

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT**

FINANCIAL INSTITUTIONS DIVISION,

Petitioner,

vs.

Case No. D-101-CV-2019-02979

**ROSWELL ESCROW SERVICES, INC.,
CHRISTOPHER ADAM JENSEN-TANNER, and
MINDY JENSEN-TANNER,**

Respondents.

JOINT STATUS REPORT

COME NOW the Petitioner, by and through its counsel of record, Kevin Graham, General Counsel for the Financial Institutions Division, and Respondents Christopher Adam Jensen-Tanner and Mindy Jensen-Tanner, by and through their counsel of record, Hinkle Shanor LLP (Lucas M. Williams), and, pursuant to the Court's December 8, 2020 Order Concerning Status and Report of the Parties states:

I. STIPULATED STATUS OF ALL RELEVANT, PENDING, AND POTENTIAL MATTERS

1. *Financial Institutions Division v. Roswell Escrow Services, Inc., et al.*, D-101-CV-201902979, in the First Judicial District of the State of New Mexico in Santa Fe County. The subject action was filed on November 14, 2019, and the Court entered a temporary restraining order on that date. On November 26, 2019, the Court entered its "Stipulated Order of Preliminary Injunction and Temporary Authority" and FID has continued to operate pursuant to the Stipulated Order. On December 8, 2020, the Court entered its "Order Concerning Status and Report of the Parties."

FID has intended and intends to move the case toward a permanent injunction and receivership. FID's plans have been hindered based upon limitations on staff resources caused, in part, by COVID-19, managerial turnover within FID, and limited legal staffing, and based upon lack of available funds to pay a professional receiver to manage Roswell Escrow Services, Inc. FID did seek and receive a funds expenditure authorization during the 2020 Regular Legislative Session; however, budget issues caused that authorization to be cancelled.

The parties anticipate that the following disputes may be opened within this lawsuit:

- a. *Financial Institutions Division v. New Mexico Taxation and Revenue Department.* It may become necessary for FID to join the New Mexico Taxation and Revenue Department ("TRD") because of TRD's seizure of trust monies from Roswell Escrow Services, Inc.'s client funds trust account in violation of NMSA 1978, § 58-22-21. In particular:

On November 11, 2019, TRD executed a levy on the RES Wells Fargo account no. ...5415 in the amount of \$153,078.97 in TRD Case No. 121984119. Counsel for TRD has represented to counsel for FID that the levy would be rescinded but TRD does not appear to have done so.

FID believes a Court order may be necessary to compel TRD to rescind its levy and return the trust funds.

- b. *Subdivision Matters.*

Pursuant to Roswell Ordinance No. 1140, the below-described subdivisions were required to deed their property into Roswell Escrow Services, Inc. to be held in trust until the satisfaction of certain contractual requirements. Upon information and belief, the subdivisions have satisfied the contractual obligations and/or the trust agreements have expired under their own terms. Consequently, it is necessary for someone to deed the subject properties back to the original subdividers. The three known subdivisions affected by Roswell Ordinance No. 1140 are:

- i. *Dennis, et al. v. Financial Institutions Division and Roswell Escrow Services, Inc.* It is anticipated that Mr. and Mrs. Dennis will intervene in this action to seek an order pursuant to Rule 1-070 NMRA appointing a special master to execute deeds conveying

property held in trust by Roswell Escrow Services, Inc. back to Mr. Bill Dennis and Mrs. Sharon Dennis.

- ii. *Blind Side, LLC v. Financial Institutions Division and Roswell Escrow Services, Inc.* It is anticipated that Blind Side, LLC will intervene in this action to seek an order pursuant to Rule 1-070 NMRA appointing a special master to execute deeds conveying property held in trust by Roswell Escrow Services, Inc. back to Blind Side, LLC.
- iii. *Featherstone Dev. Corp. v. Financial Institutions Division and Roswell Escrow Services, Inc.* It is anticipated that Featherstone Dev. Corp. will intervene in this action to seek an order pursuant to Rule 1-070 NMRA appointing a special master to execute deeds conveying property held in trust by Roswell Escrow Services, Inc. back to Featherstone Dev. Corp.

2. *Westrum v. Roswell Escrow Services, Inc., Christopher Adam Jensen-Tanner, and Mindy Jensen-Tanner*, D-504-CV-2019-01239, in the Fifth Judicial District Court of the State of New Mexico in Chaves County. In this matter the plaintiff seeks to recover alleged damages from Roswell Escrow Services, Inc., Christopher Adam Jensen-Tanner, and Mindy Jensen-Tanner, and from Roswell Escrow Services, Inc.'s bond, deriving from allegations related to the closure of Roswell Escrow Services, Inc. The case has been static pending the district court's decision on a motion to dismiss for failure to join indispensable parties.

3. *Ross Duncan Properties, LLC v. Roswell Escrow Services, Inc. and New Mexico Taxation and Revenue Department*, D-504-CV-202000255, in the Fifth Judicial District Court of the State of New Mexico in Chaves County. In this lawsuit the Plaintiff seeks to foreclose on mortgages with Roswell Escrow Services and to remove tax liens filed by TRD. This lawsuit appears unlikely to impact the subject proceeding.

Roswell attorney Tandy Hunt (116 E. Country Club Road, Roswell, NM 88201, 575-622-1776) made an unsolicited offer to FID to purchase the property that is the subject of the Chaves

County *Ross Duncan Properties, LLC* lawsuit. Additionally, Mr. Hunt offered to have his associate attorney serve as a receiver “for you and your efforts,” who “could be paid from the sale of warehouse located on East College.” Mr. Hunt also noted that “[i]f such would benefit your efforts, we would consider some contract relationship that would benefit the State of New Mexico and facilitate the sale of the property.”

4. *Ross Duncan Properties, LLC v. Roswell Escrow Services, Inc.*, D-503-CV-202000222, in the Fifth Judicial District Court of the State of New Mexico in Eddy County. In this lawsuit the Plaintiff seeks to foreclose on mortgages held on Roswell Escrow Services, Inc. property. This lawsuit appears unlikely to impact the subject proceeding.

5. *Potts v. Lakeview Loan Servicing, LLC, Financial Institutions Division, et al.*, D-504-CV-202000640, in the Fifth Judicial District Court of the State of New Mexico in Chaves County. This interpleader and quiet title action appears unlikely to impact the subject proceeding.

6. *The Bookstore Real Estate Contract*. Roswell Escrow Services, Inc. appears to have purchased a bookstore in Roswell, New Mexico via a real estate contract for which no payments have been made for at least a year. The potential exists for the seller to pursue default and reclaim the property.

7. *Investigation by Federal Bureau of Investigation*. The Federal Bureau of Investigation (“FBI”) served two warrants upon the FID in connection with Roswell Escrow Services. FID personnel complied with the warrants. FID has no further information related to ongoing investigations, if any, related to this matter.

II. ROSWELL ESCROW SERVICES, INC. RECEIVERSHIP ISSUES

As noted above, FID has performed functions concerning Roswell Escrow Services, Inc. pursuant to the limited authority provided to the FID by the Stipulated Order but without all of the powers of a receiver. In that capacity, FID took possession of 1,439 open files for Roswell Escrow Services, Inc. and has supervised the transfer of the large majority of those files to other escrow service providers. FID has directed eight (8) personnel to work on these issues, not including legal and managerial staff, who have invested over 5,300 hours in the project and made over 36 trips to Roswell, New Mexico, to discharge those duties. FID has taken possession of all business records at the Roswell Escrow Services, Inc. offices located at 200 W. Second and transported those records to FID locations in Albuquerque and Santa Fe.

Ongoing Rent Obligations. FID currently pays a reduced rent to continue storing a relatively large amount of office furniture, office equipment, office supplies, and old office computers at the office space which formerly housed Roswell Escrow Services, Inc., in Roswell. FID does not have sufficient funding to continue paying the reduced rent. FID does not pay rent for offsite storage of Roswell Escrow Services, Inc. records. The property owner of the offsite records storage company is holding the offsite records as collateral for approximately eighteen (18) months of unpaid rent.

Insurance Obligations. There is an overdue insurance bill for property located at 1711 N. 1st Street, Artesia, NM, that is the subject of the Eddy County *Ross Duncan* lawsuit.

III. JOINT RECOMMENDATIONS

The Court enter a stipulated permanent injunction that, among other things, would grant FID the following authority:

- a. Authority to make an inventory of the contents of Roswell Escrow Services, Inc.'s office estimated to be valued in excess of \$25.00 and to sell the same, with the proceeds of any such sale to be deposited into the court registry under the case number for the above-captioned matter;
- b. At the discretion of the FID, authority to donate for charitable purposes, discard, or release to Respondents Christopher Adam Jensen-Tanner and Mindy Jensen-Tanner, any inventoried contents of Roswell Escrow Services, Inc., as described in subsection (a) that the FID is not able to sell within a reasonable period of time;
- c. Authority to terminate the rental agreement for same;
- d. Authority to take whatever steps are necessary to take possession of Roswell Escrow Services, Inc.'s documents in offsite storage;
- e. Authority to seek an ex parte order from the court to have checks made out from the court registry to parties entitled to payments for rent or insurance obligations currently owed by Roswell Escrow Service, Inc.

Respectfully Submitted,

HINKLE SHANOR LLP

By: Approval received electronically 2/12/2021

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Counsel for Financial Institutions Division

CERTIFICATE OF SERVICE

Pursuant to Rule 1-005(E) NMRA, the foregoing Joint Status Report was served on the following on <date> by the method reflected:

<u>Person Served</u>	<u>Method</u>
Lucas M. Williams, Esq.	Via eFile/eService
Kevin Graham, Esq.	Via eFile/eService

Respectfully Submitted,

By: 

Kevin A. Graham