

Per  
Mony

EX PARTE MOTION OFFICE

APPROVED  
FOR THE COURT  
OF MOTION USE  
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,  
<sup>100</sup> 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