

MAILED TO ATTY ON 1/6/12
CONFORMED ON _____

At IAS Part ² 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 6th day of January, 2012.

PRESENT:

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

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In the Matter of

the Liquidation of

NEW YORK SURETY COMPANY.

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MOTION SEQUENCE # 15
ORIGINAL RETURN DATE 3/16/12
RELIEF OO TH

Index No.: 17005/98

ENTERED KI

ORDER TO SHOW CAUSE

T. Phelan

Upon reading the annexed verified petition ("Verified Petition") of Jonathan L. Bing, Special Deputy Superintendent and Agent of Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York, as liquidator ("Liquidator") of New York Surety Company ("NYSCO"), duly verified the 3rd day of January, 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 NYSCO show cause before this Court at IAS Part ² 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 16th day of March, 2012 ("Return Date") at 9:30 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 initial report on the status of the liquidation of NYSCO and the financial transactions delineated therein; (ii) establishing March 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 NYSCO 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 NYSCO's assets, consistent with this Court's orders and the priorities set forth in Insurance Law Section 7434, to those creditors of NYSCO with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extending immunity to the Superintendent in his capacity as Liquidator of NYSCO, 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) granting such other and further relief as this Court deems appropriate and just;

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 at least 15 days prior to the Return Date to NYSCO'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 of the issuance of this Order to Show Cause; and it is further

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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

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

and by submitting copies of the Answering Papers, with affidavit of service on the Superintendent as above, to this Court at IAS Part 2 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

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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

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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

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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.