

MS-112
OTH

EX. PAPER DIVISION OFFICE
APPROVED
FOR THE FILING
OF MOTION
ONLY

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, in the County, City and State of New York, on the 18th day of DECEMBER, 2009.

PRESENT:

HON. MARILYN SHAFER, J.S.C.

030799

In the Matter of

Index No. 401477/09

the Rehabilitation of

**ORDER TO
SHOW CAUSE**

The Insurance Corporation of New York.

Upon reading and filing the attached Verified Petition of James J. Wrynn, Superintendent of Insurance of the State of New York ("Superintendent"), duly verified on the 15th day of December, 2009, the affidavit of Francesca G. Bliss, Assistant Special Deputy Superintendent, dated December 11, 2009, and the exhibits attached thereto, and it appearing that the relief sought should be granted;

**NOTED
RECEIVED
DEC 17 2009
NEW YORK
COUNTY CLERK'S OFFICE**

NOW, on motion of Andrew M. Cuomo, Attorney General of the State of New York, attorney for the Superintendent, and after due deliberation having been had thereon,

LET all claimants and parties interested in the affairs of The Insurance Corporation of New York ("INSCORP") ^{or counsel appear and} show cause before this Court at IAS Part 8 thereof, at the Courthouse located at 80 Centre Street in the County, City and State of New York, on the 23 day of Feb, 2010 (the "Return Date") at 9:30 o'clock fn .m., or as soon thereafter as counsel can be heard, why an order should not be made, pursuant to Article 74 of the New York Insurance Law ("Insurance Law"), *inter alia*: (1) converting this rehabilitation proceeding to a liquidation proceeding; (2) appointing the Superintendent and his successors in office as

liquidator of INSCORP; (3) vesting title to all INSCORP's property, contracts and rights of action with the Superintendent as liquidator; (4) continuing the permanent injunctions provided for in Insurance Law Section 7419, including permanently enjoining and restraining all persons other than the Superintendent and his agents from transacting INSCORP's business, wasting or disposing of its property, interfering with the Superintendent or the proceeding, or commencing or prosecuting any actions, obtaining any preferences, judgments, attachments or other liens, or making any levy against INSCORP, its assets or any part thereof; (5) granting injunctions enjoining and restraining: (a) all parties from commencing or prosecuting any actions or proceedings against INSCORP, the Liquidator or the New York Liquidation Bureau, its employees, attorneys or agents with respect to any claims against INSCORP; (b) all parties to actions, lawsuits and special or other proceedings in which INSCORP is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days; and (c) all persons who have first party or New York Comprehensive Automobile Insurance Reparations Act (No Fault) policyholder loss claims, from presenting and filing claims with the Superintendent as liquidator for a period of 90 days; (6) authorizing, permitting and allowing the Liquidator to sell, assign, transfer any and all stocks, bonds, or securities of INSCORP at market price or at the best price obtainable at private sale; (7) terminating all contracts and agreements, unless otherwise expressly assumed by the Liquidator, and fixing liability thereunder as of the date of entry of the Liquidation Order; (8) requiring all persons or entities having property, including, but not limited to, insurance policies, claims files (electronic or paper), software programs and/or bank records belonging or

relating to INSCORP shall preserve such information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such information to the Liquidator; (9) extending judicial immunity to the Superintendent in his capacity as liquidator of INSCORP and his successors in office and their agents and employees and extending such immunity to them for any cause of action of any nature against them, individually or jointly, for any action or omission of any one or more of them when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Article 74 of the Insurance Law; and (10) granting such other relief as is just;

AND, sufficient cause having been alleged therefor, and the Court having found the form and methods of notice specified herein to be the best notice practicable, it is hereby

I ORDERED, that notice of the petition and this Order to Show Cause shall be substantially in the form attached hereto and service shall be made by: (i) service of a copy of this Order to Show Cause upon Bruce Shulan, former General Counsel of INSCORP, as designated agent for service of process, by regular mail and certified mail, return receipt requested, on or before 28 day of Dec 2009; (ii) posting on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least 30 days before the Return Date; and (iii) publication in *Business Insurance*, once a week in two consecutive publications commencing within four weeks of issuance of this Order to Show Cause; and it is further

II ORDERED, that the form and methods of notice specified herein are hereby approved as in accordance with the law and as the best notice practicable and shall therefore constitute due and sufficient notice of this Order to Show Cause and the scheduled Return Date herein and the Verified Petition and the relief sought therein to all persons and entities entitled to receive such notice; and it is further

S
S.S.C.
MARILYN SHAFER

S
S.S.C.
MARILYN SHAFER

III ORDERED, that the approved form of notice shall direct that all answering papers and supporting documentation ("Answering Papers") be served on the Superintendent so as to be received at least seven days prior to the above-scheduled Return Date, and that service on the Superintendent shall be made by first class mail at the following address:

Superintendent of Insurance of the State of New York
as Rehabilitator of The Insurance Corporation of New York
123 William Street
New York, New York 10038-3889
Attention: John Pearson Kelly, Esq.
General Counsel

and by submitting copies of the Answering Papers, with affidavit of service on the Superintendent as above, to this Court at IAS Part 8 at the Courthouse located at 80 Centre Street in the County, City and State of New York, seven days before the Return Date; and it is further

J.S.C. IV ORDERED, that in the absence of Answering Papers filed pursuant to the previous paragraph on or prior to the date specified, that the Court may enter relief without hearing and no party shall be entitled to be heard thereon; and it is further

J.S.C. V ORDERED, that any person or entity that fails to serve Answering Papers as provided herein shall be deemed to have waived any objections to the relief sought in the petition and shall be barred from raising objections in this or any other proceeding concerning the matters set forth herein; and it is further

J.S.C. VI ORDERED, that any person or entity that has served Answering Papers as provided herein shall be deemed to have waived any objections that are not set forth in the Answering Papers; and it is further

J.S.C.
MARILYN SHAFER

ORDERED, the injunctions provided for in the Court's order of rehabilitation entered on June 30, 2009, which were extended by the Court's order entered September 29, 2009, shall remain in effect pending the hearing and determination of the petition.

ENTER:

ORAL ARGUMENT
DIRECTED

J.S.C.

J.S.C.

MARILYN SHAFER

Opposition papers, if any, shall be served on opposing counsel and filed with Part 8 or before a.