

NO. D-1-GV-12-000863

THE STATE OF TEXAS, ex rels. DR.	§	IN THE DISTRICT COURT OF
CHRISTINA ELLIS, D.D.S. and	§	
MADELAYNE CASTILLO,	§	
	§	
Plaintiffs,	§	
	§	TRAVIS COUNTY, TEXAS
VS.	§	
	§	
ASDC HOLDINGS, LLC (ASDC); et al.,	§	
	§	
Defendants.	§	126TH JUDICIAL DISTRICT

**ORDER GRANTING APPLICATION FOR TURNOVER
AFTER JUDGMENT AND APPOINTING RECEIVER**

On this day, in the above-numbered and captioned lawsuit, came to be heard the Application for Turnover After Judgment and Appointment of Receiver, filed by the State of Texas (“Applicant”), by and through the Office of the Attorney General of Texas. After review of the pleadings and other filings, the judgment, the application, the evidence submitted, and the relevant law, the Court FINDS that Applicant should and is entitled to collect upon the true, valid, final, and subsisting judgment in the above-numbered cause (the “Judgment”) against Defendant Richard J. Malouf (“Malouf”).

The Court further FINDS that Malouf has assets that are not exempt from attachment, execution, or any other type of seizure for the satisfaction of the Judgment. The Court FINDS that Malouf owns and controls nonexempt property including, but not limited to, the real property commonly known as 5720 E. Rosedale Street in Fort Worth, Texas.

The Court further FINDS that Malouf is subject to the personal jurisdiction of the Court.

Accordingly, the Court FINDS that Applicant is entitled to aid from this Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED:

1. The Court assumes jurisdiction and takes possession of all of Malouf's nonexempt property (collectively, the "Receivership Assets"). This property includes, but is not limited to, the following nonexempt property of Malouf: (a) all documents or records, including financial records, related to such property that is in the actual or constructive possession or control of Malouf; (b) all financial accounts (bank accounts), certificates of deposit, money-market accounts, accounts held by any third party; (c) all securities; (d) all real property, including all mineral interests; (e) all personal property, including jewelry, artwork, equipment, vehicles, trailers, boats, and planes; (f) all safety deposit boxes or vaults; (g) all cash; (h) all negotiable instruments, including promissory notes, drafts, and checks; (i) causes of action; (i) contract rights, whether present or future; (j) accounts receivable; and (k) trusts.

2. Peter Ruggero, SBN 24044376, 1411 West Avenue, Suite 200, Austin, Texas 78701, is appointed Receiver, and such Receiver is hereby vested with the fullest authority under Texas Law and in equity, but not required or directed, to seize, take possession of, and exercise exclusive control over the Receivership Assets, whether or not in the actual or constructive possession or control of Malouf and to pay the proceeds received by the Receiver from the exercise of control over the Receivership Assets to Applicant to the extent required to satisfy the Judgment, which amount includes principal, interest, attorney fees, court costs, post-judgment interest, and Receiver fees, which shall be taxed as court costs. Once the Judgment, including the foregoing, is fully paid and satisfied, the Receiver may return possession and control of any remaining Receivership Assets to Malouf. Accordingly, the Receiver shall have no liability for taking possession and control of Receivership Assets that have a fair market value in excess of the amount required to fully satisfy the Judgment, including principal, interest, attorney fees, court costs, post-judgment interest, and Receiver fees, which are taxed as court costs. The Receiver is further authorized to intervene in any ongoing legal actions in which the Receivership Assets are at issue and pursue or settle causes of action associated with the Receivership Assets. Except, however, the Receiver is not required to defend or prosecute any litigation regarding Malouf.

3. The Receiver has the authority to take possession of all documents or records, including financial records and corporate books, related to the Receivership Assets that are in the actual or constructive possession or control of Malouf ("Receivership Records").

4. All of the Receivership Assets and the Receivership Records shall be held in *custodia legis* of the Court as of the date of this Order. Until further order of this Court, the Receiver shall have complete and exclusive control, possession, and custody of all Receivership Assets and Receivership Records.

5. The Receiver is authorized, without breaching the peace and, if necessary, with the assistance of any Constable, Deputy Constable, Sheriff, Deputy Sheriff, or any other peace officer with notice of this Order, to enter and secure any premises or property, wherever located or situated, in order to take possession, custody, or control of, or to identify the location of or existence of Receivership Assets or Receivership Records.

6. The Receiver is authorized to disable or remove any Receivership Assets or to place the property into storage; insure any property taken into the Receiver's possession; obtain such writs as the Receiver deems necessary to obtain possession; however, the Receiver has no duty to take these actions, or to maintain, guard, or insure property taken into *custodia legis*, or to maintain or pay any lease, nor shall the Receiver be required to pay any mortgage, lien, or assessment; defend against any lawsuit; pay any tax or fee; file any tax returns; maintain any insurance coverage; or have any obligation except as specifically ordered. The Receiver is authorized to endorse and cash all checks and negotiable instruments payable to Malouf, except paychecks for current wages.

7. The Receiver is specifically authorized to use a locksmith to open and secure premises and property where the Receiver believes Receivership Assets or Receivership Records may be located.

8. Any Constable, Deputy Constable, Sheriff, Deputy Sheriff, or any other peace officer with notice of this Order is ordered and authorized to accompany the Receiver to any location designated by the Receiver where the Receiver believes Receivership Assets or Receivership Records may be located and to assist the Receiver in gaining entry to such location, without necessity of a writ of execution having been issued, and is directed, authorized, and ordered to prevent any person or persons from interfering with the Receiver, or any person under the direction of the Receiver, from carrying out any surety under this Order or interfering with any Receivership Assets or Receivership Records subject to the control of the Receiver, or any property subject to this Order.

9. Writs of turnover, issued pursuant to this Order, shall not be limited in time nor shall they have an expiration date. Those serving the writs shall return them to the Receiver, not the clerk, unless otherwise instructed. More than one writ of turnover may be issued and outstanding at any time.

10. The Receiver is further authorized to hire, at his or her discretion, counsel, accountants, or similar agents for any purpose the Receiver deems necessary to aid in seizing and exercising control over the Receivership Assets and Receivership Records and aiding in collection of the Judgment and related costs. All expenses incurred by the Receiver for counsel, accountants, or agents shall be taxed as costs against Malouf.

11. All persons, including Malouf, and their representatives, officers, agents, servants, employees, brokers, facilitators, trustees, escrow agents, accountants, attorneys, and all persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, and specifically including any bank or other financial or depository institution holding accounts over which the Receiver has control through the Receiver's exercise of ownership of the Receivership Assets, shall promptly surrender and turn over to the Receiver all Receivership Assets in the possession or under the control of any one or more of them or assets owned through the Receiver's exercise of control of the Receivership Assets and shall promptly surrender all Receivership Records. No separate subpoena shall be required. Upon presentment of this Order, all persons, including financial institutions, shall provide account balance information, transaction histories, all account records and any other Receivership Records to the

Receiver or the Receiver's agents in the same manner as they would be provided were the Receiver the signatory on the account controlled by the owner of the Receivership Assets.

12. All persons, including Malouf, his representatives, officers, agents, servants, employees, brokers, facilitators, trustees, escrow agents, accountants, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are enjoined from any way interfering with the operation of the Receivership or in any way disturbing the Receivership Assets, the Receiver's exercise of control over the Receivership Assets, and Receivership Records. Any actions to determine disputes relating to the Receivership Assets and Receivership Records shall be filed exclusively in this Court.

13. The Receiver is authorized to receive and collect any and all sums of money due or owing as a result of the Receiver's exercise of control over the Receivership Assets, whether the same are now due or shall hereafter become due and payable, and the Receiver is authorized to incur such expenses and make such disbursements as are necessary and proper for the collection, preservation, maintenance, and operation of the Receivership Assets.

14. The Receiver is authorized to take any actions which could be taken by the owner of the Receivership Assets, including, but not limited to, voting the Receivership Assets, and selling the Receivership Assets.

15. Malouf, his progeny, representatives, officers, agents, servants, employees, brokers, facilitators, trustees, escrow agents, accountants, attorneys, spouse, and all persons in active concert or participation with them, are further directed to cooperate fully with the Receiver, including: (a) delivering to the Receiver all Receivership Assets and Receivership Records, together with any related documents, records, names and contact information for persons who may be custodians or otherwise involved with or knowledgeable of the Receivership Assets or Receivership Records; (b) obtaining or providing all bank records involving the Receivership Assets; and (c) granting the Receiver access to safes or safe deposit boxes or any other facility containing Receivership Assets or Receivership Records. The Court ORDERS Malouf to affirmatively assist the Receiver in the Receiver taking control over the Receivership Assets and Receivership Records.

16. The Receiver may sell personal and real property he or she seizes as a result of the Receiver's exercise of control over the Receivership Assets in accordance with the following stipulations:

- a) **Private Sale.** The Receiver is authorized to sell Receivership Assets, in any manner outlined below, and is further authorized to determine which method to use in selling any particular item of Receivership Assets. None of the parties to this action or the Receiver, or his or her agents, may purchase the Receivership Assets.
 - i. The Receiver shall sell Receivership Assets for a fair and reasonable value.
 - ii. The Receiver shall sell Receivership Assets at a private sale conducted by the Receiver, or his or her staff or agents, at which the property will be

offered for sale at a specific asking price, as determined by the Receiver, provided that:

1. Sales of real property by the Receiver shall be confirmed by an order of this Court prior to the closing of the sale; and
 2. Malouf shall be given notice via registered agent of any such sale and the price to be received, so that Malouf may have an opportunity to make a higher and better offer to the Receiver for any such sale.
- iii. The Receiver shall conduct the private sale in a location that, in the opinion of the Receiver, is appropriate, given the nature and condition of the property being sold. The Receiver shall advertise such sale in such a manner that, in the opinion of the Receiver, is appropriate, given the nature and condition of the property being sold. Sales on E-Bay, Craigslist, or other similar public forums are specifically authorized, as deemed appropriate in the Receiver's discretion. Sales of certain intangible property shall be sold in accordance with any specific limitations or rules imposed by any applicable governing body.
- b) **Abandonment.** In the event the Receiver is unable to sell an item within the Receivership Assets under the procedures described herein, or if the Receiver determines that an item of personal property has an appraised or estimated value of less than \$100.00, the Receiver is authorized to dispose of the item by either a direct negotiated sale, by donation to charity, or by destruction. If the interest held by the Receiver is that of a lessee, the Receiver may surrender the property to the lessor in exchange for the return of any deposits or other consideration for the value, if any, of the interest held by the Receiver.
- c) **Notice of Intended Abandonment.** The Receiver shall provide notice of his or her intent to abandon any Receivership Assets in accordance with the following stipulations:
- i. At least ten days prior to any abandonment, the Receiver shall file a written notice of the intended sale or abandonment. Such notice shall describe the property to be abandoned, its sale price, if applicable, and the manner in which it will be sold or abandoned.
 - ii. The Receiver shall also serve, by U.S. First Class Mail, the written notice described above to Malouf and any other person who has made a written request to the Receiver. The Receiver may, in his or her discretion, provide additional notice as he or she deems appropriate.
 - iii. Any person who wishes to object to the proposed abandonment shall file a written petition with this Court setting forth the objection. Such petition

must also be served on the Receiver not more than five days after the mailing of the notice by the Receiver.

- iv. If no objection is timely filed and served on the Receiver, the Receiver may abandon the property without further order from this Court, in accordance with the procedures set forth herein and the notice issued by the Receiver.
 - v. If an objection is timely filed and served on the Receiver, the proposed abandonment shall not be completed until the petition setting forth the objection has been decided by the Court.
- d) **Auction**. In lieu of, or in addition to, a private sale, the Receiver is authorized to liquidate, at a public auction, the Receivership Assets in his or her possession, in accordance with the following procedures:
- i. The Receiver shall sell the property to the highest bidder at a public auction conducted by an established auctioneer, provided, however:
 - 1. Sales of real property by the Receiver shall be confirmed by an order from this Court prior to the closing of the sale; and
 - 2. Malouf shall be given notice via registered agent of a proposed sale and the price to be received, so that Malouf may have an opportunity at the specific time and site of the auction to make a higher and better offer to the Receiver for the property, pursuant to the rules and guidelines of the established auctioneer.
 - ii. The Receiver shall pay from the Receivership Assets all reasonable and customary costs incurred in connection with the auction, and such costs shall be taxed against Malouf.
- e) **Execution of Certificates of Title**. The Receiver is authorized to execute certificates of title in the name of Malouf, as Receiver, and other documents as may be necessary to effectuate the transfer of title to Receivership Assets sold, abandoned, or surrendered pursuant to the procedures approved herein.

17. The Receiver is authorized to intervene in any lawsuit in which the Receivership Assets are or may be at issue, and seek a turnover of such property in furtherance of this Order. The Receiver is further authorized to initiate any original action necessary in furtherance of this Order, including actions to recover Receivership Assets and Receivership Records.

18. The Receiver is authorized to open and redirect Malouf's mail, whether electronic, paper, facsimile, or otherwise, whether sent to a real address, phone line, P.O. Box, or via the internet, prior to and exclusive of receipt.

19. All third parties in possession of Receivership Assets are ordered to turn over such assets to the Receiver within five (5) business days of receipt of a copy or facsimile of this Order. No additional orders of any type are required of the Receiver to compel third parties to turn over funds and take necessary actions such as liquidating Malouf's stocks, bonds, contractual rights, rights in any trusts, whether as settlor or trustee, and negotiable instruments.

20. Malouf and their representatives, officers, directors, agents, servants, attorneys, accountants, or any representative acting or purporting to act on her behalf, and all persons in active concert with them who receive actual notice of this Order, are enjoined and restrained from directly or indirectly transferring, removing, disposing of, or otherwise selling, depleting, destroying, sabotaging, or dissipating the Receivership assets.

21. Malouf and their representatives, officers, directors, agents, servants, attorneys, accountants, or any representative acting or purporting to act on her behalf, and all persons in active concert with them who receive actual notice of this Order, are enjoined and restrained from in any way removing, destroying, secreting, or otherwise altering any file, document, associated paperwork, or the like (whether a copy of original) related to the Receivership Assets.

22. In order to promote judicial efficiency, all persons who receive actual or constructive notice of this Order are enjoined in any way from distributing the Receivership Assets or from prosecuting any new proceedings (including collection or enforcement proceedings) that involve the Receivership Assets unless such person or persons first obtains the permission of this Court.

23. The Receiver is authorized to request and obtain tax returns of Malouf from any federal, state, or local taxing authority.

24. The Receiver is authorized to obtain information from Malouf and third parties regarding Malouf's property, both real and personal. In addition, the Receiver is authorized to propound discovery pursuant to the Texas Rules of Civil Procedure.

25. The Receiver is directed and authorized to pay from proceeds coming into his or her possession all costs incurred through this administration of the Receivership. After the payment of these costs, the remaining funds in the Receiver's possession constitute net proceeds. All costs, including the Receiver's fees, are taxed as court costs against Malouf.

26. The Receiver shall hold in trust an amount equal to 25% of all proceeds coming into his or her possession (before deducting expenses incurred). The Receiver shall pay Applicant the remaining proceeds coming into his or her possession, either as such proceeds come into the Receivership, or periodically, as the Receiver may deem appropriate. The Court finds that 25% of all proceeds coming into the Receivership is a customary and usual fee for a post-judgment turnover receiver. The Receiver's fees shall be determined by order of the Court. The Receiver's fees and expenses are taxed as costs against Malouf, and as costs, such fees and expenses are in addition to amounts owed under the judgment in this case. If Malouf files bankruptcy, the Receiver's fee shall be equal to 25% of the debt owed at the time that the bankruptcy is filed. All of the Receiver's fees and expenses will be taxed as costs against Malouf.

27. Except for an act of intentional misconduct, the Receiver and all persons engaged or employed by the Receiver shall not be liable for any loss or damage incurred by any person or entity by reason of any act performed or omitted to be performed by the Receiver or by those engaged or employed by the Receiver in connection with the discharge of their duties and responsibilities in connection with the receivership, including the exercise of control over the Receivership Assets.

28. This Court shall retain exclusive jurisdiction over this action for all purposes. The Receiver is authorized, empowered, and directed to apply to this Court, with notice to Applicant, Malouf for issuance of such other orders as may be necessary and appropriate to carry out the mandate of this Court. To the extent any provision of this Order is found void, it shall not impact any other provision of the Order.

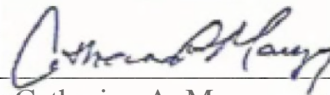
29. On written request by Applicant to Receiver, the Receiver is ORDERED to produce an annual accounting of receivership assets, liabilities, expenses, and distributions. This accounting shall be filed with the Court within 30 days of each request. The requests shall be limited to no more than one request every six months.

30. Notwithstanding any other provision in this Order, the Receiver MUST seek an order of the Court prior to selling any of the Receivership Assets, whether real or personal.

31. Notwithstanding any other provision in this Order, the Receiver MUST seek an order of the Court prior to disbursing any funds to Applicant to satisfy the Judgment.

32. This Order shall remain in effect until modified by further Order from this Court.

SIGNED January 12, 2021.



Hon. Catherine A. Mauzy
DISTRICT JUDGE PRESIDING

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 49646488
Status as of 1/13/2021 10:10 AM CST

Associated Case Party: RICHARD J MALOUF DDS PA

Name	BarNumber	Email	TimestampSubmitted	Status
Romie Canseco		rcanseco@canalessimonson.com	1/12/2021 6:28:08 PM	SENT
Jose AntonioCanales		tonycanales@canalessimonson.com	1/12/2021 6:28:08 PM	SENT

Associated Case Party: RICHARD J MALOUF DDS PC

Name	BarNumber	Email	TimestampSubmitted	Status
Philip Hilder		Philip@hilderlaw.com	1/12/2021 6:28:08 PM	SENT
Q. TateWilliams		tate@hilderlaw.com	1/12/2021 6:28:08 PM	SENT
William Graham		will@hilderlaw.com	1/12/2021 6:28:08 PM	SENT
James G.Rytting		james@hilderlaw.com	1/12/2021 6:28:08 PM	SENT

Associated Case Party: RICHARDJMALOUF

Name	BarNumber	Email	TimestampSubmitted	Status
Jason Snell	24013540	firm@snellfirm.com	1/12/2021 6:28:08 PM	SENT

Associated Case Party: MADELAYNECASTILLO

Name	BarNumber	Email	TimestampSubmitted	Status
James Michael Tibbals	20017500	mtibbals@freemanmillspc.com	1/12/2021 6:28:08 PM	SENT

Associated Case Party: CHRISTINEELLIS

Name	BarNumber	Email	TimestampSubmitted	Status
Charles S. Siegel	18341875	siegel@waterskraus.com	1/12/2021 6:28:08 PM	SENT

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 49646488
Status as of 1/13/2021 10:10 AM CST

Associated Case Party: State of Texas

Name	BarNumber	Email	TimestampSubmitted	Status
Noah Reinstein	24089769	Noah.Reinstein@oag.texas.gov	1/12/2021 6:28:08 PM	SENT
Michelle Luong	24098021	michelle.luong@oag.texas.gov	1/12/2021 6:28:08 PM	SENT
Raymond Charles Winter	21791950	Raymond.Winter@oag.texas.gov	1/12/2021 6:28:08 PM	SENT
Reynolds Brissenden	24056969	Reynolds.Brissenden@oag.texas.gov	1/12/2021 6:28:08 PM	SENT
Rhonda Rodriguez		rhonda.rodriguez@oag.texas.gov	1/12/2021 6:28:08 PM	SENT
Janice Garrett		Janice.Garrett@oag.texas.gov	1/12/2021 6:28:08 PM	SENT

Case Contacts

Name
Michael P.Gibson
Robert Anderton
Mark Hanna
Dan Hargrove
J. MichaelTibbals
J.A. Canales
Brian K. Norman
Gregory Shamoun
Raymond Winter
Caitlyn Silhan
Ketan Upen Kharod
Debra Bates
Charles Siegel
David DrewWright

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 49646488
Status as of 1/13/2021 10:10 AM CST

Case Contacts

Damon Ong		damon.ong@texasattorneygeneral.gov	1/12/2021 6:28:08 PM	SENT
Thomas Watkins		twatkins@brownmccarroll.com	1/12/2021 6:28:08 PM	ERROR
Lorinda Holloway		lholloway@brownmccarroll.com	1/12/2021 6:28:08 PM	ERROR
Joseph A.Friedman		jfriedman@krcl.com	1/12/2021 6:28:08 PM	ERROR
Jay Madrid		jmadrid@winstead.com	1/12/2021 6:28:08 PM	ERROR
Kevin Perkins		kperkins@krcl.com	1/12/2021 6:28:08 PM	ERROR
Margaret Moore		margaret.moore@texasattorneygeneral.gov	1/12/2021 6:28:08 PM	SENT
Ketan Kharod		kkhasod@waterskraus.com	1/12/2021 6:28:08 PM	SENT