

**NO. D-1-GV-08-002014**

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
AMERITRUST TITLE COMPANY,	§	
Defendant	§	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 Ameritrust Title Company, (the “SDR” and “Ameritrust” 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. Ameritrust was placed in receivership in this proceeding on March 20, 2009. On that same date, the Court entered an Agreed Order Appointing Liquidator and Permanent Injunction appointing the Texas Commissioner of Insurance as Liquidator. The Liquidator subsequently designated Cantilo & Bennett, L.L.P., as SDR of Ameritrust effective as of April 16, 2009.

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 March 25, 2009.

### **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 Susan E. Salch, on behalf of Cantilo & Bennett, L.L.P., Special Deputy Receiver of Ameritrust Title Company.

#### **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/  
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Texas Bar No. 07515500  
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Fax (512)374-0957  
cfuller@fullerlaw.org  
Attorney for Cantilo & Bennett, L.L.P.,  
Special Deputy Receiver of Ameritrust Title Company

And

By: /Jo Ann Howard/  
Jo Ann Howard  
Texas Bar No. 10072310  
Jo Ann Howard & Associates, P.C.  
P.O. Box 160130, Austin, Texas 78716  
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iamanrd3@aol.com  
Attorney for Cantilo & Bennett, L.L.P.,  
Special Deputy Receiver of Ameritrust Title Company

### **CERTIFICATE OF SERVICE**

I certify that on June 22, 2009, 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/  
Christopher Fuller  
Texas Bar No. 07515500

*Via Email:* Jean.Sustaita@tdi.state.tx.us  
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582 Liquidation Oversight  
PO Box 149104

Austin, Texas 78714-9104

*Via Email:* Leanne.Layne@tdi.state.tx.us  
Leanne Layne  
Texas Department of Insurance  
Liquidation Oversight - 305-1D  
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Austin, TX 78714-9104

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Financial Counsel/Legal Services - 821  
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Austin, TX 78714-9104

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Norman Riedmueller PC & Associates  
6800 West Loop South, Suite 325  
Bellaire, TX 77401-4528

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

State of Texas

County of Travis

BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

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

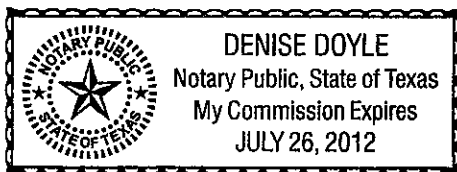
2. "I am a partner in Cantilo & Bennett, L.L.P., Special Deputy Receiver of Ameritrust Title Company (the "SDR" and "Ameritrust"). I am duly authorized to make this Certification and Affidavit on behalf of the SDR.

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: *Susan E. Salch*  
Susan E. Salch

SUBSCRIBED AND SWORN TO BEFORE ME on May 13 2008, by Susan E. Salch, on behalf of Cantilo & Bennett, L.L.P., Special Deputy Receiver of Ameritrust Title Company.



*Denise Doyle*  
Notary Public

## 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 June 22, 2009.

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.

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AMERITRUST TITLE COMPANY	§	
Defendant	§	261st JUDICIAL DISTRICT

**ORDER GRANTING SPECIAL DEPUTY RECEIVER’S APPLICATION TO USE ELECTRONIC SERVICE OF PLEADINGS AND NOTICES**

The Court considered the SDR’s Application to Use Electronic Service of Pleadings and Notices (the “Application”). Having considered the Application, the Court finds that the Application is meritorious, in the best interests of the receivership estate and should be granted.

IT IS ORDERED, ADJUDGED AND DECREED that the Application is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR and all other parties at interest and parties requesting notice shall file any pleading, plea, motion, applications, notices and all other matters requiring service by email;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR shall, by its counsel, Chris Fuller whose email address is [cfuller@fullerlaw.org](mailto:cfuller@fullerlaw.org), create and maintain a current list of email addresses of all parties and provide the list and a copy of this Order to all parties in interest and parties requesting notice;

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all parties at interest and parties requesting notice shall provide to the SDR’s counsel its email address; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the SDR may, at its

discretion, serve any pleading or notice by any other means authorized by TEX. INS. CODE ANN. §443.007, the Texas Rules of Civil Procedure or other order of this Court.

Signed on \_\_\_\_\_.

JUDGE PRESIDING