

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

file

PRESENT : DONNA M. MILLS
Justice

PART 58

*7/20/11
ec*

In the Matter of the application of JAMES J. WRYNN
Superintendent of Insurance of the State of New York,
for an order to take possession of, liquidate the business
and affairs of and dissolve the corporate charters of

INDEX NO. 401643/11

ATLANTIC AMERICAN HEALTH INSURANCE
COMPANY, AUSTIN LIBERTY INSURANCE
COMPANY, AXEL INSURANCE COMPANY OF
NEW YORK, MAJESTIC INSURANCE COMPANY
OF NEW YORK, MBL PROPERTY AND
CASUALTY INSURANCE COMPANY, AND
NATIONAL HERITAGE TITLE INSURANCE
COMPANY, INC.

MOTION DATE _____

MOTION SEQ. No. 001

MOTION CAL No. _____

The following papers, numbered 1 to _____ were read on this motion to _____

PAPERS NUMBERED

Notice of Motion/Order to Show Cause-Affidavits- Exhibits....

Answering Affidavits- Exhibits _____

Replying Affidavits _____

FILED

JUL 20 2011

CROSS-MOTION: _____ YES NO

NEW YORK RECEIVED
COUNTY CLERK'S OFFICE
JUL 20 2011

Upon the foregoing papers, it is ordered that this motion is:

DECIDED IN ACCORDANCE WITH ATTACHED ORDER.

SECTION 1000 OFFICE
OF THE SUPREME COURT OF THE STATE OF NEW YORK

Dated: 7/19/11

Donna M. Mills
J.S.C.
DONNA M. MILLS, J.S.C.

Check one: FINAL DISPOSITION _____ NON-FINAL DISPOSITION

At IAS Part 58 of the Supreme Court of the State of New York, County of New York, at the courthouse, 111 Centre Street, in the County, City and State of New York, on the 13th day of July, 2011.

P R E S E N T :

HON. DONNA M. MILLS, J.S.C.

In the Matter of

the Application of

James J. Wrynn, Superintendent of Insurance of the State of New York, for an order to take possession of, liquidate the business and affairs of and dissolve the corporate charters of

ATLANTIC AMERICAN HEALTH INSURANCE COMPANY, AUSTIN LIBERTY INSURANCE COMPANY, AXEL INSURANCE COMPANY OF NEW YORK, MAJESTIC INSURANCE COMPANY OF NEW YORK, MBL PROPERTY AND CASUALTY INSURANCE COMPANY, AND NATIONAL HERITAGE TITLE INSURANCE COMPANY, INC.

Index No. 401643/11

ORDER OF LIQUIDATION

FILED

JUL 20 2011

NEW YORK
COUNTY CLERK'S OFFICE

Petitioner, James J. Wrynn, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court by order to show cause ("Order to Show Cause") for an order to take possession of the property of Atlantic American Health Insurance Company ("Atlantic"), Austin Liberty Insurance Company ("Austin"), Axel Insurance Company of New York ("Axel"), Majestic Insurance Company of New York ("Majestic"), MBL Property and Casualty Insurance Company ("MBL"), and National Heritage Title Insurance Company, Inc. ("National Heritage") (collectively, the "Companies"), liquidate the Companies' business and affairs and dissolve the Companies' corporate charters, and upon reading and filing the

RECEIVED

JUL 20 2011

MOTION SUPPORT OFFICE
NYS SUPREME COURT - CIVIL

petition of the Superintendent, duly verified the 20th day of June, 2011, the affirmation of Nancy Schoep, dated June 2, 2011, and the exhibits annexed thereto, this Court finds that:

1. Atlantic was incorporated on or about August 15, 2007. Atlantic intended to transact the kinds of insurance authorized by paragraph 3 (accident and health insurance) of New York Insurance Law ("Insurance Law") Section 1113(a). Atlantic's proposed principal office was to be located in the County of Suffolk, State of New York. Atlantic has not obtained a certificate of authority or license, or requested an extension to do so. Atlantic notified the New York State Department of Insurance ("Insurance Department") that it does not object to an order dissolving the corporate existence of Atlantic;

2. Austin was incorporated on or about December 15, 2008. Austin intended to transact the kinds of insurance authorized by paragraphs 3 (accident and health insurance), 4 (fire insurance), 12 (collision insurance), 13 (personal injury liability insurance), 14 (property damage liability insurance) and 19 (motor vehicle and aircraft physical damage insurance) of Insurance Law Section 1113(a). Austin's proposed principal office was to be located in the County of Queens, State of New York. Austin has not obtained a certificate of authority or license, or requested an extension to do so;

3. Axel was incorporated on or about July 18, 2007. Axel intended to transact the kinds of insurance authorized by paragraphs 3 (accident and health insurance), 4 (fire insurance), 5 (miscellaneous property insurance), 6 (water damage insurance), 7 (burglary and theft insurance), 8 (glass insurance), 9 (boiler and machinery insurance), 10 (elevator insurance), 11 (animal insurance), 12 (collision insurance), 13 (personal injury liability insurance), 14 (property damage liability insurance), 15 (workers' compensation and employers' liability insurance), 16 (fidelity and surety insurance), 17 (credit insurance), 19 (motor vehicle and

aircraft physical damage insurance), 20 (marine and inland marine insurance), 21 (marine protection and indemnity insurance), 22 (residual value insurance) and 24 (credit unemployment insurance) of Insurance Law Section 1113(a). Axel's proposed principal office was to be located in the County of New York, State of New York. Axel has not obtained a certificate of authority or license and any and all extensions to do so have expired;

4. Majestic was incorporated on or about June 18, 2009. Majestic intended to transact the kinds of insurance authorized by paragraph 15 (workers' compensation and employers' liability insurance) of Insurance Law Section 1113(a). Majestic's proposed principal office was to be located in the County of Dutchess, State of New York. Majestic has not obtained a certificate of authority or license, or requested an extension to do so. Majestic notified the Insurance Department that it no longer intends to pursue licensure as a New York domestic insurer and requests dissolution;

5. MBL was incorporated on or about March 30, 1989. MBL intended to transact the kinds of insurance authorized by paragraphs 3 (accident and health insurance), 4 (fire insurance), 5 (miscellaneous property insurance), 6 (water damage insurance), 7 (burglary and theft insurance), 8 (glass insurance), 9 (boiler and machinery insurance), 10 (elevator insurance), 12 (collision insurance), 13 (personal injury liability insurance), 14 (property damage liability insurance), 15 (workers' compensation and employers' liability insurance), 17 (credit insurance), 19 (motor vehicle and aircraft physical damage insurance), 20 (marine and inland marine insurance), and 25 (now paragraph 32) (substantially similar kind of insurance) of Insurance Law Section 1113(a). MBL's proposed principal office was to be located in the County of New York, State of New York. MBL has not obtained a certificate of authority or license, or requested an extension to do so; and

6. National Heritage was incorporated on or about June 14, 2007. National Heritage intended to transact the kinds of insurance authorized by paragraph 18 (title insurance) of Insurance Law Section 1113(a). National Heritage's proposed principal office was to be located in the County of Suffolk, State of New York. National Heritage has not obtained a certificate of authority or license and any and all extensions to do so have expired.

7. The Companies have not completed their organizations or obtained licenses or certificates authorizing the Companies to commence the doing of an insurance business within one year from their respective dates of incorporation, and thus, under Insurance Law Section 1203(a), the Companies have forfeited their corporate charters;

8. The Companies are subject to the Insurance Law and, particularly, to Article 74 thereof;

9. It is in the best interest of all persons concerned that the Superintendent be authorized and directed to take possession of the Companies' property, liquidate the Companies' business and affairs, and that the Companies' corporate charters be dissolved;

NOW, on motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the petition for an order of liquidation is granted;
2. The Superintendent, and his successors in office, are appointed liquidator of the Companies ("Liquidator") 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) authorized and directed to immediately take possession of the Companies' respective property, liquidate the Companies' respective business and affairs, and dissolve the Companies' corporate charters in accordance with Insurance Law Article 74, (iii) vested with title to the Companies' respective property, contracts, rights of action; (iv) authorized and directed to take possession of the Companies' books, files, records and other property, wherever located, as of the date of entry of this Order; and

- (v) authorized and directed, without further notice of this Court, to destroy or otherwise dispose of any and all of the Companies' books, files, records and other property in the Liquidator's possession when he deems them to be no longer required in connection with the dissolution of the Companies;
3. The Liquidator may deal with the properties and businesses of the Companies in their respective names or in the name of the Liquidator;
 4. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of the Companies and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) wasting or permitting to be done any act or thing that might waste the Companies' properties; (ii) transacting the Companies' business or disposing of the Companies' property, except as authorized by the Liquidator; (iii) interfering with the Liquidator in the possession, control or management of the Companies' properties or in the discharge of his duties, and (iv) disclosing any information that is proprietary to the Companies or not in the public domain, except as authorized by the Liquidator;
 5. All persons are enjoined and restrained from commencing or prosecuting any actions or proceedings against the Companies, the Liquidator or the New York Liquidation Bureau, their present or former employees, attorneys or agents with respect to any claims against the Companies;
 6. All persons are enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against the Companies' assets or any part thereof;
 7. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and stocks, bonds or securities, and any real or other property of the Companies 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 the Companies, 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;
 8. In accordance with Insurance Law Section 7405, all in-force contracts, leases, tax sharing agreements, employment contracts, and obligations of the Companies, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this Order unless expressly ratified in writing by the Liquidator;
 9. The Companies, their officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and

- affiliates, and all firms, corporations, associations, and other persons or entities having any property and/or information, including, but not limited to, business records, insurance policies, claims files (electronic or paper), software programs, bank records and/or any tangible or intangible items of value, belonging or relating to the Companies, shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator or his designees;
10. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to the Companies shall maintain and preserve all information in its possession relating in any way to the Companies, 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 the Companies, and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees;
 11. 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 the Companies' 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) transfer funds from such bank, savings and loan association or other financial institution; or (v) take any other action necessary for the proper conduct of the liquidation proceeding;
 12. Judicial immunity is extended to the Superintendent in his capacity as Liquidator of the Companies 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 when acting in good faith, in accordance with this Order, or in the performance of their duties pursuant to Insurance Law Article 74;
 13. In accordance with Insurance Law Section 7432(b), all claims against the Companies must be presented to the Liquidator within four months of the date of entry of this Order;
 14. The Liquidator shall provide notice of this Order to all creditors, claimants and other interested persons by: (i) posting this Order 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 Order; and (ii) publication of notice of this Order in *Business Insurance* once a week in two consecutive publication weeks, commencing within four weeks of entry of this Order, in a form substantially similar to the one attached hereto;

15. The notice prescribed in decretal paragraph 14 hereof is sufficient notice to all persons interested in the Companies;
16. A copy of this Order shall be served forthwith by first class mail upon the members of the Companies' initial Boards of Directors, at their last known address;
17. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
18. The corporate charters of the Companies are relinquished, forfeited, surrendered and annulled, and the Companies are dissolved;
19. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
20. This Court shall retain jurisdiction over this matter for all purposes;
21. The caption to this proceeding is hereby amended as follows:

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

-----X
In the Matter of

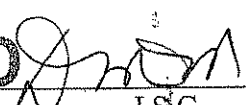
the Liquidation of

Atlantic American Health Insurance Company,
Austin Liberty Insurance Company,
Axel Insurance Company of New York,
Majestic Insurance Company of New York,
MBL Property and Casualty Insurance Company, and
National Heritage Title Insurance Company, Inc.

-----X

22. All further papers in this proceeding shall bear the above amended caption.

ENTER

FILED 
_____ J.S.C.

JUL 20 2011

DONNA M. MILLS, J.S.C.

NEW YORK
COUNTY CLERK'S OFFICE

**IN THE MATTER OF THE LIQUIDATION OF
ATLANTIC AMERICAN HEALTH INSURANCE COMPANY, AUSTIN LIBERTY
INSURANCE COMPANY, AXEL INSURANCE COMPANY OF NEW YORK,
MAJESTIC INSURANCE COMPANY OF NEW YORK, MBL PROPERTY AND
CASUALTY INSURANCE COMPANY, AND NATIONAL HERITAGE TITLE
INSURANCE COMPANY, INC.**

New York Supreme Court, Index No.: 401643/11

Notice is Hereby Given:

I. James J. Wrynn, Superintendent of Insurance of the State of New York, has been appointed by an order of the Supreme Court of the State of New York, New York County, filed on _____, 2011 ("Liquidation Order"), as the liquidator ("Liquidator") of Atlantic American Health Insurance Company, Austin Liberty Insurance Company, Axel Insurance Company of New York, Majestic Insurance Company of New York, MBL Property and Casualty Insurance Company, and National Heritage Title Insurance Company, Inc. (collectively, the "Companies and, as such, has been: (i) vested with all powers and authority expressed or implied under New York Insurance Law ("Insurance Law") Article 74, in addition to the powers and authority set forth in this Order; (ii) authorized and directed to immediately take possession of the Companies' respective property, liquidate the Companies' respective business and affairs, and dissolve the Companies' corporate charters in accordance with Insurance Law Article 74, (iii) vested with title to the Companies' respective property, contracts, rights of action; (iv) authorized and directed to take possession of the Companies' books, files, records and other property, wherever located, as of the date of entry of this Order; and (v) authorized and directed, without further notice of this Court, to destroy or otherwise dispose of any and all of the Companies' books, files, records and other property in the Liquidator's possession when he deems them to be no longer required in connection with the dissolution of the Companies.

II. In accordance with Insurance Law Section 7432(b), all claims against the Companies must be presented to the Liquidator by _____, 2011. Claims presented after _____, 2011, will not share in the distribution of assets until all allowed claims that were filed on or before _____, 2011 have been paid in full with interest. All claimants who appear on the Companies' books and records as of the date of entry of the Liquidation Order are deemed to have duly filed proofs of claim prior to _____, 2011.

III. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of the Companies and all other persons other than the Liquidator and his agents are permanently enjoined and restrained from: (i) wasting or permitting to be done any act or thing that might waste the Companies' properties; (ii) transacting the Companies' business or disposing of the Companies' property, except as authorized by the Liquidator; (iii) interfering with the Liquidator in the possession, control or management of the Companies' properties or in the discharge of his duties, and (iv) disclosing any information that is proprietary to the Companies or not in the public domain, except as authorized by the Liquidator.

IV. All persons are enjoined and restrained from commencing or prosecuting any actions or proceedings against the Companies, the Liquidator or the New York Liquidation Bureau, their present or former employees, attorneys or agents with respect to any claims against the Companies.

V. All persons are enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against the Companies' assets or any part thereof.

VI. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and stocks, bonds or securities, and any real or other property of the Companies 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 the Companies, 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.

VII. In accordance with Insurance Law Section 7405, all in-force contracts, leases, tax sharing agreements, employment contracts, and obligations of the Companies, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this Order unless expressly ratified in writing by the Liquidator.

VIII. The Companies, their officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations, and other persons or entities having any property and/or information, including, but not limited to, business records, insurance policies, claims files (electronic or paper), software programs, bank records and/or any tangible or intangible items of value, belonging or relating to the Companies, shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator or his designees.

IX. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to the Companies shall maintain and preserve all information in its possession relating in any way to the Companies, 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 the Companies, and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator or his designees.

X. 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 the Companies' 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) transfer funds from such bank, savings and loan association or other financial institution; or (v) take any other action necessary for the proper conduct of the liquidation proceeding.

XI. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.

XII. The corporate charters of the Companies are relinquished, forfeited, surrendered and annulled, and the Companies are dissolved.

XIII. All communications relating to the Companies and to the liquidation thereof should be addressed to:

New York Liquidation Bureau
110 William Street
New York, New York 10038
(212) 341-6218

JAMES J. WRYNN
Superintendent of Insurance of
the State of New York as Liquidator
of Atlantic American Health Insurance
Company, Austin Liberty Insurance
Company, Axel Insurance Company of New
York, Majestic Insurance Company of New
York, MBL Property and Casualty Insurance
Company, and National Heritage Title
Insurance Company, Inc.

Index No. 401643

Year 2011

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

In the Matter of

the Liquidation of

ATLANTIC AMERICAN HEALTH INSURANCE COMPANY, AUSTIN LIBERTY INSURANCE COMPANY, AXEL INSURANCE COMPANY OF NEW YORK, MAJESTIC INSURANCE COMPANY OF NEW YORK, MBL PROPERTY AND CASUALTY INSURANCE COMPANY, AND NATIONAL HERITAGE TITLE INSURANCE COMPANY, INC.

ORDER OF LIQUIDATION

JOHN PEARSON KELLY

Attorney for Superintendent of Insurance as Rehabilitator

Office and Post Office Address, Telephone

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

FILED

JUL 20 2011

NEW YORK COUNTY CLERK'S OFFICE

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: July 13 2011
New York, New York

Handwritten signature of Lauren M. Reber
Lauren M. Reber

[] 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 of which the within is a true copy will be presented for
settlement to the HON. one of the judges of the within named court, at
, on 20 at

Dated: Yours, etc.

JOHN PEARSON KELLY

Attorney for Superintendent of Insurance as
as Rehabilitator

Office and Post Office Address, Telephone

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