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PLFD-12

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PRESENT: COUNTY CLERK'S OFFICE
NEW YORK

HON. MICHAEL D. STALLMAN, J.S.C

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In the Matter of

the Rehabilitation of

PROFESSIONAL LIABILITY
INSURANCE COMPANY OF AMERICA.

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At IAS Part 21 of the Supreme Court of the State of New York, County of New York, at the courthouse located at 80 Centre Street, New York, New York, on the 6 day of

January, 2014.
February

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GENERAL CLERK'S OFFICE
NYS SUPREME COURT - CIVIL

Index No. 400986/2010

ORDER OF LIQUIDATION

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent") having moved this Court by order to show cause for an order to convert the rehabilitation proceeding of Professional Liability Insurance Company of America ("PLICA") to a liquidation proceeding, and Brent D. Cassity and Rhonda L. Cassity having moved this Court by an application to terminate the rehabilitation proceeding of PLICA ("Motion to Terminate"), and upon reading and filing the petition of the Superintendent, duly verified the 26th day of October, 2012 (the "Petition"), the affidavits of Gail Pierce-Siponen, Director of Creditor and Ancillary Operations of the New York Liquidation Bureau ("NYLB"), sworn to the 25th day of October, 2012, Peter A. Giacone, Chief Financial Officer of the NYLB, sworn to the 25th day of October, 2012, and affidavit of Paul Miller, Special Deputy Conservator to Andrew Boron, Director of Insurance of the State of Illinois, sworn to the 23rd day of October, 2012, and the exhibits annexed thereto and, the Verified Answer to the Petition dated April 10, 2013, the

Affidavit of John P. Higgins in Support of Application to Terminate Rehabilitation, sworn to the 16th day of May, 2012, and the exhibits annexed thereto, and the Affirmation of Kenneth W. Marvet, dated April 18, 2013, referring to and adopting the Petition and the exhibits and the arguments found therein in opposition to the Motion to Terminate, this Court ^{in its December 27, 2013 decision} finds that:

1. PLICA is subject to the New York Insurance Law ("Insurance Law") and, particularly, to Article 74 thereof;

2. PLICA was placed into rehabilitation and the Superintendent ~~and his successors~~ in office) ^{was} ~~were~~ appointed rehabilitator by order of this court entered April 30, 2010 ("Rehabilitation Order");

3. PLICA remains in a conservation proceeding in the State of Illinois;

4. Further efforts to rehabilitate PLICA would be futile;

5. The further transaction of business will be hazardous to PLICA's policyholders, creditors or the public;

6. It is therefore in the best interest of all persons concerned that, based upon Article 74 of the Insurance Law, the Superintendent should be appointed Liquidator, vested with title to all PLICA's property, contracts and rights of action; and directed to liquidate PLICA's business and affairs;

7. PLICA is insolvent;

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 is granted;
2. The relief requested in the Motion to Terminate is denied;

3. The rehabilitation proceeding of PLICA is converted to a liquidation proceeding;
4. The Superintendent, and his successors in office, are appointed liquidator ("Liquidator") of PLICA and are: (i) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and set forth in this Order; (ii) vested with title to PLICA'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 PLICA's business and affairs in accordance with Insurance Law Article 74;
5. The Liquidator may deal with the property of PLICA in its name or the name of the Liquidator;
6. PLICA is insolvent pursuant to Insurance Law §7432(a);
7. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of PLICA and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) transacting the business of PLICA, except as authorized by the Liquidator; (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of PLICA's property; (iii) interfering with the Liquidator in the possession, control and management of PLICA's property or in the discharge of his duties; and (iv) disclosing the name, address or contact information of PLICA's policyholders, or any other information that is proprietary to PLICA or not in the public domain, except as may be authorized by the Liquidator;
8. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against PLICA's assets or any part thereof;
9. All parties are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings, or efforts to collect on debts or judgments, against PLICA, the Liquidator or the NYLB, the Liquidator's or the NYLB's present or former employees, attorneys or agents with respect to this proceeding or the discharge of their duties under Insurance Law Article 74;
10. Any pending claims adjudication proceedings that were, or could have been, brought pursuant to this Court's Order Approving the Procedure for the Rehabilitator's Adjudication of Claims, filed August 17, 2011, are stayed;

11. All rights in PLICA's contracts and agreements, including all leases, tax agreements, insurance policies and employment contracts, however described, are vested with the Liquidator, 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;
12. 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 PLICA's funds, 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 or his designees; (b) transfer title of such funds, accounts or assets to the Liquidator or his designees; (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 to a bank, savings and loan association or other financial institution designated by the Liquidator; and/or (e) take any other action necessary for the proper conduct of the liquidation proceeding;
13. All persons and entities having any property and/or information, including, but not limited to, insurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to PLICA 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. All persons and entities providing claims processing services, data processing services, electronic records retention services or other information technology services to PLICA shall maintain and preserve all information relating in any way to PLICA, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (e.g., servers and printers), software programs and software licenses owned by PLICA ("Information"), and are directed, upon the Liquidator's request, to promptly submit all such Information to the Liquidator or his designees for examination and copying;
15. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds, or other securities and any real or other property of PLICA at market price or 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 PLICA, and to take such steps as may be necessary to effect and carry out such sales, transfers and assignments;

16. The Liquidator is authorized to pay the actual and necessary administrative costs and expenses of PLICA out of the assets of PLICA;
17. In accordance with Insurance Law Section 7432(b) and subject to Insurance Law Section 7433(b), all claims against PLICA must be presented within four months of the date of entry of this Order;
18. The Liquidator shall serve the copy of this Order upon: Brent D. Cassity at 22 Hillvale, Clayton, MO 63105; Rhonda L. Cassity at 4201 Gulf Shore Boulevard, Unit #1103, Naples, FL 34103; and J. Tyler Cassity at 22 Hillvale, Clayton, MO 63105;
19. 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 *Business Insurance*, once a week for two consecutive publications as soon as practical in light of the publication schedule of such publication, 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.nylb.org> within 15 days after the entry of this Order;
20. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered;
21. The notice prescribed in decretal paragraphs 18 and 19 hereof is sufficient notice to all persons interested in PLICA;
22. This Court shall retain jurisdiction over this matter for all purposes;
23. The caption for this proceeding is hereby amended as follows:

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

FILED

FEB 10 2014

COUNTY CLERK'S OFFICE
 NEW YORK

-----X
 In the Matter of

✓ the Liquidation of

PROFESSIONAL LIABILITY INSURANCE COMPANY OF
 AMERICA.
 -----X

24. *All further papers in this proceeding shall bear the above amended caption*
25. *A copy of this order with notice of entry shall be served on the County clerk and the Clerk of Trial Support so they can amend their records accordingly.*

ENTER:

HON. MICHAEL D. STALLMAN



J.S.C.

DO NOT POST

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

~~ENTER~~

~~J.S.C.~~

See signature on preceding page.