

CAUSE NO. CC07-12215-d

014 0530

AMERICAN EXCELSIOR CO.  
Plaintiff

v.

SOUTHWEST RAIN-MAKERS,  
INCORPORATED d/b/a SOUTHWEST  
DEVELOPMENT

Defendant

§  
§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE COUNTY COURT

AT LAW NO. FOUR

POSTED

DALLAS COUNTY, TEXAS

ORDER APPOINTING RECEIVER AND ORDER OF REFERENCE

CAME ON to be heard the Application for Turnover After Judgment of Plaintiff, AMERICAN EXCELSIOR CO., a corporation; whereupon, the Court's review of the papers herein on file, became of the opinion that a Receiver should be appointed to take possession of and sell the assets of Defendant, SOUTHWEST RAIN-MAKERS, INCORPORATED d/b/a SOUTHWEST DEVELOPMENT

IT IS, THEREFORE, ORDERED, ADJUDGED and DECREED by this Court that

*JASON VAN DYKE*

\_\_\_\_\_ , be, and he is hereby, appointed Receiver in this case pursuant to the Texas Turnover Statute with the power and authority to take possession of all non-exempt property, real and personal, of Defendant, SOUTHWEST RAIN-MAKERS, INCORPORATED d/b/a SOUTHWEST DEVELOPMENT including, but not limited to (1) all documents or records, including financial records, related to such property that is in the actual or constructive possession or control of the Defendant; (2) all financial accounts (bank accounts), certificates of deposit, money market accounts, accounts held by any third-party; (3) all securities; (4) all real property, equipment, vehicles, boats and planes; (5) all safety deposit boxes or vaults; (6) all cash; (7) all negotiable



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN DALLAS  
COUNTY CLERK'S OFFICE

1090 410  
0531

instruments, including promissory notes, drafts and checks; (8) causes of action or choses of action; (9) contract rights whether present or future; and (10) accounts receivable; and that all such property shall be held in custodia legis of said Receiver as of the date of this Order.

It is further ORDERED that all third-parties in possession, or constructive possession of assets, including, but not limited to cash and funds on deposit, documentation, property or information regarding Defendant, shall turnover or make available for turnover to the Receiver, said assets, including, but not limited to cash and funds on deposit, documentation, property or information; within a reasonable time; upon request from the Receiver and within the requirements of this Order Appointing Receiver and Order of Reference. Any information, documentation or financial information provided to the Receiver of a confidential nature shall not be disclosed or released by the receiver unless necessary to carry out the intent of this Order. Should any third-party referenced herein fail to comply with this Order, the Court may impose the appropriate sanctions provided for by the Texas Rules of Civil Procedure after the proper application therefore, with notice and opportunity for hearing granted to any interested or affected party.

Defendant is hereby ORDERED to immediately turnover to the Receiver upon Defendant's receipt of a copy of this Order the documents contained on Exhibit "1" attached hereto, together with all documents and financial records which may be requested by the Receiver.

Defendant is hereby ORDERED to turnover to the above-named Receiver at the address stated above, within five (5) days of Defendant's receipt of a copy of this Order, all checks, cash, securities (stocks and bonds), promissory notes, documents of title and contracts owned by or in the name of Defendant.

Defendant is hereby ORDERED to continue (until the Judgment in this cause is fully paid



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN DALLAS  
COUNTY CLERK'S OFFICE

014 0532

and/or settled, including Receiver's fees) to turnover to the Receiver at the receiver's address all checks, cash, securities, promissory notes, documents of title and contracts within three (3) days from Defendant's receipt and possession of such property, if, as and when Defendant becomes in receipt and possession of any such property.

The Receiver is hereby authorized to take all action necessary to gain access to all storage facilities, safety deposit boxes, real property, leased premises wherein any property of Defendant may be situated.

In addition to the powers of the receiver set forth herein, the Receiver shall have the following rights, authority and powers with respect to the Defendant's property and to negotiate settlement of same amounts: (1) the right, authority and power to collect all accounts receivable of Defendant; (2) the right, authority and power to change locks to all premises at which any property is situated; (3) the right, authority and power to open all mail directed to Defendant; (4) the right authority and power to endorse and cash all checks and negotiable instruments payable to Defendant; (5) the right, authority and power to hire a real estate broker to sell any real property and mineral interest belonging to the Defendant; (6) the right, power and authority to take possession of the non-exempt property of the Defendants; (7) the right, power and authority to sell the non-exempt property of the Defendants; (8) the right, power and authority to hire any person or company to move and store the property of Defendant; (9) the right, authority and power ( but not the obligation) to insure any property belonging to the Defendant; (10) the right, power and authority to obtain from any financial institution, bank credit union, or savings and loan any financial records belonging to or pertaining to the Defendant; (11) the right, power and authority to negotiate settlements with the Defendant's secured or preferred creditors, and (12) the right, power and authority to hire any person



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED IN DALLAS  
COUNTY CLERK'S OFFICE

014 0533

or company necessary to accomplish any right or power under this Order.

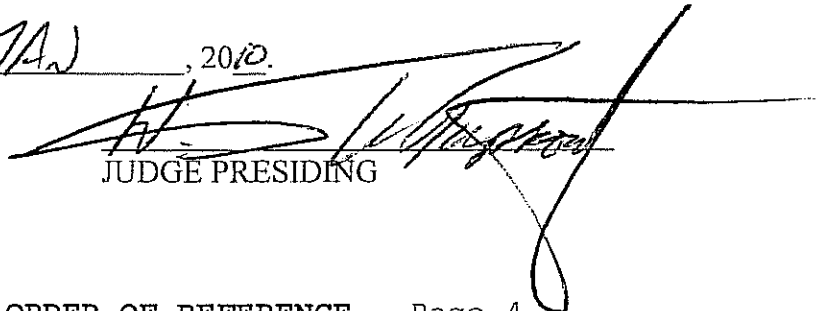
Any Sheriff, Constable or Peace Officer, and their deputies, are hereby directed and order to assist the Receiver carrying out his duties and exercising his powers hereunder and prevent any person from interfering with the Receiver in taking control and possession of the property of Defendant. The Receiver is authorized to direct any Constable, Sheriff or authorized Peace Officer to seize and sell property under Writ of Execution.

It is further, ORDERED that the above-named Receiver is DIRECTED and AUTHORIZED to pay to himself as Receiver fees, an amount equal to 25% of all proceeds coming into his possession; which the Court finds is a fair, reasonable and necessary fee for the Receiver; and to distribute all remaining proceeds to the extent necessary to satisfy the judgment to the attorney for the Plaintiff, as Trustee, without the requirement of an Order therefore. No Receiver's fees exceeding 25% of all proceeds coming into this possession shall be paid to the Receiver unless an Application is filed with and ruled upon by this Court, with notice and opportunity for hearing granted to Plaintiff and Defendant and an Order is signed approving said fee application.

It is further ORDERED that Applicant have and recover of and against Defendant Judgment in the sum of \$ 300.00 for additional attorney's fees;

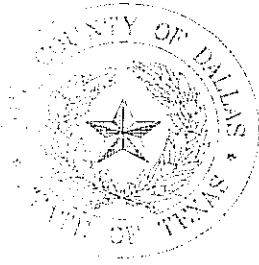
The Receiver is ordered to post bond in the amount of \$100.00 payable to this Court and conditioned upon his faithful discharge of his duties in accordance with this Order. The Receiver is further ordered to take the oath of office and is required to be a registered voter in the state..

SIGNED, this 25 day of JAN, 2010.

  
JUDGE PRESIDING



TRUE AND CORRECT  
COPY OF ORIGINAL  
FILED BY DALLAS  
COUNTY CLERK'S OFFICE



**JOHN F. WARREN**  
**Dallas County Clerk**  
**509 Main St, Ste 201**  
**Dallas, Texas 75202-3551**

STATE OF TEXAS           §

COUNTY OF DALLAS       §

I, John F. Warren, Clerk of the County Court of Dallas County Court at Law No. 4, Dallas County, Texas do hereby certify that the foregoing is a true and correct copy of document in Cause No. CC-07-12215-D.

**AMERICAN EXCELSIOR CO, PLAINTIFF (S)**

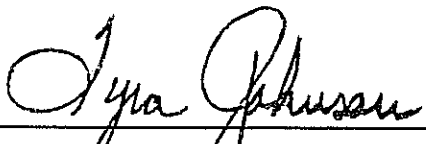
**VS**

**SOUTHWEST RAIN MAKERS, DEFENDANT (S)**

**ORDER APPOINTING RECEIVER AND ORDER OF REFERENCE** entered in Volume 014, Page(s) 0530-0535, Minutes of County Court at Law No. 4, Dallas County, Texas.

**WITNESS MY HAND AND SEAL** of said Court this 3rd day of February, 2010.

John F. Warren, County Clerk

By:   
\_\_\_\_\_  
TYRA JOHNSON, Deputy