

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

-----X  
In the Matter of

Index No.

the Application of

**VERIFIED PETITION**

Linda A. Lacewell, Superintendent of Financial  
Services of the State of New York, for an order to take  
possession and liquidate the business and affairs of

ONETITLE NATIONAL GUARANTY COMPANY, INC.  
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Linda A. Lacewell, Superintendent of Financial Services of the State of New York (the “Superintendent”), respectfully petitions the Court for an order substantially in the form annexed hereto as Exhibit “1” (the “Liquidation Order”), *inter alia*, placing OneTitle National Guaranty Company, Inc. (“OneTitle”) into liquidation under Article 74 of the New York Insurance Law (“Insurance Law”), Insurance Law § 7401 *et. seq.*; appointing the Superintendent and her successors in office as liquidator of OneTitle (“Liquidator”); and directing the Liquidator to take possession of OneTitle’s property and liquidate the business and affairs of OneTitle on the ground that OneTitle has consented to the entry of an order of liquidation. It is respectfully requested that the Court enter an order of liquidation substantially in the form of the proposed order annexed as Exhibit “1”.

**Background**

1. OneTitle is a New York-based direct title insurance company underwriting policies primarily for owners and mortgagees of residential properties. OneTitle began winding down its business operations in 2018 and has not written any new business since January 2019, has no policies in effect, and has no current source of income. August 28, 2020 Affidavit of Marc Allen, ¶¶ 6,7 (“Allen Aff.”). A copy of the Allen Aff. is annexed hereto as Exhibit “2”. OneTitle has

less than \$400,000 in assets and its assets are eroding as expenses come due. Allen Aff., ¶ 8. One Title's capital and surplus is below the minimum required by Insurance Law Section 6402. Allen Aff., ¶ 8, Ex. A. OneTitle is running out of funds to meet its obligations and should be placed into liquidation as soon as practicable. Given the company's financial condition, it is unlikely that there will be sufficient assets to make distributions to any classes of creditors other than class one for administrative expenses necessary for an orderly wind-up of the company's affairs. The Liquidator expects to exercise her discretion to refrain from adjudicating claims, other than class one claims, unless she concludes that there will be sufficient assets to pay, in whole or in part, claims in classes below class one.

2. OneTitle was incorporated in the State of New York on or about April 1, 2013, obtained a license as an insurer on December 24, 2013, and commenced business on February 18, 2014. Allen Aff. ¶ 2.

3. OneTitle is authorized to transact the kinds of insurance set forth in paragraph 18 of Insurance Law § 1113(a). Allen Aff., ¶ 4.

4. OneTitle is licensed to operate in the State of New York only. Allen Aff., ¶ 3.

5. OneTitle is a wholly owned subsidiary of OneTitle Holdings, LLC, a Delaware limited liability company ("Holdings"), and holder of 100% of the shares of OneTitle. Allen Aff. ¶ 5.

6. OneTitle underwrites title insurance for owners and mortgagees across New York State as a primary insurer. Allen Aff. ¶ 6.

### **Grounds for Liquidation**

7. Under Insurance Law § 7404, the Superintendent may apply for an order seeking the liquidation of an insurer if sufficient grounds exist pursuant to Insurance Law § 7402.

8. Insurance Law § 7402(l) provides that an insurer may be placed into liquidation if the majority of its directors, shareholders, or members consent to liquidation. By letter dated April 2, 2020, a copy of which is annexed as Exhibit “A” to the Allen Aff., Holdings and the OneTitle board of directors advised that One Title began unwinding business operations in 2018, has not written any new business since 2019, has no source of income, has limited capital, and is not able to maintain its mandatory statutory surplus. Allen Aff., ¶ 9; Exh. A.<sup>1</sup> OneTitle’s Board of Directors unanimously consented to the entry of an order of liquidation pursuant to Insurance Law Article 74. Allen Aff., ¶ 9; Exh. A.

9. Because OneTitle’s board of directors consented to the entry of an order of liquidation, this Court should issue an order placing OneTitle into liquidation under Insurance Law § 7402(l).

### **Process for Commencing an Article 74 Liquidation Proceeding in this Court And Proposed Plan for Liquidation**

10. In order to administer the liquidation proceeding efficiently, it is necessary to: (a) establish a claims bar date; and (b) provide for the adjudication of claims to the extent that the Liquidator determines, within her business judgment, that assets will be available to make a distribution to claimants whose claims are adjudicated.

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<sup>1</sup> The Board of Directors’ consent also discusses efforts made by the company to avoid liquidation by pursuing various business transactions. Those efforts are not relevant to this Petition, and DFS takes no position on the Board’s representations.

### Setting a Bar Date

11. Insurance Law § 7432 imposes an automatic four-month bar date for the filing of claims against the liquidating insurer unless the Superintendent certifies that a longer period of time is necessary:

Where a liquidation . . . order has been entered in a proceeding against an insurer under this article, all persons who may have claims against such insurer shall present the same to the liquidator . . . at a place specified by him within four months from the date of entry of such order, or, if the superintendent shall certify that it is necessary, within such longer time as the court shall prescribe.

Insurance Law § 7432(b).

12. In accordance with the statute, the Liquidator requests that the Court establish a date (“Bar Date”) that is six (6) months from the date of entry of the Liquidation Order as the date by which all claims against OneTitle and all evidence supporting such claims must be submitted to the Liquidator, and that all claims submitted after the Bar Date be barred and discharged except for the Liquidator’s claims for administrative expenses.

13. The Liquidator further requests that the Court require all claims against OneTitle submitted for the first time after the issuance of the Liquidation Order, and all evidence supporting such claims, to be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nyfbpoc.org](http://www.nyfbpoc.org) (the “Portal”). Previously submitted claims against OneTitle that are already recorded in OneTitle’s books and records on the date of the Liquidation Order may, but need not be, re-submitted through the Portal, but must in all respects comply with the Bar Date.

14. Establishing the Bar Date will enable the Liquidator to conserve the assets of the estate and expeditiously determine the feasibility of adjudicating claims based on the actual number and amount of claims and the amount of assets of the estate.

**Administration of Claims in Accordance with Insurance Law § 7434(a)**

15. Among the duties of the Liquidator are the conservation of the property and the administration of the assets of an insolvent estate in an orderly and fair manner for the benefit of policyholders and other creditors. *Dinallo v. DiNapoli*, 9 N.Y.3d 94, 97 (2007). The Liquidator classifies claims and makes distributions to allowed claims (to the extent that any assets are available to distribute) in accordance with the classification and priority of distribution scheme set forth in Insurance Law § 7434(a).

**Process of Liquidation and Relief Requested**

16. Article 74 of the Insurance Law requires that the Liquidator take control of and manage OneTitle's property in order to liquidate OneTitle's business (Insurance Law § 7405(a)). Therefore, it is respectfully requested that the Court issue an order of liquidation, *inter alia*: (a) appointing the Superintendent, and her successors in office, as Liquidator of OneTitle; (b) directing the Liquidator to take possession of OneTitle's property and to liquidate OneTitle's business and affairs; (c) vesting title to all of OneTitle's property, contracts, rights of action, and all of its books and records, wherever located, in the Liquidator and her successors; and (d) permitting the Liquidator to deal with the property and business of OneTitle in OneTitle's name or in the name of the Liquidator.

17. In order to take possession and manage the business affairs of OneTitle and to liquidate its assets in an orderly and fair manner, the Liquidator requires certain injunctive relief.

18. Under Insurance Law § 7419(a), the Court may issue an injunction permanently enjoining and restraining the insurer, its officers, directors, shareholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, and all other persons from the

transaction of OneTitle's business or the waste or disposition of OneTitle's property (the "Interference with Business Injunctions").

19. Under Insurance Law § 7419(b), the Court may issue such other permanent injunctions or orders as it deems necessary to prevent interference with the Liquidator or this proceeding; the waste of OneTitle's assets; or the commencement or prosecution of any actions or proceedings (a) against the Liquidator, OneTitle, the New York Liquidation Bureau, which acts as the staff of the Liquidator, or their present or former employees, attorneys, or agents, with respect to this proceeding or the discharge of their duties under Article 74 in relation thereto or (b) to assert preferences, judgments, attachments, liens, or any levy against OneTitle, its assets or any part thereof (the "Interference with Liquidator Duties Injunctions," and collectively with the Interference with Business Injunctions, the "Permanent Injunctions").

20. The Permanent Injunctions are crucial for the performance of the Liquidator's duties. If the Interference with Business Injunctions are not granted, there will be no legal protections against the wasting of OneTitle's assets and the transaction of OneTitle's business. Allowing anyone other than the Liquidator to manage the business affairs of OneTitle would defeat the legislative scheme of liquidation set out in Article 74. *See, e.g., Knickerbocker Agency, Inc. v. Holz*, 4 A.D.2d 71, 73 (1st Dep't 1957), *aff'd*, 4 N.Y.2d 245 (1958). For the same reasons, the Interference with Liquidator Duties Injunctions should be granted. Failure to grant this relief could result in one or more persons or entities obtaining attachments, liens, or levies against OneTitle or its assets, or pursuing legal action (including collections on judgments) against OneTitle, any and all of which would enable them to obtain preferences over others in a manner incompatible with Insurance Law § 7434(a)(1), which prohibits preferences and provides that: (a) claimants are

classified into classes of creditors; (b) each higher class of creditor shall be paid before the next class of creditor; and (c) all creditors in the same class shall receive the same *pro rata* distribution.

21. The Permanent Injunctions are necessary for the liquidation process and serve as legal protections to ensure that the Liquidator is able to fulfill the duties of marshaling the property and administering the assets of OneTitle in an orderly and fair manner. *Dinallo, supra*, at 97. The Interference with Business Injunctions may be granted “without notice” under Insurance Law § 7419(a), and the Interference with Liquidator’s Duties Injunctions may be granted as the Court “deems necessary” under Insurance Law § 7419(b). Thus, the Permanent Injunctions should be granted because they are necessary to enable the orderly liquidation of OneTitle in accordance with Article 74 of the Insurance Law.

22. The Permanent Injunctions sought in the foregoing paragraphs have been included in virtually all liquidation orders for the past 30 years. *See, e.g., In the Matter of the Liquidation of Maidstone Insurance Company*, S.Ct., Nassau County, Index #600620/2020, Order of February 13, 2020; *In the Matter of the Liquidation of Atlantis Health Plan, Inc.*, S. Ct., N.Y. County, Index #450297/2019, Order of April 19, 2019; *In the Matter of the Liquidation of Touchstone Health HMO, Inc.*, S. Ct., Westchester County, Index #54964/2018, Order of May 11, 2018; *In the Matter of the Liquidation of Cuatro LLC*, S. Ct., N.Y. County, Index #451807/2018, Order of August 6, 2018; *In the Matter of the Liquidation of Fiduciary Insurance Company of America*, S. Ct., Queens County, Index #703264/2017, Order of July 12, 2017; *In the Matter of the Liquidation of Eveready Insurance Company*, S. Ct., N.Y. County, Index #160307/2014, Order of December 3, 2014; *In the Matter of the Liquidation of Midland Insurance Company*, S. Ct., N.Y. County, Index #41294/1986, Order of April 3, 1986. Copies of the liquidation orders in each of these liquidation

proceedings are annexed hereto as Exhibit “3.” These injunctions are standard and necessary for an orderly liquidation.

23. In addition, this Court should grant the temporary restraining orders (“TROs”) in the order to show cause. The TROs preserve the status quo pending the hearing and determination of this petition. The TROs will prevent waste, dissipation, and transfer of assets and proprietary information, and will ensure that no one policyholder or creditor obtains a judgment or a litigation advantage resulting in an illegal preference due to being paid ahead of other policyholders or creditors or obtains another advantage in the time frame between the signing of the Order to Show Cause and the determination of this petition. The TROs are also typically granted in liquidation proceedings.

24. Insurance Law Article 74 requires that the Superintendent be appointed Liquidator and take control of and manage OneTitle’s property (Insurance Law § 7405(a)). It is respectfully requested that the Court issue the proposed Liquidation Order (Exh. 1), *inter alia*: (a) appointing the Superintendent and her successors in office as Liquidator of OneTitle; (b) directing the Liquidator to take possession of OneTitle’s property and to liquidate OneTitle’s business and affairs; (c) vesting title to all of OneTitle’s property, contracts, rights of action, and all of its books and records, wherever located, in the Liquidator; and (d) permitting the Liquidator to deal with the property and business of OneTitle in OneTitle’s name or in the name of the Liquidator. The proposed order also sets forth the Bar Date and issuance of injunctions for the reasons already stated.

25. The proposed order, in accordance with Insurance Law § 7405, provides that all rights in OneTitle’s contracts and agreements, however described, vest in the Liquidator and permits the Liquidator the discretion to reject any contracts to which OneTitle is a party, in which



case all liability under such contracts or agreements would cease and be fixed as of the date of rejection.

26. In addition, the proposed order provides that 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 OneTitle's funds, accounts (including escrow accounts), or assets, to 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.

27. It is further requested that the Court (a) direct that all persons or entities, including, without limitation, OneTitle Holdings, LLC, having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, underwriting data, any reinsurance or other insurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to OneTitle, shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over, and deliver such information to the Liquidator, and (b) authorize, permit, and allow the Liquidator 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 OneTitle, and further authorize the Liquidator 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 the Court.

28. Finally, it is respectfully requested that the Court order that the Liquidator of OneTitle, her successors in office, the New York Liquidation Bureau, and their agents and employees, be granted immunity from 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74. The Liquidator acts in a “judicial and private” capacity under the supervision of the Court pursuant to Article 74 of the Insurance Law. *See Dinallo, supra*, at 103. In addition, the Supreme Court, New York County has held that “a court-appointed receiver [in this case, the Liquidator] acts as an arm of the court and is immune from liability for actions grounded in his or her conduct as receiver.” *In the Matter of the Liquidation of U.S. Capital Insurance Company*, 36 Misc.3d 635, 637 (S. Ct., N.Y. County, 2012).

29. There has been no previous application for the relief requested herein. WHEREFORE, it is respectfully requested that the petition be granted, that this Court



Please note that this was notarized in accordance to Governor Cuomo's EO 202.7.

2020, in support of the verified petition.

Linda A. Laceywell

Linda A. Laceywell  
Superintendent of Financial Services  
of the State of New York

Sworn to before me this  
28th day of August, 2020  
31st

Malini Singh McDonald  
Notary Public



**EXHIBIT 1**

[Proposed Liquidation Order]



At IAS Part \_\_\_ of the Supreme Court of the State of New York, at the courthouse located at \_\_\_\_\_, in the City, County and State of New York, on the \_\_\_ day of \_\_\_\_\_, 2020.

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

-----X

In the Matter of

Index No.

the Application of

**ORDER**

Linda A. Lacewell, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

ONETITLE NATIONAL GUARANTY COMPANY, INC.

-----X

Linda A. Lacewell, 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 placing OneTitle National Guaranty Company (“OneTitle”) into liquidation, appointing the Superintendent and her successors in office as liquidator (“Liquidator”) of OneTitle, and directing the Liquidator to take possession of OneTitle’s property and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on August 31, 2020 (the “Petition”), the affidavit of Marc Allen, sworn to on August 28, 2020, and the exhibits and schedules annexed thereto, this Court finds that OneTitle should be placed into liquidation under Insurance Law Article 74 because OneTitle consented to the entry of an order of liquidation; and

NOW, on motion of Letitia James, 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 OneTitle;
3. The Liquidator is directed to take possession of OneTitle’s property and liquidate OneTitle’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 OneTitle’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 OneTitle in OneTitle’s name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of OneTitle, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting OneTitle’s business or disposing of OneTitle’s property;
7. All persons and entities 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 OneTitle, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, OneTitle, 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 Article 74 in relation thereto;
8. The Liquidator is vested with all rights in OneTitle’s contracts and agreements, however described, and is permitted to, in her discretion, reject any contracts to which OneTitle is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. 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 OneTitle’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;
10. All persons or entities, including, without limitation, OneTitle Holdings, LLC, having property, papers (including attorney work product and documents held by

- attorneys), and/or information, including, but not limited to, underwriting data, any reinsurance or other insurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to OneTitle, 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;
11. 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 OneTitle, 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;
  12. All existing insurance policies of OneTitle shall terminate at 12:01 A.M. local time on the date that is 30 days from the date of entry of an order of liquidation of OneTitle.
  13. All claims against OneTitle and all evidence to support such claims must be submitted to the Liquidator by the date ("Bar Date") that is six (6) months from the date of entry of this Order, and all claims submitted after the Bar Date are barred and discharged, except that the Bar Date does not apply to the Liquidator's claims for administrative expenses;
  14. All claims against OneTitle submitted for the first time after the issuance of this Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nylbpoc.org](http://www.nylbpoc.org);
  15. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is likely that the OneTitle estate will have sufficient assets to pay claims of such class;
  16. Immunity is extended to the Superintendent in her capacity as Liquidator of OneTitle, 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;
  17. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
  18. The Liquidator shall serve a copy of this Order by overnight delivery upon:  
(a) B. Lance Sauerteig, Chairman of the Board of Directors, OneTitle National



Guaranty Company, Inc., at 7060 Lions Head, Boca Raton, Florida, 33496; and (b) any person or entity who or that timely filed and served papers in opposition to the relief sought;

- 19. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (a) 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 (b) posting this Order 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;
- 20. This Court shall retain jurisdiction over this matter for all purposes;
- 21. 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 Liquidation of  
  
 ONETITLE NATIONAL GUARANTY COMPANY, INC.  
 -----X

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

E N T E R

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J.S.C.

**ANNEX A**

[Form of Notice of Liquidation Order]

NEW YORK LIQUIDATION BUREAU  
180 MAIDEN LANE  
NEW YORK, NEW YORK 10038  
(212) 341-6400

To all persons or entities interested in the affairs of  
ONETITLE NATIONAL GUARANTY COMPANY, INC.

Notice is Hereby Given:

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (“Superintendent”), has been appointed by an order (the “Order”) of the Supreme Court of the State of New York, County of New York (“Court”), entered on \_\_\_\_\_, 2020, as the liquidator (the “Liquidator”) of OneTitle National Guaranty Company, Inc. (“OneTitle”) and, as such, has been: (i) directed to take possession of OneTitle’s property and liquidate OneTitle’s business and affairs in accordance with New York Insurance Law (“Insurance Law”) Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to OneTitle’s property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the “Special Deputy”), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau (“Bureau”), 180 Maiden Lane, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of OneTitle in OneTitle’s name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of OneTitle, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting OneTitle’s business or disposing of OneTitle’s property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against OneTitle, its assets, or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, OneTitle, or the New York Liquidation Bureau, or their present or former employees, attorneys, or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in OneTitle’s contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any contracts to which OneTitle is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 OneTitle’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;

- VI. All persons or entities, including, without limitation, OneTitle Holdings, LLC, having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited to, underwriting data, any reinsurance or other insurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to OneTitle, 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;
- VII. 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 OneTitle, 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 the Court;
- VIII. All existing insurance policies of OneTitle shall terminate at 12:01 A.M. local time on the date that is 30 days from the date of entry of an order of liquidation of OneTitle;
- IX. The date ("Bar Date") that is six (6) months from the date of entry of this Order is the date by which all claims against OneTitle and all evidence of such claims must be submitted to the Liquidator, and all claims submitted after the Bar Date are barred and discharged except for the Liquidator's claims for administrative expenses;
- X. All claims against OneTitle submitted for the first time after issuance of the Order, and all evidence supporting such claims, shall be filed using the electronic portal for the submission of claims located on the website [www.nylbpoc.org](http://www.nylbpoc.org) on or before the Bar Date;
- XI. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate; or (b) it is likely that the OneTitle estate will have sufficient assets to pay claims of such class;
- XII. Immunity is extended to the Superintendent in her capacity as Liquidator of OneTitle, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XIII. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XIV. The Court shall retain jurisdiction over this matter for all purposes; and

- XV. All communications relating to OneTitle and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
180 Maiden Lane, 15<sup>th</sup> Floor  
Attention: General Counsel  
New York, New York 10038  
(212) 341-6400

with a copy e-mailed to [ReceiverOps@nylb.org](mailto:ReceiverOps@nylb.org).

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the language of the Order controls.

LINDA A. LACEWELL  
Superintendent of Financial Services of  
the State of New York as Liquidator of  
OneTitle National Guaranty Company, Inc.

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

**EXHIBIT 2**

[Affidavit of DFS]

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

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In the Matter of

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the Application of

**AFFIDAVIT**

Linda A. Laceywell, Superintendent of Financial  
Services of the State of New York, for an order to take  
possession and liquidate the business and affairs of

ONETITLE NATIONAL GUARANTY COMPANY, INC.

-----X

STATE OF NEW YORK                    )  
  ) SS:  
COUNTY OF NEW YORK                )

Marc Allen, being duly sworn, deposes and says:

1. I am employed at the New York State Department of Financial Services (“DFS”) as an Assistant Chief in the Property Bureau. I submit this affidavit in support of the petition of the Superintendent of Financial Services of the State of New York (“Superintendent”) for an order placing OneTitle National Guaranty Company, Inc. (“OneTitle”) into liquidation and appointing the Superintendent and her successors-in-office as liquidator of OneTitle under Article 74 of the New York Insurance Law (“Insurance Law”). This affidavit is based upon personal knowledge, the sources of which are the records maintained by DFS.

2. OneTitle was incorporated in the State of New York on or about April 1, 2013, obtained a license as an insurer effective December 24, 2013, and commenced business on February 18, 2014.

3. OneTitle is only licensed to operate in the State of New York.

4. OneTitle is authorized to transact the kinds of insurance set forth in paragraph 18 of Insurance Law § 1113(a).

5. OneTitle is a wholly owned subsidiary of OneTitle Holdings, LLC, a Delaware limited liability company that holds 100% of OneTitle's shares.

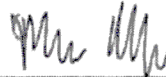
6. OneTitle underwrites title insurance for owners and mortgagees across New York State as a primary insurer.

7. OneTitle began winding down its business operations in 2018 and has not written any new business since January 2019, has no policies in effect, and has no current source of income.

8. OneTitle has less than \$400,000 in assets and its assets are eroding as expenses come due. One Title's capital and surplus is below the minimum required by Insurance Law § 6402.

9. By letter dated April 2, 2020, the OneTitle board of directors unanimously consented to the entry of an order of liquidation pursuant to Insurance Law Article 74.<sup>1</sup> A copy of the letter is attached hereto as Exhibit "A".

10. All relevant business records are filed by OneTitle and maintained at DFS' offices in New York County, New York.



Marc Allen

Sworn to before me this  
28th day of August, 2020



Notary Public

**MARTHA A. LEES**  
**Notary Public, State of New York**  
No. 02LE6129105  
Qualified in Kings County  
Commission Expires 06/20 21

<sup>1</sup> The Board of Directors' consent also discusses efforts made by the company to avoid liquidation by pursuing various business transactions. Those efforts are not relevant to this Petition, and DFS takes no position on the Board's representations.



**EXHIBIT A TO AFFIDAVIT OF MARC ALLEN**

**Resolution & Petition Seeking Article 74 Proceeding**

**VIA EMAIL AND OVERNIGHT DELIVERY**

Mr. Stephen Doody, Deputy Superintendent  
New York Department of Financial Services  
One State Street  
New York, NY 10004

April 2, 2020

Deputy Superintendent Doody:

**Introduction**

The undersigned constitute (i) all of the members of the Board of Directors of OneTitle National Guaranty Company, Inc., a New York-domiciled title insurance company ("OneTitle"), and (ii) an authorized officer on behalf of OneTitle Holdings, LLC, a Delaware limited liability company and holder of 100 percent of the shares of OneTitle ("Holdings"). OneTitle has been in regular contact with the NY Department of Financial Services ("DFS") as to the matters discussed herein, primarily communicating with Assistant Chief Examiner Marc Allen. Since late 2018, OneTitle has diligently pursued a market option for winding up its business, while fulfilling its duties to steward the company's capital for the benefit of policyholders. Despite these efforts, OneTitle is no longer a viable going concern. The purpose of this letter is to petition DFS to initiate an Article 74 proceeding, which the Board concludes is the only available avenue for resolving OneTitle's situation.

**Failed Sale to Ameristract**

As DFS will recall, OneTitle actively sought a business combination in 2018 with both Munich Re and the Related Companies. Those conversations were ultimately unsuccessful, and OneTitle continued its broad outreach for potential acquirers into 2019, which culminated in a purchase agreement executed with Ameristract in June. No other serious credible buyer has been identified before or since. Due to reasons outside OneTitle's control, Ameristract was unable to obtain the financing necessitated by its business plan, and was otherwise unable to reach agreement with DFS on an alternative plan; thus Ameristract was unable to obtain § 1506 approval.

OneTitle kept the purchase agreement effective long after the agreement's outside date in the hopes that the Ameristract financing would come through. Through February 2020, Ameristract indicated to OneTitle's seller representative under the purchase contract that the financing was still pending. However, on February 26, in response to a written inquiry, Ameristract indicated to the seller representative that it viewed the purchase agreement transaction as no longer tenable, and that it was no longer seeking the financing necessary to complete the deal. As a result, after advising DFS of this development, on or around March 20, 2020, Holdings exercised its termination right under the purchase contract.

With Ameristract no longer a viable buyer, there is no market solution for OneTitle, and OneTitle has no recourse to additional capital or financial resources.

### OneTitle's Condition

As DFS is aware, OneTitle commenced to wind down in 2018, has written no new business since January 2019 and has no ability or intent to write new business. OneTitle's present circumstances are as follows:

- There are no claims outstanding or expected under any in-force policies.
- No new revenues are being earned insofar as (i) all premiums are paid-up, (ii) there is no investment income (the investment portfolio is all cash) and (iii) no reinsurance is collectible in the absence of a claim exceeding \$250,000.
- Expenses consist of one salaried employee, one part-time consultant, rent, office expenses and professional expenses relating to completion of the company's 2019 tax returns and other statutorily mandated filings.
- As OneTitle has previously advised DFS, there is less than \$500,000 of assets remaining, and this amount is eroding as expenses come due from time to time. OneTitle's capital and surplus is below the minimum required by NY Insurance Law § 6402.

### Resolution Consenting to Article 74 Proceeding

Regretfully, Holdings and the OneTitle Board view an Article 74 proceeding as the only path for OneTitle. The Board has no ability to continue to carry on the business of the Company in a lawful or commercially practicable way. Because of ongoing expenses with no source of income, ultimately assets will be depleted with no resolution for policyholders.

Holdings and the Board therefore has resolved as follows: Pursuant to Section 7402(l) of NY Insurance Law, Holdings and the Board unanimously consent to the entry of an order of rehabilitation or liquidation by New York Supreme Court pursuant to Article 74. We hereby petition the Superintendent of Financial Services to seek such an order from such court.

### Request for Further Guidance

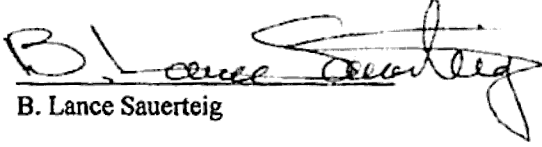
Holdings and the Board request guidance from DFS, pending appointment of the Superintendent as rehabilitator or liquidator, concerning the ongoing operation of OneTitle. In particular, pending such an appointment, the Board has resolved to take the following measures, subject to guidance from DFS:

- The Board intends to keep OneTitle's operating expenses as low as is reasonably practicable and, as of May 31, 2020, let its lease expire in the ordinary course.
- The Board proposes to designate B. Lance Sauerteig, 7060 Lions Head Lane, Boca Raton, Florida 33496, as OneTitle's home office and main administrative office following expiration of the lease and to inform policyholders by mail of such designation. Policyholders or producers will be able to submit claims, if any, at such new address.
- The Board intends to migrate OneTitle's books and records to the offices of outside counsel in New York City and to custody such books and records with such counsel.
- Investments will continue to consist solely of cash and liquid securities, on deposit at UBS, as to which Alan Doran and Frank Hall are authorized signatories, under the oversight and direction of the Board.

Please feel free to contact Lance Sauerteig ([lance@blsstrategic.com](mailto:lance@blsstrategic.com)) at (561) 910-1737 in reference to this matter.

Respectfully submitted:

Members of the Board of Directors of OneTitle National Guaranty Company, Inc.



B. Lance Sauerteig

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Seth A. Brown

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Erik Horvat

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John S. Lapidis

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Stanley Lefkowitz

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Barry J. Nalebuff

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Daniel C. Price

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Teresa Chia

ONETITLE HOLDINGS, LLC

By: \_\_\_\_\_

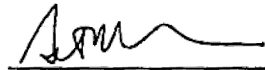
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Title:

Respectfully submitted:

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\_\_\_\_\_  
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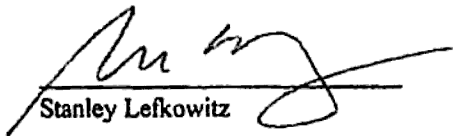
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Teresa Chia

ONETITLE HOLDINGS, LLC

By: \_\_\_\_\_

Name:

Title:



Respectfully submitted:

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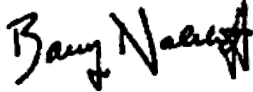
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ONETITLE HOLDINGS, LLC

By: \_\_\_\_\_  
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Title:

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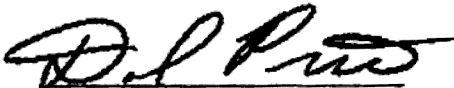
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Teresa Chia

ONETITLE HOLDINGS, LLC

By: \_\_\_\_\_  
Name:  
Title:

Respectfully submitted:

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Daniel C. Price

  
\_\_\_\_\_  
Teresa Chia

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By: \_\_\_\_\_  
Name:  
Title:

Respectfully submitted:

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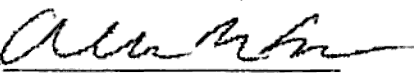
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Daniel C. Price

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Teresa Chia

ONETITLE HOLDINGS, LLC

By: 

Name: Alan Doran

Title: EVP and General Counsel

**EXHIBIT 3**

[Prior orders of liquidation for other estates]

At IAS Part 27 of the Supreme Court of the State of New York, County of Nassau, at the courthouse located at 100 50 Ave, Mineola, New York, on the 13 day of February 2020.

PRESENT:

HON. HON. DICCIA PINEDA-KIRWAN  
J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

Part 27-----x

In the Matter of

Index No. 600620/20

the Application of

ORDER OF LIQUIDATION

Linda A. Lacewell, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

MAIDSTONE INSURANCE COMPANY.

-----x

Linda A. Lacewell, 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 Maidstone Insurance Company (“Maidstone”) and directing the Liquidator to take possession of the property of Maidstone and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on January 7, 2020 (the “Petition”), the affidavit of Marc Allen, sworn to on December 11, 2019, and the exhibits and schedules annexed thereto, this Court finds that Maidstone should be placed into liquidation under Article 74 of the New York Insurance Law (“Insurance Law”) because: (i) it consented to the entry of an order of liquidation; and (ii) it is insolvent within the meaning of Insurance Law § 1309(a); and

NOW, on motion of the Honorable Letitia James, 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 Maidstone;
3. The Liquidator is directed to take possession of Maidstone's property and liquidate Maidstone'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 Maidstone's property, contracts, rights of action and all of its books and records, wherever located, as of the date this Order is signed;
5. The Liquidator may deal with the property and business of Maidstone in Maidstone'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 Maidstone's business (including the issuance of insurance policies) or from the waste or disposition of Maidstone'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 Maidstone, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against Maidstone, the Superintendent as Liquidator of Maidstone, or 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 Maidstone'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 this Order is signed;
9. All persons who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date this Order is signed;

2 of 5

10. (i) All owners and operators of garages where motor vehicles owned or operated by Maidstone's policyholders or its third-party claimants are being repaired, maintained or stored are enjoined and restrained, for a period of 90 days from the date this Order is signed, from selling such vehicles or otherwise satisfying any lien held by such garage owners or operators in respect of such vehicles; and (ii) any fees charged by such garage owners or operators to Maidstone, its policyholders or its third-party claimants during this 90-day period shall be reasonable in the ordinary course of business and may, at the Liquidator's discretion, be submitted to this Court for review and approval;
11. The Liquidator is vested with all rights in Maidstone's contracts and agreements, however described, and is permitted, in her discretion, to reject any executory contracts to which Maidstone is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
12. 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 Maidstone'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;
13. All persons or entities (including, without limitation, Standard Diversified Inc., Pillar General Inc. and Interboro Management, Inc.) 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 Maidstone 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;
14. 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 Maidstone, 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;

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- 15. All existing insurance policies of Maidstone are cancelled at 12:01 a.m. local time on the earlier of: (i) the expiration date of the policy; or (ii) the date that is 60 days after this Order is signed;
- 16. All claims, with all supporting evidence to establish the existence of an actual loss for which Maidstone is liable, must be presented to the Liquidator by the date that is one (1) year after the date this Order is signed (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 New York Property/Casualty Insurance Security Fund, the New York Public Motor Vehicle Liability Security Fund or a guaranty fund in another state that covers claims against Maidstone policyholders;
- 17. All persons or entities filing claims, and supporting evidence of claims, against Maidstone for the first time shall file the same on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nylbpcoc.org](http://www.nylbpcoc.org);
- 18. 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 reasonably believes that adjudication of such claims may reasonably lead to a distribution or is otherwise in the best interests of the estate;
- 19. Immunity is extended to the Superintendent in her capacity as Liquidator of Maidstone, 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;
- 20. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
- 21. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
- 22. The Liquidator shall serve a copy of this Order upon Maidstone Insurance Company, Attention: Chantal Lecorps, Chief Financial Officer and Secretary, 155 Mineola Boulevard, Mineola, New York 10016, by overnight delivery;
- 23. The Liquidator shall provide notice of this Order to all creditors, claimants and interested persons by: (i) publication of notice of this Order, in a form substantially similar to the one attached hereto as Annex A, in *USA Today* within 30 days after this Order; and (ii) posting this Order on the Internet web page maintained by the

4 95

New York Liquidation Bureau at <http://www.nylb.org> within 15 days after this Order is signed;

- 24. This Court shall retain jurisdiction over this matter for all purposes;
- 25. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NASSAU  
 -----X  
 In the Matter of  
  
 the Liquidation of  
  
 MAIDSTONE INSURANCE COMPANY.  
 -----X

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

ENTER

J.S.C.

HON. DICCIA PINEDA-KIRWAN  
J.S.C.

**ENTERED**  
FEB 19 2020  
NASSAU COUNTY  
COUNTY CLERK'S OFFICE

5 of 5

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

PRESENT: Engoron  
Justice

37  
PART  
450297-19

Lacewell, LINDA A.

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 1

-v-  
Atlantis Health Plan, Inc.

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, on default and on the merits,  
pursuant to the attached order dated  
April 11, 2019.

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

Dated: 4/11/19

  
HON. ARTHUR F. ENGORON, J.S.C.

- 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 37 of the Supreme Court of the State of New York, at the courthouse located at 60 Centre Street, in the City, County and State of New York, on the 11 day of April, 2019.

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

In the Matter of  
the Application of

Index No. 450297/2019  
(Engoron, A.F., J.S.C.)  
**ORDER**

Linda A. Lacewell, Acting Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

ATLANTIS HEALTH PLAN, INC.

Linda A. Lacewell, Acting 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 placing Atlantis Health Plan, Inc. (“Atlantis”) into liquidation, appointing the Superintendent and her successors in office as liquidator (“Liquidator”) of Atlantis, and directing the Liquidator to take possession of the property of Atlantis and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on February 27, 2019 (the “Petition”), the affidavit of Stephen J. Wiest, sworn to on January 29, 2019, and the exhibits and schedules annexed thereto, this Court finds that Atlantis should be placed into liquidation under Insurance Law Article 74 because: (i) it consented to the entry of an order of liquidation; and (ii) it is insolvent pursuant to New York Insurance Law (“Insurance Law”) § 7402(a);

NOW, on motion of Letitia James, 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 Atlantis;
3. The Liquidator is directed to take possession of Atlantis’ property and liquidate Atlantis’ 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 Atlantis’ 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 Atlantis in Atlantis’ name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of Atlantis, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Atlantis’ business or disposing of Atlantis’ property;
7. All persons and entities 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 Atlantis, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Atlantis, 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 Article 74 in relation thereto;
8. The Liquidator is vested with all rights in Atlantis’ contracts and agreements, however described, and is permitted to, in her discretion, reject any executory contracts to which Atlantis is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. 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 Atlantis’ 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;
10. All persons or entities having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited

to, plans offered by Atlantis providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage (“Plans”), underwriting data, any reinsurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to Atlantis 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;

11. 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 Atlantis, 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;
12. The date by which all claims against Atlantis, other than the Liquidator’s claim for administrative expenses (“Administrative Claims”), and all evidence supporting such claims, must be submitted to the Liquidator (“Bar Date”) is the earlier of either: (a) the contractual deadline for the submission of claims established in a Plan or an agreement between Atlantis and a hospital or other provider of healthcare services (“Provider”) for the provision of such services to beneficiaries under the Plans (“Members”); or (b) the date that is six (6) months after the issuance of the order placing Atlantis into liquidation, and all claims submitted after the Bar Date are barred and discharged;
13. All claims against Atlantis submitted for the first time after the issuance of this Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nybpoc.org](http://www.nybpoc.org);
14. Immunity is extended to the Superintendent in her capacity as Liquidator of Atlantis, 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;
15. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
16. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) (i) Atlantis Health Plan, Inc., Attention: Kiran Patel, MD, Chairman, 5600 Mariner Street, Suite 200, Tampa, Florida 33609 and (ii) Greenberg Traurig LLP, attorneys for Atlantis Health Plan, Inc., Attention: Harold N. Iselin, 54 State Street, 6<sup>th</sup> Floor,

Albany, New York 12207; and (b) any person or entity who or that timely filed and served papers in opposition to the relief sought;

- 17. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) 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 (ii) posting this Order 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;
- 18. This Court shall retain jurisdiction over this matter for all purposes;
- 19. 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 Liquidation of  
  
 ATLANTIS HEALTH PLAN, INC.  
 -----X

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

ENTER


4/11/19

---

**HON. ARTHUR F. ENGORON**

**ANNEX A**

[Form of Notice of Liquidation Order]



NEW YORK LIQUIDATION BUREAU  
180 MAIDEN LANE  
NEW YORK, NEW YORK 10038  
(212) 341-6400

To all persons or entities interested in the affairs of  
ATLANTIS HEALTH PLAN, INC.

Notice is Hereby Given:

Linda A. Lacewell, Acting Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered on \_\_\_\_\_, 2019, as the liquidator (the "Liquidator") of Atlantis Health Plan, Inc. ("Atlantis") and, as such, has been: (i) directed to take possession of Atlantis' property and liquidate Atlantis' business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to Atlantis' property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 180 Maiden Lane, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of Atlantis in Atlantis' name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of Atlantis, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Atlantis' business or disposing of Atlantis' property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against Atlantis, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Atlantis, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in Atlantis' contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any executory contracts to which Atlantis is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 Atlantis' 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;

- VI. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, Plans, underwriting data, any reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Atlantis 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;
- VII. 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 Atlantis, 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 the Court;
- VIII. The date by which all claims against Atlantis, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of: (a) the contractual deadline for the submission of claims established in a Plan or a contract between Atlantis and a hospital or other provider of healthcare services ("Provider") for the provision of such services to beneficiaries under the Plans ("Members"); or (b) the date that is six (6) months after the issuance of the Order, and all claims submitted after the Bar Date are barred and discharged;
- IX. All claims against Atlantis submitted for the first time after issuance of the Order, and all evidence supporting such claims, shall be filed using the electronic portal for the submission of claims located on the website [www.nylbpc.org](http://www.nylbpc.org) on or before the Bar Date;
- X. Immunity is extended to the Superintendent in her capacity as Liquidator of Atlantis, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XI. Atlantis is insolvent pursuant to Insurance Law § 7402(a);
- XII. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XIII. The Court shall retain jurisdiction over this matter for all purposes; and
- XIV. All communications relating to Atlantis and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
180 Maiden Lane, 15<sup>th</sup> Floor  
Attention: General Counsel  
New York, New York 10038  
(212) 341-6400

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the verbiage of the Order controls.

LINDA A. LACEWELL  
Acting Superintendent of Financial Services of  
the State of New York as Liquidator of  
Atlantis Health Plan, Inc.

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

At the Supreme Court of the State of New York, County of Westchester, at the courthouse located at 111 Martin Luther King Boulevard, White Plains, New York, on the 11th day of MAY, 2018.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----X

In the Matter of  
  
the Application of

Index No. 54964/2018  
(Giacomo, W.J., J.S.C.)  
**ORDER**

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

TOUCHSTONE HEALTH HMO, INC.

-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved this Court by order to show cause for an order placing Touchstone Health HMO, Inc. ("Touchstone") into liquidation, appointing the Superintendent and her successors in office as liquidator ("Liquidator") of Touchstone, and directing the Liquidator to take possession of the property of Touchstone and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on March 8, 2018 (the "Petition"), the affidavit of Stephen J. Wiest, sworn to on February 27, 2018, and the exhibits annexed thereto, this Court finds that Touchstone should, on consent, be placed into liquidation under Insurance Law Article 74;

NOW, on motion of Barbara Underwood, Acting Attorney General of the State of New York, and after due deliberation having been had and no opposition having been filed, 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 Touchstone;
3. The Liquidator is directed to take possession of Touchstone's property and liquidate Touchstone'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 Touchstone'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 Touchstone in Touchstone's name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of Touchstone, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Touchstone's business or disposing of Touchstone's property;
7. All persons and entities 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 Touchstone, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Touchstone, 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 Article 74 in relation thereto;
8. The Liquidator is vested with all rights in Touchstone's contracts and agreements, however described, and is permitted to, in her discretion, reject any executory contracts to which Touchstone is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. 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 Touchstone'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;

10. All persons or entities having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited to, plans offered by Touchstone providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage ("Plans"), underwriting data, any reinsurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to Touchstone 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;
11. 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 Touchstone, 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;
12. The date by which all claims against Touchstone, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator (the "Bar Date") is the earlier of either: (a) the contractual deadline for the submission of claims established in a Plan or an agreement between Touchstone and a medical services provider for the provision of such services to beneficiaries under the Plans; or (b) the date that is six (6) months after the issuance of the order placing Touchstone into liquidation, and all claims submitted after the Bar Date are barred and discharged;
13. All claims against Touchstone submitted for the first time after the issuance of this Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nyfbpoc.org](http://www.nyfbpoc.org);
14. Immunity is extended to the Superintendent in her capacity as Liquidator of Touchstone, 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;
15. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;

- 16. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) Richard Lipeles, Chief Executive Officer, Touchstone Health HMO, Inc., One North Lexington Avenue, 12<sup>th</sup> Floor, White Plains, New York 10601; and (b) any person or entity that timely filed and served papers in opposition to the relief sought;
- 17. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) 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 (ii) posting this Order 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;
- 18. This Court shall retain jurisdiction over this matter for all purposes;
- 19. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF WESTCHESTER

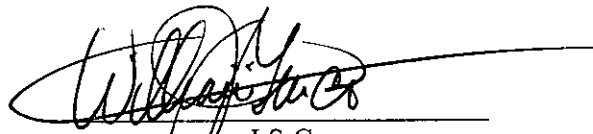
-----X  
 In the Matter of

the Liquidation of

TOUCHSTONE HEALTH HMO, INC.  
 -----X

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

ENTER

  
 \_\_\_\_\_  
 J.S.C.  
 Hon. William J. Greene, JSC

ANNEX A

[Form of Notice of Liquidation Order]



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

To all persons or entities interested in the affairs of  
TOUCHSTONE HEALTH HMO, INC.

Notice is Hereby Given:

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of Westchester ("Court"), entered on MAY 11, 2018, as the liquidator (the "Liquidator") of Touchstone Health HMO, Inc. ("Touchstone") and, as such, has been: (i) directed to take possession of Touchstone's property and liquidate Touchstone's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to Touchstone's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of Touchstone in Touchstone's name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of Touchstone, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Touchstone's business or disposing of Touchstone's property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against Touchstone, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Touchstone, or the New York Liquidation Bureau, or their present or former employees, attorneys, or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in Touchstone's contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any executory contracts to which Touchstone is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 Touchstone'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;

- VI. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, plans offered by Touchstone providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage ("Plans"), underwriting data, any reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to, or relating to Touchstone 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;
- VII. 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 Touchstone, 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 the Court;
- VIII. The date by which all claims against Touchstone, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator (the "Bar Date") is the earlier of: (a) the contractual deadline for the submission of claims established in a Plan or an agreement between Touchstone and a medical services provider for the provision of such services to beneficiaries under the Plans; or (b) the date that is six (6) months after the issuance of the Order, and all claims submitted after the Bar Date are barred and discharged;
- IX. All claims against Touchstone submitted for the first time after issuance of the Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nylbpoc.org](http://www.nylbpoc.org);
- X. Immunity is extended to the Superintendent in her capacity as Liquidator of Touchstone, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XI. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XII. The Court shall retain jurisdiction over this matter for all purposes;
- XIII. All communications relating to Touchstone and to the liquidation proceeding thereof should be addressed to:
- New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: General Counsel  
New York, New York 10038  
(212) 341-6400
- XIV. A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the verbiage of the Order controls.

MARIA T. VULLO  
Superintendent of Financial Services of  
the State of New York as Liquidator of  
Touchstone Health HMO, Inc.

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

*Mot Seg. 1*

At IAS Part 35 of the Supreme Court of the State of New York, County of Queens, at the courthouse located at 88-11 Sutphin Boulevard, Jamaica, New York, on the 3rd day of Aug., 2018.

**HON. TIMOTHY J. DUFFICY**

**PRESENT:**

*J.S.C.*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

In the Matter of  
the Application of

Index No. 700126/2018  
(Dufficy, T.J., J.S.C.)  
**ORDER**

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

CUATRO LLC.

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 placing Cuatro LLC ("Cuatro") into liquidation, appointing the Superintendent and her successors in office as liquidator ("Liquidator") of Cuatro, and directing the Liquidator to take possession of the property of Cuatro and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on December 22, 2017 (the "Petition"), the affidavit of Stephen J. Wiest, sworn to on December 21, 2017, and the exhibits and schedules annexed thereto, this Court finds that Cuatro should be placed into liquidation under Insurance Law Article 74 because: (i) it consented to the entry of an order of liquidation; and (ii) it is insolvent within the meaning of New York Insurance Law ("Insurance Law") § 1309(a);

**FILED**  
AUG - 6 2018  
COUNTY CLERK  
QUEENS COUNTY

NOW, on motion of Barbara Underwood, Acting Attorney General of the State of New York, and upon this Court's decision dated April 27, 2018, it is hereby

*ORDERED, that the motion is granted, without opposition, and the further*  
ORDERED as follows: *that*

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 Cuatro;
3. The Liquidator is directed to take possession of Cuatro's property and liquidate Cuatro'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 Cuatro'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 Cuatro in Cuatro's name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of Cuatro, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Cuatro's business or disposing of Cuatro's property;
7. All persons and entities 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 Cuatro, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Cuatro, 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 Article 74 in relation thereto;
8. The Liquidator is vested with all rights in Cuatro's contracts and agreements, however described, and is permitted to, in her discretion, reject any executory contracts to which Cuatro is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. 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 Cuatro'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;

10. All persons or entities having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited to, plans offered by Cuatro providing Medicare Advantage and Medicare Advantage Part D prescription drug coverage ("Plans"), underwriting data, any reinsurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to Cuatro 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;
11. 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 Cuatro, 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;
12. The date by which all claims against Cuatro, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of either: (a) the contractual deadline for the submission of claims established in a Plan or an agreement between Cuatro and a hospital or other provider of healthcare services ("Provider") for the provision of such services to beneficiaries under the Plans ("Members"); or (b) the date that is six (6) months after the issuance of the order placing Cuatro into liquidation, and all claims submitted after the Bar Date are barred and discharged;
13. All claims against Cuatro submitted for the first time after the issuance of this Order, and all evidence supporting such claims, shall be filed on or before the Bar Date using the electronic portal for the submission of claims located on the website [www.nylbpoc.org](http://www.nylbpoc.org);
14. In accordance with Insurance Law § 4307(d): (i) no Member shall be liable to any Provider for any services covered by Cuatro; (ii) no Provider shall collect, or attempt to collect, any amounts owed by Cuatro from any Member; and (iii) no Provider shall maintain any action against any Member to recover any such amount; provided that the foregoing shall not apply in respect of any coinsurance amounts, copayments, and/or deductibles owed by any Member;

- 15. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class other than Administrative Claims or claims of Members defined as being under Plans unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is likely that the Cuatro estate will have sufficient assets to pay claims of such class;
- 16. Immunity is extended to the Superintendent in her capacity as Liquidator of Cuatro, 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;
- 17. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
- 18. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) Juan Tomas Estevez, MD, Chairman and Chief Executive Officer, Cuatro LLC; 93-20 Roosevelt Avenue, Suite 3C, Jackson Heights, New York 11372; and (b) any person or entity who or that timely filed and served papers in opposition to the relief sought;
- 19. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) 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 (ii) posting this Order 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;
- 20. This Court shall retain jurisdiction over this matter for all purposes;
- 21. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF QUEENS  
 -----X  
 In the Matter of  
  
 the Liquidation of  
  
 CUATRO LLC.  
 -----X

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

ENTER



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

**HON. TIMOTHY J. DUFFICY**

**FILED**  
AUG - 6 2018  
COUNTY CLERK  
QUEENS COUNTY



ANNEX A

[Form of Notice of Liquidation Order]

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

To all persons or entities interested in the affairs of  
CUATRO LLC

Notice is Hereby Given:

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of Queens ("Court"), entered on \_\_\_\_\_, 2018, as the liquidator (the "Liquidator") of Cuatro LLC ("Cuatro") and, as such, has been: (i) directed to take possession of Cuatro's property and liquidate Cuatro's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to Cuatro's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of Cuatro in Cuatro's name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of Cuatro, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Cuatro's business or disposing of Cuatro's property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against Cuatro, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Cuatro, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in Cuatro's contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any executory contracts to which Cuatro is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 Cuatro'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;

- VI. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, Plans, underwriting data, any reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Cuatro 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;
- VII. 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 Cuatro, 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 the Court;
- VIII. The date by which all claims against Cuatro, other than the Liquidator's claim for administrative expenses ("Administrative Claims"), and all evidence supporting such claims, must be submitted to the Liquidator ("Bar Date") is the earlier of: (a) the contractual deadline for the submission of claims established in a Plan or a contract between Cuatro and a hospital or other provider of healthcare services ("Provider") for the provision of such services to beneficiaries under the Plans ("Members"); or (b) the date that is six (6) months after the issuance of the Order, and all claims submitted after the Bar Date are barred and discharged;
- IX. All claims against Cuatro submitted for the first time after issuance of the Order, and all evidence supporting such claims, shall be filed using the electronic portal for the submission of claims located on the website [www.nylbpoc.org](http://www.nylbpoc.org) on or before the Bar Date;
- X. In accordance with Insurance Law § 4307(d); (i) no Member shall be liable to any Provider for any services covered by Cuatro; (ii) no Provider shall collect, or attempt to collect, any amounts owed by Cuatro from any Member; and (iii) no Provider shall maintain any action against any Member to recover any such amount; provided that the foregoing shall not apply with respect to any coinsurance amounts, copayments, and/or deductibles owed by any Member;
- XI. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class other than Administrative Claims or claims of Members defined as being under Plans unless and until: (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is likely that the Cuatro estate will have sufficient assets to pay claims of such class;
- XII. Immunity is extended to the Superintendent in her capacity as Liquidator of Cuatro, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XIII. Cuatro is insolvent within the meaning of Insurance Law § 1309(a);
- XIV. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XV. The Court shall retain jurisdiction over this matter for all purposes; and

XVI. All communications relating to Cuatro and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: General Counsel  
New York, New York 10038  
(212) 341-6400

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the verbiage of the Order controls.

MARIA T. VULLO  
Superintendent of Financial Services of  
the State of New York as Liquidator of  
Cuatro LLC

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

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. LESTIE J. PURIFICACION, J.S.C.

In the Matter of

Index No. 703264/2017

the Application of

ORDER OF LIQUIDATION

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

**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 74 because: (i) its board of directors and shareholders unanimously consented to the entry of an

FILED: QUEENS COUNTY CLERK 07/25/2017 09:38 AM

NYSCEF DOC. NO. 60

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INDEX NO. 703264/2017

RECEIVED NYSCEF: 07/25/2017

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

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INDEX NO. 703264/2017

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RECEIVED NYSCEF: 07/25/2017

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");

5 OF 5

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Page 17 of 30

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;



**FILED: QUEENS COUNTY CLERK 07/25/2017 09:38 AM**

INDEX NO. 703264/2017

NYSCEF DOC. NO. 60

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RECEIVED NYSCEF: 07/25/2017

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

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
In the Matter of

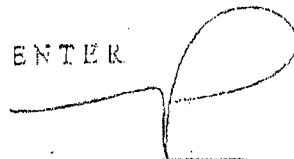
the Liquidation of

FIDUCIARY INSURANCE COMPANY OF AMERICA  
-----X

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

JUL 12 2017

ENTER



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

HON. LEBLIE J. PURIFICATION

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

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

PRESENT: JOAN M. KENNEY  
J.S.C. Justice

PART 8

Vullo, MARIA T.

INDEX NO. 452041-16

American Medical AND Life  
Insurance Company

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 001

The following papers, numbered 1 to 10, were read on this motion to for \_\_\_\_\_  
Notice of Motion/Order to Show Cause - Affidavits - Exhibits | No(s). 1-10  
Answering Affidavits - Exhibits | No(s). \_\_\_\_\_  
Replying Affidavits | No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that ~~this motion is~~ the relief sought in the Petition  
is granted in its entirety. The motion is granted as per  
the terms of the attached Order.

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

Dated: 12/21/16

[Signature]  
JOAN M. KENNEY J.S.C.  
J.S.C.

- 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 8 of the Supreme Court of the State of New York, County of New York, at the courthouse located at 71 Thomas Street, New York City, New York, on the 21<sup>st</sup> day of December, 2016.

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

In the Matter of

Index No. 452041/2016

the Application of

**ORDER**

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

AMERICAN MEDICAL AND LIFE INSURANCE COMPANY.

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 placing American Medical and Life Insurance Company ("AML") into liquidation, appointing the Superintendent and her successors in office as liquidator ("Liquidator") of AMLI, and directing the Liquidator to take possession of the property of AMLI and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on October 14, 2016 (the "Petition"), the affidavit of James Regalbuto, sworn to on October 14, 2016, and the exhibits and schedules annexed thereto, this Court finds that:

*without opposition*  
*JMK*  
JOAN M. KENNEY  
J.S.C.

1. AMLI is insolvent within the meaning of New York Insurance Law ("Insurance Law") § 1309(a); and

2. AMLI should be placed into liquidation under Insurance Law Article 74 because: (i) AMLI's board of directors unanimously consented to the entry of an order of liquidation; (ii) AMLI is insolvent; and (iii) AMLI has been found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, creditors or the public.

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 AMLI;
3. The Liquidator is directed to take possession of AMLI's property and liquidate AMLI'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 AMLI'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 AMLI in AMLI's name or in the name of the Liquidator;
6. All persons and entities are permanently enjoined and restrained from wasting the assets of AMLI, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting AMLI's business or disposing of AMLI's property;
7. All persons and entities 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 AMLI, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, AMLI, 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 Article 74 in relation thereto;

8. The Liquidator is vested with all rights in AMLI's contracts and agreements, however described, and is permitted to, in her discretion, reject any executory contracts to which AMLI is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
9. 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 AMLI'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;
10. 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 AMLI 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;
11. 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 AMLI, 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;
12. All existing insurance policies of AMLI will be cancelled as of 12:01 a.m. local time on the date that is 180 days after the entry of this Order;
13. The date that is nine months after the entry of this Order is established as the bar date by which all claims by any claimant against AMLI or its insureds (other than the Liquidator's claim or the claims of the Life Insurance Guaranty Corporation of New York, including those described in Insurance Law Section 7713(d), for administrative expenses (collectively, "Administrative Claims")), and all supporting documentation evidencing such claims, must actually be received by the Liquidator (the "Bar Date"), and all claims and supporting documentation served upon the Liquidator after the Bar Date are time-barred;
14. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims other than Administrative Claims or policyholder claims unless and until (a) she reasonably believes that adjudication of such claims would be in the best interests

of the estate; or (b) it is certain that the AMLI estate will have sufficient assets to pay claims of such class;

15. Immunity is extended to the Superintendent in her capacity as Liquidator of AMLI, 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;
16. The Liquidator may at any time make further application to this Court for such further and different relief as she sees fit;
17. The Liquidator shall serve a copy of this Order by overnight delivery upon: (a) Sydney Tucker Taylor, President, American Medical and Life Insurance Company, 299 Park Avenue, 6<sup>th</sup> Floor, New York, New York 10171; (b) each policyholder as shown on AMLI's books and records under AMLI policies that, to the best of the Liquidator's knowledge, remain in force as of the date of entry of this Order; and (c) any person or entity who or that timely filed and served papers in opposition to the relief sought;
18. The Liquidator shall provide notice of this Order to all creditors, claimants, and interested persons by: (i) publication of notice of this Order, in a form substantially similar to the one attached hereto as Annex A, in *Insurance Advocate*, for two consecutive publication periods, commencing within 30 days of entry of this Order; and (ii) posting this Order 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;
19. This Court shall retain jurisdiction over this matter for all purposes;
20. 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

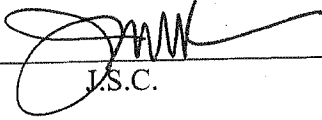
the Liquidation of

AMERICAN MEDICAL AND LIFE  
INSURANCE COMPANY.  
-----X

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

ENTER

12/21/16

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

ANNEX A

[Form of Notice of Liquidation Order]



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

To all persons or entities interested in the affairs of  
AMERICAN MEDICAL AND LIFE INSURANCE COMPANY

Notice is Hereby Given:

Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered on \_\_\_\_\_, 2016, as the liquidator (the "Liquidator") of American Medical and Life Insurance Company ("AMLI") and, as such, has been: (i) directed to take possession of AMLI's property and liquidate AMLI's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to AMLI's property, contracts, rights of action, and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (the "Special Deputy"), as her agent to carry out her duties as Liquidator. The Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides that:

- I. The Liquidator is permitted to deal with the property and business of AMLI in AMLI's name or in the name of the Liquidator;
- II. All persons and entities are permanently enjoined and restrained from wasting the assets of AMLI, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting AMLI's business or disposing of AMLI's property;
- III. All persons and entities are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments, or other liens, making any levy against AMLI, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, AMLI, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto;
- IV. The Liquidator is vested with all rights in AMLI's contracts and agreements, however described, and the Liquidator is permitted to, in her discretion, reject any executory contracts to which AMLI is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
- V. 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 AMLI'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;

- VI. 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 AMLI 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;
- VII. 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 AMLI, 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 the Court;
- VIII. All existing insurance policies of AMLI will be cancelled as of 12:01 a.m. local time on the date that is 180 days after the entry of the Order;
- IX. The date that is nine months after the entry of the Order is established as the bar date by which all claims by any claimant against AMLI or its insureds (other than the Liquidator's claim or the claims of the Life Insurance Guaranty Corporation of New York, including those described in Insurance Law Section 7713(d), for administrative expenses (collectively, "Administrative Claims")), and all supporting documentation evidencing such claims, must actually be received by the Liquidator (the "Bar Date"), and all claims and supporting documentation served upon the Liquidator after the Bar Date are time-barred;
- X. The Liquidator is authorized, in her discretion, to refrain from adjudicating claims of any class other than Administrative Claims or policyholder claims unless and until (a) she reasonably believes that adjudication of such claims would be in the best interests of the estate or (b) it is certain that the AMLI estate will have sufficient assets to pay claims of such class;
- XI. Immunity is extended to the Superintendent in her capacity as Liquidator of AMLI, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XII. AMLI is insolvent within the meaning of Insurance Law § 1309(a);
- XIII. The Liquidator may at any time make further application to the Court for such further and different relief as she sees fit;
- XIV. The Court shall retain jurisdiction over this matter for all purposes.
- XV. All communications relating to AMLI and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: General Counsel

New York, New York 10038  
(212) 341-6400

A copy of the Order may be viewed at <http://www.nylb.org>. To the extent there are any discrepancies between this notice and the Order, then the verbiage of the Order controls.

MARIA T. VULLO  
Superintendent of Financial Services of  
the State of New York as Liquidator of  
American Medical and Life Insurance  
Company

DAVID AXINN  
Special Deputy Superintendent  
and Agent of the Liquidator

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: BANNON
Justice

PART 42

BENJAMIN M. LAWSKY

INDEX NO. 160307/14

EVERRADY INSURANCE COMPANY

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 per the attached Order.

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

Dated: 12/3/14

[Signature] J.S.C.

HON. NANCY M. BANNON

- 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 42 of the Supreme Court of the State of New York, County of New York, at the courthouse located at 111 Centre Street, New York City, New York, on the 30 day of December, 2014.

P R E S E N T:

HON. NANCY M. BANNON, J.S.C.  
-----X

In the Matter of

Index No. 160307/2014

the Application of

**ORDER OF LIQUIDATION**

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

EVEREADY INSURANCE COMPANY.  
-----X

Benjamin M. Lawsky, 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 his successors in office as liquidator ("Liquidator") of Eveready Insurance Company ("Eveready") and directing the Liquidator to take possession of the property of Eveready and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on October 9, 2014, the affidavit of James Davis, sworn to on October 8, 2014, and the exhibits annexed thereto, this Court finds that:

1. Eveready was incorporated in the State of New York on or about August 8, 1963 and commenced business on May 1, 1965;
2. Eveready is licensed to transact the business of insurance in accordance with paragraphs (13) (Personal Injury Liability), (14) (Property Damage Liability), and (19) (Motor

Vehicle and Aircraft Physical Damage) of Section 1113(a) of the New York Insurance Law (“Insurance Law”) and is licensed to transact the business of insurance only in the State of New York. Eveready writes primarily private-passenger auto liability and physical damage insurance, plus a small amount of commercial auto insurance in downstate New York;

3. Eveready’s statutory office is located at 59 Maiden Lane, New York City, New York 10038-4502;

4. Eveready is insolvent;

5. On July 7, 2014, Eveready’s Board of Directors unanimously passed a written consent for the entry of an order of liquidation pursuant to Insurance Law Article 74;

6. Eveready is subject to the Insurance Law and, in particular, to Article 74 thereof; and

7. It is in the best interest of all persons concerned that, based upon Article 74 of the Insurance Law, the Superintendent should be appointed Liquidator and directed to take possession of the property of Eveready, to liquidate its business and affairs, and be vested with title to all of Eveready’s property, contracts and rights of action; 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 his successors in office are appointed Liquidator of Eveready;
3. The Liquidator is directed to take possession of Eveready’s property and liquidate Eveready’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 Eveready'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 Eveready in Eveready's name or in the name of the Liquidator;
6. All persons are permanently enjoined and restrained from wasting the assets of Eveready, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready'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 Eveready, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Eveready, or 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 Article 74 in relation thereto;
8. All parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders or insureds are a party or obligated to defend a party or provide a defense of any matter insured 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 for a period of 90 days from the date of entry of this Order;
10. The Liquidator is vested with all rights in Eveready's contracts and agreements, however described, and is permitted to, in his discretion, reject any executory contracts to which Eveready 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 Eveready'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/or (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 Eveready 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 his discretion, he deems to be in the best interest of the creditors of Eveready, 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 EVEREADY WILL BE CANCELLED AT THE EARLIEST OF: (A) 30 DAYS FROM THE GIVING OF NOTICE OF SUCH CANCELLATION BY EVEREADY, IF SUCH NOTICE IS REQUIRED BY AN INSURANCE POLICY OR APPLICABLE LAW; (B) THE STATED EXPIRATION OR TERMINATION DATE AND TIME OF THE INSURANCE POLICY; (C) THE EFFECTIVE DATE AND TIME OF A REPLACEMENT INSURANCE POLICY OF THE SAME TYPE ISSUED BY ANOTHER INSURER REGARDLESS OF WHETHER THE COVERAGE IS IDENTICAL COVERAGE; (D) THE EFFECTIVE DATE AND TIME THAT THE EVEREADY INSURANCE POLICY OBLIGATION IS TRANSFERRED TO ANOTHER INSURER OR ENTITY AUTHORIZED BY LAW TO ASSUME SUCH OBLIGATION; OR (E) 12:01 A.M. LOCAL TIME ON THE DATE THAT IS 30 DAYS AFTER THE ENTRY OF THIS ORDER;
15. The date that is one year after the entry of this Order is established as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claim for administrative expenses, must be actually be received by the Liquidator, including all evidence supporting the liquidation of such claims;
16. The Liquidator is authorized, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;
17. Immunity is extended to the Superintendent and his successors in office in his capacity as Liquidator of Eveready, 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. Eveready is insolvent;
19. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
20. In accordance with Insurance Law Section 7432(b), all claims against Eveready must be presented to the Liquidator within four months of the date of entry of this Order;
21. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
22. The Liquidator shall serve a copy of this Order upon: Marc Wollerstein, President, Eveready Insurance Company, 59 Maiden Lane, New York, New York 10038-4502, by overnight delivery or by certified mail;
23. The Liquidator shall provide notice of this Order to all creditors, claimants and interested persons by: (i) publication of notice of this Order, in a form substantially similar to the one attached hereto as Exhibit A, in the *New York Daily News*, once a week for two consecutive publication periods, commencing within 30 days of entry of this Order; and (ii) posting this Order 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;
24. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered;
25. The notice prescribed in paragraph 23 above is sufficient notice to all persons interested in Eveready;
26. This Court shall retain jurisdiction over this matter for all purposes;

27. 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

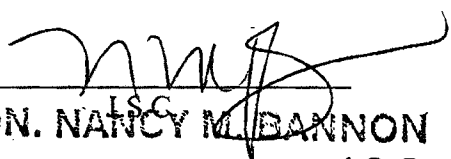
the Liquidation of

EVEREADY INSURANCE COMPANY.

-----X

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

ENTER

  
\_\_\_\_\_  
HON. NANCY M. BANNON  
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 interested in the affairs of  
EVEREADY INSURANCE COMPANY

Notice is Hereby Given:

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered \_\_\_\_\_, 2014, as the liquidator (the "Liquidator") of Eveready Insurance Company ("Eveready") and, as such, has been: (i) directed to take possession of Eveready's property and liquidate Eveready's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to Eveready's property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer, Acting Special Deputy Superintendent (the "Acting Special Deputy"), as his agent to carry out his duties as Liquidator. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides:

- I. The Liquidator is permitted to deal with the property and business of Eveready in Eveready's name or in the name of the Liquidator;
- II. All persons are permanently enjoined and restrained from wasting the assets of Eveready, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready's property;
- III. All parties are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against Eveready, its assets or any part thereof, and commencing or prosecuting any actions or proceedings against the Liquidator, Eveready, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Article 74 in relation thereto;
- IV. All parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders or insureds are a party or obligated to defend a party or provide a defense of any matter insured 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 an order of liquidation;
- V. All persons who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of an order of liquidation;
- VI. The Liquidator is vested with all rights in Eveready's contracts and agreements, however described and permitting the Liquidator to, in his discretion, reject any executory contracts to which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;

- VII. 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 Eveready'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/or (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;
- VIII. 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 Eveready 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;
- IX. 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 his discretion, he deems to be in the best interest of the creditors of Eveready, 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 the Court;
- X. ALL EXISTING INSURANCE POLICIES OF EVEREADY WILL BE CANCELLED AT THE EARLIEST OF: (A) 30 DAYS FROM THE GIVING OF NOTICE OF SUCH CANCELLATION BY EVEREADY, IF SUCH NOTICE IS REQUIRED BY AN INSURANCE POLICY OR APPLICABLE LAW; (B) THE STATED EXPIRATION OR TERMINATION DATE AND TIME OF THE INSURANCE POLICY; (C) THE EFFECTIVE DATE AND TIME OF A REPLACEMENT INSURANCE POLICY OF THE SAME TYPE ISSUED BY ANOTHER INSURER REGARDLESS OF WHETHER THE COVERAGE IS IDENTICAL COVERAGE; (D) THE EFFECTIVE DATE AND TIME THAT THE EVEREADY INSURANCE POLICY OBLIGATION IS TRANSFERRED TO ANOTHER INSURER OR ENTITY AUTHORIZED BY LAW TO ASSUME SUCH OBLIGATION; OR (E) 12:01 A.M. LOCAL TIME ON THE DATE THAT IS 30 DAYS FROM THE ENTRY OF AN ORDER OF LIQUIDATION OF EVEREADY;
- XI. The date that is one year after the entry of the Order is established as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claim for administrative expenses, must actually be received by the Liquidator, including all evidence supporting the liquidation of such claims;
- XII. The Liquidator is authorized, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;
- XIII. Immunity is extended to the Superintendent in his capacity as Liquidator of Eveready and his 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XIV. Eveready is insolvent;

- XV. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
- XVI. In accordance with Insurance Law Section 7432(b), all claims against Eveready must be presented to the Liquidator within four months of the date of entry of the Order;
- XVII. The Liquidator may at any time make further application to the Court for such further and different relief as he sees fit;
- XVIII. The Court shall retain jurisdiction over this matter for all purposes.
- XIX. All communications relating to Eveready and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: Acting Special Deputy Superintendent  
New York, New York 10038  
(212) 341-6400

BENJAMIN M. LAWSKY  
Superintendent of Financial Services of  
the State of New York as Liquidator  
of Eveready Insurance Company

SCOTT D. FISCHER  
Acting Special Deputy Superintendent  
and Agent for the Superintendent as  
Liquidator of Eveready Insurance Company

NYSCEF DOC. NO. 5  
FILED: NEW YORK COUNTY CLERK 12/24/2013

RECEIVED NYSCEF: 09/03/2020  
INDEX NO. 452122/2013

NYSCEF DOC. NO. 8  
Scanned to New York EF on 12/23/13

RECEIVED NYSCEF: 12/24/2013

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

PRESENT: RAKOWER  
Justice

PART 15

LAWSKY, BENJAMIN M.

INDEX NO. 452122/13

- v -

ICM INSURANCE COMPANY

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 01

MOTION CAL. NO. \_\_\_\_\_

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

*See attached order.*

Dated: 12/23/2013

  
HON. EILEEN A. RAKOWER  
J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

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

At IAS Part 15 of the Supreme Court of the State of New York, County of New York, at the courthouse located at \_\_\_\_\_, New York, New York, on the 23 day of December, 2013.

P R E S E N T:

HON. EILEEN A. RAKOWER, J.S.C

-----X

In the Matter of

Index No. 452122/13

the Application of

**ORDER OF LIQUIDATION**

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

ICM INSURANCE COMPANY.

-----X

Benjamin M. Lawsky, 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 his successors in office as liquidator (“Liquidator”) of ICM Insurance Company (“ICM”) and directing the Liquidator to take possession of the property of ICM and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified the 21st day of November, 2013, the affidavit of Jean Marie Cho, sworn to on November 21, 2013, and the exhibits annexed thereto, this Court finds that:

1. ICM was incorporated under the laws of the State of New York on or about September 23, 1981;



2. ICM is licensed to transact the business of insurance in accordance with paragraphs (4)–(7), (9), (12)–(14), and (19)–(21) of New York Insurance Law Section 1113(a) (“Insurance Law”);

3. ICM’s principal office, as disclosed in its Quarterly Statement as of March 31, 2013, is located at 521 Fifth Avenue, New York, NY 10175;

4. On September 18, 2013, ICM’s Board of Directors unanimously passed a resolution consenting to the entry of a liquidation order pursuant to Insurance Law Article 74;

5. ICM is insolvent;

6. ICM is subject to the Insurance Law and, particularly, to Article 74 thereof;

7. It is in the best interest of all persons concerned that, based upon Article 74 of the Insurance Law, the Superintendent should be appointed Liquidator and directed to take possession of the property of ICM, to liquidate its business and affairs, and be vested with title to all of ICM’s property, contracts and rights of action; 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 and ICM is declared to be insolvent;
2. The Superintendent is appointed Liquidator of ICM and is: (i) 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; (ii) vested with title to ICM’s property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of this Order; and (iii) directed to liquidate ICM’s business and affairs in accordance with Insurance Law Article 74;
3. The Liquidator may deal with the property and business of ICM in ICM’s name or in the name of the Liquidator;

4. All persons are permanently enjoined and restrained from wasting the assets of ICM and permanently enjoined and restrained, except as authorized by the Liquidator, from disposing of ICM's property;
5. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of ICM and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) transacting ICM's business, except as authorized by the Liquidator; or (ii) interfering with this proceeding or the Liquidator in the possession, control and management of ICM's property or in the discharge of his duties;
6. All persons are permanently enjoined and restrained from commencing or prosecuting any action or proceeding against ICM, the Liquidator or the New York Liquidation Bureau ("Bureau"), or their present or former employees, attorneys or agents with respect to this proceeding or the discharge of their duties under Article 74 in relation thereto;
7. All persons are permanently enjoined and restrained from obtaining any preference, judgment, attachment or other lien, or making any levy against ICM, its assets or any part thereof;
8. All parties to actions, lawsuits, and special or other proceedings (other than those brought by ICM) in which ICM, its policyholders or insureds are a party or obligated to defend a party or to provide a defense of any matter insured pursuant to an insurance policy, bond, contract or otherwise are enjoined and restrained from proceeding with any discovery, court proceeding or other litigation task or procedure, 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 for a period of 90 days from the date of entry of this Order;
10. The Liquidator is vested with all rights in ICM's contracts and agreements, including leases, tax agreements, insurance policies and employment contracts, however described, unless the Liquidator expressly terminates such contracts or agreements, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of termination;
11. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or other securities of ICM at the best price obtainable at such times and upon such terms and conditions as, in

his discretion, he deems to be in the best interest of the creditors of ICM, and he 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;

12. ICM and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property, papers (including attorney work product) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance contracts, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to or relating to ICM, 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. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to ICM shall maintain and preserve all information in its possession relating in any way to ICM, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (*i.e.*, servers and printers), software programs and software licenses owned or leased by ICM and is directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees;
14. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control any of ICM's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; (iii) change the name of such accounts to the name of the Liquidator; (iv) transfer funds from such bank, savings and loan association or other financial institution; and/or (v) take any other action necessary for the proper conduct of the liquidation proceeding;
15. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
16. In accordance with Insurance Law Section 7405(f), the Liquidator is hereby permitted to make distributions of ICM's assets to the New York Property/Casualty Insurance Security Fund and similar guaranty funds of other states in accordance with such statute, and any agreement to be

- entered into among the Liquidator and such guaranty fund is hereby approved and the Liquidator is authorized to enter into and perform such agreement;
17. All existing insurance policies of ICM shall terminate at 12:01 A.M. local time on the earliest of 30 days from the entry of this order, 30 days from the giving of notice of such cancellation, if such notice is required by an insurance policy or applicable law, or upon the date and time stated in the policy;
  18. May 16, 2014 is the bar date by which all claims by any claimant against ICM or its insureds, other than the Liquidator's claims for administrative expenses, must be actually received by the Liquidator;
  19. December 31, 2014 is the final date by which evidence supporting the liquidation of any claim presented by the foregoing bar date must be actually received by the Liquidator;
  20. The Liquidator, in his discretion, is authorized to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;
  21. Immunity is extended to the Superintendent in his capacity as Liquidator of ICM and his successors in office and their agents and employees, including the Bureau, 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;
  22. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
  23. The Liquidator shall serve the copy of this Order upon: Marc Tract, Katten Muchin Roseman LLP, 575 Madison Ave, New York, NY 10022, attorneys for ICM Insurance Company, by overnight delivery or by certified mail;
  24. The Liquidator shall provide notice of this Order to all creditors, claimants and interested persons by: (i) publication of the notice of this Order in *The New York Times*, National Edition, once a week for two consecutive weeks, commencing within thirty days of entry of this Order in a form substantially similar to the one attached hereto as Exhibit A; and (ii) posting this Order on the Internet web page maintained by the Bureau at <http://www.nyfb.org> within 15 days after the entry of this Order;

- 25. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered;
- 26. The notice prescribed in decretal paragraphs 23 and 24 hereof is sufficient notice to all persons interested in ICM;
- 27. This Court shall retain jurisdiction over this matter for all purposes;
- 28. 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 Liquidation of

ICM INSURANCE COMPANY.

-----X

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

ENTER



J.S.C.

**EXHIBIT A**

[Form of Notice]

NEW YORK LIQUIDATION BUREAU  
110 WILLIAM STREET  
NEW YORK, NEW YORK 10038  
(212) 341-6755

To all persons or entities  
interested in the affairs of  
ICM INSURANCE COMPANY  
Notice is Hereby Given:

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, New York County ("Court"), entered \_\_\_\_\_, 2013, as the liquidator (the "Liquidator") of ICM Insurance Company ("ICM") and, as such, has been: (i) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order; (ii) vested with title to ICM's property, contracts, rights of action and all its books and records, wherever located, as of the date of entry of the Order; and (iii) directed to liquidate ICM's business and affairs in accordance with Insurance Law Article 74. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent of Insurance (the "Acting Special Deputy") as his agent to carry out his duties as Liquidator. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau ("Bureau"), 110 William Street, New York, New York 10038. The Order provides:

- I. The Liquidator may deal with the property and business of ICM in ICM's name or in the name of the Liquidator.
- II. All persons are permanently enjoined and restrained from wasting the assets of ICM and permanently enjoined and restrained, except as authorized by the Liquidator, from disposing of ICM's property.
- III. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of ICM and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) transacting ICM's business, except as authorized by the Liquidator; or (ii) interfering with this proceeding or the Liquidator in the possession, control and management of ICM's property or in the discharge of his duties.
- IV. All persons are permanently enjoined and restrained from commencing or prosecuting any action or proceeding against ICM, the Liquidator or the New York Liquidation Bureau ("Bureau"), or their present or former employees, attorneys or agents with respect to this proceeding or the discharge of their duties under Article 74 in relation thereto.
- V. All persons are permanently enjoined and restrained from obtaining any preference, judgment, attachment or other lien, or making any levy against ICM, its assets or any part thereof.
- VI. All parties to actions, lawsuits, and special or other proceedings (other than those brought by ICM) in which ICM, its policyholders or insureds are a party or obligated to defend a party or to provide a defense of any matter insured pursuant to an insurance policy, bond, contract or otherwise are enjoined and restrained from proceeding with any discovery, court proceeding or other litigation task or procedure, 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.
- VII. All persons who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of this Order.

VIII. The Liquidator is vested with all rights in ICM's contracts and agreements, including leases, tax agreements, insurance policies and employment contracts, however described, unless the Liquidator expressly terminates such contracts or agreements, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of termination.

IX. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or other securities of ICM at the best price obtainable at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of ICM, and he 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.

X. ICM and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property, papers (including attorney work product) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance contracts, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to or relating to ICM, 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.

XI. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to ICM shall maintain and preserve all information in its possession relating in any way to ICM, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (*i.e.*, servers and printers), software programs and software licenses owned or leased by ICM and is directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees.

XII. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to ICM shall maintain and preserve all information in its possession relating in any way to ICM, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (*i.e.*, servers and printers), software programs and software licenses owned or leased by ICM and is directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees.

XIII. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.

XIV. In accordance with Insurance Law Section 7405(f), the Liquidator is hereby permitted to make distributions of ICM's assets to the New York Property/Casualty Insurance Security Fund and similar guaranty funds of other states in accordance with such statute, and any agreement to be entered into among the Liquidator and such guaranty fund is hereby approved and the Liquidator is authorized to enter into and perform such agreement;

XV. ALL EXISTING INSURANCE POLICIES OF ICM SHALL TERMINATE AT 12:01 A.M. LOCAL TIME ON THE EARLIEST OF 30 DAYS FROM THE ENTRY OF THE ORDER, 30 DAYS FROM THE GIVING OF NOTICE OF SUCH CANCELLATION, IF SUCH NOTICE IS REQUIRED BY AN INSURANCE POLICY OR APPLICABLE LAW, OR UPON THE DATE AND TIME STATED IN THE POLICY.

XVI. MAY 16, 2014 IS THE BAR DATE BY WHICH ALL CLAIMS BY ANY CLAIMANT AGAINST ICM OR ITS INSURED, OTHER THAN THE LIQUIDATOR'S CLAIMS FOR ADMINISTRATIVE EXPENSES, MUST BE ACTUALLY RECEIVED BY THE LIQUIDATOR.



XVII. DECEMBER 31, 2014 IS THE FINAL DATE BY WHICH EVIDENCE SUPPORTING THE LIQUIDATION OF ANY CLAIM PRESENTED BY THE FOREGOING BAR DATE MUST BE ACTUALLY RECEIVED BY THE LIQUIDATOR.

XVIII. The Liquidator, in his discretion, is authorized to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate

XIX. Immunity is extended to the Superintendent in his capacity as Liquidator of ICM and his successors in office and their agents and employees including the Bureau, 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74.

XX. The Liquidator may at any time make further application to the Court for such further and different relief as he sees fit.

XXI. The court shall retain jurisdiction over this matter for all purposes.

XXII. All communications relating to ICM and to the Liquidation Proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
New York, New York 10038  
(212) 341-6400

BENJAMIN M. LAWSKY  
Superintendent of Financial Services of  
the State of New York as Liquidator  
of ICM Insurance Company

MICHAEL J. CASEY  
Acting Special Deputy Superintendent  
and Agent for the Superintendent as  
Liquidator of ICM Insurance Company

**Index no.: 452122/13**

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

**In the Matter of**

**the Application of**

**Benjamin M. Lawsky, Superintendent of Financial  
Services of the State of New York, for an order to take  
possession and liquidate the business and affairs of**

**ICM INSURANCE COMPANY.**

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**ORDER OF LIQUIDATION**

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**ERIC T. SCHNEIDERMAN**  
**Attorney General of the State of New York**

---

**120 Broadway, 24th Floor New York, NY 10271**  
**Tel: (212) 416-8301**  
**Fax: (212) 416-6009 / 6075 / 6076 (not for service)**

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At IAS Part 10 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 60 Centre Street, New York, New York, on the 30 day of September, 2010.

PRESENT:

HON. JUDITH J. GISCHE, J.S.C.

-----X

In the Matter of

the Application of

James J. Wrynn, Superintendent of Insurance of the State of New York, for an order to take possession of the property of and rehabilitate

Index No.: 400236/10

**ORDER OF LIQUIDATION**

COLONIAL COOPERATIVE INSURANCE COMPANY.

-----X

Petitioner, James J. Wrynn, Superintendent of Insurance of the State of New York ("Superintendent"), having moved this Court by order to show cause ("Order to Show Cause") for an order to convert the rehabilitation proceeding of Colonial Cooperative Insurance Company ("CCIC") to a liquidation proceeding, and the Rehabilitator having provided CCIC claimants and creditors with notice of the relief sought, by posting the notice of the Order to Show Cause on the Internet web page maintained by the New York Liquidation Bureau at least 30 days prior to the return date, and no objections having been received, and upon reading and filing the petition of the Superintendent, duly verified the 20<sup>th</sup> day of August, 2010, the affidavit of Francesca G. Bliss, Assistant Special Deputy Superintendent, sworn to August 11, 2010, and the affidavit of Peter Giacone, Chief Financial Officer of the New York Liquidation Bureau, sworn to August 11, 2010, and the exhibits attached thereto, this Court finds that:

1. CCIC was placed into rehabilitation and the Superintendent was appointed rehabilitator ("Rehabilitator") by order of this Court ("Rehabilitation Order") entered March 1, 2010;
  2. The Rehabilitation Order found that a Mandatory Control Event under New York Insurance Law ("Insurance Law") Section 1324(g) had occurred with regard to CCIC;
  3. The Rehabilitation Order found that CCIC consented to the entry of the Rehabilitation Order;
  4. Further efforts to rehabilitate CCIC would be futile;
  5. CCIC is insolvent;
  6. CCIC is subject to the Insurance Law and, particularly, to Article 74 thereof;
- and
7. It is in the best interest of all persons concerned that the Superintendent be vested with title to all CCIC's property, contracts and rights of action and directed to liquidate its business and affairs;

NOW, on motion of the Honorable Andrew M. Cuomo, 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 is granted and CCIC is found to be insolvent;
2. The rehabilitation proceeding of CCIC instituted in the Supreme Court, New York County, is terminated;
3. The Superintendent, and his successors in office, are appointed liquidator ("Liquidator") of CCIC and are: (i) 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; (ii) vested with title to CCIC's property, contracts, rights of action and all its books and records, wherever located, as of the date of entry of this Order; and (iii) directed to liquidate CCIC's business and affairs in accordance with Insurance Law Article 74;

4. The Liquidator may deal with the property and business of CCIC in its name or in the name of the Liquidator;
5. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of CCIC and all other persons other than the Superintendent and his agents are permanently enjoined and restrained, except as authorized by the Superintendent, from: (i) transacting the business of CCIC, (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of CCIC's property; (iii) interfering with the Liquidator in the possession, control and management of CCIC's property or in the discharge of his duties; and (iv) disclosing the name, address or contact information of CCIC's policyholders, or any other information that is proprietary to CCIC's or not in the public domain, except as may be authorized by the Liquidator;
6. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against CCIC, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents with respect to any claims against CCIC;
7. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against CCIC's assets or any part thereof;
8. All parties to actions, lawsuits, and special or other proceedings ("Litigation") in which CCIC is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise are enjoined and restrained from prosecuting, advancing or otherwise taking any action within such Litigation, including but not limited to trials, hearings conferences or other court proceedings, motions or other requests to the court of any nature, proceedings on default, settlements or judgments, service of documents, discovery or any other litigation tasks or procedures for a period of 180 days from the date of entry of this Order;
9. All persons who have first-party policyholder no-fault loss claims pursuant to Article 51 of the Insurance Law against CCIC are enjoined from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of this Order;
10. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or securities of CCIC at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems is in the best interest of the creditors of CCIC, and he 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;

11. In accordance with Insurance Law Section 7405, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of CCIC, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this Order unless expressly assumed in writing by the Liquidator;
12. CCIC and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property belonging to or relating to CCIC, including but not limited to business records, insurance policies, claims files (electronic or paper), software programs, bank records or any tangible or intangible items of value, shall preserve such property and are directed, upon the Liquidator's request, to promptly assign, transfer, turn over and deliver such property to the Liquidator or his designees;
13. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to CCIC shall maintain and preserve all information in its possession ("Information") relating in any way to CCIC, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (*i.e.*, servers and printers), software programs and software licenses owned or leased by CCIC and are directed, upon the Liquidator's request, to promptly submit all such Information to the Liquidator or his designees;
14. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control of any of CCIC's funds, accounts or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; (iii) change the name of such accounts to the name of the Liquidator; (iv) withdraw funds from such bank, savings and loan association or other financial institution; or (v) take any lesser action necessary for the proper conduct of the liquidation proceeding;
15. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
16. Judicial immunity is extended to the Superintendent in his capacity as liquidator and his successors in office and their agents and employees and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with this Order, or in the performance of their duties pursuant to Insurance Law Article 74;

17. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
18. The Liquidator shall provide notice of this order to all creditors, claimants and other interested persons by: (a) service of a copy of this Liquidation Order upon Kenneth Pangburn, former President of CCIC, as designated agent for service of process, by regular mail and certified mail, return receipt requested, on or before the 29<sup>th</sup> day of October 2010; (b) posting this Liquidation Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 30 days after the entry of this Liquidation Order; (c) publication of the notice of this Liquidation Order in *Business Insurance* once a week in two consecutive publication weeks, commencing within four weeks of entry of this Order, in a form substantially similar to the one attached hereto.
19. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered.
20. The notice prescribed in decretal paragraph 18 hereof is sufficient notice to all persons interested in CCIC;
21. This Court shall retain jurisdiction over this matter for all purposes;
22. All further papers in this proceeding shall bear the caption:

"In the Matter of

the Liquidation of

COLONIAL COOPERATIVE INSURANCE COMPANY"

SEP 30 2010

ENTER

J.S.C.

JUDITH J. GISCHE, J.S.C.

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

PRESENT: JUDITH J. GISCHE, J.S.C.  
Justice

PART 10

*As to: Colonial Cooperative  
Annuities*

INDEX NO. 400236/10  
MOTION DATE \_\_\_\_\_  
MOTION SEQ. NO. 03  
MOTION CAL. NO. \_\_\_\_\_

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 \_\_\_\_\_

**FILED**  
OCT 04 2010  
COUNTY CLERK'S OFFICE  
NEW YORK  
PAPERS NUMBERED

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

*The OSC has been served on all appropriate parties & no one has appeared either in person or in writing to oppose the relief sought. It is therefore granted on default in accordance with a separate order signed this date.*

Dated: 9/30/10

JUDITH J. GISCHE, J.S.C. 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):



Index No.: 400236/10

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

In the Matter of  
the Liquidation of  
COLONIAL COOPERATIVE INSURANCE COMPANY.

ORDER OF LIQUIDATION

JOHN PEARSON KELLY  
Attorney for Superintendent of Insurance as Liquidator


*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
123 William Street  
New York, NY 10038-3889  
(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 30, 2010  
New York, New York

  
Melvin Browning

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  
settlement to the HON.      , on      of which the within is a true copy will be presented for  
one of the judges of the within named court, at  
20      at

Dated:

Yours, etc.

JOHN PEARSON KELLY  
Attorney for Superintendent of Insurance  
as Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
123 William Street  
New York, NY 10038-3889  
(212) 341-6755  
Fax (212) 608-3398

At IAS Part 7 of the Supreme Court of the State of New York, County of New York at the Courthouse, 111 Centre Street, New York, New York on the 15 day of June 2005.

PRESENT:

HON. FAVIOLA SOTO,

JUSTICE

-----x

In the Matter of

Index No.: 401876/05

the Application of

ORDER OF LIQUIDATION

HOWARD MILLS, Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business and affairs of and dissolve

**FILED**

JUN 15 2005

REALM NATIONAL INSURANCE COMPANY

-----x  
COUNTY CLERK'S OFFICE  
NEW YORK

Petitioner, Howard Mills, Superintendent of Insurance of the State of New York

(the "Superintendent"), having moved this court for an order to take possession of the property of and liquidate the business and affairs and dissolve the corporate charter of Realm National Insurance Company ("REALM");

NOW, upon reading and filing the petition of the Superintendent, duly verified on the 10<sup>th</sup> day of June, 2005, the exhibits annexed thereto; the emergency affidavit of Howard Mills, dated June 10, 2005; and it appearing to my satisfaction that:

1. REALM is a New York corporation, with its principal office in New York County;
2. REALM is insolvent;

3. REALM has consented to an order of liquidation being entered against it in the Supreme Court, County of New York;

4. REALM is amenable to the Insurance Law of the State of New York and particularly to Article 74 thereof;

5. REALM should be dissolved and its corporate charter annulled and forfeited.

6. It is impossible to reinsure in whole or in part the existing policy obligations of REALM pursuant to Section 7405 (c) of the Insurance Law;

7. REALM is in such condition that its further transaction of business would be hazardous to its policyholders, creditors or to the public;

8. It is in the best interest of all persons concerned that the Superintendent be directed to take possession of the property and liquidate the business and affairs and dissolve the corporate charter of REALM.

NOW, on motion of the Honorable Eliot Spitzer, Attorney General of the State of New York, it is hereby ORDERED as follows:

1. The petition is granted;
2. REALM is insolvent;
3. The Superintendent, and his successors in office as Superintendent, are appointed liquidator of REALM, authorized and directed to immediately take possession of its property, are vested with title to its property, contracts and rights of action and directed to liquidate its business and affairs in accordance with Article 74 of the Insurance Law. The Superintendent as Liquidator may deal with the property and business of REALM in its name or in the name of the Superintendent, as Liquidator;
4. In accordance with Insurance Law § 7432 (b), all claims against REALM must be presented to the Superintendent, as Liquidator, within four months of the date of entry of this order;

5. In accordance with Insurance Law § 7433 (b)(2), all persons who appear on REALM's books and records as policyholders or claimants as of the date of entry of this order shall be deemed to have duly filed proofs of claim prior to the last day set for filing claims;
6. All former policyholders of REALM whose policies expired within three (3) years of the date of entry of this order shall be deemed to have duly filed a proof of claim prior to the last day set for filing claims;
7. The Superintendent, as Liquidator, shall provide notice, by publication in the New York Times, National Edition and the Journal of Commerce once a week for two consecutive weeks commencing within three weeks of entry of this order, to all other creditors, claimants and interested persons to present claims within four months of the date of entry of this order;
8. The Superintendent, as Liquidator, shall provide notice by publication in one newspaper in the capital cities of each state in the United States wherein REALM is licensed to do business, once a week for two successive weeks within the period allowed for the presenting of claims, the newspaper to be selected by the Liquidator at his discretion;
9. In the event one or more Insurance Departments and/or Guaranty Funds or Associations of foreign states, that have adopted the Uniform Insurers Liquidation Act, in which REALM was licensed to do business, desire to give formal notice to policyholders and creditors in their respective State Insurance Departments or Guaranty Fund or Association, the Superintendent, as Liquidator, may permit the giving of such notice as he in his discretion may find desirable;
10. The notice prescribed herein is sufficient notice to all persons interested in REALM;
11. All outstanding insurance policies, bonds, and other insurance obligations, if any, issued and undertaken by REALM shall terminate and all liability thereunder shall cease and be fixed as of 12:01 a.m. on the thirtieth day after entry of this order or upon cancellation or procurement of replacement policies, bonds or insurance coverage, whichever is earlier;

12. In accordance with Insurance Law § 7405, all other contracts, leases, tax sharing agreements, employment contracts, and obligations of REALM, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this order unless ratified by the Superintendent, as Liquidator;
13. The Superintendent, as Liquidator, is relieved of the provisions set forth in Section 7405(c) of the Insurance Law to reinsure in whole or in part the policy obligations of REALM;
14. The Superintendent, as Liquidator, is authorized, permitted and allowed to sell, assign, or transfer any and all real or personal property, stocks, bonds or securities of REALM at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions, as in his discretion, he deems is in the best interest of the creditors of REALM, and he 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;
15. REALM, its officers, directors, depositories, trustees, agents, servants, employees, attorneys, and all other persons, having any property or records belonging or relating to REALM, including, but not limited to insurance policies, loss, claim or legal files are directed to assign, transfer, set over and deliver to the Superintendent, as Liquidator, all such property or records;
16. Any persons, firms, corporations, or associations having any books, papers or records relating to the business of REALM shall preserve them and submit them to the Superintendent, as Liquidator, for examination and copying at all reasonable times;
17. The officers, directors, shareholders, trustees, agents, servants, employees, attorneys, and managers of REALM, and all other persons are permanently enjoined and restrained from the transaction of REALM's business, the waste or disposition of its property, interfering with the Superintendent, as Liquidator, in the possession, control and management of the property of REALM or in the discharge of his duties;
18. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against REALM, the Superintendent, as Liquidator of REALM, or the New York Liquidation Bureau, its employees, attorneys and agents with respect to claims against REALM;

19. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against REALM's assets or any part thereof;
20. All parties to lawsuits in this state and all other states and territories of the United States, are hereby enjoined and restrained from proceeding with, including but not limited to, any discovery, pre-trial conferences, trial, application for judgment or proceeding on judgments or settlements in such actions at law, suits in equity, special or other proceedings in which REALM is obligated to defend by virtue of its insurance contract and any and all actions being defended by a primary or other underlying insurer where such primary or underlying insurer has tendered or offered its full policy limits or where said policy limits have been exhausted by payment of the underlying insurer's aggregate and REALM is the next excess of umbrella layer of insurance for a period of 180 days from the date hereof;
21. Those persons who may have first-party or New York Comprehensive Automobile Insurance Reparations Act (No-Fault) policyholder loss claims against REALM coming within the purview of Article 76 of the Insurance Law are enjoined from presenting and filing such claims in this proceeding for 90 days from the date of entry of this order;
22. The corporate charter of REALM is relinquished, forfeited, surrendered and annulled, and REALM is dissolved;
23. The Superintendent of Insurance as Liquidator, may at any time make further application to this court for such further and different relief as he sees fit;
24. All further papers in this proceeding shall bear the caption:

"In the Matter of

the Liquidation of

REALM NATIONAL INSURANCE COMPANY"

25. The Superintendent, as Liquidator, shall serve a conformed copy of this order upon the county clerk and the clerk of the trial support office for amendment of the court and computer records.

ENTER

~~J.S.C.~~  
~~HON. FAVIOLA SOTO~~

**FILED**  
JUN 15 2005  
COUNTY CLERK'S OFFICE  
NEW YORK

Sir:

Please take notice that the within is a true copy of duly filed and entered in the office of the clerk of County, on the day of 20

Yours, etc.,  
**ELIOT SPITZER**  
Attorney General.

Attorney for

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To

Attorney for

Sir

Please take notice that the within will be presented for settlement and signature herein to the HON. one of the judges of the within named Court, at in the Borough of City of New York, on the day of 200 at A. M.

Date, N.Y.,

Yours, etc.,  
**ELIOT SPITZER**  
Attorney General,

Attorney for

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To:

In the Matter of  
  
the Application of

HOWARD MILLS, Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business and affairs of and dissolve

REALM NATIONAL INSURANCE COMPANY

ORDER OF LIQUIDATION

**ELIOT SPITZER**

Attorney General

Attorney for the Superintendent of Insurance

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271  
Tel. (212) 416-8658

Personal service of a copy of

within .....  
is admitted this ..... day of  
.....20

FILED  
JUN 15 2008  
COUNTY CLERK'S OFFICE  
NEW YORK



In accordance with Part 130, I advise that the following papers are attached:

Order to Show Cause  
Verified Petition

LETITIA JAMES  
Attorney General of the State of New York

By: 

Leo V. Gagon  
Assistant Attorney General  
28 Liberty Street, 17<sup>th</sup> Floor  
New York, New York 10005  
(212) 416-8592