

Continuity of Operations in Receiverships

Appointment of Special Deputy Receivers

SDR Process in Texas:

- Request for Qualifications (RFQ)
- Background checks / disclosures
- Bids required, except in the case of an emergency appointment
- SDR Agreement
- Designation of Primary Responsible Person

Scenarios

- Business interruption
- Resignation or termination of SDR
- Death or disability of SDR
- Loss of assets

SDR Agreement

- Planning Requirements
- Liquidated Damages
- Bonds & Insurance
- Other Provisions

Disaster Recovery Plan

SDR develops plan to ensure the continued operation of the receivership if there is an interruption of essential services.

Examples:

- Process for backing up records
- Plan for the loss of critical staff

Bonds & Insurance

Fiduciary Bond

- SDR obtains a bond payable to the Receiver, conditioned on the performance of the SDR's duties and the accounting for all assets and records
- SDR bond form is approved by the Commissioner

Insurance

- SDR must have insurance to protect estate assets
- Receiver must be notified of any changes to the policies

Liquidated Damages

A receivership can be a long-term commitment

An SDR's appointment continues until the closing of the receivership, unless terminated earlier. The SDR Agreement provides for liquidated damages if the SDR does not complete its obligations.

- Damages are assessed if the SDR terminates agreement without cause
- Damages are not assessed if the SDR cannot perform due to circumstances beyond its control
- Damages are calculated to compensate the Receivership for costs incurred due to the SDR's termination of the agreement, such as transition costs

Other Provisions

- Receiver has signature authority for receivership accounts used by the SDR
- SDR must maintain a current inventory of all records
- All records are available for the Receiver at any time, and the Receiver may enter SDR's premises to take possession of records
- SDR establishes a separate website for the receivership, and the Receiver has administrative rights to the website
- SDR must advise the Receiver of changes to its ownership, officers, or directors, and demonstrate that the change will not have an adverse impact.

Succession Planning

THE NEXT GENERATION

As the number of receiverships decline, there are fewer SDRs:

- SDRs appointed in Texas since 1992 - 39
- Current SDRs in Texas - 5

Initiatives:

- 2021 RFQ
- Education and outreach



PLAN AHEAD

A decorative sign with a parchment-like, aged yellow background. The text "PLAN AHEAD" is written in a large, bold, black, stylized serif font. The sign is framed by a black, ornate, scrollwork border. There are four small white circles, one in each corner, suggesting the sign is mounted on a wall.