

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

**PRESENT:** JENNIFER G. SCHECTER  
*Justice*

**PART** 57

**IN THE MATTER OF THE**

**INDEX NO.** 153214/2017

- v -

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

**CASTLEPOINT NATIONAL**

**MOTION SEQ. NO.** 001

The following papers, numbered 1 to 12, were read on this motion to/for appoint ancillary receiver

Notice of Motion/Order to Show Cause - Affidavits - Exhibits	No(s) <u>1</u>
Answering Affidavits - Exhibits	No(s) <u>2, 3, 4, 5, 6, 7, 8, 9, 10</u>
Replying Affidavits	No(s) <u>11, 12</u>
Cross Motion	<u>YES</u>

**Upon the foregoing papers, it is ordered that this motion is**

**GRANTED IN ACCORDANCE WITH THE ACCOMPANYING ORDER.** The cross-motion was decided in a separate decision and order (see NYSCEF Doc. No. 126).

This is the decision of the court.

**DATED:** 6/23/2017



\_\_\_\_\_  
JENNIFER G. SCHECTER, 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

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

-----X  
In the Matter of

Index No.: 153214/17  
(Schechter, J.)

the Application of

Maria T. Vullo, Superintendent of  
Financial Services of the State of New York, for an  
Order of Appointment as Ancillary Receiver of

**ORDER OF  
ANCILLARY  
RECEIVERSHIP**

CASTLEPOINT NATIONAL INSURANCE COMPANY.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of CastlePoint National Insurance Company (“CastlePoint”), and upon reading and filing the petition of the Superintendent, duly verified on the 5<sup>th</sup> day of April, 2017 (“Verified Petition”), the Affidavit of Marc Allen, Assistant Chief Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 4<sup>th</sup> day of April, 2017, and the exhibits annexed thereto and upon all of the papers filed in this proceeding, this Court finds that:

1. CastlePoint is a property and casualty insurer wholly owned by Specialty Underwriters Alliance, Inc., a Delaware Corporation, which is in turn owned by Tower Group Inc., also a Delaware Corporation. CastlePoint is organized under the laws of the State of California, with its statutory office located in San Francisco, California;

2. CastlePoint is an affiliate of an insurance holding company group that, prior to the consummation of several mergers, consisted of ten insurance companies domiciled in six different states, including, among others, Tower Insurance Company of New York (“TICNY”) (collectively, the “Tower Insurance Companies”);

3. TICNY was licensed in the State of New York to transact the kinds of insurance specified in paragraphs 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, 21 and 22 of § 1113(a) of the New York Insurance Law (“Insurance Law”);

4. Each of the Tower Insurance Companies, including TICNY, merged with and into CastlePoint, with CastlePoint being the sole surviving insurance company and the successor-in-interest to all the assets and liabilities of the Tower Insurance Companies;

5. By order dated March 30, 2017, and effective as of April 1, 2017, the Superior Court of the State of California, City and County of San Francisco, found CastlePoint to be insolvent and placed CastlePoint into liquidation (the “Liquidation Order”). The Liquidation Order appointed Dave Jones, Insurance Commissioner of the State of California as liquidator (“California Liquidator”) of CastlePoint and also approved the appointment of David E. Wilson to serve as the Special Deputy Insurance Commissioner in charge of the CastlePoint liquidation and Joseph Holloway, Jr. as the Liquidation Manager for Special Deputy Wilson. The Liquidation Order also, among other things, established December 31, 2017, as the claims bar date for the filing of claims against CastlePoint;

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

5. The California Liquidator requested that the Superintendent commence an ancillary receivership proceeding for CastlePoint; and

6. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of CastlePoint.

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

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership ("Order") is granted in its entirety;
2. The Superintendent and her successors in office are appointed Ancillary Receiver of CastlePoint and are vested with all rights and obligations granted to and imposed upon them pursuant to Article 74 of the Insurance Law;
3. The injunctions, restrictions and directions set forth in paragraphs 20, 21, 22, 23, 24, 25, 29 and 30 of the Liquidation Order apply to this ancillary receivership proceeding;
4. The Liquidation Claims Bar Date of December 31, 2017, applies to this ancillary receivership proceeding and all New York claims under CastlePoint policies and evidence supporting such claims must be submitted to the Ancillary Receiver of CastlePoint by December 31, 2017, and if not submitted by that date shall be barred;
5. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings or obtaining preferences, judgements, attachments, or other liens or making any levy against the Superintendent as Ancillary Receiver of CastlePoint or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
6. All parties to actions, lawsuits, and special or other proceedings against insureds of CastlePoint or in which CastlePoint is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of this Order;
7. In New York State Court cases pending against CastlePoint or in which CastlePoint is obligated to defend a party, ~~claimants/plaintiffs~~ <sup>a party to the pending action</sup> may proceed with motions <sup>a</sup> to sever claims implicating CastlePoint or its insureds and upon severance such claims are subject to the stay. Motions to sever shall be on notice to the Ancillary Receiver of CastlePoint c/o New York Liquidation Bureau, 100 William Street, 15<sup>th</sup> floor New York, N.Y. 10038 attention: General Counsel's Office;   
*in the court and before the judge presiding over the pending New York state case*
8. In all cases against CastlePoint or in which CastlePoint is obligated to defend a party that are pending in Federal Court in New York, the Federal Court will determine the applicability of the stays issued by this Court in accordance with applicable rules and procedures including comity;

- 9. All persons who have first party policyholder loss claims against CastlePoint in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver of CastlePoint for a period of 90 days from the date of entry of this Order;
- 10. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of CastlePoint and as administrator of the New York security funds, her successors in office, the New York Liquidation Bureau, and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76;
- 11. The Ancillary Receiver of CastlePoint shall serve a copy of this Order on the California Liquidator, Dave Jones, Insurance Commissioner of the State of California, David E. Wilson, Special Deputy Insurance Commissioner in charge of the CastlePoint liquidation and Joseph Holloway, Jr., Liquidation Manager for Special Deputy Insurance Commissioner Wilson, 100 Pine Street, Suite 1200, San Francisco, California 94111, by overnight mail;
- 12. The Ancillary Receiver of CastlePoint shall provide notice of this Order, substantially in the form attached hereto (the "Notice"), to all creditors, claimants, and interested persons located in the State of New York by: (i) publication of the Notice in *The New York Post*, or a publication of similar circulation, within 30 days of entry of this Order; and (ii) posting the Notice and the 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;
- 13. CastlePoint's license to do business in the State of New York is hereby revoked;
- 14. The caption for this proceeding is hereby amended as follows: *and all further papers in this proceeding shall bear the caption below:*

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

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In the matter of

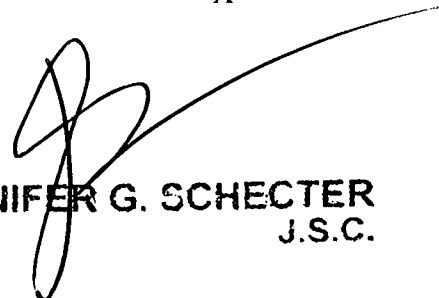
the Ancillary Receivership of

CASTLEPOINT NATIONAL INSURANCE COMPANY.

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*Dated: New York, NY  
 June 23, 2017*

*and all further* 



**HON. JENNIFER G. SCHECTER**  
 J.S.C.

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

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

Notice is Hereby Given:

Maria T. Vullo, Superintendent of Financial Services of the State of New York, has been appointed by an order (“Order”) of the Supreme Court of the State of New York, New York County (“Court”), filed on \_\_\_\_\_, 2017, as the ancillary receiver (“Ancillary Receiver”) of CastlePoint National Insurance Company (“CastlePoint”) and, as such, has been vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the New York Insurance Law (“Insurance Law”). The Ancillary Receiver of CastlePoint has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent (“Special Deputy”), as her agent to carry out her duties as Ancillary Receiver of CastlePoint. The Special Deputy carries out the Ancillary Receiver of CastlePoint’s duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Order further provides as follows:

- I. The Superior Court of the State of California, City and County of San Francisco (“California Court”), has issued an Order of Liquidation with a Finding of Insolvency against CastlePoint;
- II. The injunctions and restrictions set forth in paragraphs 20, 21, 22, 23, 24, 25, 29 and 30 of the order of liquidation of CastlePoint, signed by the California Court on March 30, 2017, apply to this ancillary receivership proceeding;
- III. The Liquidation Claims Bar Date of December 31, 2017, applies to the ancillary receivership proceeding and all New York claims under CastlePoint policies and evidence supporting such claims must be submitted to the Ancillary Receiver of CastlePoint by December 31, 2017, and if not submitted by that date shall be barred;
- IV. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings or obtaining preferences, judgements, attachments, or other liens or making any levy against the Superintendent as Ancillary Receiver of CastlePoint or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
- V. All parties to actions, lawsuits, and special or other proceedings against insureds of CastlePoint or in which CastlePoint is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy, are enjoined and restrained from obtaining any judgment or proceeding with any discovery, court proceedings or other litigation tasks or procedures,

including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of this Order;

VI. In New York State Court cases pending against CastlePoint or in which CastlePoint is obligated to defend a party, claimants/plaintiffs may proceed with motions to sever claims implicating CastlePoint or its insureds and upon severance such claims are subject to the stay. Motions to sever shall be on notice to the Ancillary Receiver of CastlePoint c/o New York Liquidation Bureau, 100 William Street, 15<sup>th</sup> floor New York, N.Y. 10038 attention: General Counsel's Office;

VII. In all cases against CastlePoint or in which CastlePoint is obligated to defend a party that are pending in Federal Court in New York, the Federal Court will determine the applicability of the stays issued by this Court in accordance with applicable rules and procedures including comity;

VIII. All persons who have first party policyholder loss claims against CastlePoint in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver of CastlePoint for a period of 90 days from the date of entry of this Order;

IX. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of CastlePoint and as administrator of the New York security funds, her successors in office, the New York Liquidation Bureau and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74;

X. CastlePoint's license to do business in the State of New York is hereby revoked;

XI. All communications relating to CastlePoint and to the ancillary receivership proceeding thereof should be addressed to:

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

MARIA T. VULLO  
Superintendent of Financial Services of the State of New York as  
Ancillary Receiver of CastlePoint National Insurance Company

DAVID AXINN  
Special Deputy Superintendent and Agent for  
the Superintendent as Ancillary Receiver  
of CastlePoint National Insurance Company