

At IAS Part 8, of the Supreme Court of the State of New York, at the Courthouse thereof, 60 Centre Street in the Borough of Manhattan, City and State of New York, on the 17<sup>th</sup> day of JUN, 2000.

P R E S E N T :

HON. DIANE A. LEBEDEFF

JUSTICE.

-----X

In the Matter of

Index No. 402632/00

the Application of

ORDER

NEIL D. LEVIN, as Superintendent of Insurance of the State of New York, for an Order of Appointment as Ancillary Receiver of

LMI INSURANCE COMPANY

-----X

**FILED**

JUL 19 2000

COUNTY CLERK'S OFFICE  
NEW YORK

Upon reading and filing the Order to Show Cause of NEIL D. LEVIN, Superintendent of Insurance of the State of New York (the "Superintendent"), verified the 12<sup>th</sup> day of June, 2000, for an Order appointing him Ancillary Receiver for LMI INSURANCE COMPANY (hereinafter referred to as "LMI"), and directing him to take possession of the property and assets of LMI located in the State of New York, pursuant to Article 74 of the Insurance Law of the State of New York; and it appearing to my satisfaction that LMI was created under the laws of the State of Ohio and licensed in the State of New York as a property and casualty and workers' compensation insurer; that it conducted an insurance business in the State of New York; that it was declared insolvent by a Court of competent jurisdiction of the State of Ohio on May 23, 2000 and is unable to meet its insurance obligations; that the Ohio Superintendent of Insurance

CC

was appointed Liquidator of LMI; that it is amenable to the Insurance Laws of the State of New York and particularly to Article 74 thereof; that its license to conduct an insurance business in the State of New York should be revoked by the Superintendent; that it is in the best interests of all policyholders, claimants, creditors, and other interested persons located in the State of New York that the Superintendent be appointed Ancillary Receiver of the property of said Company, subject to the order of this Court.

NOW, on motion of Hon. ELLIOT L. SPITZER, Attorney General of the State of New York, it is

ORDERED, that the petition of NEIL D. LEVIN, Superintendent of Insurance of the State of New York, is granted, and it is further

ORDERED, that NEIL D. LEVIN, as Superintendent of Insurance of the State of New York, and his successors in office as Superintendent, be and he is and they are hereby appointed Ancillary Receiver of LMI, and are hereby authorized and directed forthwith to take possession of the property of LMI located in the State of New York, under and pursuant to the provisions of Article 74 of the Insurance Law of the State of New York and to deal with the property and business of LMI, and they are further directed to take and preserve all the other assets and claims which are the property of LMI and to protect same for the benefit of creditors, policyholders and other interested parties within the State of New York, and upon the authorization of this Court to pay such claims against LMI and/or its policyholders that are covered by the insurance security funds maintained in accordance with Article 76 of the Insurance Law or Article 6A of the Workers' Compensation Law; and it is further

ORDERED, that LMI, its officers, directors, depositories, trustees, policyholders, attorneys, agents and employees and all other persons having any property or records relating to

LMI located in the State of New York, including but not limited to claim files, legal files and insurance policy files, are hereby directed to assign, transfer and deliver to the Superintendent, as Ancillary Receiver, all of such property in the State of New York in whomsoever's name the same may be, and that any persons, firms or corporations having any books, papers or records relating to the business of said company shall preserve the same and submit them to the Superintendent, as Ancillary Receiver, for examination at such place as he shall reasonably designate or, at his request, make them available for examination at all reasonable times, and it is further

ORDERED, that the officers, directors, trustees, depositories, policyholders, agents and employees of LMI, and all other persons, be and they are hereby enjoined and restrained from the further transaction of business or from dealing with or disposing of the property or assets of the company located in the State of New York, 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 company, or its estate while in the possession and control of the Superintendent of Insurance, as Ancillary Receiver; and it is further

ORDERED, THAT THE OFFICERS, DIRECTORS, TRUSTEES, DEPOSITORIES, POLICYHOLDERS, AGENTS AND EMPLOYEES OF LMI AND ALL OTHER PERSONS, INCLUDING BUT NOT LIMITED TO CLAIMANTS, PLAINTIFFS AND PETITIONERS WHO HAVE CLAIMS AGAINST LMI, BE AND THEY ARE HEREBY ENJOINED AND RESTRAINED FROM BRINGING OR FURTHER PROSECUTING ANY ACTION AT LAW, SUIT IN EQUITY, SPECIAL OR OTHER PROCEEDING AGAINST THE SAID COMPANY OR ESTATE, THE SUPERINTENDENT AND HIS SUCCESSORS IN OFFICE, AS ANCILLARY RECEIVER THEREOF, OR THE NEW YORK STATE INSURANCE DEPARTMENT LIQUIDATION BUREAU WITH RESPECT TO CLAIMS AGAINST LMI, OR FROM MAKING OR EXECUTING ANY LEVY UPON THE PROPERTY OR ESTATE OF SAID COMPANY, OR FROM IN

ANY WAY INTERFERING WITH THE SUPERINTENDENT OR HIS SUCCESSORS IN OFFICE, IN HIS OR THEIR POSSESSION, CONTROL OR MANAGEMENT OF THE PROPERTY OF SAID COMPANY, OR IN THE DISCHARGE OF HIS OR THEIR DUTIES AS ANCILLARY RECEIVER THEREOF, OR IN THE LIQUIDATION OF THE BUSINESS OF SAID COMPANY, AND IT IS FURTHER

ORDERED, THAT ALL PARTIES TO LAW SUITS IN THIS STATE ARE HEREBY ENJOINED AND RESTRAINED FROM PROCEEDING WITH ANY TRIAL, APPLICATION FOR JUDGMENT OR PROCEEDING ON JUDGMENTS OR SETTLEMENTS IN SUCH ACTIONS AT LAW, SUITS IN EQUITY, SPECIAL OR OTHER PROCEEDINGS IN WHICH LMI IS OBLIGATED TO DEFEND A PARTY, INSURED OR ANY OTHER PERSONS AND ANY AND ALL ACTIONS BEING DEFENDED BY A PRIMARY OR OTHER UNDERLYING INSURER WHERE SUCH PRIMARY OR UNDERLYING INSURER HAS TENDERED OR OFFERED ITS FULL POLICY LIMITS OR WHERE SAID POLICY LIMITS HAVE BEEN EXHAUSTED BY PAYMENT OF THE UNDERLYING INSURER'S AGGREGATE AND LMI IS THE NEXT EXCESS OR UMBRELLA LAYER OF INSURANCE FOR A PERIOD OF 180 DAYS FROM THE DATE OF ENTRY OF THIS ORDER; AND IT IS FURTHER

ORDERED, THAT THOSE PERSONS WHO MAY HAVE FIRST-PARTY OR NEW YORK COMPREHENSIVE AUTOMOBILE INSURANCE REPARATIONS ACT (NO-FAULT) POLICYHOLDER LOSS CLAIMS AGAINST LMI COMING WITHIN THE PURVIEW OF ARTICLE 76 OF THE INSURANCE LAW, ARE ENJOINED FOR 90 DAYS FROM THE DATE OF ENTRY OF THIS ORDER HEREOF FROM PRESENTING AND FILING SUCH FORMAL CLAIMS IN THIS PROCEEDING PURSUANT TO SECTION 7432 OF THE INSURANCE LAW; AND IT IS FURTHER

ORDERED, notice of making and entry of this Order be given by publication in the N.Y. Times, commencing two weeks from the date of entry of this order once a week for two successive weeks, and that said notice is sufficient notice to all persons interested in the assets of LMI; and it is further

ORDERED, that the license of LMI to do business in the State of New York, be and the same is hereby revoked; 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 NEW YORK

In the Matter of  
The Ancillary Receivership of  
LMI INSURANCE COMPANY”

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

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

ENTER

  
\_\_\_\_\_  
J. S. C.

**FILED**

JUL 19 2000

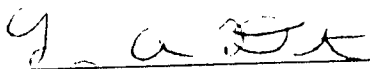
COUNTY CLERK'S OFFICE  
NEW YORK

LAD:cb L1336  
of/LMI

In accordance with Part 130, I advise that the following papers are attached:

1. Order appointing the Superintendent Ancillary Receiver

Lawrence A. Dinerstein, Esq.  
Senior Attorney  
N.Y. State Dept. of Insurance  
Liquidation Bureau  
123 William Street  
New York, New York 10038  
(212) 341-6638

  
\_\_\_\_\_  
Lawrence A. Dinerstein

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

PRESENT: DIANE A. LEBEDEFF  
Justice

PART 8

LMI INSURANCE COMPANY  
IN RE.  
- v -

INDEX NO. \_\_\_\_\_  
MOTION DATE JUL 17 2000  
L.A.C. NO. \_\_\_\_\_  
MOTION SEQ. NO. \_\_\_\_\_  
SUPPORT OFFICE \_\_\_\_\_  
MOTION CAL. NO. \_\_\_\_\_

402632/00  
7/17/00  
001  
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The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for Amc'l Recor

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

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

PAPERS NUMBERED

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

GRANTED ON DEFAULT.  
ORDER SIGNED.

**FILED**

**JUL 19 2000**  
COUNTY CLERK'S OFFICE  
NEW YORK

MOTION/CASE IS RESPECTFULLY REFERRED TO  
JUSTICE

Dated: 7/17/2000

[Signature]  
J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

[Signature]

Sir: Please take notice that the within is a true

copy of  
duly filed and entered in the office of the clerk  
of  
the day of , 19  
County, on

Yours, etc.,  
ELIOT L. SPITZER  
Attorney General,

Attorney For  
Office and Post Office Address  
120 Broadway, New York, N.Y. 10271  
To , Esq.

Attorney for  
Sir: Please take notice that the within

will be presented for settlement and signature  
herein to the Hon.  
one of the judges of the within named Court, at  
in the Borough of  
City of New York, on the  
Date, N.Y.,  
Yours, etc.,  
ELIOT L. SPITZER  
Attorney General,

NEW YORK COUNTY CLERKS OFFICE  
JUL 19 2000  
F L M  
day of  
at  
19  
M.

Attorney For  
Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

To , Esq.  
Attorney for

SUPREME COURT : NEW YORK COUNTY

In the Matter of  
the Application of  
NEIL D. LEVIN, as Superintendent of  
of Insurance of the State of New York  
for an order of appointment as  
Ancillary Receiver

LMI INSURANCE COMPANY

ORDER

ELIOT L. SPITZER  
Attorney General

Attorney for the Superintendent of  
Insurance

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271

Tel. (212) 416-8657

Personal service of a copy of

within.....  
is admitted this..... day of  
.....19

NYS Ins. Dept.  
Liquidation Sure  
123 William St  
New York, NY 100  
L. Dinerstein  
(212) 341-6638