

§ 1-507.25. Eligibility of receiver.

(a) Who May Serve as Receiver. – Unless otherwise prohibited by law or prior order, any person, whether or not a resident of this State, may serve as a receiver, provided that the court, in its order appointing the receiver, makes written conclusions based in the record that the person proposed as receiver meets the following criteria:

- (1) The proposed receiver is qualified to serve as receiver and as an officer of the court.
- (2) The proposed receiver is independent as to any party in interest and the underlying dispute.

(b) Considerations Regarding Qualifications. – In determining whether a proposed receiver is qualified to serve as receiver and as an officer of the court, the court shall consider any relevant information, including all of the following:

- (1) The proposed receiver has knowledge and experience sufficient to perform the duties of receiver.
- (2) The proposed receiver has the financial ability to post the bond required by G.S. 1-507.26.
- (3) The proposed receiver or any insider of the proposed receiver has been previously disqualified from serving as receiver and the reasons for disqualification.
- (4) The proposed receiver or any insider of the proposed receiver has been convicted of a felony or other crime involving moral turpitude.
- (5) The proposed receiver or any insider of the proposed receiver has been found liable in a civil court for fraud, breach of fiduciary duty, civil theft, or similar misconduct.

(c) Considerations Regarding Independence. – In determining whether a proposed receiver is independent as to any party in interest and the underlying dispute, the court shall consider any relevant information, including all of the following:

- (1) The nature and extent of any relationship that the proposed receiver has to any party in interest and the property proposed as receivership property.
- (2) Whether the proposed receiver has any interest materially adverse to the interests of any party in interest.
- (3) Whether the proposed receiver has any material financial or pecuniary interest, other than receiver compensation, regardless of its source, as allowed by court order, in the outcome of the underlying dispute, including any proposed contingent or success fee compensation arrangement.
- (4) Whether the proposed receiver is a debtor, secured or unsecured creditor, lienor of, or holder of any equity interest in, any party in interest or of receivership property.
- (5) Whether the proposed receiver has participated in any action that constitutes a violation of G.S. 23-46.

In evaluating all information, the court may exercise its discretion and need not consider any single item of information to be determinative of independence. The proposed receiver shall not be disqualified solely because the proposed receiver was appointed receiver in other unrelated matters involving any of the parties to the action in which the appointment is sought, or the proposed receiver has been engaged by any of the parties to the action or any other party in interest in matters unrelated to the underlying action. A person seeking appointment of a receiver may nominate a person to serve as receiver, but the court is not bound by the nomination.

(d) Information Provided to Court. – The proposed receiver, the parties, and prospective parties in interest may provide any information relevant to the qualifications, independence, and the selection of the receiver. (2020-75, s. 1.)