

FILED

2015 JUL 10 AM 8:33

CATHY S. [unclear] CLERK
KANAWHA COUNTY CIRCUIT COURT

**IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**OMEGA FACILITY SERVICES, SOLUTIONS & SURETY,
LLC, JEFFREY R. BROWN,
SUSAN L. BROWN,**

PLAINTIFFS,

v.

**CIVIL ACTION NO. 14-C-1745 (Kanawha)
Hon. Thomas C. Evans, III Circuit Judge**

**JACOBS & COMPANY, INC., a West Virginia Corporation
JACOBS FINANCIAL GROUP, INC., a West Virginia Corporation
FS INVESTMENTS, INC., a West Virginia Corporation
FIRST SURETY CORPORATION, INC., a West Virginia Corporation
TRIANGLE SURETY AGENCY, INC., a West Virginia Corporation
JOHN M. JACOBS, a West Virginia Resident
ROBERT J. KENNEY, a West Virginia Resident**

DEFENDANTS.

ORDER

On May 27, 2015 came the parties in the above captioned matter for the purposes of a hearing on the status of the First Surety Corporation Collateral Account of Omega Facility Services, Solutions & Surety, LLC. currently held at RBC Wealth Management.

The Court, on prior occasions, had instructed the parties to agree upon a custodian for the collateral account, and to agree upon a custodian that would accept the collateral account control agreement as has been used by First Surety Corporation, Inc. in its regular course of business.

On May 1, 2015, a telephonic hearing was held in the above captioned matter regarding the status of the collateral account. The Defendants, by counsel, made a record of their objections to the move of the collateral account to RBC Wealth

79-80

Management without RBC Wealth Management executing the collateral account control agreement as prepared by First Surety Corporation, LLC.

The Court, during the telephonic hearing of May 1, 2015 informed the parties that should they be unable to agree upon a custodian of the collateral account, the Court would order the collateral account to be moved to the custody of the Kanawha County Circuit Clerk during the pendency of the litigation before the Court.

The Court after giving all parties the opportunity to be heard on the status of the collateral account finds as follows:

1. The parties have been unable to agree upon a custodian for the collateral account currently held at RBC Wealth Management.
2. The parties have been unable to find a broker/dealer other than Wellington-Shields & Company, LLC that will accept and execute the collateral account control agreement as prepared by First Surety Corporation, LLC.

WHEREFORE, it is ORDERED AND ADJUDGED as follows:

1. Forthwith, the collateral account currently held at RBC Wealth Management bearing the title of First Surety Corporation Collateral Account of Omega Facility Services, Solutions & Surety, LLC. shall be transferred to the custody of the Kanawha County Circuit Clerk.
2. The assets currently held in the aforementioned collateral account shall be transferred in-kind, in that no assets shall be sold or traded, and the assets as they are currently held shall be transferred to the custody of the Kanawha County Circuit Clerk in their present form.

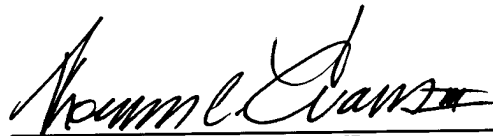
3. Each and every party to this action shall be enjoined from accessing, trading upon, withdrawing funds from, or otherwise dealing with the collateral account during the pendency of these proceedings, or until further order by this Court.

4. The Kanawha County Circuit Clerk shall forthwith establish an account to properly take custody of the assets as they are transferred from RBC Wealth Management to the Kanawha County Circuit Clerk.

5. The parties' respective interests in the collateral account shall remain in that First Surety Corporation, Inc. shall have a security interest in the First Surety Corporation Collateral Account of Omega Facility Services, Solutions & Surety, LLC., and the collateral account shall be in the care, custody, and control of the Kanawha County Circuit Clerk.

6. The Kanawha County Circuit Clerk shall send duplicate copies of account statements to the Plaintiff, Omega Facility Services, Solutions & Surety, LLC, and the Defendant, First Surety Corporation, Inc. and their respective counsel during the pendency of these proceedings.

ENTERED this 2nd day of July, 2015.



Hon. Thomas C. Evans, III
West Virginia Business Court Division

Prepared by:



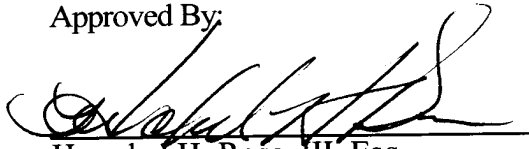
Brandon S. Steele, Esq.

Date: 7/14/15
Certified copies sent to:
☒ counsel of record
☐ parties
☐ other
(please indicate)
By: ☒ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:
2 att
Deputy Circuit Clerk

HR
PC
SM

WVSB #12423
Clay, Steele & Associates, PLLC
P.O. Box 746
101 W. Maple Ave.
Fayetteville, WV 25840
304-574-2182
304-574-2183

Approved By:



Herschel H. Rose, III, Esq.
P.O. Box 3502 Charleston,
WV 25335 304-342-5050