

Cause No. D-1-GV-09-000007

STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
SOUTHERN STAR TITLE COMPANY, LLC	§	
Defendant	§	<u>53RD</u> JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION AND APPLICATION FOR ORDER
APPOINTING LIQUIDATOR AND REQUEST FOR INJUNCTIVE RELIEF**

TO THE HONORABLE JUDGE OF SAID COURT:

The State of Texas, by and through the Office of the Attorney General of Texas (Plaintiff), complains of Southern Star Title Company, LLC (Defendant).

I. DISCOVERY LEVEL

1.1 Plaintiff intends to conduct discovery under Level 2 of the TRCP 190.

II. NATURE OF SUIT

2.1 This suit is brought at the request of the Commissioner of Insurance for the State of Texas (Commissioner of Insurance) under the authority of TEX. INS. CODE § 443.052. Unless otherwise indicated, all statutory references are to the TEX. INS. CODE.

2.2 Plaintiff seeks to obtain an order designating the Commissioner of Insurance as Liquidator of Defendant under TEX. INS. CODE § 443.151 *et seq.*

2.3 Plaintiff further seeks to obtain a Permanent Injunction as authorized by TEX. INS. CODE § 443.008(a), restraining Defendant from conducting the business of insurance, except as directed by the Liquidator, and restraining other parties from taking any actions against Defendant or its property.

2.4 Plaintiff further seeks to recover from Defendant all the fees, taxes, fines, penalties, and forfeitures provided by law for the acts complained of, and reasonable attorney fees and court costs provided, subject to the provisions of TEX. INS. CODE § 443.301(a).

III. DEFENDANTS

3.1 Defendant, Southern Star Title Company, LLC, is a Texas domestic limited liability company which holds a title insurance agent's license issued by the Texas Department of Insurance. Defendant is a "Covered Person" as defined in TEX. INS. CODE § 443.003(4) and is subject to TEX. INS. CODE Chapter 443 as specified by TEX. INS. CODE ANN. § 2601.001.

3.7 Defendant has waived citation and service.

IV. JURISDICTION

4.1 This Court has jurisdiction over this action. TEX. INS. CODE § 443.005.

V. VENUE

5.1 This suit must be brought against Defendants in Travis County, Texas. TEX. INS. CODE § 443.005(g).

VI. GROUNDS FOR ORDER OF LIQUIDATION

6.1 Grounds exist to place Defendant into liquidation because Defendant is insolvent. TEX. INS. CODE § 443.057(2). Defendant does not have assets at least equal to its liabilities. TEX. INS. CODE § 443.004(a)(13)

6.2 Grounds exist to place Defendant into liquidation because Defendant is in a condition that the further transaction of business would be hazardous financially to policyholders, creditors, or the public. TEX. INS. CODE § 443.057(9).

6.3 Grounds exist to place Defendant into liquidation because a majority of those individuals entitled to control over Defendant has consented to the entry of an order of liquidation under TEX. INS. CODE § 443.151. TEX. INS. CODE § 443.057(20).

VII. APPOINTMENT OF LIQUIDATOR

7.1 TEX. INS. CODE § 443.151(a) provides that the Court shall appoint the Commissioner of Insurance as Liquidator in a delinquency proceeding brought under TEX. INS. CODE § 443.057. TEX. INS. CODE § 443.151 *et seq.* Plaintiff requests that this Court issue an order appointing the Commissioner of Insurance as Liquidator of Defendant, and grant him all powers under the statutes and the common law of the State of Texas, including, but not limited to, TEX. INS. CODE § 443.151 *et seq.*, to conduct the business of the Defendant. Plaintiff further requests that the Liquidator not be required to file a bond. TEX. INS. CODE § 443.008(m).

7.2 Plaintiff further requests that as authorized by TEX. INS. CODE § 443.151(a), this Court issue an order finding that all of Defendant's property of any kind or nature, wherever situated, whether real, personal, or mixed, and whether held in Defendant's name or for Defendant's benefit, including but not limited to cash, accounts, funds, stocks, bonds, statutory deposits (including deposits made by Defendant with any agency of a state or the federal government), trust funds, letters of credit, safe deposit boxes, notes, books, records, documents, furniture, equipment, real estate, retainages and retainers, and rights or causes of actions of any kind, including, but not limited to, accounts receivables, contract rights, premiums, insurance and reinsurance proceeds, and all licenses held by Defendant, be vested in the Liquidator.

VIII. STAY OF PROCEEDINGS

8.1 The commencement of this delinquency proceeding operates as a stay as provided by TEX. INS. CODE § 443.008(c) Plaintiff further requests that this Court enter any additional stays under TEX. INS. CODE § 443.008(a) as may be necessary.

IX. INJUNCTIVE RELIEF

9.1 Plaintiff requests that this Court issue an injunction to prevent immediate and irreparable injury, loss and damage to the State of Texas, the general public, and Defendant's creditors. TEX. INS. CODE § 443.008(a).

9.2 Plaintiff would show that, unless restrained by this Court, Defendant will continue to operate in a hazardous financial condition.

9.3 Plaintiff therefore requests that this Court enter an order enjoining Defendant and its current and former officers, trustees and directors, and owners (including, but not limited to, Rogelio "Roy" Ibañez, Jr., Santo Andrei Investments, Ltd., and Matico Investments, LLC), underwriters (including but not limited to Commonwealth Land Title Insurance Company and United General Title Insurance Company), affiliates, managers, employees, agents, servants, representatives, attorneys, adjusters and other persons or entities from conducting business on behalf of Defendant, except as directed by the Liquidator, and from wasting, transferring, selling, assigning, canceling, concealing, claiming, hypothecating or disposing of, in any manner, any of Defendant's property. Plaintiff further requests that this Court order Defendants and Defendant's agents to cooperate with the Liquidator as required by TEX. INS. CODE § 443.010.

9.4 Plaintiff would further show that all financial institutions and depositories (including, but not limited to, any and all banks, savings and loan associations, trust companies, credit unions, welfare trusts, or any other financial or depository institutions in the possession and/or control of

any of Defendant's property) and any other parties that receive actual notice should be restrained from taking unauthorized actions in connection with Defendant's property. Plaintiff therefore requests that this Court issue an order enjoining any parties from releasing, transferring, concealing, withdrawing, allowing to be withdrawn, or affecting, in any manner, any of Defendant's property, or other asset to the credit of Defendant on deposit with them or in their possession, except as authorized by the Liquidator or his designees, and that such parties be ordered to produce and deliver to the Liquidator or his designees such assets, money, deposits, or other items they have in their custody.

9.5 Plaintiff would further show that in order to avoid the dissipation or loss of Defendant's assets or records, and prevent any creditors or claimants from obtaining any preferences in violation of TEX. INS. CODE Chapter 443, an injunction should be issued against any and all parties asserting claims or causes of action of any kind against Defendant. Plaintiff therefore requests that this Court enjoin any parties (including, but not limited to, policyholders, creditors, claimants, reinsurers, intermediaries, attorneys and all other persons, associations, corporations, or any other legal entities asserting claims or causes of action against Defendant, or in possession of any of Defendant's property, and the United States Postmaster) from commencing or prosecuting any action against the Liquidator or Defendant, including, but not limited to, arbitration, administrative proceedings, lawsuits or appeals, and from obtaining any preference, judgment, attachment, garnishment, lien or levy against the Liquidator, Defendant or Defendant's property, except by doing so as permitted by TEX. INS. CODE Chapter 443. Plaintiff further requests that this Court order that the United States Postmaster deliver to the Liquidator any items addressed to Defendant.

X. CONCLUSION AND PRAYER

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays:

1. that the Court grant the Application and the relief requested;
2. that this court enter a Permanent Injunction enjoining Defendant and Defendant's agents, financial institutions and depositories, and all other persons from taking any action in connection with Defendant's business and property, except as directed by the Liquidator, and from taking any action against Defendant or the Liquidator, except as permitted by TEX. INS. CODE § 443.151 *et seq*;
3. that the Court immediately appoint the Commissioner of Insurance as Liquidator to conduct Defendant's business and take charge of Defendant's property and that the Liquidator be given all equitable powers under the statute;
4. that the Court vest the Liquidator with title to Defendant's property;
5. that the Office of the Attorney General be awarded all costs incurred in this proceeding, including but not limited to reasonable attorney fees, investigative costs, and court costs;
6. that no bond be required of the Commissioner of Insurance or the Liquidator; and
7. for any relief to which the Plaintiff may be entitled.

Respectfully submitted,

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