

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

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In the Matter of  
  
the Ancillary Receivership of

Index No.: 400874/09  
(Rakower, E.)

EAGLE INSURANCE COMPANY AND  
NEWARK INSURANCE COMPANY.

**AFFIRMATION**

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Melissa A. Pisapia, an attorney at law, duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau (“NYLB”), which acts as the staff of Linda A. Lacewell, Superintendent of Financial Services of the State of New York in her capacity as ancillary receiver (“Superintendent” or “Ancillary Receiver”) of Eagle Insurance Company (“Eagle”). I submit this affirmation upon information and belief, based on my review of the Eagle files maintained by the NYLB and the conversations I have had with employees of the Ancillary Receiver.

2. This Affirmation is submitted in support of the Ancillary Receiver’s application for an order, substantially in the form attached hereto as Exhibit “1”, *inter alia* (a) approving the Ancillary Receiver’s report on the status of the Eagle ancillary receivership proceeding and the financial transactions detailed therein (“Closing Report”), a copy of which is attached hereto as Exhibit “2” and (b) closing Eagle’s ancillary receivership proceeding (“Ancillary Proceeding”).

3. On August 9, 2007, by order of the Superior Court of New Jersey, Chancery Division, Mercer County (“New Jersey Court”), Eagle, organized under the laws of the State of New Jersey and licensed to underwrite insurance policies in the State of New York, was placed into liquidation in the State of New Jersey and the Commissioner of Insurance of the Department of Banking and Insurance of the State of New Jersey was appointed as Liquidator of Eagle (“Domestic Receiver”). On January 23, 2009, the New Jersey Court entered an order establishing September 28, 2009 as the last date upon which any and all claims against Eagle must be filed with the Domestic Receiver (“Claims Bar Date”). The Claims Bar Date is applicable to this Ancillary Proceeding. N.Y. Ins. Law § 7412(a).

4. On February 27, 2009, the New York Supreme Court, Nassau County issued an order commencing the Ancillary Proceeding and appointing the Superintendent and her successors in office as Ancillary Receiver of Eagle as well as Ancillary Receiver of Newark Insurance Company, a subsidiary of Eagle (“Newark”)<sup>1</sup>. On April 10, 2009, the venue of the Ancillary Proceeding was transferred to this Court.

5. The Ancillary Proceeding was commenced to permit the payment of eligible claims covered by the New York Property/Casualty Insurance Security Fund (“P/C Fund”) and the New York Public Motor Vehicle Liability Security Fund (“PMV Fund,” together with the P/C Fund, “Security Funds”) remaining unpaid due to Eagle’s insolvency.

6. All claims presented on or before the Claims Bar Date by Eagle’s policyholders, claimants and creditors were processed by the Domestic Receiver. The Domestic Receiver referred claims involving a New York-based policy to the Ancillary Receiver in order for covered claims to be paid by the Security Funds.

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<sup>1</sup> On May 10, 2016, this Court issued an order severing Newark’s ancillary receivership proceeding and closing the Newark proceeding.

7. Because the September 28, 2009 Claims Bar Date has passed, no further claims under Eagle policies will be accepted by the Domestic Receiver and as a result, all claims under Eagle policies eligible for New York security fund coverage have been presented to the Ancillary Receiver. In total, 4,119 claims were handled in the Ancillary Proceeding, of which 3,981 were P/C Fund claims and 138 were PMV Fund claims. Of those 4,119 claims, 4 claims remain unpaid but have been settled for \$25,000 or less and have been reserved.

8. Claims that settled at or are reserved at \$25,000 or less are paid as superintendent allowances that do not require Court approval. N.Y. Ins. Law §§7428 and 7602(g). Therefore the remaining claims will be paid by superintendent allowance.

9. All claims in the Ancillary Proceeding that are eligible for coverage by the Security Funds have been administered and have been paid by, are being paid by or are reserved and will be paid by the appropriate fund as “allowed” claims in accordance with Insurance Law §7602(g).

10. As such, there are no additional claims to administer or resolve and the Ancillary Proceeding may be closed. For this reason, the Ancillary Receiver requests that this Court enter an order, substantially in the form of the proposed order annexed hereto as Exhibit “1”, granting the relief sought herein.

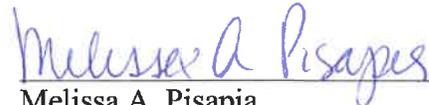
11. The Ancillary Receiver also requests that this Court issue the accompanying Order to Show Cause approving a return date for a hearing on the Ancillary Receiver’s motion to be held before the Court 30 days after the date of issuance of the Order to Show Cause, or as soon after such 30-day period as the Court determines to be reasonably practicable.

12. No previous application for the relief sought herein has been made.

WHEREFORE, it is respectfully requested that this Court enter an order: (1) approving the Closing Report and the financial transactions delineated in the report; (2) authorizing the continued payment of administrative expenses, if any, including expenses for the closing of the

Ancillary Proceeding; (3) authorizing the NYLB to receive and disburse to the Security Funds any future distributions received in connection with the Ancillary Proceeding to pay amounts owed to the Security Funds without further application to this Court; (4) terminating and closing the Ancillary Proceeding; (5) releasing and discharging the Ancillary Receiver, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Proceeding; and (6) granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
August 6, 2019

  
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Melissa A. Pisapia

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# **EXHIBIT 1**

At IAS Part \_\_\_\_ of the Supreme Court of the State of New York, County of New York, at the courthouse at 60 Centre Street, in the County, City and State of New York, on the \_\_\_\_ day of \_\_\_\_\_, 2019.

P R E S E N T:

HONORABLE EILEEN A. RAKOWER

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

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In the Matter of

Index No.: 400874/09

the Ancillary Receivership of

**ORDER**

EAGLE INSURANCE COMPANY AND  
NEWARK INSURANCE COMPANY.

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Upon the motion of the Superintendent of Financial Services of the State of New York in her capacity as ancillary receiver (“Ancillary Receiver”) of Eagle Insurance Company (“Eagle”), for an order, *inter alia*: (1) approving the Ancillary Receiver’s report and the financial transactions delineated in the report (“Closing Report”); (2) authorizing the continued payment of administrative expenses, if any, including expenses for the closing of the Eagle Ancillary Receivership Proceeding; (3) authorizing the New York Liquidation Bureau (“NYLB”) to receive and disburse to the New York Property/Casualty Insurance Security Fund and the New York Public Motor Vehicle Liability Security Fund (collectively, “Security Funds”) any future distributions received in connection with the Ancillary Receivership Proceeding to pay amounts owed to the Security Funds without further application to the Court; (4) terminating and closing the Ancillary Receivership Proceeding; (5) releasing and discharging the Ancillary Receiver, her predecessors and successors in office, and their agents, attorneys and employees, from any and all

liability arising from their acts or omissions in connection with the ancillary receivership proceeding; and (6) granting such other and further relief as the Court may deem just and proper.

NOW, on motion of the Ancillary Receiver and no opposition having been filed with the Court, it is;

ORDERED, that the application is granted; and it is further

ORDERED, that the Closing Report and the financial transactions delineated in the report are approved; and it is further

ORDERED, that the continued payment of administrative expenses, if any, including expenses for the closing of the Ancillary Receivership Proceeding is authorized; and it is further

ORDERED, that the NYLB is authorized to receive and disburse to the Security Funds any future distributions received in connection with the Ancillary Receivership Proceeding to pay amounts owed to the Security Funds without further application to this Court; and it is further

ORDERED, that the Ancillary Receivership Proceeding is terminated and closed; and it is further

ORDERED, that the Ancillary Receiver, her predecessors and successors in office, and their agents, attorneys and employees, are released and discharged from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding.

E N T E R

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J.S.C.

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# **EXHIBIT 2**

**FINAL REPORT ON THE STATUS OF AND REQUEST TO CLOSE  
THE ANCILLARY RECEIVERSHIP PROCEEDING  
OF EAGLE INSURANCE COMPANY**

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (“Superintendent”) as ancillary receiver (“Ancillary Receiver”) of Eagle Insurance Company (“Eagle”), hereby submits this report (“Closing Report”) on the status of the Eagle ancillary receivership proceeding (“Ancillary Receivership Proceeding”) and respectfully requests that the proceeding be closed.

**COMMENCEMENT OF DOMESTIC RECEIVERSHIP AND  
ANCILLARY RECEIVERSHIP**

On August 9, 2007, the Superior Court of New Jersey, Chancery Division, Mercer County (“New Jersey Court”) issued an order finding Eagle insolvent and placing it into liquidation (“Domestic Liquidation Proceeding”). The Commissioner of Insurance of the Department of Banking and Insurance of the State of New Jersey was appointed Liquidator of Eagle (“Domestic Receiver”). By order of the Supreme Court of the State of New York, Nassau County, entered on February 27, 2009, Eagle was placed into ancillary receivership in the State of New York and the then-Superintendent<sup>1</sup> of Insurance of the State of New York and his successors in office were appointed Ancillary Receiver of Eagle. On March 11, 2009, the venue of the Ancillary Receivership Proceeding was transferred to Supreme Court, New York County (“Court”).

The Ancillary Receivership Proceeding was commenced to permit the payment of eligible claims covered by the New York Property/Casualty Insurance Security Fund (“P/C Fund”) and the New York Public Motor Vehicle Liability Security Fund (“PMV Fund,” together with the P/C Fund, the “Security Funds”). In this proceeding, all claims referred to the Ancillary Receiver were

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<sup>1</sup> The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance of the State of New York as Ancillary Receiver of Eagle.

Security Fund covered claims. Such claims have been processed and have been paid, are being paid, or have been reserved and will be paid by the Security Funds.

## **THE ANCILLARY RECEIVERSHIP PROCEEDING MAY BE TERMINATED**

### **1. Claims Bar Date**

On January 23, 2009, the New Jersey Court issued an order establishing September 28, 2009 as the last date upon which any and all claims against Eagle must be filed with the Domestic Receiver (“Claims Bar Date”). New York Insurance Law (“Insurance Law”) Section 7412(a) permits claims to be filed with either the Domestic Receiver or the Ancillary Receiver and requires that “all such claims must be filed on or before the last date fixed for the filing of claims in the domiciliary proceeding.” As such, New York law requires that the Claims Bar Date established by the New Jersey Court be effective in the Ancillary Receivership Proceeding.

Because the September 28, 2009 Claims Bar Date has passed, no further claims under Eagle policies will be accepted by the Domestic Receiver and, as a result, all claims under Eagle policies eligible for Security Fund coverage have been presented to the Ancillary Receiver. The Security Funds have now completed the handling of all eligible claims.

### **2. Current Status of Claims**

The Domestic Receiver processed all claims under Eagle policies presented by Eagle’s policyholders, claimants and creditors before the Claims Bar Date and referred those claims involving a New York-based policy to the Ancillary Receiver. Four thousand one hundred nineteen (4,119) claims were handled in the Ancillary Receivership Proceeding, of which 3,981 were P/C Fund claims and 138 were PMV Fund claims. Of those 4,119 claims, 4 claims remain unpaid but have been settled for \$25,000 or less and each has been reserved. Claims that settled

at or are reserved at \$25,000 or less will be paid as superintendent allowances, which, pursuant to Insurance Law §§ 7428 and 7602(g), do not require court approval.

All claims in the Ancillary Receivership Proceeding that are eligible for coverage by the Security Funds have been administered and have been paid by, are being paid by or are reserved and will be paid by the appropriate fund as “allowed” claims in accordance with Insurance Law §7602(g). As such, there are no additional claims to administer or resolve and the Ancillary Receivership Proceeding may be closed.

## **FINANCIAL REPORT**

The Ancillary Receiver completed all activities related to the Ancillary Receivership Proceeding and has closed Eagle’s books as of June 30, 2019 (“Closing Date”). Eagle’s Summary of Losses, Loss Adjustment Expenses, and Administrative Expenses for the period between February 27, 2009 and the Closing Date is annexed hereto as Exhibit “A”.

### **1. Cash Receipts and Disbursements**

As of the Closing Date, the Security Funds’ administrative expenses totaled \$12,029,698, of which, \$10,301,740 was paid by the P/C Fund and \$1,727,958 was paid by the PMV Fund. These expenses constitute the actual and necessary costs of administration incurred in connection with claims handling during the Ancillary Receivership Proceeding, including fees for third-party administrators, salaries, rent, professional fees, and other general administrative expenses of the Ancillary Receiver and the Security Funds.

#### **a. Security Fund Claim and Expense Disbursements**

The Security Funds paid \$8,467,500 in claims that were allowed in this proceeding pursuant to Insurance Law Section 7602(g) for losses (“Covered Claims”) and \$1,152,060 in loss adjustment expenses (“LAE”). The P/C Fund paid \$6,919,339 in Covered Claims and \$997,763

in LAE. The PMV Fund paid \$1,548,161 in Covered Claims and \$154,297 in LAE. All claims covered by the Security Funds have been paid, are being paid or are reserved and will be paid.

**b. Reserves**

As of the Closing Date, the NYLB carried reserves associated with 4 open (Security Fund) Covered Claims in the total amount of \$96,217, of which \$50,500 is for losses, \$7,857 is for LAE and \$37,860 is for administrative expenses.

**c. Reimbursement of the Security Funds by the Domestic Receiver**

The Security Funds submit a separate claim in the Domestic Liquidation Proceeding for reimbursement of their claims payments and expenses, as well as, for reserves on open claims. The P/C Fund submitted a claim in the Domestic Liquidation Proceeding totaling \$18,315,059 and the PMV Fund submitted a claim totaling \$3,430,416. Because the Domestic Liquidation Proceeding remains open, distributions are expected and will be paid proportionately to the Security Funds.

**RELIEF SOUGHT**

The Ancillary Receiver submits this Closing Report in order to provide information on the status of the Ancillary Receivership Proceeding and to request that it be closed. Based on this Closing Report and other materials submitted in this proceeding, the Ancillary Receiver respectfully requests that the Court issue an order:

- (1) approving the Closing Report and the financial transactions delineated herein;
- (2) authorizing the continued payment of administrative expenses, if any, including expenses for the closing of the Ancillary Receivership Proceeding;
- (3) authorizing the NYLB to receive and disburse to the Security Funds any future distributions received in connection with the Ancillary Receivership Proceeding to pay amounts owed to the Security Funds without further application to the Court;

- (4) terminating and closing the Ancillary Receivership Proceeding;
- (5) releasing and discharging the Ancillary Receiver, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; and
- (6) granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
August 6, 2019



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David Axinn  
Special Deputy Superintendent and  
Agent of Linda A. Lacewell, Superintendent  
of Financial Services of the State of New  
York as Ancillary Receiver of Eagle  
Insurance Company

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# **EXHIBIT A**

**NEW YORK LIQUIDATION BUREAU  
EAGLE INSURANCE COMPANY  
SECURITY FUNDS  
Losses, Loss Adjustment Expenses  
and Administrative Expenses  
from Inception to June 30, 2019**

Description	Inception to June 30, 2019		
	PC SF	PMV SF	Total
<b>Disbursements</b>			
Policy Holder Benefit Claims	\$ 6,919,339	\$ 1,548,161	\$ 8,467,500
Loss Adjustment Expenses	997,763	154,297	1,152,060
<b>Total Loss and LAE Paid</b>	<b>7,917,102</b>	<b>1,702,458</b>	<b>9,619,560</b>
Third Party Administrators	3,828	-	3,828
Employee Salaries	5,371,334	889,100	6,260,434
Employee Relations and Welfare	2,843,719	462,928	3,306,647
Rent and Related Expenses	1,328,140	211,870	1,540,010
Professional Services	103,946	40,147	144,093
General and Administrative Expenses	381,594	63,436	445,030
Other Miscellaneous Expenses	269,179	60,477	329,656
<b>Total Administrative Expenses Paid</b>	<b>10,301,740</b>	<b>1,727,958</b>	<b>12,029,698</b>
<b>Total Disbursements</b>	<b>18,218,842</b>	<b>3,430,416</b>	<b>21,649,258</b>
<b>Settled not Paid and Reserve</b>			
Policy Holder Benefit Claims	50,500	-	50,500
Loss Adjustment Expenses	7,857	-	7,857
Administrative Expenses	37,860	-	37,860
<b>Total Settled not Paid and Reserve</b>	<b>96,217</b>	<b>-</b>	<b>96,217</b>
	-	-	-
<b>Total Paid and Outstanding</b>	<b>\$ 18,315,059</b>	<b>\$ 3,430,416</b>	<b>\$ 21,745,475</b>

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

In the Matter of
the Ancillary Receivership of
EAGLE INSURANCE COMPANY.

ORDER TO SHOW CAUSE AND AFFIRMATION
(Closing Report)

JOHN PEARSON KELLY

Attorney for the Superintendent of Financial Services of the State of New York as Ancillary Receiver

Office and Post Office Address, Telephone

New York Liquidation Bureau
180 Maiden Lane, 15th Floor
New York, NY 10038
(212) 341-6755
Fax (212) 233-0461

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: August 7, 2019
New York, New York

Melissa A. Pisapia
Melissa A. Pisapia

[ ] 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 the Superintendent of Financial
Services of the State of New York
as Ancillary Receiver

Office and Post Office Address, Telephone

New York Liquidation Bureau
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New York, NY 10038
(212) 341-6755