James F. Polese #003451
Christopher L. Hering #028169
GAMMAGE & BURNHAM, P.L.C.
TWO N. CENTRAL AVENUE, 15TH FLOOR
PHOENIX, ARIZONA 85004
TELEPHONE: (602) 256-0566
EMAIL: jpolese@gblaw.com
chering@gblaw.com

Attorneys for Estate of Denny J. Chittick, Deceased

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

ARIZONA CORPORATION COMMISSION,

Plaintiff,

vs.

DENSCO INVESTMENT CORPORATION, an Arizona corporation,

Defendant.

No. CV2016-014142

REPLY IN SUPPORT OF PETITION NO. 11

(Assigned to the Honorable Lori Bustamante)

(Peter S. Davis – Appointed Receiver)

(ORAL ARGUMENT REQUESTED)[1]

[1] The request is made in an abundance of caution because the Estate assumes that the "default" for petitions, especially where there is opposition, would be a hearing.

I. THE RECEIVER HAS NO OBJECTION TO EMPLOYING THE PRESTON ACCOUNTING FIRM OR RESTATING DENSCO'S INCOME

Although the Receiver's Response to Petition No. 11 ("Response") at 1-2 opposes the appointment of corporate officers of DenSco Investment Corporation ("DenSco") and contends that the DenSco Defined Benefit Pension Plan ("DB Plan") is an asset of the Receivership, the Receiver makes no argument that it should not be compelled to cooperate with the Estate of Denny J. Chittick ("Estate") so that the Estate can file amended income tax returns in hopes of recovering taxes previously paid on what the parties now agree was bogus income.

The Receiver voices no opposition to the Estate's request that it be compelled to promptly restate the Schedule K-1s which DenSco issued to Chittick. Only after DenSco's corporate earnings are restated can amended tax returns be filed and refunds sought. The Receiver needs to act quickly before current open tax years become closed.[2]

The Receiver's sole complaint is that it should not be required to participate in any restatement of DenSco's income until the Estate agrees to deposit any refunds that the Estate may receive into an escrow account – presumably for later attachment by the Receiver. Response at 16.

Any refunds belong to the Estate and the Receiver is entitled to no Estate assets.[3] Moreover, the Court cannot compel the Estate to either file amended tax returns or limit the Estate's control of any refunds received. At present, the Receiver is nothing more than one of a number of claimants who has asserted claims against the Estate that will be

---

[2] The Receiver advised the Estate that it believes that refunds could be sought for the taxable years after 2010. If true, the tax year 2011 will close as of April 17, 2017.

[3] The Estate, as part of global settlement discussions with the Receiver pursuant to Rule 408, ARCP, had discussed sharing any tax recoveries on an equal basis with the Receiver. However, the Receiver rejected that proposal, demanding the right to the entirety of any refunds "if facts warranted it" and thus wanted all refund monies escrowed.

adjudicated in the Probate Court. The Receiver is not entitled to any preferential prejudgment creditor treatment. *See* A.R.S. § 12-1521, *et seq.*[4]

Moreover, the Receiver's demand that the Estate expend its resources in pressing refund claims but demanding that any refund monies be escrowed confirms that the Receiver wants to financially hamstring the Estate – depriving it of funds to defend against claims being asserted by the Receiver and/or other investors.[5]

Therefore, to condition the Receiver's cooperation with a demand for unlawful preferential rights belies the supposed "neutrality" of the Receiver.

II. <u>RECEIVER'S ARGUMENTS THAT THE DB PLAN AND ITS ASSETS ARE PART OF DENSCO OR THE RECEIVERSHIP ARE UNAVAILING</u>

The Receiver contends that because DenSco established the DB Plan, acts as its trustee and administrator, and has the authority to terminate the Plan, "DenSco owns the Plan." Response at 2. DenSco may be a fiduciary to the Plan but it most definitely does not "own the Plan." Such an assertion is antithetical to both Arizona trust law as well as federal pension law.

A. <u>There is No Authority Under State Law that Remotely Suggests that DenSco Owns the Pension Trust</u>

1. <u>A Trustee Does Not "Own" a Trust's Assets</u>

It is axiomatic that, under the Arizona Trust Code, a trustee does not "own" assets of a trust in any true sense of the word. Trust assets do not add to the net worth of the trustee. *See* A.R.S. § 14-10810(B) ("A trustee shall keep trust property separate from the trustee's own property."). Rather a trustee takes possession of assets – to be held solely and exclusively for the benefit of the trust beneficiaries. *See Id*. § 14-10809 ("A trustee

---

[4] Pre-judgment attachment relief is available where there is an action based on a judgment or an action based on contract, neither of which apply to the Receiver's claims.

[5] There are approximately 60 claims filed by investors against the Estate in the Probate Court.

shall take reasonable steps to take control of and protect the trust property"); and § 11002 ("A trustee who commits a breach of trust is liable to the beneficiaries").

A trust document may indeed give a settlor or trustee broad and sweeping powers over the trust but it is immutable that the only persons who can financially benefit from the trust are its beneficiaries. *Id.*

2. Arizona's Creditor Protection Statutes Belie the Receiver's "Ownership" Argument

A.R.S. § 33-1126(B), which the Receiver failed to address, confirms that the Receiver's "ownership" argument is insupportable. Clearly, the Arizona legislature did not consider pension plan funds to be an asset of the employer. Otherwise, such accounts would be subject to attachment by creditors of DenSco. As noted hereinbelow, such a proposition violates federal law as well.

B. Federal ERISA Law is Expressly Contrary to the Receiver's Position

1. DenSco is Not the Owner of But a Fiduciary to the DB Plan

Under ERISA, DenSco, as administrator and trustee, is a plan fiduciary and as such is subject not only to traditional notions of fiduciary responsibilities to trust beneficiaries, but is subject to very strict obligations imposed by ERISA. A fiduciary's primary responsibility is to discharge his or her duties solely in the interests of the plan's participants and beneficiaries and for the exclusive purpose of providing benefits for participants and their beneficiaries and alternate payees. ERISA § 404(a)(1)(A)(i).

ERISA § 406(b) and IRC Code § 4975 prohibit fiduciary self-dealing. Specifically, a fiduciary may not deal with the assets of a plan in his own interest or for *his own account*, act in any transaction involving the plan on behalf of a party whose interests are adverse to the interest of the plan, or *receive any consideration* for his own personal account from any party dealing with the plan in connection with a transaction involving plan assets. Violation of these obligations exposes the fiduciary to personal liability to the participants and beneficiaries. *See* ERISA § 409.

2. ERISA's Exclusive Benefit Provision Confirms that the DB Plan and its Assets Can Never be Viewed as Receivership Assets

ERISA contains provisions that are of paramount significance when dealing with retirement plans, namely the "exclusive benefit" rule – provisions that the Receiver has conveniently ignored in his Response. The rule appears twice in ERISA: ERISA §§ 403(a) and 404(a)(1). Both confirm that assets have to be held for the "exclusive benefit of plan beneficiaries and ***shall never inure to the benefit of any employer.***" Emphasis supplied.[6]

C. None of Receiver's Other Arguments for Plan Ownership are Credible

First, the Receiver argues that because the DB Plan is an unallocated account plan, it is possible that the "plan's liabilities [could be] greater than its assets at termination" and that DenSco "would be liable to make up the shortfall." Response at 3. The statement is true as a matter of pension law but an utterly irrelevant *non-sequitur*. That DenSco, as settlor of the pension trust, has a funding obligation to a trust does not make it the owner of the trust. Moreover, the funding obligation arises by virtue of ERISA and ERISA expressly contains the exclusive benefit rule – notwithstanding this funding obligation.

This argument is irrelevant. The Receiver complains that the DB Plan is "grossly overfunded." Response at 13. Thus, there never will be a situation where DenSco "would be liable to make up the shortfall."

Similarly inapplicable is the Receiver's argument that because an overfunding of the DB Plan could potentially revert to DenSco, DenSco is the owner of the Plan. Response at 4.

The Receiver's argument is again built on a *non-sequitur*. To the extent that any

[6] The exclusive benefit rule is also embodied in Section 12.6 of the DB Plan document.

excess funding would revert to DenSco, it is not because DenSco would be deemed to be the owner of the DB Plan. DenSco is entitled to recover the excess because excess funding simply is not deemed to be a retirement plan asset in the first place.

However, as even the Receiver acknowledges, any excess funding would be effectively confiscated by the government – first in a recapture of the excess as ordinary income – taxable as high as 35% (the corporate tax rate)[7] and then subject to an additional excess penalty of 50%. Response at 3.[8]

The Receiver's third additional argument seeks to differentiate between the DB Plan (*i.e.*, the Plan document) and the assets held pursuant to the Plan document (*i.e.*, $1,817,319). Response at 5. Apparently conceding that DenSco cannot financially benefit from the assets held in the DB Plan – at least not unless he can successfully attack the Plan (*see* Response at 9) – the Receiver nonetheless argues that, as "an intangible asset" of DenSco, it "owns the Plan."

Plan documents are not intangible assets. Clearly, the DB Plan is a "thing" that can be held and inspected as any other physical asset. It is thus hard to understand how the DB Plan – the Plan documents – could be intangible assets.

The Receiver then claims that DenSco's "operational obligations" under the Plan are an intangible asset, but he never articulates how "operational obligations" could be an asset. An asset, whether tangible or intangible, must have some perceived financial value or worth to its owner. *See, e.g., Mitchell v. Mitchell*, 152 Ariz. 317, 732 P.2d 208 (Ariz. 1987) (goodwill an intangible asset of value). The Receiver concedes this very point in footnote 8 (intangible assets are something of value).

---

[7] It is anticipated that at the time of any reversion, the Estate will have terminated the S corporation election and DenSco will be liable for the income tax imposed on any reversion.

[8] As part of the global settlement with the Receiver, the Estate agreed to work to obtain an abatement or reduction in the reversion excise penalty so that there would be a maximum net recovery to DenSco.

What value is there to DenSco to have "operational obligations" since none of the Plan assets can inure to the benefit of DenSco? The "control" rights discussed by the Receiver add nothing of value to DenSco – unless one considers the Receiver's announced intention to violate his fiduciary obligations and attack the DB Plan. *See* Response at 9.

Thus, unless and until a court of competent jurisdiction vests title of the DB Plan assets in the Receiver[9], neither the DB Plan nor its assets are Receivership Assets.

III. BECAUSE THE ROLE OF PLAN ADMINISTRATOR AND TRUSTEE ARE NOT WITHIN THE PURVIEW OF THE RECEIVER ORDER, SHAWNA HEUER CAN BE APPOINTED AS PLAN ADMINISTRATOR AND TRUSTEE

A. The Receiver's Argument that the Estate Lacks Standing is Unpersuasive

In its attempt to prevent the Estate from taking charge of the DB Plan and its assets – by naming a new plan administrator and trustee – the Receiver makes the argument that the Estate has not proved "standing" as the shareholder to hold board of director elections. Response at 14. The Receiver has a copy of the inventory and appraisement of the Chittick Estate, which shows the DenSco stock as an Estate asset.

DenSco has only issued common stock. Under Arizona law, common stock has voting rights. *See* A.R.S. § 10-721 (each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting). Whatever rights that existed in securities held by the decedent prior to death pass, intact, to the decedent's

[9] The Response (p. 10) supposes that this Court has jurisdiction to adjudicate whether the DB Plan is entitled to protections accorded under federal law. As discussed herein, the Estate believes that ERISA vests exclusive jurisdiction over pension plans with federal courts and that this Court lacks subject matter jurisdiction to address the plan's qualification issues which are inherently federal questions. Moreover, it is within the exclusive jurisdiction of the IRS to determine if any plan is "tax qualified" since tax qualification is dependent on the Internal Revenue Code. As noted, plans that are not tax compliant can be retroactively rehabilitated by the IRS.

estate. *See, e.g.*, A.R.S. § 14-6307.

B. The Receiver – Not Heuer – Has the Conflict of Interest

Without appreciating the irony of his argument, the Receiver claims that Shawna Heuer ("Heuer") should not be allowed to serve as plan administrator or as trustee because she is "self-interested." Response at 14-15.

Heuer is not an interested party with respect to the DB Plan. She is not a designated beneficiary of the DB Plan. She claims no financial benefit to any assets of the DB Plan or any intention to operate the DB Plan except as required by ERISA.

Of course, the same cannot be said of the Receiver. Nowhere does the Receiver even remotely address the inherent conflict of interest that the Receiver would clearly have if he were to serve as either the plan administrator or trustee, or have control over who was so appointed to those positions. The Receiver's assertion that he is but a neutral party – albeit one "with a duty to collect Receivership Estate property even if it is held under the Plan" (Response at 6) – purposefully ignores the Receivership Estate's interest in attacking the DB Plan. Certainly with respect to the beneficiaries of the Plan, the Receiver is anything but neutral.

IV. THE RECEIVER'S OPPOSITION IS PRIMARILY AN ATTACK ON THE "UNSPOKEN MOTIVATION" OF THE ESTATE

Rather than address the inconvenient and uncomfortable facts that (i) the Receiver knowingly accepted his Receivership role under an Order that did not include control over all corporate governance issues, and (ii) Arizona law unquestionably allows the election of a new board and appointment of officers to file vacancies, the Receiver argues first that there is no need for such elections. Response at 5. That determination is not within his purview; it is vested solely with the shareholders of DenSco under Arizona law. Moreover, there is nothing in Arizona law that requires that the shareholders first obtain the consent of the Receiver or otherwise first demonstrate that the Receiver is mismanaging the company as a precondition for any corporate elections, as the Receiver claims. Response at 6.

The Receiver reserves the bulk of his opposition for gratuitous mudslinging with bogus references to the Estate's "unspoken motivation" of improperly benefiting Chittick's children and family to the detriment of defrauded investors. Response at 7.[10]

In the view of the Receiver, it would be a horror if Ms. Heuer were allowed as plan administrator to "rehabilitate the Plan to make it better suited to defend against claims against the Plan." Response at 8. But that is precisely what is required of plan fiduciaries.[11] *See* https://webapps.dol.gov/elaws/elg/erisa.htm

The Court should be very troubled by the Receiver's intended self-dealing and intended willful violations under ERISA, irrespective of the Receiver's assertions that he is simply trying to protect the investors.

/ / /

/ / /

---

[10] The Receiver outdoes himself by the additional – and utterly gratuitous – citation to a memorandum Chittick prepared immediately prior to his suicide, at a time when he clearly was emotionally overwrought and not thinking rationally. Nowhere in his *ad hominem* attack does the Receiver acknowledge that neither Heuer nor anyone else undertook any actions to hide assets or otherwise frustrate the collection of DenSco assets or payments to its investors. Indeed, Heuer voluntarily turned over more than $550,000 in cash found at the residence of Chittick's parents. The funds may very well have come from a credit line that Chittick had taken at Bank of America. Nonetheless, in the interest of transparency, the Estate turned the funds over to the Receiver almost immediately upon his appointment, reserving the right to claim entitlement to the funds if facts so warranted it.

[11] As noted herein, the IRS maintains a program that allows noncompliant retirement plans that are at risk of losing their tax qualified status to obtain "retroactive rehabilitation under the Voluntary Compliance Program." The Estate, of course, does not concede that the DB Plan is noncompliant, only that, if it were, rehabilitation is both available and a mandated obligation of the plan fiduciary.

V. THE RECEIVER'S FANCIFUL PLANS TO SEIZE THE DB PLAN ASSETS ARE DOOMED TO FAILURE

A. The Receiver's Citations to Federal Bankruptcy Rulings are Both Irrelevant and Confirm that this Court Lacks Subject Matter Jurisdiction Over Tax Qualified Pension Plans

The Receiver asserts that federal bankruptcy courts have retained the right to independently re-examine retirement plans in order to determine if the plan assets of a debtor were exempt from creditors in bankruptcy proceedings or whether it has lost its "tax qualified" status. Response at 11-12. But these proceedings are not governed by rules of the bankruptcy court or federal bankruptcy law.

The Receiver's citation of federal authorities does confirm that whether a plan is a "tax qualified" plan is within the particular purview of the federal courts and this Court lacks subject matter jurisdiction to deal with questions arising under ERISA. *See* ERISA § 502(a), 29 U.S.C. § 1132(a); *LaRue v. DeWolff, Boberg & Associates, Inc*., 552 U.S. 248, 253, 128 S.Ct. 1020, 1024, 2008 WL 440748, *3 (2008).[12]

B. The Receiver Cannot Prevail in Claims Against the DB Plan Assets

The Receiver asserts that he needs to retain control of the DB Plan assets because he has bona fide claims that will allow him to unravel the Plan and seize its assets. Response at 10-14. Ignoring the clear breach of fiduciary duties that would be entailed by an ERISA fiduciary purposefully seeking to dismantle the DB Plan, we disagree.

1. Even if Tax Qualification Were Required, Any Alleged Defects to the Plan's Tax Qualification Status Can Be Retroactively Cured to Prevent Disqualification

In all of the cases cited by the Receiver, creditors of the plan participant were attacking the plan's federal bankruptcy law exemption. Unlike Arizona law, the federal

[12] Section 514 of ERlSA provides that ERlSA supersedes any and all state laws insofar as they relate to any employee benefit plan. As noted, it is the Estate's view that only the Internal Revenue Service can disqualify a retirement plan and there has never been any notice from the IRS to DenSco of its intent to do so or to demand that it enter the VCP and seek rehabilitation.

bankruptcy law exemption for retirement plan assets is dependent on the plan being a "tax qualified" plan (or being retroactively rehabilitated). *See, e.g., In re Richey*, 2011 WL 4485900 (Bankr. 9th Cir. 2011); *In re Gilbraith*, 523 B.R.198 (Bank. D. Ariz. 2014). If a plan is non-compliant, it can be rehabilitated by participating in the IRS's Voluntary Compliance Program ("VCP") under the Employee Plans Compliance and Resolution System ("EPCRS"), resulting in a retroactive cure, and thus defeat a creditor challenge to the plan.

2. Arizona's Exemption Statute is Broader than the Federal Bankruptcy Exemption and Does Not Require Tax Qualification

The Receiver suggests that the only basis for evaluating a pension plan is under the exemption set forth in Section 522 of the Bankruptcy Act. However, federal law allows a debtor to claim protection for pension plan assets under either the federal exemption or the state law exemption. As noted herein, the Arizona exemption is far more "debtor friendly" than the federal exemption. [13]

The Receiver ignores the discussion of the Arizona exemption cited and discussed in the Estate's Memorandum in Support of Petition No. 11 at p. 13. Rather, the Receiver dissembles, stating "In Arizona, courts have followed the principal [*sic*] that they are empowered to review the tax-qualified status of retirement plans…." Response at 12.

The statement is patently false in suggesting that Arizona state courts have done any such thing or could do any such thing – under either ERISA or in light of A.R.S. § 33-1126(B). Indeed, the only authority cited by the Receiver is a string of bankruptcy cases, the analysis of each turning on federal, not state, law.

[13] The bankruptcy exemption for IRAs is limited to $1,000,000 (increased by COLAs). The Arizona statute has no such dollar limitation. Further, the federal exemption's IRA exemption regime does not extend to inherited IRAs. *See Clark v. Rameker,* 134 S.Ct. 2242 (2014), 189 L.Ed. 2d 157. However, Arizona's statute specifically applies to inherited IRAs. And, as noted, the federal exemption has a specific "qualified" requirement for retirement plans; no such requirement exists under Arizona's exemption.

Moreover, the Arizona statute was expressly amended in 1998 to remove any requirement that the pension plan be "qualified" in order to be protected. This change barred creditors from continuing to argue that a plan lost its exemption on the grounds that it engaged in prohibited transactions or was otherwise no longer "qualified" under federal law. The change was also made to overcome creditor arguments that ERISA preempted Arizona's creditor protection statutes. *See Pitrat v. Garlikov*, 947 F.2d 419 (9th Cir. 1991). In *In re Richey, supra*, the bankruptcy appellate court noted that Arizona had changed A.R.S. § 33-1126(B) subsequent to *Pitrat* and noted Richey's "interesting" argument that tax qualification was no longer needed to rely on the exemption.

Continuing tax qualification is clearly not a requirement for a debtor to avail himself of the exemption under A.R.S. § 33-1126(B). As *Gilbraith*, *supra* noted, exemption statutes are to be broadly interpreted to benefit debtors, and this Court cannot read limitations into the exemptions not found in the text.

3. <u>Transfer-in-Defraud-of-Creditor Attacks on Plan Assets Have Already Been Rejected by the Courts</u>

The Receiver holds out hopes that this Court might "conclude that [Chittick] used the Plan as a subterfuge to defraud Company creditors…." Response at 12. This is one of the theories of liability asserted by the Receiver in his claims in the Probate Court.

The first problem for the Receiver is that the Uniform Fraudulent Transfer Act expressly excludes from the definition of assets subject to such claims "[p]roperty to the extent it is generally exempt under nonbankruptcy law." A.R.S § 44-1001(1)(b). As noted, A.R.S. § 33-1126(B) exempts retirement plan and IRA assets from creditors and thus they are not "assets" under the UFTA.

Moreover, the U.S. Supreme Court ruled that ERISA does not permit "equitable common law or other statutory claims," irrespective of the venality of the tortfeasor. *See Guidry v. Sheet Metal Workers National Pension Fund*, 493 U.S. 365 (1990).

The rationale of the *Guidry* court is equally applicable here. The Receiver is attempting to use generalized common law or state law remedies in an attempt to circumvent not only the clear language of ERISA but the clear language of A.R.S. § 33-1126(B). As *Guidry* noted, it is not within the providence of this Court to circumvent the clear and unequivocal language protecting retirement plan assets because of some perceived higher social goal or to correct some perceived inequity. Unless and until the Arizona legislature amends A.R.S. § 33-1126(B) to provide for such, this Court is bound to follow the statute as written.

Further judicial carve-outs from the benefits of A.R.S. § 33-1126(B) are especially ill-advised since the legislation already included carve-outs. The exemption does not apply to creditors under domestic relations orders or contributions made within 120 days of bankruptcy. If further protections are to be accorded to creditors, it is the legislature, and not this Court, who must grant them.

In *In re Stern*, 345 F.3d 1036 (9th Cir. 2003), the Ninth Circuit directly faced the question of whether a debtor can purposefully fill up exemption categories on the eve of bankruptcy, or whether he was stuck with exempt things he happened to then have. The court held that "the purposeful conversion of nonexempt assets to exempt assets on the eve of bankruptcy is not fraudulent per se."

In *Stern*, the debtor had accumulated more than $2 million in his retirement plan by the time creditor problems struck. He also "rolled over" an IRA account that itself had been the rollover product of earlier retirement vehicles, into a pension plan account sponsored by his company. Under applicable state exemption laws, all amounts held for a person in a corporate retirement plan were exempt which would not have been the case had the assets remained in IRAs. Apparently disturbed by the amount in question, and by the fact that Stern finalized a pending divorce at about the same time so it "looked bad," Stern's bankruptcy trustee alleged the rollover was an avoidable fraudulent transfer.

The trustee argued that the rollover was tantamount to a fraudulent transfer. After years of litigation, the Ninth Circuit affirmed two lower courts' decisions and held that neither a fraud nor a fraudulent transfer occurred.

Although the Chapter 7 trustee in *Stern* argued that there were facts "external" to the conversion of nonexempt property into exempt property, the trustee never suggested that anything ever occurred concerning the retirement assets other than the focused, intentional and purposeful conversion of (potentially) nonexempt property into exempt property. *Stern* reflects that the Ninth Circuit has rejected the Receiver's argument that Chittick's desire to transfer assets to a retirement plan can be the basis of a fraudulent conveyance claim. Indeed, if the Receiver's theory were to be followed, exemption laws, such as Arizona's § 33-1126(B), would be nearly read out of existence.

VI. <u>CONCLUSION</u>

The Receiver's Response seems to come down to this simple point. He wants no interference with his "right" to attack the DB Plan and recover plan assets for the benefit of investors. If that means violating the fiduciary rules of ERISA or state law, the Receiver does not seem to care. If it means throwing gratuitous pejoratives at the Estate, its personal representative (and perhaps its counsel as well), it does not matter to the Receiver, who possibly perceives some higher purpose. The Receiver wants money from the Estate and from the DB Plan and apparently will countenance nothing getting in his way, irrespective of the acknowledged limits of the Receivership Order, any rational interpretation of what constitutes assets of the Receiver and irrespective of any lack of preferential creditor rights it is demanding as a condition for its cooperation.

For all the reasons set forth in the original Petition No. 11, the Memorandum filed in support thereof, and this Reply, the relief sought in Petition No. 11 should be granted and the proposed Order signed by this Court.

RESPECTFULLY SUBMITTED this 19th day of January, 2017.

GAMMAGE & BURNHAM, P.L.C

By: /s/ *James F. Polese (*#003451*)*
James F. Polese
Christopher L. Hering
Two N. Central Avenue, 15th Floor
Phoenix, Arizona 85004
Attorneys for the Estate of Denny J. Chittick, Deceased

ELECTRONICALLY FILED with the Court and copies mailed this 19th day of January, 2017, to:

Honorable Lori Bustamante
Maricopa County Superior Court
101 West Jefferson, ECB-811
Phoenix Arizona 85003-2243

And to all persons listed on the attached Master Service List

/s/ P. Meloserdoff

MASTER SERVICE LIST

Arizona Corporation Commission vs. DenSco Investment Corporation
IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
CV2016-014142
(Revised January 10, 2017)

Honorable Lori Bustamante
Maricopa County Superior Court
101 West Jefferson, ECB-811
Phoenix, Arizona 85003-2243

Wendy L. Coy
Arizona Corporation Commission
1300 West Washington, 3rd Floor
Phoenix, Arizona 85007
Attorney for Plaintiffs

Peter S. Davis
Simon Consulting, LLC
3200 N. Central Avenue, Suite 2460
Phoenix, Arizona 85012
Receiver, DenSco Receivership

Ryan W. Anderson
Guttila Murphy Anderson
5415 E. High Street, Suite 200
Phoenix, Arizona 85054
Attorney for the Receiver

Steven D. Nemecek
Steve Brown & Associates
1414 E. Indian School Road, Suite 200
Phoenix, Arizona 85014
Attorney for Chapter 7 Trustee, Jill Ford

Elizabeth S. Fella
Quarles & Brady, LLP
One S. Church Avenue, Suite 1700
Tucson, Arizona 85701
Attorney for DenSco Claimants

Carlos M. Arboleda
Arboleda Brechner
4545 E. Shea Blvd., Suite 120
Phoenix, Arizona 85028
Attorney for PAJ Fund I, LLC

Cody J. Jess / Tyler J. Grim
Schian Walker, P.L.C.
1850 N. Central Avenue, Suite 900
Phoenix, Arizona 85004-4531
Attorneys for Yomtov "Scott" Menaged