

EX-Parte Motion Part
At the ~~145 Part 20~~ of the Supreme Court of the State of New York, County of New York, at the Courthouse thereof, 60 Centre Street, in the Borough of Manhattan, City and State of New York, on the 21st day of November, 1988

P R E S E N T :

HON. *James A. Sandifer*
JUSTICE.

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In the Matter of
the Application of

INDEX NO. *46858/1988*
ORDER OF LIQUIDATION

JAMES P. CORCORAN, as Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business of and dissolve

WHITING NATIONAL INSURANCE COMPANY
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Now upon reading the petition of JAMES P. CORCORAN, Superintendent of Insurance of the State of New York, verified the *14th* day of *November*, 1988 and exhibits annexed thereto in support of the petition, and it appearing to my satisfaction (i) that WHITING NATIONAL INSURANCE COMPANY (hereinafter referred to as "WHITING") was incorporated under the laws of the State of New York on September 4, 1969 and licensed as a stock casualty insurer in the State of New York on October 1, 1969; (ii) that it is amenable to the Insurance Law of the State of New York and particularly to Article 74 thereof; (iii) that it is impossible to reinsure in whole or in

part the existing policy obligations of WHITING pursuant to Section 7405(c) of the Insurance Law; (iv) that it should be dissolved and its corporate charter annulled and forfeited; (v) that WHITING is insolvent, that it is in such condition that its further transaction of business would be hazardous to its policyholders, creditors or to the public; that WHITING is in self-liquidation and has consented to an Order of Liquidation; that it is to their best interests that this application should be granted and WHITING liquidated under and pursuant to Article 74 Section 7402 (e), (j) and (l) of the Insurance Law;

NOW, on motion of Hon. ROBERT ABRAMS, Attorney General of the State of New York, it is

ORDERED, that the petition of the Superintendent is granted; and it is further

ORDERED, that JAMES P. CORCORAN, the Superintendent, or any successor in office as Superintendent, is hereby appointed Liquidator of WHITING, and is hereby authorized and directed forthwith to take possession of the property and liquidate the business and affairs of WHITING pursuant to Article 74 of the Insurance Law and to deal with the property and business affairs of WHITING in his name as Superintendent, and is vested with title to all of the property, contracts and

rights of action of WHITING pursuant to Section 7405 of the Insurance Law; and it is further

ORDERED, that the notice of the aforesaid be given by publication in the national editions of The New York Times and The Journal of Commerce, commencing on or about the 30th day of *November*, 1988, and thereafter once a week for two successive weeks; and it is further

ORDERED, that notice of liquidation be given by publication of such notice in one newspaper in New York, New York, Tampa, Florida, Trenton, New Jersey and Madison, Wisconsin, and in the newspapers in other cities to be selected by the Liquidator in his discretion, by publication of such notice once a week for two successive weeks within the period allowed for the filing of claims; and it is further

ORDERED, that the notice prescribed is sufficient notice to all persons interested in the assets of WHITING; and it is further

ORDERED, that notice of the making and entry of this order be given by the Superintendent, as Liquidator, to the extent it can be reasonably ascertained, by mail to all policyholders, creditors and all other persons having any

unsatisfied claims or demands of any character against the corporation in the possession of the Superintendent, as Liquidator, at the last known address of such persons as disclosed by said records and in such manner and form as he in his discretion may find desirable, demanding that all persons indebted to WHITING render accounts of their indebtedness and pay any sums due to the Superintendent, as Liquidator; and giving notice to present proofs of claim with the Superintendent, as Liquidator, at a place specified in such notice within twelve months from the date of the entry of this Order and no later than the 23rd day of November, 1989; and that such notice may contain such other rules, regulations and information as the Superintendent, as Liquidator, may deem necessary for the purpose of this proceeding in fixing and determining all lawful and valid claims and demands against the corporation; and it is further

ORDERED, that in the event one or more Insurance Departments and/or Guaranty Funds or Associations of foreign States that have adopted the Uniform Insurers Liquidation Act in which respondent was licensed to do business, desire to give formal notice to policyholders and creditors in their respective State Insurance Department or Guaranty Fund or Association, the Superintendent, as Liquidator, may permit the giving of such notice as he in his discretion may find desirable; and it is further

ORDERED, that all outstanding policy and other insurance obligations as well as surety bonds and obligations thereunder of WHITING terminate and all liability thereunder cease and be fixed as of 12:01 A.M. EASTERN STANDARD Time, 30 days after the signing of this Order, or prior thereto upon the procurement by policyholders of new insurance covering their risks insured thereby, as well as procurement by principals of new surety bonds covering the obligations thereunder and notice thereof shall be given as hereinabove set forth; and it is further

ORDERED, that all other subsisting contracts, leases, tax sharing agreements, individual labor contracts and other obligations of WHITING and all liability thereunder cease and be fixed as of the date of the entry of this Order; and it is further

ORDERED, that the Superintendent, as Liquidator, is relieved of the provisions set forth in Section 7405(c) of the Insurance Law, to wit: to reinsure in whole or in part the policy obligations of WHITING; and it is further

ORDERED, that JAMES P. CORCORAN, the Superintendent or any successor in office as Superintendent, is hereby authorized, permitted and allowed to sell, assign and transfer any and all

stocks, bonds and securities in his possession or which may hereafter come into his possession belonging to WHITING, in liquidation, at market price or better, or when 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 for the best interests of the creditors of WHITING, in liquidation, and that he be authorized, permitted and allowed 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 and assignments; and it is further

ORDERED, that WHITING, its officers, directors, depositories, trustees, policyholders, agents and employees and all other persons having any property or records belonging to WHITING, are hereby directed to assign, transfer and deliver to the Superintendent, as Liquidator, all of such property in whomsoever the same may be, and that any persons, firms or corporations having any books, papers or records relating to the business of said corporation shall preserve the same and submit them to the Superintendent, as Liquidator, for examination at all reasonable times; and it is further

ORDERED, that the officers, directors, trustees, depositories, policyholders, agents and employees of WHITING, and all other

persons are enjoined and restrained from the further transaction of business or from dealing with or disposing of the property or assets of said corporation, 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 corporation, or its estate while in the possession and control of the Superintendent, as Liquidator; and it is further

ORDERED, that the officers, directors, trustees, depositories, policyholders, agents and employees of WHITING, and all other persons, including but not limited to claimants, plaintiffs and petitioners and petitioners who have claims against WHITING, are ~~permanently~~ enjoined and restrained from bringing or further prosecuting any action at law, suit in equity, special or other proceeding against the said corporation or its estate, or the Superintendent and his successors in office, as Liquidator thereof, or from making or executing any levy upon the property or estate of said corporation, or from in any way interfering with the Superintendent, or any successor in office, in his possession or in the discharge of his duties as Liquidator thereof, or in the liquidation of the business of said corporation as well as the Superintendent of Insurance as Administrator of the Article 76 Section of the Insurance Law, Property/Casualty Security Funds, the Section 107 Stock Workers' Security Fund ~~and the~~

~~Section 109 Mutual Workers' Compensation Security Fund~~ insofar as they apply to policyholders and claimants of WHITING; and it is further

ORDERED, that all parties to law suits in this State and all other states and territories of the United States, 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 WHITING is obligated to defend a party insured or any other person it is legally obligated to defend by virtue of its insurance contract 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 WHITING is the next excess or umbrella layer of insurance for a period of 180 days from the date hereof; 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 WHITING coming within the purview of Article 76 of the Insurance Law, are enjoined for 90 days from the date hereof from presenting and

filing such formal claims in this proceeding pursuant to Section 7432 of the Insurance Law; and it is further

ORDERED, that the corporate charter of said WHITING NATIONAL INSURANCE COMPANY be and the same hereby is forfeited, surrendered and annulled and the said WHITING NATIONAL INSURANCE COMPANY is hereby dissolved; 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 Liquidation of
WHITING NATIONAL INSURANCE COMPANY"

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

ORDERED, that the Superintendent, as Liquidator, may at any time make further application for such further and different relief as he sees fit.

filed
11/21/88
New York County

ENTER
151 J. C. S.
J. S. C.