

At IAS Part 15 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 3rd day of OCT, 2013.

PRESENT:

HON. EILEEN A. RAKOWER, J.S.C.

In the Matter of

the Liquidation of

CENTENNIAL INSURANCE COMPANY.

Index No.: 402424/10

ORDER TO SHOW CAUSE

Based on the attached affirmation (the "Affirmation") of Scott D. Fischer, the Deputy General Counsel of the New York Liquidation Bureau (the "Bureau"), the entity that carries out the duties of Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York as liquidator (the "Liquidator") of Centennial Insurance Company ("Centennial"), dated October 2, 2013, and upon all the papers previously submitted and all proceedings heretofore had herein;

NOW, on motion of John Pearson Kelly, attorney for the Liquidator, and after due deliberation having been had thereon,

LET all claimants and parties interested in the affairs of Centennial show cause before this Court at IAS Part 15 thereof, at the Courthouse located at 80 Centre Street, New York, New York, on the 19 day of NOV, 2013 ("Return Date") at 11 o'clock A.m., or as soon thereafter as counsel can be heard, why an order should not be made, pursuant to Article 74 of the New York Insurance Law ("Insurance Law"), *inter alia*: (i) vacating the order, signed by this

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Court on September 18, 2013, which established September 30, 2013 as the bar date for the presentment to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses and January 16, 2015 as the last date on which the holder of such claim against Centennial or its insureds submitted by September 30, 2013 other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim, in support of the allowance of such claim; (ii) establishing December 15, 2013, as the bar date ("Bar Date") for the presentment to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses and January 16, 2015 as the last date on which the holder of such claim against Centennial or its insureds submitted by the Bar Date, other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim, in support of the allowance of such claim; and (iii) providing for such other and further relief as this Court may deem just and proper;

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

ORDERED, that service of notice of the Affirmation and this Order to Show Cause, substantially in the form attached hereto as Exhibit A, shall be made by: (i) posting such notice on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> at least fifteen (15) days before the Return Date; and (ii) publishing such notice in *Business Insurance* or another publication of national circulation, such publication to occur in two consecutive publications, commencing as soon as practical in light of the bi-weekly publication schedule of *Business Insurance* or such other publication; and it is further

ORDERED, that the form and methods of service of notice specified herein are hereby approved as in accordance with the law and as the best notice practicable and shall therefore constitute due and sufficient notice of this Order to Show Cause and scheduled Return Date herein and the Affirmation and the relief sought therein to all persons and entities entitled to receive such notice; and it is further

ORDERED, that the approved form of notice shall direct that all answering papers and supporting documentation ("Answering Papers") be served on the Liquidator so as to be received at least seven (7) days prior to the Return Date and that service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of Centennial Insurance Company  
110 William Street  
New York, New York 10038  
Attention: General Counsel

and by submitting copies of the Answering Papers, with affidavit of service on the Liquidator as above, to this Court at IAS Part 15 at the Courthouse located at 80 Centre Street, New York, New York, seven (7) days prior to the Return Date; and it is further

ORDERED, that the Liquidator may reply to any or all Answering Papers by serving such reply on the party or parties having submitted Answering Papers so as to be received by such party and this Court at the address set forth in the prior paragraph at least two (2) days prior to the Return Date; and it is further

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

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

ORDERED, that any person or entity that has served Answering Papers as provided herein shall be deemed to have waived any objections that are not set forth in the Answering Papers.

ENTER:

A handwritten signature in black ink, appearing to be 'ER', is written over a horizontal line.

J.S.C.

HON. EILEEN A. RAKOWER

**IN THE MATTER OF THE LIQUIDATION OF  
CENTENNIAL INSURANCE COMPANY**

**Supreme Court County of New York**

**Index No.: 402424/10**

**NOTICE**

Pursuant to an order of the Supreme Court of the State of New York, County of New York ("Court"), entered on April 27, 2011 ("Liquidation Order"), the Superintendent of Insurance of the State of New York and his successors in office were appointed as liquidator ("Liquidator") of Centennial Insurance Company ("Centennial") and, as such, has been directed to take possession of Centennial's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Liquidator of Centennial. The Liquidator has, pursuant to Insurance Law Article 74, appointed Michael J. Casey, Acting Special Deputy Superintendent ("Acting Special Deputy"), as his agent to liquidate the business of Centennial. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator sought and obtained an order setting a bar date, but notice of the application thereof was inaccurate and therefore the Liquidator has filed an Order to Show Cause with supporting papers seeking an order: (i) vacating the order, signed by the Court on September 18, 2013, establishing September 30, 2013 as the bar date in this proceeding; (ii) establishing December 15, 2013, as the bar date ("Bar Date") for the presentment to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses and January 16, 2015 as the last date on which the holder of such a claim against Centennial or its insureds submitted by the Bar Date, other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim, in support of the allowance of such claim; and (iii) providing for such other and further relief as the Court may deem just and proper.

A hearing is scheduled on the Order to Show Cause on the \_\_\_\_ day of \_\_\_\_\_, 2013, at \_\_\_\_ a.m., before the Court at the Courthouse, IAS Part 15, Courtroom \_\_\_\_, 80 Centre Street, New York, New York. If you wish to object to the relief sought, you must serve a written statement setting forth your objections and all supporting documentation upon the Liquidator and Clerk of the Court, at least seven days prior to the hearing. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of Centennial Insurance Company  
110 William Street – 15<sup>th</sup> Floor  
New York, New York 10038  
Attention: General Counsel

The Order to Show Cause and supporting papers are available for inspection at the above address. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditors and Ancillary Operations at (212) 341-6589.

Dated:

Benjamin M. Lawskey  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
Centennial Insurance Company

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

-----X  
In the Matter of

**AFFIRMATION**

the Liquidation of

Index No.: 402424/10

CENTENNIAL INSURANCE COMPANY.  
-----X

Scott D. Fischer, an attorney at law, duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under the penalties of perjury:

1. I am the Deputy General Counsel of the New York Liquidation Bureau ("Bureau"), the entity that carries out the duties of the Superintendent of Financial Services of the State of New York as liquidator (the "Liquidator") of Centennial Insurance Company ("Centennial"). I make this affirmation ("Affirmation") upon information and belief, the sources of which are the files maintained by the Bureau and communications made to the affirmant by employees of the Liquidator.

2. On September 16, 2010, the Supreme Court of the State of New York, County of New York issued an order commencing a rehabilitation proceeding ("Rehabilitation Proceeding") in respect of Centennial and appointing the then-Superintendent of Insurance of the State of New York and his successors in office as Rehabilitator of Centennial. On April 27, 2011 (the "Liquidation Date"), this Court entered an order ("Liquidation Order") converting the Rehabilitation Proceeding into a liquidation proceeding ("Liquidation Proceeding") and appointing the Superintendent of Financial Services of the State of New York (the successor to the Superintendent of Insurance) and his successors in office as Liquidator of Centennial.

3. On July 8, 2013, the Liquidator applied, pursuant to Article 74 of the New York Insurance Law ("Insurance Law"), for an order ("Order"): (i) establishing September 30, 2013,

as the bar date for the presentment to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses; and (ii) providing for such other and further relief as this Court may deem just and proper. That application was submitted by Order to Show Cause upon the affirmation of Melvin Browning, Esq., an attorney with the Bureau. The proposed Order to Show Cause included a form of notice by which potential claimants were to be notified of the application for the Order.

4. The notice attached to the original Order to Show Cause was inaccurate. Rather than advising potential claimants wishing to be heard in respect of the relief sought of the return date and the date for the submission of answering papers, the notice stated that this Court had entered an order establishing a bar date. That notice was posted on the Bureau's website and published in *Business Insurance* on July 29, 2013 and August 12, 2013, as directed by the original Order to Show Cause.

5. By the return date, September 17, 2013, despite the erroneous notice, one claimant submitted answering papers and oral argument was held before this Court on the return date. As a result of that oral argument and negotiations that I had with the objector, agreement on an amended bar date order was reached and this Court signed the amended order on or about September 18, 2013.

6. I respectfully submit that based upon the foregoing there is reason to believe that some number of claimants were unaware of the opportunity to be heard by this Court on the application for a bar date. As a result, I respectfully submit that there exists cause to vacate this Court's September 18, 2013 order establishing a bar date. *See McMahon v. City of N.Y.*, 105 A.D.2d 101, 483 N.Y.S.2d 228 (1<sup>st</sup> Dep't 1984) (the Court retains the inherent power to vacate its orders for good cause shown).

7. Assuming that this Court vacates the existing bar date order, the Centennial estate is in need of a bar date in its liquidation proceeding. This Affirmation is submitted in support of the Liquidator's application for such a bar date. I respectfully request, for the reasons set forth herein, that this Court enter an order pursuant to Article 74 of the Insurance Law ("Order"): (i) establishing December 15, 2013, as the bar date ("Bar Date") for the presentment to the Liquidator of all claims against Centennial or its insureds other than the Liquidator's claims for administrative expenses; (ii) establishing January 16, 2015, as the last date on which the holder of such claim against Centennial or its insureds submitted by the Bar Date other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim, in support of the allowance of such claim; and (iii) providing for such other and further relief as this Court may deem just and proper.

8. Pursuant to Article 74 of the Insurance Law, the Liquidator is responsible for adjudicating all of the claims presented to Centennial. A claim is "adjudicated" upon the Liquidator's recommendation to the Court that the claim be either "allowed" or "disallowed." An "allowed" claim is one that has been approved by this Court and the claimant is therefore allowed to share in the distribution of assets pursuant to Insurance Law Section 7434. A "disallowed" claim is one that has been rejected and the claimant will not share in any distribution of the estate's assets. Pursuant to orders issued by this Court setting forth a procedure for adjudication of claims and appointing a referee, claimants who object to the Liquidator's recommendations are entitled to a hearing before the Court or a court-appointed referee.

9. The priority of distribution of assets from a liquidating insurer is set forth in Insurance Law Section 7434, which provides that all members of a senior class be paid in full

before members of the next class may receive any payment. The classes of claims, as provided for in the prioritization scheme established by Insurance Law Section 7434, are as follows:

- a. Class one. Claims with respect to the actual and necessary costs and expenses of administration incurred by a liquidator or rehabilitator.
- b. Class two. All claims under policies, including claims of federal, state or local government for losses incurred, third party claims, claims for unearned premiums, and all claims of security funds or guaranty associations, but excluding claims under reinsurance contracts.
- c. Class three. Claims of the federal government, except those under Class two.
- d. Class four. Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced within one (1) year prior to commencement of the proceeding (not exceeding \$1,200 to each employee), and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law.
- e. Class five. Claims of state and local governments, except those under Class two.
- f. Class six. Claims of general creditors, including but not limited to claims arising under reinsurance contracts.
- g. Class seven. Claims filed late or any other claims other than claims stated in Class eight or Class nine below.
- h. Class eight. Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307.
- i. Class nine. Claims of shareholders or other owners in their capacity as shareholders.

10. Between the Liquidation Date and September 30, 2013, 291 claims had been presented to the Liquidator, of which 217 are open claims. Of the 217 open claims, 115 are Class two claims, which includes the claims of the New York Property/Casualty Insurance Security Fund, New York Workers' Compensation Security Fund and 46 non-NY Guaranty Funds<sup>1</sup>, 1 is a Class three claim, 33 are Class five claims, and 68 are Class six claims.

11. Insurance Law Article 74 envisions that the distribution of the assets of a defunct insurer will strike "a reasonable balance between the expeditious completion of the liquidation and protection of unliquidated and undetermined claims." Insurance Law § 7434(a)(1). The establishment of a Bar Date represents an important step toward bringing the Liquidation Proceeding to a conclusion and is in the best interests of Centennial's policyholders, claimants, and creditors. Until the Bar Date is approved by this Court, Centennial's policyholders may continue to present to the Liquidator claims arising under insurance policies issued by Centennial or otherwise.

12. By establishing a Bar Date and preventing further presentation of claims the Liquidator will be able to finalize the universe of remaining claims and estimate with greater certainty the ultimate liabilities of the estate. The Bar Date will also enable the Liquidator to project a timeline for the closure of the estate and facilitate the distribution of Centennial's assets to creditors with allowed claims. Without the Bar Date, claims could continue to be submitted indefinitely. As a result, the Liquidator would not be able to establish the total amount of allowed claims with reasonable certainty and would not be able to move toward closure of the Liquidation Proceeding.

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<sup>1</sup> The Security Funds were established under Insurance Law Article 76 to pay eligible claims remaining unpaid by reason of an insolvent insurer's inability to meet its obligations to policyholders. The guaranty funds of foreign states (*i.e.*, states other than New York) perform the same function pursuant to their respective state laws.

13. Projecting a path toward closure is important for the estate because, among other things, the Centennial estate must pay for its own liquidation. The work that goes into its liquidation costs the estate and, therefore, claimants. Moving the estate toward closure as rapidly as is reasonably and responsibly possible aids the Liquidator in conserving estate assets.

14. The establishment of the Bar Date is in accordance with Insurance Law Section 7417, which vests courts with authority to grant such relief as the nature of the case and the interests of policyholders, creditors or the public may require. This authority encompasses the establishment of bar dates to facilitate the efficient closure of an estate in order to preserve and maximize the assets available to pay all classes of creditors with allowed claims. *See e.g., In the Matter of Dominion Ins. Co.*, Index No. 40924/1986 (Sup. Ct., N.Y. Co., April 5, 1999) (supervising court approving bar dates); *In the Matter of Ideal Mutual Ins. Co.*, Index No., 40275/1985 (Sup. Ct. N.Y. Co., December 12, 2003) (same).

15. The Liquidator believes that the establishment of the Bar Date at this time, over two years after Centennial first entered into a rehabilitation and/or liquidation proceeding, strikes the correct balance between an expeditious completion of the Liquidation Proceeding and the protection of Centennial's policyholders, claimants, and creditors.

16. The Liquidator proposes to give notice of the application for a Bar Date in substantially the form annexed as Exhibit A to the proposed Order to Show Cause (the "Notice") by: (i) posting the Notice on the Internet web page maintained by the Bureau at <http://www.nylib.org> at least fifteen (15) days before the Return Date; and (ii) publishing the Notice in *Business Insurance* or another publication of national circulation, such publication to occur in two consecutive publications, commencing as soon as practical in light of the bi-weekly publication schedule of *Business Insurance* or such other publication.

17. A previous application has been made for the relief sought herein. The previous application was granted, but as explained herein, the Liquidator seeks to vacate the order granted upon that application and now makes another application for the relief sought by the prior application.

WHEREFORE, it is respectfully requested that this Court enter an Order that:

- (i) establishes December 15, 2013 as the Bar Date for presentment of all claims other than claims for administrative expenses;
- (ii) establishes January 16, 2015, as the last date on which the holder of such claim against Centennial or its insureds submitted by the Bar Date other than the Liquidator's claims for administrative expenses, may submit to the Liquidator proof, including all facts regarding such claim, in support of the allowance of such claim; and
- (iii) provides for such other and further relief as this Court may deem just and proper;

Dated: New York, New York  
October 2, 2013

JOHN PEARSON KELLY  
Attorney for Benjamin M. Lawskey,  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
Centennial Insurance Company

By:



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Scott D. Fischer  
New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
New York, NY 10038

Index No. 402424

Year 2010

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

In the Matter of

the Liquidation of

CENTENNIAL INSURANCE COMPANY.

ORDER TO SHOW CAUSE AND AFFIRMATION

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial Services of the State of New York as Liquidator

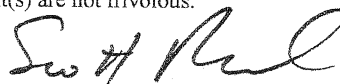
*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street  
New York, NY 10038  
(212) 341-6755  
Fax (212) 608-3398

**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: October 2, 2013  
New York, New York



Scott D. Fischer

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on the      day of      20

☐ NOTICE OF SETTLEMENT

that an order  
settlement to the HON.

of which the within is a true copy will be presented for  
one of the judges of the within named court, at  
20      at

Dated:

, on

Yours, etc.

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial Services  
of the State of New York as Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street  
New York, NY 10038  
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