

1 **GUTTILLA MURPHY ANDERSON**

2 **Ryan W. Anderson** (Ariz. No. 020974)

3 5415 E. High St., Suite 200

4 Phoenix, Arizona 85054

5 Email: randerson@gamlaw.com

6 Phone: (480) 304-8300

7 Fax: (480) 304-8301

8 Attorneys for the Receiver

9
10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

11 IN AND FOR MARICOPA COUNTY

12 ARIZONA CORPORATION
13 COMMISSION,

14 Plaintiff,

15 v.

16 DENSCO INVESTMENT
17 CORPORATION, an Arizona
18 corporation,

19 Defendant.

Cause No. CV2016-014142

PETITION NO. 80

EX PARTE PETITION SEEKING
APPROVAL FOR RECEIVER TO
SERVE AND PROSECUTE
COMPLAINT AGAINST U.S. BANK,
NA, HILDA H. CHAVEZ, JP MORGAN
CHASE BANK, N.A., SAMANTHA
NELSON F/K/A SAMANTHA
KUMBALECK, KRISTOFER NELSON
AND VIKRAM DADLANI

(Assigned to the Honorable Teresa
Sanders)

20 Peter S. Davis, as the court appointed Receiver of DenSco Investment Corporation
21 (“Receiver”), respectfully petitions the Court for an Order to authorize the Receiver to serve
22 and prosecute a civil complaint against U.S. Bank, NA, Hilda H. Chavez, JP Morgan Chase
23 Bank, N.A., Samantha Nelson f/k/a Samantha Kumbaleck, Kristofer Nelson and Vikram
24 Dadlani as follows:

1. On August 18, 2016, this Court entered its *Order Appointing Receiver*
 (“Receivership Order”) which appointed Peter S. Davis, as Receiver of DenSco Investment

1 Corporation (“DenSco”). The Receivership Order specifically authorized the Receiver to
2 institute actions in state or federal courts as may, in his judgment, be necessary or proper for
3 the collection of Receivership Assets (Receivership Order ¶ 19).

4 2. On September 2, 2016, this Court entered its *Order Re: Petition No. 2 Order*
5 *Governing the Administration of the Receivership*, which provided in pertinent part:

6 Ex Parte Petitions. Counsel for the Receiver may file an ex parte petition
7 and lodge a proposed form of order without providing notice or service as
8 provided in this order or by the Rules of Civil Procedure, where the Court
expressly so authorizes such a filing, or where:

9 b. The petition seeks authority to institute or defend litigation, file an
10 appeal or assert or otherwise perfect a claim or defense of the Receiver.

11 3. Accordingly, the Receiver has prepared and filed this Ex-Parte Petition
12 seeking specific authority from this Court to serve and prosecute civil litigation against U.S.
13 Bank, NA, Hilda H. Chavez, JP Morgan Chase Bank, N.A., Samantha Nelson f/k/a
14 Samantha Kumbaleck, Kristofer Nelson and Vikram Dadlani.

15 4. On September 19, 2017, the Receiver filed *Petition No. 36* seeking approval
16 of the engagement of the law firm of Bergin, Frakes, Smalley & Oberholtzer, PLLC.
17 (“Special Counsel”) to serve as Special Counsel to the Receiver to investigate DenSco’s
18 potential claims against certain financial institutions may have been instrumental in
19 allowing Yomtov Scott Menaged (“Menaged”) to operative a massive fraudulent loan
20 scheme upon DenSco. On October 17, 2017, the Court, pursuant to *Order Re Petition No.*
21 *36* approved the engagement of Special Counsel.

22 5. Special Counsel has completed its investigation into DenSco’s potential
23 claims against certain financial institutions and has submitted a memorandum to the
24

Receiver setting forth its findings and recommendations. After review and consideration of the investigation conducted by Special Counsel, the Receiver directed the preparation of a civil complaint against U.S. Bank, NA, Hilda H. Chavez, JP Morgan Chase Bank, N.A., Samantha Nelson f/k/a Samantha Kumbaleck, Kristofer Nelson and Vikram Dadlani.

6. To ensure the Receiver did not run into statute of limitations issues, this Complaint was filed on August 16, 2019 in the Maricopa County Superior Court, Case No. CV2019-01149. However, this Complaint will not be served until the Court approves this Ex-Parte Petition. Attached as Exhibit “A” is a copy of the filed complaint that the Receiver requests authority to serve and prosecute¹.

7. As set forth in the complaint, the Receiver has alleged that Scott Menaged (“Menaged”) facilitated a fraudulent scheme against DenSco by soliciting DenSco for “hard money loans” for the intended purpose of purchasing specific foreclosed homes at public trustee’s sales. DenSco reasonably expected that the DenSco loan proceeds would be used by Menaged for the specific purpose of purchasing specific properties in foreclosure proceedings and the DenSco loans would be secured by a deed of trust. However, Menaged defrauded DenSco by not using the funds that he borrowed from DenSco to purchase real estate but instead used the funds for his own personal benefit.

8. During the Receiver’s investigation into Menaged’s fraudulent scheme against DenSco, it was discovered that two national financial institutions played a pivotal role in a perpetrating this scheme.

9. Specifically, US Bank and JP Morgan Chase allowed Menaged to issue cashier’s checks intended to deceive DenSco that its loan proceeds were being used by

¹ The complaint has been assigned to the Honorable Judge Daniel Martin.

1 Menaged to purchase real properties, while US Bank, JP Morgan Chase and Menaged knew
2 that the cashier's checks were never intended to be used for any commercial purpose. In
3 fact, the cashier's checks were issued, then photographed by Menaged and immediately
4 redeposited into the banks. The photographs of the cashier's checks were then used by
5 Menaged to convince DenSco that Menaged purchased properties that were never actually
6 purchased by Menaged.

7
8 10. From December 2012 through May 2016, Menaged banked at US Bank's
9 branch located at 6611 W. Bell Road, Glendale, Arizona. Defendant Hilda H. Chavez
10 ("Chavez") worked at US Bank and was the manager. Chavez was Menaged's main contact
11 at US Bank. Menaged and Chavez worked together to create, photograph, and then
12 immediately redeposit at least forty-one (41) cashier's checks in the total amount of
13 \$6,931,048.00, which allowed Menaged to use the DenSco loan proceeds for his own
14 personal benefit.

15 11. From April 2014 through at least November, 2016, Menaged banked at JP
16 Morgan Chase's ("Chase") branch located at 8999 E. Shea Boulevard, Scottsdale, Arizona.
17 Defendant Samantha Nelson f/k/a Samantha Kumbaleck ("Nelson") and Defendant Vikram
18 Dadlani ("Dadlani") worked at Chase and were both managers. Menaged, Nelson and
19 Dadlani worked together to create, photograph, and then immediately redeposit at least one
20 thousand three hundred forty-nine (1,349) cashier's checks in the total amount of
21 \$312,108,679.00, which allowed Menaged to use DenSco loan proceeds for his own
22 personal benefit.
23
24

13. In the Complaint, the Receiver seeks an award of compensatory damages against U.S. Bank, NA, Hilda H. Chavez, JP Morgan Chase Bank, N.A., Samantha Nelson f/k/a Samantha Kumbaleck, Kristofer Nelson and Vikram Dadlani for their substantial assistance or encouragement to Menaged with the intent of promoting Menaged's fraudulent conduct, negligence, breaches of fiduciary duty, aiding and abetting Menaged's breaches of fiduciary duty, for prejudgment interest and punitive damages.

WHEREFORE, and based on the foregoing, the Receiver respectfully requests that the Court authorize the Receiver to serve and prosecute civil litigation complaint against U.S. Bank, NA, Hilda H. Chavez, JP Morgan Chase Bank, N.A., Samantha Nelson f/ka Samantha Kumbaleck, Kristofer Nelson and Vikram Dadlani.

Respectfully submitted this 28th day of August, 2019.

GUTTILLA MURPHY ANDERSON, P.C.

/s/ Ryan W. Anderson
Ryan W. Anderson
Attorneys for the Receiver

Original of the foregoing e-filed
this 28th day of August, 2019 with
the Clerk of the Maricopa County Superior Court.
2359-001(374654)