

At IAS Part 25, 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 ^{22nd} day of ^{October} 2001.

PRESENT:

HON. LELAND DE GRASSE

JUSTICE.

-----X
In the Matter of

Index No. 404966/01

the Application of

ORDER

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

AMWEST SURETY INSURANCE COMPANY
-----X

COURT CLERK'S OFFICE
NEW YORK
OCT 29 2001
FILED

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 31st day July, 2001, for an Order appointing him Ancillary Receiver for AMWEST SURETY INSURANCE COMPANY (hereinafter referred to as "AMWEST"), and directing him to take possession of the property and assets of AMWEST 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. AMWEST is domiciled in the State of Nebraska, and licensed in the State of New York as a property and casualty insurer;
2. AMWEST's principal place of business is located at 5230 Las Virgenes Road, Calabasas, California;
3. AMWEST conducted an insurance business in the State of New York;

#001

4. AMWEST was declared insolvent by a Court of competent jurisdiction of the State of Nebraska on June 7, 2001 and is unable to meet its insurance obligations;
5. The Insurance Director of the State of Nebraska was appointed Liquidator of AMWEST;
6. AMWEST is amenable to the Insurance Laws 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 said Company, 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 AMWEST, and are hereby authorized and directed forthwith to take possession of the property of AMWEST 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 AMWEST, and they are further directed to take and preserve all the other assets and claims which are the property of AMWEST 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 AMWEST 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. AMWEST, its officers, directors, depositories, trustees, policyholders, attorneys, agents and employees and all other persons having any property or records relating to AMWEST 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 whomsoever'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 AMWEST, 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 the company 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.
5. Pursuant to the order of liquidation of a court of competent jurisdiction in the State of Nebraska, entered on June 7, 2001, and the relevant provisions of the Nebraska insurance law, all AMWEST policies including bonds and other non-cancellable business in effect at the time of issuance of the order of liquidation (June 7, 2001) were cancelled as of :
 - a. thirty days from the date of entry of the liquidation order;
 - b. the expiration of the policy coverage;
 - c. the date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy, or
 - d. the liquidator has effected a transfer of the policy obligation pursuant to subdivision (I)(j) of section 44-4821 (Reissue 1998).
6. Pursuant to the Nebraska order of liquidation, all other subsisting contracts, assumed reinsurance, leases, tax sharing agreements, individual labor contracts, and other obligations of AMWEST and all liability thereunder cease and be fixed as of the date of entry of the order of liquidation (June 7, 2001).
7. The officers, directors, trustees, depositories, policyholders, agents and employees of AMWEST and all other persons, including but not limited to claimants, plaintiffs and petitioners who have claims against AMWEST, 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 the said company or estate, the Superintendent and his successors in office, as Ancillary Receiver thereof, or the New York State Insurance Department-Liquidation Bureau with respect to claims against AMWEST, 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 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 liquidation of the business of said company.
8. All parties to law suits in this state are hereby enjoined and restrained from proceeding with any discovery, pre-trial conferences, trial, application for judgment or proceeding on judgments or settlements in such actions at law, suits

in equity, special or other proceedings in which AMWEST is obligated to defend a party insured or any other persons it is legally obligated to defend by virtue of its insurance contract and in any other 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 AMWEST is the next excess or umbrella layer of insurance for a period of 180 days from the date of entry of this order.

9. Those persons who may have first-party or New York comprehensive automobile insurance reparations act (no-fault) policyholder loss claims against AMWEST coming within the purview of Article 76 of the Insurance Law, are enjoined from presenting and filing such claims in this proceeding for 90 days from the date of entry of this order.
10. Notice of making and entry of this Order be given by publication in the N.Y. 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 the assets of AMWEST.
11. The license of AMWEST to do business in the State of New York, be and the same is hereby revoked.
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

AMWEST SURETY INSURANCE COMPANY"

in place and stead of the caption heretofore used.

ENTER



J. S. C.

CLERK'S OFFICE
NEW YORK

OCT 29 2004

FILED

HON. LELAND DEGRASSE

PRESENT:

Hon.

Justice

PART

25

GREGORY SERVO

INDEX NO.

404 94.10

MOTION DATE

OCT 22 2001

MOTION SEQ. NO.

1

MOTION CAL. NO.

Amwest Surety Ins Co

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

Application for the appointment of an Auxiliary Receiver of Amwest Surety Insurance Company is granted without opposition

Order signed ✓

OCT 22 2001

FILED
OCT 22 2001
CLERK OF SUPREME COURT

MOTION/CASE IS RESPECTFULLY REFERRED TO

JUSTICE

DATED:

J.S.C.

Dated: _____

Check one:

FINAL DISPOSITION

NON-FINAL DISPOSITION

J.S.C.

Handwritten signature/initials

10-26-01
E
PAI

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 20

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 .20 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

<p>In the Matter of</p> <p>The Application of</p> <p>GREGORY V. SERIO, as Superintendent of Insurance of the State of New York, for an order of appointment, as Ancillary Receiver of</p> <p>AMWEST SECURITY INSURANCE COMPANY</p>	<p>ORDER OF ANCILLARY RECEIVERSHIP</p> <p>ELIOT SPITZER Attorney General</p> <p>Attorney for the Superintendent of Insurance</p> <p>Office and Post Office Address 120 Broadway, New York, N.Y. 10271 Tel. (212) 416-8658</p> <p>Personal service of a copy of</p>
<p>within..... day of</p> <p>is admitted this..... day of</p> <p>.....20</p>	

State of Dept. 123 NY, NY L. Dine (212) 3