

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

-----X

In the Matter of

Index No.

the Application of

**VERIFIED PETITION**

Benjamin M. Lawskey, Superintendent of Financial  
Services of the State of New York, for an order to take  
possession and liquidate the business and affairs of

EVEREADY INSURANCE COMPANY.

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Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York (the "Superintendent") respectfully petitions the Court for an order in the form of Exhibit 1 annexed hereto, appointing the Superintendent and his successors in office as liquidator ("Liquidator") of Eveready Insurance Company ("Eveready"), and directing the Liquidator to liquidate the business and affairs of Eveready on the grounds that: (i) Eveready is insolvent, and (ii) Eveready's Board of Directors unanimously consented to the entry of an order of liquidation pursuant to New York Insurance Law ("Insurance Law") Article 74.

**Background**

1. On information and belief, as set forth in the affidavit of James Davis, an Assistant Chief Examiner in the Property Bureau at the New York State Department of Financial Services, sworn to on October 8, 2014 ("Davis Aff."), which is submitted herewith in support of this petition, Eveready was incorporated in the State of New York on or about August 8, 1963 and commenced business on May 1, 1965. Eveready is licensed to carry out the business of insurance only in the State of New York. Davis Aff. ¶ 2.

2. Eveready is licensed to transact the business of insurance in accordance with paragraphs (13) (Personal Injury Liability), (14) (Property Damage Liability), and (19) (Motor Vehicle and Aircraft Physical Damage) of Insurance Law Section 1113(a). Eveready writes

primarily private passenger auto liability and physical damage insurance, plus a small amount of commercial auto insurance in downstate New York. Davis Aff. ¶ 3.

3. Eveready's statutory office is located at 59 Maiden Lane, New York, New York 10038-4502. Davis Aff. ¶ 4.

#### **Recent Events**

4. Under Insurance Law Articles 13 and 41, Eveready is required to maintain a surplus to policyholders of \$350,000.00. Based upon Eveready's most recently prepared monthly statement for the period from June 1-30, 2014 ("Monthly Statement"), Eveready's reported liabilities of \$8,029,256 exceeded its admitted assets of \$7,100,288, resulting in a negative surplus to policyholders in the amount of \$(928,968). Davis Aff. ¶5 and Exhibit A thereto.

5. In addition, on July 7, 2014, Eveready's Board of Directors unanimously passed a written consent for the entry of an order of liquidation pursuant to Insurance Law Article 74. Davis Aff. ¶ 6 and Exhibit B thereto.

#### **Grounds for Liquidation**

6. Under Insurance Law Section 7404, the Superintendent may apply for an order directing the Superintendent to liquidate the business of an insurer if sufficient grounds exist pursuant to Insurance Law Section 7402.

7. Insurance Law Section 7402(a) provides that an insurer may be placed into liquidation if it is "insolvent within the meaning of" Insurance Law Section 1309. Insurance Law Section 1309(a) states in pertinent part:

Whenever the [S]uperintendent finds from a financial statement or report on examination that an authorized insurer is unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown by an excess of required reserves and other liabilities over admitted assets, or by its not having sufficient assets to reinsure all outstanding risks with other solvent authorized assuming insurers after paying all accrued claims owed, such insurer shall be deemed insolvent and the

[S]uperintendent may proceed against it pursuant to the provisions of article seventy-four of this chapter.

8. Based upon the Monthly Statement, the Superintendent has found that Eveready is unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown by an excess of required reserves and other liabilities over admitted assets. Therefore, Eveready is insolvent within the meaning of Insurance Law Section 1309(a) and should be placed into liquidation.

9. Additionally, Insurance Law Section 7402(*l*) provides that an insurer may be placed into liquidation if the majority of its directors, shareholders, or members consent to liquidation.

10. Based upon the unanimous consent of Eveready's Board of Directors to the entry of an order of liquidation, dated July 7, 2014, Eveready should be placed into liquidation.

11. As outlined above, sufficient grounds exist to place Eveready into liquidation.

#### **Proposed Plan For Liquidation**

12. The Superintendent plans to: (a) immediately establish a bar date that is one year after the date of entry of the order placing Eveready into liquidation, for the submission of claims against the Eveready estate in order to ensure that all potential claims and supporting documents are expeditiously received; (b) refrain from adjudicating non-policyholder creditor claims other than claims under insurance policies unless it is in the interest of the estate to do so; and (c) bring the estate to closure as soon as reasonably practical.

13. Because Eveready has limited assets, all of which are expected to be utilized to cover the expenses associated with the administration of the estate and the payment of claims, there is no purpose in allowing extant policies to continue in effect or in allowing claims to be presented for an indefinite period. It is more efficient to terminate existing policies as soon as possible to encourage policyholders to arrange for new insurance and limit the ability of

policyholders to present claims in the future. For that reason, the Superintendent proposes that the order of liquidation cancel all existing insurance policies of Eveready at the earliest of: (a) 30 days from the giving of notice of such cancellation by Eveready, if such notice is required by an insurance policy or applicable law; (b) the stated expiration or termination date and time of the insurance policy; (c) the effective date and time of a replacement insurance policy of the same type issued by another insurer regardless of whether the coverage is identical coverage; (d) the effective date and time that the Eveready insurance policy obligation is transferred to another insurer or entity authorized by law to assume such obligation; or (e) 12:01 A.M. local time on the date that is 30 days from the entry of an order of liquidation of Eveready.

14. The cancellation of insurance policies and establishment of a bar date are in accordance with the Insurance Law. Section 7405(b) fixes the rights of insurers and policyholders as of the liquidation date, and permits the cancellation of insurance policies upon the insurer's liquidation. *See In the Matter of Transit Casualty Co.*, 79 N.Y.2d 13, 580 N.Y.S.2d 140 (1992). In addition, Section 7417 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 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., Dec. 12, 2003) (same).

15. Finally, the Superintendent proposes that all claims not within Class 2 not be adjudicated by the Liquidator unless it is in the interest of the estate to do so. Insurance Law Section 7434 provides that all members of a senior class shall be paid in full before members of the next class may receive any payment. Based upon Eveready's financial condition as described above in the Monthly Statement, there can be no reasonable expectation that payment

of any claims below Class 2 will be made. There may be a benefit to adjudicating claims subordinate to policyholder claims, but unless the Liquidator determines that there is such a benefit, he should not be required to expend estate resources unnecessarily.

### **Relief Requested**

16. In light of the foregoing, I respectfully request that the Court issue an order of liquidation, *inter alia*: (a) appointing the Superintendent, and his successors in office, as Liquidator of Eveready; (b) directing the Liquidator to take possession of Eveready's property, and to liquidate Eveready's business and affairs; (c) vesting title to all of Eveready's property, contracts, rights of action and all of its books and records, wherever located, with the Liquidator and his successors; and (d) permitting the Liquidator to deal with the property and business of Eveready in Eveready's name or in the name of the Liquidator.

17. I further respectfully request that the Court grant the injunctions provided for by Insurance Law Section 7419. Under Section 7419(a) the Court may issue an injunction permanently enjoining and restraining Eveready, its officers, directors, shareholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, and all other persons from wasting the assets of Eveready, and, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready's property. Under Section 7419(b), the Court may issue such other permanent injunctions or orders as it deems necessary to prevent interference with the Liquidator or this proceeding, or the commencement or prosecution of any actions or proceedings (a) against the Liquidator, Eveready, or the New York Liquidation Bureau, the organization that carries out the duties of the Liquidator, or their present or former employees, attorneys or agents, with respect to this proceeding or the discharge of their duties under Article 74 in relation thereto or (b) to assert preferences, judgments, attachments, liens, or any levy against Eveready, its assets or any part thereof.

18. I further respectfully request that the Court, pursuant to Insurance Law Section 7419, enjoin and restrain, for a period of 180 days from the date of entry of an order of liquidation of Eveready, all parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders, or its insureds, are a party or obligated to defend a party or to provide a defense of any matter insured pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment. Such an injunction is necessary to allow the Liquidator to obtain records and take responsibility for such cases.

19. I further respectfully request that the Court enjoin and restrain all persons who have first party policyholder loss claims, from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of an order of liquidation of Eveready.

20. I further respectfully request that, in accordance with Insurance Law Section 7405, the Court vest all rights in Eveready's contracts and agreements, however described, with the Liquidator and permit the Liquidator, in his discretion, to reject any executory contracts to which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection.

21. I further respectfully request that the Court order that any bank, savings and loan association, other financial institution or any other entity or person, that has on deposit or in its possession, custody, or control of any of Eveready's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial

institution; or (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding.

22. I further respectfully request that the Court order that all persons or entities having property, papers (including attorney work product and documents held by attorneys), and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs, and/or bank records owned by, belonging to, or relating to Eveready shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such information to the Liquidator.

23. I further respectfully request that in accordance with Insurance Law Section 7405, the Court authorize, permit and allow the Liquidator to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of Eveready, and further authorize the Liquidator to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments, without the further approval of the Court.

24. I further respectfully request that the Court, for the reasons described above, order that all existing insurance policies of Eveready terminate at the earliest of: (a) 30 days from the giving of notice of such cancellation by Eveready if such notice is required by an insurance policy or applicable law; (b) the stated expiration or termination date and time of the insurance policy; (c) the effective date and time of a replacement insurance policy of the same type issued by another insurer regardless of whether the coverage is identical coverage; (d) the effective date and time that the Eveready insurance policy obligation is transferred to another insurer or entity authorized by law to assume such obligation; or (e) 12:01 A.M. local time on the date that is 30 days from the entry of an order of liquidation of Eveready.

25. I further respectfully request that the Court, for the reasons described above, enter an order establishing the date that is one year after the entry of the order placing Eveready into liquidation as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claims for administrative expenses, must be actually received by the Liquidator, including all evidence supporting the liquidation of such claims.

26. I further respectfully request that the Court, for the reasons described above, enter an order authorizing the Liquidator, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate.

27. I further respectfully request that the Court order that the Superintendent as Liquidator of Eveready and his successors in office, the New York Liquidation Bureau, and their agents and employees, be granted 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 Article 74. The Liquidator acts in a "judicial and private" capacity under the supervision of the Court pursuant to Article 74 of the Insurance Law. *See Dinallo v. DiNapoli*, 9 N.Y.3d 94, 103 (2007).

28. I further respectfully request that the Court make an order pursuant to Insurance Law Section 7432(a) declaring that Eveready is insolvent.

29. In accordance with Insurance Law Section 7417, this proceeding is being commenced by order to show cause.

30. There has been no previous application for the relief requested herein.

WHEREFORE, it is respectfully requested that an order be made and entered pursuant to Article 74 of the Insurance Law:



(i) appointing the Superintendent, and his successors in office, as Liquidator of Eveready;

(ii) directing the Liquidator to take possession of Eveready's property and to liquidate Eveready's business and affairs;

(iii) vesting title to all of Eveready's property, contracts and rights of action and all of its books and records, wherever located, with the Liquidator and his successors;

(iv) permitting the Liquidator to deal with the property and business of Eveready in Eveready's name or in the name of the Liquidator;

(v) granting the injunctions provided for in Insurance Law Section 7419(a), permanently enjoining and restraining all persons from wasting the assets of Eveready, and permanently enjoining and restraining all persons, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready's property;

(vi) granting the injunctions provided for in Insurance Law Section 7419(b), permanently enjoining and restraining all parties from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against Eveready, its assets or any part thereof, or commencing or prosecuting any actions or proceedings against the Liquidator, Eveready, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to this proceeding or the discharge of their duties under Article 74 in relation thereto;

(vii) granting injunctions enjoining and restraining all parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders or insureds are a party or obligated to defend a party or provide a defense of any matter insured pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not

limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of an order of liquidation;

(viii) enjoining and restraining all persons who have first party policyholder loss claims, from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of an order of liquidation;

(ix) vesting all rights in Eveready's contracts and agreements, however described, with the Liquidator and permitting the Liquidator to, in his discretion, reject any executory contracts to which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;

(x) requiring that any bank, savings and loan association, other financial institution or any other entity or person, that has on deposit or in its possession, custody or control any of Eveready's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and/or (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;

(xi) requiring that all persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Eveready shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator;

(xii) authorizing, permitting and allowing the Liquidator to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of Eveready, and further authorizing the Liquidator to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments, without the further approval of the Court;

(xiii) cancelling all existing insurance policies of Eveready at the earliest of: (a) 30 days from the giving of notice of such cancellation by Eveready, if such notice is required by an insurance policy or applicable law; (b) the stated expiration or termination date and time of the insurance policy; (c) the effective date and time of a replacement insurance policy of the same type issued by another insurer regardless of whether the coverage is identical coverage; (d) the effective date and time that the Eveready insurance policy obligation is transferred to another insurer or entity authorized by law to assume such obligation; or (e) 12:01 A.M. local time on the date that is 30 days from the entry of an order of liquidation of Eveready;

(xiv) establishing the date that is one year after the entry of the order placing Eveready into liquidation as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claim for administrative expenses, must actually be received by the Liquidator, including all evidence supporting the liquidation of such claims;

(xv) authorizing the Liquidator, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;

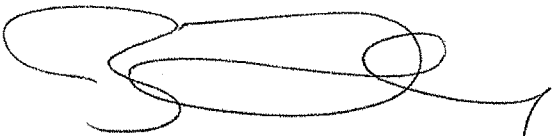
(xvi) extending immunity to the Superintendent in his capacity as Liquidator of Eveready and his successors in office, the New York Liquidation Bureau, and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act

or omission when acting in good faith, in accordance with the orders of the Court, or in the performance of their duties pursuant to Insurance Law Article 74;

(xvii) declaring Eveready insolvent; and

(xviii) granting such other and further relief as the Court may deem proper and just.

Dated: New York, New York  
October 9, 2014



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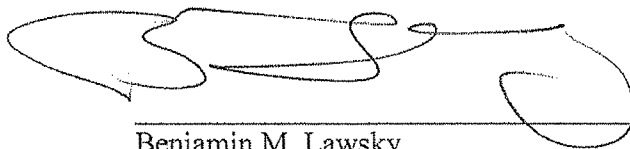
Benjamin M. Lawskey  
Superintendent of Financial Services  
of the State of New York

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

Benjamin M. Lawskey, being duly sworn, deposes and says:

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

Deponent says that the sources of information and the grounds of his 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 James Davis, Assistant Chief Examiner in the Property Bureau at the New York State Department of Financial Services, sworn to on October 8, 2014, in support of the verified petition.



Benjamin M. Lawskey  
Superintendent of Financial Services  
of the State of New York

Sworn to before me this  
9<sup>th</sup> day of October, 2014

Martha A. Lees  
Notary Public

MARTHA A. LEES  
Notary Public, State of New York  
No. 02LE6129105  
Qualified in Kings County  
Commission Expires 06/20 17

**EXHIBIT 1**

[Form of Liquidation Order]

At IAS Part \_\_\_\_ of the Supreme Court of the State of New York, County of New York, at the courthouse located at \_\_\_\_\_, New York City, New York, on the \_\_\_\_ day of \_\_\_\_\_, 2014.

P R E S E N T:

HON. \_\_\_\_\_, J.S.C  
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In the Matter of

Index No.

the Application of

**ORDER OF LIQUIDATION**

Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York, for an order to take possession and liquidate the business and affairs of

EVEREADY INSURANCE COMPANY.  
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Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court by order to show cause (“Order to Show Cause”) for an order appointing the Superintendent and his successors in office as liquidator (“Liquidator”) of Eveready Insurance Company (“Eveready”) and directing the Liquidator to take possession of the property of Eveready and to liquidate its business and affairs, and upon reading and filing the petition of the Superintendent, duly verified on October 9, 2014, the affidavit of James Davis, sworn to on October 8, 2014, and the exhibits annexed thereto, this Court finds that:

1. Eveready was incorporated in the State of New York on or about August 8, 1963 and commenced business on May 1, 1965;
2. Eveready is licensed to transact the business of insurance in accordance with paragraphs (13) (Personal Injury Liability), (14) (Property Damage Liability), and (19) (Motor

Vehicle and Aircraft Physical Damage) of Section 1113(a) of the New York Insurance Law (“Insurance Law”) and is licensed to transact the business of insurance only in the State of New York. Eveready writes primarily private passenger auto liability and physical damage insurance, plus a small amount of commercial auto insurance in downstate New York;

3. Eveready’s statutory office is located at 59 Maiden Lane, New York City, New York 10038-4502;

4. Eveready is insolvent;

5. On July 7, 2014, Eveready’s Board of Directors unanimously passed a written consent for the entry of an order of liquidation pursuant to Insurance Law Article 74;

6. Eveready is subject to the Insurance Law and, in particular, to Article 74 thereof; and

7. It is in the best interest of all persons concerned that, based upon Article 74 of the Insurance Law, the Superintendent should be appointed Liquidator and directed to take possession of the property of Eveready, to liquidate its business and affairs, and be vested with title to all of Eveready’s property, contracts and rights of action; and

NOW, on motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the petition for an order of liquidation (“Order”) is granted;
2. The Superintendent and his successors in office are appointed Liquidator of Eveready;
3. The Liquidator is directed to take possession of Eveready’s property and liquidate Eveready’s business and affairs in accordance with Insurance Law Article 74;



4. The Liquidator is vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in this Order and with title to Eveready's property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of this Order;
5. The Liquidator may deal with the property and business of Eveready in Eveready's name or in the name of the Liquidator;
6. All persons are permanently enjoined and restrained from wasting the assets of Eveready, and are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready's property;
7. All parties are permanently enjoined and restrained from interfering with the Liquidator or this proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against Eveready, its assets or any part thereof, or commencing or prosecuting any actions or proceedings against the Liquidator, Eveready, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to this proceeding or the discharge of their duties under Article 74 in relation thereto;
8. All parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders or insureds are a party or obligated to defend a party or provide a defense of any matter 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 who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of this Order;
10. The Liquidator is vested with all rights in Eveready's contracts and agreements, however described, and is permitted to, in his discretion, reject any executory contracts to which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;
11. Any bank, savings and loan association, other financial institution or any other entity or person, that has on deposit or in its possession, custody or control any of Eveready's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings

and loan association or other financial institution; and/or (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;

12. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Eveready shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator;
13. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of Eveready, and 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 sales, transfers and assignments, without the further approval of this Court;
14. ALL EXISTING INSURANCE POLICIES OF EVEREADY WILL BE CANCELLED AT THE EARLIEST OF: (A) 30 DAYS FROM THE GIVING OF NOTICE OF SUCH CANCELLATION BY EVEREADY, IF SUCH NOTICE IS REQUIRED BY AN INSURANCE POLICY OR APPLICABLE LAW; (B) THE STATED EXPIRATION OR TERMINATION DATE AND TIME OF THE INSURANCE POLICY; (C) THE EFFECTIVE DATE AND TIME OF A REPLACEMENT INSURANCE POLICY OF THE SAME TYPE ISSUED BY ANOTHER INSURER REGARDLESS OF WHETHER THE COVERAGE IS IDENTICAL COVERAGE; (D) THE EFFECTIVE DATE AND TIME THAT THE EVEREADY INSURANCE POLICY OBLIGATION IS TRANSFERRED TO ANOTHER INSURER OR ENTITY AUTHORIZED BY LAW TO ASSUME SUCH OBLIGATION; OR (E) 12:01 A.M. LOCAL TIME ON THE DATE THAT IS 30 DAYS AFTER THE ENTRY OF THIS ORDER;
15. The date that is one year after the entry of this Order is established as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claim for administrative expenses, must be actually be received by the Liquidator, including all evidence supporting the liquidation of such claims;
16. The Liquidator is authorized, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;
17. Immunity is extended to the Superintendent and his successors in office in his capacity as Liquidator of Eveready, 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 Article 74;

18. Eveready is insolvent;
19. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
20. In accordance with Insurance Law Section 7432(b), all claims against Eveready must be presented to the Liquidator within four months of the date of entry of this Order;
21. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
22. The Liquidator shall serve a copy of this Order upon: Marc Wollerstein, President, Eveready Insurance Company, 59 Maiden Lane, New York, New York 10038-4502, by overnight delivery or by certified mail;
23. The Liquidator shall provide notice of this Order to all creditors, claimants and interested persons by: (i) publication of notice of this Order, in a form substantially similar to the one attached hereto as Exhibit A, in the *New York Daily News*, once a week for two consecutive publication periods, commencing within 30 days of entry of this Order; and (ii) posting this 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;
24. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered;
25. The notice prescribed in paragraph 23 above is sufficient notice to all persons interested in Eveready;
26. This Court shall retain jurisdiction over this matter for all purposes;

27. 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 Liquidation of

EVEREADY INSURANCE COMPANY.

-----X

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

E N T E R

\_\_\_\_\_  
J.S.C.

**EXHIBIT A**

[Form of Notice]

NEW YORK LIQUIDATION BUREAU  
110 WILLIAM STREET  
NEW YORK, NEW YORK 10038  
(212) 341-6400

To all persons or entities interested in the affairs of  
EVEREADY INSURANCE COMPANY

Notice is Hereby Given:

Benjamin M. Lawskey, Superintendent of Financial Services of the State of New York ("Superintendent"), has been appointed by an order (the "Order") of the Supreme Court of the State of New York, County of New York ("Court"), entered \_\_\_\_\_, 2014, as the liquidator (the "Liquidator") of Eveready Insurance Company ("Eveready") and, as such, has been: (i) directed to take possession of Eveready's property and liquidate Eveready's business and affairs in accordance with New York Insurance Law ("Insurance Law") Article 74; and (ii) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in the Order and with title to Eveready's property, contracts, rights of action and all of its books and records, wherever located, as of the date of entry of the Order. The Liquidator has, pursuant to Insurance Law Article 74, appointed Scott D. Fischer, Acting Special Deputy Superintendent (the "Acting Special Deputy"), as his agent to carry out his duties as Liquidator. The Acting Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Order provides:

- I. The Liquidator is permitted to deal with the property and business of Eveready in Eveready's name or in the name of the Liquidator;
- II. All persons are permanently enjoined and restrained from wasting the assets of Eveready, and all persons are permanently enjoined and restrained, except as authorized by the Liquidator, from transacting Eveready's business (including the issuance of insurance policies) or disposing of Eveready's property;
- III. All parties are permanently enjoined and restrained from interfering with the Liquidator or the proceeding, obtaining any preferences, judgments, attachments or other liens, making any levy against Eveready, its assets or any part thereof, or commencing or prosecuting any actions or proceedings against the Liquidator, Eveready, or the New York Liquidation Bureau, or their present or former employees, attorneys or agents, relating to the proceeding or the discharge of their duties under Article 74 in relation thereto;
- IV. All parties to actions, lawsuits, and special or other proceedings (other than those brought by Eveready) in which Eveready, its policyholders or insureds are a party or obligated to defend a party or provide a defense of any matter 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 an order of liquidation;
- V. All persons who have first party policyholder loss claims are enjoined and restrained from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of an order of liquidation;
- VI. The Liquidator is vested with all rights in Eveready's contracts and agreements, however described and permitting the Liquidator to, in his discretion, reject any executory contracts to which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;

which Eveready is a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection;

- VII. Any bank, savings and loan association, other financial institution or any other entity or person, that has on deposit or in its possession, custody or control any of Eveready's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association or other financial institution; and/or (e) take any other action reasonably necessary for the proper conduct of the liquidation proceeding;
- VIII. All persons or entities having property, papers (including attorney work product and documents held by attorneys) and/or information, including, but not limited to, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs and/or bank records owned by, belonging to or relating to Eveready shall preserve such property and/or information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such property and/or information to the Liquidator;
- IX. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds, or other securities at the best price reasonably obtainable at such times and upon such terms and conditions as, in his discretion, he deems to be in the best interest of the creditors of Eveready, and 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 sales, transfers and assignments, without the further approval of the Court;
- X. ALL EXISTING INSURANCE POLICIES OF EVEREADY WILL BE CANCELLED AT THE EARLIEST OF: (A) 30 DAYS FROM THE GIVING OF NOTICE OF SUCH CANCELLATION BY EVEREADY, IF SUCH NOTICE IS REQUIRED BY AN INSURANCE POLICY OR APPLICABLE LAW; (B) THE STATED EXPIRATION OR TERMINATION DATE AND TIME OF THE INSURANCE POLICY; (C) THE EFFECTIVE DATE AND TIME OF A REPLACEMENT INSURANCE POLICY OF THE SAME TYPE ISSUED BY ANOTHER INSURER REGARDLESS OF WHETHER THE COVERAGE IS IDENTICAL COVERAGE; (D) THE EFFECTIVE DATE AND TIME THAT THE EVEREADY INSURANCE POLICY OBLIGATION IS TRANSFERRED TO ANOTHER INSURER OR ENTITY AUTHORIZED BY LAW TO ASSUME SUCH OBLIGATION; OR (E) 12:01 A.M. LOCAL TIME ON THE DATE THAT IS 30 DAYS FROM THE ENTRY OF AN ORDER OF LIQUIDATION OF EVEREADY;
- XI. The date that is one year after the entry of the Order is established as the bar date by which all claims by any claimant against Eveready or its insureds, other than the Liquidator's claim for administrative expenses, must actually be received by the Liquidator, including all evidence supporting the liquidation of such claims;
- XII. The Liquidator is authorized, in his discretion, to refrain from adjudicating some or all claims falling into Classes three through nine (N.Y. Ins. Law Sec. 7434(a)(1)(iii)-(ix)) unless and until he reasonably believes that adjudication of such claims would be in the best interests of the estate;
- XIII. Immunity is extended to the Superintendent in his capacity as Liquidator of Eveready and his 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 the Court, or in the performance of their duties pursuant to Insurance Law Article 74;
- XIV. Eveready is insolvent;

- XV. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
- XVI. In accordance with Insurance Law Section 7432(b), all claims against Eveready must be presented to the Liquidator within four months of the date of entry of the Order;
- XVII. The Liquidator may at any time make further application to the Court for such further and different relief as he sees fit;
- XVIII. The Court shall retain jurisdiction over this matter for all purposes.
- XIX. All communications relating to Eveready and to the liquidation proceeding thereof should be addressed to:

New York Liquidation Bureau  
110 William Street, 15<sup>th</sup> Floor  
Attention: Acting Special Deputy Superintendent  
New York, New York 10038  
(212) 341-6400

BENJAMIN M. LAWSKY  
Superintendent of Financial Services of  
the State of New York as Liquidator  
of Eveready Insurance Company

SCOTT D. FISCHER  
Acting Special Deputy Superintendent  
and Agent for the Superintendent as  
Liquidator of Eveready Insurance Company



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

Index No.

the Application of

AFFIDAVIT

Benjamin M. Lawsky, Superintendent of Financial  
Services of the State of New York, for an order to take  
possession and liquidate the business and affairs of

EVEREADY INSURANCE COMPANY.  
-----X

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

James Davis, being duly sworn, deposes and says:

1. I am employed at the New York State Department of Financial Services ("DFS") as an Assistant Chief 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 appointing the Superintendent and his successors in office as liquidator of Eveready Insurance Company ("Eveready") as authorized by 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.

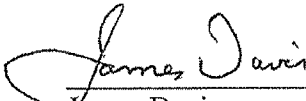
2. Eveready was incorporated in the State of New York on or about August 8, 1963 and commenced business on May 1, 1965. Eveready is licensed to do the business of insurance only in the State of New York.

3. Eveready is licensed to transact the business of insurance in accordance with paragraphs (13) (Personal Injury Liability), (14) (Property Damage Liability), and (19) (Motor Vehicle and Aircraft Physical Damage) of Insurance Law Section 1113(a). Eveready wrote primarily private passenger auto liability and physical damage insurance, plus a small amount of commercial auto insurance in downstate New York.

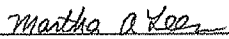
4. Eveready's statutory office is located at 59 Maiden Lane, New York, New York 10038-4502. Eveready's ultimate controlling persons are Alan Wollerstein and Marc Wollerstein, who own a combined 23.62% of Eveready's outstanding common stock.

5. Under Insurance Law Articles 13 and 41, Eveready is required to maintain a minimum surplus to policyholders of \$350,000.00. Based upon Eveready's monthly statement for the period from June 1-30, 2014 ("Monthly Statement"), Eveready's reported liabilities of \$8,029,256 exceed its admitted assets of \$7,100,288, resulting in a negative surplus to policyholders in the amount of \$(928,968). A copy of the Monthly Statement is attached hereto as Exhibit A. (The Monthly Statement was originally incorrectly labeled as being "as of 2013", but Eveready corrected the electronic version by striking out the "3" and inserting a caret with a "4" to replace the "3".)

6. On July 7, 2014, Eveready's Board of Directors unanimously passed a written consent for the entry of an order of liquidation pursuant to Insurance Law Article 74, which is attached hereto as Exhibit B.

  
James Davis  
Assistant Chief Examiner  
Property Bureau  
New York State Department of Financial Services

Sworn to before me this  
8<sup>th</sup> day of October, 2014

  
Notary Public

**MARTHA A. LEES**  
Notary Public, State of New York  
No. 02LE6129105  
Qualified in Kings County  
Commission Expires 06/20 17

**EXHIBIT A**

## STATEMENT AS OF JUNE 30, 2013 OF THE Eveready Insurance Company

## ASSETS

|   | Current Statement Date |                         |   | 4<br>December 31<br>Prior Year Net<br>Admitted Assets |
|---|------------------------|-------------------------|---|---|
|   | 1<br>Assets            | 2<br>Nonadmitted Assets | 3<br>Net Admitted Assets<br>(Cols. 1 - 2) |   |
| 1. Bonds .....  | 538,350                |                         | 538,350                                   | 1,111,662   |
| 2. Stocks:  |                        |                         |   |   |
| 2.1 Preferred stocks .....  |                        |                         |   |   |
| 2.2 Common stocks .....   | 9,330                  |                         | 9,330                                     | 216,659   |
| 3. Mortgage loans on real estate:   |                        |                         |   |   |
| 3.1 First liens .....   |                        |                         |   |   |
| 3.2 Other than first liens .....  |                        |                         |   |   |
| 4. Real estate:   |                        |                         |   |   |
| 4.1 Properties occupied by the company (less<br>\$ ..... encumbrances) .....  |                        |                         |   |   |
| 4.2 Properties held for the production of income<br>(less \$ ..... encumbrances) .....  |                        |                         |   |   |
| 4.3 Properties held for sale (less<br>\$ ..... encumbrances) .....  |                        |                         |   |   |
| 5. Cash (\$ ..... 1,233,987 ),<br>cash equivalents (\$ ..... )<br>and short-term investments (\$ ..... ) .....  | 1,233,987              |                         | 1,233,987                                 | 2,123,458   |
| 6. Contract loans (including \$ ..... premium notes)  |                        |                         |   |   |
| 7. Derivatives .....  |                        |                         |   |   |
| 8. Other invested assets .....  |                        |                         |   |   |
| 9. Receivables for securities .....   |                        |                         |   |   |
| 10. Securities lending reinvested collateral assets .....   |                        |                         |   |   |
| 11. Aggregate write-ins for invested assets .....   |                        |                         |   |   |
| 12. Subtotals, cash and invested assets (Lines 1 to 11) .....   | 1,781,667              |                         | 1,781,667                                 | 3,451,779   |
| 13. Title plants less \$ ..... charged off (for Title insurers<br>only) .....   |                        |                         |   |   |
| 14. Investment income due and accrued .....   | 2,295                  |                         | 2,295                                     | 10,522  |
| 15. Premiums and considerations:  |                        |                         |   |   |
| 15.1 Uncollected premiums and agents' balances in the course of<br>collection .....   | 1,206,159              | 989,820                 | 216,339                                   | 560,172   |
| 15.2 Deferred premiums, agents' balances and installments booked but<br>deferred and not yet due (including \$ ..... earned<br>but unbilled premiums) ..... | 4,824,639              |                         | 4,824,639                                 | 5,818,195   |
| 15.3 Accrued retrospective premiums .....   |                        |                         |   |   |
| 16. Reinsurance:  |                        |                         |   |   |
| 16.1 Amounts recoverable from reinsurers .....  | 177,511                |                         | 177,511                                   | 450,567   |
| 16.2 Funds held by or deposited with reinsured companies .....  |                        |                         |   |   |
| 16.3 Other amounts receivable under reinsurance contracts .....   |                        |                         |   |   |
| 17. Amounts receivable relating to uninsured plans .....  |                        |                         |   |   |
| 18.1 Current federal and foreign income tax recoverable and interest thereon .....  |                        |                         |   | 13,907  |
| 18.2 Net deferred tax asset .....   |                        |                         |   |   |
| 19. Guaranty funds receivable or on deposit .....   |                        |                         |   |   |
| 20. Electronic data processing equipment and software .....   | 22,589                 | 22,589                  |   | 894   |
| 21. Furniture and equipment, including health care delivery assets<br>(\$ ..... ) .....   | 26,593                 | 26,593                  |   |   |
| 22. Net adjustment in assets and liabilities due to foreign exchange rates .....  |                        |                         |   |   |
| 23. Receivables from parent, subsidiaries and affiliates .....  |                        |                         |   | 61,015  |
| 24. Health care (\$ ..... ) and other amounts receivable .....  |                        |                         |   |   |
| 25. Aggregate write-ins for other than invested assets .....  | 101,137                | 3,300                   | 97,837                                    | 184,500   |
| 26. Total assets excluding Separate Accounts, Segregated Accounts and<br>Protected Cell Accounts (Lines 12 to 25) .....                                     | 8,142,590              | 1,042,302               | 7,100,288                                 | 10,551,551  |
| 27. From Separate Accounts, Segregated Accounts and Protected<br>Cell Accounts .....  |                        |                         |   |   |
| 28. Total (Lines 26 and 27) .....   | 8,142,590              | 1,042,302               | 7,100,288                                 | 10,551,551  |
| DETAILS OF WRITE-INS  |                        |                         |   |   |
| 1101. ....  |                        |                         |   |   |
| 1102. ....  |                        |                         |   |   |
| 1103. ....  |                        |                         |   |   |
| 1198. Summary of remaining write-ins for Line 11 from overflow page .....   |                        |                         |   |   |
| 1199. Totals (Lines 1101 through 1103 plus 1198)(Line 11 above) .....   |                        |                         |   |   |
| 2501. Due from Citibank .....   | 25,408                 |                         | 25,408                                    | 46,118  |
| 2502. Deposits with Bureaus and Others .....  | 3,300                  | 3,300                   |   |   |
| 2503. Pooling Income Receivable .....   | 72,429                 |                         | 72,429                                    | 122,924   |
| 2598. Summary of remaining write-ins for Line 25 from overflow page .....   |                        |                         |   | 15,458  |
| 2599. Totals (Lines 2501 through 2503 plus 2598)(Line 25 above) .....   | 101,137                | 3,300                   | 97,837                                    | 184,500   |

## STATEMENT AS OF JUNE 30, 2013 OF THE Eveready Insurance Company

## LIABILITIES, SURPLUS AND OTHER FUNDS

|   | <sup>1</sup><br>Current<br>Statement Date | <sup>2</sup><br>December 31,<br>Prior Year |
|---|---|--|
| 1. Losses (current accident year \$ ..... ) .....   | 1,662,899                                 | 2,264,792                                  |
| 2. Reinsurance payable on paid losses and loss adjustment expenses .....  |   |  |
| 3. Loss adjustment expenses .....   | 904,000                                   | 1,205,000                                  |
| 4. Commissions payable, contingent commissions and other similar charges .....  |   |  |
| 5. Other expenses (excluding taxes, licenses and fees) .....  | 5,462                                     | 5,462                                      |
| 6. Taxes, licenses and fees (excluding federal and foreign income taxes) .....  | 58,382                                    | 5,585                                      |
| 7.1 Current federal and foreign income taxes (including \$ ..... on realized capital gains (losses)) .....  |   |  |
| 7.2 Net deferred tax liability .....  |   |  |
| 8. Borrowed money \$ ..... and interest thereon \$ .....  |   |  |
| 9. Unearned premiums (after deducting unearned premiums for ceded reinsurance of \$ ..... and including warranty reserves of \$ ..... and accrued accident and health experience rating refunds including \$ ..... for medical loss ratio rebate per the Public Health Service Act) ..... | 4,790,077                                 | 6,637,435                                  |
| 10. Advance premium .....   |   |  |
| 11. Dividends declared and unpaid:  |   |  |
| 11.1 Stockholders .....   |   |  |
| 11.2 Policyholders .....  |   |  |
| 12. Ceded reinsurance premiums payable (net of ceding commissions) .....  | 140,390                                   | 41,547                                     |
| 13. Funds held by company under reinsurance treaties .....  |   |  |
| 14. Amounts withheld or retained by company for account of others .....   | 6,993                                     | 16,648                                     |
| 15. Remittances and items not allocated .....   |   |  |
| 16. Provision for reinsurance (including \$ ..... certified) .....  |   |  |
| 17. Net adjustments in assets and liabilities due to foreign exchange rates .....   |   |  |
| 18. Drafts outstanding .....  |   |  |
| 19. Payable to parent, subsidiaries and affiliates .....  | 79,803                                    |  |
| 20. Derivatives .....   |   |  |
| 21. Payable for securities .....  |   |  |
| 22. Payable for securities lending .....  |   |  |
| 23. Liability for amounts held under uninsured plans .....  |   |  |
| 24. Capital notes \$ ..... and interest thereon \$ .....  |   |  |
| 25. Aggregate write-ins for liabilities .....   | 381,250                                   | 344,384                                    |
| 26. Total liabilities excluding protected cell liabilities (Lines 1 through 25) .....   | 8,029,256                                 | 10,520,853                                 |
| 27. Protected cell liabilities .....  |   |  |
| 28. Total liabilities (Lines 26 and 27) .....   | 8,029,256                                 | 10,520,853                                 |
| 29. Aggregate write-ins for special surplus funds .....   |   |  |
| 30. Common capital stock .....  | 350,000                                   | 350,000                                    |
| 31. Preferred capital stock .....   |   |  |
| 32. Aggregate write-ins for other than special surplus funds .....  |   |  |
| 33. Surplus notes .....   |   |  |
| 34. Gross paid in and contributed surplus .....   | 490,000                                   | 490,000                                    |
| 35. Unassigned funds (surplus) .....  | (1,768,968)                               | (809,302)                                  |
| 36. Less treasury stock, at cost:   |   |  |
| 36.1 ..... shares common (value included in Line 30 \$ ..... ) .....  |   |  |
| 36.2 ..... shares preferred (value included in Line 31 \$ ..... ) .....   |   |  |
| 37. Surplus as regards policyholders (Lines 29 to 35, less 36) .....  | (928,968)                                 | 30,698                                     |
| 38. Totals (Page 2, Line 28, Col. 3) .....  | 7,100,288                                 | 10,551,551                                 |
| <b>DETAILS OF WRITE-INS</b>   |   |  |
| 2501. Suspense Account .....  | 381,250                                   | 344,384                                    |
| 2502. ....  |   |  |
| 2503. ....  |   |  |
| 2598. Summary of remaining write-ins for Line 25 from overflow page .....   |   |  |
| 2599. Totals (Lines 2501 through 2503 plus 2598) (Line 25 above) .....  | 381,250                                   | 344,384                                    |
| 2901. ....  |   |  |
| 2902. ....  |   |  |
| 2903. ....  |   |  |
| 2998. Summary of remaining write-ins for Line 29 from overflow page .....   |   |  |
| 2999. Totals (Lines 2901 through 2903 plus 2998) (Line 29 above) .....  |   |  |
| 3201. ....  |   |  |
| 3202. ....  |   |  |
| 3203. ....  |   |  |
| 3298. Summary of remaining write-ins for Line 32 from overflow page .....   |   |  |
| 3299. Totals (Lines 3201 through 3203 plus 3298) (Line 32 above) .....  |   |  |

## STATEMENT AS OF JUNE 30, 2013 OF THE Eveready Insurance Company

## STATEMENT OF INCOME

|  | 1<br>Current Year<br>to Date | 2<br>Prior Year<br>to Date | 3<br>Prior Year Ended<br>December 31 |
|--|------------------------------|----------------------------|--------------------------------------|
| <b>UNDERWRITING INCOME</b>   |                              |                            |                                      |
| 1. Premiums earned:  |                              |                            |                                      |
| 1.1 Direct (written \$ .....)  | 6,454,542                    |                            | 17,007,379                           |
| 1.2 Assumed (written \$ .....)   |                              |                            |                                      |
| 1.3 Ceded (written \$ .....)   | 140,390                      |                            | 930,164                              |
| 1.4 Net (written \$ .....)   | 6,314,152                    |                            | 16,077,215                           |
| <b>DEDUCTIONS:</b>   |                              |                            |                                      |
| 2. Losses incurred (current accident year \$ .....):   |                              |                            |                                      |
| 2.1 Direct .....   | 3,317,817                    |                            | 9,301,360                            |
| 2.2 Assumed .....  |                              |                            |                                      |
| 2.3 Ceded .....  | 23,200                       |                            | 1,213,584                            |
| 2.4 Net .....  | 3,294,617                    |                            | 8,087,776                            |
| 3. Loss adjustment expenses incurred .....   | 1,258,824                    |                            | 3,747,572                            |
| 4. Other underwriting expenses incurred .....  | 2,597,046                    |                            | 5,482,707                            |
| 5. Aggregate write-ins for underwriting deductions .....   |                              |                            |                                      |
| 6. Total underwriting deductions (Lines 2 through 5) .....   | 7,150,487                    |                            | 17,318,055                           |
| 7. Net income of protected cells .....   |                              |                            |                                      |
| 8. Net underwriting gain (loss) (Line 1 minus Line 6 + Line 7) .....   | (836,335)                    |                            | (1,240,840)                          |
| <b>INVESTMENT INCOME</b>   |                              |                            |                                      |
| 9. Net investment income earned .....  | 18,390                       |                            | (8,577)                              |
| 10. Net realized capital gains (losses) less capital gains tax of \$ .....   | (171,106)                    |                            | (275,408)                            |
| 11. Net investment gain (loss) (Lines 9 + 10) .....  | (152,716)                    |                            | (283,985)                            |
| <b>OTHER INCOME</b>  |                              |                            |                                      |
| 12. Net gain or (loss) from agents' or premium balances charged off<br>(amount recovered \$ ..... amount charged off \$ .....)                                   | (404,729)                    |                            | (68,666)                             |
| 13. Finance and service charges not included in premiums .....   | 363,328                      |                            | 1,038,224                            |
| 14. Aggregate write-ins for miscellaneous income .....   |                              |                            |                                      |
| 15. Total other income (Lines 12 through 14) .....   | (41,401)                     |                            | 969,558                              |
| 16. Net income before dividends to policyholders, after capital gains tax and before all other federal<br>and foreign income taxes (Lines 8 + 11 + 15) .....     | (1,030,452)                  |                            | (555,267)                            |
| 17. Dividends to policyholders .....   |                              |                            |                                      |
| 18. Net income, after dividends to policyholders, after capital gains tax and before all other federal<br>and foreign income taxes (Line 16 minus Line 17) ..... | (1,030,452)                  |                            | (555,267)                            |
| 19. Federal and foreign income taxes incurred .....  |                              |                            | 279,305                              |
| 20. Net income (Line 18 minus Line 19)(to Line 22) .....   | (1,030,452)                  |                            | (834,572)                            |
| <b>CAPITAL AND SURPLUS ACCOUNT</b>   |                              |                            |                                      |
| 21. Surplus as regards policyholders, December 31 prior year .....   | 30,697                       |                            | 813,930                              |
| 22. Net income (from Line 20) .....  | (1,030,452)                  |                            | (834,572)                            |
| 23. Net transfers (to) from Protected Cell accounts .....  |                              |                            |                                      |
| 24. Change in net unrealized capital gains or (losses) less capital gains tax of \$ .....  | 189,501                      |                            | 315,375                              |
| 25. Change in net unrealized foreign exchange capital gain (loss) .....  |                              |                            |                                      |
| 26. Change in net deferred income tax .....  |                              |                            | (72,029)                             |
| 27. Change in nonadmitted assets .....   | (118,716)                    |                            | (192,007)                            |
| 28. Change in provision for reinsurance .....  |                              |                            |                                      |
| 29. Change in surplus notes .....  |                              |                            |                                      |
| 30. Surplus (contributed to) withdrawn from protected cells .....  |                              |                            |                                      |
| 31. Cumulative effect of changes in accounting principles .....  |                              |                            |                                      |
| 32. Capital changes:   |                              |                            |                                      |
| 32.1 Paid in .....   |                              |                            |                                      |
| 32.2 Transferred from surplus (Stock Dividend) .....   |                              |                            |                                      |
| 32.3 Transferred to surplus .....  |                              |                            |                                      |
| 33. Surplus adjustments:   |                              |                            |                                      |
| 33.1 Paid in .....   |                              |                            |                                      |
| 33.2 Transferred to capital (Stock Dividend) .....   |                              |                            |                                      |
| 33.3 Transferred from capital .....  |                              |                            |                                      |
| 34. Net remittances from or (to) Home Office .....   |                              |                            |                                      |
| 35. Dividends to stockholders .....  |                              |                            |                                      |
| 36. Change in treasury stock .....   |                              |                            |                                      |
| 37. Aggregate write-ins for gains and losses in surplus .....  |                              |                            |                                      |
| 38. Change in surplus as regards policyholders (Lines 22 through 37) .....   | (959,667)                    |                            | (783,233)                            |
| 39. Surplus as regards policyholders, as of statement date (Lines 21 plus 38) .....  | (928,970)                    |                            | 30,697                               |
| <b>DETAILS OF WRITE-INS</b>  |                              |                            |                                      |
| 0501. ....   |                              |                            |                                      |
| 0502. ....   |                              |                            |                                      |
| 0503. ....   |                              |                            |                                      |
| 0598. Summary of remaining write-ins for Line 5 from overflow page .....   |                              |                            |                                      |
| 0599. TOTALS (Lines 0501 through 0503 plus 0598) (Line 5 above) .....  |                              |                            |                                      |
| 1401. ....   |                              |                            |                                      |
| 1402. ....   |                              |                            |                                      |
| 1403. ....   |                              |                            |                                      |
| 1498. Summary of remaining write-ins for Line 14 from overflow page .....  |                              |                            |                                      |
| 1499. TOTALS (Lines 1401 through 1403 plus 1498) (Line 14 above) .....   |                              |                            |                                      |
| 3701. ....   |                              |                            |                                      |
| 3702. ....   |                              |                            |                                      |
| 3703. ....   |                              |                            |                                      |
| 3798. Summary of remaining write-ins for Line 37 from overflow page .....  |                              |                            |                                      |
| 3799. TOTALS (Lines 3701 through 3703 plus 3798) (Line 37 above) .....   |                              |                            |                                      |

## STATEMENT AS OF JUNE 30, 2013 OF THE Eveready Insurance Company

## CASH FLOW

|   | 1<br>Current Year<br>To Date | 2<br>Prior Year To Date | 3<br>Prior Year Ended<br>December 31 |
|---|------------------------------|-------------------------|--------------------------------------|
| <b>Cash from Operations</b>   |                              |                         |                                      |
| 1. Premiums collected net of reinsurance.....   | 5,807,583                    |                         | 15,228,756                           |
| 2. Net investment income.....   | 80,202                       |                         | (6,875)                              |
| 3. Miscellaneous income.....  | 45,262                       |                         | 1,089,190                            |
| 4. Total (Lines 1 to 3).....  | 5,933,047                    |                         | 16,311,071                           |
| 5. Benefit and loss related payments.....   | 3,623,454                    |                         | 7,652,670                            |
| 6. Net transfers to Separate Accounts, Segregated Accounts and Protected Cell Accounts.....                             |                              |                         |                                      |
| 7. Commissions, expenses paid and aggregate write-ins for deductions.....   | 4,156,870                    |                         | 9,032,600                            |
| 8. Dividends paid to policyholders.....   |                              |                         |                                      |
| 9. Federal and foreign income taxes paid (recovered) net of \$ ..... tax on capital gains (losses).....                 | (13,907)                     |                         | 17,731                               |
| 10. Total (Lines 5 through 9).....  | 7,766,417                    |                         | 16,703,001                           |
| 11. Net cash from operations (Line 4 minus Line 10).....  | (1,833,370)                  |                         | (391,930)                            |
| <b>Cash from Investments</b>  |                              |                         |                                      |
| 12. Proceeds from investments sold, matured or repaid:  |                              |                         |                                      |
| 12.1 Bonds.....   | 589,593                      |                         | 400,000                              |
| 12.2 Stocks.....  | 208,656                      |                         | 462,252                              |
| 12.3 Mortgage loans.....  |                              |                         |                                      |
| 12.4 Real estate.....   |                              |                         |                                      |
| 12.5 Other invested assets.....   |                              |                         |                                      |
| 12.6 Net gains or (losses) on cash, cash equivalents and short-term investments.....                                    |                              |                         |                                      |
| 12.7 Miscellaneous proceeds.....  |                              |                         |                                      |
| 12.8 Total investment proceeds (Lines 12.1 to 12.7).....  | 798,249                      |                         | 862,252                              |
| 13. Cost of investments acquired (long-term only):  |                              |                         |                                      |
| 13.1 Bonds.....   |                              |                         | 493,393                              |
| 13.2 Stocks.....  |                              |                         | 1                                    |
| 13.3 Mortgage loans.....  |                              |                         |                                      |
| 13.4 Real estate.....   |                              |                         |                                      |
| 13.5 Other invested assets.....   |                              |                         |                                      |
| 13.6 Miscellaneous applications.....  |                              |                         |                                      |
| 13.7 Total investments acquired (Lines 13.1 to 13.6).....   |                              |                         | 493,394                              |
| 14. Net increase (or decrease) in contract loans and premium notes.....   |                              |                         |                                      |
| 15. Net cash from investments (Line 12.8 minus Line 13.7 and Line 14).....  | 798,249                      |                         | 368,858                              |
| <b>Cash from Financing and Miscellaneous Sources</b>  |                              |                         |                                      |
| 16. Cash provided (applied):  |                              |                         |                                      |
| 16.1 Surplus notes, capital notes.....  |                              |                         |                                      |
| 16.2 Capital and paid in surplus, less treasury stock.....  |                              |                         |                                      |
| 16.3 Borrowed funds.....  |                              |                         |                                      |
| 16.4 Net deposits on deposit-type contracts and other insurance liabilities.....  |                              |                         |                                      |
| 16.5 Dividends to stockholders.....   |                              |                         |                                      |
| 16.6 Other cash provided (applied).....   | 145,650                      |                         | (19,473)                             |
| 17. Net cash from financing and miscellaneous sources (Line 16.1 through Line 16.4 minus Line 16.5 plus Line 16.6)..... | 145,650                      |                         | (19,473)                             |
| <b>RECONCILIATION OF CASH, CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS</b>  |                              |                         |                                      |
| 18. Net change in cash, cash equivalents and short-term investments (Line 11, plus Lines 15 and 17).....                | (889,471)                    |                         | (42,545)                             |
| 19. Cash, cash equivalents and short-term investments:  |                              |                         |                                      |
| 19.1 Beginning of year.....   | 2,123,458                    |                         | 2,166,003                            |
| 19.2 End of period (Line 18 plus Line 19.1).....  | 1,233,987                    |                         | 2,123,458                            |

**EXHIBIT B**



## EVEREADY INSURANCE COMPANY

### RESOLUTION

Upon motion duly made, seconded and carried, the following resolutions were adopted by the unanimous affirmative vote of the directors present at the time of the vote at a duly called meeting of the board of directors of Eveready Insurance Company (the "Corporation") with a quorum being present:

**WHEREAS**, the Corporation is currently in the process of locating a buyer to purchase a controlling interest in and of its business; and

**WHEREAS**, the Corporation has been advised by the New York State Department of Financial Services that the Superintendent of Financial Services of the State of New York ("Superintendent") may commence a proceeding pursuant to Article 74 of the New York Insurance Law for the entry of an order of rehabilitation or an order of liquidation of the Corporation;

#### **NOW, THEREFORE, IT IS HEREBY**

**RESOLVED**, that while the Corporation continues to pursue the sale of the Corporation's business, in order to avoid costly and protracted litigation concerning the Superintendent's commencement of a proceeding pursuant to Article 74 of the New York Insurance Law, it is in the best interests of the Corporation to consent to the commencement of any such proceeding; and it is further

**RESOLVED**, that the Corporation hereby consents, and shall be deemed to have consented, to the entry of an order of rehabilitation or an order of liquidation, as the case may be, in accordance with the applicable provisions of Article 74 of the New York Insurance Law, provided that such proceeding is commenced no later than December 31, 2014, and is commenced in the Supreme Court of the State of New York, County of New York; and it is further

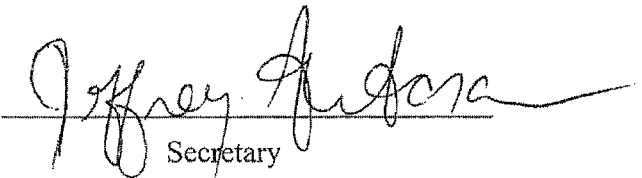
**RESOLVED**, that the Secretary is authorized to certify a copy of these resolutions as having been adopted by this Board; and it is further

**RESOLVED**, that the President be and hereby is authorized and directed to execute and deliver to the Superintendent such further documents as may be necessary or desirable to carry out the purpose and intent of the foregoing resolutions; and it is further

**RESOLVED**, that no action by the Corporation or any of its officers or directors that has the intent or effect of amending, rescinding, or changing in any way these resolutions shall be effective without the unanimous approval of the Corporation's Board of Directors and the prior written approval of the Superintendent.

I have compared the foregoing with the resolutions adopted by the Board of Directors of Eveready Insurance Company at a special meeting held at 59 Maiden Lane, 23<sup>rd</sup> Floor, New York NY, a quorum being present, on the 7<sup>th</sup> day of July, 2014, as recorded in the minute book of said Corporation, and I hereby certify that the same is a true, correct and complete copy thereof and that such resolutions have not been rescinded or modified and are still in full force and effect as of the current date.

IN WITNESS WHEREOF, I have set my hand on this 7th day of July, 2014.

  
Secretary