

NO. D-1-GV-08-001572

STATE OF TEXAS,
Plaintiff

v.

ESQUIRE TITLE, LLC,
Defendant

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

261st JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S APPLICATION FOR AUTHORITY TO USE
ELECTRONIC SERVICE OF PLEADINGS AND NOTICES**

TO THE HONORABLE JUDGE OF SAID COURT:

Comes now Cantilo & Bennett, L.L.P., Special Deputy Receiver of Esquire Title, LLC (the “SDR” and “Esquire” respectively), and files this *Application For Authority to Use Electronic Service of Pleadings and Notices* (the “Application”).

I. INTRODUCTION

1. The SDR seeks Court authority to serve pleadings and notices in this receivership by email because it will save the estate money and provide for timely service to parties at interest. The SDR further requests authority to serve certain pleadings and notices, at its discretion, by any other means authorized by TEX. INS. CODE ANN. §443.007, the Texas Rules of Civil Procedure or other order of this Court.

II. BACKGROUND

2. Esquire was placed in receivership in this proceeding on July 22, 2008. The Court entered a Permanent Injunction and Order Appointing Permanent Receiver on July 22, 2008, appointing the Texas Commissioner of Insurance as Permanent Receiver. The Receiver designated Cantilo & Bennett, L.L.P., as SDR of Esquire effective as of September 15, 2008.

3. The Special Deputy Receiver is authorized to file this Application pursuant to TEX. INS. CODE ANN. §443.151, which provides that the SDR is to conduct the business of the estate. The subject matter of this Application has been referred to the Special Master appointed in this proceeding in accordance with Paragraph III of the Order of Reference to Master entered on August 22, 2008.

III. RELIEF SOUGHT

4. TRCP 21a governs methods of service. It expressly states that, in addition to service by mail or fax, notice may be provided by “such other manner as the court in its discretion may direct.”

5. The SDR moves the Court to order all parties at interest filing any pleading, plea, motion, application to the court for an order, notices and any other matter required to be served in this case to serve them by email. The SDR proposes that it, through its undersigned counsel, maintain email addresses for all parties at interest and parties requesting notice in this case. The SDR shall be responsible for providing a copy of this Court’s Order regarding service and the current list of email addresses to all parties upon their appearance.

6. To the extent that a party at interest, party requesting notice or any other individual or entity seeking to file in this Receivership Proceeding cannot provide service by email or deems it necessary to use an alternative method of service, it may file a motion for leave of court seeking to use some other authorized method of service at the time it files the document with the Court.

7. Email service will allow the estate and all interested parties to save money on postage. It should provide for more timely and efficient delivery of pleadings and documents and will enable parties to be sure of their delivery and receipt.

8. Pursuant to TEX. INS. CODE ANN. §443.007, the SDR shall require that any person or entity currently on the Service List for this estate to confirm that they desire to remain on the Service List and to provide an email address for future service.

IV. NOTICE

9. The SDR has served this application to all known parties at interest by regular mail, email, fax, hand delivery and/or overnight delivery.

V. OFFER OF PROOF AND VERIFICATION

10. This Application has been verified as required by the Texas Rules of Civil Procedure by the affidavit and certification pursuant to TEX. INS. CODE §443.017(b) by Joseph West, on behalf of Cantilo & Bennett, L.L.P., Special Deputy Receiver of Esquire Title, LLC (the “SDR” and “Esquire” respectively).

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Special Deputy Receiver respectfully requests that this Court:

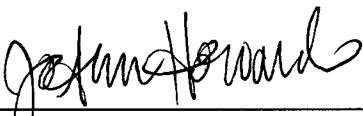
1. grant this Application;
2. order that all parties at interest and parties requesting notice provide to the undersigned counsel to the SDR its email address;
3. order that all parties at interest and parties requesting notice serve all pleadings, pleas, motions, applications to the court for an order, notices and any other matter required to be served by email;
4. order that the SDR, by the undersigned counsel, maintain a current list of email addresses for all parties and provide said list to all new parties;
5. order the SDR to post on its website all documents filed in this receivership proceeding; and
6. grant the SDR such other and further relief to which it may be justly entitled.

Respectfully submitted,

By:  _____

Christopher Fuller
Texas Bar No. 07515500
4612 Ridge Oak Drive, Austin, Texas 78731
Tel. (512)470-9544
Fax (512)374-0957
cfuller@fullerlaw.org
Attorney for Cantilo & Bennett, L.L.P.,
Special Deputy Receiver of Esquire Title, LLC

And

By:  _____

Jo Ann Howard
Texas Bar No. 10072310
Jo Ann Howard & Associates, P.C.
P.O. Box 160130, Austin, Texas 78716
Tel. (512)791-0911
Fax (512)329-6612
iamanrd3@aol.com
Attorney for Cantilo & Bennett, L.L.P.,
Special Deputy Receiver of Esquire Title, LLC

CERTIFICATE OF SERVICE

I certify that on November 3, 2008, a true and correct copy of this Application was served pursuant to the Order of Reference, the Texas Rules of Civil Procedure and TEX. INS. CODE ANN. SEC. 443.007(d) on the following by regular mail, except as specifically noted.



Christopher Fuller

Tom Collins, Special Master
c/o Ms. Jean Sustaita
P.O. Box 149104
Mail Code 305-1D
Austin, TX 78701
Jean.Sustaita@tdi.state.tx.us

Burnie Burner
Texas Title Insurance Guaranty Association
Mitchell, Williams, Selig, Gates & Woodyard, PLLC
P.O. Box 2212
106 E. Sixth Street, Suite 300
Austin, TX 78768-2212
bburner@mwsqw.com

Bruce McCandless III
Texas Title Insurance Guaranty Association
Mitchell, Williams, Selig, Gates & Woodyard, PLLC
P.O. Box 2212
106 E. Sixth Street, Suite 300
Austin, TX 78768-2212
bmccandless@mwsqw.com

Catherine Fryer
Bickerstaff Health Delgado Acosta LLP
816 Congress Ave., Suite 1700
Austin, TX 78701-2443
cfryer@bickerstaff.com

Joshua Godbey
Assistant Attorney General
Financial Litigation Division
P.O. Box 12548
Austin, TX 78711-2548
Fax (512)477-2348
joshua.godbey@oag.state.tx.us

Mark Mosley
Attorney & Counselor at Law
1410 G Avenue, Suite 400
Plano, TX 75074
Tel (972)437-4119
Fax (972)671-0456
i_c_law@sbcglobal.net

Silvia Tiller
Attorney for Esquire Title, LLC
14090 Southwest Freeway, Suite 300
Sugar Land, TX 77478
Tel (281)340-8543
Fax (866)859-3462
stiller@tillerandassociatespc.com

Terence Norman
Attorney for Eraka Childs and Chris Watson
6069 Broadway St.
Pearland, TX 77581
tcnorman@lawyer.com
Tel (281)485-0603
Fax (281)485-0393

Eraka Childs
erakachilds@gmail.com

Texas Workforce Commission
Regulatory Enforcement Division
101 E. 15th Street
Austin, TX 78778-0001

Internal Revenue Service
Special Procedures Branch
P.O. Box 250
300 East 8th St., Ste. 352, Mail Stop 5022A
Austin, TX 78701

Angel Garrett
Texas Department of Insurance
Financial/Rehabilitation & Liquidation Oversight
Division
333 Guadalupe, Mail Code 305-1D
Austin, TX 78701
Angel.Garrett@tdi.state.tx.us

Rachel Giani
Texas Department of Insurance
Financial/Rehabilitation & Liquidation Oversight
Division
333 Guadalupe Mail, Code 305-1D
Austin, TX 78701
Rachel.Giani@tdi.state.tx.us

Leanne Layne
Texas Department of Insurance
Financial/Rehabilitation & Liquidation Oversight
Division
333 Guadalupe, Mail Code 305-1D
Austin, TX 78701
Leanne.Layne@tdi.state.tx.us

John Walker
Texas Department of Insurance
Financial/Rehabilitation & Liquidation Oversight
Division
333 Guadalupe, Mail Code 305-1D
Austin, TX 78701
John.Walker@tdi.state.tx.us

Jemmie Russell
Texas Department of Insurance
Financial/Rehabilitation & Liquidation Oversight
Division
333 Guadalupe, Mail Code 305-1D
Austin, TX 78701
Jemmie.Russell@tdi.state.tx.us

Joseph N. West
Cantilo & Bennett, L.L.P.
Special Deputy Receiver
11401 Century Oaks Terrace, Ste. 300
Austin, TX 78758
jnwest@cb-firm.com

Susan E. Salch
Cantilo & Bennett, L.L.P.
Special Deputy Receiver
11401 Century Oaks Terrace, Ste. 300
Austin, TX 78758
sesalch@cb-firm.com

Christopher Fuller
Fuller Law Group
4612 Ridge Oak Drive
Austin, TX 78731
cfuller@fullerlaw.org

Jo Ann Howard
Jo Ann Howard & Associates, PC
P.O. Box 160130
Austin, TX 78716
iamanrd3@aol.com

**SPECIAL DEPUTY RECEIVER'S CERTIFICATION PURSUANT TO
TEX. INS. CODE ANN. §443.017(b)
AFFIDAVIT OF JOSEPH WEST**

State of Texas
County of Travis

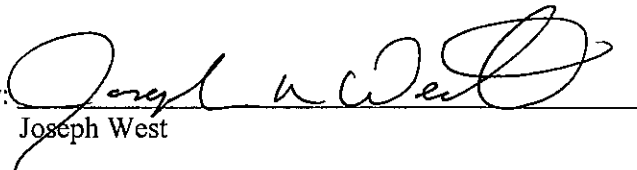
BEFORE ME, the undersigned authority appeared Joseph West, who after being by me duly sworn, stated the following under oath:

1. "My name is Joseph West. I am competent to make this affidavit. The statements of fact set forth herein are true and correct, and are within my personal knowledge.

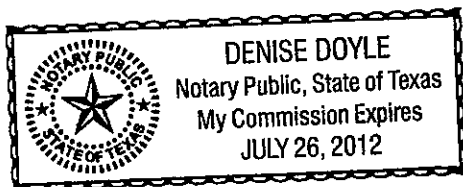
2. "I am duly authorized by Cantilo & Bennett, L.L.P., Special Deputy Receiver of Esquire Title, LLC (the "SDR" and "Esquire") to make this Certification and Affidavit on behalf of the SDR.

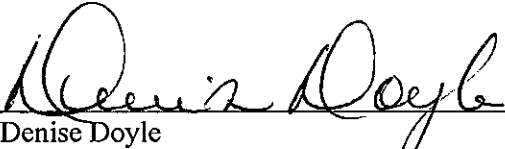
3. "I further state that I have read the statements contained in the attached Application and that they are true and correct based on my personal knowledge, my review of estate records, and my consultation with my staff and sub-contractors.

4. "Further affiant sayeth not."

By: 
Joseph West

SUBSCRIBED AND SWORN TO BEFORE ME on October 31, 2008, by Joseph West, on behalf of Cantilo & Bennett, L.L.P., Special Deputy Receiver of Esquire Title, LLC, in receivership.




Denise Doyle
Notary Public in and for the State of Texas
My commission expires July 26, 2012

APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Order of Reference to Master entered by the District Court in this cause, the Special Deputy Receiver's Application for Electronic Service is set for written submission before the Special Master, Tom Collins, on November 17, 2008.

The Special Master has asked that the following rules be provided you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by such date on:
 - (a) The Special Master's Docket Clerk, Ms. Jean Sustaita, Texas Department of Insurance, (**Hand Delivery**) 333 Guadalupe, Hobby Tower III, 5th Floor, Room 540-A, Austin, Texas; or (**Mail To**) P.O. Box 149104 (MC 305 1-D), Austin, Texas 78714-9104.
 - (b) All interested parties, including those listed on the Applicant's Certificate of Service.
3. The objecting party shall coordinate with opposing counsel and the Docket Clerk [(512)463-6450] to obtain an oral hearing setting for argument on the Application and Objection, and complete and attach an "Objecting Party's Notice of Oral Hearing" to the objection.
4. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
5. Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by the Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.