

At the 127 Part 23 of the Supreme Court of the State of New York, held in and for the County of Nassau, at the Courthouse, 100 Supreme Court Drive, Mineola, New York, on the 26<sup>th</sup> day of *October* 1936.

P R E S E N T :

HON. KENNETH D. MOLLOY

JUSTICE.

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In the Matter of  
the Application of

Index No. 2960/1936  
ORDER OF LIQUIDATION

JAMES P. CORCORAN, as Superintendent of Insurance of the State of New York, for an order to take possession of the property and liquidate the business and affairs of

AMERICAN FIDELITY FIRE INSURANCE COMPANY  
and AMERICAN CONSUMER INSURANCE COMPANY

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Petitioner, JAMES P. CORCORAN, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court by Order to Show Cause for an Order pursuant to Section 7417 of the Insurance Law to take possession of and liquidate the business and affairs of AMERICAN FIDELITY FIRE INSURANCE COMPANY and AMERICAN CONSUMER INSURANCE COMPANY, ("AFF" and "ACI").

NOW, upon reading and filing the Order to Show Cause signed February 24, 1986 (per KENNETH D. MOLLOY, J.) the Petition of JAMES P. CORCORAN, the Superintendent, sworn to the 20th day of February, 1986 (the "Petition"), and the exhibits annexed thereto, with proof of due service thereof, in support of the motion; and it appearing to my satisfaction (i) that AFI was incorporated under the laws of the State of New York on December 1, 1923 and licensed as a stock casualty insurer in the State of New York on December 14, 1923; that ACI was incorporated under the laws of the State of New York on October 2, 1946 and licensed as a stock casualty insurer in the State of New York on April 1, 1950; (ii) that they are amenable to the Insurance Law of the State of New York and particularly to Article 74 thereof; (iii) that it is impossible to reinsure in whole or in part the existing policy obligations of AFI and ACI pursuant to Section 7405 (c) of the Insurance Law; (iv) that the corporate charters as well as any rights and interest in licenses or certificates of authority to write insurance be vested in the Superintendent of Insurance; (v) that AFI and ACI are insolvent, that they are in such condition that their further transaction of business would be hazardous to their policyholders, creditors or to the public, that it is to their best interests that this application should be granted and AFI and ACI liquidated under and pursuant to Article 74 of the Insurance Law; and petitioner having appeared by Hon. ROBERT ABRAMS, Attorney General of the State of New York in support of

of said motion and AFF and ACI having appeared by Esqs. in opposition thereto, and after oral argument and hearing before this Court and after due deliberation having been made thereon and the duly recorded decision of this Court; (or) and no one appearing in opposition thereto;

NOW, on motion of Hon. ROBERT ABRAMS, Attorney General of the State of New York, it is

ORDERED AND ADJUDGED, that the petition of the Superintendent is granted; and it is further

ORDERED AND ADJUDGED, that AFF and ACI are insolvent; and it is further

ORDERED AND ADJUDGED, that JAMES P. CORCORAN, the Superintendent, or any successor in office as Superintendent, is hereby appointed Liquidator of AFF and ACI, and is hereby authorized and directed forthwith to take possession of the property and liquidate the business and affairs of AFF and ACI pursuant to Article 74 of the Insurance Law and to deal with the property and business affairs of AFF and ACI in his name as Superintendent, and is vested with title to all of the property, licenses, corporate charters, contracts and rights of action of AFF and ACI pursuant to Section 7405 of the Insurance Law; and it is further

ORDERED AND ADJUDGED, that the notice of the aforesaid be given by publication in the national editions of the New York

Times and The Journal of Commerce, commencing on or about the 31<sup>st</sup> day of March, 1986, and thereafter once a week for two successive weeks; and it is further

ORDERED AND ADJUDGED, that notice of liquidation be given by publication of such notice in one newspaper in Washington, D.C. and San Juan, Puerto Rico, and in all the Capital Cities of the States in the United States except Colorado, Hawaii, Nebraska and New Hampshire and in the newspapers in other cities to be selected by the Liquidator in his discretion, by publication of such notice once a week for two successive weeks within the period allowed for the filing of claims; and it is further

ORDERED AND ADJUDGED, that the notice prescribed is sufficient notice to all persons interested in the assets of AIF and ACI; and it is further

ORDERED AND ADJUDGED, that notice of the making and entry of this order be given by the Superintendent, as Liquidator, to the extent it can be reasonably ascertained, by mail to all policyholders, creditors and all other persons having any unsatisfied claims or demands of any character against the corporations in the possession of the Superintendent, as Liquidator at the last known address of such persons as disclosed by said records and in such other manner and form as he in his discretion may find desirable, demanding that all persons indebted to AIF

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and ACI render accounts of their indebtedness and pay any sums due to the Superintendent, as Liquidator; and giving notice to present proofs of claim with the Superintendent, as Liquidator, at a place specified in such notice within twelve months from the date of the entry of this Order ~~and no later than the~~ <sup>works. Further Extended</sup> ~~by order of this Court~~ and that such notice may contain such other rules, regulations and information as the Superintendent, as Liquidator, may deem necessary for the purpose of this proceeding in fixing and determining all lawful and valid claims and demands against the corporations; and it is further

ORDERED AND ADJUDGED, that in the event one or more Insurance Departments and/or Guaranty Funds or Associations of foreign States that have adopted the Uniform Insurers Liquidation Act in which respondent was licensed to do business, desire to give formal notice to policyholders and creditors in their respective states to present proofs of claim to the respective State Insurance Department or Guaranty Fund or Association, the Superintendent, as Liquidator, may permit the giving of such notice as he in his discretion may find desirable; and it is further

ORDERED AND ADJUDGED, that all outstanding policy and other insurance obligations as well as surety bonds and obligations thereunder of AFF and ACI terminate and all liability thereunder cease and be fixed as of 12:01 A.M. Eastern Standard time or Daylight Savings Time, if such be the case, 45 days after

the signing of this Order, or prior thereto upon the procurement by policyholders of new insurance covering their risks insured thereby, as well as procurement by principals of new surety bonds covering the obligations thereunder and notice thereof shall be given as hereinabove set forth; and it is further

ORDERED AND ADJUDGED, that all other subsisting contracts, leases, tax sharing agreements, individual labor contracts and other obligations of AFF and ACI and all liability thereunder cease and be fixed as of the date of the entry of this Order; and it is further

ORDERED AND ADJUDGED, that the Superintendent, as Liquidator, is relieved of the provisions set forth in Section 7405 (c) of the Insurance Law, to wit: to reinsure in whole or in part the policy obligations of AFF and ACI; and it is further

ORDERED AND ADJUDGED, that JAMES P. CORCORAN, the Superintendent or any successor in office as Superintendent, is hereby authorized, permitted and allowed to sell, assign and transfer any and all stocks, bonds and securities in his possession or which may hereafter come into his possession belonging to AFF and ACI, in liquidation, at market price or better, or ~~when there is no market price, at the best price obtainable, at private sale and at such times and upon such terms and conditions as in his discretion he deems for the best interests of the creditors of AFF and ACI, in liquidation, and that he be authorized, permitted and allowed to take such~~ ~~and to~~

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~~execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments, and it is further.~~

ORDERED AND ADJUDGED, that JAMES P. CORCORAN, the Superintendent or any successor in office as Superintendent, is hereby authorized, permitted and allowed to sell, assign and transfer the Corporate Charters of AFF and ACI and any and all insurance licenses or certificates of authority to write insurance in such a method and manner as is to be approved by the Court; and it is further

ORDERED AND ADJUDGED, that AFF and ACI, their officers: directors, trustees, policyholders, agents and employees and all other persons having any property or records belonging to AFF or ACI, are hereby directed to assign, transfer and deliver to the Superintendent, as Liquidator, all of such property in whomsoever the same may be, and that any persons, firms or corporations having any books, papers or records relating to the business of said corporations shall preserve the same and submit them to the Superintendent, as Liquidator, for examination at all reasonable times; and it is further

ORDERED AND ADJUDGED, that the officers, directors, trustees, policyholders, agents and employees of AFF and ACI, and all other persons are enjoined and restrained from the further transaction of business or from dealing with or disposing of the

property or assets of said corporations, or doing or permitting to be done any act or thing which might waste its property or assets or allow or suffer the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against said corporations, or its estates while in the possession and control of the Superintendent, as Liquidator; and it is further

ORDERED AND ADJUDGED, that the officers, directors, trustees, policyholders, agents and employees of AFF and ACI, and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against AFF and ACI, are permanently enjoined and restrained from bringing or further prosecuting any action at law, suit in equity, special or other proceeding against the said corporations or its estates, or the Superintendent and his successors in office, as Liquidator thereof, or from making or executing any levy upon the property or estate of said corporations, or from in any way interfering with the Superintendent, or any successor in office, in his possession or in the discharge of his duties as Liquidator thereof, or in the liquidation of the business of said corporations; and it is further

ORDERED AND ADJUDGED, that all parties to law suits in this State and all other states and territories of the United States, are hereby enjoined and restrained from proceeding with any pre-trial conference, trial, application for judgment, or



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proceeding on judgments or settlements in such actions at law, suits in equity, special or other proceedings in which AFF and ACI is obligated to defend a party insured or any other person it is legally obligated to defend by virtue of its insurance contract for a period of <sup>90</sup> 100 days from the date hereof; and it is further

ORDERED AND ADJUDGED, that those persons who may have first party or New York Comprehensive Automobile Insurance Replacements Act (No-Fault) policyholder loss claims against AFF and ACI coming within the purview of Article 76 of the Insurance Law are enjoined for 90 days from the date hereof from presenting a filing such formal claims in this proceeding pursuant to Section 7432 of the Insurance Law; and it is further

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~~ORDERED AND ADJUDGED, that all parties to Administrative Hearings before the Workers' Compensation Board coming within the purview of Article 76 of the Insurance Law (Property and Casualty Security Fund) and Section 107 of the Workers' Compensation Law (Stock Workers' Compensation Security Fund) are hereby enjoined and restrained from proceeding with conferences, hearings, applications for judgments or proceedings on said judgments or other proceedings in which AFF and ACI are legally obligated to defend an insured employer or any other person by virtue of their Workers' Compensation Contract for a period of 90 days from the date hereof; and it is further~~

~~ORDERED AND ADJUDGED, that the venue of these proceedi-~~

~~that be transferred to the County of New York and all papers  
filed herein be filed with the Clerk of New York County, and it  
is further~~

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~~ORDERED AND ADJUDGED, that all further papers in this  
proceeding shall bear the caption and be entitled:~~

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

~~In the Matter of~~

~~the Liquidation of~~

~~AMERICAN FIDELITY FIRE INSURANCE COMPANY  
AND AMERICAN CONSUMER INSURANCE COMPANY"~~

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~~in place and stead of the caption as heretofore used, and it is  
further~~

ORDERED AND ADJUDGED, that the Superintendent, as  
Liquidator, may at any time make further application for such  
further and different relief as he sees fit.

ENTER

*Kenneth D. Halloway*

J. S. C.

