And if it was just a month of e-mails, I could understand, but we've been trying to get hold of Lineage Bank since May, and we haven't been able to do so.

THE COURT: Okay. Well, I think Mr. Glenos is at the Bradley Arant firm, and maybe you should reach out to him directly, and he'll facilitate. All right? You can -- I'm confident Mr. Glenos' e-mail is on his web page.

MR. GLENOS: Absolutely.

THE COURT: Yes. Okay.

Mr. Lerner, Greg Lerner.

MR. LERNER: Hi. Sorry. I was on mute.

THE COURT: No worries. No worries.

MR. LERNER: Thanks for calling on me again. I just have one more follow-up with Evolve. Can you comment or explain if you guys have daily reconciliations of account balances with your partners, and, if so, why wasn't a discrepancy caught in one day? Thank you.

THE COURT: Okay. I'm sorry. Who is that -- which was that directed --

MR. LERNER: I was asking Evolve.

THE COURT: Thank you. Okay.

MS. STAPLETON: I think that's at me, your Honor.

THE COURT: Okay. Ms. Stapleton.

MS. STAPLETON: Caroline Stapleton, Orrick, on behalf of Evolve.

Mr. Lerner, my understanding is that Evolve does do daily reconciliations with its partners. This situation was extremely unusual. This was a wind-down of a program that -- a relationship that had been in existence for a long time, and Evolve had taken on a new role to facilitate the transition away from the program. So these are unique circumstances, but yes, my understanding is that Evolve does daily reconciliation with all of its fintech partners.

MR. LERNER: Got it. Then there should be a day that we can just go back and history and see when it aligned and when it broke, if there's daily reconciliations, or what am I missing?

MS. STAPLETON: Your Honor, this is Caroline Stapleton, Orrick, on behalf of Evolve.

Yes, I think exactly that's -- the reconciliation is going to look into exactly when discrepancies arose, what those discrepancies were, and how they impacted the account balances of end users.

MR. LERNER: Got it. And I'm sorry. Just the last of all. I'm just trying to understand, just very simply, if there's daily reconciliations that we can look at. We're talking three-plus months of delays now without any updates. Why can't we just simply look at when there was no discrepancy, and then go to the following day when there was, if there's daily records that we can reference?

THE COURT: All right. I'm going to let Ms. Stapleton try to answer that, but, when I start hearing the same question over and over, I feel like it's time to move on.

Go ahead, Ms. Stapleton. Do you have anything to add?

MS. STAPLETON: Yes. Thank you, your Honor. It's Caroline Stapleton, Orrick, on behalf of Evolve.

And maybe -- you're probably going to not be satisfied with this answer, Mr. Lerner, because it's the same as I just gave, but that's what the purpose of the reconciliation is, to determine where the discrepancies arose, how much those were, and where those are located within the Synapse ecosystem, so that the bank can have true balances that it will pay out on.

MR. LERNER: Got it. I mean, yes, not an answer, because the theory -- the (indiscernible) theory is not actual daily reconciliations, but I guess -- thank you.

THE COURT: Okay.

MS. STAPLETON: Okay. Thank you.

THE COURT: Thanks.

All right. Is there anyone new that wants to be heard?

(No response.)

THE COURT: Okay. We will -- in accordance with the trustee's recommendation, which I accept, we'll have another status conference on September 13th at 10:00 a.m. All right?

And if that works out for you, Ms. McWilliams?

MS. MCWILLIAMS: Just a moment, your Honor.

THE COURT: Yes.

MS. MCWILLIAMS: September 13th. Yes, it does, your Honor.

THE COURT: Okay. At 10:00 a.m. Pacific?

MS. MCWILLIAMS: It does, yes. Thank you.

THE COURT: All right. We're going to -- we got a late hand up. I'm going to squeeze in one last question from Yung Chuan.

MR. CHUAN: Hello. Can you hear me? Okay. Thank you, Judge Barash. Hi. My name is Tony. I'm a Yotta user, and this question is for Evolve.

So my understanding is that all funds that were with Evolve were frozen on May 11th because Evolve did not agree to ACH processing, per what's written on the Yotta web site, and my question is, is that for all sort of funds? Because I'm sure my account is with -- well, with Evolve, under Yotta, and my account still had movement of funds on May 15th.

Specifically, that was to do with a Yotta credit card bill payment, and the credit card itself was actually under Evolve, you know, and so that debited funds from my account to pay for a credit card, both of which, the account and the credit card, are with Evolve under Yotta. However, my attempted withdrawal of funds on May 14th was blocked. So how it is possible that search and movement was still -- movement was still made to my account in that way, if that made sense?

THE COURT: Yes. Ms. Stapleton?

MS. STAPLETON: Thank you, your Honor. Caroline Stapleton, Orrick, on behalf of Evolve.

Thanks for raising this question. I don't know how that's possible. I can tell you that Evolve froze account activity on May 11th as a result of being denied access to the dashboard, which is a critical system that was set up as a portal, essentially, between Synapse and Evolve to track the details of end users' accounts and transactions. So that was what precipitated the account freeze, but, at the same time, you know, I've written down the details of what you said, and I will communicate that back to my client and make sure that they look into that.

THE COURT: All right. Thanks.

MR. CHUAN: Thank you. It's not that I don't want to pay for the credit card bill. It's just, it's weird that certain movements were made and I couldn't make a move for myself. But thank you.

MS. STAPLETON: Thank you.

THE COURT: Okay. All right. I want to thank everybody for their participation, and we'll see you again in two weeks, and I want to remind all of the professionals and all of the executives that are listening in today, please, to keep these folks in the forefront of your minds. They are continuing to suffer.

Although I understand, in the last couple weeks, a very substantial amount of money was moved out and on to people, there's still so much unaccounted for. So please keep up the work. Anyway, that's -- just please keep them in mind.

All right. This court is adjourned. Thank you.

(Proceedings concluded.)

I certify that the foregoing is a correct transcript from the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Holly Steinhauer — 10-31-24

Transcriber — Date