

At IAS Part 39 of the Supreme Court of the State of New York, County of Queens, at the courthouse located at 25-10 Court Square, Long Island City, New York, on the 12 day of July, 2017.

PRESENT:

HON. LESLIE J. PURIFICACION, J.S.C.

In the Matter of

the Application of

Maria T. Vullo, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

FIDUCIARY INSURANCE COMPANY OF AMERICA

Index No. 703264/2017

ORDER OF LIQUIDATION

**FILED**  
JUL 25 2017  
COUNTY CLERK  
QUEENS COUNTY

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved this Court by order to show cause ("Order to Show Cause") for an order appointing the Superintendent and her successors in office as liquidator ("Liquidator") of Fiduciary Insurance Company of America ("Fiduciary") and directing the Liquidator to take possession of the property of Fiduciary and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on February 24, 2017 (the "Petition"), the affidavit of Marc Allen, sworn to on February 16, 2017, and the exhibits and schedules annexed thereto, this Court finds that:

1. Fiduciary is insolvent within the meaning of Section 1309(a) of the New York Insurance Law ("Insurance Law"); and
2. Fiduciary should be placed into liquidation under Insurance Law Article 7a because: (i) its board of directors and shareholders unanimously consented to the entry of an

order of liquidation; (ii) it is insolvent; (iii) it has refused to submit specified reports and other financial information to the Superintendent as required by the Insurance Law; and (iv) permitting Fiduciary to remain in business would be hazardous to policyholders, creditors, and the public at large; and

NOW, on motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Petition for an order of liquidation ("Order") is granted;
2. The Superintendent and her successors in office are appointed Liquidator of Fiduciary;
3. The Liquidator is directed to take possession of Fiduciary's property and liquidate Fiduciary's business and affairs in accordance with Insurance Law Article 74;
4. The Liquidator is vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in this Order and with title to Fiduciary's property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of this Order;
5. The Liquidator may deal with the property and business of Fiduciary in Fiduciary's name or in the name of the Liquidator;
6. All persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Fiduciary's business (including the issuance of insurance policies) or from the waste or disposition of Fiduciary's property;
7. All parties are permanently enjoined and restrained from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against Fiduciary, its assets or any part thereof and commencing or prosecuting any actions or proceedings against the Superintendent as Liquidator of Fiduciary, the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to this proceeding or the discharge of their duties under Insurance Law Articles 74 and 76 in relation thereto;
8. All parties to actions, lawsuits, and special or other proceedings in which Fiduciary's policyholders or insureds are a party or are obligated to defend a party

- pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of this Order;
9. All persons who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator or with the Administrator for a period of 90 days from the date of entry of this Order;
  10. The Liquidator is vested with all rights in Fiduciary's contracts and agreements, however described, and is permitted, in her discretion, to reject any executory contracts to which Fiduciary is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
  11. Any bank, savings and loan association, other financial institution or any other entity or person, that has on deposit or in its possession, custody or control any of Fiduciary's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;
  12. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Fiduciary shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator;
  13. The Liquidator is authorized, permitted, and allowed to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in her discretion, she deems to be in the best interest of the creditors of Fiduciary, and is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments, without the further approval of this Court;
  14. All existing insurance policies of Fiduciary will be cancelled at 12:01 a.m. local time on the date that is 60 days after the entry of this Order (the "Cancellation Date");

15. All claims against Fiduciary, including all evidence to establish the existence of an actual loss under a policy, must be presented to the Liquidator by the date that is one year after the Cancellation Date (the "Bar Date"), except that the Bar Date shall not apply to the Liquidator's claims for administrative expenses or to claims for reimbursement submitted by the Security Funds (as defined in the accompanying Petition);
16. The Liquidator is authorized, in her discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law § 7434(a)(1)(iii)-(ix)) unless and until she believes, exercising her discretion, that adjudication of such claims would be in the best interests of the estate;
17. Immunity is extended to the Superintendent in her capacity as Liquidator of Fiduciary, her successors in office, the New York Liquidation Bureau, 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;
18. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
19. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
20. The Liquidator shall serve a copy of this Order upon John J. Hession, Executive Vice-President and General Counsel, Fiduciary Insurance Company of America, 45-07 Davis Street, 3<sup>rd</sup> Floor, Long Island City, New York 11101, by overnight delivery or by certified mail;
21. The Liquidator shall provide notice of this Order to the holders of the Remaining Policies (as defined in the accompanying Petition) by: (i) by first-class mail to the holders of the Remaining Policies within 30 days of entry of this Order; (ii) publication of notice of this Order, in a form substantially similar to the one attached hereto as Annex A, in the *New York Post* once a week for two consecutive weeks, commencing within 30 days of entry of this Order; and (iii) posting this Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nyfb.org> within 15 days of entry of this Order;
22. This Court shall retain jurisdiction over this matter for all purposes.

23. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

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In the Matter of

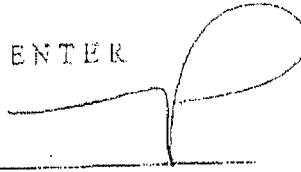
the Liquidation of

FIDUCIARY INSURANCE COMPANY OF AMERICA  
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24. All further papers in this proceeding shall bear the above amended caption.

JUL 12 2017

ENTER



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J.S.C.

HON. LEBLIE J. PURIFICATION

**FILED**  
JUL 25 2017  
COUNTY CLERK  
QUEENS COUNTY