

NO. D-1-GV-08-002014

<b>STATE OF TEXAS,</b> <b>Plaintiff</b>	§ § § § § § §	<b>IN THE DISTRICT COURT OF</b>  <b>TRAVIS COUNTY, TEXAS</b>  <b>261st JUDICIAL DISTRICT</b>
v.		
<b>AMERITRUST TITLE COMPANY,</b> <b>Defendant</b>		

**SPECIAL DEPUTY RECEIVER’S REPORT PURSUANT  
TO TEX. INS. CODE §443.303(C)**

**TO THE HONORABLE DISTRICT COURT:**

Comes now CANTILO & BENNETT, L.L.P., solely in its capacity as the Special Deputy Receiver of Ameritrust Title Company, (the “SDR” and “Ameritrust” respectively), files this *Report Pursuant to TEX. INS. CODE §443.303(c)* (the “SDR’s Report”).

**I. INTRODUCTION**

1.1 The SDR files this Report pursuant to TEX. INS. CODE §443.303(c) to report that there are no distributable assets available to make a distribution to the Texas Title Insurance Guaranty Association (“TTIGA”).

**II. BACKGROUND**

2.1 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.

2.2 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. This Report has not been referred to the Special Master appointed in this proceeding in the *Order of SDR Report-no distributable assets*

*Reference to Master* entered on March 25, 2009.

2.3 Ameritrust was declared an “impaired agent” on March 26, 2009. As of that date, the TTIGA became responsible for the payment of “covered claims” as defined by Chapter 2602 of the Insurance Code. Subsequently, this Court entered an order granting the TTIGA’s application for the transfer of escrow funds and request for claims filing deadline. The court established March 15, 2010 as the deadline to file claims with TTIGA.

2.4 Ameritrust was a title insurance agency with its offices in Harris County. Ameritrust is not an insurance company; it acted as an agent for several solvent title insurance companies. The title insurance companies continue to process and pay claims on title insurance policies issued by Ameritrust. As an agency, Ameritrust did not have any reserves, any reinsurance or any significant assets. Pursuant to this court’s order, the SDR has transferred all escrow funds to the TTIGA. As of the last Quarterly Financial Report [August 31, 2010], the Statement of Assets reflects \$101,218 in unrestricted cash. Administration of the estate has been financed by loans by the Texas Department of Insurance from the Abandoned Property Fund in accordance with TEX. INS. CODE ANN §443.304(c) and TTIGA.

### **III. REPORT OF NO DISTRIBUTABLE ASSETS**

3.1 TEX. INS. CODE §443.303 (c) provides:

Within 120 days after the entry of an order of liquidation by the receivership court, and at least annually after the entry of the order, the liquidator shall apply to the receivership court for approval to make early access payments out of the general assets of the insurer to any guaranty associations having obligations arising in connection with the liquidation or shall report that there are no distributable assets at that time based on financial reporting as required in Section 443.016.

3.2 The SDR reports that there are no distributable assets to make any early access distribution to TTIGA.

#### **IV. NOTICE**

4.1 Pursuant to TEX. INS. CODE § 443.007(d), this Report has been served on the entire service list for this proceeding, including the TTIGA, in the manner shown on the Certificate of Service.

#### **V. OFFER OF PROOF**

5.1 This report is verified by the certificate pursuant to TEX. INS. CODE § 443.017(b) of Susan E. Salch, Partner in CANTILO & BENNETT, L.L.P., solely in its capacity as the Special Deputy Receiver of Ameritrust.

#### **VI. NOTICE OF ELECTRONIC SERVICE REQUIREMENT**

6.1 No response is required to this Report and no judicial relief is requested. However, pursuant to the *Order Granting SDR's Application to Use Electronic Service of Pleadings and Notices* entered on August 24, 2009, any pleading filed in response to this Report or in regards to this estate shall be served by email on the undersigned counsel and all parties shown in the attached Certificate of Service.

**WHEREFORE, PREMISES CONSIDERED**, the SDR respectfully requests that this Court, the TTIGA and all parties in interest take notice of this report and that the SDR be awarded such other and further relief to which it may be justly entitled.

Respectfully submitted,

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Special Deputy Receiver of Ameritrust

### **CERTIFICATE OF SERVICE**

I certify that on September 28, 2010, a true and correct copy of this Report was served pursuant to the Order of Reference, the Texas Rules of Civil Procedure, and TEX. INS. CODE ANN. § 443.007 (d) on the following.

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**SPECIAL DEPUTY RECEIVER'S CERTIFICATION  
PURSUANT TO TEXAS INSURANCE CODE ANNOTATED §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., the appointed 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.

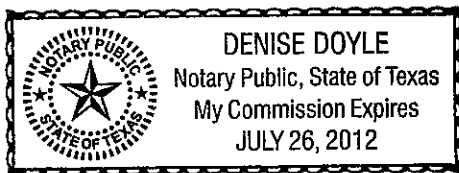
3. "I further state that I have read the statements contained in the attached Report and that they are true and correct based on my personal knowledge, my review of estate records and my consultation with my staff and sub-contractors."

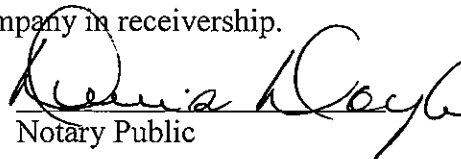
4. Further affiant sayeth not.

By:

  
Susan E. Salch

**SUBSCRIBED AND SWORN TO BEFORE ME** on September 20, 2010, by Susan E. Salch, on behalf of CANTILO & BENNETT, L.L.P., solely in its capacity as the Special Deputy Receiver of Ameritrust Title Company in receivership.



  
Notary Public