

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
In the Matter of

Index No.

the Application of

VERIFIED PETITIONLinda A. Lacewell, Superintendent of Financial
Services of the State of New York, for an order of
Appointment as Ancillary Receiver ofAMERICAN SERVICE INSURANCE COMPANY.
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (the “Superintendent”), respectfully petitions the Court for an order substantially in the form annexed hereto as Exhibit “1” (the “Ancillary Receivership Order”), *inter alia*, appointing the Superintendent (and her successors in office), pursuant to Section 7407(c) of the New York Insurance Law (“Insurance Law”), ancillary receiver (“Ancillary Receiver”) of American Service Insurance Company (“ASIC”) with all the rights and obligations granted to and imposed upon her pursuant to Insurance Law Article 74. It is respectfully requested that the Court enter an order of ancillary receivership substantially in the form of the proposed order annexed as Exhibit “1”.

Relief Requested

ASIC, an Illinois domestic insurer, has been judicially determined insolvent and has been placed into liquidation by the Circuit Court of Cook County, Illinois, County Department, Chancery Division (“Illinois Court”). There are New York claimants with claims under ASIC insurance policies. It is important that a New York ancillary receivership be commenced for ASIC

in order for New York claimants with allowed covered claims to receive coverage from the applicable New York security fund.¹

Background

1. ASIC is an Illinois-based property and casualty insurance company wholly owned by American Insurance Acquisition Inc., a Delaware corporation; which, in turn, is wholly owned by Atlas Financial Holdings, Inc., a Cayman Island corporation. ASIC is organized under the laws of the State of Illinois, with its principal office located at 953 American Lane, 3rd Floor, Schaumburg, Illinois 60173. October 22, 2020 Affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau at the New York State Department of Financial Services, ¶ 1 (“Riddell Aff.”), which is annexed hereto as Exhibit “2”.

2. On July 8, 2019 the Illinois Court signed an Agreed Order of Rehabilitation placing ASIC and American Country Insurance Company, a wholly owned subsidiary of ASIC, into rehabilitation. Riddell Aff. ¶ 2.

3. On August 11, 2020, the Illinois Court signed an Agreed Order of Liquidation with a Finding of Insolvency against ASIC (“Liquidation Order”) and appointed Robert H. Muriel, Director of the Illinois Department of Insurance as Liquidator of ASIC (“Illinois Liquidator”). Riddell Aff. ¶ 3. A copy of the Liquidation Order is annexed as Exhibit “A” to the Riddell Aff.

¹The Superintendent is the administrator of three security funds that cover claims in the event an insurer is unable to pay claims on account of its insolvency. The purpose of the ancillary proceeding is to trigger the opening of the security funds which, in turn, will pay claims of New York claimants eligible for coverage under one of the funds.

**The Grounds to Commence an Ancillary
Receivership Proceeding Have Been Met**

4. Insurance Law § 7407(c) states that upon the request of a receiver who has been appointed for an insurer in its domiciliary state, the Superintendent shall apply to this Court for an order appointing her ancillary receiver for such insurer if the domiciliary state is a reciprocal state.

5. On September 9, 2020, the Illinois Liquidator sent a letter, a copy of which is annexed as Exhibit “B” to the Riddell Aff., requesting that the Superintendent commence an ancillary receivership proceeding for ASIC (“Letter Request”). Riddell Aff. ¶ 4, Exhibit B.

6. Illinois is a reciprocal state. Insurance Law § 7408(b)(6) defines a reciprocal state as any state, other than the State of New York, in which the provisions of the Uniform Insurers Liquidation Act (Insurance Law §§ 7408-7415), in substance and effect, are in force. Illinois, ASIC’s domiciliary state, has adopted, in substance and effect, the provisions of the Uniform Insurers Liquidation Act. 215 ILCS 5/188.1, 5/189, 5/190, 5/192, 5/193, 5/194, 5/221.3, and 5/221.4. *See* Letter Request. Riddell Aff. ¶ 5, Exhibit B.

7. Based on the Letter Request from Illinois, a reciprocal state, the Superintendent now brings this application under Insurance Law § 7407 to commence an ancillary receivership proceeding for ASIC. Since all of the grounds to commence an ancillary receivership proceeding have been met, this Court should issue an order substantially in the form of the order annexed as Exhibit “1” commencing an ancillary receivership proceeding and pursuant to Insurance Law § 7410(a), appointing the Superintendent as Ancillary Receiver.

Injunctive Relief

8. To allow the Ancillary Receiver to discharge her responsibilities in an orderly and fair manner for the benefit of policyholders and creditors domiciled in the State of New York, certain injunctive relief is necessary.

9. I respectfully request that this Court explicitly apply the injunctions, restrictions, and directions contained in paragraph 7 of the Liquidation Order to any and all business of ASIC that is conducted in the State of New York, and to any and all assets, books, records, files, credit cards, and other property of ASIC located in the State of New York. While these injunctions, directions, and restrictions, as well as the entire Liquidation Order, were issued by a court of competent jurisdiction and apply to this ancillary proceeding as a matter of comity to a sister state's court order, an explicit ruling from this Court that the injunctions, directions, and restrictions issued in paragraph 7 of the Liquidation Order apply to this ancillary receivership proceeding will promote clarity and reduce the likelihood of unnecessary litigation.

10. Under Insurance Law § 7419(a), the Court may issue an injunction permanently enjoining and restraining ASIC, its officers, directors, shareholders, members, trustees, agents, servants, employees, policyholders, attorneys, and managers, and all other persons, from the transaction of ASIC's business or the waste or disposition of ASIC's property located in the State of New York (the "Interference with Business Injunctions").

11. Under Insurance Law § 7419(b), the Court may issue permanent injunctions or orders to prevent the commencement or prosecution of any actions, the obtaining of preferences, judgements, attachments, or other liens, or making any levy against the Ancillary Receiver, ASIC, the New York Liquidation Bureau (the organization serving as the Ancillary Receiver's staff), or their present or former employees, attorneys, or agents, with respect to this proceeding or the

discharge of their duties under Insurance Law Article 74 in relation thereto (the “Interference with Ancillary Receiver Duties Injunctions”, and collectively with the Interference with Business Injunctions, the “Permanent Injunctions”).

12. The Permanent Injunctions are important for the performance of the Ancillary Receiver’s duties. Failure to grant this relief could result in one or more persons or entities rushing to pursue legal action, including collections and default judgments, in the State of New York against ASIC. This would adversely impact the ancillary receivership and could significantly increase administrative expenses and litigation costs.

13. In addition to the Permanent Injunctions, I request an order under Insurance Law § 7419(b) temporarily staying all litigations against insureds of ASIC or in which ASIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy, for a period of 180 days from the date the Ancillary Receivership Order is signed (the “180-Day Injunction”). The 180-Day Injunction will temporarily stay all matters currently in litigation in the State of New York and will allow the Ancillary Receiver and the Superintendent as administrator of the New York security funds (“Administrator”) sufficient time to review and assess the claims in litigation.

14. I also request an order under Insurance Law § 7419(b) temporarily enjoining and restraining all persons who have first-party policyholder loss claims against ASIC in the State of New York, from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date the Ancillary Receivership Order is signed (the “90-Day Injunction”). Eligible first-party claims in New York are referred to the Ancillary Receiver who determines whether a referred claim is covered by one of the security funds.

15. After ASIC is placed into ancillary receivership, the Illinois Liquidator will transfer the books and records of the company relating to certain New York claims under policies written by ASIC, including litigation files, to the Ancillary Receiver and Administrator for further handling. Because the files and records of an insolvent insurer often require time to review and assess, a temporary stay is necessary to ensure that claims are appropriately handled and that there is no prejudice to the company or its policyholders during the transition to ancillary receivership. The 180-Day Injunction and 90-Day Injunction will allow the Ancillary Receiver and the Administrator to: (i) review the New York claims and litigations; (ii) coordinate with third-party administrators for handling claims; (iii) assign claims examiners; (iv) review settlement negotiations, if any; (v) analyze the legal issues; (vi) set reserves; (vii) assign or retain counsel; and (viii) prepare to litigate the matters, if necessary, upon the expiration of the 180-Day Injunction and 90-Day Injunction. The injunctions sought here are virtually the same injunctions as are granted in every ancillary proceeding and could be considered routine. *In the Matter of the Ancillary Receivership Northwestern National Insurance Company of Milwaukee, Wisconsin*, S. Ct., N.Y. County, Index #450931/2019, Order of August 8, 2019; *In the Matter of the Ancillary Receivership of Lumbermens Mutual Casualty Company*, S. Ct., N.Y. County, Index #400534/2013, Order of June 19, 2013; *In the Matter of the Ancillary Receivership of American Manufacturers Mutual Insurance Company*, S. Ct., N.Y. County, Index #400533/2013, Order of June 12, 2013. A copy of the ancillary receivership order in each of these ancillary receivership proceedings is annexed hereto as Exhibit “3.” For these reasons, the 180-Day Injunction and 90-Day Injunction are warranted under Insurance Law §7419(b), and this Court should issue an order, *inter alia*, granting the injunctions.

Additional Relief

16. I further respectfully request that the Court order that the Superintendent as Ancillary Receiver, her successors in office, and the New York Liquidation Bureau and their agents and employees, be granted judicial immunity from 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 the Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76 and Article 6A of the New York Workers' Compensation Law. The Ancillary Receiver acts in a "judicial and private" capacity under the supervision of the Court pursuant to Article 74 of the Insurance Law. *Dinallo v. DiNapoli*, 9 N.Y.3d 94, 103 (2007). In addition, "a court-appointed receiver acts as an arm of the court and is immune from liability for actions grounded in his or her conduct as receiver." *In the Matter of the Liquidation of U.S. Capital Insurance Company*, 36 Misc.3d 635, 637 (S. Ct., N.Y. County, 2012).

Conclusion

17. In light of the foregoing, I respectfully request that the Court enter the Ancillary Receivership Order, substantially in the form attached hereto as Exhibit "1", which, among other things: (a) appoints the Superintendent Ancillary Receiver of ASIC, pursuant to Insurance Law §§ 7407(c) and 7410(a); and (b) vests the Ancillary Receiver with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law.

18. No previous application for the relief sought herein has been made to this or any other court or judge.

WHEREFORE, I respectfully request that this Court grant the relief sought in this Verified Petition, enter the Ancillary Receivership Order, and grant such other and further relief as is just and proper.

Dated: New York, New York
November 9, 2020

Linda A. Lacewell
Linda A. Lacewell

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Linda A. Lacewell, being duly sworn, deposes and says:

That I am the Superintendent of Financial Services of the State of New York and that I executed the foregoing petition; that I am acquainted with the facts therein stated; that I know the contents of the petition, and that the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true.

The sources of information and the grounds of my belief as to the matters stated in said petition to be alleged upon information and belief are the records of the New York State Department of Financial Services and the affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on October 22, 2020, in support of the verified petition.

Linda A. Lacewell

Linda A. Lacewell
Superintendent of Financial Services
of the State of New York

Sworn to before me this
9th day of November, 2020

Malini Singh McDonald
Notary Public



EXHIBIT 1

[Proposed Ancillary Receivership Order]

At IAS Part ____ of the Supreme Court of the State of New York, at the courthouse located at _____, in the City, County and State of New York, on the ____ day of _____, 2020.

P R E S E N T :

HON. _____ J.S.C.

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

-----X
In the Matter of

Index No.:

the Application of

Linda A. Lacewell, Acting Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

**ORDER OF ANCILLARY
RECEIVERSHIP**

AMERICAN SERVICE INSURANCE COMPANY.
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court by order to show cause for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of American Service Insurance Company (“ASIC”), and upon reading and filing the petition of the Superintendent, duly verified on the 9th day of November, 2020 (“Verified Petition”), the Affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 22nd day of October, 2020, and the exhibits annexed thereto, this Court finds that:

1. ASIC is an Illinois-based property and casualty insurance company wholly owned by American Insurance Acquisition Inc., a Delaware corporation; which, in turn, is wholly owned by Atlas Financial Holdings, Inc., a Cayman Island corporation;

2. By order dated August 11, 2020, the Circuit Court of Cook County, Illinois, County Department, Chancery Division issued an Agreed Order of Liquidation finding ASIC to be insolvent (“Liquidation Order”) and appointing Robert H. Muriel, Director of the Illinois Department of Insurance, as Liquidator (“Illinois Liquidator”) of ASIC;

3. ASIC is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

4. Illinois is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

5. The Illinois Liquidator requested that the Superintendent commence an ancillary receivership proceeding for ASIC; and

6. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of ASIC.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;
2. The Superintendent and her successors in office is appointed Ancillary Receiver of ASIC and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The material provisions of the Liquidation Order, including, but not limited to, the injunctions, restrictions, and directions contained in paragraph 7, apply to this ancillary receivership proceeding;
4. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits, or proceedings against ASIC in ancillary receivership, the Superintendent as Ancillary Receiver of ASIC or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;

5. All parties to actions, lawsuits, and special or other proceedings in the State of New York against insureds of ASIC or in which ASIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or 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 this Order is signed;
6. All persons who have first party policyholder loss claims against ASIC in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date this Order is signed;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of ASIC and as administrator of the New York security funds, her successors in office, the New York Liquidation Bureau, 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 Articles 74 and 76 and Article 6A of the New York Workers' Compensation Law;
8. The Ancillary Receiver shall serve a copy of this Order on the Illinois Liquidator by overnight delivery to the Office of the Special Deputy Receiver, representing Robert H. Muriel, Director of the Illinois Department of Insurance in his capacity as Domestic Receiver of American Service Insurance Company at 222 Merchandise Mart Plaza, Suite 960, Chicago, Illinois 60654, Att'n: J. Kevin Baldwin;
9. The Ancillary Receiver shall provide notice of this Order to all creditors, claimants, and interested persons located in the State of New York by posting the Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
10. ASIC's license to do business in the State of New York is hereby revoked;
11. The caption for this proceeding is hereby amended as follows:

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

-----X
In the matter of

the Ancillary Receivership of

AMERICAN SERVICE INSURANCE COMPANY.

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12. All further papers in this proceeding shall bear the above amended caption.

E N T E R

J.S.C.

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EXHIBIT 2

[Affidavit of Joan Riddell]

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK-----X
In the Matter of

Index No.

the Application of

AFFIDAVIT

Linda A. Lacewell, Superintendent of Financial
Services of the State of New York, for an order of
Appointment as Ancillary Receiver of

AMERICAN SERVICE INSURANCE COMPANY.
-----X

STATE OF NEW YORK)
) SS:
COUNTY OF WESTCHESTER)

Joan Riddell, being duly sworn, deposes and says:

I am employed at the New York State Department of Financial Services (“DFS”) as Deputy Chief Insurance Examiner in the Property Bureau. I submit this affidavit in support of the petition of the Superintendent of Financial Services of the State of New York (“Superintendent”) for an order commencing an ancillary receivership proceeding for American Service Insurance Company (“ASIC”) and appointing the Superintendent and her successors-in-office as ancillary receiver of ASIC under Article 74 of the New York Insurance Law (“Insurance Law”). This affidavit is based upon personal knowledge, the sources of which are the records maintained by DFS.

1. ASIC is an Illinois-based property and casualty insurance company wholly owned by American Insurance Acquisition Inc., a Delaware corporation; which, in turn, is wholly owned by Atlas Financial Holdings, Inc., a Cayman Islands corporation. ASIC is organized under the laws of the State of Illinois, with its principal office located at 953 American Lane, 3rd Floor, Schaumburg, Illinois 60173.

2. On July 8, 2019 the Illinois Court signed an Agreed Order of Rehabilitation placing ASIC and American Country Insurance Company, a wholly owned subsidiary of ASIC, into rehabilitation.


3. On August 11, 2020, the Illinois Court signed an Agreed Order of Liquidation with a Finding of Insolvency against ASIC ("Liquidation Order) and appointed Robert H. Muriel, Director of the Illinois Department of Insurance as Liquidator of ASIC ("Illinois Liquidator"). A copy of the Liquidation Order is annexed hereto as Exhibit "A".

4. On September 9, 2020, the Illinois Liquidator sent a letter, a copy of which is annexed hereto as Exhibit "B", requesting that the Superintendent commence an ancillary receivership proceeding for ASIC ("Letter Request").

5. Illinois is a reciprocal state. Insurance Law § 7408(b)(6) defines a reciprocal state as any state, other than the State of New York, in which the provisions of the Uniform Insurers Liquidation Act (Insurance Law §§ 7408-7415), in substance and effect, are in force. Illinois, ASIC's domiciliary state, has adopted, in substance and effect, the provisions of the Uniform Insurers Liquidation Act. 215 ILCS 5/188.1, 5/189, 5/190, 5/192, 5/193, 5/194, 5/221.3, and 5/221.4. See Letter Request.


JOAN RIDDELL

Sworn to before me this
22nd day of October, 2020


Notary Public

MARTHA A. LEES
Notary Public, State of New York
No. 02LE6129105
Qualified in Kings County
Commission Expires 06/20 21

EXHIBIT A

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

IN THE MATTER OF THE LIQUIDATION OF GATEWAY)
INSURANCE COMPANY AND THE REHABILITATION)
OF AMERICAN SERVICE INSURANCE COMPANY) Case No. 19 CH 7852
AND AMERICAN COUNTRY INSURANCE COMPANY)

**AGREED ORDER OF LIQUIDATION
WITH A FINDING OF INSOLVENCY**

THIS CAUSE COMING TO BE HEARD upon the Petition for the Entry of an Agreed Order of Liquidation With a Finding of Insolvency filed herein by ROBERT H. MURIEL, Director of the Illinois Department of Insurance (the "Director"), in his capacity as the statutory and court affirmed Rehabilitator of American Service Insurance Company, Inc. ("American Service") and American Country Insurance Company ("American Country"), pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187, *et seq.*; the Court having jurisdiction over the parties hereto and the subject matter hereof, the Court having reviewed the pleadings filed herein and having considered arguments of counsel thereon, and the Court then being otherwise advised in the premises, and for good cause appearing therefore.

THE COURT FINDS THAT:

(A) Sufficient cause exists for the entry of an order placing American Service and American Country into liquidation proceedings and providing for the liquidation of their property, business and affairs (the "Liquidation Proceedings"), including that American Service and American Country are insolvent and in a hazardous condition; and that their shareholders have agreed and consented to the entry of this Order of Liquidation.

(B) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of this Order of Liquidation creates estates comprising all of the liabilities and assets of American Service and American Country.

(C) This is an interlocutory order appealable under Illinois Supreme Court Rule 307(a)(5), Ill. S. Ct. Rule 307(a)(5).

(D) The Agreed Order of Liquidation With a Finding of Insolvency entered as to and against Gateway Insurance Company on June 10, 2020, remains in full force and effect and is not affected in any way by this Order of Liquidation.

(E) Upon the entry of this Order of Liquidation, the Liquidator's statutory authority includes, without limitation, the following:

- (i) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is vested by operation of law with the title to all property, contracts, and rights of action of American Service and American Country; and
- (ii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is entitled to immediate possession and control of all property, contracts, and rights of action of American Service and American Country; and
- (iii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is authorized to remove any and all records and property of American Service and American Country to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of the liquidation of American Service and American Country; and
- (iv) Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Liquidator is authorized to deal with the property, business and affairs of American Service

and American Country in his name, as Director, and that the Liquidator is also authorized to deal with the property, business and affairs of American Service and American Country in the name of American Service and American Country; and

(v) Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Liquidator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of American Service and American Country, or any part thereof, and to sell or compromise all doubtful or uncollectible debts or claims owing to American Service and American Country having a value in the amount of Twenty-Five Thousand Dollars (\$25,000.00), or less. Any such sale by the Liquidator of the real or personal property of American Service and American Country having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00), and sale or compromise of debts owing to American Service and American Country where the debt owing to American Service and American Country exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be made subject to the approval of the Court; and

(vi) Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Liquidator is authorized to bring any action, claim, suit or proceeding against any person with respect to that person's dealings with American Service and American Country including, but not limited to, prosecuting any action, claim, suit, or proceeding on behalf of the policyholders, claimants, beneficiaries or creditors of American Service and American Country; and

- (vii) Pursuant to Section 193(4) of the Code, 215 ILCS 5/193(4), the Liquidator may solicit contracts whereby a solvent company agrees to assume, in whole or in part, or upon a modified basis, the liabilities of a company in liquidation; and
- (viii) Pursuant to Section 194(a) of the Code, 215 ILCS 5/194(a), the rights and liabilities of American Service and American Country and of their creditors, policyholders, stockholders or members and all other persons interested in their assets, except persons entitled to file contingent claims, shall be fixed as of the date of the entry of this Order of Liquidation unless otherwise provided for by further order of the Court; and
- (ix) Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Liquidator may, within two (2) years after the entry of this Order of Liquidation or within such further time as applicable law permits, institute an action, claim, suit, or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the petition upon which this Order of Liquidation is entered; and
- (x) Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Liquidator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of the Court, from the assets of American Service and American Country, all administrative expenses incurred during the course of the Liquidation Proceedings; and
- (xi) Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Liquidator shall not be required to pay any fee to any public officer for filing, recording or in any

manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Code, *supra*, nor for services rendered by any public officer for serving any process; and

(xii) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of the property of American Service and American Country and to recover such property or its value, if it has been converted.

(xiii) Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), the obligation of American Service and American Country, if any, to defend or continue the defense of any claim or suit under a liability insurance policy shall terminate upon the entry of this Order of Liquidation.

IT IS HEREBY ORDERED:

(1) The Order of Liquidation is entered as to and against American Service and American Country.

(2) Robert H. Muriel, Director of the Illinois Department of Insurance, and his successors in office, is affirmed as the statutory Liquidator (the "Liquidator") of American Service and American Country with all of the powers appurtenant thereto.

(3) Subject to the further orders of the Court, the Liquidator is authorized to take such actions as the nature of the cause and the interests of American Service and American Country and their policyholders, claimants, beneficiaries, creditors, or the public may require including, but not limited to, the following:

(i) The Liquidator shall proceed to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of

American Service and American Country, and of the premises occupied by American Service and American Country for the transaction of their business, and to marshal and liquidate the assets, business and affairs of American Service and American Country pursuant to the provisions of Article XIII of the Code, *supra*, and the Liquidator is further directed and authorized to orderly wind down and run off the business and affairs of American Service and American Country, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the Liquidation Proceedings; and

(ii) The Liquidator may both sue and defend on behalf of American Service and American Country, or for the benefit of the policyholders, claimants and other creditors of American Service and American Country, in the courts either in his name as the Liquidator of American Service and American Country, or in the name of American Service and American Country, as the case may be.

(4) Any acts or omissions of the Rehabilitator in connection with the rehabilitation of American Service and American Country, shall not be construed or considered to be a preference within the meaning of Section 204 of the Code, 215 ILCS 5/204, notwithstanding the fact that any such act or omission may have caused a policyholder, claimant, beneficiary, third party or creditor to have received a greater percentage of debt owed to or by American Service and American Country than any other policyholder, claimant, beneficiary, third party or creditor in the same class.

(5) The caption in this cause and all pleadings filed in this matter shall hereafter read:

**“IN THE MATTER OF THE LIQUIDATION OF
GATEWAY INSURANCE COMPANY,
AMERICAN SERVICE INSURANCE COMPANY
AND AMERICAN COUNTRY INSURANCE COMPANY”**

(6) All costs of the Liquidation Proceedings shall be taxed and assessed against American Service and American Country.

(7) Pursuant to its authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

(i) All accountants, auditors and attorneys of American Service and American Country are ordered to deliver to the Liquidator, at his request, copies of all documents in their possession or under their control concerning or related to American Service and American Country, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships between them and American Service and/or American Country, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of American Service and/or American Country. or their agents, servants, officers, directors and/or employees, or which American Service and/or American Country may be, or is, entitled to as the result of its relationship with such accountants, auditors and attorneys; and

(ii) American Service and American Country and their directors, officers, agents, servants, representatives, employees, affiliated companies, and all other persons and entities, shall give immediate possession and control to the Liquidator of all property, business, books, records and accounts of American Service and American Country, and all premises occupied by American Service and American Country for the transaction of their business; and

(iii) American Service and American Country and their directors, officers, agents, servants, representatives, employees, affiliated companies, and all other

persons and entities having knowledge of this Order of Liquidation are restrained and enjoined from transacting any business of American Service and American Country, or disposing of any company property or assets, including books, records and computer and other electronic data, without the express written consent of the Liquidator, or doing or permitting to be done any action which might waste the property or assets of American Service and American Country, until the further order of the Court; and

(iv) The directors, officers, agents, servants, representatives and employees of American Service and American Country, and all other persons and entities having knowledge of this Order of Liquidation are restrained and enjoined from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against American Service and/or American Country, or their property or assets, or the Director as their Liquidator, except insofar as those claims, actions or proceedings arise in or are brought in the Liquidation Proceedings; or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against American Service and/or American Country, or their property or assets while in the possession and control of the Liquidator, or from interfering in any way with the Liquidator in his possession or control of the property, business, books, records, accounts, premises and all other assets of American Service and American Country, until the further order of the Court; and

(v) Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order of Liquidation having in its possession accounts and any other assets which are, or may be, the property of American Service and/or American Country, are restrained and enjoined from disbursing or disposing of said accounts and assets and are further restrained and enjoined from disposing of or destroying any records pertaining to any business transaction between American Service and/or American Country, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with American Service and/or American Country, or having in their possession assets which are, or may be, the property of American Service and/or American Country, and further, that each such person or entity is ordered to immediately deliver any and all such assets and/or records to the Liquidator; and

(vi) All agents, brokers and producers of American Service and American Country, and their respective agents, servants, representatives and employees, and all other persons or entities having knowledge of this Order of Liquidation are enjoined and restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums, contributions or assessments upon policies, contracts or certificates of insurance or reinsurance previously issued by American Service and/or American Country, to policyholders, beneficiaries, certificate holders or others, and all said agents, brokers and producers and their respective agents, servants, representatives and employees are directed to turn over all such funds in their possession or under their control, or to

which they may hereafter acquire possession or control, to the Liquidator in gross and not net of any commissions which may be due thereon; and

(vii) The Director is vested with the right, title and interest in all funds recoverable under contracts, treaties, certificates, and agreements of reinsurance heretofore entered into by or on behalf of American Service and/or American Country, and all insurance and reinsurance companies and entities that assumed liabilities from American Service and/or American Country arising under either contracts, policies, certificates, treaties or agreements of insurance or reinsurance issued by American Service and/or American Country, are enjoined and restrained from making any settlements with any claimant or policyholder of American Service and/or American Country, or any other person other than the Liquidator, except with the written consent of the Liquidator, or when the insurance or reinsurance contract, policy, certificate, treaty or agreement lawfully provides for payment to or on the behalf of an American Service or American Country insured by the assuming reinsurer.


(8) All direct policies and/or certificates of insurance, and bonds heretofore issued by American Service and American Country are hereby canceled upon the following terms:

(i) All direct policies and/or certificates of insurance, and bonds which may give rise to "covered claims" as defined in Sections 534.3 and 537.2 of the Code, 215 ILCS 5/534.3 and 5/537.2, of the Illinois Insurance Guaranty Fund or which may give rise to "covered claims" of a similar organization in any other state, as defined by the provisions of such similar statute in any such other state, shall be canceled:

- (a) At 12:01 a.m., local time of the insured, policyholder, or principal of any such direct policy and/or certificate of insurance, or bond on the thirty-first (31st) day following the effective date of this Order of Liquidation; or
 - (b) Upon the expiration date of any such direct policy and/or certificate of insurance, or bond if the expiration date is less than thirty-one (31) days after the effective date of this Order of Liquidation; or
 - (c) Upon the date the insured, policyholder, or principal of any such direct policy and/or certificate of insurance, or bond replaces the direct policy and/or certificate of insurance, or bond or upon the date the policyholder, insured, or principal on request effects cancellation, if the insured, policyholder, or principal does so prior to the thirty-first (31st) day following the effective date of this Order of Liquidation, whichever is earlier;
- (ii) All other direct policies and/or certificates of insurance, and bonds heretofore issued by American Service and/or American Country are cancelled effective upon the entry of this Order of Liquidation.
- (9) All treaties, contracts and agreements of reinsurance wherein American Service and/or American Country is the ceding company, shall remain in full force and effect pending a determination by the Liquidator as to when, and upon what terms, cancellation or renewal is appropriate. All treaties, contracts and agreements of reinsurance wherein American Service and/or American Country was, or is, the assuming or retrocessional reinsurer are cancelled on a "cut-off" basis upon the entry of this Order of Liquidation.
- (10) The Court's July 8, 2019, Order of Rehabilitation, entered as to and against American Service and American Country is vacated, and the rehabilitation proceedings arising therefrom, are hereby terminated.

(11) The Court retains jurisdiction in this cause for the purpose of granting such other and further relief as the nature of this cause and the interests of American Service and American Country, their policyholders, claimants, beneficiaries and creditors, or of the public, may require and/or as the Court may deem proper in the premises.

ENTERED:


Judge Presiding

Judge Pamela McLean Meyerson

AUG 11 2020

Circuit Court - 2097

J. Kevin Baldwin
Daniel A. Guberman
Dale A. Coonrod
Counsel to the Director as Receiver
222 Merchandise Mart Plaza, Suite 960
Chicago, Illinois 60654
(312) 836-9500
Attorney Code 16819
dcoonrod@osdchi.com

EXHIBIT B

**Office of the
Special Deputy Receiver**
Representing Robert H. Muriel
Director of Insurance
State of Illinois

222 Merchandise Mart Plaza
Suite 960
Chicago, Illinois 60654
312/836-9500
312/836-1944 FAX
www.osdchi.com

*J. Kevin Baldwin,
Acting Special Deputy*

Writer's Direct Line:
X

September 9, 2020

Linda A. Lacewell,
Superintendent of Financial Services of the State of New York
c/o David Axinn, Special Deputy Superintendent and Agent
New York Liquidation Bureau
180 Maiden Lane, 15th Floor
New York, NY 10038

RE: American Service Insurance Company and American County Insurance Company

Dear Mr. Axinn:

The Illinois Director of Insurance moved before the Circuit Court of Cook County ("Supervising Court") to place American Service Insurance Company ("ASIC") and American County Insurance Company ("ACIC") into liquidation. On August 11, 2020, the Supervising Court found ASIC and ACIC to be insolvent and signed an order placing them into liquidation (the "Liquidation Order"). A copy of the Liquidation Order is enclosed.

The liquidator requires commencement of a New York ancillary proceeding so that New York security funds will be able to handle claims that are eligible for coverage by a New York security fund. We have reviewed the Uniform Insurers Liquidation Act and the six criteria required to be deemed a reciprocal state. Each requirement has been met by the following subsections of Articles 13 and 13 ½ of the Illinois Insurance Code 215 ILCS 5/188.1, 5/189, 5/190, 5/192, 5/193, 5/194, 5/221.3, and 5/221.4.

Based on the foregoing, we are requesting that the Superintendent of Financial Services of the State of New York commence two ancillary receivership proceedings, one for each estate, in the Supreme Court of the State of New York, New York County, as soon as reasonably possible.

Best regards,

J. Kevin Baldwin
Acting Special Deputy Receiver
General Counsel & Director of Receivership Operations

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

IN THE MATTER OF THE LIQUIDATION OF GATEWAY)
INSURANCE COMPANY AND THE REHABILITATION)
OF AMERICAN SERVICE INSURANCE COMPANY) Case No. 19 CH 7852
AND AMERICAN COUNTRY INSURANCE COMPANY)

**AGREED ORDER OF LIQUIDATION
WITH A FINDING OF INSOLVENCY**

THIS CAUSE COMING TO BE HEARD upon the Petition for the Entry of an Agreed Order of Liquidation With a Finding of Insolvency filed herein by ROBERT H. MURIEL, Director of the Illinois Department of Insurance (the "Director"), in his capacity as the statutory and court affirmed Rehabilitator of American Service Insurance Company, Inc. ("American Service") and American Country Insurance Company ("American Country"), pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187, *et seq.*; the Court having jurisdiction over the parties hereto and the subject matter hereof, the Court having reviewed the pleadings filed herein and having considered arguments of counsel thereon, and the Court then being otherwise advised in the premises, and for good cause appearing therefore.

THE COURT FINDS THAT:

(A) Sufficient cause exists for the entry of an order placing American Service and American Country into liquidation proceedings and providing for the liquidation of their property, business and affairs (the "Liquidation Proceedings"), including that American Service and American Country are insolvent and in a hazardous condition; and that their shareholders have agreed and consented to the entry of this Order of Liquidation.

- (B) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of this Order of Liquidation creates estates comprising all of the liabilities and assets of American Service and American Country.
- (C) This is an interlocutory order appealable under Illinois Supreme Court Rule 307(a)(5), Ill. S. Ct. Rule 307(a)(5).
- (D) The Agreed Order of Liquidation With a Finding of Insolvency entered as to and against Gateway Insurance Company on June 10, 2020, remains in full force and effect and is not affected in any way by this Order of Liquidation.
- (E) Upon the entry of this Order of Liquidation, the Liquidator's statutory authority includes, without limitation, the following:
- (i) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is vested by operation of law with the title to all property, contracts, and rights of action of American Service and American Country; and
 - (ii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is entitled to immediate possession and control of all property, contracts, and rights of action of American Service and American Country; and
 - (iii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is authorized to remove any and all records and property of American Service and American Country to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of the liquidation of American Service and American Country; and
 - (iv) Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Liquidator is authorized to deal with the property, business and affairs of American Service

and American Country in his name, as Director, and that the Liquidator is also authorized to deal with the property, business and affairs of American Service and American Country in the name of American Service and American Country; and

(v) Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Liquidator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of American Service and American Country, or any part thereof, and to sell or compromise all doubtful or uncollectible debts or claims owing to American Service and American Country having a value in the amount of Twenty-Five Thousand Dollars (\$25,000.00), or less. Any such sale by the Liquidator of the real or personal property of American Service and American Country having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00), and sale or compromise of debts owing to American Service and American Country where the debt owing to American Service and American Country exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be made subject to the approval of the Court; and

(vi) Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Liquidator is authorized to bring any action, claim, suit or proceeding against any person with respect to that person's dealings with American Service and American Country including, but not limited to, prosecuting any action, claim, suit, or proceeding on behalf of the policyholders, claimants, beneficiaries or creditors of American Service and American Country; and

- (vii) Pursuant to Section 193(4) of the Code, 215 ILCS 5/193(4), the Liquidator may solicit contracts whereby a solvent company agrees to assume, in whole or in part, or upon a modified basis, the liabilities of a company in liquidation; and
- (viii) Pursuant to Section 194(a) of the Code, 215 ILCS 5/194(a), the rights and liabilities of American Service and American Country and of their creditors, policyholders, stockholders or members and all other persons interested in their assets, except persons entitled to file contingent claims, shall be fixed as of the date of the entry of this Order of Liquidation unless otherwise provided for by further order of the Court; and
- (ix) Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Liquidator may, within two (2) years after the entry of this Order of Liquidation or within such further time as applicable law permits, institute an action, claim, suit, or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the petition upon which this Order of Liquidation is entered; and
- (x) Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Liquidator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of the Court, from the assets of American Service and American Country, all administrative expenses incurred during the course of the Liquidation Proceedings; and
- (xi) Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Liquidator shall not be required to pay any fee to any public officer for filing, recording or in any

manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Code, *supra*, nor for services rendered by any public officer for serving any process; and

(xii) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of the property of American Service and American Country and to recover such property or its value, if it has been converted.

(xiii) Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), the obligation of American Service and American Country, if any, to defend or continue the defense of any claim or suit under a liability insurance policy shall terminate upon the entry of this Order of Liquidation.

IT IS HEREBY ORDERED:

(1) The Order of Liquidation is entered as to and against American Service and American Country.

(2) Robert H. Muriel, Director of the Illinois Department of Insurance, and his successors in office, is affirmed as the statutory Liquidator (the "Liquidator") of American Service and American Country with all of the powers appurtenant thereto.

(3) Subject to the further orders of the Court, the Liquidator is authorized to take such actions as the nature of the cause and the interests of American Service and American Country and their policyholders, claimants, beneficiaries, creditors, or the public may require including, but not limited to, the following:

(i) The Liquidator shall proceed to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of

American Service and American Country, and of the premises occupied by American Service and American Country for the transaction of their business, and to marshal and liquidate the assets, business and affairs of American Service and American Country pursuant to the provisions of Article XIII of the Code, *supra*, and the Liquidator is further directed and authorized to orderly wind down and run off the business and affairs of American Service and American Country, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the Liquidation Proceedings; and

(ii) The Liquidator may both sue and defend on behalf of American Service and American Country, or for the benefit of the policyholders, claimants and other creditors of American Service and American Country, in the courts either in his name as the Liquidator of American Service and American Country, or in the name of American Service and American Country, as the case may be.

(4) Any acts or omissions of the Rehabilitator in connection with the rehabilitation of American Service and American Country, shall not be construed or considered to be a preference within the meaning of Section 204 of the Code, 215 ILCS 5/204, notwithstanding the fact that any such act or omission may have caused a policyholder, claimant, beneficiary, third party or creditor to have received a greater percentage of debt owed to or by American Service and American Country than any other policyholder, claimant, beneficiary, third party or creditor in the same class.

(5) The caption in this cause and all pleadings filed in this matter shall hereafter read:

**“IN THE MATTER OF THE LIQUIDATION OF
GATEWAY INSURANCE COMPANY,
AMERICAN SERVICE INSURANCE COMPANY
AND AMERICAN COUNTRY INSURANCE COMPANY”**

(6) All costs of the Liquidation Proceedings shall be taxed and assessed against American Service and American Country.

(7) Pursuant to its authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

(i) All accountants, auditors and attorneys of American Service and American Country are ordered to deliver to the Liquidator, at his request, copies of all documents in their possession or under their control concerning or related to American Service and American Country, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships between them and American Service and/or American Country, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of American Service and/or American Country. or their agents, servants, officers, directors and/or employees, or which American Service and/or American Country may be, or is, entitled to as the result of its relationship with such accountants, auditors and attorneys; and

(ii) American Service and American Country and their directors, officers, agents, servants, representatives, employees, affiliated companies, and all other persons and entities, shall give immediate possession and control to the Liquidator of all property, business, books, records and accounts of American Service and American Country, and all premises occupied by American Service and American Country for the transaction of their business; and

(iii) American Service and American Country and their directors, officers, agents, servants, representatives, employees, affiliated companies, and all other

persons and entities having knowledge of this Order of Liquidation are restrained and enjoined from transacting any business of American Service and American Country, or disposing of any company property or assets, including books, records and computer and other electronic data, without the express written consent of the Liquidator, or doing or permitting to be done any action which might waste the property or assets of American Service and American Country, until the further order of the Court; and

(iv) The directors, officers, agents, servants, representatives and employees of American Service and American Country, and all other persons and entities having knowledge of this Order of Liquidation are restrained and enjoined from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against American Service and/or American Country, or their property or assets, or the Director as their Liquidator, except insofar as those claims, actions or proceedings arise in or are brought in the Liquidation Proceedings; or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against American Service and/or American Country, or their property or assets while in the possession and control of the Liquidator, or from interfering in any way with the Liquidator in his possession or control of the property, business, books, records, accounts, premises and all other assets of American Service and American Country, until the further order of the Court; and

(v) Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order of Liquidation having in its possession accounts and any other assets which are, or may be, the property of American Service and/or American Country, are restrained and enjoined from disbursing or disposing of said accounts and assets and are further restrained and enjoined from disposing of or destroying any records pertaining to any business transaction between American Service and/or American Country, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with American Service and/or American Country, or having in their possession assets which are, or may be, the property of American Service and/or American Country, and further, that each such person or entity is ordered to immediately deliver any and all such assets and/or records to the Liquidator; and

(vi) All agents, brokers and producers of American Service and American Country, and their respective agents, servants, representatives and employees, and all other persons or entities having knowledge of this Order of Liquidation are enjoined and restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums, contributions or assessments upon policies, contracts or certificates of insurance or reinsurance previously issued by American Service and/or American Country, to policyholders, beneficiaries, certificate holders or others, and all said agents, brokers and producers and their respective agents, servants, representatives and employees are directed to turn over all such funds in their possession or under their control, or to

which they may hereafter acquire possession or control, to the Liquidator in gross and not net of any commissions which may be due thereon; and

(vii) The Director is vested with the right, title and interest in all funds recoverable under contracts, treaties, certificates, and agreements of reinsurance heretofore entered into by or on behalf of American Service and/or American Country, and all insurance and reinsurance companies and entities that assumed liabilities from American Service and/or American Country arising under either contracts, policies, certificates, treaties or agreements of insurance or reinsurance issued by American Service and/or American Country, are enjoined and restrained from making any settlements with any claimant or policyholder of American Service and/or American Country, or any other person other than the Liquidator, except with the written consent of the Liquidator, or when the insurance or reinsurance contract, policy, certificate, treaty or agreement lawfully provides for payment to or on the behalf of an American Service or American Country insured by the assuming reinsurer.


(8) All direct policies and/or certificates of insurance, and bonds heretofore issued by American Service and American Country are hereby canceled upon the following terms:

(i) All direct policies and/or certificates of insurance, and bonds which may give rise to "covered claims" as defined in Sections 534.3 and 537.2 of the Code, 215 ILCS 5/534.3 and 5/537.2, of the Illinois Insurance Guaranty Fund or which may give rise to "covered claims" of a similar organization in any other state, as defined by the provisions of such similar statute in any such other state, shall be canceled:

- (a) At 12:01 a.m., local time of the insured, policyholder, or principal of any such direct policy and/or certificate of insurance, or bond on the thirty-first (31st) day following the effective date of this Order of Liquidation; or
 - (b) Upon the expiration date of any such direct policy and/or certificate of insurance, or bond if the expiration date is less than thirty-one (31) days after the effective date of this Order of Liquidation; or
 - (c) Upon the date the insured, policyholder, or principal of any such direct policy and/or certificate of insurance, or bond replaces the direct policy and/or certificate of insurance, or bond or upon the date the policyholder, insured, or principal on request effects cancellation, if the insured, policyholder, or principal does so prior to the thirty-first (31st) day following the effective date of this Order of Liquidation, whichever is earlier;
- (ii) All other direct policies and/or certificates of insurance, and bonds heretofore issued by American Service and/or American Country are cancelled effective upon the entry of this Order of Liquidation.
- (9) All treaties, contracts and agreements of reinsurance wherein American Service and/or American Country is the ceding company, shall remain in full force and effect pending a determination by the Liquidator as to when, and upon what terms, cancellation or renewal is appropriate. All treaties, contracts and agreements of reinsurance wherein American Service and/or American Country was, or is, the assuming or retrocessional reinsurer are cancelled on a "cut-off" basis upon the entry of this Order of Liquidation.
- (10) The Court's July 8, 2019, Order of Rehabilitation, entered as to and against American Service and American Country is vacated, and the rehabilitation proceedings arising therefrom, are hereby terminated.

(11) The Court retains jurisdiction in this cause for the purpose of granting such other and further relief as the nature of this cause and the interests of American Service and American Country, their policyholders, claimants, beneficiaries and creditors, or of the public, may require and/or as the Court may deem proper in the premises.

ENTERED:


Judge Presiding

Judge Pamela McLean Meyerson

AUG 11 2020

Circuit Court - 2097

J. Kevin Baldwin
Daniel A. Guberman
Dale A. Coonrod
Counsel to the Director as Receiver
222 Merchandise Mart Plaza, Suite 960
Chicago, Illinois 60654
(312) 836-9500
Attorney Code 16819
dcoonrod@osdchi.com

EXHIBIT 3

[Prior orders of ancillary receivership for other estates]

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

PRESENT: HON. W. FRANC PERRY

PART

IAS MOTION 23EFM

Justice

-----X

LINDA LACEWELL,

Petitioner,

- v -

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN,

Respondent.

-----X

INDEX NO. 450931/2019MOTION DATE N/AMOTION SEQ. NO. 001

**DECISION ON PETITION FOR
ANCILLARY RECEIVERSHIP**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 11, 12, 13, 14
were read on this motion to/for SPECIAL PROCEEDING / RECEIVERSHIP

Upon the foregoing documents, and as stated on the record at oral argument on August 8,
2019, it is hereby

ORDERED that the Petition is granted in accordance with the annexed Order Of
Ancillary Receivership, dated August 8, 2019; and it is further

ORDERED that the proceeding shall bear the following amended caption:

-----X

In the matter of

the Ancillary Receivership of

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.

-----X

And it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice
of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General

FILED: NEW YORK COUNTY CLERK 08/08/2019 02:40 PM

INDEX NO. 450931/2019

NYSCEF DOC. NO. 15

RECEIVED NYSCEF: 08/08/2019

Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the changes to the caption; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/supctmanh)).

This constitutes the decision and order of the court.

8/8/2019

DATE

CHECK ONE:

APPLICATION:

CHECK IF APPROPRIATE:

☐
☒
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☐

CASE DISPOSED

GRANTED

☐

DENIED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

☒
☐
☐
☐

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE

W. FRANC PERRY, J.S.C.

At IAS Part 23 of the Supreme Court
of the State of New York, County of
New York, at the Courthouse, 80
Centre Street, in the County, City and
State of New York, on the 8th day of
August, 2019.

P R E S E N T :

HON. W. FRANC PERRY, III J.S.C.

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

-----X
In the Matter of

Index No.: 450931/2019

the Application of

Linda A. Lacewell, Acting Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

**ORDER OF ANCILLARY
RECEIVERSHIP**

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved this Court for an order appointing the Superintendent and her successors in office as ancillary receiver ("Ancillary Receiver") of Northwestern National Insurance Company of Milwaukee, Wisconsin ("NNIC"), and upon reading and filing the petition of the Superintendent, duly verified on the 13th day of June, 2019 ("Verified Petition"), the Affidavit of Joan L. Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 13th day of May, 2019, and the exhibits annexed thereto, this Court finds that:

1. NNIC is a property and casualty insurer domiciled in the State of Wisconsin. The company was organized in 1869 by an act of the Wisconsin legislature, and maintained its

administrative office in West Chester, Ohio, and its principal place of business in Madison, Wisconsin;

2. NNIC was licensed in the State of New York to transact the kinds of insurance specified in New York Insurance Law § 1113(a)(3) – (17) and (19) – (21);

3. By order dated May 2, 2019, the Circuit Court, Dane County, Madison, Wisconsin issued an Order for Liquidation finding NNIC to be insolvent (“Liquidation Order”) and appointing Mark Afable, Wisconsin Commissioner of Insurance, Liquidator (“Wisconsin Liquidator”) of NNIC. The Liquidation Order also, among other things, established the date that is six months from the date of entry of the Liquidation Order, which is November 2, 2019, as the bar date for the filing of claims against NNIC (“Claims Bar Date”);

4. NNIC is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

5. Wisconsin is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

6. The Wisconsin Liquidator requested that the Superintendent commence an ancillary receivership proceeding for NNIC; and

7. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of NNIC.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;
2. The Superintendent and her successors in office is appointed Ancillary Receiver of NNIC and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;

3. The material provisions of the Liquidation Order as it pertains to this ancillary receivership proceeding, including injunctions, restrictions and directions set forth in paragraphs 11, 12, 13, 14, 16 and 23 apply to this ancillary receivership proceeding;
4. In accordance with Insurance Law § 7412(a), the Claims Bar Date of November 2, 2019, established in paragraph 23 of the Liquidation Order, applies to this ancillary receivership proceeding and all New York claims under NNIC policies and evidence supporting such claims must be submitted to the Ancillary Receiver by November 2, 2019, and if not submitted by that date shall be barred;
5. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against NNIC, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against NNIC, the Superintendent as Ancillary Receiver or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
6. All parties to actions, lawsuits, and special or other proceedings against insureds of NNIC or in which NNIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or 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 this Order;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of NNIC and as administrator of the New York security funds, her successors in office, the New York Liquidation Bureau, 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 Articles 74 and 76 and Article 6-A of the New York Workers' Compensation Law;
8. The Ancillary Receiver shall serve a copy of this Order on the Wisconsin Liquidator by overnight delivery to Mark Afable, Commissioner of Insurance for the State of Wisconsin, 125 South Webster Street, Madison, WI 53703-3474, and Amy J. Malm, Special Deputy Liquidator for NNIC at the same address;
9. The Ancillary Receiver shall provide notice of this Order, substantially in the form attached hereto (the "Notice"), to all creditors, claimants, and interested persons located in the State of New York by: (i) publication of the Notice in the *New York Daily News*, or a publication of similar circulation, within 30 days of entry of this Order; and (ii) posting the Notice and the Order on the Internet web page

maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;

10. NNIC's license to do business in the State of New York is hereby revoked;
11. The caption for this proceeding is hereby amended as follows:

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

-----X
In the matter of

the Ancillary Receivership of

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.
-----X

12. All further papers in this proceeding shall bear the above amended caption.

ENTER



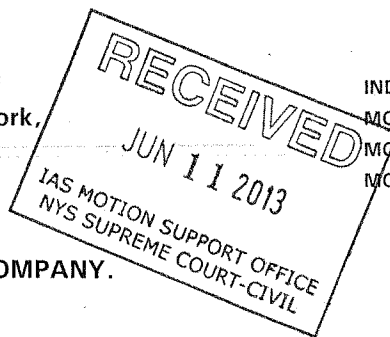
J.S.C.
HON. W. FRANC PERRY, III
J.S.C.

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

PRESENT: MANUEL J. MENDEZPART 13*Justice*

In the Matter of the Application of

BENJAMIN LAWSKY, Superintendent of
Financial Services of the State of New York,
for an Order of Appointment as
Ancillary Receiver of,



INDEX NUMBER 400534/13
MOTION DATE 05-22-2013
MOTION SEQ. NO. 001
MOTION CAL. NO. _____

LUMBERMANS MUTUAL CASUALTY COMPANY.

The following papers, numbered 1 to 5 were read on this petition and Order to Show Cause to/for New York Insurance Law Article 74 relief, based on appointment of ancillary receiver:

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____ cross motion _____

Replying Affidavits _____

PAPERS NUMBERED

1 - 34 - 5Cross-Motion: Yes ☒ No

Benjamin Lawskey in his capacity as Superintendent of Financial Services of the State of New York (hereinafter referred to as "Superintendent"), brings this Order to Show Cause and Petition seeking an Order pursuant to New York Insurance Law Article 74, appointing him and his successors in office, as ancillary receiver of Lumbermans Mutual Casualty Company (hereinafter referred to as "Lumbermans"); directing the Superintendent to immediately take possession of such property and recover such other assets of Lumbermans; injunctive relief; a bar date for the submission of claims; and extending immunity to the Superintendent as ancillary receiver.

Lumbermans is a property and casualty mutual insurance company organized under the laws of the State of Illinois, with its principal office located at one Corporate Drive, Suite 200, Long Grove, Illinois 60049. Lumbermans was authorized to do business in, and maintained its principal office in the State of New York at, 30 Rockefeller Plaza, New York, N.Y. 10112.

On July 2, 2012, an Agreed Order of Rehabilitation was entered against Lumbermans in Illinois. Effective May 10, 2012, the Circuit Court of Cook County Illinois, County Department, Chancery Division, under #12 CH 24227, entered into an Order of Liquidation with a finding of insolvency (hereinafter referred to as the "Illinois

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JUN 19 2013
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NEW YORK

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Order of Liquidation"). Pursuant to subsection (G) of the Illinois Order of Liquidation, mandatory and prohibitive injunctions were issued (pages 7-8 of 11). These injunctions included,

"(iv) The officers, directors, agents, servants, representatives and employees of Lumbermans, and all other persons and entities having knowledge of this Order are restrained from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this state or elsewhere, against Lumbermans, or its property or assets...or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens or including common law retaining liens, or encumbrances or the making of any levy against Lumbermans, or its property or assets...until further order of this Court."

The Director of Insurance of the State of Illinois, Andrew Boron (hereinafter referred to as "liquidator"), was appointed as liquidator. Pursuant to New York Insurance Law §7408(b)[6], Illinois is a reciprocal state. The Domiciliary Receiver has requested the appointment of an ancillary receiver for Lumbermans. The Superintendent in this Article 74 proceeding, is seeking the appointment as ancillary receiver.

In accordance with the "full faith and credit clause" of the Constitution, a stay of proceeding pending appointment of a receiver, or judgment in another state, has the same, "credit, validity and effect" in New York (A.J. Pegno Constr. Co. v. Highlands Ins. Co., 39 A.D. 3d 273, 834 N.Y.S. 2d 109 [N.Y.A.D. 1st Dept., 2007]). Liquidation proceedings commenced in another state on behalf of an insurer domiciled in that state, permits New York residents to file their claims either with the ancillary receiver or the domiciliary receiver. Secured claimants are required to either file their claims with the ancillary receiver or prove their claims to the domiciliary receiver. Secured creditors cannot maintain actions independent from liquidation proceedings because that would permit them to receive benefits to the detriment of other claimants (G.C. Murphy Co. v. Reserve Ins. Co., 54 N.Y. 2d 69, 429 N.E. 2d 111, 444 N.Y.S. 2d 592 [1981]).

The domiciliary state and its receiver are recognized in New York as having authority over all of a liquidated insurer's assets. Pursuant to Insurance Law §7410 the Court shall appoint the Superintendent of Financial Services, to act as ancillary receiver for an insurer not domiciled in New York State and to exercise control over certain assets located within New York State (Levin v. National Colonial Ins. Co., 1 N.Y. 3d 350, 806 N.E. 2d 473, 774 N.Y.S. 2d 465 [2004]).

Article 74 of the New York Insurance Law applies after an insurer is liquidated, to create a single integrated administration for the equitable treatment of its creditors and to avoid preferences. The Supreme Court has jurisdiction concerning claims for and against the insurer and assets available for distribution (Cocoran v. Frank B. Hall & Co., Inc., 149 A.D. 2d 165, 545 N.Y.S. 2d 278 [N.Y.A.D. 1st Dept., 1989]). The

court has discretion and broad authority to issue injunctions it deems necessary, to prevent interference with liquidation proceedings or the waste of an insurer's assets. The Court in its discretion can modify injunctive relief in the "interest of justice," as a means to assist or aid in bringing about a result after the correct application and consideration of, "...the interests of both the litigants and society" (In Re Liquidation of Midland Insurance Company, 87 A.D. 3d 487, 929 N.Y.S. 2d 116 [N.Y.A.D. 1st Dept., 2011]). The Court can abuse its discretion by staying pending actions involving policies, claims and issues unrelated to the bankruptcy proceedings because it promotes delay over efficiency (Mt. McKinley Ins. Co. v. Corning Inc., 33 A.D. 3d 51, 818 N.Y.S. 2d 73 [N.Y.A.D. 1st Dept., 2006]).

Century Indemnity Company (hereinafter referred to as "Century"), has submitted a Limited Answer to the Petition, opposing the injunctive relief sought by the Superintendent. Century is a co-defendant of Lumbermans in a declaratory judgment action, *Mt. McKinley Ins. Co., et al. v. Corning, Incorporated, et al.*, pending before the Honorable Eileen Bransten, in Supreme Court, New York County, under index number 602454/02, arising from a mass asbestos tort liability action. The declaratory judgment action commenced on July 2, 2002, is over a decade old. Century does not oppose the appointment of the Superintendent as ancillary receiver, but opposes any injunction or stay of their pending action.

Century contends that the declaratory judgment action is in the late stages with discovery almost complete. Unsuccessful attempts were made to resolve the disputes between the parties at mediation. The declaratory judgment action has been stayed by Justice Bransten, pursuant to a Decision and Order dated May 6, 2013, but only as to Lumbermans. Century claims that there would be no dissipation of Lumbermans' assets or interference with the rehabilitation process because a money judgment is not being sought in the declaratory judgment action. The possibility of inconsistent rulings would emerge if the proofs of claims against Lumbermans from the declaratory judgment action end up having to be filed with the Illinois Court. The triggering of obligations of the other insurers to the declaratory judgment action would not be consistently resolved. There is also an appeal pending on Lumbermans' motion for summary judgment that will not be heard if a permanent stay is granted.

The attorneys for, Kenneth Halvorsen, (hereinafter referred to as the "Attorneys"), a plaintiff in an personal injury action based on injuries sustained when he was crushed by a refrigeration unit while he was employed on a construction project at a new Waldbaums store in Commack, New York, oppose the relief sought by the Superintendent. The Attorneys brought an action titled, *Kenneth Halvorsen v. Bayrent Construction Corp. et al.*, pending in Supreme Court, Suffolk County, under index number 08721/02, two additional third-party actions were brought under index numbers, 23-0125 and 2737, and a fourth-party action was also brought under index number 270232. Great Atlantic & Pacific Tea Company (hereinafter referred to as "A&P") was named as a second third-party defendant and is the fourth-party plaintiff. It is alleged that A&P is contractually held to indemnify the landlord against any recovery arising from negligence. The Attorneys claim that Lumbermans is A&P's

insurer, and is not an actual party to any of the actions. The personal injury action was certified trial ready by the Hon. Joseph C. Pastoressa in 2009, but stayed because A& P filed for bankruptcy. The Attorneys have attempted mediation with the defendants and applied for a lift of the bankruptcy stay.

The Attorneys do not oppose the appointment of the Superintendent as ancillary receiver, but oppose any injunction or stay of their pending action. They information from Lumbermans, it appears there is no obligation for it to defend Waldbaums Inc.. The Attorneys claim that their clients would be prejudiced by any lengthy stay of their action. Any additional lengthy delay based on a second bankruptcy will prevent them from obtaining a judgment.

Upon review of all the papers submitted, this Court finds that, the Superintendent of Financial Services to act as an ancillary receiver, requires sufficient time and opportunity to obtain the relevant information and documentation concerning Lumbermans' assets located in New York State. The Superintendent will also need to coordinate with the Illinois domiciliary liquidator.

To accommodate the relief sought by Century in the action pending before Justice Eileen Bransten, and the Attorneys in the action titled, *Kenneth Halvorsen v. Bayrent Construction Corp. et al.*, pending in Supreme Court, Suffolk County, under index number 08721/02 and related actions, this Court will partially modify the injunctive relief sought by the Superintendent, in the "interest of justice." The modification, after a brief stay, will permit the pending declaratory judgment action to proceed to resolution. A pending trial will not interfere with the liquidation process, result in the waste of the insurer's assets, or create a preference.

Accordingly, it is ORDERED and [REDACTED], that the petition for an order of ancillary receivership is granted, as follows:

(1) The Superintendent and his successors in office are appointed Ancillary Receiver of LUMBERMANS MUTUAL CASUALTY COMPANY and are: (A) authorized and directed to immediately take possession of LUMBERMANS MUTUAL CASUALTY COMPANY's property and recover such other assets of LUMBERMANS MUTUAL CASUALTY COMPANY that are located in the State of New York; (B) vested with all powers and authority expressed or implied under Insurance Law Article 74, and as set forth in this Order, and (C) authorized to pay such claims against LUMBERMANS MUTUAL CASUALTY COMPANY, or its policy holders, that are covered by New York Security funds.

(2) The Ancillary Receiver may deal with the property and business of LUMBERMANS MUTUAL CASUALTY COMPANY, in its name or in the name of the Ancillary Receiver.

(3) The officers, directors, shareholders, trustees, depositories, policyholders, agents, servants, attorneys, managers and employees of LUMBERMANS MUTUAL CASUALTY COMPANY and all other related persons are permanently enjoined and

restrained from: (A) transacting LUMBERMANS MUTUAL CASUALTY COMPANY business, except as authorized by the Ancillary Receiver; (B) wasting or disposing of the property or assets of LUMBERMANS MUTUAL CASUALTY COMPANY that are located in the state of New York; (C) interfering with the Ancillary Receiver in the possession, control or management of LUMBERMANS MUTUAL CASUALTY COMPANY's property or in the discharge of his duties.

(4) All persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against LUMBERMANS MUTUAL CASUALTY COMPANY, and all persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against the Superintendent as Ancillary Receiver or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Article 74.

(5) All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against LUMBERMANS MUTUAL CASUALTY COMPANY's property located in the State of New York or any part thereof.

(6) The parties to *Mt. McKinley Ins. Co., et al. v. Corning, Incorporated, et al.*, pending before the Honorable Eileen Bransten, in Supreme Court, New York County, under index number 602454/02, are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 60 days from the date of Entry of this Order.

(7) The parties to the action titled, *Kenneth Halvorsen v. Bayrent Construction Corp. et al.*, pending in Supreme Court, Suffolk County, under index number 08721/02, two additional third-party actions brought under index numbers, 23-0125 and 2737, and the fourth-party action brought under index number 270232; are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 60 days from the date of Entry of this Order.

(8) Parties to all actions, lawsuits and special or other proceedings other than, *Mt. McKinley Ins. Co., et al. v. Corning, Incorporated, et al.*, pending before the Honorable Eileen Bransten, in Supreme Court, New York County, under index number 602454/02 and the action titled, *Kenneth Halvorsen v. Bayrent Construction Corp. et al.*, pending in Supreme Court, Suffolk County, under index number 08721/02, two additional third-party actions brought under index numbers, 23-0125 and 2737, and the fourth-party action brought under index number 270232, in which LUMBERMANS MUTUAL CASUALTY COMPANY, 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, are enjoined and restrained 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 this Order.

(9) All persons or entities having property located in the State of New York and/or information belonging or related to LUMBERMANS MUTUAL CASUALTY COMPANY, 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 LUMBERMANS MUTUAL CASUALTY COMPANY 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.

(10) 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 notice, as this Court shall, at the time of establishment of the bar date, determine to be proper and sufficient.

(11) Immunity is extended to the Superintendent in his capacity as Ancillary Receiver of LUMBERMANS MUTUAL CASUALTY COMPANY, 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.

(12) The Ancillary Receiver shall serve a copy of this Order on Andrew Boron, Director of Insurance of the State of Illinois as Special Deputy Receiver of LUMBERMANS MUTUAL CASUALTY COMPANY, 222 Merchandise Mart Plaza, Suite 960, Chicago Illinois, 60654, by certified mail.

(13) The Ancillary Receiver shall provide notice of this Order to all creditors, claimants and interested persons located in the State of New York by: (A) publication of the notice of this Order in Business Insurance, or a publication of similar circulation, once a week for two consecutive publications, commencing within four weeks of entry of this Order in a form substantially similar to the one attached hereto; and (B) posting this Order on the Internet web page maintained by the Bureau at <http://www.nylb.org> within 15 days after entry of this Order.

(14) The notice of this Order shall inform all creditors, claimants and other interested persons that this Order has been entered and shall be sufficient notice to all persons interested in LUMBERMANS MUTUAL CASUALTY COMPANY.

(15) LUMBERMANS MUTUAL CASUALTY COMPANY's license to do business in the State of New York is hereby revoked.

(16) This Court shall retain jurisdiction over this matter for all purposes.

(17) The caption of this proceeding is amended to read as follows:

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

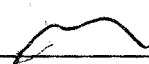
-----X
In the matter of

The Ancillary Receivership of

LUMBERMANS MUTUAL CASUALTY COMPANY
-----X

(18) The Superintendent shall serve a copy of this Order with Notice of Entry within twenty (20) days of entry, upon the respondents, the County Clerk (Room 141B) and the Clerk of the Trial Support Office (Room 158) who are then directed to amend their records to reflect the above amended caption of this proceeding.

ENTER:



MANUEL J. MENDEZ,
J.S.C.

Dated: June 6, 2013

MANUEL J. MENDEZ
J.S.C.

Check one: ☒ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION

Check if appropriate: ☐ DO NOT POST ☐ REFERENCE

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JUN 19 2013
COUNTY CLERK'S OFFICE
NEW YORK

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

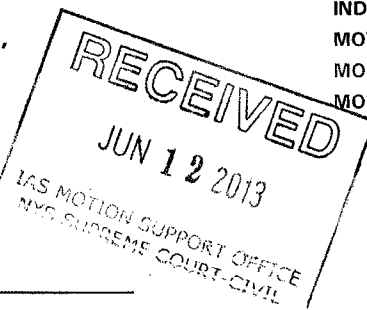
PRESENT: MANUEL J. MENDEZPART 13*Justice*

In the Matter of the Application of

BENJAMIN LAWSKY, Superintendent of
Financial Services of the State of New York,
for an Order of Appointment as
Ancillary Receiver of,

INDEX NUMBER 400533/13
MOTION DATE 05-22-2013
MOTION SEQ. NO. 001
MOTION CAL. NO. _____

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY.



The following papers, numbered 1 to 5 were read on this petition and Order to Show Cause to/for New York Insurance Law Article 74 relief, based on appointment of ancillary receiver:

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____ cross motion _____

Replying Affidavits _____

PAPERS NUMBERED

1 - 3

4 - 5

Cross-Motion: Yes ☒ No

Benjamin Lawskey in his capacity as Superintendent of Financial Services of the State of New York (hereinafter referred to as "Superintendent"), brought this Order to Show Cause and Petition seeking an Order pursuant to New York Insurance Law Article 74, appointing him and his successors in office, as ancillary receiver of American Manufacturers Mutual Insurance Company (hereinafter referred to as "American Manufacturers"); directing the Superintendent to immediately take possession of such property and recover such other assets of American Manufacturers; injunctive relief; a bar date for the submission of claims; and extending immunity to the Superintendent as ancillary receiver.

American Manufacturers is a property and casualty mutual insurance company organized under the laws of the State of Illinois, with its principal office located at one Corporate Drive, Suite 200, Long Grove, Illinois 60049. American Manufacturers was authorized to do business in, and maintained its principal office in the State of New York at, 30 Rockefeller Plaza, New York, N.Y. 10112.

On July 2, 2012, an Agreed Order of Rehabilitation was entered against American Manufacturers in Illinois. Effective May 10, 2012, the Circuit Court of Cook County Illinois, County Department, Chancery Division, under #12 CH 24227, entered into an Order of Liquidation with a finding of insolvency (hereinafter referred

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JUN 19 2013

COUNTY CLERK'S OFFICE
NEW YORK

to as the "Illinois Order of Liquidation"). Pursuant to the Illinois Order of Liquidation, American Manufacturers was consolidated in debt and insolvency, with Lumberman's Mutual Casualty Company. Pursuant to subsection (G) of the Illinois Order of Liquidation, mandatory and prohibitive injunctions were issued (pages 7-8 of 11). These injunctions included,

"(iv) The officers, directors, agents, servants, representatives and employees of Lumbermans, and all other persons and entities having knowledge of this Order are restrained from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this state or elsewhere, against Lumbermans, or its property or assets...or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens or including common law retaining liens, or encumbrances or the making of any levy against Lumbermans, or its property or assets...until further order of this Court."

The Director of Insurance of the State of Illinois, Andrew Boron (hereinafter referred to as "liquidator"), was appointed as liquidator. Pursuant to New York Insurance Law §7408[b][6], Illinois is a reciprocal state. The Domiciliary Receiver has requested the appointment of an ancillary receiver for American Manufacturers. The Superintendent in this Article 74 proceeding, is seeking the appointment as ancillary receiver.

In accordance with the "full faith and credit clause," of the Constitution, a stay of proceeding pending appointment of a receiver, or judgment in another state, has the same, "credit, validity and effect," in New York (A.J. Pegno Constr. Co. v. Highlands Ins. Co., 39 A.D. 3d 273, 834 N.Y.S. 2d 109 [N.Y.A.D. 1st Dept., 2007]). Liquidation proceedings commenced in another state on behalf of an insurer domiciled in that state, permits New York residents to file their claims either with the ancillary receiver or the domiciliary receiver. Secured claimants are required to either file their claims with the ancillary receiver or prove their claims to the domiciliary receiver. Secured creditors cannot maintain actions independent from liquidation proceedings because that would permit them to receive benefits to the detriment of other claimants (G.C. Murphy Co. v. Reserve Ins. Co., 54 N.Y. 2d 69, 429 N.E. 2d 111, 444 N.Y.S. 2d 592 [1981]).

The domiciliary state and its receiver are recognized in New York as having authority over all of a liquidated insurer's assets. Pursuant to Insurance Law §7410 the Court shall appoint the Superintendent of Financial Services, to act as ancillary receiver for an insurer not domiciled in New York State and to exercise control over certain assets located within New York State (Levin v. National Colonial Ins. Co., 1 N.Y. 3d 350, 806 N.E. 2d 473, 774 N.Y.S. 2d 465 [2004]).

Article 74 the New York Insurance Law applies after an insurer is liquidated, to create a single integrated administration for the equitable treatment of its creditors and to avoid preferences. The Supreme Court has jurisdiction concerning claims for and against the insurer and assets available for distribution (Cocoran v. Frank B. Hall

& Co., Inc., 149 A.D. 2d 165, 545 N.Y.S. 2d 278 [N.Y.A.D. 1st Dept., 1989]). The court has discretion and broad authority to issue injunctions it deems necessary, to prevent interference with liquidation proceedings or the waste of an insurer's assets. The Court in its discretion can modify injunctive relief in the "interest of justice," as a means to assist or aid in bringing about a result after the correct application and consideration of, "...the interests of both the litigants and society" (In Re Liquidation of Midland Insurance Company, 87 A.D. 3d 487, 929 N.Y.S. 2d 116 [N.Y.A.D. 1st Dept., 2011]). The Court can abuse its discretion by staying pending actions involving policies, claims and issues unrelated to the bankruptcy proceedings because it promotes delay over efficiency (Mt. McKinley Ins. Co. v. Corning Inc., 33 A.D. 3d 51, 818 N.Y.S. 2d 73 [N.Y.A.D. 1st Dept., 2006]).

The attorneys for, Rafael Perez and Jimuer Romero Olvera, (hereinafter referred to as the "Attorneys"), plaintiffs in an action titled *Julio Recciado, et al. v. BBR Contracting Corp.*, pending before the Honorable Joan M. Kenney, in Supreme Court, New York County, under index number 600653/06, partially oppose the relief sought by the Superintendent. They do not oppose the appointment of the Superintendent as ancillary receiver, but oppose any injunction or stay of their pending action. The Attorneys contend that Justice Kenney's Decision and Order dated January 3, 2013, denying American Manufacturer's motion for a stay pending rehabilitation proceedings, permitting discovery and having their action to proceed to trial, is law of the case (Mot. Exh. A). The Attorneys claim that their clients would be prejudiced by any stay of the pending action, because it is on the trial calendar. Any lengthy delay will prevent them from obtaining or maintaining subpoenaed records.

Justice Kenney's Decision and Order dated January 3, 2013, was prior to the injunctive relief indicated in the Illinois Order of Liquidation. The Superintendent of Financial Services, upon appointment to act as an ancillary receiver, requires sufficient time and opportunity to obtain the relevant information and documentation concerning American Manufacturers' assets located in New York State. The Superintendent will also need to coordinate with the Illinois domiciliary liquidator.

This Court in the "interest of justice," will provide a partial accommodation based on the relief sought by the attorneys in the unpaid wages action currently pending for trial, in which causes of action are asserted against American Manufacturers based on suretyship and failure to pay bonds. A partial modification of the injunctive relief sought by the Superintendent shall be granted permitting the pending action to proceed to trial after a brief stay. The pending trial will not interfere with the liquidation process, result in the waste of the insurer's assets, or create a preference.

Accordingly, it is ORDERED and [REDACTED], that the petition for an order of ancillary receivership is granted, as follows:

(1) The Superintendent and his successors in office are appointed Ancillary Receiver of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY and are: (A) authorized and directed to immediately take possession of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY's property and recover such

other assets of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY that are located in the State of New York; (B) vested with all powers and authority expressed or implied under Insurance Law Article 74, and as set forth in this Order, and (C) authorized to pay such claims against AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, or its policy holders, that are covered by New York Security funds.

(2) The Ancillary Receiver may deal with the property and business of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, in its name, or in the name of the Ancillary Receiver.

(3) The officers, directors, ~~shareholders, trustees, depositories,~~ policyholders, agents, servants, attorneys, managers and employees of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY and all other related persons are permanently enjoined and restrained from: (A) transacting AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY business, except as authorized by the Ancillary Receiver; (B) wasting or disposing of the property or assets of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY that are located in the state of New York; (C) interfering with the Ancillary Receiver in the possession, control or management of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY's property or in the discharge of his duties.

(4) All persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, and all persons are permanently enjoined and restrained from commencing any actions, lawsuits or proceedings against the Superintendent as Ancillary Receiver or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to this proceeding or in the discharge of their duties under Insurance Law Article 74.

(5) All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY's property located in the State of New York or any part thereof.

(6) The parties to *Julio Recciado, et al. v. BBR Contracting Corp.*, pending before the Honorable Joan M. Kenney, in Supreme Court, New York County, under index number 600653/06, are enjoined and restrained from proceeding with any court proceedings or other litigation related tasks or procedures, including but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 90 days from the date of Entry of this Order.

(7) Parties to all actions, lawsuits and special or other proceedings other than, *Julio Recciado, et al. v. BBR Contracting Corp.*, pending before the Honorable Joan M. Kenney, in Supreme Court, New York County, under index number 600653/06; in which AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, 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, are enjoined and restrained 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 this Order.

(8) All persons or entities having property located in the State of New York and/or information belonging or related to AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, 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 AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY 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.

(9) 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 notice, as this Court shall, at the time of establishment of the bar date, determine to be proper and sufficient.

(10) Immunity is extended to the Superintendent in his capacity as Ancillary Receiver of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, 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.

(11) The Ancillary Receiver shall serve a copy of this Order on Andrew Boron, Director of Insurance of the State of Illinois as Special Deputy Receiver of AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, 222 Merchandise Mart Plaza, Suite 960, Chicago Illinois, 60654, by certified mail.

(12) The Ancillary Receiver shall provide notice of this Order to all creditors, claimants and interested persons located in the State of New York by: (A) publication of the notice of this Order in Business Insurance, or a publication of similar circulation, once a week for two consecutive publications, commencing within four weeks of entry of this Order in a form substantially similar to the one attached hereto; and (B) posting this Order on the Internet web page maintained by the Bureau at <http://www.nyib.org> within 15 days after entry of this Order.

(13) The notice of this Order shall inform all creditors, claimants and other interested persons that this Order has been entered and shall be sufficient notice to all persons interested in AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY.

(14) AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY's license to do business in the State of New York is hereby revoked.

(15) This Court shall retain jurisdiction over this matter for all purposes.

(16) The caption of this proceeding is amended to read as follows:

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

-----X
In the matter of

The Ancillary Receivership of

AMERICAN MANUFACTURERS MUTUAL
INSURANCE COMPANY

-----X

(17) The Superintendent shall serve a copy of this Order with Notice of Entry within twenty (20) days of entry, upon the respondents, the County Clerk (Room 141B) and the Clerk of the Trial Support Office (Room 158) who are then directed to amend their records to reflect the above amended caption of this proceeding.

ENTER:

Dated: June 6, 2013

MANUEL J. MENDEZ,
J.S.C.

MANUEL J. MENDEZ
J.S.C.

Check one: ☒ FINAL DISPOSITION ☐ NON-FINAL DISPOSITION

Check if appropriate: ☐ DO NOT POST ☐ REFERENCE

FILED

JUN 19 2013

COUNTY CLERK'S OFFICE
NEW YORK