

At IAS Part 47 of the Supreme Court of the State of New York, at the Courthouse, 71 Thomas Street, New York, New York on the 7 day of January, 1998.

PRESENT:

HON. PAULA J. OMANSKY

JUSTICE

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In the Matter of

Index No. 403105/97

The Rehabilitation of

HOME MUTUAL INSURANCE COMPANY
BINGHAMTON, NEW YORK

FILED
LIQUIDATION ORDER
JAN 14 1998
COUNTY CLERK'S OFFICE
NEW YORK

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Petitioner, Neil D. Levin, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court for an order converting this proceeding into a liquidation proceeding, appointing the Superintendent liquidator, vesting the Superintendent, as liquidator, with title to the property, contracts and rights of action of HOME MUTUAL INSURANCE COMPANY OF BINGHAMTON, NEW YORK ("HMIC"), fixing the rights and liabilities of HMIC, its creditors, policyholders, shareholders, and all interested parties and continuing the injunctions that have been issued in accordance with Insurance Law § 7419,

NOW, upon reading and filing the petition of Superintendent Neil D. Levin, duly verified November 25, 1997, the exhibits annexed thereto and it appearing to my satisfaction that:

- 1. HMIC is insolvent;

2. the further transaction of business by HMIC would be hazardous to its policyholders, creditors and the public;
3. further efforts to rehabilitate HMIC would be futile;
4. HMIC has consented to the entry of a liquidation order; and
5. It is in the best interest of HMIC's policyholders, creditors and the public that the Superintendent be vested with title to HMIC's property, contracts and rights of action and directed to liquidate its business;

And, the petitioner, having appeared by the Hon. Dennis C. Vacco, Attorney General of the State of New York, and HMIC having consented to the relief sought herein and due deliberation having been had;

NOW, on motion of the Hon. Dennis C. Vacco, Attorney General of the State of New York, it is ordered as follows:

1. The petition is granted;
2. HMIC is insolvent;
3. Neil D. Levin, Superintendent, and his successors in office as superintendent, are appointed liquidator of HMIC, vested with title to its property, contracts and rights of action and are directed to liquidate its business and affairs in accordance with Article 74 of the Insurance Law;
4. In accordance with Insurance Law § 7432(b), all claims against HMIC must be presented to the Superintendent, as Liquidator, within four months from the date of entry of this order;
5. In accordance with Insurance Law § 7433(b)(2), all persons who appear on HMIC's books and records as policyholders or claimants thirty days after the last day set for filing claims set forth in paragraph 4 herein shall be deemed to have duly filed proofs of claims prior to the last day set for filing claims;
6. All former policyholders of HMIC policies which were in effect within three years of the date of entry of this order shall be deemed to have duly filed a proof of claim prior to the last day set for filing claims;

7. Superintendent shall provide notice to all other creditors, claimants, former policyholders and interested persons to present claims within four months of the date of entry of this order by publication in
 - a) the New York Times;
 - b) the Journal of Commerce; and
 - c) one newspaper to be selected by the Superintendent in the capital city of Pennsylvania.

Publication in the New York Times and Journal of Commerce shall be made once a week for two successive weeks commencing within three weeks of the entry of this order. Publication in the Pennsylvania newspaper shall be made once a week for two successive weeks within the period allowed for the filing of claims;

8. The notice provided for herein is sufficient notice to all persons interested in HMIC;
9. In accordance with Insurance Law § 7405, insurance policies, bonds, and other insurance obligations, if any, issued or undertaken by HMIC shall terminate and all liability thereunder shall cease and be fixed as of 12:01 a.m. on the thirtieth day after entry of this order or upon the procurement of replacement policies, bonds or insurance coverage by the policyholders or principals, whichever is earlier;
10. In accordance with Insurance Law § 7405, all other contracts, leases, tax sharing agreements, employment contracts and obligations, however described, of HMIC shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this order;
11. The Superintendent, as Liquidator, is authorized to sell, assign or transfer any and all real or personal property, stocks, bonds or securities of HMIC at market price or better, or if 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 is in the best interests of HMIC's creditors 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 or assignments;
12. HMIC, its officers, directors, depositories, trustees, agents, servants, employees, and all other persons, having any property or records belonging to HMIC, including, but not limited to insurance policy, claim and legal files, are directed to assign, transfer, set over and deliver such property or records to the Superintendent, as liquidator;

13. All persons, firms, corporations or associations having books, papers or records relating to the business of HMIC shall preserve them and submit them to the Superintendent, as liquidator, for examination and copying at all reasonable times;
14. The officers, directors, shareholders, trustees, agents, servants, employees, attorneys, and managers of HMIC and all other persons are permanently enjoined and restrained from the transaction of HMIC's business, the waste or disposition of its property, interfering with the Superintendent, as liquidator, in the possession, control and management of HMIC's property or in the discharge of his duties, commencing or prosecuting any actions or proceedings, obtaining preferences, judgments, attachments or other liens, or making any levy against HMIC, its assets or any part thereof;
15. All parties to lawsuits in which HMIC is obligated to defend a party pursuant to an insurance policy, contract or otherwise shall continue to be enjoined and restrained from proceeding with any pre-trial conference, trial, application for judgment or proceeding or judgments or settlements in all actions and proceedings until February 5, 1998;
16. All further papers in this proceeding shall bear the caption:

"In the Matter of
the Liquidation of
HOME MUTUAL INSURANCE COMPANY OF BINGHAMTON, NEW YORK"

17. The Superintendent, as Liquidator, shall serve a conformed copy of this Order upon the county clerk and trial support office for the amendment of the caption and computer records.

ENTER,



J. S. C.

SU/md
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