

M. ST. A. 3-11-14

FILED
AUG 15 2014
NEW YORK
COUNTY CLERK

At IAS Part 11 of the Supreme Court of the State of New York, County of New York, at the Courthouse 60 Centre Street, in the County, City and State of New York, on the 27 day of August, 2014.

EX PARTE MOTION OFFICE
APPROVED
FOR THE PAYMENT
OF MOTION FEE
ONLY

P R E S E N T:

HON. JOAN A. MADDEN, J.S.C.

In the Matter of

the Ancillary Receivership of

SHELBY CASUALTY INSURANCE COMPANY.

Index No.: 403171/2006

ORDER TO SHOW CAUSE

Based on the verified petition ("Verified Petition") of Mary Jo Marchisello, Assistant Special Deputy Superintendent and Agent of Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York as Ancillary Receiver ("Ancillary Receiver") of Shelby Casualty Insurance Company ("Shelby"), duly verified the 15th day of August, 2014, and exhibits attached thereto, upon all other papers previously submitted and all proceedings heretofore had herein, and it appearing that the relief sought be granted;

NOW, on motion of John Pearson Kelly, attorney for the Ancillary Receiver, and after due deliberation having been had thereon,

LET all claimants and all parties interested in the affairs of Shelby show cause before this Court at IAS Part 11, thereof, at the Courthouse located at 60 Centre Street, New York, New York, on the 7 day of October, 2014 ("Return Date") at 9:45 o'clock a..m., or as soon thereafter as counsel can be heard, why an order should not be made, pursuant to Article 74 of

Am. 351

the New York Insurance Law (“Insurance Law”), *inter alia*: (1) approving the Ancillary Receiver’s report on the status of and request to close Shelby’s ancillary receivership (“Ancillary Receivership Proceeding”) and the financial transactions delineated in such report; (2) authorizing the continued payment of administrative expenses, including such expenses pertaining to the closing of the Ancillary Receivership Proceeding; (3) terminating and closing the Ancillary Receivership Proceeding; (4) releasing and discharging the Ancillary Receiver, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; (5) authorizing the New York Liquidation Bureau (“NYLB”) to receive and disburse to the Property/Casualty Insurance Security Fund (“P/C Fund”), established pursuant to Insurance Law Article 76, any future distributions from the Commissioner of Insurance of the State of Texas as domiciliary receiver of Shelby (“Liquidator”) in payment of amounts owed to the P/C Fund, as applicable, in each case (a) without further application to this Court and (b) after deducting all administrative expenses incurred in connection with such receipt and disbursement; (6) authorizing and directing the Ancillary Receiver, in his discretion, to destroy or otherwise dispose of any and all of the books, files, records and other property of Shelby, including transferring them to the Liquidator, without further order of this Court; and (7) providing for such other and further relief as this Court deems appropriate and just.

AND, sufficient cause having been alleged therefor, and this Court having found the form and method of notice specified herein to be the best notice practicable, it is hereby

ORDERED, that service of a copy of this order to show cause and the papers upon which it is granted shall be made on the Liquidator by serving a copy thereof by overnight mail upon the Commissioner of Insurance of the State of Texas as Liquidator of Shelby at the Texas

Department of Insurance located at 333 Guadalupe, Austin, TX 78701, on or before the 2 day of September, 2014, and such service shall be deemed good and sufficient service; and it is further

ORDERED, that notice of the Verified Petition and this Order to Show Cause shall be substantially in the form attached as Exhibit 1 to the Verified Petition and service shall be made by: (i) posting on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least fifteen (15) days before the Return Date; and (ii) publication in *The New York Times – Local Edition*, ~~or a publication of similar circulation~~, such publication to occur in two consecutive weeks commencing within the thirty (30) days following entry of this Order to Show Cause; and it is further

ORDERED, that the form and methods of service of notice specified herein are hereby approved as in accordance with the law and as the best notice practicable and shall therefore constitute due and sufficient notice of this Order to Show Cause and scheduled Return Date herein and the Verified Petition and the relief sought therein to all persons and entities entitled to receive such notice; and it is further

ORDERED, that the approved form of notice shall direct that all answering papers and supporting documentation (“Answering Papers”) be served on the Ancillary Receiver so as to be received at least seven (7) business days prior to the Return Date, and that service on the Ancillary Receiver shall be made by first class mail at the following address:

Superintendent of Financial Services of the
State of New York as Ancillary Receiver of
Shelby Casualty Insurance Company
110 William Street
New York, New York 10038
Attention: John Pearson Kelly
General Counsel

and by submitting copies of the Answering Papers, with affidavit of service on the Ancillary Receiver as above, to this Court at IAS Part 11 at the Courthouse located at 60 Centre Street, New York, New York, seven (7) business days before the Return Date; and it is further

P ORDERED, that in the absence of Answering Papers filed pursuant to the previous paragraph on or prior to the date specified, the Court may enter relief without hearing and ~~no party shall be entitled to be heard thereon~~; and it is further

ORDERED, that any person or entity that fails to serve Answering Papers as provided herein ~~shall~~ *may* be deemed to have waived any objections to the relief sought in the Verified Petition and ~~shall~~ *may* be barred from raising objections in this or any other proceeding concerning the matters set forth herein; and it is further

ORDERED, that any person or entity that has served Answering Papers as provided herein ~~shall~~ *may* be deemed to have waived any objections that are not set forth in the Answering Papers.

ENTER

J.A.M.

J. S. C.

**HON. JOAN A. MADDEN
J.S.C.**

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