

CAUSE NO. D-1-GV-09-000007

**THE STATE OF TEXAS,
Plaintiff**

V.

**SOUTHERN STAR TITLE
COMPANY, LLC,
Defendant**

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§
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IN THE DISTRICT COURT

OF TRAVIS COUNTY, TEXAS

53rd JUDICIAL DISTRICT

APPLICATION TO EXTEND ESCROW CLAIMS FILING DEADLINE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW THE TEXAS TITLE INSURANCE GUARANTY ASSOCIATION (the "Guaranty Association") and files this Application to Extend Escrow Claims Filing Deadline in this matter. The Guaranty Association would respectfully show the Court as follows:

I. BACKGROUND

1. On January 8, 2009, Southern Star Title Company, LLC ("Southern Star") was placed in liquidation by Order of this Court. A copy of the Court's Agreed Order Appointing Liquidator and Permanent Injunction (the "Liquidation Order") is attached to this Application as Exhibit A. The Commissioner of Insurance for the State of Texas (the "Commissioner") was appointed to be the Liquidator of Southern Star (the "Liquidator"). On March 26, 2009, the Commissioner appointed Jennifer Ramsey as Special Deputy Receiver ("SDR") of the estate of Southern Star.

2. The Guaranty Association is a statutorily created non-profit association of all title insurance companies licensed in Texas governed by Chapter 2602 of the Texas Insurance Code. One of its primary functions is to reimburse the public for losses created by shortages in the escrow accounts of insolvent title insurance agents. Specifically, the Guaranty Association is

authorized to investigate, adjust, compromise, settle, and pay "covered claims" as defined in Chapter 2602 of the Code. A claim against an escrow account of an impaired title agent based on a shortage of such funds is a covered claim under TEX. INS. CODE § 2602.252.

3. Effective January 8, 2009, the Commissioner designated Southern Star as an "impaired agent" as contemplated by TEX. INS. CODE § 2602.003(5). As a result, the Guaranty Association became responsible for paying claims against the Escrow Accounts that qualify as covered claims. The Guaranty Association is an interested party in this proceeding under TEX. INS. CODE §§ 443.004(a)(17) and 2602.009 and has standing to appear in this proceeding under TEX. INS. CODE § 443.101(b).

4. On March 9, 2009, this Court issued an order authorizing transfer of escrow funds by the SDR to the Guaranty Association and setting a deadline for filing escrow claims of October 14, 2009.

II. RELIEF REQUESTED

5. The Guaranty Association has had difficulty obtaining records necessary to compile a list for giving notice to potential escrow claimants against the estate. Though the Guaranty Association has already received several claims to date, it believes there are numerous other potential claimants who have not received notice of the Southern Star receivership and thus are unaware of the deadlines and procedures for filing a claim.

6. The Guaranty Association is working diligently to give notice, by mail and by publication, to individuals and corporations with possible escrow claims against the Southern Star estate. However, this work has not yet been accomplished. The Guaranty Association therefore requests that this Court enter an order that extends the filing deadline for covered claims in this matter to March 31, 2010.

WHEREFORE, PREMISES CONSIDERED, the Guaranty Association respectfully requests that this Court issue an Order:

1. Extend the escrow claims filing deadline in this matter until March 31, 2010; and
2. Granting the Guaranty Association such other and further relief to which it may be entitled.

Respectfully submitted,

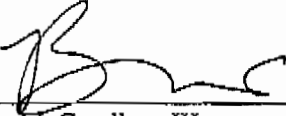
By: 

Bruce McCandless III, TBA No. 00794254
Burnie Burner, TBA No. 3425700
For the Firm

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106 E. 6th St., STE 300
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Telephone: (512) 474-1587
Facsimile: (512) 322-0301

CERTIFICATE OF SERVICE

Signature below is certification that a true and correct copy of the foregoing document has been served in accordance with Rule 21a, Tex. R. Civ. P. and the Travis County Local Rules of Civil Procedure and Rules of Decorum, on this the 24th day of September, 2009.



Bruce McCandless III

Mr. Tom Collins, Special Master
c/o Ms. Jean Sustaita
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333 Guadalupe St.
Austin, Texas 78701 (BY HAND)

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Ms. Rachel Giani
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Mr. Roberto J. Yzaguirre
Yzaguirre & Chapa
6521 North 10th Street
McAllen, Texas 78504-3238 9 (BY FAX 956/682-7864)

COUNTY OF TRAVIS §
STATE OF TEXAS §
§

AFFIDAVIT OF REED BATES

BEFORE ME, the undersigned authority, appeared Reed Bates, who, after being by me duly sworn, stated the following under oath:

1. "My name is Reed Bates. I am over the age of eighteen and I am competent to make this affidavit. The statements of fact set forth herein are true and correct, and are within my personal knowledge.

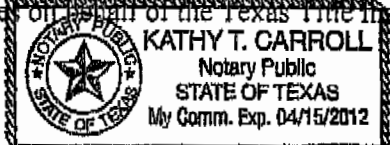
2. "I am a paralegal employed by the law firm of Mitchell Williams/Long Burner. Mitchell Williams/Long Burner represents the Texas Title Insurance Guaranty Association (the "Guaranty Association"). In my capacity as a paralegal I am responsible for posting and mailing notice to potential claimants against the estate of Southern Star Title Company, LLC in liquidation ("Southern Star") that they may be able to recover funds for covered escrow claims, as defined by the Texas Insurance Code. While the Guaranty Association has received several claims already, we believe there may be other individuals and entities that have not received notice that Southern Star is in liquidation and that a process has been put in place for receiving, reviewing, and paying escrow-related covered claims.

3. "The Guaranty Association requires more time to give notice to such potential claimants."

FURTHER AFFIANT SAYETH NOT.

By: *Reed Bates*
Reed Bates

SUBSCRIBED AND SWORN TO BEFORE ME on September 24th, 2009, by Reed Bates on behalf of the Texas Title Insurance Guaranty Association.



Kathy T. Carroll
Notary Public

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Plaintiff

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IN THE DISTRICT COURT

V.

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SOUTHERN STAR TITLE
COMPANY, LLC,
Defendant

53rd JUDICIAL DISTRICT

APPLICANT'S NOTICE OF SUBMISSION

TO ALL PARTIES OF RECORD:

Pursuant to the terms of the Order of Reference to Master entered by the District Court in this cause, the Texas Title Insurance Guaranty Association's Application for Extension of Escrow Claims Filing Deadline is hereby set for submission before the Special Master, Tom Collins, on October 12, 2009 in Hearing Room 100, Texas Department of Insurance, 333 Guadalupe, Austin, Texas 78701.

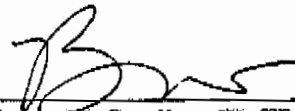
The Special Master has asked that the following rules be provided to you:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by such date on:
 - (a) The Special Master's Docket Clerk, Ms. Jean Sustaita, Texas Department of Insurance, at jean.sustaita@tdi.state.tx.us (by *Email*), 333 Guadalupe, Hobby Tower 3, Room 550, Austin, Texas (by *Hand Delivery*); or P. O. Box 149104, Austin, Texas 78714-9104 (by *Mail*).
 - (b) All interested parties, including those listed on the Applicant's Certificate of Service, and the undersigned counsel.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.

4. If a matter is set for submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the master's docket clerk [(512) 463-6450] to obtain an oral hearing, unless the Master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all interested parties, including those listed on the Applicant's Certificate of Service.
5. Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by a Guaranty Association or any other interested party should be filed at least three (3) calendar days before the submission or hearing date.

Respectfully submitted,

By:



Bruce McCandless III, TBA No. 00794254
Burnie Burner, TBA No. 3425700
For the Firm

MITCHELL WILLIAMS/LONG BURNER
P.O. Box 2212
Austin, Texas 78768-2212
Telephone: (512) 474-1587
Facsimile: (512) 322-0301

**ATTORNEYS FOR APPLICANT
TEXAS TITLE INSURANCE GUARANTY
ASSOCIATION**

CERTIFICATE OF SERVICE

By my signature below, I certify that a true and correct copy of the foregoing document has been sent to all parties of record in accordance with Rule 21a, Tex. R. Civ. P., on this 24 day of September, 2009.



Bruce McCandless III

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FAX COVER SHEET

Date: September 24, 2009

From: Bruce McCandless File Number: 24692-3

Total number of pages, including cover: 11

PLEASE DELIVER AS SOON AS POSSIBLE TO:

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<input type="checkbox"/> Brian E. Riewe		236-9966	
<input type="checkbox"/> Karen Pettigrew		477-2348	
<input type="checkbox"/> James E. Davis		391-4708	
<input type="checkbox"/> Edmundo O. Ramirez		956/682-0820	
<input type="checkbox"/> Roy Ibanez		956/686-1663	
<input type="checkbox"/> Randall W. Hill		361/883-0612	
<input type="checkbox"/> Darryl Lemke		956/664-0954	
<input type="checkbox"/> Roberto J. Yzaguirre		956/682-7864	

Remarks/special instructions: Please see attached.

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Jo Ann

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