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J.P.:

OCT 05 2000
L.S. STUBBS
SUPPORT OFFICE

At IAS Part 19 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 60 Centre Street, New York, New York on the day of ~~September~~ 2000
OCT 02 2000

PRESENT:

HON. EDWARD H. LEHNER

JUSTICE

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In the Matter of

The Rehabilitation of

CAPITAL MUTUAL INSURANCE COMPANY

Index No.: 402044/00

COUNTY CLERK'S OFFICE
NEW YORK
OCT - 5 2000
FILED

LIQUIDATION ORDER

Petitioner, Neil D. Levin, Superintendent of Insurance of the State of New York by Gregory V. Serio, First Deputy Superintendent (the "Superintendent"), having duly moved this Court for an order converting this proceeding into a liquidation proceeding, appointing the Superintendent Liquidator, vesting the Superintendent, as Liquidator, with title to the property, contracts and rights of action of CAPITAL MUTUAL INSURANCE COMPANY ("CMIC"), fixing the rights and liabilities of CMIC, its creditors, policyholders, shareholders, and all interested parties and continuing the injunctions that have been issued in accordance with Insurance Law § 7419,

NOW, upon reading and filing the petition of Superintendent Neil D. Levin, by Gregory V. Serio, First Deputy Superintendent, duly verified dated July 28, 2000, the exhibits annexed thereof, and it appearing to my satisfaction that:

1. CMIC is insolvent;
2. the further transaction of business by CMIC would be hazardous to its policyholders, creditors and the public;
3. CMIC has consented to the entry of a liquidation order;
4. further efforts to rehabilitate CMIC would be futile; and
5. it is in the best interest of CMIC's policyholders, creditors and the public that the Superintendent be vested with title to CMIC's property, contracts and rights of action and directed to liquidate its business;

And, the petitioner having appeared by the Hon. Eliot L. Spitzer, Attorney General of the State of New York, and CMIC having consented to the relief sought herein and due deliberation having been had;

NOW, on motion of the Hon. Eliot L. Spitzer, Attorney General of the State of New York, it is ~~ordered~~ **ORDERED** that :

1. The petition is granted;
2. CMIC is insolvent;
3. Neil D. Levin, Superintendent, and his successors in office as Superintendent are appointed Liquidator of CMIC, vested with title to its property, contracts and rights of action and are directed to liquidate its business and affairs in accordance with Article 74 of the Insurance Law;
4. In accordance with Insurance Law § 7432(b), all claims against CMIC must be presented to the Superintendent, as Liquidator, within four months from the date of entry of this order;
5. In accordance with Insurance Law § 7433(b)(2), all persons who appear on CMIC's books and records as policyholders or claimants thirty days after the last day set for filing claims set forth in paragraph 4 herein shall be deemed to have duly filed proofs of claims prior to the last day set for filing claims;
6. All former policyholders of CMIC policies which were in effect within

three years of the date of entry of this order shall be deemed to have duly filed a proof of claim prior to the last day set for filing claims;

7. Superintendent shall provide notice to all other creditors, claimants, former policyholders and interested persons to present claims within four months of the date of entry of this order by publication in

a) the New York Times; and

b) the Insurance Advocate;

Publication in the New York Times and Insurance Advocate shall be made once a week for two successive weeks commencing within three weeks of the entry of this order.

8. The notice provided for herein is sufficient notice to all persons interested in CMIC;

9. In accordance with Insurance Law § 7405, insurance policies, bonds, and other insurance obligations, if any, issued or undertaken by CMIC shall terminate and all liability thereunder shall cease and be fixed as of 12:01 a.m. on the thirtieth day after entry of this order or upon the procurement of replacement policies, bonds or insurance coverage by the policyholders or principals whichever is earlier;

10. In accordance with Insurance Law § 7405, all other contracts, leases, tax-sharing agreements, employment contracts and obligations, however described of CMIC shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this order;

11. The Superintendent, as Liquidator, is authorized to sell, assign or transfer any and all real or personal property, stocks, bonds or securities of CMIC at market price or better or if there is no market price, at the best price obtainable at private sale and at such times and upon such terms and conditions as in his discretion he deems is in the best interests of CMIC's creditors and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sale, transfers or assignments;

12. CMIC, its officers, directors, depositories, trustees, agents, servants, employees, and all other persons, having any property or records belonging to CMIC, including, but not limited to insurance

policy, claim and legal files are directed to assign, transfer, set over and deliver such property or records to the Superintendent, as Liquidator;

13. All persons, firms, corporations or associations having books, papers or records relating to the business of CMIC shall preserve them and submit them to the Superintendent, as Liquidator, for examination and copying at all reasonable times;
14. ALL PERSONS ARE ENJOINED AND RESTRAINED FROM COMMENCING OR PROSECUTING ANY ACTIONS OR PROCEEDINGS AGAINST CMIC, THE SUPERINTENDENT OF INSURANCE OF THE STATE OF NEW YORK, THE SUPERINTENDENT, AS LIQUIDATOR OF CMIC, OR THE NEW YORK STATE INSURANCE DEPARTMENT-LIQUIDATION BUREAU WITH RESPECT TO CLAIMS AGAINST CMIC OR COVERED BY POLICIES ISSUED BY CMIC;
15. The officers, directors, shareholders, trustees, agents, servants, employees, attorneys, and managers of CMIC and all other persons are permanently enjoined and restrained from the transaction of CMIC's business, the waste or disposition of its property, interfering with the Superintendent, as Liquidator, in the possession, control and management of CMIC's property or in the discharge of his duties, commencing or prosecuting any actions or proceedings, obtaining preferences, judgments, attachment: or other liens, or making any levy against CMIC, its assets or any part thereof;
16. All parties to lawsuits in which CMIC is obligated to defend a party pursuant to an insurance policy, contract or otherwise shall continue to be enjoined and restrained from proceeding with any discovery, pre-trial conference, trial, application for judgment or proceeding or judgments or settlements in all actions and proceedings for a period of one hundred and eighty days from the date of entry of this order;
17. All persons who may have first party or New York Comprehensive Automobile Insurance Reparations Act (No Fault) policyholder loss claims against CMIC coming within the purview of Article 76 of the New York Insurance Law, are enjoined for 90 days from the date hereof from presenting and filing such formal claims in this proceeding, pursuant to Section 7432 of the New York Insurance Law.

18. All further papers in this proceeding shall bear the caption:

"In the Matter of the Liquidation of
CAPITAL MUTUAL INSURANCE COMPANY"

19. The Superintendent, as Liquidator, shall serve a conformed copy of this Order upon the county clerk and trial support office for the amendment of the caption and computer records.

E N T E R



J. S. C.

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