

At IAS Part 23 of the Supreme Court
of the State of New York, County
of Nassau 100 Supreme Court
Drive, Mineola, New York, on the
16 day of September 1998.

P R E S E N T :

HON. THOMAS P. PHELAN

JUSTICE

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In the Matter of

The Rehabilitation of

NEW YORK SURETY COMPANY

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Motion Seq. # ?

Index No. 98-017005

LIQUIDATION ORDER

Petitioner, Neil D. Levin, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court by order to show cause for an order converting this proceeding into a liquidation proceeding appointing the Superintendent liquidator of New York Surety Company ("NYSCO"), vesting the Superintendent, as liquidator, with title to the property, contracts and rights of action of NYSCO, fixing the rights and liabilities of NYSCO, 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 order to show cause signed by the Hon. Thomas P. Phelan on August 21, 1998 the petition of Superintendent Neil D. Levin, duly verified August 18, 1998, the exhibits annexed thereto, the affidavit of service of Stephen Ungar,

sworn to September 2, 1998, and the respondent having failed to respond or appear and it appearing to my satisfaction that:

1. NYSCO is insolvent;
2. the further transaction of business by NYSCO would be hazardous to its policyholders, creditors and the public;
3. further efforts to rehabilitate NYSCO would be futile;
4. It is in the best interest of NYSCO's policyholders, creditors and the public that the Superintendent be vested with title to NYSCO'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 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. NYSCO is insolvent;
3. Neil D. Levin, Superintendent, and his successors in office as superintendent, are appointed liquidator of NYSCO, 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 NYSCO 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 NYSCO's books and records as policyholders, obligees or claimants as of date of entry of this order shall be deemed to have duly filed proofs of claims prior to the last day set for filing claims;
6. The 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 and;

b) the Journal of Commerce.

Publication shall be made once a week for two successive weeks commencing within three weeks of the entry of this order;


7. The notice provided for herein is sufficient notice to all persons interested in NYSCO;
8. In accordance with Insurance Law § 7405, insurance policies, bonds, and other insurance obligations, if any, issued or undertaken by NYSCO 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;
9. In accordance with Insurance Law § 7405, all other contracts, leases, tax sharing agreements, employment contracts and obligations, however described, of NYSCO shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this order;
10. The Superintendent, as Liquidator, is authorized to sell, assign or transfer any and all real or personal property, stocks, bonds or securities of NYSCO 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 NYSCO 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;
11. NYSCO, its officers, directors, depositories, trustees, agents, servants, employees, and all other persons, having any property or records belonging to NYSCO, 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;
12. All persons, firms, corporations or associations having books, papers or records relating to the business of NYSCO shall preserve them and submit them to the Superintendent, as liquidator, for examination and copying at all reasonable times;
13. ALL PERSONS ARE PERMANENTLY ENJOINED AND RESTRAINED FROM COMMENCING OR PROSECUTING ANY ACTIONS OR PROCEEDINGS AGAINST NYSCO.

14. ALL PERSONS ARE PERMANENTLY ENJOINED AND RESTRAINED FROM OBTAINING PREFERENCES, JUDGMENTS, ATTACHMENTS, OR OTHER LIENS, OR MAKING ANY LEVY AGAINST NYSCO'S ASSETS OR ANY PART THEREOF.
15. The officers, directors, shareholders, trustees, agents, servants, employees, attorneys, and managers of NYSCO and all other persons are permanently enjoined and restrained from the transaction of NYSCO's business, the waste or disposition of its property, interfering with the Superintendent, as liquidator, in the possession, control and management of NYSCO's property or in the discharge of his duties;
16. All parties to lawsuits in which NYSCO 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 on judgments or settlements in all actions and proceedings until December 24, 1998;
17. All further papers in this proceeding shall bear the caption:

"In the Matter of
the Liquidation of
NEW YORK SURETY COMPANY"

18. The Superintendent, as Liquidator, shall serve a conformed copy of this Order upon the county clerk, the trial support office and the Calendar Clerk of the Nassau County Supreme Court for the amendment of the caption and computer records.

ENTER.




J. S. C.

ENTERED

SEP 21 1998

COUNTY CLERK OF NASSAU COUNTY

SU:cb
gr/rl NYSC



Stephen Ungar, Esq.

