

Per  
Mony

EX PARTE MOTION OFFICE

APPROVED  
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ONLY

*the Court into Motion Office*  
At ~~IAS Part 8~~ of the Supreme Court  
of the State of New York, County of  
New York, at the Courthouse,  
*109 Central* Thomas Street, in the County,  
City and State of New York, on the  
27<sup>th</sup> day of August, 2012.

PRESENT:

MANUELO MENDEZ  
AUG 27 2012

00M20753

HON. ~~JOAN M. KENNEY~~, J.S.C.

NEW YORK  
COUNTY CLERK'S OFFICE

In the Matter of

Index No. 401477/09

the Liquidation of

**ORDER TO SHOW CAUSE**

THE INSURANCE CORPORATION OF NEW YORK

Based on the verified petition ("Verified Petition") of Jonathan L. Bing, Special Deputy Superintendent and Agent of Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent") as liquidator ("Liquidator") of The Insurance Corporation of New York ("InsCorp"), duly verified the 23<sup>rd</sup> day of August, 2012, and exhibit 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 Liquidator, and after due deliberation having been had thereon,

LET all claimants and parties interested in the affairs of InsCorp show cause before this Court at IAS Part 8 thereof, at the Courthouse located at 71 Thomas Street, in the County, City and State of New York, on the 25<sup>th</sup> day of Oct, 2012 ("Return Date") at 10 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 the New York Insurance Law ("Insurance Law"), *inter alia*: (i) approving the

*appear and*  
*Am. 304*

Liquidator's report on the status of InsCorp's liquidation proceeding ("Liquidation Proceeding"); (ii) establishing December 31, 2012 as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and (viii) providing for such other and further relief as this Court may deem just and proper;

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

ORDERED, that notice of the Verified Petition and this Order to Show Cause shall be substantially in the form attached hereto 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 15 business days before the Return Date; (ii) mailing same by United States first class mail to InsCorp's known creditors with allowed or unadjudicated claims; and (iii) publication in *Business Insurance*, or a newspaper of similar circulation, once per week for two consecutive

weeks commencing within four weeks from the issuance 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 Superintendent so as to be received at least seven days prior to the Return Date, and that service on the Superintendent shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of The Insurance Corporation of New York  
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 Superintendent as above, to this Court at IAS Part 8 at the Courthouse located at 71 Thomas Street, in the County, City and State of New York, seven days before the Return Date; and it is further

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 be deemed to have waived any objections to the relief sought in the Verified Petition

and shall 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 be deemed to have waived any objections that are not set forth in the Answering Papers.

ENTER:

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

**MANUEL J. MENDEZ**

Index No. 401477/09

**IN THE MATTER OF THE LIQUIDATION OF  
THE INSURANCE CORPORATION OF NEW YORK  
Supreme Court County of New York  
Index No.: 401477/09**

**NOTICE**

Pursuant to an order of the Supreme Court of the State of New York, County of New York (“Court”), entered on March 10, 2010 (“Liquidation Order”), the then-Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator (“Liquidator”) of The Insurance Corporation of New York (“InsCorp”) and, as such, has been directed to take possession of InsCorp’s property, liquidate its business and affairs, and dissolve its corporate charter pursuant to Article 74 of the New York Insurance Law (“Insurance Law”). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of InsCorp. The Liquidator has, pursuant to Insurance Law Article 74, appointed Jonathan L. Bing, Special Deputy Superintendent of Financial Services (“Special Deputy”), as his agent to liquidate the business of InsCorp. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted to the Court a verified petition (“Verified Petition”) seeking an order: (i) approving the Liquidator’s report on the status of InsCorp’s liquidation proceeding (“Liquidation Proceeding”); (ii) establishing December 31, 2012, as the bar date (“Bar Date”) for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute InsCorp’s assets, consistent with this Court’s orders and the priorities set forth in Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator’s discretion, sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and (viii) providing for such other and further relief as this Court deems appropriate and just.

A hearing is scheduled on the Verified Petition on the \_\_\_ day of \_\_\_\_\_, 2012, at 9:30 a.m., before the Honorable Joan M. Kenney, JSC, New York Supreme Court at the Courthouse, IAS Part 8, 71 Thomas Street, in the County, City and State of New York, 10013. If you wish to object to the Verified Petition, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and Clerk of the Court, at least seven business days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of The Insurance Corporation of New York

110 William Street  
New York, New York 10038  
Attention: John Pearson Kelly  
General Counsel

In order to participate in InsCorp's liquidation proceeding, all claims, with all supporting documentation, must be presented to the Liquidator on or before the Bar Date, which is the last date set by the Court to present claims in InsCorp's liquidation proceeding.

The Verified Petition and Report are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6665.

Dated: \_\_\_\_\_, 2012

Benjamin M. Lawsky  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
The Insurance Corporation of New York

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

-----X  
In the Matter of

Index No.: 401477/09

the Liquidation of

**VERIFIED PETITION**

THE INSURANCE CORPORATION OF NEW YORK.  
-----X

Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York (“Superintendent”) as liquidator (“Liquidator”) of The Insurance Corporation of New York (“InsCorp”), has appointed agents to carry out, through the New York Liquidation Bureau (“NYLB”), the responsibilities of the Liquidator. The Liquidator, by Jonathan L. Bing, Special Deputy Superintendent and agent of the Liquidator, respectfully makes the following petition upon information and belief:

1. On June 30, 2009, the Honorable Marilyn Shafer issued an order (the “Rehabilitation Order”), placing InsCorp into rehabilitation and appointing the then-Superintendent of Insurance of the State of New York and his successors in office as rehabilitator of InsCorp (the “Rehabilitator”). *See* Exhibit B of the Liquidator’s report on the status of the InsCorp liquidation proceeding (“Report”) attached hereto as Exhibit 1.

2. On March 10, 2010, this Court issued an order (“Liquidation Order”) appointing the then-Superintendent of Insurance of the State of New York and his successors in office as Liquidator of InsCorp and commencing this liquidation proceeding (“Liquidation Proceeding”). *See* Report Exhibit A. The Superintendent has now succeeded the Superintendent of Insurance of the State of New York as Liquidator of InsCorp.

3. The Liquidation Order charged the Liquidator with, among other things, the responsibility for:

- a. Identifying InsCorp's creditors, policyholders and claimants;
- b. Notifying InsCorp's creditors, policyholders and claimants to present their claims;
- c. Marshalling InsCorp's assets;
- d. Adjudicating the claims timely presented and establishing the total amount of InsCorp's liabilities;
- e. Distributing InsCorp's assets to creditors with allowed claims; and
- f. Otherwise liquidating InsCorp's business pursuant to Article 74 of the New York Insurance Law ("Insurance Law").

4. The Report sets forth the results of the Liquidator's efforts to identify InsCorp's creditors, adjudicate claims, and collect assets. In the Report, the Liquidator seeks allowance of certain claims and approval to distribute InsCorp's assets consistent with this Court's orders and the priorities of Insurance Law Section 7434.

5. This Verified Petition seeks the issuance of an order ("Order") that: (i) approves the Report; (ii) establishes December 31, 2012 as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizes and directs the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) bars and discharges all claims for losses reported after the Bar Date; (v) authorizes the continued payment of administrative costs and expenses; (vi) authorizes the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extends judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and (viii) provides for such other and further relief as this Court may deem just and proper.

6. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving: (i) a return date (“Return Date”) at least 45 days after the date of issuance of the Order to Show Cause for a hearing (“Hearing”) on the Verified Petition to be held before this Court; (ii) the form of notice to be given to InsCorp’s policyholders, claimants, creditors and all other interested parties regarding the Verified Petition and the Hearing; and (iii) the method of service of the Notice, *i.e.*, by: (a) posting on the Internet web page maintained by the NYLB at <http://nylb.org> at least 15 business days prior to the Return Date; (b) mailing same by United States first class mail to the return date to InsCorp’s known creditors with allowed or unadjudicated claims; and (c) publication in *Business Insurance*, or a newspaper of similar circulation, once per week for two consecutive weeks commencing within four weeks from the issuance of this Order to Show Cause, such service shall be deemed good and sufficient service.

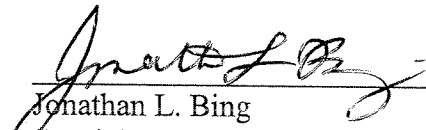
7. No previous application for the relief sought herein has been made to this or any court or judge thereof.

WHEREFORE, it is respectfully requested that this Court enter an order:

- a) approving the Report;
- b) establishing December 31, 2012 as the Bar Date for presentment of all claims other than claims for administrative costs and expenses;
- c) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date;
- d) barring and discharging all claims for losses reported after the Bar Date;

- e) authorizing the continued payment of administrative costs and expenses;
- f) authorizing the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available;
- g) extending judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and
- h) providing for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
August 23, 2012

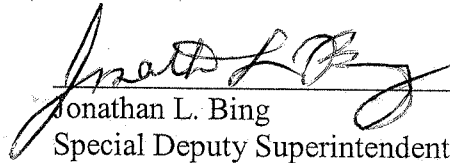
  
Jonathan L. Bing  
Special Deputy Superintendent and Agent of  
Benjamin M. Lawskey, Superintendent of  
Financial Services of the State of New York  
as Liquidator of The Insurance Corporation  
of New York

STATE OF NEW YORK )  
 ) ss:  
COUNTY OF NEW YORK)

Jonathan L. Bing, being duly sworn, deposes and says:

That he has read the foregoing Verified Petition, and that the same is true to his knowledge except as to the matters therein stated to be alleged on information and belief and as to those matters he believes to be true; that the reason this petition is verified by this deponent rather than by the Superintendent of Financial Services of the State of New York is that deponent is the duly appointed Special Deputy Superintendent and Agent of the Superintendent of Financial Services of the State of New York as Liquidator of The Insurance Corporation of New York and as such is acquainted with the facts alleged therein.

Deponent further says that the sources of his information and the grounds of his belief as to the matters to be alleged on information and belief are from or were derived from the records, books and papers of said The Insurance Corporation of New York in the possession of the Liquidator and communications made to deponent by employees of the Liquidator.

  
Jonathan L. Bing  
Special Deputy Superintendent and Agent of  
Benjamin M. Lawskey, Superintendent of  
Financial Services of the State of New York  
as Liquidator of The Insurance Corporation  
of New York

Sworn to before me this  
23<sup>rd</sup> day of August, 2012

  
Notary Public

Alice Jenkins  
Notary Public, State of New York  
No. 01JE037989  
Qualified in New York County  
Commission Expires: March 06, 20 14

# EXHIBIT 1

**REPORT ON THE STATUS OF THE LIQUIDATION OF THE INSURANCE  
CORPORATION OF NEW YORK AND REQUEST FOR AUTHORITY TO  
DISTRIBUTE ASSETS**

**INTRODUCTION**

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York (“Superintendent”) as liquidator (“Liquidator”) of The Insurance Corporation of New York (“InsCorp”) has appointed Jonathan L. Bing as Special Deputy Superintendent and agent of the Liquidator (“Special Deputy”), to carry out, through the New York Liquidation Bureau (“NYLB”), the responsibilities of the Liquidator. The Liquidator, by the Special Deputy, hereby submits this Liquidator’s report (“Report”) on the status of the InsCorp liquidation proceeding (“Liquidation Proceeding”).

This Court entered an order (“Liquidation Order”) on March 10, 2010 (“Liquidation Order Date”), pursuant to which InsCorp was adjudged to be insolvent and placed into liquidation. The Liquidation Order appointed the then-Superintendent of Insurance of the State of New York (and his successors in office) as Liquidator of InsCorp. A copy of the Liquidation Order is attached hereto as Exhibit A. The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of InsCorp.

Pursuant to the Liquidation Order, the Liquidator was given the responsibility for:

- a. Identifying InsCorp’s creditors, policyholders and claimants;
- b. Notifying InsCorp’s creditors, policyholders and claimants to present their claims;
- c. Marshalling InsCorp’s assets;
- d. Adjudicating the claims presented and establishing the total amount of InsCorp’s liabilities;
- e. Distributing InsCorp’s assets to creditors with allowed claims; and

- f. Otherwise liquidating InsCorp's business pursuant to Article 74 of the New York Insurance Law ("Insurance Law").

The Liquidator has been discharging his responsibilities since the Liquidation Order Date. This Report sets forth a history of InsCorp, a summary of the Liquidator's activities pursuant to the Liquidation Order and Insurance Law Article 74, the financial status of InsCorp and the basis for the Liquidator's recommendations to: (i) approve this Report; (ii) establish December 31, 2012, as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorize and direct the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) bar and discharge all claims for losses reported after the Bar Date; (v) authorize the continued payment of administrative costs and expenses; (vi) authorize the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities set forth in Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extend judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and (viii) provide for such other and further relief as this Court deems appropriate and just.

### **BACKGROUND**

InsCorp, formerly known as The Reinsurance Corporation of New York, was incorporated in the State of New York as a stock casualty company on May 29, 1968. On or

about October 27, 1999, InsCorp became a wholly-owned subsidiary of Trenwick America Reinsurance Corporation, which is a wholly-owned subsidiary of Trenwick America, LLC.

InsCorp was licensed in the District of Columbia and all states except Maine and Hawaii. It was licensed under the laws of the State of New York on July 11, 1968. InsCorp was licensed to transact the kinds of insurance set forth in the following numbered paragraphs of Section 1113(a) of the New York Insurance Law:

<u>Paragraph</u>	<u>Kind of Insurance</u>
3	Accident and health
4	Fire
5	Miscellaneous property
6	Water damage
7	Burglary and theft
8	Glass
9	Boiler and machinery
10	Elevator
11	Animal
12	Collision
13	Personal injury liability
14	Property damage liability
15	Workers' compensation and employers' liability
16	Fidelity and surety
17	Credit
19	Motor vehicle and aircraft
20	Marine
21	Marine protection and indemnity

On or about April 2, 2003, the then-New York State Department of Insurance ("Insurance Department") commenced an examination into the financial condition of InsCorp as of December 31, 2002. By report on examination dated August 4, 2004 ("Report on Examination"), the Insurance Department concluded that InsCorp's capital was impaired by \$166,727,929, and that its minimum surplus to policyholders was impaired by \$197,827,929.

In 2004, InsCorp entered into a stipulation with the Insurance Department whereby InsCorp agreed to cease writing any new or renewal insurance until it was otherwise notified.

On March 31, 2005, pursuant to Insurance Law Section 1321 and 11 NYCRR 128 (“Regulation 141”), InsCorp submitted to the Insurance Department a commutation plan (“Regulation 141 Plan”) as a means of eliminating the impairment of InsCorp’s minimum required capital.

On June 29, 2006, InsCorp’s board of directors (“Board”) held a special meeting at which the Board unanimously approved a resolution consenting to the entry of an order of rehabilitation or liquidation and the commencement of proceedings for that purpose in the Supreme Court of the State of New York, County of New York.

Additionally, despite implementation of the Regulation 141 Plan, InsCorp’s minimum required capital remained impaired. Based upon InsCorp’s annual statement for the year 2008 (“2008 Annual Statement”), InsCorp was insolvent at December 31, 2008. The 2008 Annual Statement reflected admitted assets of \$62,200,374 and liabilities of \$175,710,853.

Consequently, based on InsCorp’s insolvency and the Board’s consent to InsCorp being placed into rehabilitation the then-Superintendent, in his regulatory capacity, petitioned this Court to commence a rehabilitation proceeding. On June 30, 2009 (“Rehabilitation Date”), this Court issued an order of rehabilitation (“Rehabilitation Order”), a copy of which is attached hereto as Exhibit B, appointing the then-Superintendent and his successors in office as rehabilitator (“Rehabilitator”) of InsCorp and directing the Rehabilitator to “immediately take possession of [InsCorp’s] property, conduct its business [and] take such steps toward the removal of the causes and conditions which made the proceeding necessary... .” Insurance Law Section 7403(a).

To determine if InsCorp could be rehabilitated successfully, the Rehabilitator *inter alia*: (i) reviewed open claim files; and (ii) considered soliciting offers from companies in the private sector regarding the acquisition of InsCorp.



The Rehabilitator determined that further efforts to rehabilitate InsCorp would be futile. InsCorp had been in runoff since 2004 and, as of the Rehabilitation Date, InsCorp possessed no tangible assets or employees capable of managing its affairs. InsCorp has no business plan, assets or employees that could be used to reorganize its business. Furthermore, InsCorp's rehabilitation required an infusion of capital to eliminate its insolvency and meet minimum surplus requirements. No person or entity was willing to make the required capital investment in InsCorp. Upon commencement of the rehabilitation proceeding, the Rehabilitator reviewed InsCorp's financial condition and found that InsCorp did not have sufficient cash to meet day-to-day operations, lacked revenue because it ceased writing insurance policies in 2004, and had a small client base.

In accordance with Insurance Law Section 7403(c), the Rehabilitator sought an order placing InsCorp into liquidation. On March 10, 2010, InsCorp was placed into liquidation and the then-Superintendent and his successors in office were appointed Liquidator. *See Exhibit A.*

**FINANCIAL CONDITION OF INSCORP**  
**AS OF THE LIQUIDATION ORDER DATE**

The Liquidator conducted a review of InsCorp's financial position as of the Liquidation Order Date and found that InsCorp had assets totaling \$149,213,752 and liabilities totaling \$379,566,982, making it insolvent in the amount of \$230,353,230.

**A. Assets**

As of the Liquidation Order Date, InsCorp had total cash and invested assets in the amount of \$11,634,986, which consisted of cash and equivalents in the amount of \$8,293,264, short term investments with a fair market value of \$2,474,312 and bonds with a fair market value of \$867,410. InsCorp's other assets consisted of \$26,012,306 in receivable from affiliates, \$36,661 in accrued investment income and \$2,466,914 in miscellaneous assets. Additionally,

InsCorp was carrying reinsurance recoverables on paid losses and paid loss adjustment expenses in the amount of \$22,405,648, reinsurance recoverables on unpaid losses and unpaid loss adjustment expenses in the amount of \$76,300,705, statutory deposits held by other states in the amount of \$7,362,203, funds held or deposited with reinsurance companies in the amount of \$967,581 and other restricted assets in the amount of \$2,026,748.

**B. Liabilities**

As of the Liquidation Order Date, InsCorp's records reflect total liabilities in the amount of \$379,566,982, which consisted of \$1,005,071 for secured creditors, \$876,224 for Rehabilitator's operating and administrative expenses, \$35,903,711 for the New York Property/Casualty Insurance Security Fund and the Public Motor Vehicle Liability Security Fund (collectively, "Security Funds")<sup>1</sup> and other guaranty funds of foreign states (*i.e.*, states other than New York) ("Guaranty Funds") as gross liability for loss claim reserves, \$70,526,382 for incurred but not reported claims for loss and loss adjustment expenses, \$4,668,603 in unsecured creditor claims (other than reinsurance related), \$112,844,841 in reinsurance related unsecured claims and \$153,742,150 in shareholder liabilities. InsCorp's comparative balance sheet as of the Liquidation Order Date and December 31, 2011 and the statement of changes in cash and invested assets for the period between the Liquidation Order Date and December 31, 2011 (collectively, "Financial Statements") are attached hereto, as Exhibit C.

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<sup>1</sup> The Security Funds were established under Insurance Law Article 74 to pay eligible claims remaining unpaid by reason of an insolvent insurers inability to meet its obligations to policyholders.

## LIQUIDATION PROCEEDING

### A. Presentment of Claims

Pursuant to the Liquidation Order, the Liquidator published notice of InsCorp's Liquidation Proceeding in *The Journal of Commerce* and *The New York Times* once a week for two consecutive weeks.

In accordance with Insurance Law Section 7432(b), all claims against InsCorp were required to have been presented to the Liquidator on or before the deadline of July 10, 2010 ("Filing Deadline"), which was four months after the Liquidation Order Date. Under Insurance Law Article 74, claims presented prior to the Filing Deadline are entitled to share in a distribution of InsCorp's assets.

In order to comply with Insurance Law Section 7433(b)(2), the Liquidator reviewed InsCorp's books and records and identified 209 claimants ("Identified Claimants"). Each of the Identified Claimants is deemed to have a timely-filed claim in this Liquidation Proceeding. For the Identified Claimants, being on the books and records secures the right to participate in this Liquidation Proceeding as timely-filed creditors if and when the Identified Claimants present an actual claim arising under an insurance policy issued by InsCorp.

The Identified Claimants may continue to present to the Liquidator specific actual claims arising under insurance policies issued by InsCorp after the Filing Deadline until the Bar Date is approved by this Court. The establishment of the Bar Date is in accordance with Insurance Law Section 7417, which vests courts with authority to grant such relief as the nature of the case and the interests of policyholders, creditors and the public may require. This authority encompasses the establishment of bar dates to facilitate the efficient closure of an estate in order to preserve and maximize the assets available to pay all classes of creditors with allowed claims. *See e.g., In*

*the Matter of Dominion Ins. Co.*, Index No., 40924/1986 (Sup. Ct., N.Y. Co., April 5, 1999)(liquidation court approving bar dates); *In the Matter of Ideal Mutual Ins. Co.*, Index No., 40275/1985 (Sup. Ct. N.Y. Co., December 9, 2003)(same).

The establishment of the Bar Date represents an important step toward bringing the Liquidation Proceeding to a conclusion. The Bar Date will enable the Liquidator to have greater certainty regarding InsCorp's liabilities and will facilitate a distribution of InsCorp's assets to known creditors with timely filed claims.

Because InsCorp has been in runoff since 2004, has not had in-force policies since then, and because the statute of limitations has run for the types of claims that would arise under InsCorp's policies, the Liquidator does not expect additional claims in the Liquidation Proceeding. However, the Bar Date will ensure that there are none.

As noted below in *Current Status of Claims Presented*, there are 209 potential claims in the Liquidation Proceeding, of which five claims have been disallowed or recommended for disallowance and 19 claims of the various Guaranty Funds (including the claims of the Security Funds) have been allowed but not yet paid. In order to consider a distribution to the Guaranty Funds and other allowed claimants, the Liquidator must cut off the presentment of claims so that InsCorp's total liabilities can be determined with more certainty. The establishment of the Bar Date will also assist the Liquidator in preserving the estate's assets and maximizing distributions to creditors with allowed claims.

#### **B. Description of Classes of Creditors**

The priority of distribution of assets from a liquidating insurer is set forth by Insurance Law Section 7434, which provides that all members of a senior class be paid in full before

members of the next class may receive any payment. Section 7434(a)(1) provides in pertinent part:

Upon the recommendation of the Superintendent, and under the direction of the court, distribution payments shall be made in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims.... No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies.

The classes of claims, as provided for in the prioritization scheme established by Insurance Law Section 7434<sup>2</sup>, are as follows:

- (i) Class one. Claims with respect to the actual and necessary costs and expenses of administration incurred by a liquidator or rehabilitator.
- (ii) Class two. All claims under policies, including claims of federal, state or local government for losses incurred, third party claims, claims for unearned premiums, and all claims of security funds or guaranty associations, but excluding claims under reinsurance contracts.
- (iii) Class three. Claims of the federal government, except those under Class two.
- (iv) Class four. Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law.
- (v) Class five. Claims of state and local governments, except those under Class two.
- (vi) Class six. Claims of general creditors, including but not limited to claims arising under reinsurance contracts.

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<sup>2</sup> In amendments passed by the Legislature in 2005, Insurance Law Section 7434 was amended, effective May 11, 2005, adding subsection (e), which retroactively engrafted the statutory scheme of prioritized classes of claimants upon, *inter alia*, the ongoing InsCorp liquidation.

- (vii) Class seven. Claims filed late or any other claims other than claims stated in Class eight or Class nine below.
- (viii) Class eight. Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307.
- (ix) Class nine. Claims of shareholders or other owners in their capacity as shareholders.

The Liquidator has not distributed any of InsCorp's assets.

**C. Adjudication of Claims**

Pursuant to the Liquidation Order, the Liquidator is responsible for adjudicating claims presented by InsCorp's creditors. A claim is "adjudicated" upon the Liquidator's recommendation to the Court that the claim be either "allowed" or "disallowed." An "allowed" claim is a claim that has been approved by a liquidation court and is therefore allowed to share in the distribution of assets pursuant to Insurance Law Section 7434. A "disallowed" claim is a claim that has been rejected and will not share in any distribution of the estate's assets. Pursuant to orders issued by this Court setting forth a procedure for adjudication of claims and appointing referee (collectively, "Adjudication Procedures"), creditors who object to the Liquidator's recommendations are entitled to a hearing before the Court or a court-appointed referee. Copies of the Adjudication Procedures are attached hereto, collectively, as Exhibit D.

**FINANCIAL CONDITION OF INSCORP**  
**AS OF DECEMBER 31, 2011**

As of December 31, 2011, InsCorp had total assets of \$40,981,891, which consisted of cash and equivalents in the amount of \$14,579,989, bonds with a fair market value of \$20,239,313, receivables from affiliates in the amount of \$447,565, accrued investment income in the amount of \$25,229, miscellaneous assets in the amount of \$187,112, statutory deposits

held by other states in the amount of \$2,071,911, funds held or deposited with reinsurance companies in the amount of \$967,581 and other restricted assets in the amount of \$2,463,191. As of December 31, 2011, InsCorp's total liabilities were \$276,076,830, which consisted of \$1,448,087 for secured creditors, \$1,413,323 for the Liquidator's Class one claim, \$39,353,800 for Class two claims, \$1,515,774 for Class five claims, \$124,878,247 for Class six claims and \$107,467,599 for Class nine claims. As of December 31, 2011, InsCorp was insolvent in the amount of \$235,094,939. *See Exhibit C.*

**A. Collection of Assets**

As of December 31, 2011, the Liquidator collected assets in the total amount of \$29,265,074, as described in more detail below.

1. *Cash Receipts*

As of December 31, 2011, the Liquidator collected assets in the total amount of \$24,526,402, consisting of: \$585,505 in reinsurance proceeds, \$18,097 in salvage and subrogation recoveries, \$23,193,365 in litigation awards, \$329,169 in investment income, and \$400,266 in other miscellaneous receipts.

2. *Receipt from TPA Deposits*

As of December 31, 2011, the Liquidator received \$14,579, which constitutes a portion of the deposits being held by InsCorp's third-party administrators.

3. *Receipt from Statutory Deposits*

As of December 31, 2011, the Liquidator received \$4,724,093, which constitutes a portion of the statutory deposits being held by other state insurance departments and ancillary receivers.

## **B. Disbursement of Assets**

As of December 31, 2011, the Liquidator had disbursed InsCorp's assets in the total amount of \$6,074,044, as described in more detail below.

### *1. Administrative Expenses*

As of December 31, 2011, the Liquidator incurred and paid \$5,473,388 in administrative expenses, including: \$1,031,823 for loss payments, \$357,645 for LAE, \$101,945 for rehabilitation expenses, \$1,216,611 for the salaries of the Liquidator's staff, \$577,900 for employee relations and welfare (e.g., contributions to employee benefits such as health, pension and other fringe benefits), \$380,885 for rent and related expenses, \$358,551 for general and administrative expenses (e.g., insurance, office equipment and supplies, printing, postage and telephone service), \$1,362,623 for professional fees (e.g., accountants to prepare financial statements and other consultants for litigation support), and \$85,405 for other miscellaneous expenses.

### *2. Deposit with Central Disbursement Account*

The Liquidator disbursed \$250,000 of InsCorp's assets towards a cash advance deposit from InsCorp to central disbursement account ("CDA"). The Liquidator uses the funds in the CDA to pay, on behalf of InsCorp, administrative expenses such as salaries, employee relations and welfare, payroll taxes, rent for premises and office expenses.

### *3. Transfer to Segregated Accounts*

The Liquidator transferred \$350,656 of InsCorp's free assets to segregated cash accounts for contingent liabilities.



## CURRENT STATUS OF CLAIMS PRESENTED

As of December 31, 2011, 209 potential claims have been recorded in this Liquidation Proceeding, of which five claims have been adjudicated, one has been voided as a duplicate filing, and 203 claims remain open. Of the five adjudicated claims, all have been either disallowed or recommended for disallowance, zero are Class two claims that have been allowed and paid in full by the Security Funds, and zero claims were allowed but not covered by the Security Funds. Of the 203 open claims, 19 are Class two claims, of which two claims are for the Security Funds, 60 are Class five claims and 123 are Class six claims, and one is a Class nine claim.

### **A. Class One Claims**

Since the Liquidation Order Date through December 31, 2011, the Liquidator has incurred and paid administrative expenses in the amount of \$5,473,388. Additionally, the Liquidator has a Class one claim in this proceeding for incurred but not paid administrative expenses as of December 31, 2011, in the amount of \$1,413,323.

### **B. Class Two Claims**

#### *1. Security Fund Claims*

Pursuant to Insurance Law Article 76, the Security Funds pay claims (up to a statutory maximum) on policies insuring property or risks located in the State of New York or policies issued in the State of New York to a New York resident insuring property or risks located outside of the State of New York, including the LAE and administrative costs of processing and adjudicating those claims (collectively, "Security Fund Covered Claims"). Upon paying a Security Fund Covered Claim that was an obligation of the insolvent insurer, the Security Fund becomes subrogated to the rights of the policyholder against the insolvent

insurer's estate. Insurance Law Section 7609(a) expressly permits the Security Fund to maintain a subrogation claim against the estate. Such claims will remain open until all underlying claims reported prior to the Bar Date have been resolved or otherwise quantified.

As of December 31, 2011, the loss and expense reserve for the two open claims of the Security Funds was \$10,669,457. The Liquidator will continue to submit known and reported Security Fund Covered Claims to the Court for allowance to permit payment of such claims. In addition to the above reserve amount, the Security Funds each have a claim that has been allowed in the Liquidation Proceeding in the total combined amount of \$3,104,235, for losses paid, LAE and administrative costs and expenses.

2. *Guaranty Fund Claims*

As of December 31, 2011, there are 17 Guaranty Fund claims in this proceeding, including loss, LAE and administrative expenses which have been allowed in the amount of \$172,824. As of December 31, 2011, the Liquidator has distributed \$0 in early access distribution to the Guaranty Funds. Additionally, the Guaranty Funds have retained \$595,824 in salvage and subrogation recoveries and release of statutory deposits from other state ancillary receivers. Open reserves for loss, LAE and administrative expenses on Guaranty Fund claims are \$26,003,108.

3. *Non-Fund Covered Claims*

There are no Class two non-fund-covered creditor claims allowed in the Liquidation Proceeding.

**C. The Remaining Classes of Claims**

There are no Class three, Class four, Class seven, or Class eight claims in this Liquidation Proceeding. The Class five, Class six and Class nine claims have not been adjudicated in the

Liquidation Proceeding; and because InsCorp has insufficient assets to pay Class two claims in full the Liquidator does not intend to further adjudicate any claims in order to avoid unnecessary costs to the estate.

### **PAYMENT TO CREDITORS**

The Liquidator has accounted for InsCorp's financial situation through December 31, 2011, and has reserved for the Class two claims which have yet to be adjudicated, as well as for projected administrative costs and expenses. This reserve is necessary to ensure that, at the time of any distribution, there will be sufficient assets to pay all Class two creditors in parity, as well as to pay the administrative costs and expenses incurred as of that time. Accordingly, the Liquidator recommends he be authorized to distribute assets, to the extent that assets are available after payment of administrative costs and expenses and in accordance with the priorities set forth in Insurance Law Section 7434, to those creditors of InsCorp with allowed claims.

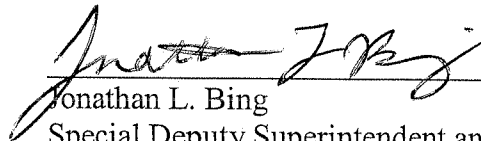
### **RELIEF SOUGHT**

The Liquidator submits this Report to describe to this Court the status the InsCorp Liquidation Proceeding. In support of the Liquidator's recommendations stated herein, the Liquidator has submitted to this Court the Verified Petition of the Special Deputy. Based on the facts set forth in the Verified Petition and herein, the Liquidator requests in the Verified Petition that this Court issue an order which:

- a. Approves this Report;
- b. Establishes December 31, 2012 as the Bar Date for presentment of all claims other than claims for administrative costs and expenses;
- c. Authorizes and directs the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date;

- d. Bars and discharges all claims for losses reported after the Bar Date;
- e. Authorizes the continued payment of administrative costs and expenses;
- f. Authorizes the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities of Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available;
- g. Extends judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office 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; and
- h. Provides for such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
August 23, 2012

  
Jonathan L. Bing  
Special Deputy Superintendent and Agent of  
Benjamin M. Lawsky, Superintendent of  
Financial Services of the State of New  
York as Liquidator of The Insurance  
Corporation of New York

L 11783/mad

# EXHIBIT “A”

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 71 Thomas Street, in the County, City and State of New York, on the 4 day of MARCH, 2010.

P R E S E N T:

HON. JOAN M. KENNEY, J.S.C.  
-----X

In the Matter of

Index No. 401477/09

the Application of

**ORDER OF LIQUIDATION**

JAMES J. WRYNN, Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business and affairs of

THE INSURANCE CORPORATION OF NEW YORK.  
-----X

Petitioner, James J. Wrynn, Superintendent of Insurance of the State of New York ("Superintendent"), moved this Court by order to show cause ("Order to Show Cause"), which was returnable on February 23, 2010 (the "Return Date"), for an order to convert the rehabilitation proceeding of The Insurance Corporation of New York ("INSCORP") to a liquidation proceeding. Pursuant to the Order to Show Cause, the Rehabilitator provided INSCORP claimants and creditors with notice, by posting at the Internet web page maintained by the New York Liquidation Bureau at least 30 days prior to the Return Date, of the Superintendent's application and Return Date, and were directed to serve all objections on the Superintendent and submit the same to this Court, at least seven days prior to the Return Date.

In the absence of objections to the Superintendent's application and upon reading and filing the petition of the Superintendent, duly verified the 15<sup>th</sup> day of December, 2009, and the exhibits attached thereto; this Court finds that:

1. INSCORP was placed into rehabilitation and the Superintendent was appointed rehabilitator (the "Rehabilitator") by order of this Court (the "Rehabilitation Order") entered June 30, 2009;

2. The Rehabilitation Order found that INSCORP consented to the entry of the Rehabilitation Order;

3. Further efforts to rehabilitate INSCORP would be futile;

4. INSCORP is insolvent;

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

6. It is in the best interest of all persons concerned that the Superintendent be vested with title to all INSCORP'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 petition is granted and INSCORP is found to be insolvent;
2. The rehabilitation proceeding of INSCORP instituted in the Supreme Court, New York County, is terminated;
3. This order shall constitute a final order of liquidation for purposes of triggering the property and casualty guaranty associations in the respective states in which INSCORP previously did business;
4. The Superintendent, and his successors in office, are appointed liquidator ("Liquidator") of INSCORP 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 INSCORP'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 INSCORP's business and affairs in accordance with Insurance Law Article 74;

5. The Liquidator may deal with the property and business of INSCORP in its name or in the name of the Liquidator;
6. 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 Bruce Shulan, former General Counsel of INSCORP, as designated agent for service of process, by regular mail and certified mail, return receipt requested, on or before 12 day of MARCH, 2010; (b) posting 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 in *Business Insurance* once a week in two consecutive publication weeks, commencing within four weeks of entry of this Order.
7. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered.
8. The notice prescribed in decretal paragraph 6 hereof is sufficient notice to all persons interested in INSCORP;
9. In accordance with Insurance Law Section 7405, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of INSCORP, 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;
10. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or securities of INSCORP 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 INSCORP, 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. INSCORP, its officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations, and other persons or entities: (i) having any property, records, books or papers belonging to INSCORP, wherever located, including but not limited to insurance policy, loss claim and legal files, shall preserve all of them and are directed to promptly assign, transfer, turn over and deliver them to the Liquidator; and (ii) having any property, records, books or papers relating to INSCORP, wherever located, shall preserve all of them and are directed, upon the Liquidator's request, to promptly submit them to the Liquidator for examination and copying;



12. Any persons or entities providing claims processing services, data processing services, electronic records retention services or other information technology services to INSCORP shall maintain and preserve all information in its possession ("Information") relating to INSCORP, 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 by INSCORP, and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator for examination and copying;
13. 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 INSCORP'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;
14. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
15. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of INSCORP and all other persons other than the Superintendent and his agents are permanently enjoined and restrained from: (i) transacting INSCORP's business; (ii) wasting or disposing of, or permitting to be done any act or thing that might waste or dispose of, INSCORP's property; and (iii) interfering with the Liquidator in the possession, control or management of INSCORP's property or in the discharge of his duties;
16. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against INSCORP, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents with respect to any claims against INSCORP;
17. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against INSCORP's assets or any part thereof;

18. All persons who have first-party policyholder no-fault loss claims pursuant to Article 51 of the Insurance Law against INSCORP are enjoined from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of this Order;
19. 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;
20. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
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  
THE INSURANCE CORPORATION OF NEW YORK"

ENTER



\_\_\_\_\_  
JOAN M. KENNEY  
J.S.C.

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

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

PART 8

*In the Matter of the Rehabilitation of  
The Insurance Corporation of New York,  
nxx*

INDEX NO. 401477/09

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

MOTION SEQ. NO. 002

MOTION CAL. NO. 2/23/10

The following papers, numbered 1 to 7 were read on this motion to/for Petition for an order of liquidation

*verified Petition*  
~~Notice of Motion/~~ Order to Show Cause – Affidavits – Exhibits ...

Answering Affidavits – Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED

1-7

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

**FILED**

MAR 10 2010

NEW YORK  
COUNTY CLERK'S OFFICE

**MOTION IS DECIDED IN ACCORDANCE  
WITH THE ATTACHED MEMORANDUM DECISION.**

Dated: March 4, 2010

  
**JOAN M. KENNEY** 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):

# EXHIBIT “B”

C001

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, New York, New York, on the 29 day of June, 2009.

PRESENT:

HON. MARILYN SHAFER, J.S.C.

RECEIVED  
JUN 29 2009  
PART 8  
NYS SUPREME COURT - CIVIL

FILED

JUN 30 2009

In the Matter of

the Application of

Index No.: 401477/09

Eric R. Dinallo, Superintendent of Insurance of the State of New York, for an order to take possession of the property of and rehabilitate

COUNTY CLERK'S OFFICE  
NEW YORK

ORDER OF  
REHABILITATION

THE INSURANCE CORPORATION OF NEW YORK.

X

Petitioner, Eric R. Dinallo, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court for an order to rehabilitate and take possession of the property of The Insurance Corporation of New York ("INSCORP"), and upon reading and filing the petition of the Superintendent, duly verified the 10th day of June, 2009, and the exhibits annexed thereto; this Court finds that:

1. INSCORP was incorporated as a stock insurance company on May 29, 1968 and was licensed under the laws of the State of New York on July 11, 1968;
2. INSCORP's principal office is located at 125 W. 55th Street, New York, New York 10019;
3. INSCORP is subject to the New York Insurance Law ("Insurance Law") and, in particular, to Article 74 thereof;
4. INSCORP is insolvent;
5. INSCORP has consented to the entry of an order of rehabilitation; and
6. It is in the best interest of INSCORP's policyholders, creditors and the general

public that the Superintendent be directed to take possession of INSCORP's property and to rehabilitate its business and affairs;

NOW, on motion of the Honorable Andrew M. Cuomo, Attorney General of the State of New York, it is ORDERED as follows:

1. The petition is granted;
2. The Superintendent, and his successors in office, are appointed rehabilitator ("Rehabilitator") of INSCORP 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; and (ii) authorized and directed to immediately take possession of INSCORP's property, conduct INSCORP's business and take such steps toward the removal of the causes and conditions which made this proceeding necessary as they shall deem wise and expedient;
3. The Rehabilitator may deal with the property and business of INSCORP in its name or in the name of the Rehabilitator;
4. Notice directing all persons having claims against INSCORP to file or present their claims to the Rehabilitator is deferred until further order of this Court;
5. INSCORP, and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all other persons having any property or records belonging to or relating to INSCORP, including but not limited to insurance policy, loss claim and legal files, shall preserve all of them and are directed, upon the Rehabilitator's request, to promptly assign, transfer, turn over and deliver them to the Rehabilitator;
6. Any persons, firms, corporations or associations having any books, papers or records relating to the business of INSCORP shall preserve all of them and, upon the Rehabilitator's request, promptly submit them to the Rehabilitator for examination and copying;
7. Any person or entity furnishing claims processing, data processing, electronic records retention or other information technology services to INSCORP shall, upon the Rehabilitator's request, maintain and preserve all information in its possession ("Information") relating in any way to INSCORP, including but not limited to all documents, data, electronic files and records, and are directed to assign, transfer, turn over and deliver all Information to the Rehabilitator;

8. 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 INSCORP's funds, accounts or assets ("Assets") shall immediately upon the Rehabilitator's request and direction: (i) turn over custody and control of such Assets to the Rehabilitator; and (ii) change the name of such Assets, withdraw them from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of the rehabilitation proceeding;
9. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of INSCORP are permanently enjoined and restrained from: (i) transacting the business of INSCORP; (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of INSCORP's property; and (iii) interfering with the Rehabilitator in the possession, control and management of INSCORP's property or in the discharge of his duties;
10. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against INSCORP, the Rehabilitator or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to any claims against INSCORP;
11. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against INSCORP's assets or any part thereof;
12. All parties to actions, lawsuits or special or other proceedings ("Litigation") in which INSCORP 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, applications or other requests to the court of any nature, proceedings on defaults, settlements or judgments, service of documents, motions, discovery or any other litigation tasks or procedures for a period of ~~180~~ days from the date of entry of this Order;
13. All persons who have <sup>120 days</sup> first-party policyholder no-fault loss claims pursuant to Article 51 of the Insurance Law against INSCORP are enjoined from presenting and filing claims with Rehabilitator for a period of 90 days from the date of entry of this Order;
14. The Rehabilitator, his successors in office and their agents and employees are relieved of any liability for any cause of action of any nature against them for any actions or omissions of any one or more of them when acting in good faith, in accordance with the orders of this Court, or in the

performance of their powers and duties pursuant to Insurance Law Article 74;

15. The Rehabilitator may at any time make further application to this Court for such further and different relief as he sees fit;
16. A copy of this Order shall be served forthwith upon INSCORP or its attorney;
17. This Court shall retain jurisdiction over this matter for all purposes;
18. All further papers in this proceeding shall bear the caption:

In the Matter of

the Rehabilitation of

THE INSURANCE CORPORATION OF NEW YORK

19. The Rehabilitator 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

MARILYN SHAPER

J.S.C.

FILED

JUN 30 2009

COUNTY CLERK'S OFFICE  
NEW YORK



# EXHIBIT “C”

**THE INSURANCE CORPORATION OF NEW YORK IN LIQUIDATION**  
**STATEMENT OF ASSETS**

	Dec. 31, 2011	Mar. 10, 2010
<b>Unrestricted Assets</b>		
Cash-Unrestricted	\$ 14,579,989	\$ 8,293,264
Short-Term Investments	-	2,474,312
Bonds	<u>20,239,313</u>	<u>867,410</u>
<b>Total Cash and Invested Assets</b>	<b>\$ 34,819,302</b>	<b>\$ 11,634,986</b>
Investment in Subsidiary	-	-
<b>Other Invested Assets</b>		
Reinsurance Recoverables on Paid Losses and LAE	22,239,473	26,897,075
Less: Allowance for Uncollectible Reinsurance Recoverable	<u>(22,239,473)</u>	<u>(4,491,427)</u>
<b>Net Reinsurance Recoverable on Paid Losses and LAE</b>	-	22,405,648
Reinsurance Recoverables on Unpaid Losses and Unpaid LAE	35,736,272	77,380,415
Less: Allowance for Uncollectible Reinsurance Recoverable	<u>\$ (35,736,272)</u>	<u>\$ (1,079,710)</u>
<b>Net Reinsurance Recoverable on Unpaid Losses and LAE</b>	-	76,300,705
Receivable from Affiliates	447,565	26,012,306
Accrued Investment Income	25,229	36,661
Other Assets	<u>187,112</u>	<u>2,466,914</u>
<b>Total Unrestricted Assets</b>	<b>35,479,208</b>	<b>138,857,220</b>
<b>Restricted Assets:</b>		
Restricted - Statutory Deposits in This or Other States	2,071,911	7,362,203
Restricted - Funds held by or deposited with Reinsurance Companies	967,581	967,581
Restricted - Other	<u>2,463,191</u>	<u>2,026,748</u>
<b>Total Restricted Assets</b>	<b>5,502,683</b>	<b>10,356,532</b>
<b>Total Assets</b>	<b>\$ 40,981,891</b>	<b>\$ 149,213,752</b>

**THE INSURANCE CORPORATION OF NEW YORK IN LIQUIDATION**  
**STATEMENT OF LIABILITIES**

	Dec. 31, 2011	Mar. 10, 2010
Secured Claims	\$ 1,448,087	\$ 1,005,071
Class I - Administrative Claims:	1,413,323	876,224
Class II - Claims and Related Costs:		
Guaranty Fund Claims:		
Allowed Claims:		
Administrative Claims Expenses	\$ 14,103	-
Loss Adjustment Expenses (LAE)	6,221	-
Loss Claims	2,016,717	-
Unearned and Advance Premium Claims	-	-
Total Allowed Claims	2,037,041	-
Less Advance Dividends	(595,824)	-
Total Allowed Claims	1,441,217	-
Non - Allowed Claims:		
Administrative Claims Expenses	7,731,203	\$ 5,438,813
Loss Adjustment Expenses (LAE)	10,581,005	7,216,223
Loss Claim Reserves	19,595,375	23,248,675
Unearned and Advance Premium Claims	5,000	-
Total Non-Allowed Claims	\$ 37,912,583	\$ 35,903,711
Total Guaranty Fund Claims:	39,353,800	35,903,711
Creditor Claims:		
Allowed Claims:		
Loss Claims	-	-
Unearned and Advance Premium Claims	-	-
Total Allowed Claims	-	-
Less Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims:		
Loss Claims Reserves	-	-
Unearned and Advance Premium Claims	-	-
Loss Adjustment Expenses (LAE)	-	-
Total Non-Allowed Claims	-	-
Total General Creditor Claims	-	-
IBNR	-	70,526,382
Total Class II Claims and Related Costs:	\$ 39,353,800	\$ 106,430,093
Class III - Federal Government Claims:		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	-	-
Total Class III Claims	-	-
Class IV - Employee Claims:		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	-	-
Total Class IV Claims	-	-

**THE INSURANCE CORPORATION OF NEW YORK IN LIQUIDATION**  
**STATEMENT OF LIABILITIES**

	Dec. 31, 2011	Mar. 10, 2010
<b>Class V - State and Local Government Claims:</b>		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	<u>\$ 1,515,774</u>	-
Total Class V Claims	\$ 1,515,774	-
<b>Class VI - General Creditors:</b>		
Allowed General Unsecured Creditor Claims (Other than	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non Allowed General Unsecured Creditor Claims (Other than	-	-
Reinsurance Related)	<u>3,178,952</u>	<u>\$ 4,668,603</u>
Total General Unsecured Creditor Claims (Other than Reinsurance	3,178,952	4,668,603
Reinsurance Related Unsecured Claims	121,699,295	112,844,841
Less: Dividends	-	-
Total Reinsurance Related Unsecured Claims	<u>121,699,295</u>	<u>112,844,841</u>
Total Class VI Claims	124,878,247	\$ 117,513,444
<b>Class VII - Late Filed Claims:</b>		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	-	-
Total Class VII Claims	-	-
<b>Class VIII - Section 1307 (Shareholder) Loans:</b>		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	-	-
Total Class VIII Claims	-	-
<b>Class IX - Share Holder Claims:</b>		
Allowed Claims:	-	-
Less: Dividends	-	-
Total Allowed Claims	-	-
Non - Allowed Claims	<u>107,467,599</u>	<u>153,742,150</u>
Total Class IX Claims	\$ 107,467,599	\$ 153,742,150
<b>Other Liabilities</b>		
Total Liabilities	<u>276,076,830</u>	<u>379,566,982</u>
Liquidator's Surplus (Deficit)	<u>(235,094,939)</u>	<u>(230,353,230)</u>
Total Liabilities and Liquidator's Surplus (Deficit)	<u>\$ 40,981,891</u>	<u>\$ 149,213,752</u>

**THE INSURANCE CORPORATION OF NEW YORK IN LIQUIDATION**  
**STATEMENT OF CHANGES IN CASH AND INVESTED ASSETS**  
**FROM MARCH 10, 2010 TO DECEMBER 31, 2011**

<b>Receipts:</b>		
Investment Income	\$	329,169
Reinsurance Recovered		585,505
Salvage and Subrogation		18,097
Release from Statutory Deposits		4,724,093
Release from TPA Deposits		14,579
Litigation Awards		23,193,365
Miscellaneous		400,266
<b>Total Receipts</b>		<b>29,265,074</b>
<b>Disbursements:</b>		
Deposit with Central Disbursement Account		250,000
Rehabilitation Expenses		101,945
Transfer to Segregated Accounts		350,656
Losses Paid		1,031,823
Loss Adjustment Expenses		357,645
Salaries		1,216,611
Employee Relations & Welfare		577,900
Rent and Related Expenses		380,885
Professional Fees		1,362,623
General and Administrative Expenses		358,551
Other Expense		85,405
<b>Total Disbursements</b>		<b>6,074,044</b>
<b>Net Increase (Decrease) of Receipts Over Disbursements</b>		<b>23,191,030</b>
<b>Cash and Invested Assets (Unrestricted), as of March 10, 2010</b>		<b>11,634,986</b>
<b>Unrealized Gain / (Loss) on Investments</b>		<b>(6,713)</b>
<b>Cash and Invested Assets (Unrestricted), as of December 31, 2011</b>	<b>\$</b>	<b>34,819,303</b>

# EXHIBIT “D”

ime

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the courthouse, 71 Thomas Street, in County, City and State of New York, on the 31<sup>st</sup> day of January, 2010.

P R E S E N T :

HON. JOAN M. KENNEY, J.S.C.

-----X

Index No. 401477/09

In the Matter of

the Liquidation of

THE INSURANCE CORPORATION OF NEW YORK.

-----X

**ORDER APPROVING  
THE PROCEDURE FOR  
THE LIQUIDATOR'S  
ADJUDICATION OF  
CLAIMS**

Dennis J. Hayes, Special Deputy Superintendent and Agent of James J. Wrynn, Superintendent of Insurance of the State of New York as liquidator ("Liquidator") of The Insurance Corporation of New York ("InsCorp"), having moved this Court by verified petition dated the 8<sup>th</sup> of December, 2010 ("Verified Petition"), for an order approving a procedure ("Procedure") for judicial review of the Liquidator's adjudication of claims made in this proceeding, and it appearing from the Verified Petition that the Procedure will best serve the interests of InsCorp, its creditors, all other interested persons and that it should be approved and implemented;

**FILED**

NOW, based on the application of Liquidator, it is hereby ordered that:

FEB - 4 2011

The Procedure is approved.

NEW YORK  
COUNTY CLERK'S OFFICE

1. This Court finds that the Procedure is required for the orderly administration of the InsCorp estate. The Procedure will enable the Liquidator to dispose of claims on an ongoing basis while offering due process to all claimants who object to his recommendations.

2. The Procedure is as follows:

- a) The Liquidator shall, consistent with New York Insurance Law ("Insurance Law") Section 7433(b)(2) prepare, on a periodic basis, a list of claims that have been examined in that period which sets forth the claimant's name, last known address, the claim number and the amount, if any, recommended for allowance ("List").
- b) The Liquidator shall serve each claimant with a Notice of Determination ("NOD") for each claim on the List. Service shall be made by first class mail to the claimant's last known address. A sample NOD is attached hereto as Exhibit A.
- c) The NOD shall advise each claimant that:
  - (i) The Liquidator has examined the claim, the class within which the claim falls, and the amount, if any, which the Liquidator has recommended for allowance;
  - (ii) In the event that the amount recommended for allowance is zero, the Liquidator has recommended the claim for disallowance and the reason therefor;
  - (iii) No further action by the claimant is required if the claimant accepts the Liquidator's recommendation;
  - (iv) The claimant may object to the NOD by serving a written objection on the Liquidator prior to the last day for filing such objection, which is expressly set forth in the NOD and shall be at least sixty days after the date of mailing of the NOD;
  - (v) The Liquidator's recommendation will be presented to this Court for approval and the claimant's right to share in a distribution of assets, pursuant to Insurance Law Section 7434, will be fully and finally determined, unless the claimant objects as set forth herein;
  - (vi) In the event the claimant makes a timely objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will make an application to the Court, on notice, for an order approving the negotiated amount. If the objection cannot be resolved, the Liquidator will schedule a hearing to resolve disputed issues of fact.
  - (vii) The Liquidator will refer each claim for which there is an unresolved objection to the referee appointed by this Court to hear and report on the validity of the claimant's objections and the Liquidator will notify



each claimant of the time and place of the hearing on the claimant's claim; and

- (viii) Either the claimant or the Liquidator may petition this Court on notice for an order confirming the referee's report.
- d) The Liquidator shall move, ex-parte, at least seventy-five days after the date of mailing of the NOD, for an order approving the Liquidator's recommendations for adjudication of all claims for which no objections are timely received.
- e) The Liquidator is authorized, in his sole discretion, to settle claims at any time during the adjudication process.

ENTER FEB 03 2011



J.S.C.

JOAN M. KENNEY  
J.S.C.

**FILED**

FEB - 4 2011

NEW YORK  
COUNTY CLERK'S OFFICE

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the courthouse, 71 Thomas Street, in County, City and State of New York, on the 6<sup>th</sup> day of June, 2012.

P R E S E N T :

HON. JOAN M. KENNEY, J.S.C.

X

Index No. 401477/09

In the Matter of

the Liquidation of

**AMENDED ORDER  
APPOINTING  
SUCCESSOR REFEREE**

THE INSURANCE CORPORATION OF NEW YORK.

X

**WHEREAS**, an Order appointing Arthur Grieg, Esq. as successor referee to hear and report on claimants' objections to the Liquidator's determination of their claims submitted in the liquidation proceeding of The Insurance Corporation of New York ("InsCorp"), was filed in the County Clerk's Office of the Supreme Court of the State of New York, New York County, on January 27, 2012 ("Successor Referee Order"); and

**WHEREAS**, Arthur Grieg, Esq. has notified the Liquidator that he cannot accept the appointment as Successor Referee;

**NOW**, based on the application of the Liquidator, it is

**ORDERED**, that that portion of the Successor Referee Order appointing Arthur Grieg, Esq. as successor referee is vacated; and it is further

**FILED**

JUN - 7 2012

COUNTY CLERK'S OFFICE  
NEW YORK

**ORDERED**, that any and all disputed claims and objections filed by claimants in the liquidation proceeding of InsCorp which have not been settled or compromised are referred to:

NAME: MICHAEL ROBERTS, ESQ  
ROBERTS & ROBERTS,  
ADDRESS: 401 BROADWAY, NY, NY 10013  
PHONE NO.: (212) 226-4925

as Successor Referee to hear and take evidence on the factual issues raised by said objections and report thereon with all convenient speed; and it is further

**ORDERED**, that the Successor Referee shall be paid a fee based on an hourly rate of \$125 as an administrative expense of InsCorp; and it is further

**ORDERED**, that the Successor Referee appointed to hear and report on objections shall conduct those hearings at the place of business of the Liquidator of InsCorp, namely 110 William Street, Borough of Manhattan, City, County and State of New York; and it is further

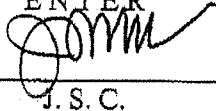
**ORDERED**, that if necessary, the Liquidator shall contact the objectants and the court-appointed Successor Referee to schedule a pre-hearing conference; and it is further

**ORDERED**, that at least five (5) days before the objections to disputed claims are to be brought on for a hearing by the Liquidator before the Successor Referee, the Liquidator shall send by regular mail to the objectants at their addresses as set forth in said objections a written notice setting forth the name of the claimants, the day, hour and place of hearing; and it is further

**ORDERED**, that the Successor Referee shall take evidence and report to the Court as to the objections filed by the claimants and any and all defenses of the Liquidator against such objections, so that all claims directly against InsCorp, in liquidation, may be adjudicated in the liquidation proceeding; and it is further

**ORDERED**, that whenever it shall appear to the Liquidator that disputed claims against which objections have been filed should be compromised, settled or adjusted, the Liquidator, on agreement with the claimants, may compromise, settle or adjust said claims without the necessity of any report whatsoever on the part of the Liquidator or the Successor Referee.

ENTER



J. S. C.

**JOAN M. KENNEY**  
J.S.C.

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**FILED**

JUN -7 2012

COUNTY CLERK'S OFFICE  
NEW YORK

Index No.: 401477/09

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

In the Matter of

the Liquidation of

THE INSURANCE CORPORATION OF NEW YORK.

ORDER TO SHOW CAUSE, VERIFIED PETITION AND REPORT

JOHN PEARSON KELLY

Attorney for the Superintendent of Financial Services of the State of New York as Liquidator

Office and Post Office Address, Telephone

New York Liquidation Bureau
110 William Street
New York, NY 10038
(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: , 2012
New York, New York

[Handwritten signature]
Melissa A. Dell'Orto

[ ] 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.

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:

, on

Yours, etc.

JOHN PEARSON KELLY

Attorney for the Superintendent of Financial Services of
the State of New York as Liquidator

Office and Post Office Address, Telephone

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