

At a Special Term, Part I of the Supreme Court of the State of New York, held in and for the County of Kings, at the Court-house, Civic Center, in the Borough of Brooklyn, City and State of New York, on the 31st day of May, 1979.

P R E S E N T :

HON. *Irwin B. Brownstein*

JUSTICE.

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In the Matter of

Index No. 10402/1979

the Application of

ALBERT F. LEWIS, Superintendent of Insurance of the State of New York, for an order to take possession and liquidate the business of and dissolve ORDER OF LIQUIDATION

CONSOLIDATED MUTUAL INSURANCE COMPANY

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Petitioner, ALBERT B. LEWIS, Superintendent of Insurance of the State of New York, having moved this Court for an order to take possession of the property and to liquidate the business and affairs and to dissolve the corporate existence of CONSOLIDATED MUTUAL INSURANCE COMPANY, and such motion having duly come on before this Court on the 29th day of May, 1979,

NOW, upon reading and filing the order to show cause made on the 25th day of May, 1979 by Hon. MAXINE K. DUBERSTEIN, one of the Justices of the Supreme Court of the State of New York, and the petition of ALBERT B. LEWIS, Superintendent of Insurance of the State of New York, verified the 25th day of May, 1979, and the exhibits annexed thereto, with proof of due service thereof, in support of said motion, and it appearing to my satisfaction that CONSOLIDATED MUTUAL INSURANCE COMPANY was incorporated under the laws of the State of New York on October 24, 1927 and licensed as a mutual casualty insurer in the State of New York on September 1, 1928; that its principal office is located in the County of Kings, City and State of New York; that it is amenable to the Insurance Law of the State of New York and particularly to Article XVI thereof, and upon reading the order of rehabilitation entered in the New York County Clerk's office on the 13th day of November, 1978, Exhibit "A" annexed to the petition herein, and it appearing to my satisfaction that further efforts to rehabilitate CONSOLIDATED MUTUAL INSURANCE COMPANY would be futile and that the rehabilitation proceeding of the said corporation should be terminated; that it is impossible to reinsure in whole or in part the existing policy obligations of CONSOLIDATED MUTUAL INSURANCE COMPANY pursuant to the provisions of Section

514 (2a), Insurance Law, and that the Liquidator should be relieved of the requirement of said Section; that CONSOLIDATED MUTUAL INSURANCE COMPANY is insolvent; that it is in such condition that its further transaction of business would be hazardous to its policyholders, creditors or to the public; that it is to the best interests of all persons concerned that this application should be granted and CONSOLIDATED MUTUAL INSURANCE COMPANY should be liquidated, under and pursuant to Article XVI of the Insurance Law; that it should be dissolved and its corporate charter annulled and forfeited; and petitioner having appeared by HON. ROBERT ABRAMS, Attorney General of the State of New York, in support of said motion, and there being no appearance in opposition thereto, and after due deliberation having been had thereon and upon filing the opinion of the Court;

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

ORDERED, that the petition of ALBERT B. LEWIS, Superintendent of Insurance of the State of New York, be and the same hereby is in all respects granted; and it is further

ORDERED, that CONSOLIDATED MUTUAL INSURANCE COMPANY be and it hereby is adjudged to be insolvent; and it is further

ORDERED, that ALBERT B. LEWIS, Superintendent of Insurance of the State of New York, and his successors in office as Superintendents of Insurance of the State of New York, be and he is and they are hereby appointed Liquidator of CONSOLIDATED MUTUAL INSURANCE COMPANY, and are hereby authorized and directed forthwith to take possession of the property and liquidate the business of CONSOLIDATED MUTUAL INSURANCE COMPANY under and pursuant to the provisions of Article XVI of the Insurance Law of the State of New York and to deal with the property and business of CONSOLIDATED MUTUAL INSURANCE COMPANY in his or their names as Superintendents of Insurance and he is and they are vested with title to all of the property, contracts and rights of action of CONSOLIDATED MUTUAL INSURANCE COMPANY, pursuant to Section 514 of the New York Insurance Law; and it is further

ORDERED, that formal notice of the making and entry of this order be given by the Superintendent of Insurance, as Liquidator, by mail to all policyholders, creditors and all other persons having any unsatisfied claim or demand of any character against the corporation as disclosed by the books and records of the corporation in the possession of the Superintendent of Insurance, 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 CONSOLIDATED MUTUAL INSURANCE COMPANY render accounts of their indebtedness and pay any sums due to the Superintendent of Insurance, as Liquidator; and giving notice to present proofs of claim with the Superintendent of Insurance, 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 ²⁷ day of ~~June~~ ^{May}, 1980; and that such notice may contain such other rules, regulations and information as the Superintendent of Insurance, as Liquidator, may deem necessary for the purpose of this proceeding in fixing and determining all lawful and valid claims and demands against the corporation; and it is further

ORDERED, 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 of Insurance, as Liquidator, may permit the giving of such notice as he in his discretion may find desirable; and it is further

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ORDERED; that the notice aforesaid be given by publication in the national editions of the New York Times and The Journal of Commerce, commencing on or about the // ¹² day of June, 1979, and thereafter once a week for two successive weeks; and it is further

ORDERED, that notice of liquidation be given to those who may not otherwise receive notice, by publication of such notice in one newspaper in each of the following cities:

Los Angeles and San Francisco, California;

Hartford, Connecticut;

Miami and Tallahassee, Florida;

Chicago, Illinois;

Boston, Massachusetts;

Newark, New Jersey;

Providence, Rhode Island;

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, the newspaper to be selected by the Liquidator in his discretion; and it is further

ORDERED, that the notice hereinbefore prescribed is sufficient notice to all persons interested in the assets of CONSOLIDATED MUTUAL INSURANCE COMPANY; and it is further

ORDERED, that all outstanding policy and other insurance obligations, excepting workers' compensation insurance, of CONSOLIDATED MUTUAL INSURANCE COMPANY terminate and all liability thereunder cease and be fixed as of 12:01 A.M., Eastern Daylight Savings Time, on the 16th day of July, 1979, or prior thereto upon the procurement by policyholders, respectively, of new insurance covering their risks insured thereby, and notice thereof shall be given as hereinabove set forth; and it is further

ORDERED, that all outstanding workers' compensation insurance obligations of CONSOLIDATED MUTUAL INSURANCE COMPANY terminate and all liability thereunder cease and be fixed as of 12:01 A.M., Eastern Daylight Savings Time, on the 29th day of August, 1979, or prior thereto upon the procurement by policyholders of new insurance covering their risks insured thereby prior to said date, and notice thereof shall be given as hereinabove set forth; and it is further

ORDERED, that all other subsisting contracts and other obligations of CONSOLIDATED MUTUAL INSURANCE COMPANY terminate,

of the entry of this order; and it is further

ORDERED, that the Superintendent of Insurance, as Liquidator, he and he hereby is relieved of the provisions set forth in Section 514 (2a), Insurance Law, to wit: to reinsure in whole or in part the policy obligations of CONSOLIDATED MUTUAL INSURANCE COMPANY; and it is further

ORDERED, that ALBERT B. LEWIS, Superintendent of Insurance of the State of New York, and his successors in office as Superintendents of Insurance of the State of New York, be and he is and they are hereby authorized, permitted and allowed to sell, assign and transfer any and all of the stocks, bonds and securities in his possession or which may hereafter come into his possession belonging to CONSOLIDATED MUTUAL INSURANCE COMPANY, 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 CONSOLIDATED MUTUAL INSURANCE COMPANY, in liquidation, and that he be authorized, permitted and allowed 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; and it is further

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

ORDERED, that the officers, directors, trustees, policyholders, agents and employees of said CONSOLIDATED MUTUAL INSURANCE COMPANY, and all other persons be and they hereby are enjoined and restrained from the further transaction of business or from dealing with or disposing of the property or assets of said corporation, 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 corporation, or its estate while in the possession and control of the Superintendent of Insurance, as Liquidator; and it is further

ORDERED, that the officers, directors, trustees, policyholders, agents and employees of said CONSOLIDATED MUTUAL INSURANCE COMPANY, and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against the said CONSOLIDATED MUTUAL INSURANCE COMPANY, be and they hereby are permanently enjoined and restrained from bringing or further prosecuting any action at law, suit in equity, special or other proceeding against the said corporation or its estate, or the Superintendent of Insurance of the State of New York and his successors in office, as Liquidator thereof, or from making or executing any levy upon the property or estate of said corporation, or from in any way interfering with the Superintendent of Insurance of the State of New York, or his successors in office, in his or their possession, control or management of the property of said corporation, or in the discharge of his or their duties as Liquidator thereof, or in the liquidation of the business of said corporation; and it is further

ORDERED, that the corporate charter of said CONSOLIDATED MUTUAL INSURANCE COMPANY be and the same hereby is forfeited, surrendered and annulled and the said CONSOLIDATED MUTUAL INSURANCE COMPANY is hereby dissolved; and it is further

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

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

In the Matter of

the Liquidation of

CONSOLIDATED MUTUAL INSURANCE COMPANY"

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

ORDERED, that the Superintendent of Insurance, as Liquidator, may at any time make further application at the feet of this order for such further and different relief as he sees fit.

ENTER

s/ F. Brownstein

J. S. C.

I, LEONARD H. MINCHES AN ATTORNEY AT
LAW DO HEREBY CERTIFY PURSUANT TO SEC 8103
CPLR. THAT I HAVE COMPARED THE FOREGOING WITH
THE ORIGINAL AND HAVE FOUND IT TO BE A TRUE
AND COMPLETE COPY.
DATED: 5/31/78

Leonard H. Minches
LEONARD H. MINCHES

Granted
Anthony H. Durso
Clerk

Filed
5/31/78