

FILED

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION 2016 JUN -7 AM 9:10

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

CATHY J. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

PLAINTIFFS,

v.

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

JACOBS & COMPANY, INC., a West Virginia Corporation
JACOBS FINANCIAL GROUP, 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.

FINAL ORDER LIFTING INJUNCTION

On the 31st day of March, 2016, counsel for the parties submitted a Dismissal Order wherein the Court Dismissed this Action with the exception that the injunction previously placed upon the collateral account at issue in this matter remain in effect until further Order of this Court.

Counsel for the parties have informed the Court that there is now a signed, Confidential Settlement Agreement in this matter and there is no further need for the injunction to remain in effect in regards to the collateral account.

Based upon the representations of counsel for the parties, and incorporating herein the terms and conditions recited by the parties on the record during trial in this matter on January 20, 2016, it is hereby

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ORDERED that:

1. RBC Wealth Management Corporation is to forthwith transfer the sum of \$800,000.00 from the Collateral Account titled FIRST SURETY CORPORATION, ACCOUNT OF OMEGA FACILITY LLC, Account Number 316-82801, to Account Number 315-13857, titled RBC SETTLEMENT ACCOUNT. Said sum is henceforth free from any encumbrance that existed prior to this Order, and, FSC releases any and all claims against, including any Security Interest it may have or have had against said sum of \$800,000.00; but does not affect any further liability from the plaintiffs to FSC arising under the Indemnity Agreement. Said transfer is to be in the form of an ACAT transfer, and the sums transferred may be in any combination of cash or securities, so long as the total value of the transfer at the time of its initiation totals \$800,000.00.
2. The sum of \$20,000.00 in cash shall be paid from the Collateral Account held by RBC Wealth Management, Account Number 316-82801, to First Surety Corporation. The Plaintiffs shall execute any and all documents necessary with RBC Wealth Management to effect said transfer forthwith. Said sum is henceforth free from any encumbrance that existed prior to this Order, and the Plaintiffs have no further claim to said sum of \$20,000.00.
3. The remaining portion of the collateral account at issue in this civil action shall be maintained in the present account, RBC Account Number 316-82801, and shall be managed by Edward Stikes or his successor under the terms of the

Indemnity Agreement. First Surety Corporation's Security Interest shall be maintained in the account subject to the Indemnity Agreement and Collateral Account Agreement. First Surety Corporation and Omega shall promptly execute the necessary RBC Wealth Management documents to reflect First Surety Corporation's Security Interest in the Collateral Account.

4. Future releases of funds held in the collateral account shall be permitted as follows:
 - a. The sum of \$25,000.00 per year shall be released from the collateral account to Omega following Fayette County School's release of the year 5 bond, and the sum of \$25,000.00 per year shall be released within ten business days from the collateral account to Omega upon the release of each subsequent bond.
 - b. Upon the release of the last surety bond by Fayette County Schools, First Surety Corporation shall release the remainder of the collateral account to Omega as per the settlement agreement, and First Surety Corporation's Security Interest in the Collateral Account shall then cease.
5. The defendants shall pay the sum of \$20,000 to Omega Facilities Service, Solutions & Surety LLC and Brandon S. Steele, Esq., 3049 Robert C. Byrd Drive, Ste 100, Beckley, WV 25801, it's attorney. Said sum is henceforth free from any encumbrance that existed prior to this Order, and the Defendants have no further claim to said sum of \$20,000.00.
6. The Plaintiffs shall withdraw all complaints it made to the West Virginia Board of Accountancy, FINRA, the West Virginia Securities Commission, the U.S.

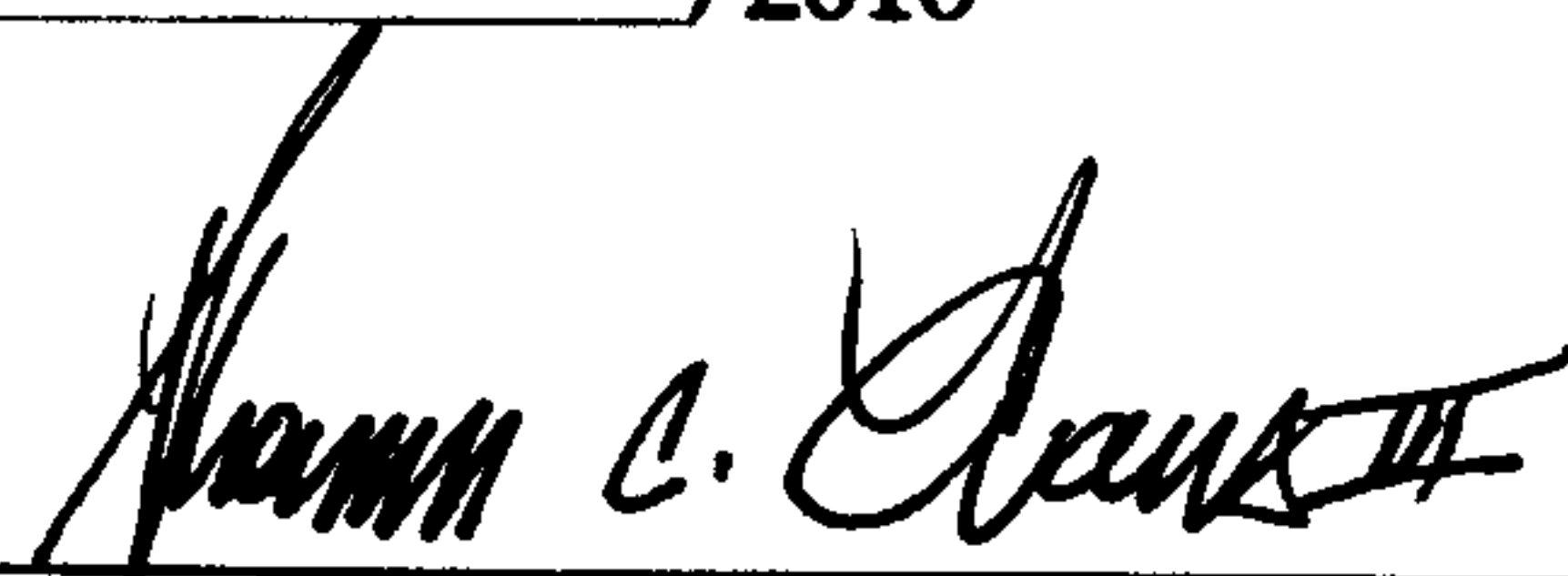
Securities and Exchange Commission, and the West Virginia Insurance commissioner concerning the Defendants as per the terms of the settlement agreement.

7. The injunction previously issued in this action on the 19th day of March, 2015, is hereby dissolved.

8. The Clerks of the Kanawha County Circuit Court and the Business Court are ORDERED to redact the account numbers listed in Paragraphs 2 and 3 of this Order after having sent attest copies of this Order as Ordered below.

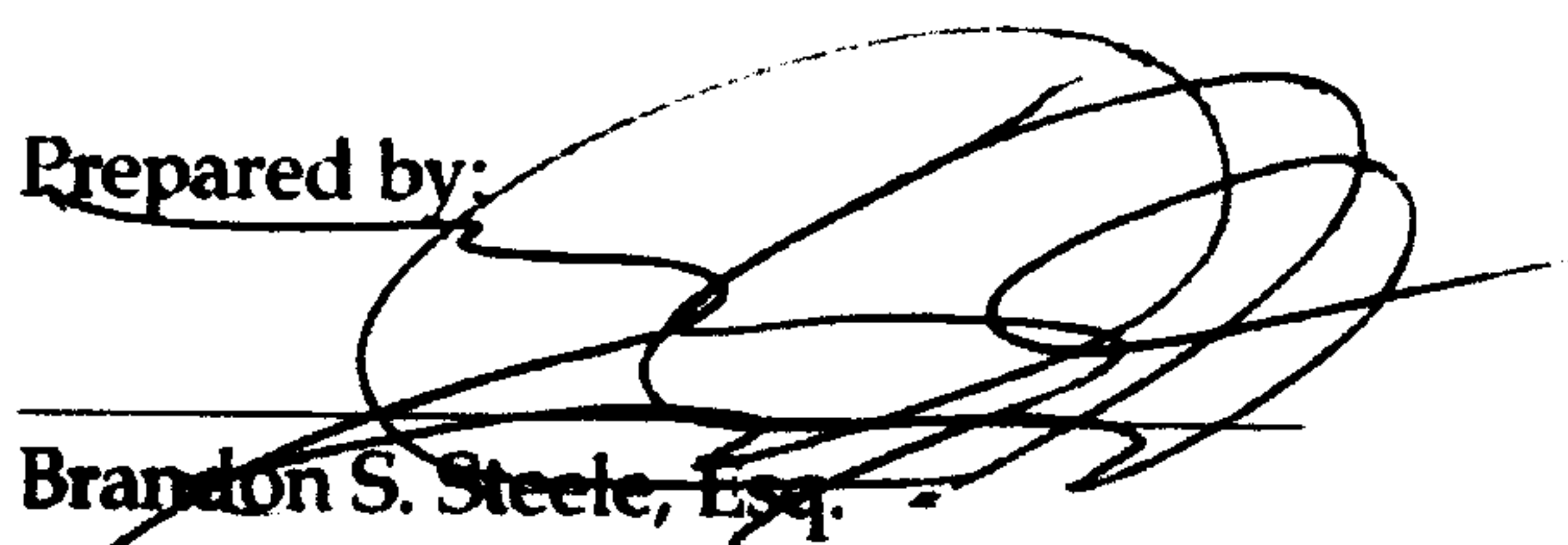
It is further ORDERED that the Clerk of the Business Court is to send attest copies of this ORDER to Brandon S. Steele, Esq., 3049 Robert C. Byrd Drive, Ste 100, Beckley, WV 25801, and Herschel H. Rose III, 300 Summers St. Ste 144, PO Box 3502, Charleston, WV 25335.

ENTERED this 3 day of June, 2016



Hon. Thomas C. Evans, III
Judge, Business Court Division

Prepared by:

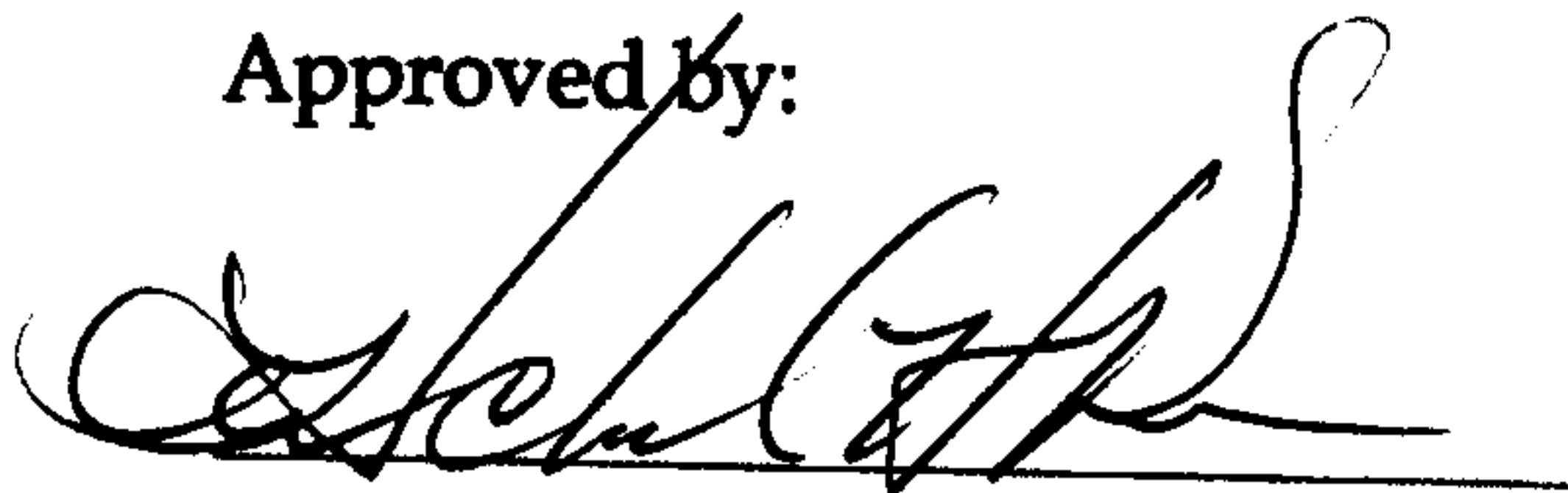


Brandon S. Steele, Esq.
WVSB #12423
3049 Robert C. Byrd Drive, Ste 100
Beckley, WV 25801

Date: 6/8/16
Certified copies sent to:
☒ Counsel of record BS
☐ parties HR
☐ other (please indicate)
By: [Signature]
☒ certified/1st class mail
☐ fax
☐ hand delivery
☐ interdepartmental
Other directives accomplished:
[Signature]
Deputy Circuit Clerk

681-207-7205
304-255-1520

Approved by:

A handwritten signature in cursive script, appearing to read 'Herschel H. Rose, III', written over a horizontal line.

Herschel H. Rose, III, Esq.
300 Summers St., Ste 1440
Charleston, WV 25301
304-342-5050