

EX PARTE MOTION OFFICE

APPROVED
FOR THE PAYMENT
OF MOTION FEE
ONLY

At IAS Part 8 of the Supreme Court of
the State of New York, County of New
York, at the courthouse at
71 Thomas St, in the County, City
and State of New York, on the 13 day
of October, 2015.

M.S.H. 2
ART 74

P R E S E N T:

HON. JOAN M. KENNEY, J.S.C.
-----X

In the Matter of

the Ancillary Receivership of

Index No.: 402668/03

FREMONT INDEMNITY COMPANY

FILED
OCT 02 2015

NEW YORK
COUNTY CLERK'S OFFICE

ORDER TO SHOW CAUSE

Based on the affirmation of Melissa A. Pisapia, an attorney with the New York Liquidation Bureau (the "NYLB"), the organization that carries out the duties of Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York in his capacity as ancillary receiver (the "Ancillary Receiver") of Fremont Indemnity Company ("Fremont"), dated the 2nd day of October, 2015, and the exhibits attached thereto, upon all other papers previously submitted and all proceedings heretofore had herein;

NOW, on motion of the Ancillary Receiver, and after due deliberation having been had thereon;

LET all policyholders, claimants, creditors and all other parties interested in the affairs of Fremont or counsel show cause before this Court at IAS Part 8, Room 304, thereof, at the Courthouse located at 71 Thomas Street in the City, County and State of New York, on the 16th day of October, 2015 ("Return Date") at 10 o'clock in the am., or as soon

For submission of opposition
papers only.

thereafter as counsel can be heard, why an order should not be made, pursuant to Article 74 of the New York Insurance Law (the "Insurance Law"), *inter alia*: (1) approving the Ancillary Receiver's report on the status of and request to close the Fremont ancillary receivership proceeding ("Ancillary Receivership Proceeding") and the financial transactions delineated in such report; (2) authorizing the payment of administrative expenses, including such expenses for the closing of the Ancillary Receivership Proceeding; (3) terminating and closing the Ancillary Receivership Proceeding; (4) finding that the Ancillary Receiver, and his successors in office and their agents and employees, are entitled to judicial immunity for any cause of action of any nature against them, individually or jointly, for any acts or omissions when acting in good faith, in accordance with the orders of this Court, and/or in the performance of their duties pursuant to Insurance Law Article 74; (5) releasing and discharging the Ancillary Receiver, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; and (6) granting the Ancillary Receiver such other and further relief as this Court deems appropriate and just.

AND, sufficient cause having been alleged, it is hereby

ORDERED, that service of a copy of this Order to Show Cause and the papers upon which it is granted be made on the statutory liquidator of Fremont by serving a copy thereof by overnight mail upon the Insurance Commissioner of the State of California in his capacity as Liquidator of Fremont Indemnity Company, c/o Scott Pearce, Estate Trust Officer, Conservation & Liquidation Office, 110 Pine Street, Suite 2600, San Francisco, CA 94111, on or before the 8th day of October, 2015, and such service shall be deemed good and sufficient service; and it is further

ORDERED, that the Ancillary Receiver shall give notice of this application by posting this Order to Show Cause and its supporting papers on the Internet web page maintained by the NYLB at <http://www.nylb.org> at least fifteen (15) days before the Return Date with such service to be deemed good and sufficient service; and it is further

ORDERED, that answering papers, either in support of or opposition to the relief sought herein (the "Answering Papers"), shall be served on the Ancillary Receiver at the following address:

Acting Superintendent of Financial Services of the State of New York
as Ancillary Receiver of Fremont Indemnity Company
110 William Street, 15th Floor
New York, New York 10038
Attention: General Counsel

at least seven (3) days before the Return Date, and that any Answering Papers, together with an affidavit of service, shall be filed with the Court on or before the Return Date.

NO Reply Papers
NO Oral Arguments

ENTER



JOAN M. KENNEY
J.S.C.

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

-----X
In the Matter of

Index No.: 402668/03

the Ancillary Receivership of

AFFIRMATION

FREMONT INDEMNITY COMPANY.
-----X

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

1. I am an attorney with the New York Liquidation Bureau (the "NYLB"), the organization that carries out the duties of Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York in his capacity as ancillary receiver (the "Ancillary Receiver") of Fremont Indemnity Company ("Fremont"), and submit this affirmation, upon information and belief, based on my review of the Fremont files maintained by the NYLB, the affidavit of Gail Pierce-Siponen, Director of Creditor and Ancillary Operations of the NYLB, annexed hereto as Exhibit 1, and the conversations I have had with employees of the Ancillary Receiver in support of the Ancillary Receiver's application to approve the report on the status of and request to close the ancillary receivership proceeding of Fremont (the "Closing Report") annexed hereto as Exhibit 2.

2. By order dated July 2, 2003 (the "Liquidation Order"), Fremont, a California property/casualty insurance carrier licensed to underwrite workers' compensation insurance policies in the State of New York, was placed in liquidation in the State of California (the "Domestic Liquidation Proceeding") and the Insurance Commissioner of the State of California was appointed statutory liquidator of Fremont (the "Statutory Liquidator").

3. By order dated September 23, 2003 (the “Ancillary Order”), this Court placed Fremont into ancillary receivership (the “Ancillary Receivership Proceeding”) and appointed the then-Superintendent of Insurance of the State of New York and his successors in office as Ancillary Receiver of Fremont. The Acting Superintendent has now succeeded the Superintendent of Insurance as Ancillary Receiver of Fremont.

4. The Closing Report describes the status of the Ancillary Receivership Proceeding and informs the Court that the affairs of the Fremont estate permit the payment of administrative expenses including such expenses for the closing of the Ancillary Receivership Proceeding and termination of the Ancillary Receivership Proceeding.

5. The Ancillary Receivership Proceeding was commenced to permit payments from the New York security funds to eligible Fremont policyholders or third-parties holding claims against such policyholders, including workers’ compensation insurance beneficiaries from the New York Workers’ Compensation Security Fund (the “WC Fund”). Because Fremont was licensed to provide insurance in New York, New York policyholders were eligible to be paid from insurance security funds, which are established to ameliorate the impact of insurer insolvencies.

6. During the course of the Ancillary Receivership Proceeding, eligible claims covered by the WC Fund were referred to the Ancillary Receiver by the Statutory Liquidator. Such claims are decided by the Workers’ Compensation Board and are paid from the WC Fund. Under the Workers’ Compensation Law, WC Fund payments to claimants are not subject to approval by the Superintendent as Ancillary Receiver or this Court, which is supervising the Ancillary Receivership Proceeding (“Supervising Court”).

THE ANCILLARY RECEIVERSHIP PROCEEDING IS RIPE FOR CLOSURE

7. Under paragraph 30 of the Liquidation Order, the Superior Court of the State of California for the County of Los Angeles (the “CA Court”) established June 30, 2004 as the claims bar date (the “Bar Date”) in the Domestic Liquidation Proceeding. *See* Exhibit A to the Closing Report, which is annexed hereto as Exhibit 2. The Bar Date is the last day by which proofs of claim must be filed with the Statutory Liquidator in the Domestic Liquidation Proceeding. Since the Bar Date has passed more than fourteen years ago, the Statutory Liquidator will not accept any additional claims and no further claims under Fremont policies will be presented to the Ancillary Receiver. All claims under Fremont policies that have been referred to the Ancillary Receiver have been adjudicated.

8. Because no further claims under Fremont policies will be presented from the Statutory Liquidator to the Ancillary Receiver, the Ancillary Receivership Proceeding is complete, the Ancillary Receiver has fulfilled his obligations and the proceeding may now be terminated.

9. The Closing Report describes, in more detail, the status of the Ancillary Receivership Proceeding and informs the Court that the affairs of the Fremont estate permit the payment of administrative expenses, including such expenses for the closing of the Ancillary Receivership Proceeding, and termination of the Ancillary Receivership Proceeding.

10. Finally, the Ancillary Receiver requests that the Ancillary Receiver, the NYLB and its employees be vested with judicial immunity for actions taken within the scope of this proceeding. A receiver, such as the Ancillary Receiver, is entitled to judicial immunity, and has no personal liability for actions performed in good faith when acting within his or her official capacity and within the scope of the authority granted by the receivership order. *Copeland v. Salomon*, 56 N.Y.2d 222 (1982); *Kaufman Props. & Assoc., LLC v. 2 Ct. St., LLC*, 51 A.D.3d

1206 (3d Dep't 2008); *Ocean Side Inst. Ind., Inc. v. United Presbyterian Residence*, 254 A.D.2d 337 (2d Dep't 1998); *Jacynicz v. 73 Seaman Assoc.*, 270 A.D.2d 83 (1st Dep't 2000); *Bankers Fed. Sav. FSB v. Off West Broadway Devs.*, 227 A.D.2d 306 (1st Dep't 1996). Judicial immunity has been applied to receivers or liquidators in Insurance Law Article 74 proceedings. *In re Executive Life Insurance Company of New York*, 103 A.D.3d 631, 634 (2d Dep't 2013); *In re Liquidation of U.S. Capital Ins. Co.*, 36 Misc.3d 635 (2012), 948 N.Y.S.2d 549 (Sup. Ct., N.Y. Cty. 2012). In the instant Article 74 proceeding, the Ancillary Order delegated judicial functions to the Ancillary Receiver who, at all times, acted in good faith and within the scope of the authority set forth in the Ancillary Order. Thus, the Ancillary Receiver, and the employees of the NYLB who carried out the duties of the Ancillary Receiver, are entitled to judicial immunity under the applicable case law. *Id.*

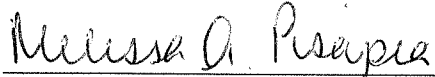
11. The Ancillary Receiver also requests that the Supervising Court issue the accompanying Order to Show Cause approving a return date for a hearing on the Ancillary Receiver's application to be held before the Court at least thirty (30) days after the date of issuance of the Order to Show Cause.

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

WHEREFORE, it is respectfully requested that this Court enter an order: (1) approving the Closing Report and the financial transactions delineated in such report; (2) authorizing the payment of administrative expenses, including such expenses for the closing of the Ancillary Receivership Proceeding; (3) terminating and closing the Ancillary Receivership Proceeding; (4) finding that the Ancillary Receiver, and his successors in office and their agents and employees, are entitled to judicial immunity for any cause of action of any nature against them, individually or jointly, for any acts or omissions when acting in good faith, in accordance with

the orders of this Supervising Court, and/or in the performance of their duties pursuant to Insurance Law Article 74; (5) releasing and discharging the Ancillary Receiver, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; and (6) granting the Ancillary Receiver such other and further relief as the Supervising Court deems appropriate and just.

Dated: New York, New York
October 2, 2015



Melissa A. Pisapia

EXHIBIT 1

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

-----X

In the Matter of

Index No.: 402668/03

the Ancillary Receivership of

AFFIDAVIT

FREMONT INDEMNITY COMPANY.

-----X

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


Gail Pierce-Siponen, being duly sworn, deposes and says:

1. I am the Director of Creditor and Ancillary Operations of the New York Liquidation Bureau (the "NYLB"), the organization that carries out the responsibilities of the Acting Superintendent of Financial Services of the State of New York (the "Superintendent") in his capacity as ancillary receiver (the "Ancillary Receiver") of Fremont Indemnity Company ("Fremont"). I submit this affidavit based upon my own personal knowledge and upon information and belief, the sources of which are the files and records of Fremont maintained by the NYLB, in support of the Ancillary Receiver's application for an order approving the Closing Report (as defined in the accompanying affirmation of Melissa A. Pisapia) and terminating and closing the ancillary receivership proceeding of Fremont.

2. The Ancillary Receivership Proceeding was commenced to permit payment to eligible Fremont policyholders or third-parties holding claims against such policyholders, including workers' compensation insurance beneficiaries. Claims under workers' compensation policies are decided by the Workers' Compensation Board and are paid from the New York Workers' Compensation Security Fund (the "WC Fund"). Under the Workers' Compensation Law, WC Fund payments to claimants are not subject to approval by the Superintendent as Ancillary Receiver or this Court, which is supervising the Ancillary Receivership Proceeding.

3. The Ancillary Receiver completed all activities related to this Ancillary Receivership Proceeding. In addition, because the California court overseeing the domiciliary liquidation proceeding established the Bar Date (as defined in the accompanying affirmation of Melissa A. Pisapia), no further claims under Fremont policies will be presented to the Ancillary Receiver.

4. As a result of the claims and expenses paid in the Ancillary Receivership Proceeding, the New York Property/Casualty Insurance Security Fund (the "P/C Fund") filed a claim in the Domestic Liquidation Proceeding in the amount of \$143,473 and the WC Fund filed a claim in the Domestic Liquidation Proceeding in the amount of \$28,620,743. As of the June 30, 2015, distributions paid by the Statutory Liquidator amounted to \$102,646 for partial reimbursement of the P/C Fund's claim and \$16,490,832 for partial reimbursement of the WC Fund's claim. Additionally, salvage and subrogation recoveries were made in the amount of \$595,413 for the WC Fund and the WC Fund was the beneficiary of New York's Second Injury Special Fund recoveries in the amount of \$1,675,863.


Gail Pierce-Siponen

Sworn to before me this
2nd day of October, 2015


Notary Public

MEISSA A. DELL'ORTO
Notary Public, State of New York
No. 02DE6287864
Qualified in Queens County
Commission Expires August 26 2017

EXHIBIT 2

**REPORT ON THE STATUS OF AND REQUEST TO CLOSE
THE ANCILLARY RECEIVERSHIP PROCEEDING
OF FREMONT INDEMNITY COMPANY**

Anthony J. Albanese, Acting Superintendent of Financial Services of the State of New York (the “Superintendent”) as ancillary receiver (the “Ancillary Receiver”) of Fremont Indemnity Company (“Fremont”) has appointed certain agents to carry out, through the New York Liquidation Bureau (the “NYLB”), the responsibilities of the Ancillary Receiver in this ancillary receivership proceeding. The Ancillary Receiver, by Scott D. Fischer, Special Deputy Superintendent and Agent, hereby submits this Ancillary Receiver’s report (the “Closing Report”) on the status of the Fremont ancillary receivership proceeding (the “Ancillary Receivership Proceeding”) and respectfully requests that such proceeding be closed.

INTRODUCTION

Supreme Court, New York County, Index Number 402688/03 (the “Supervising Court”) entered an order (the “Ancillary Order”) on September 23, 2003 (the “Ancillary Order Date”), pursuant to which the Fremont Ancillary Receivership Proceeding was commenced. The Ancillary Order appointed the then-Superintendent of Insurance of the State of New York and his successors in office as Ancillary Receiver of Fremont. The Acting Superintendent of Financial Services of the State of New York has now succeeded the Superintendent of Insurance as Ancillary Receiver of Fremont. The Ancillary Receivership Proceeding was commenced to permit payments to eligible Fremont policyholders or third-parties holding claims against such policyholders, including workers’ compensation insurance beneficiaries from the New York Workers’ Compensation Security Fund (the “WC Fund”).

The Ancillary Receiver submits this Closing Report to apprise the Supervising Court on the status of the Ancillary Receivership Proceeding and to seek: (i) approval of this Closing Report and the financial transactions delineated herein; (ii) authorization for the payment of administrative expenses, including such expenses for the closing of the Ancillary Receivership Proceeding; (iii) termination and closure of the Ancillary Receivership Proceeding; (iv) a finding that the Ancillary Receiver, and his successors in office and their agents and employees, are entitled to judicial immunity for any cause of action of any nature against them, individually or jointly, for any acts or omissions when acting in good faith, in accordance with the orders of the Supervising Court, and/or in the performance of their duties pursuant to New York Insurance Law (the “Insurance Law”) Article 74; (v) release and discharge of the Ancillary Receiver, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; and (vi) a grant of such other and further relief as the Supervising Court deems appropriate and just.

BACKGROUND

Fremont, a California-domiciled property and casualty insurer, was authorized and licensed to do business in forty-eight states, including the State of New York. On July 2, 2003, the Superior Court of the State of California (the “CA Court”) entered a liquidation order (the “CA Liquidation Order”) with a finding of insolvency against Fremont (the “Domestic Liquidation Proceeding”) and appointed the Insurance Commissioner of the State of California as statutory liquidator (the “Statutory Liquidator”) of Fremont.

Under paragraph 30 of the CA Liquidation Order, the CA Court established June 30, 2004, as the last date upon which any and all claims against Fremont must be filed with the Statutory Liquidator (the “Bar Date”). Furthermore, any claim not filed with the Statutory Liquidator on or before the Bar Date was conclusively deemed forever waived. A copy of the CA Liquidation Order is annexed hereto as Exhibit A. The establishment of a Bar Date is one of the tools used by the Statutory Liquidator in the Fremont Domestic Liquidation Proceeding to determine the classification, validity and value of the totality of the proofs of claims and the estate’s overall liabilities in relation to assets so that Statutory Liquidator can perform its function of liquidating Fremont. Because the CA Court established the Bar Date, no further claims under Fremont policies will be presented to the Ancillary Receiver.

Because Fremont was licensed to provide insurance in New York, New York policyholders were eligible to be paid from insurance security funds, which are established to ameliorate the impact of insurer insolvencies. New York’s insurance security fund system is unique because the Superintendent is the administrator of the funds and because New York requires an ancillary proceeding in order for the Superintendent to begin payments from the funds to eligible claimants.

All claims by Fremont’s policyholders, claimants and creditors were initially processed by the Statutory Liquidator in the Domestic Liquidation Proceeding. The Statutory Liquidator assigned a claim number and referred those claims involving a New York-based workers’ compensation policy to the Ancillary Receiver in order that the Superintendent, as administrator of the WC Fund, could make an independent determination of coverage under New York Workers’ Compensation Law Article 6-A. Eligibility for workers’ compensation benefits under Fremont’s workers’ compensation policies are decided upon by the Workers’ Compensation

Board and are paid from the WC Fund. Under the Workers' Compensation Law, WC Fund payments to claimants are not subject to approval by the Superintendent as Ancillary Receiver or the Supervising Court.

THE ANCILLARY RECEIVERSHIP PROCEEDING MAY BE TERMINATED

The Bar Date has been in effect for more than eleven years and no further claims under Fremont policies will be accepted by the Statutory Liquidator in the Domestic Liquidation Proceeding. Since the Statutory Liquidator will not accept any further claims, no additional claims will be forwarded to the Ancillary Receiver. No action is required in the Ancillary Receivership Proceeding to make payments on existing WC claims as payment is determined by the Workers' Compensation Board. For the foregoing reasons, the Ancillary Receivership Proceeding is complete and may now be terminated.

FINANCIAL CONDITION OF FREMONT

The Ancillary Receiver completed all activities for which the Ancillary Receivership Proceeding was necessary by June 30, 2015 (the "Closing Date"), and therefore selected that date for closing Fremont's books. Fremont's Summary of Losses, Loss Adjustment Expenses ("LAE"), Administrative Expenses and Distributions and Other Recoveries (the "Financial Statement") for the period between the Ancillary Order Date and the Closing Date is annexed hereto as Exhibit B.

CASH RECEIPTS AND DISBURSEMENTS

1. P/C Fund

Through the Closing Date, the Ancillary Receiver made LAE payments attributable to the Property/Casualty Insurance Security Fund (the "P/C Fund") in the Ancillary Receivership Proceeding in the amount of \$60,866. In addition, administrative expenses attributable to the

P/C Fund totaled \$82,607. These expenses include the actual and necessary costs of administration incurred by the Ancillary Receiver in connection with claims handling, including coverage analysis during the Ancillary Receivership Proceeding, salaries, rent, professional fees, general and administrative expenses and other miscellaneous expenses of the Ancillary Receiver and the P/C Fund.

The P/C Fund disbursed monies to the Ancillary Receiver for the payment, in full, for the payment of LAE in the amount of \$60,866 and administrative expenses in the amount of \$82,607.

The P/C Fund filed a claim in the Domestic Liquidation Proceeding equal to its disbursements in the total amount of \$143,473. As of the Closing Date, distributions paid by the Statutory Liquidator amounted to \$102,646 for partial reimbursement of the P/C Fund's claim.

2. WC Fund

Through the Closing Date, the NYLB, on behalf of the administrator of the WC Fund, made payments for WC Fund covered claims for losses and return premium that were filed in the Fremont Ancillary Receivership Proceeding and associated LAE in the total amount of \$23,567,183 of which \$21,566,861 was for loss; \$30,601 was for return premium; and \$1,969,721 was for LAE. The WC Fund covered claims have either been paid or are continuing to be paid by the WC Fund.

In addition, administrative expenses attributable to the WC Fund totaled \$5,053,560. These expenses include the actual and necessary costs of administration incurred in connection with claims handling during the Fremont Ancillary Receivership Proceeding, which includes salaries, rent, professional fees, general and administrative expenses and other miscellaneous expenses of the Ancillary Receiver and the WC Fund.

The NYLB, on behalf of the administrator of the WC Fund, received payment in full from the WC Fund for the payment of claims \$21,566,861, return premium \$30,601, LAE \$1,969,721 and administrative expenses \$5,053,560.

The WC Fund filed a claim in the Fremont Domestic Liquidation Proceeding equal to its disbursements in the total amount of \$28,620,743. As of the Closing Date, distributions paid by the Statutory Liquidator amounted to \$16,490,832 for partial reimbursement of the WC Fund's claim. Additionally, salvage and subrogation recoveries were made in the amount of \$595,413 for the WC Fund. The WC Fund was also the beneficiary of New York's Second Injury Special Fund recoveries in the amount of \$1,675,863.

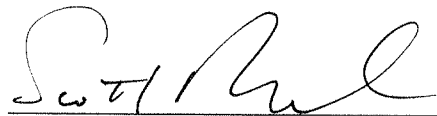
RELIEF SOUGHT

The Ancillary Receiver submits this Closing Report in order to describe the status of the Ancillary Receivership Proceeding and to inform the Supervising Court that the affairs of the Fremont estate permit administrative expenses to be paid and termination of the Ancillary Receivership Proceeding. In support of the Ancillary Receiver's recommendations stated herein, the Ancillary Receiver has submitted to the Supervising Court the affirmation of Melissa A. Pisapia, an attorney with the NYLB, together with supporting documentation annexed to the affirmation and the affidavit of Gail Pierce-Siponen, Director of Creditor and Ancillary Operations Division of the NYLB. Based on the Ancillary Receiver's compliance with his statutory mandate, including marshaling assets of Fremont, together with the fulfillments of all of his duties and obligations as set forth in the Ancillary Order, the Ancillary Receiver requests that the Supervising Court issue an order, which:

1. approves the Closing Report and the financial transactions delineated in such report;

2. authorizes the payment of administrative expenses, including such expenses for the closing of the Ancillary Receivership Proceeding;
3. terminates and closes the Ancillary Receivership Proceeding;
4. finds that the Ancillary Receiver, and his successors in office and their agents and employees, are entitled to judicial immunity for any cause of action of any nature against them, individually or jointly, for any acts or omissions when acting in good faith, in accordance with the orders of the Supervising Court, and/or in the performance of their duties pursuant to Insurance Law Article 74;
5. releases and discharges the Ancillary Receiver, his predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Ancillary Receivership Proceeding; and
6. grants the Ancillary Receiver such other and further relief as the Supervising Court deems appropriate and just.

Dated: New York, New York
October 2, 2015



Scott D. Fischer
Special Deputy Superintendent and
Agent of Anthony J. Albanese
Acting Superintendent of Financial Services
of the State of New York as Ancillary
Receiver of Fremont Indemnity
Company

L18870

EXHIBIT A

ORIGINAL

FILED

LOS ANGELES SUPERIOR COURT

SEP 26 2000

BY

DEPUTY

1 BILL LOCKYER
Attorney General
2 RICHARD S. BAKKE
Supervising Deputy Attorney General
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Attorneys for Applicant Insurance Commissioner of the State of California
7

8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 INSURANCE COMMISSIONER OF THE STATE
OF CALIFORNIA,

12 Applicant,

13 v.

14 SUPERIOR NATIONAL INSURANCE COMPANY,

15 Respondent;
16

17 AND CONSOLIDATED PROCEEDINGS.
18
19
20
21
22
23
24

Case No.: BS 061974

Consolidated with: BS 061975
BS 062171
BS 062173
BS 063746

ORDER APPOINTING
LIQUIDATOR FOR SUPERIOR
NATIONAL INSURANCE
COMPANY, SUPERIOR
PACIFIC CASUALTY
COMPANY, COMBINED
BENEFITS INSURANCE
COMPANY, CALIFORNIA
COMPENSATION INSURANCE
COMPANY, and COMMERCIAL
COMPENSATION CASUALTY
COMPANY AND RELATED
RESTRAINING ORDERS

25 The Verified Application of the Insurance Commissioner, Applicant herein, for
26 Order Appointing Liquidators and Restraining Orders came on regularly for hearing on
27 September 25, 2000 in the above entitled court, the Honorable Frances Rothschild presiding.
28 The Applicant was represented by his counsel, Bill Lockyer, Attorney General by Mark P.

1 Richelson and Elisa B. Wolfe, Deputy Attorneys General. Lumbermens Mutual Casualty
2 Company (hereinafter referred to as "Kemper") was represented by Sidley and Austin by Thomas
3 Patterson, Esq. Superior National Insurance Group and Business Insurance Group, Inc. were
4 represented by Pachulski, Stang, Ziehl, Young & Jones, P.C. by Iain A. W. Nasatir, Esq. The
5 California Insurance Guarantee Association was represented by Lord Bissel and Brook by C.
6 Guerry Collins. The other appearances were noted on the record.

7 The Court after reviewing the Verified Applications for Orders Appointing
8 Liquidator, the papers and pleadings filed in opposition and reply and good cause appearing finds
9 that:

10 1. Superior National Insurance Company, Superior Pacific Casualty Company,
11 Combined Benefits Insurance Company, California Compensation Insurance Company, and
12 Commercial Compensation Casualty Company is each insolvent;

13 2. It would be futile for the Insurance Commissioner to proceed as conservator
14 with the conduct of the business of these five insurance companies; and,

15 3. It is appropriate for the Insurance Commissioner to liquidate and wind up the
16 business of these five insurance companies in a manner consistent with this Order, the Court's
17 Final Order Approving and Adopting Rehabilitation Plan, and the Order Approving and
18 Adopting Settlement Agreement.

19
20 **WHEREFORE IT IS ORDERED THAT:**

21
22 **ADMINISTRATION AND OPERATION**

23 1. Applicant's status as Conservator is terminated, and he is appointed Liquidator of the
24 five Respondents named above, as set forth in section 1016 of the Insurance Code, and directed
25 as Liquidator to liquidate and wind up the business of Respondents and to act in all ways and
26 exercise all powers necessary for the purpose of carrying out such order.

27 2. Applicant, as Liquidator of Respondents, is vested in and to all of the records,
28 property (real and personal, whether owned, leased, rented or utilized by Respondents under any

1 contract or assignment) and assets (including rights under any license or other arrangement for
2 the use of computer software and/or business information systems) of Respondents then in the
3 possession of Applicant as Conservator, as well as any records, property and assets of
4 Respondents discovered or obtained hereafter wheresoever such assets may be situated.

5 3. Applicant, as Liquidator of Respondents, is authorized to honor as expenses of
6 administration all expenses heretofore incurred by the Conservator and presently unpaid.

7 4. Funds and accounts in the name of Respondents, or Applicant as Conservator, in
8 various banks or any other institutions wheresoever situated shall be vested in Applicant as
9 Liquidator and subject to withdrawal at his direction only, and this Order does not convert funds
10 held in a fiduciary capacity to general assets of the Liquidator.

11 5. The Applicant as Liquidator is authorized to appoint and employ estate managers,
12 special deputies, clerks and assistants and to give each of them such power and authority as he
13 deems necessary and authorizing Applicant to compensate them from the assets of Respondents,
14 or from such other non-conservatorship funds as are lawfully available, which as to him shall be
15 determined to be appropriate.

16 6. The Applicant, as Liquidator, is authorized to invest Respondents' assets as he deems
17 to be in the best interests of this liquidation estate, and to pay for his costs in bringing and
18 maintaining this and other actions necessary to carry out his functions as Liquidator of
19 Respondents from the assets of Respondents, and if there are insufficient assets, is authorized to
20 pay for his costs out of the Insurance Fund, pursuant to Insurance Code § 1035.

21 7. The Liquidator is authorized to divert, take possession of and secure all mail of
22 Respondents in order to screen such mail, and to effect a change in the rights to use any and all
23 post office boxes and other mail collection facilities used by Respondents.

24 8. The Applicant is authorized to pay for his costs in bringing and maintaining this
25 action, and such other actions as are necessary to carry out his functions as Liquidator, out of the
26 funds and assets of Respondents.

27 9. The Liquidator is authorized pursuant to Insurance Code section 1037(g), to invest and
28 reinvest all assets in a manner he deems to be in the best interest of the creditors of the estate,

1 including investing and reinvesting assets through an investment pool consisting exclusively of
2 assets from conserved estates. To the extent that the Liquidator invests and reinvents through
3 such an investment pool, such investments and reinvestments may exceed \$100,000.

4 10. The Liquidator is hereby authorized to assume or reject, or to modify, any executory
5 contracts, including without limitation, any lease, rental or utilization contract or agreement
6 (including any schedule to any such contract or agreement), and any license or other arrangement
7 for the use of computer software or business information systems, to which Respondents, or any
8 of them, is a party or as to which Respondent(s) agree to accept an assignment of such contract
9 pursuant to the terms of the Settlement Agreement (which is being heard concurrently herewith);
10 provided, however, that in connection with the BancBoston/Citizens' Master Lease Finance
11 Agreements, as amended and assigned, and the agreements with Risk Enterprise Management
12 Limited ("REM") filed with REM's objections to the Settlement Agreement, no such action shall
13 be taken without the approval of this Court, upon notice to BancBoston/ Citizens and REM,
14 respectively. Any such assumption or rejection or modification of any executory contract shall
15 be effected by the Liquidator not later than within 120 days after the entry of this Order, unless
16 such date is extended by application to and further order of the Court. All executory contracts
17 that are not expressly assumed by the Liquidator shall be deemed rejected. Any party to a
18 contract that is rejected by the Liquidator pursuant to this Order, shall be permitted to file a proof
19 of claim against the liquidation estate, which claim shall be treated in accordance with Insurance
20 Code section 1010, et seq.

21 11. Pursuant to Insurance Code section 1037(d), the Liquidation may dispose of any
22 excess property of Respondents by any commercially reasonable method, including, but not
23 limited to, sales at public auctions, sales in bulk to the high bidder (provided at least three (3)
24 bids are obtained from independent dealers in the kind of property sold).

1 **CREDITORS, POLICYHOLDERS ETC.**

2 12. The rights and liabilities of claimants, creditors, and all other persons interested in
3 the assets of Respondents, including the State of California, be fixed as of the date of entry of
4 this order.

5 13. All insurance policies issued by the Respondents prior to April 6, 2000 or issued
6 thereafter but issued without a Kemper "cut-through reinsurance" endorsement, shall be
7 terminated and canceled effective no later than thirty (30) days after the entry of this Order. The
8 Liquidator shall promptly notify all policyholders of such policy termination and cancellation by
9 First Class Mail at the last known address of the policyholders. In addition, the Liquidator is
10 authorized to and may, in his sole discretion, terminate and cancel any policies issued by
11 Respondents that are not covered by the preceding sentence or that were issued by a fronting
12 insurer and reinsured, in whole or in part, to Respondents.

13 14. This order is not intended to modify the Stipulation and Order entered by this Court
14 on August 17, 2000 between the Conservator and Centre Insurance Company, and that
15 Stipulation and Order continues in full force and effect.

16
17 **INJUNCTIONS AND OTHER ORDERS**

18 15. All prior injunctions and other orders of this Court, except to the extent expressly
19 modified herein, are reaffirmed and remain in full force and effect. All powers and authority
20 granted to the Liquidator under this Order are in addition to and not in limitation of the powers of
21 the Liquidator under the California Insurance Code and any other statutory or applicable case
22 law.

23 16. Each Respondent, its officers, directors, agents and employees and all other persons
24 are enjoined from transacting the business of Respondents and from disposing of any of its
25 California assets or property or any other assets or property of Respondents wherever
26 situated.

27 17. All persons are enjoined from interfering with the possession, title and rights of
28 Applicant, as Liquidator, in and to the property and assets of Respondents vested in the

1 Liquidator by this Order, and from interfering with the conduct of the liquidation and the
2 winding up of the business of Respondents.

3 18. All persons are enjoined from waste of assets of Respondents.

4 19. All persons are enjoined from instituting or prosecuting or maintaining any action or
5 proceeding at law or suit in equity, including but not limited to matters in arbitration, against
6 Respondents or Applicant as Liquidator of Respondents, and from attaching or executing upon,
7 or taking, any legal action against the real and personal property held by Respondents without the
8 consent of this Court obtained after reasonable notice to said Liquidator.

9 20. All persons are enjoined from obtaining or attempting to obtain preferences,
10 judgments, attachments or other license, or from making any levy against Respondents or its
11 property and assets without the consent of this Court obtained after reasonable notice to said
12 Liquidator.

13 21. All former or present officers, directors, agents and employees of Respondents, and
14 all other persons are ordered to deliver all books, records, real and personal property, equipment
15 and other assets of Respondents wheresoever situated to Liquidator.

16 22. The Respondents and its respective officers, directors, agents, servants, employees,
17 successors, assigns, affiliates, and other persons or entities under their control and all persons or
18 entities in active concert or participation with them, and each of them, are ordered to turn over to
19 the Liquidator records, documentation, charts and/or descriptive material of all funds, assets, real
20 and personal property owned beneficially, leased, rented or utilized or otherwise, and all other
21 assets of Respondents wherever situated, and all books and records of accounts, title documents,
22 leases rental and utilization agreements, and other documents in their possession or under their
23 control, which relate to assets or property of Respondents.

24 25 LITIGATION AND LEGAL PROCESS

26 23. The Applicant as Liquidator is authorized to initiate such equitable or legal actions or
27 proceedings in this or other states as may appear to him necessary to carry out his functions as
28 Liquidator.

1 24. Except with leave of court issued after a hearing in which the Liquidator has
2 received reasonable notice all persons are enjoined from executing or issuing or causing the
3 execution or issuance of any court attachment, subpoena, replevin, execution or other process for
4 the purpose of impounding or taking possession of or interfering with or creating or enforcing a
5 lien upon any real or personal property owned or in the possession of Respondents or its
6 affiliates, or the Liquidator appointed herein, wheresoever situated.

7 25. Except by leave of court, obtained after reasonable notice to the Liquidator all
8 persons are enjoined from accelerating the due date of any obligation or claimed obligation;
9 retaking or attempting to retake possession of any real or personal property; ~~withholding or~~ *or*
10 diverting any rent or other obligation; doing any act or other thing whatsoever to interfere with
11 the possession or use of, or management by the Liquidator herein and of the property and assets,
12 owned or controlled by Respondents or in the possession of Respondents or in any way to
13 interfere with said Liquidator or to interfere in any manner during the pendency of this
14 proceeding with the exclusive jurisdiction of this Court over Respondents.

15 26. Any and all provisions of any agreement entered into by and between any third party
16 and Respondents including, by way of illustration, but not limited to, the following types of
17 agreements (as well as any amendments, assignments, or modifications thereto): financial
18 guarantee bonds, promissory notes, loan agreements, security agreements, deeds of trust,
19 mortgages, indemnification agreements, subrogation agreements, subordination agreements,
20 pledge agreements, assignments of rents or other collateral, financial statements, letters of credit,
21 leases, rental or utilization agreements insurance policies, guarantees, escrow agreements,
22 management agreements, real estate brokerage and rental agreements, servicing agreements,
23 attornment agreements, consulting agreements, easement agreements, license agreements,
24 franchise agreements, or employment contracts that provide in any manner that selection,
25 appointment or retention of a Liquidator, or trustee by any court, or entry of an order such as
26 hereby made, shall be deemed to be, otherwise operate as a breach, violation, event of default,
27 termination, event of dissolution, event of acceleration, insolvency, bankruptcy, or liquidation,
28 shall be stayed, and the assertion of any and all rights, remedies relating thereto shall also be

1 stayed, except as otherwise ordered by the Court, and the Court shall retain jurisdiction over any
2 cause of action that has arisen or may otherwise arise under any such provision.

3 4 EFFECT ON OTHER ORDERS

5 27. This order is not intended to modify the Stipulation and Order entered by this Court
6 on August 17, 2000 between the Conservator and Centre Insurance Company, and that
7 Stipulation and Order continues in full force and effect.

8 28. This order is not intended to affect or, and shall not affect the rights and obligations
9 of the Kemper Insurance Companies under the Rehabilitation Plan, except to the extent provided
10 for in the Rehabilitation Plan. This order of liquidation also is not intended to affect, and shall
11 not affect, the rights and obligations under the Interim Cut-Through Reinsurance Agreement with
12 the Kemper Insurance Companies, as amended, modified, and extended, all as approved by this
13 Court, except to the extent provided in the Reinsurance Agreement.

14 29. Notwithstanding the foregoing, the Liquidator did not and does not intend this
15 Liquidation Order to: (A) result in any conflict with the performance of its Settlement Agreement
16 with Kemper and Superior National Insurance Group, Inc., and its affiliates; (B) result in a
17 violation of any provision of said Settlement Agreement; (C) result in the material impairment of
18 the ownership or value of the net operating losses ("NOLs") incurred in conjunction with the
19 operation of the Superior National Insurance companies; (D) address any obligation of Superior
20 National Insurance Group, Inc., and/or its affiliates, (if any such obligation does exist) to any
21 surety. The Liquidator has not taken any action that he knew or knows would materially impair
22 the ownership or value of the NOLs, or would result in an conflict with or violation of any
23 provision of the Settlement Agreement, and will take no such action without the prior approval
24 of a court of competent jurisdiction. If it were subsequently discovered that there is any
25 provision in the Rehabilitation Plan that is intended to or does result in (a), (b), (c), or (d) above,
26 then the Liquidator shall take all reasonable steps to correct and cure the same provided that he
27 shall not be required to perform any act which adversely affects the rights of Kemper as
28 contained in the Rehabilitation Plan.

1 30. The provisions of Applicant's Settlement Agreement with Kemper and Superior
2 National Insurance Group, Inc., et al., shall survive the entry of ^{this} ~~an~~ Order of liquidation and shall
3 be fully enforceable notwithstanding any subsequent order, including the ^{for} ~~the~~ Order of liquidation ^{or} ~~or~~
4 Further, with respect to the Settlement Agreement, extant obligations of respondent Companies
5 (such as indemnities) that exist as of the date of entry of a liquidation order shall survive
6 liquidation and shall be treated as an expense of administration accorded "class one" priority
7 under Insurance Code Section 1033(a).

8 31. This Order is not intended to affect, and shall not affect, the rights of the parties
9 under that certain Stipulation and Order relating to Liquidation of Conserved Insurers,
10 Rehabilitation Transactions, Settlement Agreement, and Cancellation of Centre Insurance
11 Company and ZC Insurance Company Policies.

12 32. This Order is not intended to affect, and shall not affect, the rights and obligations
13 of Risk Enterprise Management Limited under the March 1998 Agreement for Services between
14 REM and Superior National Insurance Company, as amended, and/or the December 1998
15 Agreement for Services between REM and Superior National Insurance Company, as amended.

17 OTHER PROVISIONS

18 33. Any and all claims against Respondents (except those policyholder claims already
19 pending against Respondents, which are deemed filed), including those which in any way affect
20 or seek to affect any of the assets of Respondents, wherever or however such assets may be
21 owned or held, must be filed no later than May 25, 2001 (the "Claims Bar Date"), together with
22 proper proof thereof, in accordance with the provisions of California Insurance Code sections
23 1010 et seq. including but not limited to Section 1023. Any claims not filed by the Claims Bar
24 Date shall be conclusively deemed forever waived.

25 34. Nothing in this Order or in the Orders Approving and Adopting Rehabilitation Plan
26 and Approving and Adopting Settlement Agreement is intended to affect, modify or otherwise
27 alter the jurisdiction of this court.

1 HEADINGS

2 35. Headings contained herein shall not be deemed to govern, limit, modify, or in any
3 manner affect the scope, meaning, or intent of the provisions of any part or section of this order.
4

5 Dated: 9-26-00

6 
7 THE HONORABLE FRANCES ROTHSCHILD
JUDGE OF THE SUPERIOR COURT

8 C:\DATA\CLOSUPERIOR\NAT\LIQ-ORDER-SNIS
9 E:\F\frschel\clac\superior-liq-order




THE DOCUMENT TO WHICH THIS CERTIFICATE IS
ATTACHED IS A FULL, TRUE, AND CORRECT COPY
OF THE ORIGINAL ON FILE AND OF RECORD IN
MY OFFICE.

OCT 13 2000

ATTEST

JOHN A. CLARKE

Executive Officer / Clerk of the Superior
Court of California, County of Los Angeles.

By  Deputy

D. KNOWLES

EXHIBIT B

**NEW YORK LIQUIDATION BUREAU
FREMONT INDEMNITY COMPANY
Summary of Losses, Loss Adjustment Expenses,
Administrative Expenses, Distributions and Other Recoveries
From Inception to June 30, 2015**

Description	Inception to June 30, 2015		
	PC SF	WC SF	Total
Policyholder Benefit Claim Payments	-	21,566,861	21,566,861
Return Premium Claim Payments	-	30,601	30,601
Loss Adjustment Expense	60,866	1,969,721	2,030,587
Administrative Expenses	82,607	5,053,560	5,136,167
Total Disbursements	143,473	28,620,743	28,764,216
Less:			
Distributions/Statutory Deposits	102,646	16,490,832	16,593,478
Salvage and Subrogation Recoveries	-	595,413	595,413
Second Injury Fund Recoveries	-	1,675,863	1,675,863
NET AFTER DISTRIBUTIONS AND RECOVERIES	40,827	9,858,635	9,899,462

**NEW YORK LIQUIDATION BUREAU AS ANCILLARY RECEIVER OF
FREMONT INDEMNITY COMPANY
Losses, Loss Adjustment Expenses
and Administrative Expenses
From Inception to June 30, 2015**

DISBURSEMENTS	Inception to June 30, 2015		
	PC SF	WC SF	Total
Policyholder Claim Payments	-	21,566,861	21,566,861
Return Premium Claim Payments	-	30,601	30,601
Loss Adjustment Expense	60,866	1,969,721	2,030,587
TOTAL Loss and LAE	60,866	23,567,183	23,628,049
Administrative Expenses:			
Employee Salaries	47,641	2,735,313	2,782,954
Employee Relations and Welfare	14,035	1,042,124	1,056,159
Rent and Related Expenses	9,900	687,348	697,248
Professional Services	5,238	253,969	259,207
General and Administrative Expenses	4,194	225,744	229,938
Other Miscellaneous Expenses	1,599	109,062	110,661
Total Administrative Expenses	82,607	5,053,560	5,136,167
TOTAL DISBURSEMENTS	143,473	28,620,743	28,764,216
DISTRIBUTIONS AND OTHER RECOVERIES - SPECIFIED SOURCES			
Statutory Deposits	-	12,755,131	12,755,131
Distributions	102,646	3,735,701	3,838,347
Salvage, Subrogation and Other Recoveries (including Deductibles and SIR's)	-	595,413	595,413
Second Injury Fund Recoveries	-	1,675,863	1,675,863
TOTAL DISTRIBUTIONS AND RECOVERIES	102,646	18,762,108	18,864,754
NET AFTER DISTRIBUTIONS AND RECOVERIES	40,827	9,858,635	9,899,462

Index No. 402668

Year 2003

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

In the Matter of
the Ancillary Receivership of
FREMONT INDEMNITY COMPANY.

ORDER TO SHOW CAUSE AND AFFIRMATION
(Closing Report)

JOHN PEARSON KELLY

Attorney for Acting Superintendent of Financial Services of the State of New York as Ancillary Receiver

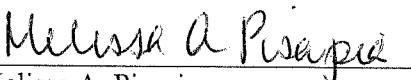
Office and Post Office Address, Telephone

New York Liquidation Bureau
110 William Street
New York, NY 10038
(212) 341-6755
Fax (212) 233-0461

ATTORNEY CERTIFICATION

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

Dated: October 2, 2015
New York, New York


Melissa A. Pisapia

[] NOTICE OF ENTRY

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

[] NOTICE OF SETTLEMENT

that an order
settlement to the HON.

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

Dated:

, on

Yours, etc.

JOHN PEARSON KELLY

Attorney for Acting Superintendent of Financial
Services of the State of New York as Ancillary
Receiver

Office and Post Office Address, Telephone

New York Liquidation Bureau
110 William Street
New York, NY 10038
(212) 341-6755
Fax (212) 233-0461