

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838  
HON. NAN NASH

DESERT STATE LIFE MANAGEMENT, *et al.*,

Respondents

**RECEIVER'S AUGUST, 2018, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and Acting Director of the Financial Institutions Division (FID) of the New Mexico Regulation and Licensing Department, by and through the FID's attorney of record, Kevin A. Graham, and provides the Court with the following Receiver's August, 2018, Monthly Report.

**CONTINUING ACTIVITIES OF THE RECEIVERSHIP**

1. **Funds**: The Receiver is in control of the following bank accounts and funds in the name of DSLML and account balances as of August 1, 2018, stood at the following amounts:

DSLML Accounts with New Mexico Bank and Trust:

(1)	"Operations" account:	XXXX190	\$ 0.00
(2)	"Sweep" account:	XXXX041	\$ 0.00
(3)	"Pooled Savings" account:	XXXX119	\$ \$130,535.85
(4)	"Trust Cash" account:	XXXX127	\$ 44,493.21
(5)	"Recovery" account:	XXXX309	\$ 13,428.23
(6)	"Trust Checks" account:	XXXX116	\$ 8,613.57

2. Examination of Records and Accounts:

Efforts continue to digitally scan the records of all client accounts of DSLM that were open as of the date of the company being taken into receivership. At present approximately half of the client records in the possession of the Receiver have been digitally scanned. The pace of scanning of these records has slowed in the past month due to a lack of available staff members at the FID to work on the project due to other pressing business needs of the Division. The current target date for the completion of scanning of all client records of DSLM continues to be the end of November, 2018. As has been routinely noted, the FID/Receiver's efforts to organize the DSLM corporate records and verify data have led to numerous determinations that certain vital records are missing from the DSLM files and/or that records containing incorrect and intentionally falsified records were created.

3. Necessity of Successor Trustees:

The Receiver is engaged in ongoing efforts to transfer trust accounts currently under the interim trusteeship of the trustee over to appropriate, permanent trustees. Discussions are underway with a certified New Mexico non-profit trust company to take over trustee duties for those trusts that qualify as "special needs" trusts under relevant federal Medicaid and Social Security laws. The Receiver anticipates the transfer of trust accounts to the non-profit trust company to be carried out in steps, with a few of the most active trust accounts

being transferred first, and then additional trust accounts being transferred over a period of the next few months.

**NOTE:** In the course of reviewing requirements of the Uniform Trust Code, and the specific terms of the individual trust accounts remaining under the interim trusteeship of the Receiver, it has been determined that for the great majority of the trusts it will be necessary to obtain a court order to have the trust transferred to a successor trustee. The Receiver is currently working from the presumption that he will be able to file motions in the current, above-captioned, case in order to obtain the necessary court orders to have the trusts transferred to successor trustees. Concerning such motions to transfer trusteeship, the Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the trust accounts to successor trustees. The Receiver further anticipates at least one court hearing (perhaps more than one) will be necessary in order to afford all such required/interested parties an opportunity to be heard concerning the proposed transfers.

4. Insurance Policies/Coverage for DSLM: The Receiver continues to encourage all clients of DSLM to consult with their personal legal advisors and counsel regarding their legal rights and any claims they may have against the insurance coverage for DSLM. Those insurance companies, and contact information for the companies are as follows:

**“Directors and Officers Policy” # AZP349837/BCN-0007591**  
Agent: Western Assurance Co.  
P.O. Box 96400  
Albuquerque, NM 87199-4600;

Or  
3701 Paseo Del Norte Ne Ste 200  
Albuquerque, NM 87113-1578  
Telephone: 505-265-8481  
Fax: 505-266-3500  
Email: [receptionist@westernassurance.com](mailto:receptionist@westernassurance.com)  
Agency Number: 30-001  
Policy No. BCN-0007591

Company Issuing Policy: The Cincinnati Insurance Companies  
P. O. Box 145496  
Cincinnati, OH 45250-5496  
Telephone: 513-870-2000  
Policy Number: 05BCN0007591  
Policy No.: BCN0007591  
Notice Date: 03/28/2017  
Claim Number: 2864999  
Adjuster: [andrew\\_eminger@cinfin.com](mailto:andrew_eminger@cinfin.com)

**“Employee Dishonesty Policy” # AZP-340134**

“E & O/GL policy”

Agent: Western Assurance Co.

P.O. Box 96400  
Albuquerque, NM 87199-4600

Company Issuing Policy: Evanston Insurance Company ADCO General  
Policy # EO865156  
Billing/Payment Company: IPFS Corporation  
P.O. Box 412086  
Kansas City, MO 64141-2086  
Phone: 866-412-1793  
FAX 919-234-2760  
Account Number: AZP-340134

**“Other”**

The Travelers; Policy Number 105818345

Travelers  
385 Washington Street  
St. Paul, MN 55102  
Phone: (651) 301-8986  
Account Number: T1704210  
Directed to refer to matter number 086-FA1-T1704210-NR on all communications.  
Jessica Tabrizi  
Claim Counsel  
Bond & Specialty Insurance Claim  
Phone: (909) 612-3650

Fax: (866) 842-9195  
Email: [JTABRIZI@travelers.com](mailto:JTABRIZI@travelers.com)

NOTE: The Receiver is in the process of reviewing all relevant legal issues related to the Receiver's authority under the terms of the individual trusts, the Uniform Trust Code and the New Mexico Receiver's Act to retain legal counsel to represent the interests of each of the individual trusts in regards to pursuing insurance claims under the insurance policies providing coverage for DSLM and/or any officers, directors or employees of DSLM. An added legal complexity on this subject may arise due to the nature of the Receiver's status as employee of the State of New Mexico, so that issue will have to be fully researched and considered as well. The Receiver anticipates providing more information to the Court on this matter in the coming months.

5. Class Action Case Filed:

From the detail provided on the New Mexico Courts online case look-up site, a proposed class action lawsuit was filed on June 20, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned as: Andrew Graham v. Desert State Life Management, *et al.* The case has been assigned to the docket of the Hon. Judge Shannon C. Bacon. While the Receiver has not been served in regards to this matter, it appears from the website that the same list of defendants have been listed in that case as are included as defendants in the above-captioned matter. The Receiver is of the belief that, should the class action be certified by the court, this class action civil suit may constitute a means whereby the individual trusts and/or individual trust beneficiaries that suffered losses due to the conduct of

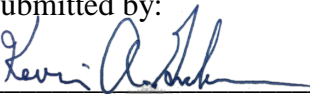
the former chief executive officer of DSLM may benefit from any judgment obtained on behalf of the proposed class. The Receiver intends to follow the progression of this new civil suit and will endeavor to keep the Court apprised of any developments in that lawsuit that may impact the receivership.

6. Federal Criminal Prosecution: The Receiver continues to work in coordination with the United States Attorney's Office for the District of New Mexico to obtain restitution orders in the federal criminal case against Paul A. Donisthorpe. As of the date of filing of this Report, the sentencing date for Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, still has not been set.

DSLMS clients and their representatives are encouraged to contact the United States Attorney's Office regarding their rights to submit statements or appear at the sentencing of Paul Donisthorpe by contacting:

Alyssa Skrepcinski  
Victim Advocate  
Office of the United States Attorney for the District of New Mexico  
(505) 224-1427  
201 Third St. NW, Suite 900, Albuquerque NM 87102.

On behalf of the Receiver, Christopher Moya, the foregoing is respectfully submitted by:

  
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8/3/2018  
Date

CERTIFICATE OF SERVICE:

The undersigned hereby certifies that a true and correct copy of the foregoing pleading was delivered by electronic mail and/or U.S. Mail, postage prepaid, addressed to each of the following:

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Kevin A. Graham

8/3/2018

Date