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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

20 MOTION TO AMEND
21 ORDER RE: PETITION NO. 2 ORDER
GOVERNING THE ADMINISTRATION
OF THE RECEIVER

(Assigned to the Honorable Teresa
Sanders)

22
23 Peter S. Davis, the court appointed Receiver in this matter, hereby requests that the
24 Court enter an order amending the *Order Re: Petition No. 2, Order Governing the*
25 *Administration of the Receiver*, which was previously entered by the Court on September 2,
26 2016, as described below.

1 *Order Re: Petition No. 2* reads as follows with respect to setting hearings on petitions
2 filed by the Receiver in this receivership:

3 3. Service List and Proof of Service. Service of all petitions and
4 other papers filed in connection with this receivership shall be governed by the
Arizona Rules of Civil Procedure and this paragraph:

5 * * *

6 c. The person filing a petition shall serve on all persons on
the applicable Service list, a copy of the petition and proposed form
order. If the petition is filed by the Receiver, the Receiver shall also
7 obtain a hearing date from the court and serve a notice of hearing.
[*Emphasis added.*]

8 * * *

9 6. Notice Procedures. Notice of all proceedings in this receivership
shall be governed by the following provisions unless otherwise ordered by the
10 Court:

11 a. Notices of hearings regarding petitions for authority to
compensate the Receiver, attorneys and others, shall be given by mailing
notice and a copy of the petition to each person on the Master Service
12 List not later than seven (7) days before the date set for hearing.

13 b. Notice for hearing on the final account and report of
Receiver shall be given by mailing notice and a copy of the petition to
each person on the Master Service List not later than ten (10) days before
14 the date set for hearing, and the notice shall be published once in the
Arizona Business Gazette, or other newspaper of general circulation, not
15 later than seven (7) days before the date set for hearing.

16 c. Unless otherwise ordered by the Court, all other matters
requiring the giving of public notice shall follow the procedure outlined
17 in subparagraph (a) above.

18 At the hearing on August 8, 2017, regarding Petition No. 28, the Court indicated to
19 counsel for the Receiver that the Court preferred to only set hearings on petitions where a
20 timely objection has been filed or when there are other compelling reasons for setting a
21 hearing. The Receiver believes that the only petitions that should require that a hearing be set

1 at the time the petition is filed would be petitions to confirm the sale of property of the estate
2 or the petition to approve the final account and report of the Receiver.

3 Accordingly, the Receiver moves the Court to enter an order amending Paragraphs 3
4 and 6 of *Order Re: Petition No. 2* to read as follows:

5 3. Service List and Proof of Service. Service of all petitions and
6 other papers filed in connection with this receivership shall be governed by the
Arizona Rules of Civil Procedure and this paragraph:

7 a. Counsel for the Receiver shall maintain a Master Service
8 List containing the name and mailing address of each person, or the
9 person's legal counsel, who has made an appearance in this matter, or
10 has requested to be included on the Master Service List, or has been
placed there by order of the Court. All pleadings and other papers filed
in this matter shall be served as provided in this order on each person on
the Master Service List, except as provided in this order or by other
order of this Court.

11 b. Where the Court has provided for a separate mailing list
12 for a matter raised by petition, all pleadings and other papers filed in
13 connection with that petition shall be served on all persons on the special
service list for that petition.

14 c. The person filing a petition shall serve on all persons on
15 the applicable Service list, a copy of the petition and proposed form
16 order. If the petition is filed by the Receiver and involves the sale of an
asset of the receivership estate or the Receiver's final account and report,
the Receiver shall also obtain a hearing date from the court and serve a
notice of hearing.

17 d. Within five days (5) after the entry of an order granting or
18 denying relief under a petition, the person filing the petition shall serve a
conformed copy of the order entered by the Court on all persons on the
19 applicable service list.

20 e. All *ex parte* orders entered by the Court in accordance with
21 this Order shall be served by the Receiver on all persons on the Master
Service List within five (5) days after entry of the *ex parte* order.

f. Service under this paragraph shall be made as follows:

(1) by first class mail, postage prepaid, to the person at the address set forth on the service list, or

(2) where the person has authorized service by email, by email to the person at the email address set forth on the service list.

g. The party making service shall, within five (5) days after making service, file and serve a proof of service, stating that a copy of the petition or other paper was served on the persons set forth on the attached applicable service list and the manner in which such service was made.

h. Counsel for the Receiver shall provide a copy of the Master Service List and any special service list to any person requesting same.

i. Counsel for the Receiver shall remove the name of a person from a service list upon receipt of a written request to do so from the person or his counsel or when so directed by the court.

6. Notice Procedures. Notice of all proceedings in this receivership shall be governed by the following provisions unless otherwise ordered by the Court:

a. Notices of hearings set by the court regarding petitions for authority to compensate the Receiver, attorneys and others, shall be given by mailing a notice of the hearing ~~notice and a copy of the petition~~ to each person on the Master Service List not later than seven (7) days before the date set for hearing.

b. Notice for hearing on petitions to approve the sale of assets of the receivership estate or to approve the final account and report of Receiver shall be given by mailing a notice of the hearing ~~notice~~ and a copy of the petition to each person on the Master Service List not later than ten (10) days before the date set for hearing, and the notice shall be published once in the Arizona Business Gazette, or other newspaper of general circulation, not later than seven (7) days before the date set for hearing.

1
2 c. Unless otherwise ordered by the Court, all other matters
3 requiring the giving of public notice shall follow the procedure outlined
4 in subparagraph (a) above.

5 Respectfully submitted this 21st day of August, 2017.

6 GUTTILLA MURPHY ANDERSON, P.C.

7 /s/Patrick M. Murphy
8 Patrick M. Murphy
9 Attorneys for the Receiver

10 Original of the foregoing and proposed
11 Order e-filed this 21st day of August, 2017
12 with the Clerk of the Maricopa County Superior Court.

13 Copy of the foregoing and proposed Order
14 Mailed and/or emailed this 21st day of
15 August, 2017, to all persons on the attached
16 Master Service List.

17 By: /s/Cynthia Ambrozic

18 2359-001(293705)

MASTER SERVICE LIST

Arizona Corporation Commission v. DenSco Investment Corporation
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
CV2016-014142
(Revised August 8, 2017)

The Honorable Teresa Sanders
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