

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

HON. GEOFFREY D. WRIGHT

PRESENT: WRIGHT
Justice

PART 47

EMAMI, SHIRIN
-v-
LINCOLN GENERAL INSURANCE CO.

INDEX NO. 450003 / 16
MOTION DATE _____
MOTION SEQ. NO. 01

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


Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ | No(s). _____

Answering Affidavits — Exhibits _____ | No(s). _____

Replying Affidavits _____ | No(s). _____

Upon the foregoing papers, it is ordered that this motion is granted and an ancillary receivership is commenced and all relief is granted as set forth in the attached order is granted

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


GEOFFREY D. WRIGHT
AJSC, J.S.C.

Dated: 1/21/16

- 1. CHECK ONE: CASE DISPOSED NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: MOTION IS: GRANTED DENIED GRANTED IN PART OTHER
- 3. CHECK IF APPROPRIATE: SETTLE ORDER SUBMIT ORDER
- DO NOT POST FIDUCIARY APPOINTMENT REFERENCE

At IAS Part 47 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, in the County, City and State of New York, on the 2nd day of January, 2016.

P R E S E N T :

HON. GEOFFREY D. WRIGHT, J.S.C.

-----X
In the Matter of

Index No.: 450003/16

the Application of

Shirin Emami, Acting Superintendent of Financial Services of the State of New York, for an Order of Appointment as Ancillary Receiver of

**ORDER OF
ANCILLARY
RECEIVERSHIP**

LINCOLN GENERAL INSURANCE COMPANY.
-----X

Shirin Emami, Acting Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of Lincoln General Insurance Company (“Lincoln General”), and upon reading and filing the petition of the Superintendent, duly verified the 30th day of December, 2015 (“Verified Petition”), the Affidavit of Wendy Uhlman, Principal Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 18th day of December, 2015, and the exhibits annexed thereto, this Court finds that:

1. Lincoln General is a property and casualty insurance company organized under the laws of the State of Pennsylvania, with its headquarters located in York, Pennsylvania;
2. Lincoln General became licensed in the State of New York to transact the kinds of insurance specified in Insurance Law §§ 1113(a)(3) – (17) and (19) – (21) on or about November 30, 2000;

3. On November 5, 2015, an order was certified by the Commonwealth Court of Pennsylvania (“Liquidation Order”) placing Lincoln General into liquidation, appointing the Insurance Commissioner of the Commonwealth of Pennsylvania as liquidator (“Liquidator”) of Lincoln General and, among other things, setting a bar date of July 6, 2016 as the deadline for the filing of claims against Lincoln General (the “Liquidation Bar Date”);

5. Lincoln General is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

6. Pennsylvania is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

7. The Liquidator requested the appointment of the Superintendent as Ancillary Receiver of Lincoln General for the purpose of permitting payments to be made from the New York Property/Casualty Insurance Security Fund (the “P/C Fund”) and the New York Public Motor Vehicle Liability Security Fund (the “PMV Fund” and, together with the P/C Fund, the “Security Funds”), up to the lesser of the Security Fund limits or the limits of the relevant insurance policy, to the extent that claimants of Lincoln General are entitled to coverage from any such Security Fund, each of which in turn has a claim against Lincoln General for any and all amounts it paid to Lincoln General’s claimants; and

8. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of Lincoln General.

NOW, on the 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 Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;

2. The Superintendent and her successors in office are appointed Ancillary Receiver of Lincoln General and are vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The Ancillary Receiver is authorized to pay claims against Lincoln General, or its policyholders, that are covered by the Security Funds;
4. The injunctions, restrictions and directions set forth in paragraphs 6(a), 8(d), 9, 19, and 20 of the Liquidation Order shall apply to any and all of Lincoln General's business that is conducted, and any and all of Lincoln General's assets, books, records, files, credit cards and other property that are located in the State of New York;
5. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against Lincoln General, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against the Superintendent as Ancillary Receiver or as administrator of the Security Funds ("Administrator"), the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Articles 74 and 76;
6. All parties to actions, lawsuits, and special or other proceedings within the jurisdiction of the courts of the State of New York in which Lincoln General, its policyholders, or its insureds, are obligated to defend a party or to provide a defense of any matter against an insured pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from obtaining any judgment or 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;
7. All persons who have first party policyholder loss claims against Lincoln General in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date of entry of this Order;
8. The Liquidation Bar Date shall apply to this ancillary receivership proceeding, and shall also apply to all claims under Lincoln General policies against the Security Funds;
9. Immunity is extended to the Superintendent in her capacities as Ancillary Receiver of Lincoln General and as Administrator of the Security Funds, 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 Articles 74 and 76;

10. The Ancillary Receiver shall serve a copy of this Order on the Liquidator, c/o Dennis Haag, Bureau of Liquidations and Rehabilitations, Capitol Associates Building, 901 North 7th Street, Harrisburg, PA 17102, by first-class mail;
11. The Ancillary Receiver shall provide notice of this Order, substantially in the form attached hereto as Exhibit A (the "Notice"), to all creditors, claimants, and interested persons located in the State of New York by: (i) publication of the Notice in *Business Insurance*, or a publication of similar circulation, within 30 days of entry of this Order; and (ii) posting the Notice on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
12. Lincoln General's license to do business in the State of New York is hereby revoked;
13. The caption for this proceeding is hereby amended as follows:

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

-----X

In the matter of

the Ancillary Receivership of

LINCOLN GENERAL INSURANCE COMPANY.

-----X

14. All further papers in this proceeding shall bear the above amended caption.

ENTER

GEOFFREY D. WRIGHT
AJSC

J.S.C.

EXHIBIT A

[Form of Notice]

NEW YORK LIQUIDATION BUREAU
110 WILLIAM STREET
NEW YORK, NEW YORK 10038
(212) 341-6400

To all persons or entities located in the State of New York interested in the affairs of
LINCOLN GENERAL INSURANCE COMPANY

Notice is Hereby Given:

Shirin Emami, Acting Superintendent of Financial Services of the State of New York, has been appointed by an order (“Order”) of the Supreme Court of the State of New York, New York County (“Court”), filed on _____, 2016, as the ancillary receiver (“Ancillary Receiver”) of Lincoln General Insurance Company (“Lincoln General”) and, as such, has been vested with all other rights and obligations granted to and imposed upon her pursuant to Article 74 of the New York Insurance Law (“Insurance Law”). The Ancillary Receiver has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer, Special Deputy Superintendent (“Special Deputy”), as her agent to carry out her duties as Ancillary Receiver. The Special Deputy carries out her duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Order further provides as follows:

- I. The Ancillary Receiver is authorized to pay claims against Lincoln General, or its policyholders, that are covered by the New York Property/Casualty Insurance Security Fund (the “P/C Fund”) or the New York Public Motor Vehicle Liability Security Fund (the “PMV Fund” and, together with the P/C Fund, the “Security Funds”);
- II. The injunctions and restrictions set forth in paragraphs 6(a), 8(d), 9, 19, and 20 of the order of liquidation of Lincoln General, certified by the Commonwealth Court of Pennsylvania on November 5, 2015, shall apply to any and all of Lincoln General’s business that is conducted, and to any and all of Lincoln General’s assets, books, records, files, credit cards and other property that are located, in the State of New York;
- III. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings against Lincoln General, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings against the Superintendent as Ancillary Receiver or as administrator of the Security Funds (“Administrator”), the New York Liquidation Bureau, and their employees, attorneys or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Articles 74 and 76;
- IV. All parties to actions, lawsuits and special or other proceedings within the jurisdiction of the courts of the State of New York in which Lincoln General, its policyholders, or its insureds, are obligated to defend a party or to provide a defense of any matter against an insured pursuant to an insurance policy, bond, contract or otherwise, are enjoined and restrained from obtaining any judgment or 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 the Order;
- V. All persons who have first party policyholder loss claims against Lincoln General in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date of entry of the Order;

VI. The bar date of July 6, 2016 established in the Lincoln General liquidation proceeding in the Commonwealth of Pennsylvania shall apply to this ancillary receivership proceeding, and shall also apply to all claims under Lincoln General policies against the Security Funds;

VII. Immunity is extended to the Superintendent in her capacities as Ancillary Receiver of Lincoln General and as Administrator of the Security Funds, 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;

VIII. Lincoln General's license to do business in the State of New York is hereby revoked;

IX. All communications relating to Lincoln General and to the ancillary receivership proceeding thereof should be addressed to:

New York Liquidation Bureau
110 William Street
New York, New York 10038
Attn: General Counsel

~

SHIRIN EMAMI
Acting Superintendent of Financial Services of
the State of New York as Ancillary Receiver
of Lincoln General Insurance Company

SCOTT D. FISCHER
Special Deputy Superintendent and Agent for
the Acting Superintendent as Ancillary Receiver
of Lincoln General Casualty Company