

DEC 11 2019

At 8:21 PM  
Velva L. Price, District Clerk

NO. D-1-GN-16-000360

THE STATE OF TEXAS  
*Plaintiff,*

v.

MILLENNIUM CLOSING SERVICES, LLC  
D/B/A MILLENNIUM TITLE  
*Defendant.*

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

53<sup>rd</sup> JUDICIAL DISTRICT

**ORDER GRANTING SPECIAL DEPUTY RECEIVER'S APPLICATION TO  
DETERMINE DISPOSITION OF UNCLAIMED ESCROW FUNDS AND BAR CLAIMS**

The Court considered the Application to Determine Disposition of Unclaimed Escrow Funds and Bar Claims (the "Application"), filed by CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Millennium Closing Services, L.L.C. d/b/a Millennium Title (the "SDR" and "Millennium Title," respectively). The Application was submitted to the master appointed in this cause ("Special Master") in accordance with the *Order of Reference to Master* ("Order of Reference"). The Special Master issued a recommendation under Rule 171 of the Texas Rules of Civil Procedure, which is incorporated herein, finding as follows::

1. The Order of Reference provides that the Application is referred to the Special Master;
2. The Application was submitted to the Special Master in accordance with the Order of Reference;
3. Notice of the Application was provided in accordance with TEX. INS. CODE § 443.007(d) and the Order of Reference,
4. Notice of the Application was mailed and/or e-mailed to each individual or entity who was identified in the books and records of the estate as a potential claimant to the funds that are the subject of this Application;

5. The Texas Title Insurance Guaranty Association (“TTIGA”) filed an Objection to the Application and subsequently agreed to withdraw it with prejudice;

6. No other objections to the Application were filed;

7. The SDR holds approximately \$113,000 in escrow money (the “Unclaimed Escrow Funds”) for which no claim has been filed or paid by TTIGA. A list detailing the guaranty file (“GF”) number and the amount unclaimed in each GF is attached as Exhibit A to the Application;

8. No proofs of claim (“POCs”) asserting rights to any of the Unclaimed Escrow Funds were filed with the SDR or TTIGA;

9. Based on Millennium Title’s records, the SDR can identify the transactions giving rise to the Unclaimed Escrow Funds and the parties who appear to be entitled to the funds (the “Potential Claimants”). The SDR’s contractors have made repeated efforts by mail, e-mail and telephone to contact the Potential Claimants with no success.

10. Each Potential Claimant was provided notice of the deadline and the process to file claims with the SDR and TTIGA pursuant to this Court’s *Order Granting Joint Application to Provide Notice of Liquidation, Set Claims Filing Deadline and Establish a Claims Processing Procedure* (the “POC Order”). No claims were filed seeking the Unclaimed Escrow Funds and none of the Potential Claimants are eligible to file a late claim under TEX. INS. CODE § 443.251(b).

11. Under TEX. INS. CODE § 443.008(a) of the Code, this Court may issue any order, process, or judgment as necessary or appropriate to carry out the provisions of the Insurer Receivership Act. Further, TEX. INS. CODE § 443.154(x) of the Code specifies that the

enumeration of the liquidator's powers and authority in that section does not exclude the right to take other actions that are necessary or appropriate for liquidation.

12. The Liquidation Order finds that the escrow accounts are Millennium Title's property as defined in TEX. INS. CODE § 443.004(a)(20). The term "Property of the insurer" is defined as, among other things, as "all right, title, and interest of the insurer in property, whether legal or equitable, tangible or intangible, choate or inchoate, and includes choses in action, contract rights, and any other interest recognized under the laws of this state." The SDR holds legal title to the Unclaimed Escrow Funds. The Liquidation Order further states that "escrow funds held for the benefit of others are not general assets of Defendant as defined in TEX. INS. CODE § 443.004(a)(9)";

13. The SDR seeks the Court's declaration that the Unclaimed Escrow Funds are "general assets" of the estate as that term is defined in TEX. INS. CODE § 443.004(a)(9). "General assets" are "property of the estate" that is not otherwise subject to a secured claim, a valid and existing express trust for the security or benefit of specified persons or classes of persons, or required to be held for the benefit of a specific class by the insurance laws of Texas or other states. *Id.* The Unclaimed Escrow Funds are not subject to a secured claim, are not held in trust, and are unclaimed by any parties to the underlying escrow agreements;

14. The SDR has shown that the proposed relief is the only feasible method of resolving the disposition of the Unclaimed Escrow Funds. As no POCs were filed for the Unclaimed Escrow Funds, and the Potential Claimants are no longer eligible to file a POC, there are no further distributions that can be made from the Unclaimed Escrow Funds. Neither is it possible to treat the funds as unclaimed or withheld funds under TEX. INS. CODE § 443.304, as this provision applies to distributions on approved claims. Treating the Unclaimed Escrow

Funds as general assets will allow the funds to be distributed according to TEX. INS. CODE § 443.301;

15. The Court has jurisdiction over the Application, the Potential Claimants and the parties in interest; and

16. The Application should be GRANTED in all respects.

After considering the Application, the evidence submitted, and the Special Master's recommendation, the Court accepts the recommendation and grants the Application.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED as follows:

1. TTIGA's Objection is withdrawn with prejudice;
2. The Application is GRANTED in all respects;
3. The Unclaimed Escrow Funds identified on Exhibit A to the Application are hereby declared to be "general assets" of the estate as that term is defined in TEX. INS. CODE § 443.004(a)(9);
4. Any claims to the Unclaimed Escrow Funds are barred; and
5. This is a final appealable order fully resolving all issues relating to the Application, provided that this Court shall retain jurisdiction to issue further orders pursuant to TEX. INS. CODE Chapter 443.

SIGNED this 10<sup>th</sup> day of December, 2019.

  
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Judge Presiding  
**TIM SULAK**

APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED

By: /s/ Christopher Fuller  
Christopher Fuller  
State Bar No. 07515500

*Order Granting SDR Application to Determine Disposition of Unclaimed Escrow Funds and Bar Claims*

FULLER LAW GROUP  
4612 Ridge Oak Drive  
Austin, Texas 78731  
Telephone: (512)470-9544  
cfuller@fullerlaw.org  
Attorney in Charge  
Attorney for CANTILO & BENNETT, LLP,  
Special Deputy Receiver of  
Millennium Title

APPROVED AS TO FORM AND NO OPPOSITION

By: /s/ Burnie Burner  
Burnie Burner  
Mitchell Williams  
500 W. 5th Street, Ste. 1150  
Austin TX 78701  
512-480-5100  
bburner@mwlaw.com  
Attorney for Texas Title Insurance Guaranty Association

PROPER NOTICE GIVEN  
ACKNOWLEDGMENT OF NOTICE AND WAIVER  
OF OBJECTION PRESENTED  
SUBMITTED  
RECOMMENDED  
SIGNED ON 9<sup>th</sup> DAY OF Dec. 2019

Tom Collins  
TOM COLLINS, RECEIVERSHIP SPECIAL MASTER