

At IAS Part 13 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 71 Thomas Street, in the County, City and State of New York, on the 25th day of March, 2013.

PRESENT:

HON. **MANUEL J. MENDEZ**
J.S.C. JUSTICE.

In the Matter of

Index No.: 400532/13

the Application of

ORDER TO SHOW CAUSE

Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York, for an Order of Appointment as Ancillary Receiver of

AMERICAN MOTORISTS INSURANCE COMPANY.

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PART 13

Upon reading and filing the annexed verified petition ("Verified Petition") of Benjamin M. Lawsky, Superintendent of Financial Services of the State of New York ("Superintendent"), duly verified on the 21st day of March, 2013, the affidavit of Jean Marie Cho, Deputy Superintendent of Property and Casualty Insurance, sworn to on the 21st day of March, 2013, and it appearing that the relief sought should be granted;

NOW, on motion of Eric T. Schneiderman, Attorney General of the State of New York, attorney for the Superintendent, and after due deliberation having been had thereon;

LET Andrew Boron, as the duly-appointed rehabilitator ("Domiciliary Receiver") of American Motorists Insurance Company ("AMICO") ^{or counsel appear and} show cause before this Court at IAS Part 13 Room 210 thereof, at the Courthouse located at 71 Thomas Street in the County of New York and State of New York, on the 17th day of April, 2013, at 9:30 o'clock in

the A.m., or as soon thereafter as counsel can be heard (“Return Date”), why an order should not be made, pursuant to Article 74 of the New York Insurance Law (“Insurance Law”), *inter alia*: (1) appointing the Superintendent and his successors in office ancillary receiver of AMICO (“Ancillary Receiver”); (2) directing the Superintendent to immediately take possession of the property and recover such other assets of AMICO located in the State of New York; (3) issuing the injunctions provided for in Insurance Law Section 7419, including permanently enjoining and restraining all persons from: (a) transacting AMICO’s business except as authorized by the Ancillary Receiver, (b) wasting or disposing of its property located in the State of New York, (c) interfering with the Superintendent as Ancillary Receiver in the possession, control or management of AMICO’s property or in the discharge of his duties, (d) commencing or prosecuting any actions, lawsuits, or proceedings against AMICO, the New York Liquidation Bureau or the Superintendent as Ancillary Receiver, and (e) obtaining preferences, judgments, attachments or other liens, or making any levy against AMICO’s property or any part thereof located in the State of New York; (4) granting the injunctions enjoining and restraining all parties to actions, lawsuits and special or other proceedings in which AMICO, its policyholders or insureds, are obligated to defend a party or to provide a defense of any matter against an insured pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of an order of ancillary receivership; (5) requiring that all persons or entities having property located in the State of New York and/or information belonging or relating to AMICO, including, but not limited to, insurance policies, underwriting data, claims files (electronic or paper) and/or software programs owned by, belonging to or

relating to AMICO shall preserve such property and/or information and immediately, upon the Ancillary Receiver's request and direction, assign, transfer, turn over and deliver such property and/or information to the Ancillary Receiver; (6) requiring that any bar date for the submission of claims that is established in the domiciliary liquidation proceeding shall also be effective in the ancillary receivership proceeding upon such notice as the Court shall, at the time of the establishment of the bar date, determine to be proper and sufficient; (7) extending immunity to the Superintendent in his capacity as Ancillary Receiver of AMICO, and his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; and (8) granting such other and further relief as the Court may deem just and proper;

AND sufficient cause having been shown therefor, and the Court having found the form and methods of notice specified herein to be the best notice practicable, it is hereby

ORDERED, insofar as the Domiciliary Receiver has requested the commencement of this proceeding and provided a written waiver of service of this order to show cause, that the notice of the Verified Petition and this order to show cause (the "Notice") shall be substantially in the form attached hereto and service shall be made by posting on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least five (5) days prior to the Return Date; and it is further

ORDERED, that the form and method of notice specified herein is hereby approved as in accordance with the law and as the best notice practicable and shall therefore constitute due and sufficient notice of this order to show cause and the Return Date herein and the Verified Petition

and the relief sought therein to all persons and entities entitled to receive such notice; and it is further

ORDERED, that any answering papers and supporting documentation (“Answering Papers”) be served on the Superintendent so as to be received by overnight mail or first class mail at least two (2) days prior to the Return Date, and that service on the Superintendent shall be made by overnight mail or first class mail at the following addresses:

Eric T. Schneiderman
Attorney General of the State of New York
120 Broadway, 24th Floor
New York, NY 10271
Attn: David Holgado, Senior Enforcement Counsel

New York Liquidation Bureau
110 William Street
New York, New York 10038
Attention: John Pearson Kelly, Esq.
General Counsel

and by submitting copies of Answering Papers, with affidavits of service on the Superintendent as above, to this Court at 11 Thomas Street, New York, New York, two (2) days before the Return Date; and it is further

ORDERED, that in the absence of Answering Papers filed in accordance with the previous paragraph on or prior to the date specified, the Court may enter relief without hearing and no party shall be entitled to be heard thereon; and it is further

ORDERED, that any person or entity that fails to serve Answering Papers as provided herein shall be deemed to have waived any objections to the relief sought in the Verified Petition and shall be barred from raising objections in this or any other proceeding concerning the matters set forth herein; and it is further

ORDERED, that any person or entity that has served Answering Papers as provided herein shall be deemed to have waived any objections that are not set forth in such Answering Papers; and it is further

J ORDERED, that pending the hearing ~~and determination~~ of this motion, AMICO, its Domiciliary Receiver, officers, directors, shareholders, members, trustees, agents, servants, employees, policyholders, attorneys and managers, and all other persons are hereby restrained from obtaining preferences, judgments, attachments or other liens, or making any levy or commencing or prosecuting any actions or proceedings against AMICO or its assets located in the State of New York; and it is further

J ORDERED, that pending the hearing and ~~determination~~ on this motion, all actions or proceedings against AMICO within the jurisdiction of the courts of the State of New York and all actions or proceedings in which AMICO is obligated to defend a party in a proceeding are stayed; and it is further

J ORDERED, that pending the hearing and ~~determination~~ on this motion, AMICO, its Domiciliary Receiver, officers, directors, shareholders, members, trustees, agents, servants, employees, policyholders, attorneys and managers, and all other persons are restrained from wasting the assets of AMICO that are located in the State of New York, or, except as authorized by the Superintendent, from transacting of AMICO's business or disposing of AMICO's property located in the State of New York.

ENTER

JSC
JSC

J. S. C.
J. S. C.

JSC
MANUEL J. MENDEZ
J.S.C.
Oral Argument
Directed

MANUEL J. MENDEZ
J.S.C.