

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,
Petitioner,

v.

NO. D-202-CV-2017-03838
HON. NAN NASH

DESERT STATE LIFE MANAGEMENT,
PAUL A. DONISTHORPE,
SPECTRUM CAPITAL MARKETS, LLC,
CORAZON CATTLE,
CORAZON-PITCHFORD, LLC,
PAUL A. DONISTHORPE, LLC, AKA PAD, LLC,
Respondents.

**ORDER FOR DECLARATORY JUDGMENT, PERMANENT INJUNCTIVE RELIEF
AND GRANTING APPLICATION FOR APPOINTMENT OF RECEIVER**

THIS MATTER having come before the Court on the date of August 3rd, 2017, on Petitioner's Verified Petition of Declaratory Judgment, Permanent Injunctive Relief and Appointment of Receiver with Kevin A. Graham, legal counsel for the Petitioner, Financial Institutions Division (FID), appearing in person along with Christopher Moya, Acting Director of the FID and Respondents Desert State Life Management, Paul A. Donisthorpe, Spectrum Capital Markets, LLC, Corazon Cattle and Paul A. Donisthorpe, LLC, having failed to make any appearance at the hearing. Respondent Corazon-Pitchford, LLC, did not enter an appearance at the hearing, however, partial owner of the company, Darrell Pitchford was in attendance at the hearing along with his legal counsel of record, Scott Fuqua. The Court took notice that copies of the Verified Petition of Declaratory Judgment, Permanent Injunctive Relief and Appointment of

Receiver (filed May 31, 2017), were served upon all listed Respondents on or before June 15, 2017, and that the Respondents and other parties subject to injunctive relief were served with copies of the Verified Petition of Declaratory Judgment, Permanent Injunctive Relief and Appointment of Receiver on or about May 31, 2017. The Court took further notice that copies of the Court's Order Granting Motion for Expedited Hearing and Temporary Restraining Order (filed July 12, 2017) were served on all Respondents and other parties subject to injunctive relief in the above-captioned matter on or about July 12, 2017.

The Court being otherwise fully advised and informed on the above-captioned matter hereby FINDS:

1. Desert State Life Management (DSLML), a certified non-profit trust company in the State of New Mexico, has conducted its business in an unsafe condition and in an injurious manner;
2. DSLML has conducted its business in violation of the New Mexico Trust Company Act, §58-9-1 NMSA 1978, *et seq*, and also in violation of provisions of the New Mexico Uniform Trust Code, §46A-1-101 NMSA 1978, *et seq*;
3. That, pursuant to §58-9-10 NMSA 1978, the trust company's affairs and operation are in an unsafe condition;
4. That irreparable harm has occurred within the trust company business of DSLML related to the management, operation and oversight of the trust company, and that permanent injunctive relief in this matter is necessary;
5. That this Court is authorized under the specific statutory provision of §58-9-10 NMSA 1978, to appoint a receiver for the trust company;

6. That jurisdiction and venue for this matter is proper;
 7. That irreparable harm may result from failure to appoint a receiver for this trust company;
- and
8. That just cause has been shown that Petitioner's Verified Petition of Declaratory Judgment, Permanent Injunctive Relief and Appointment of Receiver should be granted;

THE COURT FURTHER FINDS:

9. That the receivership estate consists of any and all client trust investment accounts or brokerage accounts managed and under the control of DSLM; any financial accounts, of whatever nature, in the name of DSLM, or in the name of any officer or director of DSLM for the purpose of conducting business transactions for DSLM; records and monies held by New Mexico Bank and Trust, and financial institutions yet to be identified, under any account name that refers to DSLM in whole or in part; computers and office equipment belonging to DSLM; real estate, buildings, property and/or leases or purchase agreements, including real estate purchase contracts, belonging to or affiliated with DSLM; records and monies held in safety deposit boxes, or other storage devices or locations, belonging to or affiliated with DSLM; any recorded voice or electronic data storage systems or accounts belonging to or affiliated with DSLM; any postal service mail boxes belonging to or affiliated with DSLM; and, any property, including real property or contracts for the purchase, rental or lease of real estate, that may be established by a preponderance of the evidence to have been purchased, maintained, contributed to or serviced, in

whole or in part, with funds improperly taken or diverted from the accounts of DSLM or of any client of DSLM, prior to the date and time when this Order is executed.

10. That the receivership estate is primarily located in Bernalillo County, New Mexico, with the business location of Desert State Life Management having been 1011 4th Street NW, Albuquerque, New Mexico, 87102; however, significant portions of the receivership estate may be located within other counties of the State of New Mexico and/or within other states within the United States of America.

11. That neither the FID (including Acting Director Christopher Moya of the FID) nor the Regulation and Licensing Department of the State of New Mexico have any financial interest or ownership right to DSLM; however, the FID and Acting Director Moya have statutory authority as the licensing agency for New Mexico state certified trust companies to supervise and regulate the trust company industry in which DSLM conducts its regular business activity, as well as the authority to supervise and regulate DSLM in its individual capacity as a certified trust company. See §58-9-1 NMSA 1978, *et seq.*

12. That Christopher Moya, Acting Director of the FID, is willing to serve and meets the qualifications under §58-9-10 NMSA 1978 and §44-8-6 (A) - (D) NMSA 1978 as a receiver in this matter.

13. That good cause has been shown to justify waiver of the security requirement contained within NMRA Rule 1-066(C) in as far as the FID is a governmental office of the State of New Mexico and specific statutory authority exists for the appointment of the Director of the FID as receiver over a state certified trust company.

IT IS THEREFORE ORDERED:

A. That, effective immediately, a Permanent Injunction be entered against the following individuals and entities, of whatever capacity or title or name, and their agents, individuals holding powers of attorney on their behalf, or representatives:

- (1) Paul A. Donisthorpe
- (2) Helen Bennet
- (3) Liane Kerr
- (4) Spectrum Capital Markets, LLC
- (5) Corazon Cattle
- (6) Corazon-Pitchford, LLC
- (7) Paul A. Donisthorpe, LLC (AKA PAD, LLC)
- (8) Judith Mahar

B. That the Permanent Injunction entered pursuant to Section A, above, does prohibit the above-named individuals, entities, and their agents, individuals holding powers of attorney on their behalf, and representatives from engaging in the following activities:

- (1) Conducting business transactions at or on behalf of Desert State Life Management, under this trade name or any other corporate name related to Desert State Life Management;
- (2) Taking, removing, destroying or altering in any way any records, receipts, communications or notes (whether in hard copy or stored by any electronic means) of DSLM or any client of DSLM, or of any financial account of DSLM or financial account under the control

of DSLM, or of any client account of DSLM, or of any officer, director or employee of DSLM pertaining to any aspect of the business or operations of DSLM or its clients or accounts;

(3) Contacting, directly or indirectly, any settlor or trust beneficiary of any trust for which DSLM has served as trustee or any other current or former client of DSLM or individual for whom DSLM has served as guardian, conservator or representative payee;

(4) Attempting to collect, or collecting payment from, any current or former trust beneficiary or client of any type served by DSLM; and

(5) Accessing by any means of deposit, transfer or withdrawal, any funds held in any account under the name of Desert State Life Management, or under the name of any current or former client of DSLM, or under any other name when the funds in the account include funds belonging to DSLM or to any current or former client of DSLM, or any funds held in any account under the name of any other corporate name which is presently being used to store funds belonging to DSLM or any current or former client of DSLM; and

(6) Engaging in the sale, transfer, disposal, material alteration or encumbrance of any funds, financial instruments, furniture, artwork, equipment, livestock, farm or ranch equipment, vehicles, real property or any other property that may be shown to have been purchased, leased, serviced or redeemed, in whole or in part, from funds improperly taken from the accounts of Desert State Life Management or from investment accounts or other accounts under the control of Desert State Life Management over the time period encompassing the calendar year 2006 through calendar year 2017.

IT IS THEREFORE FURTHER ORDERED:

C. That Christopher Moya, Acting Director of the FID, is appointed as Liquidating Receiver over DSLM; that the appointed Receiver has the exclusive authority to wind down all business transactions and activity of DSLM; that the appointed Receiver has the exclusive signature authority over any and all financial accounts in the name of or related to DSLM or under the control of DSLM; that the appointed Receiver has the exclusive authority to effectuate the final disposition and disbursement of the receivership estate on behalf of the FID in accordance with §44-8-7 (A) - (I) NMSA 1978; and, the appointed Receiver has the exclusive authority to enter into contracts for such services as the Receiver determines necessary to carry out the duties of the Receiver and accomplish the purposes of the receivership. .

Specifically, the appointed Receiver's duties and authority shall include, but not be limited to, the following provisions:

(1) Identify and have access to all relevant records concerning all trusts or other accounts to which DSLM has been named trustee, or served as trustee, guardian, conservator or representative payee for clients of DSLM, from the time beginning with calendar year 2006 through the present;

(2) Identify, access and be afforded exclusive signature authority concerning all current bank accounts, investment accounts or other financial accounts of DSLM, or accounts to which DSLM possesses legal control over, as well as access to the records for all such accounts previously held or overseen by DSLM, from the time beginning with calendar year 2006 through the present;

(3) Obtain, secure, and safeguard all original documents, titles, deeds or any other documents or writings evidencing the records of DSLM;

(4) Work in cooperation with such other governmental agencies, as determined necessary by the Receiver, regarding the investigation or prosecutor of potential criminal acts related to the operation of DSLM or the actions of officers, directors or employees of DSLM; such cooperation may include, but not be limited to, the sharing of information and documentation with other governmental agencies for the purposes of assisting in identifying potential criminal acts or to assist in the recovery of unlawfully taken assets of DSLM or any of its clients;

(5) Maintain accurate and updated accounting records for DSLM in accordance with the terms of the Trust Company Act;

(6) Issue statements, or copies of records, as determined appropriate by the Receiver, to settlors, trust beneficiaries, or other clients of DSLM (or to the current legal counsel, guardians or conservators for those parties), concerning individual trusts, trust investment accounts or other financial accounts related to trusts where DSLM served as trustee or to clients for whom DSLM served as guardian, conservator or representative payee;

(7) When determined to be appropriate by the Receiver, issue verification letters to settlors, trust beneficiaries or other clients of DSLM (or to the current legal counsel, guardians or conservators for those parties) concerning individual account balances;

(8) Open and consolidate any accounts held with financial institutions into new financial accounts for the investment of client funds, the effective operation of DSLM or for

appropriate recordkeeping or accounting purposes;

(9) Provide contact information where correspondence and inquiries will be accepted for the carrying out of the Receiver's duties;

(10) Issue notice letters to settlors, trust beneficiaries, creditors and any other clients, business partners or associates of DSLM informing such that DSLM has been placed under court-ordered receivership pursuant to cause number D-202-CV-2017-03838, and that all business activities of DSLM are being wound down;

(11) All other statutorily provided powers and duties afforded to receivers pursuant to §44-8-7 (A) - (I) NMSA 1978 of the New Mexico Receivership Act, including:

- (a) Preparing a preliminary inventory of the receivership estate, to the best of the Receiver's ability, within thirty (30) days of appointment, and filing that inventory with the district court;
- (b) Preparing a final inventory of the receivership estate within ninety (90) days of appointment, and filing that inventory with the district court;
- (c) Collecting and managing the receivership, including all receivership assets, in a reasonable and prudent manner;
- (d) Filing monthly operating reports with the district court, providing copies to all parties who have entered an appearance, and allowing such parties reasonable access to the books and records of the receivership (in accordance with specific access terms as outlined below);
- (e) Entering into contracts reasonably necessary to operate, maintain, and preserve the receivership estate, including, but not limited to, entering into a contract with an individual or company with expertise under the Trust Company Act or the Uniform Trust Code to assist in identifying all trust accounts and financial assets and liabilities of DSLM;
- (f) Taking possession of all available books, records and other documents related to the receivership estate, including electronic records;

- (g) Taking possession of all assets of the receivership estate;
- (h) Leasing, renting or selling assets of the receivership estate in accordance with the powers and limitations contained in the original order of appointment;
- (i) Bringing and defending legal action in his capacity as receiver to maintain, recover or preserve the receivership estate;
- (j) Retaining attorneys, accountants, brokers or any other professionals necessary to assist the receivership; paying compensation for fees; selling or mortgaging property of the receivership estate; borrowing money for the receivership estate; and making distributions of the receivership estate proceeds as payment for professional services and receivership supplies;
- (k) Exercising any other powers expressly granted by statutes or an order of the district court, such as issuing subpoenas to financial institutions for the purposes of identifying relevant company or client financial assets and all trust accounts managed and serviced by DSLM;

(12) In complying with his statutory duties pursuant to §44-8-7© NMSA 1978, the Receiver will have full authority to determine how to allow “such parties *reasonable* access to books and records of the receivership,” while preserving the books and records from any destruction: “Reasonable access to books and records of the receivership shall be in accordance with the following conditions:

- (a) Respondents shall be permitted reasonable access to books and records only after the Receiver has completed a final examination of DSLM and a final inventory of the books and records of DSLM;
- (b) All computer hard drives, memory components, hardware and software shall be preserved in its current form so that it may be subsequently reviewed by counsel for Respondents.
- (c) The Receiver shall be the designated individual to determine the manner and means of providing “reasonable access to the books and records,” including but not limited to providing copies or arranging a schedule and location of the Receiver’s choice to allow viewing of documents;

(d) Should a disagreement arise between the listed Respondents and the Receiver, Respondents shall file a written demand for access with the Court, and the Receiver shall file a written response with the Court within fifteen (15) business days;

(13) In order to maintain the assets of DSLM and to insure the proper execution of the duties of a trust company while operating DSLM during the wind down of the company, the Receiver shall have the authority to prohibit the Respondents and their agents from engaging in the following activity:

(a) Taking, removing, destroying, selling, disbursing, encumbering or otherwise affecting any records, property or other assets of DSLM or any records, property or other assets of any client or party currently or previously served by DSLM in the capacity of a trustee, guardian, conservator or representative payee;

(b) Conducting business transactions at or on behalf of Desert State Life Management (DSLM) or any other corporate name related to and/or controlling the DSLM business;

(c) Accessing by any means of deposit, transfer or withdrawal, any funds held in any account under the name of Desert State Life Management, or under the name of any current or former client of DSLM, or under any other name when the funds in the account include funds belonging to DSLM or to any current or former client of DSLM, or any funds held in any account under the name of any other corporate name which is presently being used to store funds belonging to DSLM or any current or former client of DSLM;

(d) Contacting, directly or indirectly, any settlor or trust beneficiary of any trust for which DSLM has served as trustee or any other current or former client of DSLM or individual for whom DSLM has served as guardian, conservator or representative payee;

(e) Attempting to collect, or collecting payment from any client of any type served by DSLM;

(f) Accessing, disabling, or tampering with any records (including records maintained in hard copy or by electronic means) of DSLM or any client of any type of DSLM.

IT IS FURTHER ORDERED THAT the Court waives the requirement for the giving of a security by the Receiver in this matter per the terms of NMRA Rule 1-066(C) for good cause shown and upon consideration of the specific statutory authority to appoint the director of the FID as receiver for a certified trust company as provided in §58-9-10 NMSA 1978. Also, consideration will be given to the compensation of any persons duly engaged and retained by the Receiver to be paid from the receivership estate in accordance with §44-8-9 NMSA 1978 and §58-9-10 NMSA 1978.

IT IS FINALLY ORDERED THAT a status conference shall be held on the above-captioned matter concerning the initial inventory report to be filed by the Receiver, and any other relevant issues, on the date of September 20, 2017, at 1:30 p.m..

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "Nan Nash", written in a cursive style.

NAN NASH
District Judge, Division XVII

INSTRUCTIONS ON SERVICE:

A copy of the foregoing order shall be timely served by Petitioner FID on each of the following:

1. Desert State Life Management
1011 4th Street NW
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and
dslmm1@gmail.com
and
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2. Paul A. Donisthorpe
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