

FILED TO ATTY ON 6/26/13
CONFIRMED ON _____

At IAS Part 5 of the Supreme Court of the State of New York, County of Nassau, at the Courthouse, 100 Supreme Court Drive, in the County of Nassau, City of Mineola and State of New York, on the 25th day of June, 2013.

PRESENT:

HON. ROY S. MAHON, J.S.C.

MOTION SEQUENCE # 35
ORIGINAL RETURN DATE 7/16/13
RELIEF 00TH

In the Matter of

Index No.: 2960/86

mahon

the Liquidation of

ORDER TO SHOW CAUSE

AMERICAN FIDELITY FIRE INSURANCE COMPANY
and AMERICAN CONSUMER INSURANCE COMPANY.

Based on the verified petition ("Verified Petition") of Mary Jo Marchisello, Assistant Special Deputy Superintendent and Agent of Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of American Fidelity Fire Insurance Company and American Consumer Insurance Company (collectively, the "Companies"), duly verified the 20th day of June, 2013, and the exhibits attached thereto, upon all other papers previously submitted and all proceedings heretofore had herein, and it appearing that the relief sought should be granted;

NOW, on motion of John Pearson Kelly, attorney for the Liquidator, and after due deliberation having been had thereon,

LET all claimants and persons or entities interested in the affairs of the Companies show cause before this Court at IAS Part 5, thereof, at the Courthouse located at 100 Supreme Court

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8/16 Drive, Mineola, New York, on the 16th day of August, 2013 ("Return Date") at 9:30 o'clock a.m., or as soon thereafter as counsel can be heard, why an order should not be made, pursuant to Article 74 of the New York Insurance Law ("Insurance Law"), *inter alia*: (i) approving the Liquidator's reports ("Closing Reports") on the status of and request to close the Companies' liquidation proceeding ("Liquidation Proceeding") and the financial transactions delineated therein; (ii) authorizing the continued payment of administrative expenses, including such expenses pertaining to the closing of the Liquidation Proceeding; (iii) terminating and closing the Liquidation Proceeding; (iv) authorizing the Liquidator, without further application to this Court, to continue to receive and disburse assets after the termination of the Liquidation Proceeding, pay administrative expenses incurred in connection with the collection of such assets and, if any assets remain after the payment of administrative expenses, to disburse those assets, pursuant to Insurance Law Article 74, to those creditors of the Companies with allowed claims who are eligible to share in *pro-rata* distributions; (v) releasing and discharging the Liquidator, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Liquidation Proceeding; (vi) authorizing and directing the Liquidator, in his discretion, to destroy or otherwise dispose of any and all of the books, files, records and other property of the Companies without further order of this Court; and (vii) providing for such other and further relief as this Court deems appropriate and just.

AND, sufficient cause having been alleged therefor, and this Court having found the form and method of notice specified herein to be the best notice practicable, it is hereby

ORD
ORDERED, that notice of the Verified Petition and this Order to Show Cause shall be substantially in the form attached hereto and service shall be made by: (i) posting on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least fifteen days prior to the Return Date; and (ii) publication in *Newsday*, or a publication of similar circulation, such publication to occur in two consecutive publications commencing within the thirty days of the issuance of this Order to Show Cause; and it is further

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ORDERED, that the form and methods of service of notice specified herein are hereby approved as in accordance with the law and as the best notice practicable and shall therefore constitute due and sufficient notice of this Order to Show Cause and scheduled Return Date herein and the Verified Petition and the relief sought therein to all persons and entities entitled to receive such notice; and it is further

ORD
ORDERED, that the approved form of notice shall direct that all answering papers and supporting documentation ("Answering Papers") be served on the Liquidator so as to be received at least seven business days prior to the Return Date, and that service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York
as Liquidator of American Fidelity Fire Insurance Company and
American Consumer Insurance Company
110 William Street
New York, New York 10038
Attention: John Pearson Kelly
General Counsel

and by submitting copies of the Answering Papers, with affidavit of service on the Liquidator as above, to this Court at IAS Part 5 at the Courthouse located at 100 Supreme Court Drive, Mineola, New York, seven business days before the Return Date; and it is further

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ORDERED, that in the absence of Answering Papers filed pursuant to the previous paragraph on or prior to the date specified, the Court may enter relief without hearing and no party shall be entitled to be heard thereon; and it is further

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ORDERED, that any person or entity that fails to serve Answering Papers as provided herein shall be deemed to have waived any objections to the relief sought in the Verified Petition and shall be barred from raising objections in this or any other proceeding concerning the matters set forth herein; and it is further

ORD

ORDERED, that any person or entity that has served Answering Papers as provided herein shall be deemed to have waived any objections that are not set forth in the Answering Papers.

ENTER:

Roy S. Walker
J.S.C.

WJ

Lauren M. Reber
Lauren M. Reber, Esq.