

EX PARTE DIVISION OFFICE

APPROVED  
FOR THE PAYMENT  
OF MOTION FEE  
ONLY

*M. 577 06  
Other*

At ~~IAS~~ Part 40B of the Supreme Court of the State of New York, County of New York, at the courthouse at 111 Centre Street in the County, City and State of New York, on the ~~18<sup>th</sup>~~ day of ~~November~~, 2013. *11<sup>th</sup>*

RECEIVED

*December*

13M27268

PRESENT:

HON. PETER MOULTON, J.S.C.

NOV 07 2013

NEW YORK  
COUNTY CLERK'S OFFICE

In the Matter of

the Ancillary Receivership of

AMWEST SURETY INSURANCE COMPANY.

Index No.: 404966/01

ORDER TO SHOW CAUSE

Based on the verified petition (the "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 ancillary receiver (the "Ancillary Receiver") of Amwest Surety Insurance Company ("Amwest"), duly verified the 7<sup>th</sup> day of November, 2013, and the exhibit annexed thereto, the affidavit of Gail Pierce-Siponen, Director of the Creditor & Ancillary Operations Division of the New York Liquidation Bureau ("NYLB"), sworn to on the 7<sup>th</sup> day of November, 2013, and upon all other papers previously submitted and all proceedings heretofore had herein, and it appearing that the relief sought be granted;

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

LET all claimants and all other parties interested in the affairs of Amwest show cause before this Court at ~~IAS~~ Part 40B Room \_\_\_\_\_ thereof, at the Courthouse located at 111 Centre Street in the City, County and State of New York, on the 7<sup>th</sup> day of February, 2014 (the "Return Date"), at \_\_\_\_\_ o'clock in the \_\_\_\_\_ m., or as soon thereafter as counsel can be heard,

*ON Submission (the part is currently located at*

*but may be relocated*

*ON Submission of papers only*

212-341-6310

why an order should not be made, pursuant to Article 74 of the New York Insurance Law (“Insurance Law”), *inter alia*: (1) approving the Ancillary Receiver’s report on the status of, and request to close, the ancillary receivership proceeding (“Ancillary Receivership”) of Amwest and the financial transactions delineated therein; (2) authorizing the continued payment of administrative expenses, including such expenses pertaining to the closing of the Ancillary Receivership; (3) terminating and closing the Ancillary Receivership; (4) releasing and discharging the Ancillary Receiver, 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 Ancillary Receivership; (5) authorizing the NYLB to receive and disburse to the New York Property/Casualty Insurance Security Fund (the “P/C Fund”) any future distributions from the Insurance Director of the State of Nebraska as domiciliary receiver of Amwest (the “Liquidator”) in payment of amounts owed to the P/C Fund, without further application to this Court and after deducting all administrative expenses in connection with such disbursements; (6) authorizing and directing the Ancillary Receiver, in his discretion, to destroy or dispose of any and all of the books, files, records and other property of Amwest in his possession, including transferring them to the Liquidator, upon termination of the Ancillary Receivership, without further order of this Court; and (7) providing for such other and further relief as this Court deems appropriate and just.

AND, sufficient cause having been alleged therefor, let service of a copy of this Order to Show Cause and the papers upon which it is granted be made on respondent, the Liquidator, by serving a copy thereof by overnight mail upon Bruce R. Ramage, Director, Nebraska Department of Insurance, Amwest Surety Insurance Company in Liquidation, 941 O Street, Suite 400,

Lincoln, NE, 68508-3639, <sup>AND on the New York State Department of</sup> on or before the 17<sup>th</sup> day of December, 2013, and such service <sup>of</sup> shall be deemed good and sufficient service. <sup>Financial Services</sup>

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

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 to Amwest's policyholders, claimants, creditors and all other interested parties (in each case, domiciled in the State of New York) by: (i) posting on the Internet web page maintained by the NYLB at <http://www.nylb.org> at least <sup>twenty</sup> ~~ten~~ days prior to the Return Date; and (ii) publication in *The New York Times - Local Edition*, or a newspaper of similar circulation, once per week for two consecutive weeks commencing within ten days from the issuance of this Order to Show Cause; and it is further

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

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

Superintendent of Financial Services of the State of New York  
as Ancillary Receiver of Amwest Surety Insurance Company  
Attention: General Counsel  
110 William Street  
New York, New York 10038

and by submitting copies of the Answering Papers, with affidavit of service on the Ancillary Receiver, as above to this Court at ~~IAS~~ Part 40B at the Courthouse <sup>Clerk Bentley</sup> located at 111 Centre Street in the County, City and State of New York, at least seven days before the Return Date; and it is further

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

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

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

ENTER

  
\_\_\_\_\_  
J. S. C.

LOCAL PETITIONER'S OFFICE