

SUPREME COURT
FILED
NOV 20 1997
P R E S. I. A. S. MOTION
SUPPORT OFFICE

At IAS Part 55 of the Supreme Court
of the State of New York, at the
Courthouse, 60 Centre Street,
New York, New York on the
19th day of NOV. , 1997.

HON. Richard B. Lowe III
HON. RICHARD B. LOWE III

JUSTICE

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In the Matter of

Index No. 403176/97

The Rehabilitation of

FILED LIQUIDATION ORDER

U.S. CAPITAL INSURANCE COMPANY

NOV 20 1997
COUNTY CLERK'S OFFICE
X 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 by order to show cause for an order converting this proceeding into a liquidation proceeding, vesting the Superintendent, as liquidator, with title to property, contracts and rights of action of U.S. Capital Insurance Company ("U.S. Capital"), fixing the rights and liabilities of U.S. Capital, 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. Richard B. Lowe III on October 27, 1997, the petition of Superintendent Neil D. Levin, duly verified October 23, 1997, the exhibits annexed thereto, the affidavit of service of Robert La Croce, sworn to October 29, 1997, and it appearing to my satisfaction that:

- 1. U.S. Capital is insolvent;

2. the further transaction of business by U.S. Capital would be hazardous to its policyholders, creditors and the public;
3. further efforts to rehabilitate U.S. Capital would be futile;
4. It is in the best interest of U.S. Capital's policyholders, creditors and the public that the Superintendent be vested with title to U.S. Capital'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 the court having held a hearing 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. U.S. Capital is insolvent;
3. Neil D. Levin, Superintendent, and his successors in office as superintendent, are appointed liquidator of U.S. Capital, 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 U.S. Capital 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 U.S. Capital'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 U.S. Capital policies which expired 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. 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;
 - b) the Journal of commerce; and
 - c) one newspaper to be selected by the Superintendent in the capital cities of Alabama, Arizona, California, Delaware, Florida, Georgia, Idaho, Indiana, Iowa, Louisiana, Maryland, Michigan, Montana, Nebraska, Nevada, New Mexico, North Dakota, Tennessee, Texas, Utah, Virginia, Washington, and in the District of Columbia.

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 other newspapers 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 U.S. Capital;
9. In accordance with Insurance Law § 7405, insurance policies, bonds, and other insurance obligations, if any, issued or undertaken by U.S. Capital 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 U.S. Capital 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 U.S. Capital 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 U.S. Capital 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. U.S. Capital, its officers, directors, depositories, trustees, agents, servants, employees, and all other persons, having any property or records belonging to U.S. Capital, 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 U.S. Capital 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 U.S. Capital and all other persons are permanently enjoined and restrained from the transaction of U.S. Capital's business, the waste or disposition of its property, interfering with the Superintendent, as liquidator, in the possession, control and management of U.S. Capital'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 U.S. Capital, its assets or any part thereof;
15. All parties to lawsuits in which U.S. Capital 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 22, 1998;
16. All persons who have first party or New York Comprehensive Automobile Insurance Reparations Act [No fault] policyholder loss claims against U.S. Capital shall continue to be enjoined from presenting and filing claims with the Superintendent, as Liquidator, until November 22, 1997;
17. All further papers in this proceeding shall bear the caption:

"In the Matter of

the Liquidation of

U.S. CAPITAL INSURANCE COMPANY"

18. 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



HON. RICHARD E. LOWE III

FILED

NOV 20 1997

COUNTY CLERK'S OFFICE
NEW YORK

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

PRESENT: Hon. Richard B. Lowe, III
Justice

PART 55

In Re: U.S. Capital Ins. Co.

INDEX NO. 703176/97
MOTION DATE 11/13/97
MOTION SEQ. NO. 002
MOTION CAL. NO. 13

- v -

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

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 THE MOTION HAS BEEN GRANTED IN ITS ENTIRETY ON DEFAULT, IN ACCORDANCE WITH THE ACCOMPANYING ORDER.

THIS SHALL CONSTITUTE THE DECISION AND ORDER OF THE COURT.

MOTION/CASE IS RESPECTFULLY REFERRED TO

JUSTICE

DATED:

J.S.C.

Dated: NOVEMBER 18, 1997

FILED
NOV 20 1997
COUNTY CLERK'S OFFICE
NEW YORK

J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION

Sir: Please take notice that the within is a true copy of duly filed and entered in the office of the clerk of the County, on the day of , 19

Yours, etc.,
DENNIS C. VACCO
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 19 , at M.

Date, N.Y., Yours, etc.,
DENNIS C. VACCO
Attorney General,

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 Rehabilitation of

U.S. CAPITAL INSURANCE COMPANY

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NOV 23 1957
F I L E D

LIQUIDATION ORDER

DENNIS C. VACCO
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 Bureau
123 William Street
New York, NY 10038

S. Ungar
(212) 341-6768