

FILED TO ATTY ON
CONFIRMED ON

1/2/13

At IAS Part ²A of the Supreme Court of the State of New York, County of Nassau, at the Courthouse, 100 Supreme Court Drive, Mineola, New York, on the ^{2nd} day of JANUARY, 2013.

PRESENT:

HON. THOMAS P. PHELAN, J.S.C.

MOTION SEQUENCE # 116
ORIGINAL RETURN DATE 2/14/13
RELIEF OK

In the Matter of

the Liquidation of

NEW YORK SURETY COMPANY.

Index No.: 17005/98

ORDER TO SHOW CAUSE ENTERED KI

Based on the verified petition ("Verified Petition") of Mary Jo Marchisello, Assistant Special Deputy Superintendent and Agent of Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, as liquidator ("Liquidator") of New York Surety Company ("NYSCO"), duly verified the 20th day of December 2012, and exhibit attached thereto, upon all other papers previously submitted and all proceedings heretofore had herein, and it appearing that the relief sought should 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 all other parties interested in the affairs of NYSCO show cause before this Court at IAS Part ²A thereof, at the Courthouse located at 100 Supreme Court Drive, in the County of Nassau, City of Mineola and State of New York, on the 14th day of February 2013 ("Return Date") at 9³⁰ 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 Liquidator's Report on the Status and Request to Close

NYSCO's liquidation proceeding ("Liquidation Proceeding") and the financial transactions delineated therein; (ii) authorizing the continued payment of administrative costs and expenses, including such costs and expenses pertaining to the closing of the Liquidation Proceeding; (iii) terminating and closing the Liquidation Proceeding; (iv) authorizing the Liquidator, without further application to this Court, to continue to receive assets after the termination of the Liquidation Proceeding, pay administrative costs and expenses incurred in connection with the collection of such assets and, if any assets remain after the payment of administrative costs and expenses, to disburse those assets, pursuant to Insurance Law Article 74, to those creditors of NYSCO with allowed claims who are eligible to share in a *pro rata* distribution; (v) authorizing the Liquidator, without further application to this Court, to release the collateral to the principals who were issued NYSCO surety bonds or to the New York State Comptroller as abandoned property in accordance with applicable law; (vi) releasing and discharging the Liquidator, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts and omissions in connection with the Liquidation Proceeding; (vii) authorizing and directing the Liquidator, in his discretion, to destroy or otherwise dispose of any and all of the books, files, records and other property of NYSCO without further order of this Court; and (viii) providing for such other and further relief as this Court may deem just and proper;

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


ORDERED, that notice of the Verified Petition and this Order to Show Cause shall be substantially in the form attached hereto and service shall be made to NYSCO's claimants and all other interested parties by: (i) posting on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least 15 days prior to the Return Date; and

(ii) publication in the *New York Post*, 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 Liquidator so as to be received at least seven days prior to the Return Date, and that 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 New York Surety Company
110 William Street
New York, New York 10038
Attention: John Pearson Kelly
General Counsel


 and by submitting copies of Answering Papers, with affidavit of service on the Liquidator as above, to this Court at IAS Part 12 at the Courthouse located at 100 Supreme Court Drive in the County of Nassau, ~~City of Mineola~~ 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.


Laufen M. Reber, Esq.