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**HAND DELIVERED**

August 13, 2020

Honorable John Hannah  
Maricopa County Superior Court  
101 West Jefferson  
East Court Building, Courtroom 811  
Phoenix, Arizona 85003

Re: *Ariz. Corp. Comm'n v. DenSco Investment Corp.*, Maricopa County Superior  
Court, Cause No. CV2016-014142

Dear Judge Hannah:

You have been recently assigned the above referenced Receivership case. Our firm represents Peter S. Davis of Simon Consulting, LLC, as Court appointed Receiver, under the *Order Appointing Receiver* entered in this case on August 18, 2016, of DenSco Investment Corporation. [Enclosed<sup>1</sup>] Because you have just recently been assigned to this Receivership, I thought it would be helpful to provide you with some background information and key documents.

This receivership involves the liquidation of DenSco Investment Corporation a former unlicensed “hard money” lending business. The case was commenced when the Arizona Corporation Commission filed its Complaint against DenSco Investment Corporation (“DenSco”).

In order to establish rules governing the procedures in the receivership, Judge Bustamante entered *Order Re: Petition No. 2*, a copy of which is also enclosed<sup>2</sup>. This order is nearly identical to procedural orders entered in many other receiverships before the Superior Court of Arizona. The order provides for the filing of petitions, rather than motions. *Order Re: Petition No. 2* calls for the case to remain on the Court’s active calendar and requires the Receiver to maintain a Master Service List. The Master Service List is maintained by counsel to the Receiver and includes the assigned judge, the parties, legal counsel appearing in the case, and all persons who have requested to be notified of filings in the receivership. A copy of the Master Service List as of July 17, 2020, is enclosed<sup>3</sup> and reflects you as the assigned judge in the receivership. On September 18, 2017, Judge Sanders entered an Order amending Order

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<sup>1</sup> Enclosure 1

<sup>2</sup> Enclosure 2

<sup>3</sup> Enclosure 3

Re: Petition No 2. to clarify notice procedures and procedures for the service of Ex Parte orders. (see enclosed<sup>4</sup>)

In addition, the Receiver maintains a website <https://denscoreceiver1.godaddysites.com/> on which he posts copies of the all petitions, orders and other written documents relating to the receivership, including all pleadings in various ancillary litigation in the DenSco Receivership.

These notice procedures and the DenSco website are intended to provide a reasonable opportunity to all interested parties, most of who are not lawyers and are not even parties to the litigation, to have a say in the conduct of the receivership and this Court's supervision of the receivership. In addition, if persons not on the Master Service List are known to have an interest in a particular Petition, those persons are also served with the Petition and proposed order. For example, a Petition seeking approval of the payment of an interim distribution to the DenSco creditors is served on the Master Mailing List and all DenSco creditors.

The Receiver has filed with the Court a series of periodic status reports. I have enclosed a copy of the *Receiver's Preliminary Report* filed with his Petition No 3 in September 2016<sup>5</sup> and a copy of the most recent *Status Report* filed on January 21, 2020 with the Receiver's petition No. 86<sup>6</sup>. These Status Reports will provide you some idea of the issues in the administration of the DenSco receivership.

### **Pending Matters**

There are currently four petitions pending before the Court.

1. Petition No. 94. This Petition seeks approval of the payment of a Contingency fee and expenses of \$4,943,000 to Osborn Maledon. The contingency fee and expenses arise from the resolution of litigation advanced by the Receiver against DenSco's former legal counsel. The compromise of the litigation was approved by Judge Sanders in Order Re: Petition No. 91 on May 28, 2020. There have been no objections to Petition No. 94.

2. Petition No. 96. This Petition seeks approval of a Settlement Agreement between the Receiver and former DenSco investors, who the Receiver alleged recovered fictitious profits from DenSco. There have been no objections to Petition No. 96.

3. Petition No. 97. This Petition seeks approval of a Fourth Interim Distribution to the DenSco Creditors. The Receiver has recommended that the Court approve the distribution of \$9,999,999.97 to the approved creditors in DenSco. If approved, the DenSco creditors will recover approximately 57% of their approved creditor claims. There have been no objections to Petition No. 97.

4. Petition No. 98. This Petition seeks approval of the Receiver's professional fees and cost for the month of June 2020. There have been no objections to Petition No. 98, but the deadline to object has not expired.

### **Claims Adjudication and Distribution**

On March 28, 2017, the Court entered its *Order Re: Petition No. 19: Order Establishing Procedures for the Adjudication of Claims*. Which, among other things, established the

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<sup>4</sup> Enclosure 4

<sup>5</sup> Enclosure 5

<sup>6</sup> Enclosure 6

procedures for the solicitation and adjudication of creditor claims against DenSco. On October 27, 2017, Judge Sanders entered Order *Re: Petition No. 37*, which approved the amount of each DenSco investors claim. The collective approved claims of the DenSco investors is \$31,446,001.79. (See enclosed<sup>7</sup>) To date, the Receiver has recommended the distribution to DenSco investors of \$18,000,000.07.

### **Pending and Contemplated Litigation**

There are several related pending and contemplated litigation matters in the DenSco Receivership.

1. DenSco vs. US Bank/Chase Bank Lawsuit. 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. 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. 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 Menaged to purchase real properties, while US Bank, JP Morgan Chase and Menaged knew that the cashier’s checks were never intended to be used for any commercial purpose. In fact, the cashier’s checks were issued, then photographed by Menaged and immediately redeposited into the banks. The photographs of the cashier’s checks were then used by Menaged to convince DenSco that Menaged purchased properties that were never actually purchased by Menaged. From December 2012 through May 2016, Menaged and US Bank worked together to create, photograph, and then immediately redeposit at least forty-one (41) cashier’s checks in the total amount of \$6,931,048.00. From April 2014 through at least November 2016, Menaged and JP Morgan Chase worked together to create, photograph, and then immediately redeposit at least one thousand three hundred forty-nine (1,349) cashier’s checks in the total amount of \$312,108,679.00, which allowed Menaged to use DenSco loan proceeds for his own personal benefit.

The law firm of Bergin, Frakes, Smalley & Oberholtzer PLC has been engaged to represent the Receiver pursuant to Order re: Petition No. 36. The Receiver’s Complaint against Chase and US Bank was filed on August 16, 2019 in the Maricopa County Superior Court, Cause No. CV2019-011499 and assigned to Judge Daniel Martin. Currently, US Bank and Chase have filed motions to dismiss the Receiver’s complaint.

2. USA vs. Joseph Menaged and Stephen Brown, CR19-0352-PHX-SPL. On or about April 2, 2019, the United States indicted Menaged’s father, Joseph Menaged and Stephen Brown<sup>8</sup>. In the indictment, the United States alleged that Joseph Menaged and Stephen Brown violated federal law by creating and “back dating” fraudulent documents, which were used to obtain mortgage loans to purchase real property in New York and Florida. The United States

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<sup>7</sup> Enclosure 7

<sup>8</sup> Mr. Stephen Brown was Joseph Menaged’s accountant.

and Joseph Menaged have entered into a Plea Agreement to address the government's allegations against Joseph Menaged. One term of the plea agreement is that Joseph Menaged has agreed to pay \$350,000 to the Receiver for the benefit of the DenSCO victims. Per the terms of the deferred prosecution agreement, the United States will dismiss its prosecution against Stephen Brown with a payment of \$150,000 being made by Stephen Brown to the Receiver. Stephen Brown has made the \$150,000 payment to the Receiver and the Receiver continues to monitor Joseph Menaged's criminal case. The Receivership Court in Order re: Petition 88 approved these payments to the DenSCO Receivership.

3. Receiver vs. Active Funding Group, LLC. The Receiver's investigation has determined that Active Funding Group, LLC and its principals may have been working in concert with Menaged and been aware that Menaged was seeking to obtain two hard money loans on real property purchased at foreclosure auctions and defrauding DenSCO in the process. The Receiver has engaged Ajamie, LLP, to assist the Receiver in his ongoing investigation of these potential claims against Active Funding Group, LLC. At this time, the Receiver and Active Funding have agreed to a tolling agreement and are exploring possible resolution of the Receiver's claims.

4. Receiver vs. Four Futures et al. On December 27, 2019, the Receiver filed suit against Four Futures, Carsyn Smith Trust, McKenna Smith Trust, Thomas Smith, and Deanna Smith (collectively referred to hereafter as the "Smith Defendants") in the Arizona Superior Court for Maricopa County, titled *Davis v. Smith, et al.*, cause number CV 2019-057398 ("Smith Action"), in which the Receiver sought to recover "fictitious profits" received by the defendants from DenSCO after December 31, 2012. The Receiver has entered into a proposed settlement to compromise the Receiver's claims as detailed above in Petition No. 96.

I hope this information and the enclosed documents are helpful.

Very truly yours,



Ryan W. Anderson

cc: All persons listed on attached Master Service List (w/o enclosures)

Enclosures (7)

RWA:ce

## MASTER SERVICE LIST

*Arizona Corporation Commission v. DenSco Investment Corporation*  
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
CV2016-014142  
(Revised July 20, 2020)

The Honorable John Hannah  
Maricopa County Superior Court  
East Court Building  
101 West Jefferson, Room 811  
Phoenix, Arizona 85003

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