

NO. D-1-GN-16-0360

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
Plaintiff,	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
MILLENNIUM CLOSING SERVICES,	§	
L.L.C., dba Millennium Title	§	
Defendant.	§	53rd JUDICIAL DISTRICT

**MEMORANDUM RECOMMENDATION**  
**(Maverick Title Motion for Relief From Automatic Stay)**

Movant Maverick Title (“Maverick”) commenced efforts two months ago to aggressively pursue Nancy Jackson Carroll (“Carroll”) and her law firm NJC Carroll Law P.L.L.C. (“Carroll Law”) in Collin County to recover \$60,000 in escrow funds that it alleges Carroll and Carroll Law stole from it. In its Collin County lawsuit, Maverick also named Millennium Title because it appears that Carroll and Carroll Law operated and controlled Millennium Title and commingled assets.

At the same time, the State of Texas was placing Millennium Title in receivership and the Texas Commissioner of Insurance has been appointed Liquidator. A Special Deputy Receiver (“SDR”) has been named for Millennium Title. Because it appears that Millennium Title, Carroll and Carroll Law are inextricably intertwined:

- (a) the Liquidation Order entered by this Court finds that Carroll and Carroll Law are agents of Millennium Title and are therefore made subject to the Liquidation Order; and
- (b) a Temporary Injunction has been entered by this Court finding that Carroll and Carroll Law commingled Millennium assets with their own and thus freezing all assets of Carroll and Carroll Law.

The net effect of the Court’s Orders is that Maverick Title is stayed and enjoined from pursuing Carroll and Carroll Law unless this Court lifts the stay. Maverick Title properly has sought to pursue its claims as aggressively as possible consistent with this Court’s Orders.


The Order of Reference entered in this proceeding refers issues regarding lifting of the stay to the Special Master. For the reasons set forth in the SDR’s Response in Opposition to the Motion for Relief from Stay, the Special Master recommends that the Motion should be denied.

In a nutshell, as noted above, there appears to be a tangled web of transfers between Millennium Title, Carroll and Carroll Law. One of the purposes of receivership proceedings is to appoint an SDR to pursue claims on behalf of all creditors and

claimants of the receivership estate, and thus to prevent a race to the courthouse and the risk of preferential treatment. Maverick Title in its Reply Brief urges creative solutions to permit it to go forward, such as being allowed to move forward in its Collin County suit to final judgment but not being allowed to take any action to enforce any judgment. However, even this limited action may encourage a “first in time, first in right” race to a judgment. In situations such as that presented in this receivership, where a prior controlling individual or entity apparently commingled assets of the company now in receivership, the appropriate course of action for the Court overseeing the receivership is not to create exceptions to a blanket stay and injunction, but rather to enforce that stay and injunction across-the-board and allow the SDR to pursue claims against such controlling persons or entities on behalf of all creditors and claimants.

Accordingly, the Special Master RECOMMENDS that Maverick Title’s Motion for Relief from Automatic Stay be denied. Any Order on this Recommendation should not be entered by the District Court until the time for Movant to seek *de novo* review in the District Court has expired.

SIGNED this <sup>th</sup> 24 day of March, 2016

  
Tom Collins, Special Master