

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: GISCHE
HON. JUDITH J. GISCHE *Justice*

PART 10

COLONIAL COOPERATIVE INSURANCE CO.

INDEX NO. 400236/10

MOTION DATE _____

MOTION SEQ. NO. 04

MOTION CAL. NO. _____

- v -
RE:

The following papers, numbered 1 to _____ were read on this motion to/for _____

Notice of Motion/ Order to Show Cause -- Affidavits -- Exhibits ...
Answering Affidavits -- Exhibits _____
Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion

**MOTION IS DECIDED IN ACCORDANCE WITH
THE ACCOMPANYING MEMORANDUM DECISION.**

FILED

SEP 19 2012

NEW YORK
COUNTY CLERK'S OFFICE

SEP 14, 2012
Dated: Sept. 14, 2012

[Signature]
HON. JUDITH J. GISCHE *J.S.C.*

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Check if appropriate: DO NOT POST REFERENCE

SUBMIT ORDER/ JUDG.

SETTLE ORDER/ JUDG.

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 10**

-----x
In the Matter of the Liquidation of

COLONIAL COOPERATIVE INSURANCE COMPANY
-----x

DECISION AND ORDER
Index No.: 400236/10
Seq. No.: 004

PRESENT:
HON. JUDITH J. GISCHE, JSC

Recitation, as required by CPLR § 2219 [a] of the papers considered in the review of this petition and motion(s):

Papers	FILED	Numbered
CCIS OSC w/JLB petition, exhs		1
Affidavit of Publication		2
Affidavit of Mailing	SEP 19 2012	3
Proposed order		4

NEW YORK
COUNTY CLERK'S OFFICE

Upon the foregoing papers, the decision and order of the court is as follows:

GISCHE J.:

This is an action brought by the Superintendent of Insurance of the State of New York to take possession of the property and assets of Colonial Cooperative Insurance Company (CCIC) and, upon doing so, among other things, marshaling those assets, adjudicating claims and distributing assets.

Presently before the court is an order to show cause by the Liquidator to set a cut-off date for the presentment of all claims, with exceptions for administrative expenses, etc., and other related relief the Liquidator is either entitled to under the Article 74 of the Insurance Law or applicable legal precedent. The cut-off or "bar date" proposed is December 31, 2012.

In accordance with Insurance Law § 7432 [b], all claims against CCIC were

required to have been presented to the Liquidator on or before the deadline of February 4, 2011, said date being within 4 months from the date of entry of the liquidation order dated September 30, 2010, entered October 4, 2010. By statute, however, the Liquidator has latitude in extending that deadline to address anticipated claims. Thus, until there is bar date approved by the court, CCIC's creditors and claimants may continue to present to the Liquidator specific actual claims arising under insurance policies issued by CCIC after the filing deadline (i.e. February 4, 2011).


The Liquidator sets forth a description of CCIC's current financial condition and the breakdown of class claims. As of December 31, 2011 there were 28 open claims. Recently the court learned of another possible claimant. This came to light in connection with an order to show cause returnable September 13, 2012. It is unclear what class that putative claim would fall into.

The Liquidator has not identified any statutory restriction on how long the bar date can be set, although there is a limitation on how short it can be. Given these circumstances, the Liquidator's motion is granted, but the court sets the cut-off or "bar date" at March 1, 2013, which is longer than requested. All other relief in the motion is granted. A separate order of even date has been signed by the court.

Any relief requested but not specifically addressed is hereby denied. This constitutes the decision and order of the court.

Dated: New York, New York
September 14, 2012

So Ordered:



Hon. Judith J. Glische, JSC

FILED

SEP 19 2012

NEW YORK
COUNTY CLERK'S OFFICE

FILED

SEP 19 2012

At IAS Part 10 of the Supreme Court of the State of New York, County of New York, at the courthouse, 60 Centre Street, in the County, City and State of New York, on the 14th day of September, 2012.

PRESENT:

NEW YORK
COUNTY CLERK'S OFFICE
HON. JUDITH J. GISCHE, J.S.C.

-----X
In the Matter of

the Liquidation of

COLONIAL COOPERATIVE INSURANCE COMPANY.
-----X

Index No.: 400236/10

ORDER

Jonathan L. Bing, Special Deputy Superintendent and agent of the Superintendent of Financial Services of the State of New York ("Superintendent") as liquidator ("Liquidator") of Colonial Cooperative Insurance Company ("CCIC"), having moved this Court, pursuant to Article 74 of the New York Insurance Law, for an order: (i) approving the Liquidator's report ("Report") on the status of CCIC's liquidation proceeding ("Liquidation Proceeding"); (ii) establishing December 31, 2012 as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by CCIC that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute CCIC's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of CCIC with allowed claims, to the extent that, in the Liquidator's discretion,

sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of CCIC, his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; and (viii) providing for such other and further relief as this Court may deem just and proper. Jonathan L. Bing has been succeeded by Michael J. Casey, Acting Special Deputy Superintendent and agent of the Superintendent as Liquidator;

NOW, upon reading the Verified Petition, dated May 25, 2012, due proof of service thereof upon all parties interested in CCIC, and due deliberation having been had thereon, and upon the decision of this Court;

NOW, on application of John Pearson Kelly, attorney for the Liquidator, it is

ORDERED, that the application is granted; and it is further

ORDERED, that the Report is approved; and it is further

ORDERED, that ^{March 1, 2013}~~December 31, 2012~~ is the Bar Date for presentment of all claims other than claims for administrative costs and expenses; and it is further

ORDERED, that the Liquidator is authorized and directed to consider only those claims for actual losses arising under policies issued by CCIC that are presented to the Liquidator on or before the Bar Date; and it is further

ORDERED, that all claims for losses reported after the Bar Date are barred and discharged; and it is further

ORDERED, that the Liquidator is authorized to continue paying administrative costs and expenses; and it is further

ORDERED, that the Liquidator is authorized to distribute CCIC's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of CCIC with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; and it is further

ORDERED, that judicial immunity is extended to the Superintendent in his capacity as Liquidator of CCIC, his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74.

FILED

ENTER

SEP 19 2012

J.S.C.

NEW YORK
COUNTY CLERK'S OFFICE

Index No. 400236

Year 2010

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

In the Matter of

the Liquidation of

COLONIAL COOPERATIVE INSURANCE COMPANY.

ORDER

JOHN PEARSON KELLY

Attorney for the Superintendent of Financial Services of the State of New York as Liquidator

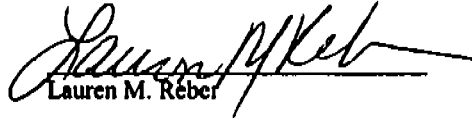
Office and Post Office Address, Telephone

New York Liquidation Bureau
110 William Street
New York, NY 10038
(212) 341-6755
Fax (212) 608-3398

ATTORNEY CERTIFICATION

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: September 13, 2012
New York, New York


Lauren M. Reber

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a
duly entered in the office of the clerk of the within named court on the day of 20

NOTICE OF SETTLEMENT

that an order
for settlement to the HON.

of which the within is a true copy will be presented
one of the judges of the within named court, at
20 at

Dated:

, on

Yours, etc.

JOHN PEARSON KELLY

Attorney for the Superintendent of Financial Services
of the State of New York as Liquidator

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