

Special Master's Status Letter Update

July 19, 2010

AmeriTrust Title Company R-546

Background

- Date of Permanent Injunction: 03/20/09
- Name/Date of Appointment of SDR: CANTILO & BENNETT, L.L.P. 04/16/09
- Claims Filing Deadline: 11:59 p.m. July 15, 2010
- State Where Licensed: Texas
- Lines of Business: Title Insurance Agency
- Texas Guaranty Association Name & Trigger Date: Texas Title Insurance Guaranty Association ("TTIGA") triggered 03/26/09 (effective as of 03/20/09) upon designation as impaired agent by the Commissioner of Insurance
- Date and Amount of Last Early Access: N/A; SDR Report on Early Access filed September 11, 2009

Statements of Assets and Liabilities (at 06/30/10)

- \$ 127,183 - Total Assets
- \$ 127,183 - Cash Assets
- \$ 0 - Non Cash Assets
- \$ 1,774,033 - Total Liabilities
- (\$1,646,850) - Negative Equity

Status and Activity since Last Status Conference

- Asset Recoveries

East West Bank Litigation

Prior to receivership, AmeriTrust joined in a lawsuit filed by former fee attorney Vincent Gamal against East West Bank ("EWB"). The suit, pending in the 61st District Court of Harris County, Texas, contends that EWB was negligent and violated its contractual and statutory obligations to AmeriTrust when it failed to prevent a series of embezzlements from AmeriTrust escrow accounts. The case has been in litigation since 2007. A number of parties have intervened in the case, including Southern Title, which paid at least one related escrow claim, and several other alleged victims of the embezzlements.

With the approval of the Receivership Court, the SDR assigned all claims relating to the EWB suit to TTIGA. A mediation was convened in Houston on February 4, 2010. The SDR/TTIGA reached a tentative settlement agreement with EWB by which EWB paid TTIGA and Gamal \$70,000 in exchange for releases and dismissal of the litigation against the bank. In the afternoon session, Zurich, the insurance carrier for AmeriTrust and Gamal, settled with the Parker

and Jones plaintiffs for \$17,500 each. These funds will be paid in equal parts from the Zurich liability policies covering AmeriTrust and Gamal, and these plaintiffs will release AmeriTrust and Gamal from additional liability. The settlement agreements were approved by the receivership court on May 17, 2010. Zurich's counsel has continued additional settlement discussions with claimants Southern Title and Brea Mathis as well.

- Claims

In April, the SDR filed an Application to Provide Notice of Liquidation, Set Claims Filing Deadline, and Establish a Claims Processing Procedure. On May 17, 2010, the application was approved. The Proof of Claim ("POC") filing deadline approved by the court therein is 11:59 p.m. on July 15, 2010. Notice of liquidation and the POC process was published in the Houston Chronicle on May 28, 2010, and sent by e-mail and/or facsimile to all known claimants on June 9 and 10, 2010. The TTIGA POC deadline was March 15, 2010. As of June 30, 2010, TTIGA had received eight claims for a total of \$2,223,209.12. Four claims for \$1,391,400.16 have been rejected (one rejected claim was for a partial amount and a portion is still pending). One claim for \$75,000 has been paid, and four claims for \$756,808.96 have not been either accepted or rejected by TTIGA at this time.

- General Legal Activities

 - Claims Litigation - Villelas

The Villelas lift stay motion was heard by the Special Master on October 19, 2009. TTIGA representatives and the SDR's estate counsel appeared and argued against lifting the stay. Commonwealth Title appeared and argued in favor of the motion. On November 6, 2009, the Special Master issued his Memorandum Recommendation which urged the district court to deny the motion to lift or modify automatic stay for several reasons, including, but not limited to, movants' failure to meet the extremely high burden of proof under section 443.008(j) of the Texas Insurance Code, movants' failure to meet the requirements to lift the stay "for cause" as described in section 443.008(i), the poor financial status of the estate, and the competing claims to the proceeds of the missing cashier's check presented by movants, the SDR, and TTIGA.

The deadline for filing objections to the Special Master's Memorandum Recommendation was November 16, 2009. No party (including the movants) filed any objections, and the order was issued by the district court on January 15, 2010. Counsel for Commonwealth Title indicated his client's desire to file a claim for the return of the cashier's check funds, and despite there being no POC process established and approved by the receivership court at that time, filed a POC on March 12, 2010.

With RLO approval, counsel for the SDR filed a turnover action against the bank to recover the cashier's check funds. Objections were filed by Commonwealth Title and Jose Villelas. TTIGA supports the turnover application and filed a timely response to the objections (as did the SDR). The

matter is set for hearing before the Special Master on July 19, 2010.

- Administration

In January, the SDR and estate counsel met with TTIGA to discuss cost-sharing issues. The SDR plans to hold additional meetings with RLO and TTIGA to finalize a cost-sharing agreement for the estate. The SDR has also filed papers with the State Comptroller to recover unclaimed funds (approximately \$3,500) from the unclaimed property listing on the Comptroller's web site. Additional documents were requested, and the SDR is working to locate same to respond.

Conclusion

- Estate Team Goals to Achieve Prior to next Status Conference

Conclude turnover action (recovery of cashier's check funds).

Continue efforts to resolve Mathis and Southern Title claims from East West Bank matter.

Finalize cost-sharing agreement with TTIGA.

Coordinate estate matters with TTIGA.

Manage other pending litigation.

Complete work to recover unclaimed property.

Begin (and possibly complete) POC processing.

- Estimated Closing Date of Receivership: January 31, 2011 (tentative)

- Identification of Factors Affecting Closing Date and Final Distribution

Evaluation/Implementation of Cost-Sharing Agreements with TTIGA

POC Processing

Coordination/Cooperation with TTIGA

Resolution/Management of Pending Litigation Matters