

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

-----X Index No.: 160307/2014

In the Matter of  
  
the Liquidation of

EVEREADY INSURANCE COMPANY.

**VERIFIED PETITION  
IN SUPPORT OF THE  
LIQUIDATOR'S  
APPLICATION TO  
APPROVE CLAIMS  
ADJUDICATION  
PROCEDURE AND  
APPOINTMENT OF A  
REFEREE**

-----X  
Mary Jo Marchisello, Assistant Special Deputy Superintendent and Agent of Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York ("Superintendent") as liquidator ("Liquidator") of Eveready Insurance Company ("Eveready"), respectfully petitions this Court for an order: (i) approving a procedure for judicial review of the Liquidator's adjudication and classification of claims in this proceeding which are ineligible for payment from or otherwise rejected by the New York Property/Casualty Insurance Security Fund or Public Motor Vehicle Liability Security Fund<sup>1</sup> ("Procedure") and (ii) appointing a referee ("Referee") to hear and take evidence on issues raised by the Liquidator's determinations and claimants' objections, and to report thereon; and (iii) granting such other and further relief, as this Court may deem just and proper under the circumstances. I respectfully show and allege the following upon information and belief:

1. By this Court's order of liquidation, entered on January 29, 2015 (the Liquidation Order"), Eveready was placed into liquidation under Article 74 of the New York

<sup>1</sup> New York established the New York Property/Casualty Insurance Security Fund ("P/C Fund") and the Public Motor Vehicle Liability Security Fund (with P/C Fund, the "Security Funds"). The Security Funds are reserves of money, provided by insurers operating in New York, from which claims against insolvent insurers are paid up to a statutory cap. Such security funds exist to ameliorate the impact of an insurer's insolvency. Those funds then have a separate claim against the insolvent insurer's estate in the amount of the claims and expenses paid by the funds. See N.Y. Ins. L. §7609(a).

Insurance Law (the “Liquidation Proceeding”) and the Liquidator was vested with all powers and authority expressed or implied by New York Insurance Law Article 74 and directed to liquidate Eveready’s business and affairs in accordance with those statutes. A copy of the Liquidation Order is annexed hereto as Exhibit A. A large part of carrying out that duty is the handling of claims against the insolvent estate. To date, all claims under insurance policies issued by Eveready are eligible for payment from the Security Funds (such claims are referred to as “Fund Covered Claims”). Since the entry of the liquidation order, the Liquidator has arranged for the transfer of Fund Covered Claims and the related handling of such claims to the Security Funds. The Liquidator, therefore, is responsible for handling non-Fund Covered Claims (if any exist), the claim of the Security Funds against the estate (*see* N.Y. Ins. L. §7609), and all non-policyholder claims (which fall into Classes Three through Nine as described below).

2. Claims allowed against the estate fall into one of the categories, known as classes of claim, as set forth in Insurance Law Section 7434, and are summarized below:

Class One – Administrative Claims

Claims with respect to the actual and necessary costs and expenses of administration incurred by the Liquidator;

Class Two – Claim and Related Costs

All claims under policies including claims of the federal, state or local government for losses incurred, third-party claims, claims for unearned premiums, and all claims of the security fund guaranty associations, but excluding claims arising under reinsurance contracts;

Class Three – Federal and Government Claims

Claims of the federal government, except those stated above in Class two;

Class Four – Employee Claims

Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law;

Class Five – State and Local Government Claims

Claims of state and local governments, except those stated above in Class two;

Class Six – General Creditor Claims

Claims of general creditors, including, but not limited to, claims under reinsurance contracts;

Class Seven – Late Filed Claims

Claims filed late or any other claims other than claims under Class eight or Class nine below;

Class Eight – Section 1307 Loans

Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307; and

Class Nine – Shareholder Claims

Claims of shareholders or other owners in their capacity as shareholders.

3. Within Eveready's Liquidation Proceeding other than Class One claims of administration, there are expected to be two types of claims: Class Two claims, consisting of the claims of the Security Funds and any claims under insurance policies that are ineligible for coverage by the Security Funds (collectively, "Policyholder Claims"); and all lower priority claims ("Non-Policyholder Claims"). Currently, the Liquidator does not anticipate making any distribution in respect of Non-Policyholder Claims and, in accordance with the liquidation order, he will refrain from adjudicating claims below Class Two unless and until he reasonably believes that adjudicating such claims would be in the best interest of the estate. Liquidation Order ¶ 16.

4. The Liquidation Proceeding is the exclusive forum for the adjudication of the claims against the Eveready estate. *See, Reinsurance Co. of N. Am., Inc. v. Super. of Ins.*, 183 A.D.2d 626, 626, 584 N.Y.S.2d 18, 19 (1st Dep't 1992) (citing *Matter of Knickerbocker Agency [Holz]*, 4 N.Y.2d 245, 173 N.Y.S.2d 602 (1958)) ("The New York State policy is to resolve all claims against an insolvent insurer in a single liquidation proceeding . . ."). The Procedure will

allow the Liquidator to assess, acknowledge and adjudicate claims, as expeditiously as possible. The Procedure will also prevent the unnecessary expenditure of estate assets and help maximize assets and distributions to creditors.

5. Each claim submitted to or deemed submitted to the Liquidator is assessed to determine which class of claim it falls into – i.e., Class Two through Nine. The Liquidator advises claimants of this categorization. A copy of the template letter to be used by the Liquidator is attached as Exhibit B hereto (“Classification Letter”). Once categorized, if the claim is a Non-Policyholder Claim there will be no further processing of the claim unless and until the Liquidator determines that it is in the best interest of the estate to do so. For the most part, this categorization process is uncontroversial; disputes, however, can arise. In that event, the Procedure, set forth below, provides that a claimant will have the opportunity to have his or her dispute heard by a court-appointed referee whose decision is subject to confirmation or rejection by this Court.

6. All Policyholder Claims and certain Non-Policyholder Claims will be adjudicated by the Liquidator. The Procedure authorizes the Liquidator to issue notices of determination (“NOD”) proposing to allow or disallow the adjudicated claims and provides that a claimant will be bound by the NOD unless the claimant objects in writing. If the claimant objects to the NOD then there will be a hearing before a court-appointed referee whose decision is subject to confirmation or rejection by this Court. Templates of the proposed NODs for allowance and disallowance of claims are attached hereto as Exhibit C. The Procedure also enables the Liquidator to resolve such claims on an ongoing basis and ensures that due process is provided to all claimants.

7. The Procedure is as follows:

- a) The Liquidator shall serve either or both a NOD or Classification Letter, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the liquidation proceeding. Service of the NOD and/or Classification Letter will be made by first class mail to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative.
- b) The Classification Letter advises each claimant of the following:
  - i. The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
  - ii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
  - iii. The claimant has the right to object to the Classification Letter, and can do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the Classification Letter, as expressly set forth in the Classification Letter;
  - iv. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
  - v. The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
  - vi. Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming the Referee's report.
- c) The NOD advises each claimant of the following:
  - (i) The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
  - (ii) The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;
  - (iii) No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;

- (iv) The claimant has the right to object to the NOD, and can do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the NOD, as expressly set forth in the NOD;
  - (v) Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to this Court for approval and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined;
  - (vi) If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
  - (vii) The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
  - (viii) Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming the Referee's report.
- d) The Liquidator shall move, ex-parte, at least seventy-five (75) days (or a lesser period if agreed upon by the claimant) after the date of the NOD, for an order approving the Liquidator's recommendations for adjudication of all claims for which no objections are timely received.
  - e) In the event that a claimant requests a hearing pursuant to item 7(c)(vi), the Liquidator will contact the claimant in writing at the address set forth on the NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such NOD) to schedule a pre-hearing conference ("Scheduling Notice"). If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the NOD is forfeited and the NOD is deemed accepted as set forth in item 7(c)(iii).
  - f) If a claimant neglects its claim and fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a denial of the claimant's objection.

8. The Liquidator requests that in the event the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by this Order, it shall not affect

the validity of the allowance/disallowance but shall entitle the party that did not receive timely notice to toll its further obligations under the Procedure until it receives the required notice.

9. For the purposes of providing a forum to hear claimant's objections to the Liquidator's assessments and determinations, the Liquidator requests the appointment of a referee ("Referee") to hear and take evidence on issues raised by the assessments, determinations and objections, and to report the Referee's findings to the Supervising Court.

10. Petitioner respectfully requests that the Referee be directed to conduct all hearings at the place of business of the Superintendent of Financial Services as Liquidator of Eveready, namely 110 William Street, Borough of Manhattan, City, County and State of New York.

11. The Liquidator further respectfully requests that the Referee be paid an hourly rate of \$200 as a loss adjustment expense of the Eveready estate.

12. The Referee will take evidence and report to this Court as to the objections filed by the claimant and any and all defenses of the Liquidator against such objections, thereby ensuring that disputed claims directly against Eveready will be adjudicated in the Eveready liquidation proceeding.

13. In the course of conducting the liquidation, the Liquidator shall consider claims, issue Classification Letters and/or NODs and participate in hearings in respect of Class Two claims before those of any other class of claims. In accordance with the terms of the liquidation order, the Liquidator requests authority to defer adjudicating or scheduling a hearing relating to any claim below Class Two. This will enable the Liquidator to use estate resources effectively by adjudicating only those claims which are anticipated to receive distribution of estate assets or assist in the collection of assets.

14. The Liquidator also requests authorization to settle claims in his sole discretion, at any time during the adjudication process, without the necessity of receiving a report from the referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with the dictates of New York Insurance Law Section 7428(b).

15. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving: (i) a return date ("Return Date") for a hearing ("Hearing") on the Verified Petition to be held before this Court at least thirty (30) days after the date of issuance of the Order to Show Cause; (ii) the form of notice to be given to Eveready's policyholders, creditors and others interested in the affairs of Eveready regarding the Verified Petition and the Hearing ("Notice"), a copy of which is attached hereto as Exhibit 1; and (iii) the method of service of the Notice, i.e., by: (a) posting on the Internet web page maintained by the NYLB at <http://www.nylb.org> at least fifteen (15) days before the Return Date and (b) publication in the New York Daily News, or a newspaper of similar circulation, such publication to occur once per week for two consecutive weeks, commencing within the thirty (30) days following entry of the Order to Show Cause, such service shall be deemed good and sufficient service.

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



WHEREFORE, it is respectfully requested that this Court enter an order: (i) approving the Procedure (ii) appointing a Referee to hear and take evidence on issues raised by the Liquidator's determinations and claimants' objections, and to report thereon; and (iii) granting the Liquidator such other and further relief as this Court may deem just and proper under the circumstances.

Dated: New York, New York  
August 6, 2015

Anthony J. Albanese  
Acting Superintendent of Financial Services  
of the State of New York as Liquidator of  
Eveready Insurance Company

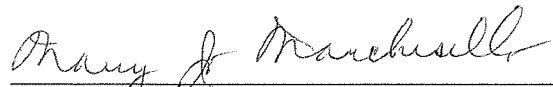
By: Mary Jo Marchisello  
Mary Jo Marchisello  
Assistant Special Deputy Superintendent and  
Agent of Anthony J. Albanese, Acting  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
Eveready Insurance Company

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

Mary Jo Marchisello, being duly sworn, deposes and says:

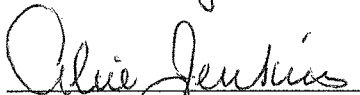
That she has read the foregoing Verified Petition, and that the same is true based upon information and belief as to those matters stated therein. Deponent further says that the sources of her information and the grounds of her belief as to the matters alleged therein are from or were derived from the files of Eveready Insurance Company in the possession of the Liquidator and communications made to deponent by employees of the Liquidator.

That the reason this petition is verified by this deponent rather than by the Superintendent of Financial Services of the State of New York is that deponent is the duly appointed Assistant Special Deputy Superintendent and Agent of the Superintendent of Financial Services of the State of New York as Liquidator of Eveready Insurance Company.



Mary Jo Marchisello  
Assistant Special Deputy Superintendent and  
Agent of Anthony J. Albanese, Acting  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
Eveready Insurance Company

Sworn to before me this  
6<sup>th</sup> day of August, 2015

  
Notary Public

Alice Jenkins  
Notary Public, State of New York  
No. 01JE6037989  
Qualified in New York County  
Commission Expires: March 06, 2018

## Exhibit A

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

PRESENT: BANNON  
Justice

PART 42

BENJAMIN M. LAWSKY

INDEX NO. 160307/14

MOTION DATE \_\_\_\_\_

EVERBOLD INSURANCE COMPANY

MOTION SEQ. NO. 01

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ No(s). \_\_\_\_\_

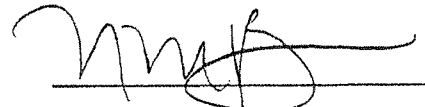
Answering Affidavits — Exhibits \_\_\_\_\_ No(s). \_\_\_\_\_

Replying Affidavits \_\_\_\_\_ No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is granted per the attached Order.

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

Dated: 12/3/14

  
\_\_\_\_\_, J.S.C.  
HON. NANCY M. BANNON

1. CHECK ONE: ..... ☐ CASE DISPOSED ☒ NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: ..... MOTION IS: ☐ GRANTED ☐ DENIED ☒ GRANTED IN PART ☐ OTHER
3. CHECK IF APPROPRIATE: ..... ☐ SETTLE ORDER ☐ SUBMIT ORDER
- ☐ DO NOT POST ☐ FIDUCIARY APPOINTMENT ☐ REFERENCE

At IAS Part 42 of the Supreme Court  
of the State of New York, County of  
New York, at the courthouse located  
at 111 Centre Street, New York City,  
New York, on the 30 day of  
December, 2014.

P R E S E N T:

HON. NANCY M. BANNON, J.S.C.  
-----X

In the Matter of

Index No. 160307/2014

the Application of

**ORDER OF LIQUIDATION**

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

Benjamin M. Lawsky, 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, and 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

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In the Matter of

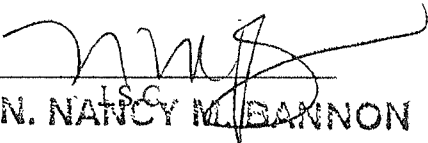
the Liquidation of

EVEREADY INSURANCE COMPANY.

-----X

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

E N T E R

  
HON. NANCY M. BANNON  
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 ("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, and 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;

- 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

## Exhibit B

Date

Address

Re: EVEREADY INSURANCE COMPANY

Liquidator No.:

Claim #:

Policy#:

Dear Sir or Madam:

On January 29, 2015 by order of the Supreme Court, State of New York, Eveready Insurance Company was placed into liquidation and the Superintendent of Financial Services of the State of New York and his successors in office were appointed Liquidator and vested with title to all its assets and property.

As a claimant in the proceeding, we have assigned the above captioned liquidator number to your claim.

Please be advised that your claim is deemed a Class \_\_ claim, meaning each class before you must be paid in full before your claim will be considered for review and allowance.

Pursuant to Insurance Law Section 7434, the priority of distribution of claims shall be in accordance with the order in which each class of claims is set forth below:

- |             |  |
|-------------|--|
| Class One   | Expenses and Costs incurred by the Liquidator;   |
| Class Two   | All Policy Claims including claims of the Federal, State and Local Governments, Third Party, Unearned Premiums, NY Security Fund and Guaranty Associations but excluding claims arising under reinsurance contracts; |
| Class Three | Claims of the Federal Government except those under Class Two;   |
| Class Four  | Salary Claims (for services rendered within one year before commencement of rehabilitation, liquidation or conservation and not to exceed \$1,200) and Unemployment Insurance Claims;                                |
| Class Five  | Claims of state and local governments except those under Class Two;  |
| Class Six   | General Creditor Claims including claims arising under reinsurance contracts;  |
| Class Seven | Claims filed late (deferred) and any other claims other than those under Class   |



Eight or Nine;

Class Eight            Section 1307 (Shareholder) loans;

Class Nine            Shareholder Claims

We are currently marshalling assets and determining liabilities and cannot at this time predict if assets will be available for distribution to Class \_\_ claimants.

It is suggested you provide us with any supporting documentation relative to your claim for evaluation at a future date, if assets permit.

Please refer to the above captioned liquidator number when corresponding with us regarding this matter.

If you accept the Liquidator's classification, you are not required to take any further action.

If you object to the Liquidator's classification, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing this letter by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference.

If you have any questions, please do not hesitate to contact the undersigned at 212-341-6241 or [bthomas@nylb.org](mailto:bthomas@nylb.org)

Very truly yours,

Benny Thomas  
Creditor & Ancillary Operation

## Exhibit C

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

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

-----X  
In the Matter of

Notice of Determination  
of Allowance

the Liquidation of

Index No.: 160307/2014

EVEREADY INSURANCE COMPANY.  
-----X

Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Eveready Insurance Company hereby gives notice that the claim set forth below has been examined and he will recommend to the Court that it be allowed as a Class \_\_\_\_ claim in the amount set forth below. You will be entitled to share in distributions of assets, if any, pursuant to New York Insurance Law ("Insurance Law") Section 7434, to be made by the Liquidator based on the amount allowed.

If you accept the Liquidator's recommendation, you are not required to take any further action. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection is resolved, the Liquidator will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference.

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

If you have any questions concerning this notice, you may contact Benny Thomas at (212) 341-6241.

Dated:  
New York, New York

Anthony J. Albanese  
Acting Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
Eveready Insurance Company

Claimant:  
Liq No.:  
Policy No.  
Claim No.  
Amount Allowed:

Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination.

I request the Superintendent of Financial Services of the State of New York as liquidator of Eveready Insurance Company ("Liquidator") mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acknowledgment of Receipt must be completed, signed and returned to the Liquidator in order to be eligible for future distributions, if any, as directed by the Supervising Court.

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print)

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

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

-----X

In the Matter of

Notice of Determination  
of Disallowance

the Liquidation of

Index No.: 160307/2014

EVEREADY INSURANCE COMPANY.

-----X

Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Eveready Insurance Company hereby gives notice that the claim set forth below has been examined and that he will recommend to the Court that the claim be disallowed for the reason(s) set forth below.

If you accept the Liquidator's recommendation, you are not required to take any further action. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the New York Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection is resolved, the Liquidator will seek allowance of the agreed amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference.

The Liquidator reserves the right to raise any other reasons in support of his denial of your claim(s) as further defenses arise during litigation.

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

If you have any questions concerning this notice you may contact Benny Thomas at (212) 341-6241.

Dated:  
New York, New York

Anthony J. Albanese  
Acting Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
Eveready Insurance Company

Claimant Name:  
Liq Claim No.:  
Policy No.  
Co. Claim No.  
Amount Recommended for Disallowance:  
Reason for Disallowance:

Claimant Name  
Claimant Address  
Claimant Address  
Attn:  
Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination.

I request the Superintendent of Financial Services of the State of New York as liquidator of Eveready Insurance Company mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print)