

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

Respondents

**RECEIVER'S DECEMBER 2020, MONTHLY REPORT**

COME NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML), and Rebecca Moore, 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 December 2020, 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 DSLM and account balances as November 30, 2020, stood at the following amounts:

DSLML Accounts with New Mexico Bank and Trust:

(1)	"Pooled Savings" account:	XXXX119	\$610,568.42
(2)	"Trust Cash" account:	XXXX127	\$5,304.97
(3)	"Trust Checks" account:	XXXX116	\$200.00

2. **Examination of Records and Accounts:**

Due to ongoing conditions of the COVID-19 emergency and the associated work-from-home staffing situation for the FID, scanning of older paper

records of DSLM has not progressed in the past month. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the remaining hardcopy/paper files of DSLM.

3. Progress toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As was explained in last month's report, it is the Receiver's belief that following the settlement of certain claims in other pending civil litigation related to DSLM, there is a likelihood that some measure of funds will be deposited into client trust accounts for the trusts remaining under the trusteeship of DSLM in the months to come. While the total amount of funds to be distributed to many of the individual special needs trusts accounts is anticipated to be relatively small, the Receiver anticipates a greater potential for finding qualified successor trustees for those trust accounts that have at least some funds therein. Upon identifying appropriate successor trustees for the trusts/accounts to be transferred, the Receiver continues to believe it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all required/interested parties an opportunity to be heard concerning the proposed transfers.

4. Insurance Coverage for DSLM – Status of Litigation: As was reported last month, settlement negotiations that took place on October 30, 2020, facilitated by U.S. Magistrate Court Judge Stephen C. Yarborough, resulted in a substantive settlement agreement being reached between multiple parties involved in litigation related to the DSLM matter including, but not limited to, the receivership for DSLM, the plaintiffs in the proposed state class action lawsuit (Case No. D-202-CV-2018-04655; Graham, *et al.* v. Desert State Life Management, *et al*), Paul Donisthorpe, Evanston Insurance Company, and Cincinnati Insurance Company. Written drafts of the settlement agreement are being exchanged between the parties for finalization. At this time deadlines in the

three pending federal cases related to DSLM have been stayed, and the trial of the pending class action lawsuit has been continued. The Receiver believes the settlement will ultimately result in a significant amount of funds being made available to help make partial reimbursement to the client trust accounts that suffered losses while under the trusteeship of DSLM. Funds for the settlement, derived from insurance policies held by DSLM, are certainly not sufficient to fully reimburse the losses suffered by the individual client trust accounts, but there should be at least some significant funds available for distribution amongst all of the accounts that have been shown to have suffered losses. When the final settlement agreement has been reduced to writing and signed by all parties, the Receiver will provide a copy of the settlement to this Court.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver remains hopeful that some funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to pay restitution to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by

the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for DSLM:

On January 3, 2020, the receivership filed an executed "Proof of Loss" claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that "Proof of Loss" the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers' initial coverage evaluation of the matter, which may be summarized as Travelers' having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received from Travelers regarding coverage (or the lack thereof) and contemplating the receivership's next appropriate steps regarding this policy.

On behalf of the Receiver, Christopher Moya, and Acting FID Director Rebecca Moore, the foregoing is respectfully submitted by:

  
\_\_\_\_\_  
Kevin A. Graham  
Counsel to the Receiver/

12/4/2020  
Date

Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4562

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

*Via counsel for Paul  
Donisthorpe  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
Counsel for Darrell Pitchford*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

9. Michael White, #74760 WA-25  
10 McGregor Range Road  
Chaparral, NM 88081

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford

*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

12/4/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

Respondents

**RECEIVER'S NOVEMBER 2020, MONTHLY REPORT**

COME NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML), and Rebecca Moore, 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 November 2020, 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 DSLM and account balances as October 31, 2020, stood at the following amounts:

DSLML Accounts with New Mexico Bank and Trust:

- |     |  |         |              |
|-----|--|---------|--------------|
| (1) | “Operations” account:                                  | XXXX190 |              |
|     | This account has been closed by the Receiver.          |         |              |
| (2) | “Sweep” account:                                       | XXXX041 |              |
|     | This account has likewise been closed by the Receiver. |         |              |
| (3) | “Pooled Savings” account:                              | XXXX119 | \$596,121.77 |
| (4) | “Trust Cash” account:                                  | XXXX127 | \$2,900.00   |

(5) "Trust Checks" account: XXXX116 \$8,342.23

2. Examination of Records and Accounts:

Due to ongoing conditions of the COVID-19 emergency and the associated work-from-home staffing situation for the FID, scanning of older paper records of DSLM has not progressed in the past month. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the remaining hardcopy/paper files of DSLM.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As will be explained in greater detail below, it is the Receiver's belief that there is now a likelihood that some measure of funds will be deposited into client trust accounts for the trusts remaining under the trusteeship of DSLM in the months to come. While the total amount of funds to be distributed to many of the individual special needs trusts accounts is anticipated to be relatively small, the Receiver anticipates a greater potential for finding qualified successor trustees for those trust accounts that have at least some funds therein. Upon identifying appropriate successor trustees for the trusts/accounts to be transferred, the Receiver continues to believe it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust

clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all required/interested parties an opportunity to be heard concerning the proposed transfers.

4. Insurance Coverage for DSLM – Status of Litigation: The Receiver is pleased to report that settlement negotiations on October 30, 2020, facilitated by U.S. Magistrate Court Judge Stephen C. Yarborough, resulted in a substantive settlement agreement being reached between multiple parties involved in litigation related to the DSLM matter including, but not limited to, the receivership for DSLM, the plaintiffs in the proposed state class action lawsuit (Case No. D-202-CV-2018-04655; Graham, *et al.* v. Desert State Life Management, *et al.*), Paul Donisthorpe, Evanston Insurance Company, and

Cincinnati Insurance Company. While the full details of the settlement have not yet been finalized by the parties, all deadlines in the three pending federal cases related to DSLM have been stayed. The Receiver anticipates orders staying the pending state court cases will likewise be sought by the parties. The Receiver believes the settlement will ultimately result in a significant amount of funds being made available to help make partial reimbursement to the client trust accounts that suffered losses while under the trusteeship of DSLM. To be clear, the anticipated settlement funds will not be sufficient to fully reimburse the losses suffered by the individual client trust accounts, but it is anticipated by the Receiver that there will be an amount of funds available for distribution amongst all of the accounts that have been shown to have suffered losses. When the final settlement agreement has been reduced to writing and signed by all parties, the Receiver will provide a copy of the settlement to this Court.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver remains hopeful that some funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to pay restitution to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for

DSLM:

On January 3, 2020, the receivership filed an executed "Proof of Loss" claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that "Proof of Loss" the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers' initial coverage evaluation of the matter, which may be summarized as Travelers' having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received from Travelers regarding coverage (or the lack thereof) and contemplating the receivership's next appropriate steps regarding this policy.

On behalf of the Receiver, Christopher Moya, and Acting FID Director Rebecca Moore, the foregoing is respectfully submitted by:



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4562

11/4/2020  
Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

*Via counsel for Paul  
Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

3. Paul Kennedy  
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201 12<sup>th</sup> Street NW  
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1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

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320 Osuna Road NE, Unit G-4, Box 15  
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[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

5. Corazon Cattle

9. Michael White, #74760 WA-25  
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10. Frank Davis & Jesse Jacobus  
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& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

11/4/2020  
Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S OCTOBER 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 October 2020, 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 September 28, 2020, 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	\$468,834.65
(4)	"Trust Cash" account:	XXXX127	\$5,950.12
(5)	"Trust Checks" account:	XXXX116	\$3,592.95

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month, continued to be at a standstill due to the COVID-19 emergency stay-at-home order, and all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the hardcopy/paper files of DSLM still remaining to be scanned.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all required/interested parties an opportunity to be heard concerning the proposed transfers.

4. Insurance Policies/Coverage for DSLM: The Receiver continues to provide the following contact information regarding the insurance policies held by DSLM that may provide 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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

A “Second Amended Class Action Complaint” was filed on September 14, 2020, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case is assigned to the docket of the Hon. Judge Joshua Andrew Allison. The court’s online case

management system indicates the trial date for the case has been delayed from the previous setting, and no new trial date has been set. Mediation efforts on this case were cancelled based on a failure of the involved parties to reach consensus on an issue of potential insurance coverage for the losses of the plaintiffs.

The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

To the Receiver's knowledge, Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver remains hopeful that some funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to result in restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be

applied toward restitution for the victims via the federal civil forfeiture process,  
are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Errors and Omissions/Employee Dishonesty” policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no written decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for

DSLML. Depositions of Paul A. Donisthorpe and Receiver Moya were conducted in August 2020, and depositions of Cincinnati's witnesses will be continuing over the next few weeks. The most recent indication from the federal court was that the trial date for this case, which had been set for January 2021, will be continued. Litigation of the matter continues.

9. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for DSLM:

On January 3, 2020, the receivership filed an executed "Proof of Loss" claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that "Proof of Loss" the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers' initial coverage evaluation of the matter, which may be summarized as Travelers' having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received from Travelers regarding coverage (or the lack thereof) and contemplating the receivership's next appropriate steps regarding this policy.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4562

9/30/2020

Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

9. Michael White, #74760 WA-25  
10 McGregor Range Road  
Chaparral, NM 88081

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*

  
Kevin A. Graham

9/3/2020  
Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S SEPTEMBER 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 September 2020, 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 September 1, 2020, 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	\$452,336.69
(4)	"Trust Cash" account:	XXXX127	\$20,908.89
(5)	"Trust Checks" account:	XXXX116	\$0.00

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month, continued to be at a standstill due to the COVID-19 emergency stay-at-home order, and all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the hardcopy/paper files of DSLM still remaining to be scanned.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case

is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 14 - 25, 2021. Mediation efforts on this case were cancelled based on a failure of the involved parties to reach consensus on an issue of potential insurance coverage for the losses of the plaintiffs.

The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

The Receiver has been informed that Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver is hopeful that some funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to result in restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by

the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no written decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Directors and Officers" policy [Policy # AZP349837/BCN-0007591] purchased by DSLM.

The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Depositions of Paul A. Donisthorpe and Receiver Moya were conducted in August 2020. Litigation of the matter continues.

9. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for DSLM:

On January 3, 2020, the receivership filed an executed “Proof of Loss” claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that “Proof of Loss” the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers’ initial coverage evaluation of the matter, which may be summarized as Travelers’ having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received from Travelers regarding coverage (or the lack thereof) and contemplating the receivership’s next appropriate steps regarding this policy.

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

  
Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

9/3/2020  
Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

9. Michael White, #74760 WA-25  
10 McGregor Range Road  
Chaparral, NM 88081

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

9/3/2020  
Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S AUGUST 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 2020, 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 DSLM and account balances as August 4, 2020, 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	\$445,870.68
(4)	"Trust Cash" account:	XXXX127	\$3,165.83
(5)	"Trust Checks" account:	XXXX116	\$16,415.16

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month, continued to be at a standstill due to the COVID-19 emergency stay-at-home order, and all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the hardcopy/paper files of DSLM still remaining to be scanned.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case

is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 14 - 25, 2021. UPDATE: Unfortunately mediation on this case was cancelled based on a failure of the involved parties to reach consensus on an issue of potential insurance coverage for the losses of the plaintiffs.

The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

The Receiver has been informed that Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver is hopeful that some funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to result in restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by

the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no written decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Directors and Officers" policy [Policy # AZP349837/BCN-0007591] purchased by DSLM.

The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Paul A. Donisthorpe is scheduled to be deposed on this matter on August 5, 2020.

Receiver Moya is scheduled to be deposed on this matter on August 10, 2020. Litigation of the matter continues.

9. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for DSLM:

On January 3, 2020, the receivership filed an executed “Proof of Loss” claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that “Proof of Loss” the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers’ initial coverage evaluation of the matter, which may be summarized as Travelers’ having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received from Travelers regarding coverage (or the lack thereof) and contemplating the receivership’s next appropriate steps regarding this policy.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor

8/4/2020

Date

P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*

and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

8/4/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S JULY 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 July 2020, 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 July 1, 2020, 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	\$421,129.59
(4)	"Trust Cash" account:	XXXX127	\$35,010.83
(5)	"Trust Checks" account:	XXXX116	\$0.00

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month, continued to be at a standstill due to the COVID-19 emergency stay-at-home order, and all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment and access to the hardcopy/paper files of DSLM still remaining to be scanned.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case

is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 14 - 25, 2021. UPDATE: A mediation of this matter (which will include representatives for Evanston Insurance Company and Cincinnati Insurance Company) is scheduled for July 7<sup>th</sup>, 2020.

A motion to deny the class certification on this case was recently denied by the district court. The Receiver continues to believe this lawsuit 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 class plaintiffs. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

To the Receiver's knowledge, Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver continues to attempt to work in coordination with the

United States Attorney's Office for the District of New Mexico on this matter.

The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver continues to be hopeful that sufficient funds will be realized from the forfeiture of the assets located in Texas, as well as properties located in New Mexico, to result in some funds being made available for restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary

judgment that had been filed by Evanston. As of the date of this report, no decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

9. Claim for Insurance Coverage Filed by Receiver on the Travelers Insurance Policy for DSLM:

On January 3, 2020, the receivership filed an executed “Proof of Loss” claim form and associated documentation with Travelers Insurance on Policy Number 105818345 issued to DSLM. In that “Proof of Loss” the receivership sought coverage for direct losses to DSLM in the amount of \$30,905.00 and for losses resulting from employee theft and funds transfer fraud in the amount of \$4,933,626.58. In a letter dated June 15, 2020, from Jill James, Claims Counsel for Travelers, Travelers acknowledged receipt of the proof of loss and informed the Receiver of Travelers’ initial coverage evaluation of the matter, which may be summarized as Travelers’ having opined there is no coverage available for this matter under the above-reference policy and a reservation of rights by Travelers. The Receiver is evaluating the information/opinion received

from Travelers regarding coverage (or the lack thereof) and contemplating the receivership's next appropriate steps regarding this policy.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

7/1/2020

Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC

P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

7/1/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S JUNE 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 June 2020, 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 May 31, 2020, 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	\$418,491.42
(4)	"Trust Cash" account:	XXXX127	\$5,034.29
(5)	"Trust Checks" account:	XXXX116	\$879.00

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month, due to the COVID-19 emergency stay-at-home order, was stalled due to all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a

series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all required/interested parties an opportunity to be heard concerning the proposed transfers.

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**“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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set

for a trial date of June 14 - 25, 2021. A proposal to conduct mediation on this matter (with all involved/interested parties having indicated an intention to participate); at this time the mediation appears to be on track to take place July 7<sup>th</sup> and/or 8<sup>th</sup>, 2020.

The Receiver continues to believe the class action status of the case will be certified by the court, and that this lawsuit 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. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

A hearing has been scheduled for the date of June 23, 2020, on a motion filed by Defendant Charles Schwab to deny the proposed class certification.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver continues to work in coordination with the United States Attorney's Office for the

District of New Mexico on this matter. The Receiver has no new information for the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver continues to be hopeful that sufficient funds will be realized from the forfeiture to result in some funds being made available for restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

6/3/2020

Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)

*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300

Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

6/3/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S MAY 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 May 2020, Monthly Report.

**CONTINUING ACTIVITIES OF THE RECEIVERSHIP**

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Examination of Records and Accounts:

Scanning of client records of DSLM during the time period of the COVID-19 emergency stay-at-home order has been stalled due to all employees of the FID being under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment.

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As noted last month, progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver believes it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver's plan continues to be to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a

series of 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.

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**“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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case

is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 14 - 25, 2021.

The Receiver continues to believe the class action status of the case will be certified by the court, and that this lawsuit 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. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

A hearing has been scheduled for the date of June 23, 2020, on a motion filed by Defendant Charles Schwab to deny the proposed class certification.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver continues to work in coordination with the United States Attorney's Office for the District of New Mexico on this matter. The Receiver has no new information for

the Court regarding the property located in Texas that was seized by the United States of America under federal forfeiture authority. The Receiver continues to be hopeful that sufficient funds will be realized from the forfeiture to result in some funds being made available for restitution to be paid to the victimized trusts.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

5/5/2020  
Date

#### CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

5/5/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S APRIL 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 April 2020, 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 DSLM and account balances as March 31, 2020, 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	\$387,294.25
(4)	"Trust Cash" account:	XXXX127	\$3,117.31
(5)	"Trust Checks" account:	XXXX116	\$9,230.89

Examination of Records and Accounts:

Scanning of client records of DSLM over the past month came to a standstill as employees of the FID have been under orders to work home as a result of the ongoing COVID-19 public health emergency. Efforts to complete the scanning of DSLM records will recommence when FID employees are permitted to return to the FID offices and again have access to necessary scanning equipment.

3. Progress Toward the Appointment of Successor Trustees:

Progress on transferring DSLM trust files to successor trustees has likewise been delayed by the COVID-19 public health emergency. The Receiver will pursue a status-conference on this matter when the public health emergency has been lifted, or upon notice from the court that a hearing has been scheduled by the court.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver has determined it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver continues to be optimistic that it will be possible to transfer the majority of the remaining trust accounts to 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 plans to transfer trust

accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearings will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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)

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“E & O/GL policy”

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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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case

is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 21, 2021.

The Receiver continues to believe the class action status of the case will be certified by the court, and that this lawsuit 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. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

A hearing has been scheduled for the date of June 23, 2020, on a motion filed by Defendant Charles Schwab to deny the proposed class certification.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver continues to work in coordination with the United States Attorney's Office for the District of New Mexico on this matter. The Receiver was informed by counsel

from the U.S. Attorney's Office of the of some of the property located in Texas that was seized by the U.S.A. and anticipates some funds will be made available for restitution to be paid to the victimized trusts, but the final dollar amount available for restitution funds has not yet been calculated.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

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8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

4/6/2020  
Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

4/6/2020  
Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S MARCH 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 March 2020, 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 March 3, 2020, 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	\$382,770.95
(4)	"Trust Cash" account:	XXXX127	\$3,717.31
(5)	"Trust Checks" account:	XXXX116	\$8,527.23

### Examination of Records and Accounts:

The past month progress has continued toward completion of scanning client records of DSLM. As mentioned previously, the deficient record filing and storage practices that existed at DSLM when the company was in operation resulted in client records being mixed amongst records of other clients. FID staff continue to work to identify and reorganize such mixed records when they are found. The Receiver has been contacted by legal counsel representing parties in the on-going court cases related to DSLM concerning obtaining copies of documents for discovery purposes and the Receiver will endeavor to comply with such requests.

### 3. Progress Toward the Appointment of Successor Trustees:

On September 27, 2019, the Receiver filed a request for the Court to set a status conference for the above-captioned matter, with the primary goal of discussing with the Court plans for how best to accomplish the transfer to appropriate successor trustees the remaining trust accounts that remain under the trusteeship of the receivership for DSLM. To date, no status conference has been set by the Court. Receiver intends to follow up with the Court on this request.

As previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, has resulted in the options for finding qualified successor trustees who are willing to take on the trusts being very limited. The receiver has determined it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver continues

to be optimistic that it will be possible to transfer the majority of the remaining trust accounts to 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 plans to transfer trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearing ) will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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:

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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  
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Notice Date: 03/28/2017  
Claim Number: 2864999  
Adjuster: [andrew\\_eminger@cinfin.com](mailto:andrew_eminger@cinfin.com)

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P.O. Box 96400  
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Account Number: AZP-340134

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The Travelers; Policy Number 105818345  
Travelers  
385 Washington Street  
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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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

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The Receiver continues to believe the class action status of the case will be certified by the court, and that this lawsuit 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. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

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District of New Mexico on this matter. The Receiver was informed by counsel from the U.S. Attorney's Office of the of some of the property located in Texas that was seized by the U.S.A. and anticipates some funds will be made available for restitution to be paid to the victimized trusts, but the final dollar amount available for restitution funds has not yet been calculated.

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

7. Federal Court Declaratory Judgment case filed by Evanston Insurance Company:

A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by DSLM. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no decision has yet been rendered by the Court as to the outcome of the trial on the matter.

8. Civil Action Filed in Federal Court by The Cincinnati Insurance Companies:

A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

3/4/2020

Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe*  
and  
Scott Fuqua  
Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown.  
Previous correspondence mailed to last  
known address returned as undeliverable.

10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias  
& Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960  
*Counsel for Cameron Graham (Trustee of  
the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102  
(505) 243-2243  
*Attorney for Helen Bennett*



Kevin A. Graham

3/4/2020  
Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

Respondents

**RECEIVER'S FEBRUARY 2020, MONTHLY REPORT**

COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 February 2020, 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 February 4, 2020, 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	\$373,052.42
(4)	"Trust Cash" account:	XXXX127	\$5,317.31
(5)	"Trust Checks" account:	XXXX116	\$14,502.79

### Examination of Records and Accounts:

Progress towards the completion of scanning client records of DSLM has continued at a good pace over the past month, as the FID has been able to dedicate a full-time employee to the DSLM record scanning project. As noted last month, the very poor nature of record filing and storage that existed at DSLM when the company was in operation has been found to have resulted in client records being mixed amongst records of other clients. FID staff have been doing their best to identify and reorganize such mixed records when they are found. Recently the Receiver has been contacted by legal counsel representing parties in the on-going court cases related to DSLM concerning obtaining copies of documents for discovery purposes and the Receiver will endeavor to comply with such requests.

### 3. Progress Toward the Appointment of Successor Trustees:

On September 27, 2019, the Receiver filed a request for the Court to set a status conference for the above-captioned matter, with the primary goal of discussing with the Court plans for how best to accomplish the transfer to appropriate successor trustees the remaining trust accounts that remain under the trusteeship of the receivership for DSLM. To date, no status conference has been set by the Court. Receiver has not followed up with the Court on this request, but intends to do so in the coming month.

As has been previously reported, the fact that many of the trusts under the trusteeship of the receivership for DSLM have either no current funds held in trust, or only a very small amount of funds remaining, the options for finding qualified successor trustees who are willing to take on the trusts have been very

limited. The receiver has determined it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver is hopeful that it will be possible to transfer the majority of the remaining trust accounts to 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 is working towards transferring trust accounts to the non-profit trust company in a series of 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.

The Receiver will endeavor to assure notice is provided to all required/interested parties concerning the proposed transfer of the remaining trust accounts to successor trustees. The Receiver anticipates a series of court hearing ) will be necessary to accomplish the transfer of these trusts to successor trustees. The Receiver believes a public hearing will be required on these motions in order to afford all 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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

An “Amended Class Action Complaint” was filed on December 17, 2018, in the New Mexico Second Judicial District, Case No. D-202-CV-2018-04655, captioned “Cameron Graham, as trustee for Andrew Graham, *et al.* v. Desert State Life Management, *et al.*” The case is assigned to the docket of the Hon. Judge Joshua Andrew Allison, and the case is currently set for a trial date of June 21, 2021.

The Receiver continues to believe the class action status of the case will be certified by the court, and that this lawsuit 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. Counsel for the Receiver filed a Motion to Join Third Party Defendants in this case, seeking to have Evanston Insurance Company and the Cincinnati Insurance Company added as third party defendants (both these companies issued insurance policies to DSLM that were in effect at time DSLM went into receivership). The Receiver will continue to provide updates to the Court through these monthly reports as to significant developments in the proposed class-action lawsuit that may impact the receivership.

6. Federal Criminal Conviction / Federal Civil Forfeiture Action against

Paul Donisthorpe:

Paul A. Donisthorpe continues to be incarcerated in federal prison following his conviction and sentencing on Case No. 2017-3311 JB, United States of America v. Paul A. Donisthorpe, for federal felony criminal counts that arose from his

conduct as Chief Executive Office of Desert State Life Management and in his capacity as trustee for the multiple trusts overseen by the company. The Receiver continues to work in coordination with the United States Attorney's Office for the District of New Mexico on this matter. The Receiver was informed by counsel from the U.S. Attorney's Office there had been a sale of some of the property located in Texas that was seized by the U.S.A. and that it is anticipated some funds will be made available for restitution to be paid to the victimized trusts, but the final dollar amount available for restitution funds has not yet been calculated.

Any DSLM clients, or their representatives, or other interested parties, who have questions regarding the Donisthorpe plea, sentencing, or progress by the United States Attorney's Office to collect restitution or obtain funds to be applied toward restitution for the victims via the federal civil forfeiture process, are encouraged to contact:

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

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A bench trial was conducted on the days of October 7 - 9, 2019, in U.S. District Court for the District of New Mexico, on the civil action brought by Evanston Insurance Company [Evanston Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00654-LF-KK]. In that case Evanston seeks declaratory judgment that the insurance company will not be liable for the payment of any claims brought against DSLM that might have been subject to coverage under the "Errors and Omissions/Employee Dishonesty" policy [Policy # EO865156] purchased by

DSLML. On January 28, 2020, Judge Browning issued his order denying the motion for summary judgment that had been filed by Evanston. As of the date of this report, no decision has yet been rendered by the Court as to the outcome of the trial on the matter.

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A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

2/4/2020

Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Law Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

3. Paul Kennedy  
Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

5. Corazon Cattle  
*Via counsel for Paul  
Donisthorpe*

6. Corazon-Pitchford, LLC  
and/or Darrell Pitchford  
*Via counsel for Paul  
Donisthorpe  
and  
Scott Fuqua*

Fuqua Law & Policy, PC  
P.O. Box 32015  
Santa Fe, NM 87594  
[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

9. Michael White  
Current address unknown. Last month's report was mailed to C/O La Pasada 2206 4<sup>th</sup> Street NW, Albuquerque, NM 87102, and was returned as undeliverable.

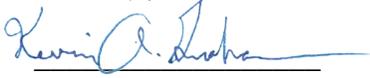
10. Frank Davis & Jesse Jacobus  
Freedman Boyd Hollander Goldberg Urias & Ward  
PO Box 25326  
Albuquerque, NM 87125-0326  
[ftd@fbdlaw.com](mailto:ftd@fbdlaw.com)  
505.842.9960

*Counsel for Cameron Graham (Trustee of the Andrew Graham Trust) and Others.*

11. Maureen Sanders  
Sanders & Westbrook, P.C.  
102 Granite Avenue NW  
Albuquerque, NM 87102

(505) 243-2243

*Attorney for Helen Bennett*

A handwritten signature in blue ink, appearing to read "Kevin A. Graham", written over a horizontal line.

Kevin A. Graham

2/4/2020

Date

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FINANCIAL INSTITUTIONS DIVISION,  
Petitioner,

v.

NO. D-202-CV-2017-03838

DESERT STATE LIFE MANAGEMENT, *et al*,

**Respondents**

**RECEIVER'S DECEMBER 2019, MONTHLY REPORT**



COMES NOW, Christopher Moya, court-appointed Receiver for Desert State Life Management (DSLML) and 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 January 2020, 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 DSLM and account balances as January 2, 2020, 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	\$356,226.83
(4)	"Trust Cash" account:	XXXX127	\$3,367.31
(5)	"Recovery" account:	XXXX309	
(6)	"Trust Checks" account:	XXXX116	\$6,737.34

2. Examination of Records and Accounts:

Progress towards the completion of scanning client records of DSLM has recently been enhanced by the FID committing a full-time employee to the DSLM record scanning project. Scanning of records at this time has progressed to the point of scanning the oldest paper records of DSLM that were seized by the Receiver, but due to the very poor nature of record filing and storage that existed at DSLM when the company was in operation, in many cases a variety of client records are found to be mixed amongst records of other clients. This makes the scanning process even more time consuming as staff members must not only scan the records, but reorganize them as they go. Recently the Receiver has been contacted by legal counsel representing parties in the on-going court cases related to DSLM concerning obtaining copies of documents for discovery purposes and the Receiver will endeavor to comply with such requests.

3. Progress Toward the Appointment of Successor Trustees:

On September 27, 2019, the Receiver filed a request for the Court to set a status conference for the above-captioned matter, with the primary goal of discussing with the Court plans for how best to accomplish the transfer to appropriate successor trustees the remaining trust accounts that remain under the trusteeship of the receivership for DSLM. To date, no status conference has been set by the Court.

Given the fact that many of the trusts at issue have either no current funds in trust, or only a very small amount of funds remaining, the options for finding qualified trustees who are willing to take on the trusts have been very limited.

The receiver has determined it will be necessary to obtain orders from this court regarding specific client trusts in order to transfer the majority of remaining trust clients to permanent successor trustees. The Receiver is hopeful that it will be possible to transfer the majority of the remaining trust accounts to 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 is working towards transferring trust accounts to the non-profit trust company in a series of 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.

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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)

5. Pending Class Action Lawsuit Against DSLM and other Defendants:

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Alyssa Skrepcinski  
Victim Advocate  
Office of the United States Attorney for the District of New Mexico  
201 Third St. NW, Suite 900, Albuquerque NM 87102.  
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the “Errors and Omissions/Employee Dishonesty” policy [Policy # EO865156] purchased by DSLM. No decision has yet been rendered by the Court on that matter.

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A scheduling order has been issued for the civil action filed in the United States District Court for the District of New Mexico by the Cincinnati Insurance Companies [Cincinnati Insurance Company v. Desert State Life Management, *et al.*, 1:18-cv-00981-LF-SCY, filed October 22, 2018], wherein Cincinnati seeks declaratory judgment that the company is not liable for the payment of any claims brought against DSLM that might have been subject to coverage under the “Directors and Officers” policy [Policy # AZP349837/BCN-0007591] purchased by DSLM. The Receiver has been named as a defendant in this action in his capacity as the receiver for DSLM. Litigation of the matter continues.

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



Kevin A. Graham  
Counsel to the Receiver/  
Deputy General Counsel  
New Mexico Regulation and Licensing Department  
2550 Cerrillos Road, 3<sup>rd</sup> Floor  
P.O. Box 25101  
Santa Fe, New Mexico 87504  
(505) 476-4971

1/3/2020  
Date

CERTIFICATE OF SERVICE:

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

1. Ray M. Vargas, II  
The Vargas Las Firm, LLC  
807 Silver Ave., SW  
Albuquerque, NM 87102  
[ray@vargaslawfirmabq.com](mailto:ray@vargaslawfirmabq.com)  
*Counsel for Paul A. Donisthorpe*

[scott@fuqualawpolicy.com](mailto:scott@fuqualawpolicy.com)  
*Counsel for Darrell Pitchford*

2. K. Stephen Royce  
Cuddy & McCarthy, LLP  
201 Third St. NW, Suite 1300  
Albuquerque, NM 87102  
*Counsel for L. Helen Bennett*

7. Paul A. Donisthorpe, LLC  
*Via counsel for Paul  
Donisthorpe*

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Kennedy Hernandez  
201 12<sup>th</sup> Street NW  
Albuquerque, NM 87102-  
1815  
[paul.kennedy@kennedyhernandez.com](mailto:paul.kennedy@kennedyhernandez.com)  
*Counsel for Liane Kerr*

8. Kenneth C. Leach  
Kenneth C. Leach & Associates, P.C.  
320 Osuna Road NE, Unit G-4, Box 15  
Albuquerque, NM 87107  
[kcleach@kcleach.com](mailto:kcleach@kcleach.com)  
*Counsel for Judith Mahar*

4. Spectrum Capital Markets,  
LLC  
*Via counsel for Paul  
Donisthorpe*

9. Michael White  
C/O La Pasada  
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