

At IAS Part 17, 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 1<sup>st</sup> day of May, 2002.

P R E S E N T : W A L T E R T O L U B

HON.

J U S T I C E .

-----X

In the Matter of

*Index No. 401785/02*

the Application of

**ORDER OF ANCILLARY  
RECEIVERSHIP**

GREGORY V. SERIO, as Superintendent of Insurance of the State of New York, for an Order of Appointment as Ancillary Receiver of

PHICO INSURANCE COMPANY

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COUNTY CLERK'S OFFICE  
NEW YORK  
MAY 21 2002

Upon reading and filing the Order to Show Cause of GREGORY V. SERIO, Superintendent of Insurance of the State of New York (the "Superintendent"), verified the 22<sup>nd</sup> day of March, 2002, for an Order appointing him Ancillary Receiver of PHICO INSURANCE COMPANY (hereinafter referred to as "PHICO"), and directing him to take possession of the property and assets of PHICO 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:

1. PHICO is domiciled in the Commonwealth of Pennsylvania, and licensed in the State of New York as a property and casualty insurer;
2. PHICO's principal place of business is located in Mechanicsburg, Pennsylvania

3. PHICO conducted an insurance business in the State of New York;
4. PHICO was declared insolvent by a court of competent jurisdiction in the Commonwealth of Pennsylvania and placed in liquidation on February 1, 2002;
5. The Commissioner of Insurance of the Commonwealth of Pennsylvania was appointed Liquidator of PHICO;
6. PHICO is amenable to the Insurance Law of the State of New York and particularly to Article 74 thereof;
7. 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 PHICO located in New York, 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:

1. The petition of GREGORY V. SERIO, Superintendent of Insurance of the State of New York, is granted.
2. GREGORY V. SERIO, 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 PHICO, and are hereby authorized and directed forthwith to take possession of the property of PHICO 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 PHICO, and they are further directed to take and preserve all the other assets and claims which are the property of PHICO 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 PHICO and/or its policyholders that are covered by the insurance security funds maintained in accordance with article 76 of the Insurance Law and/or article 6A of the Workers' Compensation Law.
3. PHICO, its officers, directors, depositories, trustees, policyholders, attorneys, agents and employees and all other persons having any property or records relating to PHICO 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 whomever'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.

4. The officers, directors, trustees, depositories, policyholders, agents and employees of PHICO, 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 PHICO located in the State of New York, or doing or permitting to be done any act or thing which might waste such 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.
5. Pursuant to the order of liquidation of a court of competent jurisdiction in the Commonwealth of Pennsylvania, entered on February 1, 2002, and the relevant provisions of Pennsylvania law, all policies or contracts of insurance issued by PHICO are cancelled as of the earlier of:
  - a. thirty days from the date of entry of the liquidation order; (February 1, 2002);
  - b. the expiration of the policy or contract coverage;
  - c. the date when the insured has replaced the insurance coverage with equivalent insurance or otherwise terminated the policy, or
  - d. the Pennsylvania liquidator has effected a transfer of the policy obligation.
6. The officers, directors, trustees, depositories, policyholders, agents and employees of PHICO and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against PHICO, 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 PHICO, the Superintendent and his successors in office, as Ancillary Receiver thereof, or the New York State Insurance Department-Liquidation Bureau its employees, agents and attorneys with respect to claims against PHICO, or from making or executing any levy upon the property or estate of said company, or the Superintendent as Ancillary Receiver, or the New York State Insurance Department-Liquidation Bureau, or from in any way interfering with the Superintendent as Ancillary Receiver, 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 receivership of said company.
7. All parties to lawsuits, in which PHICO is obligated to defend a party pursuant to or by virtue of an insurance policy or in which PHICO is the excess or umbrella layer of insurance and the primary or other 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, are enjoined and restrained from

proceeding in all actions at law, suits in equity, special, or other proceeding for 180 days from the date of entry of this order, including, but not limited to, proceedings with any discovery, pre-trial conference, trial, application for judgment, or proceedings on judgment or settlement.

8. Those persons who may have first-party or New York Comprehensive Automobile Insurance Reparations act ("No-Fault") policyholder loss claims against PHICO coming within the purview of Article 76 of the New York Insurance Law, are enjoined from presenting and filing such claims in this proceeding for 90 days from the date of entry of this order.
9. Notice of making and entry of this order be given by publication in the New York Times, commencing three 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 PHICO.
10. The license of PHICO to do business in the State of New York, be and the same is hereby revoked.
11. That the Superintendent as Ancillary Receiver, may at any time make further application to this Court for such further and other relief as he sees fit.
12. 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

PHICO INSURANCE COMPANY"

in place and stead of the caption heretofore used.

ENTER




J. S. C.

FILED  
MAY 21 2002  
COUNTY CLERK'S OFFICE  
NEW YORK

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

Order of Ancillary Receivership

Lawrence A. Dinerstein, Esq.  
Senior Attorney  
N.Y. State Dept. of Insurance  
Liquidation Bureau  
123 William Street  
New York, NY 10038

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

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

PRESENT: WALTER B. TOLUB  
Justice

PART 15

In Re: Phico Insurance  
Co.  
- v -

INDEX NO. 40785/02  
MOTION DATE 5/3/02  
MOTION SEQ. NO. 001  
MOTION CAL. NO. 7

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

	PAPERS NUMBERED
Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...	_____
Answering Affidavits — Exhibits _____	_____
Replying Affidavits _____	_____

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion for the appointment of  
an ancillary receiver of Phico Insurance Company  
is granted without opposition. Order signed  
here with.

**FILED**  
MAY 21 2002  
COUNTY CLERK'S OFFICE  
NEW YORK

Dated: 5/14/02

WALTER B. TOLUB S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

NO HONORARY CASE IS RESPECTFULLY REFERRED TO JUSTICE

Index No.: 401785/02

SUPREME COURT: NEW YORK COUNTY

In the Matter of  
the Application of

GREGORY V. SERIO, as Superintendent of Insurance of the State  
of New York, for an order of appointment, as Ancillary Receiver of

PHICO INSURANCE COMPANY

ORDER OF ANCILLARY RECEIVERSHIP

ELIOT SPITZER

Attorney General

Attorney for the Superintendent of  
Insurance

Office and Post Office Address  
120 Broadway, New York, N.Y. 10271  
Tel. (212) 416-8658

Personal service of a copy of

within.....  
is admitted this..... day of  
..... .20

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 20  
County, on

COUNTY CLERK'S OFFICE  
NEW YORK  
MAY 21 1972

Yours, etc.,  
ELIOT 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  
day of  
, 20, at M.

Date, N.Y.,  
Yours, etc.,  
ELIOT SPITZER  
Attorney General,

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

To  
Esq.

Attorney for