

At the Ex-Parte Motion Part of the Supreme Court of the State of New York, County of New York, at the Courthouse, 60 Centre Street, Borough of Manhattan, City and State of New York, on the 10th day of *April*, 1989.

P R E S E N T:

HON. *Stanley S. Ostrau*

JUSTICE.

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In the Matter of

the Application of

JAMES P. CORCORAN, as Superintendent of Insurance of the State of New York, for an Order of Appointment as Ancillary Receiver of

Index No *H1706/1989*

ORDER

AMERICAN MUTUAL INSURANCE COMPANY OF BOSTON and AMERICAN MUTUAL LIABILITY INSURANCE COMPANY, mutual insurance companies of the Commonwealth of Massachusetts

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Upon reading and filing the annexed petition of JAMES P. CORCORAN, Superintendent of Insurance of the ~~Commonwealth~~ ^{State} of New York, verified the *29* day of *March*, 1989, for an Order appointing him Ancillary Receiver for AMERICAN MUTUAL INSURANCE COMPANY OF BOSTON and AMERICAN MUTUAL LIABILITY INSURANCE COMPANY (hereinafter referred to as "MUTUALS"), and to take possession of the property and assets of MUTUALS 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 MUTUALS were incorporated under the laws of the Commonwealth of Massachusetts; that they were licensed as mutual casualty insurers in the State of New York; that they conducted insurance business in the State of New York; that they have been declared insolvent by a Court of competent jurisdiction of the Commonwealth of Massachusetts on March 9, 1989 and are unable to meet their insurance obligations; that their license to conduct such business should be revoked by the Superintendent of Insurance of the State of New York; that the Commissioner of Insurance of the Commonwealth of Massachusetts was appointed Liquidator of MUTUALS; that they are amenable to the Insurance Laws of the State of New York and particularly to Article 74 thereof; that it is to the best interests of all policyholders, claimants, creditors and other interested persons located in the State of New York that the Superintendent of Insurance of the State of New York be appointed Ancillary Receiver of the property of said Companies and to liquidate the same, subject to the orders of this Court;

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

ORDERED, that the petition of JAMES P. CORCORAN,

Superintendent of Insurance of the State of New York, be and the same hereby is in all respects granted; and it is further

ORDERED, that the said JAMES P. CORCORAN, as Superintendent of Insurance of the State of New York, and his successors in office as Superintendents of Insurance of the State of New York, be and he is and they are hereby appointed Ancillary Receiver of MUTUALS, and are hereby authorized and directed forthwith to take possession of the property of the said MUTUALS 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 MUTUALS, and it is further directed to take and preserve all the other assets and claims which are the property of MUTUALS 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 MUTUALS and/or its policyholders as are approved by this Court as being valid; and it is further

ORDERED, that said MUTUALS, its officers, directors, depositories, trustees, policyholders, agents and employees and all other persons having any property or records relating to the said MUTUALS 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 of Insurance, as Ancillary Receiver, all of such property located in the State of New York in whomsoever name the same may be, and that any persons, firms or corporations having any books, papers or records relating to the business of said companies shall preserve the same and submit them to the Superintendent of Insurance, 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 said MUTUALS, and all other persons, be and they hereby are enjoined and restrained from the further transaction of business or from dealing with or disposing of the property or assets of said companies 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 said MUTUALS, and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against said MUTUALS, be and they are hereby enjoined and restrained from bringing or further prosecuting any action at law, suit in equity, special or other proceedings against the said companies or estates or the Superintendent of Insurance of the State of New York and his successors in office, as Ancillary Receiver thereof, or from making or executing any levy upon the property or estate of said companies, or from in any way interfering with the Superintendent of Insurance of the State of New York, or his successors in office, in his or their possession, control or management of the property of said companies, or in the discharge of his or their duties as Ancillary Receiver thereof, or in the liquidation of the business of said companies; 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 MUTUALS are obligated to defend a party insured or any other persons they are legally obligated to defend by virtue of their 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 MUTUALS 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 MUTUALS 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 by the Order of Liquidation of the Supreme Judicial Court for Suffolk County of the Commonwealth of Massachusetts dated March 9, 1989, all outstanding policy and other insurance obligations as well as surety bonds and obligations thereunder of MUTUALS are cancelled and terminated and all liability thereunder cease and be fixed as of 12:01 A.M. Eastern Daylight Savings Time, 60 days after the signing of said 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 it is further

ORDERED, that the notice of said cancellation be given by publication in The New York Times commencing on or about the 17th day of April, 1989, and thereafter once a week for two successive weeks and that said notice is sufficient notice to all persons interested in the assets of MUTUALS; and it is further

ORDERED, that the licenses of AMERICAN MUTUAL INSURANCE COMPANY OF BOSTON and AMERICAN MUTUAL LIABILITY INSURANCE COMPANY to do business in the State of New York, be and the same are 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

"AMERICAN MUTUAL INSURANCE COMPANY OF
BOSTON and AMERICAN MUTUAL LIABILITY
INSURANCE COMPANY"

in place and stead of the caption as 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.

E N T E R

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J. S. C.

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