

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

-----X

In the Matter of

Index No.:

the Application of

VERIFIED PETITION

Adrienne A. Harris, Superintendent of Financial
Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

HIGHLANDS INSURANCE COMPANY.

-----X

Adrienne A. Harris, Superintendent of Financial Services of the State of New York (“Superintendent”), respectfully petitions the Court for an order, substantially in the form attached hereto as Exhibit “1” (“Order”), appointing the Superintendent (and her successors in office) ancillary receiver (“Ancillary Receiver”) of Highlands Insurance Company (“Highlands”) with all the rights and obligations granted to and imposed upon her pursuant to Article 74 of the New York Insurance Law (“Insurance Law”).

Relief Requested

1. Highlands, a Texas domestic insurer, has been judicially determined to be insolvent and has been placed into liquidation by the District Court of Texas (“Texas Court”). There are New York claimants with mass tort claims under Highlands insurance policies. It is important that a New York ancillary receivership be commenced for Highlands in order for New York claimants with allowed covered claims to receive coverage from the New York Property/Casualty Insurance Security Fund (“P/C Fund”). It is estimated that over one hundred property/casualty claims may be referred to the P/C Fund by the Texas Liquidator for handling within a New York ancillary receivership proceeding. (Affidavit of Joan Riddell, Deputy Chief

Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on March 14, 2022 (“Riddell Aff.”), attached hereto as Exhibit “2”, ¶ 8).

Background

2. Highlands is a domestic stock property/casualty insurer domiciled in Texas. Its principal place of business is at 10370 Richmond Avenue, Houston, Texas 77042-4123. *See* Riddell Aff. ¶ 2.

3. Highlands became licensed to do business as an authorized foreign insurer in the State of New York on or about August 22, 1966. (Riddell Aff. ¶ 3).

4. Highlands was authorized to transact the business of insurance set forth in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, and 21 of Section 1113(a) of the Insurance Law. (Riddell Aff. ¶ 4).

5. On November 6, 2003, the Texas Court placed Highlands into rehabilitation. On June 6, 2008, the Texas Court approved the second amended plan of rehabilitation for Highlands (“Rehabilitation Plan Order”), which established March 30, 2007, as the claims bar date for the filing of all claims against Highlands in the rehabilitation. The Rehabilitation Plan Order also provided that in the event Highlands goes into liquidation, the bar date would remain in effect for the liquidation. New York Insurance Law (“Insurance Law”) Section 7412(a) makes clear that the bar date in the domestic liquidation applies to an ancillary proceeding. On October 29, 2021, the Texas Court found Highlands to be insolvent and issued an order placing Highlands into liquidation (“Liquidation Order”) and appointing Cassie Brown, Texas Insurance Commissioner, Statutory Liquidator of Highlands (“Texas Liquidator”). The Liquidation Order provides that claims against Highlands that have not been finally settled or determined in accordance with the Texas Court’s prior orders – including the Rehabilitation Plan Order – shall be handled pursuant

to the Texas Insurance Code. *See* Liquidation Order and Rehabilitation Plan Order (Riddell Aff. ¶ 5, Exhibit “A”).

**The Grounds to Commence an Ancillary
Receivership Proceeding Have Been Met**

6. Insurance Law § 7407(c) states that, upon the request of a receiver who has been appointed for an insurer in its domiciliary state, the Superintendent shall apply to this Court for an order appointing her ancillary receiver for such insurer if the domiciliary state is a reciprocal state.

7. On December 7, 2021, the Texas Liquidator sent a letter, a copy of which is annexed as Exhibit “B” to the Riddell Aff., requesting that the Superintendent commence an ancillary receivership proceeding for Highlands (“Letter Request”). Riddell Aff. ¶ 6, Exhibit “B”.

8. Texas is a reciprocal state. Insurance Law § 7408(b)(6) defines a reciprocal state as any state, other than the State of New York, in which the provisions of the Uniform Insurers Liquidation Act (Insurance Law §§ 7408-7415), in substance and effect, are in force. Texas, Highlands’s domiciliary state, has adopted, in substance and effect, the provisions of the Uniform Insurers Liquidation Act. Texas Insurance Code §§ 443.001, et seq. *See* Letter Request. (Riddell Aff. ¶ 7, Exhibit “B”).

9. Based on the Letter Request from Texas, a reciprocal state, the Superintendent now brings this application under Insurance Law § 7407 to commence an ancillary receivership proceeding for Highlands. Since all the grounds to commence an ancillary receivership proceeding have been met, this Court should issue the Order commencing an ancillary receivership proceeding and, pursuant to Insurance Law § 7410(a), appointing the Superintendent as Ancillary Receiver.

Injunctive Relief

10. To discharge the responsibilities as Ancillary Receiver in an orderly and fair manner for the benefit of policyholders and creditors domiciled in the State of New York, certain injunctive relief is necessary.

11. I respectfully request that this Court explicitly apply the injunctions, restrictions and directions contained in sections IV and V of the Liquidation Order to any and all business of Highlands that is conducted in the State of New York, and to any and all assets, books, records, files, credit cards, and other property of Highlands located in the State of New York. While these injunctions, directions, and restrictions, as well as the entire Liquidation Order, were issued by a court of competent jurisdiction and apply to this ancillary proceeding, an explicit ruling from this Court that the injunctions, directions, and restrictions issued in sections IV and V of the Liquidation Order apply to this ancillary receivership proceeding will promote clarity and reduce the likelihood of unnecessary litigation.

12. Under Insurance Law § 7419(b), the Court may issue permanent injunctions or orders to prevent the commencement or prosecution of any actions, the obtaining of preferences, judgments, attachments, or other liens or making any levy against the Ancillary Receiver, Highlands, the New York Liquidation Bureau (the organization serving as the Ancillary Receiver's staff), or their present or former employees, attorneys, or agents, with respect to this proceeding or the discharge of their duties under Insurance Law Article 74 in relation thereto (the "Permanent Injunctions").

13. The Permanent Injunctions are important for the performance of the Ancillary Receiver's duties. Failure to grant this relief could result in one or more persons or entities rushing to pursue legal action, including collections and default judgments, in the State of New

York against Highlands. This would adversely impact the ancillary receivership and could significantly increase administrative expenses and litigation costs.

14. In addition to the Permanent Injunctions, I request an order under Insurance Law § 7419(b) temporarily staying all litigations against insureds of Highlands or in which Highlands is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy, for a period of 180 days from the date of entry of the Order of Ancillary Receivership (the “180-Day Injunction”). The 180-Day Injunction will temporarily stay all matters currently in litigation and will allow the Ancillary Receiver and the Superintendent as administrator of the P/C Fund (“Administrator”) sufficient time to review and assess the claims in litigation.

15. I also request an order under Insurance Law § 7419(b) temporarily enjoining and restraining all persons who have first-party policyholder loss claims against Highlands in the State of New York from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date the Ancillary Receivership Order is signed (the “90-Day Injunction”). Eligible first-party claims in New York are referred to the Ancillary Receiver who determines whether a referred claim is covered by the P/C Fund.

16. After Highlands is placed into ancillary receivership, the Texas Liquidator will transfer the books and records of the company relating to certain New York claims under policies written by Highlands, including litigation files, to the Ancillary Receiver and Administrator for further handling. Because the files and records of an insolvent insurer often require time to review and assess, a temporary stay is necessary to ensure that claims are appropriately handled and that there is no prejudice to the company or its policyholders during the transition to ancillary receivership.

17. The 180-Day Injunction and 90-Day Injunction will allow the Ancillary Receiver and Administrator to: (i) review the New York claims and litigations; (ii) coordinate with third-party administrators for handling claims; (iii) assign claims examiners; (iv) review settlement negotiations, if any; (v) analyze the legal issues; (vi) set reserves; (vii) assign or retain counsel; and (viii) prepare to litigate the matters, if necessary, upon the expiration of the 180-Day Injunction and 90-Day Injunction. The injunctions sought here are virtually the same injunctions as are granted in every ancillary proceeding and could be considered routine. *In the Matter of the Ancillary Receivership of American Country Insurance Company*, S. Ct., N.Y. County, Index #452250/2020, Order of December 16, 2020; *In the Matter of the Ancillary Receivership of American Service Insurance Company*, S. Ct., N.Y. County, Index #452249/2020, Order of December 2, 2020; *In the Matter of the Ancillary Receivership of Northwestern National Insurance Company of Milwaukee, Wisconsin*, S. Ct., N.Y. County, Index #450931/2019, Order of August 8, 2019. Copies of the ancillary receivership orders in each of these ancillary receivership proceedings are annexed hereto as Exhibit “3.”

18. For these reasons, the 180-Day Injunction and 90-Day Injunction are warranted under Insurance Law § 7419(b), and this Court should issue an order, *inter alia*, granting the injunctions.

Additional Relief

19. I further respectfully request that the Court order that the Superintendent as Ancillary Receiver, her successors in office, and the New York Liquidation Bureau and their agents and employees, be granted judicial immunity from any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of the Court, or in the performance of their duties pursuant to

Insurance Law Articles 74 and 76. The Ancillary Receiver acts in a “judicial and private” capacity under the supervision of the Court pursuant to Article 74 of the Insurance Law. *Dinallo v. DiNapoli*, 9 N.Y.3d 94, 103 (2007). In addition, “a court-appointed receiver acts as an arm of the court and is immune from liability for actions grounded in his or her conduct as receiver.” *In the Matter of the Liquidation of U.S. Capital Insurance Company*, 36 Misc.3d 635, 637 (Sup. Ct., N.Y. County 2012).

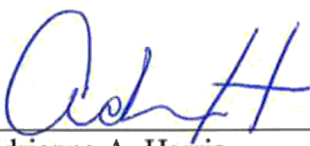
Conclusion

20. In light of the foregoing, I respectfully request that the Court enter the Order, which, among other things: (a) appoints the Superintendent Ancillary Receiver of Highlands, pursuant to Insurance Law §§ 7407(c) and 7410(a); and (b) vests the Ancillary Receiver with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law.

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

WHEREFORE, I respectfully request that this Court grant the relief sought in this Verified Petition, enter the Order, and grant such other and further relief as is just and proper.

Dated: New York, New York
March 22, 2022



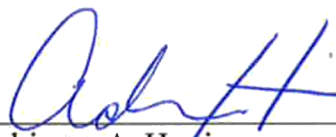
Adrienne A. Harris
Superintendent of Financial Services
of the State of New York

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

Adrienne A. Harris, being duly sworn, deposes and says:

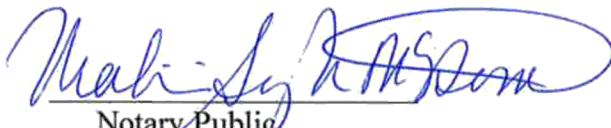
That she is the Superintendent of Financial Services of the State of New York and that she executed the foregoing Verified Petition; that she is acquainted with the facts therein stated; that she knows the contents of said Verified Petition; and that the same are true based upon the records of the New York State Department of Financial Services.

Deponent says that the sources of her information as to the matters stated in said Verified Petition are the affidavit referred to therein and the records of the New York State Department of Financial Services.



Adrienne A. Harris
Superintendent of Financial Services
of the State of New York

Sworn to before me this
22nd day of March, 2022



Notary Public

MALINI SINGH McDONALD
Notary Public, State of New York
No. 01SI6165495
Qualified in Queens County 23
My Commission Expires May 7, 2023

EXHIBIT 1

At IAS Part ____ of the Supreme Court of the State of New York, at the courthouse located at _____, in the City, County, and State of New York, on the ____ day of _____, 2022.

P R E S E N T :

HON. _____ J.S.C.

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

-----X

In the Matter of

Index No.:

the Application of

Adrienne A. Harris, Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

**ORDER OF ANCILLARY
RECEIVERSHIP**

HIGHLANDS INSURANCE COMPANY.

-----X

Adrienne A. Harris, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court by order to show cause for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of Highlands Insurance Company (“Highlands”), and upon reading and filing the petition of the Superintendent, duly verified on the 22nd day of March, 2022 (“Verified Petition”), the Affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 14th day of March, 2022, and the exhibits annexed thereto, this Court finds that:

1. Highlands is a Texas-based property/casualty insurance company;

2. By order dated October 29, 2021, the State of Texas issued an Order of Liquidation finding Highlands to be insolvent (“Liquidation Order”) and appointing Cassie Brown, Texas Insurance Commissioner, Statutory Liquidator (“Texas Liquidator”) of Highlands;

3. Highlands is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

4. Texas is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

5. The Texas Liquidator requested that the Superintendent commence an ancillary receivership proceeding for Highlands; and

6. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of Highlands.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;
2. The Superintendent (and her successors in office) is appointed Ancillary Receiver of Highlands and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The material provisions of the Liquidation Order, including, but not limited to, the injunctions, restrictions, and directions contained in sections IV and V, apply to this ancillary receivership proceeding;
4. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits, or proceedings against Highlands in ancillary receivership, the Superintendent as Ancillary Receiver of Highlands or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
5. All parties to actions, lawsuits, and special or other proceedings in the State of New York against insureds of Highlands or in which Highlands is obligated to defend an

insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or 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 this Order is signed;

6. All persons who have first-party policyholder loss claims against Highlands in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date this Order is signed;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of Highlands and as administrator of the New York security funds, her 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 this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76;
8. The Ancillary Receiver shall serve a copy of this Order on the Texas Liquidator by overnight delivery to Craig Koenig, President of Prime Temus, Inc., as Special Deputy Receiver, representing Cassie Brown, Texas Insurance Commissioner, in her capacity as Statutory Liquidator of Highlands Insurance Company, at 27310 Ranch Road 12, Dripping Springs, Texas, 78620;
9. The Ancillary Receiver shall provide notice of this Order to all creditors, claimants, and interested persons located in the State of New York by posting the Order on the Internet web page for Legal and Estates Notices maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
10. Highlands's license to do business in the State of New York is hereby revoked;
11. The caption for this proceeding is hereby amended as follows:

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

-----X
In the matter of

the Ancillary Receivership of

HIGHLANDS INSURANCE COMPANY.

-----X

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

E N T E R

J.S.C.

EXHIBIT 2

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

-----X
In the Matter of

Index No.

the Application of

AFFIDAVIT

Adrienne A. Harris, Superintendent of Financial
Services of the State of New York, for an order of
Appointment as Ancillary Receiver of

HIGHLANDS INSURANCE COMPANY.
-----X

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

JOAN RIDDELL, being duly sworn, deposes and says:

1. I am employed at the New York State Department of Financial Services (“DFS”) as a Deputy Chief Insurance Examiner. I submit this affidavit in support of the petition of the Superintendent of Financial Services of the State of New York (“Superintendent”) for an order commencing an ancillary receivership proceeding for Highlands Insurance Company (“Highlands”) and appointing the Superintendent and her successors-in-office as ancillary receiver of Highlands under Article 74 of the New York Insurance Law (“Insurance Law”). This affidavit is based upon personal knowledge, the sources of which are the records maintained by DFS.

2. Highlands is a Texas-based stock property/casualty insurance company. Highlands is organized under the laws of the State of Texas, with its principal office located at 10370 Richmond Avenue, Houston, TX 77042-4123.

3. Highlands became licensed to do business as an authorized foreign insurer in the State of New York on or about August 22, 1966.

4. Highlands was authorized to transact the business of insurance set forth in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 20, and 21 of Section 1113(a) of the Insurance Law.

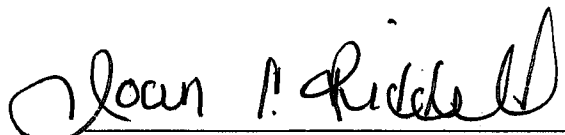
5. On November 6, 2003, the State of Texas placed Highlands into rehabilitation. On June 6, 2008, the State of Texas approved the second amended plan of rehabilitation for Highlands (“Rehabilitation Plan Order”), which established March 30, 2007, as the claims bar date for the filing of all claims against Highlands in the rehabilitation. The Rehabilitation Plan Order also provided that in the event Highlands goes into liquidation, the bar date would remain in effect for the liquidation. New York Insurance Law Section 7412(a) makes clear that the bar date in the domestic liquidation applies to an ancillary proceeding. On October 29, 2021, the State of Texas found Highlands to be insolvent and issued an order placing Highlands into liquidation (“Liquidation Order”) and appointing Cassie Brown, Texas Insurance Commissioner, Statutory Liquidator of Highlands (“Texas Liquidator”). The Liquidation Order provides that claims against Highlands that have not been finally settled or determined in accordance with the State of Texas’s prior orders – including the Rehabilitation Plan Order – shall be handled pursuant to the Texas Insurance Code. A copy of the Liquidation Order and Rehabilitation Plan Order are annexed hereto as Exhibit “A”.

6. On October 29, 2021, the Texas Liquidator sent a letter, a copy of which is annexed hereto as Exhibit “B”, requesting that the Superintendent commence an ancillary receivership proceeding for Highlands (“Letter Request”).

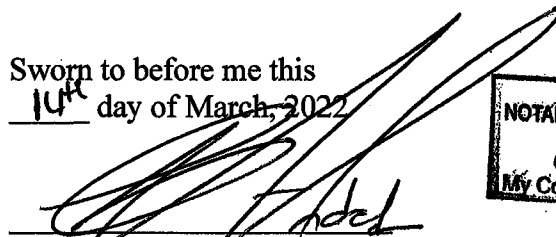
7. Texas is a reciprocal state. Insurance Law § 7408(b)(6) defines a reciprocal state as any state, other than the State of New York, in which the provisions of the Uniform Insurers Liquidation Act (Insurance Law §§ 7408-7415), in substance and effect, are in force. Texas,

Highlands's domiciliary state, has adopted, in substance and effect, the provisions of the Uniform Insurers Liquidation Act. Texas Insurance Code §§ 443.001, et seq. *See* Letter Request.

8. The Superintendent estimates that over one hundred mass tort claims will be referred by the Texas Liquidator to New York for handling. In addition, the Texas Liquidator may also refer other New York claims that may be eligible for coverage by the New York Property/Casualty Insurance Security Fund. Further, the Superintendent estimates that over one hundred property/casualty claims will be referred by the Texas Liquidator to New York for handling.


JOAN RIDDELL

Sworn to before me this
14th day of March, 2022


Notary Public

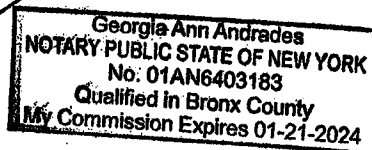


EXHIBIT A

Cause Number D-1-GV-03-004537

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
HIGHLANDS INSURANCE COMPANY	§	53RD JUDICIAL DISTRICT

**ORDER APPOINTING LIQUIDATOR
AND PERMANENT INJUNCTION**

On this day, the Court heard the *Application for Order of Liquidation* (Application) filed by Prime Tempus, Inc. as the Special Deputy Receiver (SDR) of Highlands Insurance Company (Highlands). The Application requests an order placing Highlands into liquidation pursuant to TEX. INS. CODE Chapter 443 (the Insurer Receivership Act), appointing the Texas Commissioner of Insurance (Commissioner) as Liquidator of Highlands (Liquidator). The Application also requests a Permanent Injunction pursuant to TEX. INS. CODE § 443.008.

In accordance with the *Amended Order of Reference to Master* entered on November 4, 2005 (Order of Reference), the Application was submitted to the Master appointed in this cause. The Master issued a recommendation pursuant to Rule 171 of the Texas Rules of Civil Procedure, which is incorporated herein, finding and recommending that:

- a. Further efforts to rehabilitate Highlands would be futile, and would substantially increase the risk of loss to its policyholders, creditors and to the general public;
- b. Highlands should be declared insolvent;
- c. Grounds exist to place Highlands in liquidation;
- d. Proper notice of the Application was given; and
- e. The Application should be granted in all respects.

Having considered the Application, the evidence submitted, and the recommendation of the Master, the Court accepts the Master's recommendation and grants the Application.

It is therefore ORDERED, ADJUDGED and DECREED as follows:

I. FINDINGS OF FACT

- 1.1 Further attempts to rehabilitate Highlands would be futile, and the continued operation of Highlands would be hazardous to policyholders, creditors, and the public, and would substantially increase the risk of loss to them.
- 1.2 Highlands is insolvent as defined in TEX. INS. CODE § 443.004(a)(13) as it does not have admitted assets at least equal to all its liabilities.
- 1.3 Notice of the Application was given to all persons required to be on the Certificate of Service in accordance with TEX. INS. CODE § 443.007 and the Order of Reference.

II. CONCLUSIONS OF LAW

- 2.1 This Court has jurisdiction over the parties and the subject matter of this action under TEX. INS. CODE § 443.005(c).
- 2.2 Grounds exist to place Highlands into liquidation.
- 2.3 An order of liquidation must be entered in accordance with TEX. INS. CODE § 443.058, and the Commissioner must be appointed as Liquidator of Highlands.
- 2.4 Pursuant to TEX. INS. CODE § 443.151(a), the Liquidator shall take possession and control of Highlands' Property, wherever located.
- 2.5 The Liquidator has all the powers formerly held by Highlands' directors, officers and managers, and the authority of such persons are suspended except as specifically permitted by the Liquidator or his designees.
- 2.6 It is necessary for this Court to issue a permanent injunction pursuant to TEX. INS. CODE § 443.008(a) to carry out the provisions of TEX. INS. CODE Chapter 443.
- 2.7 Pursuant to TEX. INS. CODE § 443.008(c), an automatic stay remains in effect with respect to actions against Highlands or its property, effective on the commencement of this proceeding. In accordance with TEX. INS. CODE § 443.008(f), the stay of actions against

Highlands is in effect for the duration of this proceeding, and the stay of actions against Highlands' property is in effect as long as the property belongs to the receivership estate.

III. APPOINTMENT OF LIQUIDATOR

The Commissioner is appointed as Liquidator of Highlands, and granted the following duties and powers:

- 3.1 The Liquidator has all powers and authority granted by the *Insurer Receivership Act* and all other powers and authority under applicable statutes and the common law of this State.
- 3.2 Pursuant to TEX. INS. CODE § 443.151(a), the Liquidator is vested by operation of law with title to all of Highlands' property as defined in TEX. INS. CODE § 443.004(a)(20) and records as described in TEX. INS. CODE § 443.017(a). Such property shall include property of any kind or nature, whether real, personal, or mixed, including but not limited to money, funds, cash, cash equivalents, stock, bonds, account deposits, money market or investment accounts, statutory deposits, special deposits, contents of safe deposit boxes, funds held in shared, escrow or trust accounts, retainages and retainers, letters of credit, real estate, fixtures, furniture, equipment, books, records, documents data, papers, insurance policies, claim files, attorney's files and work product, accountant's files and work product, and all other records of Highlands, in whatever medium or form maintained or whatever nature, intellectual property, computer software and systems, information technology, internet domain names, patents and intangible assets, whether owned individually, jointly, or severally, wherever located, and all rights, claims or causes of action belonging to Highlands, whether asserted or not, including but not limited to accounts receivable, notes, premiums, subrogation, insurance and reinsurance proceeds, rights to premiums and funds held on Highlands' behalf by its agents, and all licenses held by Highlands (collectively,

Highlands' Property). The Liquidator's title shall extend to Highlands' Property, regardless of the name in which such items are held, where such items are located or whether such items are in the possession, custody and control of a managing general agent, third-party administrator, management company, data processing company, software development, maintenance or servicing company, attorney, accountant, affiliate, subsidiary, or other representative of Highlands. The Liquidator is authorized to take control and possession of Highlands' Property, wherever located.

- 3.3 The Liquidator is authorized to enter into any contracts necessary to perform the Liquidator's duties, at his discretion, pursuant to TEX. INS. CODE § 443.154(a).
- 3.4 The Liquidator is authorized to supervise, suspend, terminate, or dismiss any or all managers, employees, or agents of Highlands, or retain such persons at his discretion, and compensate them as he deems necessary from the Highlands' funds.
- 3.5 The Liquidator has all of rights of Highlands or the Rehabilitator as the customer of a financial institution. The Liquidator is authorized to withdraw Highlands' Property from any banks, financial institutions and other depositories, agencies of any state or the federal government, or any other entities, and close such accounts at his discretion. The Liquidator is authorized to continue the operation of any accounts of Highlands or the Rehabilitator, including but not limited to accounts from which payments of claims under policies of insurance are issued, at his discretion.
- 3.6 The Liquidator is entitled to possession of any records related to Highlands held by Highlands' attorneys, accountants, managing general agents, third-party administrators, management companies, data processing companies, software development, maintenance

or servicing company, affiliates, subsidiaries, representatives or any other service providers under any agreements or other arrangements.

- 3.7 The Liquidator is authorized to file, prosecute, defend, or settle any action as he deems necessary, including any action to enforce the provisions of this Order.
- 3.8 The Liquidator may assume or reject any executory contract or unexpired lease to which Highlands is a party at his discretion pursuant to TEX. INS. CODE §443.013.
- 3.9 The Liquidator is authorized to exclude any person from any property owned, leased, or occupied by Highlands, at his discretion.
- 3.10 The Liquidator is authorized to receive, collect, control, open and review all mail addressed to or intended for Highlands, or arriving at Highlands' address.
- 3.11 Highlands and Highlands' agents shall be required to cooperate with the Liquidator and his designees pursuant to TEX. INS. CODE § 443.010.
- 3.12 The Liquidator is authorized to appoint special deputies and employ or contract with legal counsel and other personnel as he deems necessary under TEX. INS. CODE § 443.154(a). The SDR and any successor shall have all the rights and powers of the Liquidator, subject to any limitations imposed by the Liquidator. Pursuant to TEX. INS. CODE § 443.015, the Liquidator is authorized to set the compensation of the SDR or other persons as he deems necessary and pay for such services from Highlands' funds.
- 3.13 Pursuant to TEX. INS. CODE § 443.008(m), the Commissioner is not required to file a bond in connection with this proceeding, in his capacity as Liquidator or otherwise.
- 3.14 In the event a successor to the Commissioner is appointed, the successor shall become the Liquidator upon his or her appointment as Commissioner, and the former Commissioner shall be discharged as Liquidator as a matter of law.

- 3.15 The enumeration of the Liquidator's powers and authority in this Order shall not be construed as a limitation on the Liquidator to take any other action authorized by the *Insurer Receivership Act* or other applicable law that is not specified in this Order.

IV. PERMANENT INJUNCTION

The Clerk of this Court shall issue a Permanent Injunction against the persons and entities named below, with the following force and effect:

TO: Highlands and its agents, including but not limited to:

Highlands, its current and former officers, directors, underwriters, managers, and employees; owners, affiliates, and related entities; local recording agents, managing general agents, agents, third party administrators, representatives, associates, servants, adjusters, actuaries attorneys and accountants (including those acting in concert with them);

Financial institutions, including but not limited to:

Any and all banks, savings and loan associations; trust companies; credit unions; welfare trusts; or any other financial or depository institutions or brokerage in the possession of any of Highlands' property; and

All other parties, including but not limited to:

Creditors, claimants, insurers, intermediaries, attorneys, accountants, accounting firms, tax return preparation firms and all other persons, associations, corporations, or any other legal entities asserting claims or causes of action against Highlands, or in possession of any of Highlands' Property, and the United States Postmaster.

Each of you are hereby RESTRAINED and ENJOINED from taking any and all of the following actions:

- 4.1 Doing, operating, or conducting Highlands' business under any charter, certificate of authority, license, permit, power, or privilege belonging to or issued to Highlands, or exercising any direction, control, or influence over Highlands' business, except through the authority of the Liquidator or his designees;
- 4.2 Transacting any business of Highlands in any manner except through the authority of the Liquidator or his designees;

- 4.3 Wasting, disposing of, converting, dissipating, or concealing, in any manner, any of Highlands' Property;
- 4.4 Using, releasing, transferring, selling, assigning, canceling, hypothecating, withdrawing, allowing to be withdrawn, offsetting, asserting ownership of, concealing, in any manner, or removing from this Court's jurisdiction or from Highlands' places of business, any of Highlands' Property, or any other items purchased by Highlands, or any items into which such property has been transferred, deposited or placed, or any other items owned by Highlands, wherever located, except through the authority of the Liquidator or his designees;
- 4.5 Releasing, transferring, selling, assigning, or asserting ownership of, in any manner, any claims, accounts receivable, or causes of action belonging to Highlands, whether asserted or not, except through the authority of the Liquidator or his designees;
- 4.6 Doing anything, directly or indirectly, to prevent the Liquidator or his designees from gaining access to, acquiring, examining, or investigating any of Highlands' Property or any other property, books, documents, records, or other materials concerning Highlands' business, under whatever name they may be found;
- 4.7 Obstructing or interfering in any way with the conduct of this proceeding or any incidental investigation as prohibited by TEX. INS. CODE § 443.010(b);
- 4.8 Intervening in this proceeding for the purpose of obtaining a payment from the receivership estate of Highlands as prohibited by TEX. INS. CODE § 443.005(i);
- 4.9 Making any claim, charge or offset, or commencing or prosecuting any action, appeal, or arbitration, including administrative proceedings, or obtaining any preference, judgment, attachment, garnishment, or other lien, or making any levy against Highlands, Highlands' Property or any part thereof, or against the Liquidator, except as otherwise permitted by the *Insurer Receivership Act*.

IT IS FURTHER ORDERED that each of you shall make available and disclose to the Liquidator or his designees the nature, amount, and location of Highlands' Property, and immediately surrender all such property to the Liquidator or his designees. Highlands' attorneys, accountants, affiliates, managing general agents, third-party administrators, management companies, data processing companies, software developer, maintenance or servicing companies and any other service providers or representatives, and Highlands' owners, affiliates, and related entities, shall turn over all records related to Highlands to the Liquidator or his designees.

IT IS FURTHER ORDERED that Highlands, Highlands' agents, and those transacting Highlands' business must cooperate with the Liquidator or his designees as required by TEX. INS. CODE § 443.010(a).

IT IS FURTHER ORDERED that the United States Postmaster and any other delivery services shall deliver to the Liquidator any items addressed to or intended for Highlands.

V. STAY OF PROCEEDINGS

5.1 An automatic stay remains in effect with respect to actions against Highlands or its property pursuant to TEX. INS. CODE § 443.008(c). In accordance with TEX. INS. CODE § 443.008(f), such stay of actions against Highlands is in effect for the duration of this proceeding, and the stay of actions against Highlands' property is in effect for as long as the property belongs to the receivership estate.

VI. TERMINATION OF COVERAGE

6.1 In force reinsurance contracts by which Highlands assumed another insurer's insurance obligations are canceled upon the entry of this order under TEX. INS. CODE § 443.152(a).

6.2 Pursuant to TEX. INS. CODE § 443.152(b), any in force insurance policies, surety bonds or surety undertakings issued by Highlands continue in effect only until 30 days after the effective date of this order, unless otherwise terminated earlier.

VII. OTHER ORDERS

- 7.1 Pursuant to TEX. INS. CODE § 443.055, this Order constitutes a final judgment, provided that this Court shall retain jurisdiction to issue further orders pursuant to the *Insurer Receivership Act*. This Order shall continue in full force and effect until the entry of an order terminating liquidation under TEX. INS. CODE § 443.352. Pursuant to TEX. INS. CODE § 443.151(a), this proceeding is exempt from any dormancy requirements.
- 7.2 Claims against Highlands that have not been finally settled or determined in accordance with the *Agreed Permanent Injunction and Order Appointing Permanent Receiver*, the *Second Amended Plan of Rehabilitation*, or other order of this Court shall be handled pursuant to TEX. INS. CODE § 443.253 et seq.
- 7.3 In accordance with TEX. INS. CODE § 443.007(d), the Liquidator may provide notice of any application by first class mail, electronic mail, or facsimile transmission, at his discretion.
- 7.4 Anyone over the age of 18 who is not a party to nor interested in the outcome of this suit may serve all citations, writs, and notices in this cause.
- 7.5 The *Agreed Permanent Injunction and Order Appointing Permanent Receiver* entered on November 6, 2003 remains in effect until the effective date of this Order.
- 7.6 All of the foregoing is subject to further orders of this Court.

SIGNED at Austin, Travis County, Texas, on this 10/29/2021 day of _____, 2021.


DISTRICT JUDGE PRESIDING

PROPER NOTICE GIVEN.
NO OBJECTION FILED.
SUBMITTED

RECOMMENDED 
SIGNED ON 26 DAY OF Oct. 2021


TOM COLLINS, RECEIVERSHIP SPECIAL MASTER

DC Civil

BK08162 PG663

NO. D-1-GV-03-04537

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF

§

V.

§

TRAVIS COUNTY, TEXAS

§

HIGHLANDS INSURANCE COMPANY

§

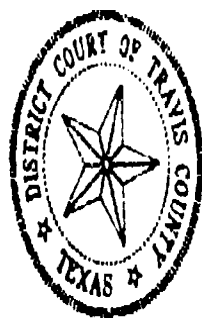
53rd JUDICIAL DISTRICT**ORDER APPROVING SECOND AMENDED PLAN OF REHABILITATION**Filed in The District Court
of Travis County, Texas

BP JUN 06 2008

At
Amalia Rodriguez-Mendoza Clerk

On May 12, 2008 came on for hearing the *Application to Approve First Amended Plan of Rehabilitation for Highlands Insurance Company in Receivership* (the "*Application*") filed by Prime Tempus, Inc. acting as Special Deputy Receiver for Highlands Insurance Company in Receivership ("*Highlands*"). The Application requested approval of Highlands' First Amended Plan of Rehabilitation pursuant to § 443.103 of the Texas Insurance Code. At the beginning of the hearing on the Application the Special Deputy Receiver orally amended section 4.4C of the First Amended Plan to reflect an agreement reached with one of the objecting parties. That amendment has subsequently been reduced to writing and placed in the Plan and the Plan has been restyled the Second Amended Plan of Rehabilitation ("*Second Amended Plan*"). Following the conclusion of the hearing on the Application, the Court entered its Findings of Fact and Conclusions of Law ("*Findings and Conclusions*"). Based on the Findings and Conclusions, it is

ORDERED that the Application is granted, the Second Amended Plan attached hereto is approved, and is effective and binding on all parties, claimants and creditors of Highlands. The Special Deputy Receiver is authorized to take all steps necessary and appropriate to carry out the Second Amended Plan as provided for therein. It is further



DC Civil

BK08162 PG664

ORDERED that the classification and treatment of claims and the claim resolution process set forth in the Second Amended Plan are approved, and the Special Deputy Receiver is authorized to process and pay claims as described in the Second Amended Plan. It is further


ORDERED that the provisions of the Second Amended Plan relating to a Late Filed Claims Bar Date are approved. It is further

ORDERED that this Order shall not be construed to change or limit the provisions of the Second Amended Plan. It is further

ORDERED that all objections to the Second Amended Plan (and its predecessor Original and First Amended Plans) that have not been withdrawn are hereby overruled. It is further

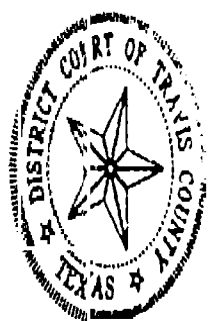
ORDERED that any successors of the Receiver or Special Deputy Receiver shall have all of the rights and powers granted under the Second Amended Plan.

SIGNED this 6th day of June, 2008.



THE HONORABLE JOHN K. DIETZ
JUDGE, 250th JUDICIAL DISTRICT COURT

2292664.5



DC Civil

BK08162 PG665

NO. D-1-GV-03-004537

THE STATE OF TEXAS

§

IN THE DISTRICT COURT

§

v.

§

TRAVIS COUNTY, TEXAS

§

HIGHLANDS INSURANCE COMPANY

§

53rd JUDICIAL DISTRICT

**SECOND AMENDED
REHABILITATION PLAN
FOR HIGHLANDS INSURANCE COMPANY IN RECEIVERSHIP**

Craig Koenig, President
Prime Tempus, Inc.
27310 Ranch Road 12
Dripping Springs, Texas 78620

George H. Tarpley
Cox Smith Matthews Incorporated
1201 Elm Street, Suite 3300
Dallas, Texas 75270

SPECIAL DEPUTY RECEIVER OF
HIGHLANDS INSURANCE COMPANY

Brian E. Riewe
Brian E. Riewe, P.C.
4408 Spicewood Springs Rd., Suite 101
Austin, Texas 78759

Amy Jeanne Welton
P.O. Box 1644
Dripping Springs, Texas 78620-1644

COUNSEL FOR SPECIAL DEPUTY
RECEIVER OF HIGHLANDS
COMPANY

Date: May 26, 2008

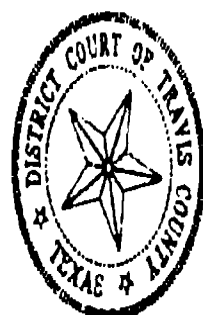


TABLE OF CONTENTS

ARTICLE I.

INTRODUCTION1

1.1 The Second Amended Plan.....1

1.2 Definitions.....2

1.3 Statutory Authority.....4

1.4 Purpose of the Plan5

1.5 Approval of the Plan/ Deadline for Objections.....6

ARTICLE II.

BACKGROUND7

2.1 Company History7

2.2 Highlands Insurance Coverages.....8

2.3 Overview of Highlands Insurance Company Receivership.....8

2.4 Resolution of Significant Claims.....10

2.5 Significant Asset Collections.....11

2.6 Cancellation of Bonds.....11

ARTICLE III.

FINANCIAL CONDITION OF THE ESTATE12

3.1 Summary of Ability of Estate to Pay Claims.....12

3.2 General Overview of Economic Cash Flow Model.....13

 A. Conceptual Overview.....14

 B. Analysis.....14

 C. Reliance on Actuarial Opinion.....17

 D. Significant Assumptions.....17

3.3 Economic Cash Flow Projections.....19

3.4 Subsidiary Assets.....19

3.5 Reserve Issues and Risks.....20

 A. Inherent Uncertainties in Reserve Analysis.....21

 B. Mass Tort Issues.....21

 C. Third-Party Risks.....23

 D. Custom Bond Exposures.....23

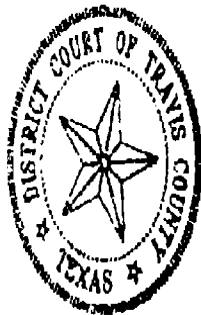
 E. Discounting Methodology.....24

ARTICLE IV.

CLASSIFICATION AND TREATMENT OF CLAIMS24

4.1 Secured and Special Deposit Claims.....24

 A. Definition of Secured Claims.....24



DC Civil

BK08162 PG667

B. Treatment of Secured Claims.....26

4.2 Administrative Claims.....26

4.3 Defense Costs.....27

4.4 Policy Claims.....27

A. Definition of Policy Claims.....27

B. Treatment of Workers Compensation Claims.....28

C. Treatment of Other Policy Claims.....28

4.5 Non-Policy Claims.....29

A. Definition of Non-Policy Claims.....29

B. Treatment of Non-Policy Claims.....30

4.6 Third-Party Claim Processing.....31

4.7 Automatic Disallowance of DeMinimis Claims (Under \$50).31

4.8 Treatment of Guaranty Association Claims and Interests.31

4.9 Set-off Rights.....31

ARTICLE V.

EXECUTORY CONTRACTS AND LEASES32

5.1 Assumption or Rejection of Executory Contracts and Leases.....32

5.2 Claims for Damages Arising from Rejection of Executory Contracts or
Leases.....32

ARTICLE VI.

CLAIM RESOLUTION PROCESS32

6.1 Proof of Claim Form.....32

6.2 Privacy/Disclosure Notice.....33

6.3 Address for Proofs of Claim.....33

6.4 Claims for which No Proof of Claim is Necessary/Deemed Filed.....34

6.5 Third-Party Claims /Waiver of Rights Against Insureds.....34

6.6 Claims of Codebtors.....35

6.7 Bar Dates for Claims.....35

A. General Claims Bar Date.....35

B. Executory Contract and Lease Claims.....35

C. Claims Arising from Avoided Transfers/Preferences.....35

D. Late Filed Claims Bar Date.....35

E. Final Claims Liquidation Date.....36

6.8 Claim Allowance.....36

A. Workers Compensation Claims.....36

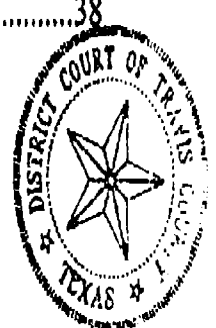
B. Claims Under Third-Party Administration.....36

C. All Other Claims.....36

D. Confidentiality.....38

ARTICLE VII.

MEANS OF IMPLEMENTING PLAN.....38



DC Civil

BK08162 PG668

7.1	Staffing.....	38
A.	Special Deputy Receiver Staff.....	38
B.	Highlands' Staff.....	39
7.2	Powers of the Special Deputy Receiver and the Receiver.....	40
7.3	Authority to Prosecute Collection and Avoidance Actions.....	41
7.4	Coordination with State Guaranty Associations.....	42
7.5	Pro Forma Budget for On-going Operations.....	42
7.6	Continuation of Reinsurance Agreements.....	43

ARTICLE VIII.

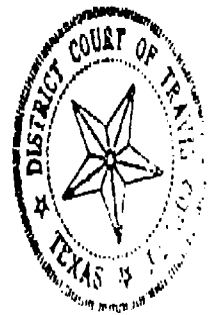
	LIQUIDATION ANALYSIS AND COMPARISON.....	44
8.1	Legal Requirements.....	44
8.2	Impact of Liquidation on Assets.....	45
8.3	Impact of Liquidation on Claims.....	46
8.4	Summary.....	48

ARTICLE IX.

	TERMINATION OF REHABILITATION.....	48
9.1	Sale or Transfer of Business.....	48
9.2	Conversion to Liquidation.....	48

ARTICLE X.

	GENERAL PROVISIONS.....	49
10.1	Continuation of Prior Receivership Orders.....	49
10.2	Plan is Exclusive Process for Filing, Resolving and Paying Claims.....	49
10.3	No Limitation on Supervising Court Jurisdiction Granted by Sec. 443.005.....	49
10.4	Texas Law Governs Interpretation and Implementation of Plan.....	50
10.5	Stay of Actions Against Estate.....	50
10.6	Limitations.....	50



DC Civil

BK08162 PG669

ARTICLE I.
INTRODUCTION

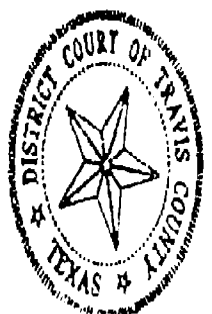
1.1 The Second Amended Plan.

This Second Amended Plan of Rehabilitation is filed by the Special Deputy Receiver for Highlands Insurance Company pursuant to TEX. INS. CODE §443.103. On July 24, 2006, a prior *Rehabilitation Plan for Highlands Insurance Company in Receivership and an Application for Approval of Rehabilitation Plan* were filed in this proceeding. The Application was referred to the Special Master appointed in this proceeding pursuant to Rule 171 of the Texas Rules of Civil Procedure. On April 18, 2007, the Special Master issued his *Memorandum Recommendation and Findings of Fact and Conclusions of Law (Proposed Plan of Rehabilitation)* recommending that the original plan not be approved. Subsequently, objections to the Special Master's recommendation were filed by various parties.

Thereafter, a First Amended Plan was filed to reflect changes that occurred since the filing of the original plan, and to address questions and issues that have been presented by the Special Master, the Receivership Court, and various interested parties. This Second Amended Plan differs from the First Amended Plan in Section 4.4C, which has been revised to provide that any suspension of payments described therein be limited to a maximum six-month period. The Second Amended Plan also reflects the re-codification of Chapter 21A of the Texas Insurance Code to Chapter 443 of the Texas Insurance Code.

The Special Deputy Receiver operates under the authority of the Commissioner of Insurance of the State of Texas, as Receiver of Highlands Insurance Company, and Chapter 443 of the Texas Insurance Code.

It is the judgment of the Receiver and of the Special Deputy Receiver that this amended Plan should be approved. Ultimately, the Receiver and the Special Deputy Receiver make this



DC Civil

BK08162 PG670

judgment as part of the overall efforts to promote the interests of the policyholders of Highlands, its creditors and the public compared to an immediate liquidation of the Highlands estate. As detailed throughout this Plan, this judgment is informed by:

- Over three years of operating history since the inception of the Highlands receivership that has repeatedly demonstrated the financial benefits of operating in rehabilitation;
- The existence of an experienced staff at Highlands with a track record of operating in an efficient manner, and which has developed and maintains a significant institutional knowledge of the claims and other issues critical to the operations of the estate now and into the future;
- The ability in rehabilitation to better coordinate and thus increase the efficiency of the payment of claims and collections of reinsurance;
- A claim reserve analysis and claim payout analysis performed by well qualified outside experts that suggests the ability of the Estate to fully pay estimated administrative costs and policyholder claims;
- Consideration of the alternative liquidation scenarios that could increase aggregate costs and, in significant ways, delay policy payments to large numbers of policyholders.

Particularly with the long term nature of the claims in this estate, estimates of the future are inherently uncertain, and the Receiver and Special Deputy Receiver have attempted in this Plan to highlight these uncertainties and risks. Yet, on the basis of the facts now known, they recommend this Plan in the exercise of their duties under the Insurer Receivership Act, *inter alia*, to protect the interests of policyholders, creditors and the public.

1.2 Definitions.

Unless otherwise expressly indicated in this Plan, the definitions contained in §443.004 of the Insurer Receivership Act shall apply herein. Additional definitions applicable to this Plan include:

- a) "Allowed" refers to the amount of a claim that has been allowed by the Special Deputy Receiver or the Receivership Court as provided in the Plan.



DC Civil

BK08162 PG671

- b) "Commissioner" refers to the Commissioner of Insurance for the State of Texas.
- c) "Estate" refers to the receivership estate of Highlands Insurance Company.
- d) "General Claims Bar Date" means March 30, 2007, a date set by prior order of the Receivership Court.
- e) "Guaranty Association" refers to a property and casualty Guaranty Association established to pay certain limited Policy Claims in the event of an insolvency or liquidation.
- f) "Highlands" refers to Highlands Insurance Company.
- g) "Insurer Receivership Act" refers to Chapter 443 of the Texas Insurance Code of 1951, and the codification of the Act into Chapter 443 of the Texas Insurance Code effective September 1, 2007. References to "§ 443. ____" throughout the Plan are to sections of the Act.
- h) "Plan" refers to this Amended Rehabilitation Plan for Highlands Insurance Company in Receivership.
- i) "Policy Claims" refers to claims under policies of insurance, including third-party claims, and is defined in § 443.301(b).
- j) "Receiver" refers to the Commissioner of Insurance for the State of Texas, in his capacity as Receiver of Highlands Insurance Company.
- k) "Receivership Court" refers to the 53rd Judicial District Court of Travis County, Texas.
- l) "Rehabilitation Order" refers to the Agreed Permanent Injunction and Order Appointing Receiver entered in the Receivership Proceeding on November 6, 2003.
- m) "Receivership Proceeding" refers to *The State of Texas v. Highlands Insurance Company*, Cause number D-1-GV-03-004537 in the 53rd Judicial District Court of Travis County, Texas.



DC Civil

BK08162 PG672

n) "Special Deputy Receiver" refers to Prime Tempus, Inc., in its capacity as Special Deputy Receiver of Highlands Insurance Company.

1.3 Statutory Authority.

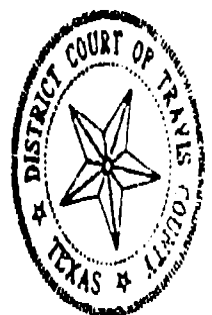
On September 1, 2005, Chapter 443 became effective in the Highlands receivership pursuant to §10(a) of Acts 2005, 79th Leg., ch. 995. In §443.103 of the Insurer Receivership Act, the Special Deputy Receiver was given express authority to propose a plan of rehabilitation to allow the receivership to be operated in a fashion that created more value for claimants than would a liquidation. §443.103 (c) provides that a plan must:

- (1) provide no less favorable treatment of a claim or class of claims than would occur in liquidation, unless the holder of a particular claim or interest agrees to a less favorable treatment of that particular claim or interest, except as provided by §443.103(e);
- (2) provide adequate means for the plan's implementation;
- (3) contain information concerning the financial condition of the insurer and the operation and effect of the plan, as far as is reasonably practicable in light of the nature and history of the insurer, the condition of the insurer's books and records, and the nature of the plan; and
- (4) provide for the disposition of the books, records, documents, and other information relevant to the duties and obligations covered by the plan.

Further, §443.103(d) provides that a plan may include any other provision not inconsistent with the Insurer Receivership Act, including, in pertinent part, the payment of distributions.

In addition to the other powers granted to the Receiver, §443.102 provides certain specific authority, as follows:

- a) Subsection (a) provides that the rehabilitator may appoint a Special Deputy Receiver, who serves at his pleasure, and has all of his powers granted under §443.102, unless specifically limited by the rehabilitator. In this proceeding,



DC Civil

BK08162 PG673

the Receiver has contracted with the Special Deputy Receiver to perform his duties as Receiver, and has specifically authorized the Special Deputy Receiver to file this Amended Plan.

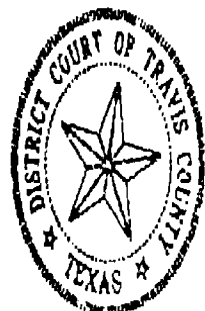
- b) Section 443.102 (b) provides that the Rehabilitator may take action as he deems necessary or appropriate to reform and revitalize the insurer, including canceling or transferring policies, and has all powers of the directors, officers, and managers of the insurer, and full power to deal with the property and business of the insurer.
- c) Section 443.102 (e) provides that the enumeration in section 443.102 of the powers and authority of the rehabilitator may not be construed as a limitation upon the rehabilitator.

1.4 Purpose of the Plan

The Plan provides for a continuation of the runoff of policy liabilities that was approved by the Texas Department of Insurance and initiated by Highlands prior to receivership. The Special Deputy Receiver is authorized to continue the runoff under §443.102 (b), which provides that the rehabilitator has all powers of the insurer's directors, officers, and managers, and the authority to deal with the property and business of the insurer. The Special Deputy Receiver has proposed this Plan in lieu of initiating a liquidation of Highlands because it believes that an orderly runoff of the Policy Claims of Highlands is more likely than a liquidation to result in a larger distribution of Estate assets to creditors and claimants.

In addition to an orderly runoff of Policy Claims, the Special Deputy Receiver proposes to continue the process for resolving certain Policy Claims through a "buy-back" process, which involves canceling and voiding of policies issued by Highlands with the Receivership Court's approval.

Further, it may be feasible to transfer all or some of Highlands business, such as its workers compensation policies, to other insurers. As Policy Claims against the Estate are



DC Civil

BK08162 PG674

resolved and/or mature, Highlands' liabilities and its financial condition will become more certain. During this process, the Special Deputy Receiver will continue to evaluate the feasibility of a sale of Highlands, or a transfer of portions of its business. In the event that the Special Deputy Receiver determines that a sale or transfer is in the best interests of the Estate, an application will be filed with the Receivership Court pursuant to § 443.102(b) of the Code.

The Plan provides for payment of Allowed amounts of Policy Claims and authorizes the Special Deputy Receiver to take other actions to preserve, protect and/or increase the assets of the Estate. With limited exceptions, claimants must have filed a proof of claim with the Special Deputy Receiver by March 30, 2007 to have their claims considered for payment. After the payment of Allowed administrative and Policy Claims, unsecured claimants with payment priorities lower than policyholders will receive funds, by class, until the funds are exhausted. This prioritization of claims will treat claimants no less favorably than they would be treated in the event of a liquidation of Highlands.

1.5 Approval of the Plan/ Deadline for Objections.

The Receivership Court has entered a scheduling order that sets October 8, 2007 at 9:00 a.m. as the date and time at which it will consider approval of the Plan. The scheduling order further provides that any supplemental objections to the Plan must be filed with the Receivership Court and served on the Special Deputy Receiver and its counsel on or before September 7, 2007. Service of objections on the Special Deputy Receiver is accomplished by e-mailing or hand-delivering them to the Special Deputy Receiver and its counsel at the following addresses:

Highlands Insurance Company in Receivership
Attention: Rehabilitation Plan Objections
27310 Ranch Road 12
Dripping Springs, TX 78620



DC Civil

BK08162 PG675

kjmilford@austin.rr.com

and to

George H. Tarpley
Cox Smith Matthews Incorporated
1201 Elm Street, Suite 3300
Dallas, TX 75270
gtarpley@coxsmith.com

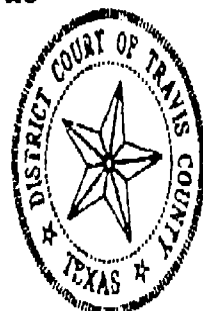
A complete copy of the scheduling order setting the Plan approval date and objection deadline, as well as all pleadings filed with the Receivership Court with respect to the receivership of Highlands, may be viewed on the Special Deputy Receiver's website www.sdrtx.com, and information specific to the process of approving this Plan and filing claims against the Estate may be found at www.highlandsrehabplan.com.

ARTICLE II. BACKGROUND

2.1 Company History

Highlands is a Texas domiciled property and casualty insurance company, and commenced business on January 1, 1958. At the time of receivership, Highlands was a composite resulting from the mergers of numerous other insurance companies. Highlands was licensed to transact business in all 50 states, the District of Columbia, Guam, and Puerto Rico. At various times, Highlands also had branch offices in Canada and London. Highlands ceased issuing new policies where allowed in December, 2001 and had been operating in a runoff mode, with the Commissioner's approval, until and continuing into the receivership. Highlands began to request authority from each department of insurance to cease renewing policies in December, 2001, and has received all regulatory approvals for non-renewals in every state. Highlands, as the successor entity to numerous other insurance companies,¹ is responsible for the liabilities,

¹ Effective September 30, 2002, Aberdeen Insurance Company, Highlands Casualty Company, Highlands P&C



DC Civil

BK08162 PG676

including policies issued, of these predecessor insurance companies. Prior to the receivership, three sister insurance companies of Highlands were placed into liquidation.² At the time of receivership, Highlands was the 100% shareholder of three other insurance companies, one of which is in receivership.³

2.2 Highlands Insurance Coverages

Highlands' business involves commercial, specialty, marine, and personal lines. Commercial lines consisted of workers' compensation, general liability, and commercial automobile coverage, focused on the east coast and Texas. From the early 1970s to the mid 1980s, Highlands issued a book of excess and umbrella policies to large companies ("Umbrella Book"). Specialty lines included accounts such as heavy construction, manufacturing, and engineering, which required retro-rated or high deductible products. Marine operations were focused in the Gulf of Mexico, the west coast and Texas. Personal lines operations concentrated on homeowner multiple peril, fire, and automobile coverages on the east coast. Highlands also issued fidelity, surety, and bail bonds. The commercial lines, Umbrella Book, and the allied lines coverage consisted of occurrence liability policies, which cover claims that may be asserted long after the expiration of the policy period. At the time of receivership, Highlands had no active policies, but did have certain fidelity, surety and bail bonds in force.

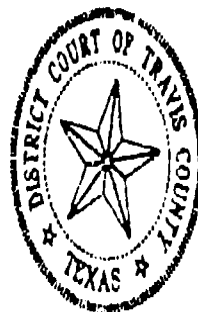
2.3 Overview of Highlands Insurance Company Receivership.

These receivership proceedings were initiated on November 6, 2003, when the

Insurance Company and Highlands Underwriters Insurance Company were merged into Highlands. Effective May 30, 2003, Northwestern National Casualty Company was merged into Highlands.

² LMI was placed in liquidation in Ohio in May 2000. Pacific National Insurance Company, and its wholly owned subsidiary, Pacific Automobile Insurance Company, were placed in liquidation in California.

³ One Highlands subsidiary, State Capital Insurance Company, was placed into liquidation in North Carolina in June 2004. Highlands currently directs the remaining subsidiaries, American Professionals Insurance Company and Statesman Insurance Company, both domiciled in Indiana.

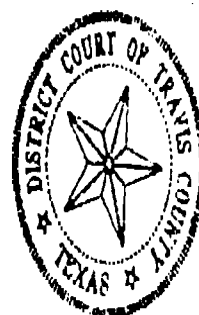


DC Civil

BK08162 PG677

Receivership Court entered the Rehabilitation Order placing Highlands into receivership for the purpose of rehabilitation. The Rehabilitation Order authorized the Receiver to pay approved policyholder claims under policies of insurance and continue the payment of workers compensation benefits, based upon a finding that sufficient assets existed to pay known accrued policyholder claims under policies of insurance. The order further provided that claims not approved by the Receiver were not to be paid, and that no payments be made on claims of lower priority unless the Receiver determined that sufficient assets existed to pay such claims and payment was approved by the Receivership Court. As the Rehabilitation Order made no finding of insolvency or order of liquidation, Guaranty Associations did not become obligated to pay claims of Highlands as a result of the order. The Rehabilitation Order constitutes a final judgment and continues in full force and effect. The Receiver currently acts in the capacity of rehabilitator in the Highlands' Estate.

As Receiver of Highlands, the Commissioner designated Prime Tempus, Inc. to act as the Special Deputy Receiver of Highlands. Pursuant to the authority given the Special Deputy Receiver under the Texas Insurance Code and the orders of the Receivership Court, the Special Deputy Receiver has continued to pay approved Policy Claims. Thus far in the Estate, almost 6,000 claims have been resolved and closed. As of the inception of the receivership, there were approximately 4,400 open workers compensation claims. In July, 2007, there are 1,616 open workers compensation claims. Aggregate payments totaling \$96 million have been made for workers compensation indemnity, medical, and expense claims since the inception of the receivership. Approved claims under policies of insurance other than workers compensation claims also continue to be negotiated and paid during rehabilitation. At the inception of the receivership, there were approximately 9,600 open claims, excluding workers compensation



DC Civil

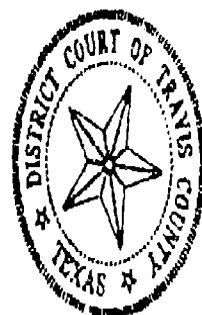
BK08162 PG678

claims. In July, 2007, there are 6,512 open claims excluding workers compensation claims. Indemnity and expense payments, excluding workers compensation claims, totaling approximately \$265 million have been made since receivership.

2.4 Resolution of Significant Claims

The Special Deputy Receiver has been in place operating the Estate for over three and one-half years. During this period, the Special Deputy Receiver has been successful in negotiating and implementing numerous settlements and policy buy-backs with policyholders and others that have materially improved the Estate's financial position. The success of this settlement and buy-back process is one of the factors which, in the judgment of the Special Deputy Receiver and the Receiver, warrant a continuation of the rehabilitation process through the Plan. At the inception of the receivership in late-2003, a large number of disputed claims and claims litigation was pending. Some of the key cases and claims that have been resolved since the inception of the receivership are listed below. Details as to each of these matters and the resulting settlements can be found in the application to approve the settlements and/or in the quarterly status reports filed by the Special Deputy Receiver with the Receivership Court, each of which is incorporated herein by reference. These settlements include:

- Fuller-Austin - \$57.4 million judgment, plus costs and interest, was settled with a payment to Fuller-Austin of \$30.5 million.
- Capital Bonding - claim by New Jersey Attorney General for \$77 million settled for \$3.1 million, and a subordinated general creditor claim of \$19,839,910.
- CBC Immigration Bonds - claim by Immigration and Naturalization Service settled for discounted amount of \$2.4 million, and a Class 3 claim for \$9,920,000.
- A.P. Boyd - claim by the State of New Jersey for approximately \$3.1 million settled with a payment of \$500,000.
- Other claims that were settled with discounted payments by the Estate



DC Civil

BK08162 PG679

include Avondale Shipyards (claims for asbestos exposure); Bergstrom Paper/Glatfelter (Pollution claims); the State of California (environmental claim); UNOCAL; Coltec; Hercules Chemical; and Kaufman and Broad.

2.5 Significant Asset Collections.

In addition to a history of successfully resolving Policy Claims, the Estate has been able to make significant collections of assets in other matters. The success of this collection process is another of the factors which, in the judgment of the Special Deputy Receiver and the Receiver, warrants a continuation of the rehabilitation process through the Plan.

Details of these collections are contained in the application to settle the matters listed below and/or in the quarterly status reports filed by the Special Deputy Receiver with the Receivership Court, each of which is incorporated herein by reference.

- Highlands Insurance Company v. General Reinsurance Corporation (Avondale, Temple Inland, Big Three)
- Highlands Insurance Company v. General Reinsurance Company (California Construction Defect Claims)
- Highlands Insurance Company v. Olympic Limousine, Inc.; Hobbs Group, LLC et al.
- Highlands Insurance Company v. American National Insurance Company and Reinsurance Management Group, LLC
- Highlands Insurance Company v. Cunningham Lindsey Claims Management, Inc.
- Highlands v. American Reinsurance Company (Avondale).

2.6 Cancellation of Bonds

In its Modified Order Approving Application for Order Confirming Cancellation of Bonds (Capital Bonding Corporation Program), entered on September 17, 2004, and in its Order Approving Application for Order Confirming Cancellation of Bonds (Amwest Bond Program), entered on January 13, 2005, the Receivership Court confirmed that the bonds for these



DC Civil

BK08162 PG680

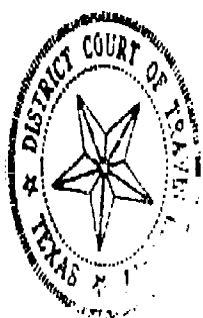
programs, except for the Immigration and Naturalization Service appearance bonds, were cancelled upon the entry of the Rehabilitation Order on November 6, 2003. There are still categories of bonds whose cancellations have not been confirmed by this Court.

ARTICLE III.
FINANCIAL CONDITION OF THE ESTATE

3.1 Summary of Ability of Estate to Pay Claims.

An important factor in the judgment of the Receiver and Special Deputy Receiver to support the Plan is an evaluation of whether, over the long-life of some of the environmental mass tort claims ("EMT") in this Estate, policyholder claims can be fully paid. The Special Deputy Receiver has directed Estate professionals to conduct studies of both the assets and the liabilities owed by Highlands to policyholders. The Special Deputy Receiver requested the Estate professionals to make a reserve analysis for an initial ten year "*pro forma*" period. Based on this analysis undertaken by third-party actuaries and other Estate professionals, the Special Deputy Receiver believes that the current assets, reinsurance and other receivables and earnings thereon collected and to be collected over the ten year *pro forma* period, when matched with administrative and policyholder claims estimated to become due and allowed over the same ten year period, are sufficient to pay in full the Allowed amount of the Policy Claims. This conclusion is an estimate based on existing facts, and it may change as the case develops over time.

The Estate may continue to operate after the *pro forma* period has expired, and operate and pay claims until the collectible assets have been fully paid to policyholders. The assets remaining after the payment of administrative and Policy Claims will be distributed in accordance with the priority classes as set forth in this Plan. Every claim in each class shall be paid in full or adequate funds retained for their payment, before payments are made on claims of



DC Civil

BK08162 PG681

lower classes, until the assets are fully exhausted.

3.2 General Overview of Economic Cash Flow Model.

To assist in determining whether a rehabilitation plan was preferable for creditors over a liquidation plan, the Special Deputy Receiver, aided by the Estate professionals, analyzed the likely payout pattern for Policy Claims during and after the ten year *pro forma* period. This analysis is significantly complicated because Policy Claims, particularly under the environmental mass tort occurrence policies, will continue to arise over many years. Similarly, the reinsurance that is available to pay such losses will also be collectible over many years. To properly match assets as they are collected with liabilities as they arise over many years into the future, the Special Deputy Receiver developed an economic cash flow model.

The economic cash flow model ("ECFM") was developed as a tool to assist in the determination of whether or not the Estate would be able to continue to pay its administrative obligations and Policy Claims while remaining in rehabilitation and whether or not the overall economic position of the Estate would improve or deteriorate while operating in rehabilitation. The ECFM reflects projected cash flow for 27 years (from 2006 through 2032) which is the time period that corresponds to the payout projection provided by Towers Perrin Tillinghast ("Tillinghast"). At that time the ECFM assumes the completion of the rehabilitation activities and a closure of the Estate. The analysis generally focuses on the "*pro forma*" ten year period from 2006 through 2015.

The ECFM is not the only determining factor in assessing rehabilitation; however, it is a key component in the decision process (comparing this Plan to liquidation) as it projects the overall cash and investment position of the Estate as compared to the estimated administrative and Policy Claim obligations of the Estate over time.



DC Civil

BK08162 PG682

A. Conceptual Overview.

The ECFM projects estimated inflows and outflows on an annual basis through December 31, 2032. The ECFM projects over such a long period of time primarily due to the long tail nature of the Estates' most significant claim obligations, environmental mass tort and workers compensation claims. The ECFM uses a ten year measurement period (ending December 31, 2015) to measure projected estimated inflows and outflows on a nominal basis and then measures all remaining amounts after 2015 on a present value basis.

A significant caution about the proper use of the ECFM is necessary. The ECFM, as noted above, is a tool to assist the Receiver and Special Deputy Receiver to evaluate, on the basis of today's facts and judgments, whether to move forward with rehabilitation or liquidation. The key conclusion from the ECFM is that there exists a rational and reasonable basis on which to determine, today, that continuation of the rehabilitation proceeding is the better means of protecting policyholders, creditors and the public. The ECFM should not be used to predict the exact timing of claim payouts, amounts or collections of reinsurance. Rather, it should be used as one of the factors in the exercise of the Receiver/Special Deputy Receiver's judgment on how best to proceed at this point. The ECFM suggests to the Receiver/Special Deputy Receiver that the rehabilitation process should continue, as opposed to liquidation. Indeed, provided that the Estate can cover the costs of administration and of policyholder claims now and into the future, it is not critical to the decision process today to require actual results in future years to match the numerical pro-forma estimates made in the ECFM. That is to say, the ECFM could be materially off in any given year or series of years yet still confirms that the Estate can fully pay administrative and policyholder claims.

B. Analysis.

The ECFM begins with known balances at December 31, 2005 and projects on a nominal



DC Civil

BK08162 PG683

basis estimated net cash flow over 10 and 27 year periods, to the periods ending December 31, 2015 and 2032, respectively. The estimated net cash flow includes the conversion to cash over these periods of the known assets at December 31, 2005 plus the estimated investment income cash flow from the Estate's average annual balance of cash and investments based upon an estimated annual yield of 5%. The use of 5% is conservative because the actual return on investment by the Estate from January 1, 2004 through June 30, 2007 has been 5.87%, i.e., the factor used to estimate future investment returns is 15% lower than the actual rate of return achieved by the Estate over the past three and one-half years. In addition, the ECFM also projects the timing at which obligations will arise and become allowed over the same 10 and 27 year periods. Assets (as they accrue and are converted to cash) are then matched with obligations (as they arise). At the end of the 10 year period, the ECFM indicates that the Estate will have paid all administrative and policyholder claims as they come due on a timely basis, and that at December 31, 2015 there will still remain approximately \$163.5 million dollars of cash and investments in the Estate with which to pay future expenses and claims.

The ECFM further calculates, as of December 31, 2015, the estimated total remaining collectible cash inflows and the estimated total remaining cash outflows for the remaining ECFM period (an additional 17 years ending December 31, 2032) on both a nominal and present value basis (using a 5.00% discount rate). These calculations indicate that the Estate will be able to continue to meet, on a timely basis, its administrative and policyholder obligations beyond the 10 year period and that amounts may be available for subsequent class distributions.

Substantial data on the financial performance of the Estate is contained in the quarterly status reports and financial statements filed by the Special Deputy Receiver with the Receivership Court. These filings are available on the Special Deputy Receiver website



DC Civil

BK08162 PG684

www.sdrtx.com. These reports, among other things, provide updates to the Estate's financial performance subsequent to the December 31, 2005 starting point of the ECFM. While these reports do not attempt to project payouts and collections over time as does the ECFM, they nonetheless provide useful information as of various points in time (usually quarterly) through the three plus years of the Estate operations. All of these reports filed since the inception of the Receivership are incorporated herein by reference as additional information about the Estate.

The ECFM contained herein does not utilize any so-called "credit risk adjustment" even though Tillinghast advised the Estate, and the Special Deputy Receiver and its claim professionals believe, that the use of such an adjustment was and remains proper as part of the reserve analysis. While the elimination of the credit risk adjustment increases the gross amount of potential liabilities payable with respect to the EMT claims, this increase is substantially offset by an increase in potential reinsurance recoveries.

To ensure that the estimate of reinsurance recoveries is not inflated, the Estate has reduced the gross potential amount of such recoveries by approximately 21% percent, reflecting an estimate of non-recoverable reinsurance. This percentage is composed of an already recognized reserve for reinsurance of \$44 million, a further reduction of \$32 million based on an analysis of reinsurance companies that have become unable to pay on their reinsurance obligations, and a further \$40 million adjustment added to achieve a more conservative result. By way of comparison, since the inception of the Estate in 2003, the reinsurance billed to date has been collected at a rate of approximately 82%. This collection rate is expected to increase as currently billed reinsurance is collected and inquiries or disputed items by reinsurance companies on existing billings are resolved. The ECFM nonetheless assumes a collection rate of less than 80% to achieve a conservative result. In fact, the ECFM estimated collection rate on reinsurance



DC Civil

BK08162 PG685

could be materially lower and the model would still support the judgment, today, to continue in rehabilitation.

If the ECFM were run using the actual rate of return achieved in the three and one-half years of the Estate's operations and the actual rate of collection on reinsurance and no credit risk adjustment, the amount above the level necessary to pay estimated administrative costs, defense costs and Policy Claims in full would increase compared to the more conservative estimates contained in the ECFM in the Plan.

C. Reliance on Actuarial Opinion.

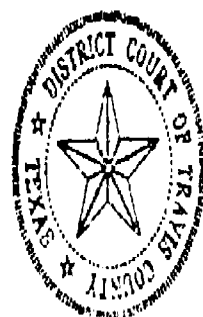
The analysis relies on the actuarial analysis and opinion by Tillinghast with regard to the following:

- Gross and net loss reserve balances as of December 31, 2004.
- These reserve balances were rolled forward to December 31, 2005 by the Estate in-house actuaries and the roll forward was reviewed by Tillinghast. The December 31, 2005 gross loss reserve balance was used to calculate the total "estimated future claim and LAE payout -Policy Claim or higher priority" line in the ECFM. The difference between the gross and net reserves was used to calculate the total "reinsurance recoverable on future claim and LAE payments," line item.
- Loss claim and LAE payout patterns from December 31, 2005 forward.
- The payout patterns provided by Tillinghast are by year, through 2031 and are then in total for years 2032 and after. These patterns are used in the ECFM to show the estimated payment timing of the "estimated future claim and LAE payout -Policy Claim or higher priority" line item.

D. Significant Assumptions.

As with any projection, the ECFM uses numerous assumptions. Significant assumptions used in the ECFM are as follows:

- Investment income is based on an annual estimated yield of 5.00%, based upon the average annual balance of cash and investments.



DC Civil

BK08162 PG686

Historical yield from January 1, 2004 through June 30, 2007 was 5.87%.

- Reinsurance recoverable on future claim and LAE payments line item titled "Unpaid Loss Recoverable Collected" in the ECFM is based upon the difference between the gross reserves and net reserves provided by Tillinghast and includes a \$32 million reduction for potentially uncollectible reinsurance amounts. In addition to the \$32 million dollar reserve another reserve for potentially uncollectible reinsurance amount has added in the amount of \$40 million (for a total of approximately \$72 million) for potential offsets and/or additional uncollectible amounts.
- In addition to the above, the net paid loss recoverable includes an additional \$44 million reduction for potentially uncollectible amounts on the loss paid recoverables that existed at December 31, 2005.
- The timing for the reinsurance recoverable on future claim and LAE payments is generally lagged over a 2 year period from the time the potentially recoverable claim is paid.

The ECFM has not utilized any potential cash flow improving devices that may be available to the Estate, such as:

- Potential positive effect on "estimated future claim and LAE payout – Policy Claim or higher priority" as a result of the Bar Date contemplated in the Plan
- Potential positive effect on "estimated future claim and LAE payout – Policy Claim or higher priority" as a result of the liquidated claim filing deadline contemplated in the Plan
- Potential positive effect on "estimated future claim and LAE payout – Policy Claim or higher priority" as a result of applying Guaranty Association limits to approved claims.



DC Civil

BK08162 PG687

3.3 Economic Cash Flow Projections.

Summary Information - Economic Cash Flow Model -
Inclusive of All Estimated Administrative and Policyholder Claim Liabilities

000'S OMITTED			
	Estimated Total Collectible Inflows, on a Nominal Basis, at 12-31-05	Estimated Collectible Inflows, on a Nominal Basis, For the 10 Year Period Ending 12-31-15	Estimated Total Remaining Collectible Inflows, on a Present Value Basis (5.00%), at 12-31-15
CASH AND INVESTMENTS	\$289,400	\$269,400	
PROJECTED INFLOWS - nominal basis			
Retrospective premiums recoverable, billed and receivable	\$38,500	\$27,500	\$4,000
Reinsurance recoverable net of allowance for uncollectible amounts of \$ 43,752	31,900	31,900	
Reinsurance recoverable on future claim and LAE payments, net of allowance for uncollectible amounts of \$ 72,500	400,400	218,900	71,900
Estimated total future investment income, based upon average annual cash and investment balance and an estimated annual yield of 5.00%	219,800	99,600	163,400
Other assets	5,300	5,300	
Total Cash and Investments and Projected Inflows	<u>\$963,300</u>	<u>\$652,600</u>	<u>\$239,300</u>
	Estimated Total Outflows, on a Nominal Basis, at 12-31-05	Estimated Outflows, on a Nominal Basis, For the 10 Year Period Ending 12-31-15	Estimated Total Remaining Outflows, on a Present Value Basis (5.00%), at 12-31-15
PROJECTED OUTFLOWS - nominal basis			
Estimated future claim and LAE payout – Policy Claim or higher priority	\$666,300	404,700	\$113,100
Estimated operating expenses (including ULAE)	118,300	83,300	14,800
Other liabilities	1,100	1,100	
Total Projected Outflows	<u>\$785,700</u>	<u>\$489,100</u>	<u>\$127,900</u>
Excess (Deficit) - nominal basis	<u>\$177,600</u>	<u>\$163,500</u>	
Excess (Deficit) - present value basis			<u>\$111,400</u>

3.4 Subsidiary Assets.

Highlands is the 100% owner/parent of three subsidiaries:



DC Civil

BK08162 PG688

- a) Statesman Insurance Company (SIC) - an Indiana domiciled insurance company
- b) American Professionals Insurance Company (APIC) - an Indiana domiciled insurance company
- c) State Capital Insurance Company (SCIC) - a North Carolina domiciled insurance company. SCIC is currently in receivership in North Carolina, and as such its shares are not included as assets of Highlands and not shown below. The Special Deputy Receiver has filed a proof of claim in the SCIC receivership, but does not anticipate receiving a distribution thereon.

The Special Deputy Receiver believes that the SIC and APIC subsidiaries have an aggregate net value to the Estate in excess of \$5 million. The Special Deputy Receiver is in the process of winding up the affairs of these subsidiaries so that this net value can be realized by the Estate.

3.5 Reserve Issues and Risks.

The evaluation of claim reserves was made by Tillinghast with assistance and input from the Special Deputy Receiver and the Highlands staff. In particular, Tillinghast performed a "ground up" reserve review to assist in the evaluation of the EMT liabilities. As with any projection of future events, inherent uncertainties and risks exist that actual results may vary materially from the projections.

As part of its efforts to ensure that the operation of the Estate under the approved Plan does not erode the benefits to claimants to the point where a liquidation is required, the Special Deputy Receiver will regularly meet with and report to the Receiver and will file periodic status reports with the Receivership Court. At any time after approval of this Plan, if the Special Deputy Receiver or the Receiver concludes that a liquidation is required, the Special Deputy Receiver will promptly notify the Receivership Court and the State Guaranty Associations and, pursuant to the Insurer Receivership Act, will file an application to convert the Estate to a



DC Civil

BK08162 PG689

liquidation.

A. Inherent Uncertainties in Reserve Analysis.

The financial model set forth in this Plan assumes an estimated set of payments to claimants. Many claimants, including in particular claimants under commercial general liability policies who assert claims for coverage for toxic tort and environmental claims, have asserted or may assert claims which far exceed the claims estimates made by the Special Deputy Receiver's claims staff in developing the financial model. One risk in the implementation of this Plan is that if the allowed amount of such claims exceeds the estimates, including actuarial projections, then the Plan may not succeed and liquidation will follow.

Estimates of loss and loss expense liabilities are subject to large potential variations from estimations. This is due to the fact that the ultimate disposition of claims is subject to the outcome of events that have not yet occurred. Examples of these events include the ability or inability of the Special Deputy Receiver to successfully negotiate acceptable settlements of large claims, jury decisions, court interpretations, legislative changes, public attitudes, and social/economic conditions such as inflation. Any estimate of future costs is subject to the inherent limitation of attempting to predict the aggregate course of future events. It should therefore be expected that the actual emergence of losses and loss adjustment expense will vary, perhaps materially, from any estimate. Thus, no assurance can be given that Highlands' actual loss and loss adjustment expense liabilities will not ultimately exceed the estimates made by Tillinghast.

B. Mass Tort Issues.

The environmental and mass tort claims continue to be one of the most significant risks in the receivership. Highlands (including the entities previously merged into it) have thousands of occurrence policies that cover or are alleged to cover asbestos and pollution related risks.



DC Civil

BK08162 PG690

These policies date back to the 1960's. Highlands' environmental and mass tort claims unit continues to process various latent claims and suits submitted by its policyholders. These insureds seek coverage from Highlands under primary, umbrella, and excess insurance policies, most of which expired decades ago. Because such liabilities are inherently difficult to quantify, they represent an important contingency for the Plan.

The environmental and mass torts claims faced by the Estate are produced by umbrella and excess policies issued from the early 1970's through the mid 1980's and primary CGL policies issued from the 1960's through 2001 when Highlands ceased the issuance of new policies and renewals. Highlands typically issued successive policies to many large, sophisticated commercial risks. These commercial risks are concentrated in the oil, chemical, and manufacturing sectors.

While the policies contain industry standard exclusions, most have no asbestos exclusion. Many of the policies do contain a pollution exclusion of one type or another. Highlands has experienced a steady flow of asbestos, toxic tort, and pollution claims from these policies. Until the entry of the Rehabilitation Order, Highlands was also embroiled in numerous declaratory judgment actions seeking coverage.

Estimation of ultimate liabilities for environmental and mass tort claims is unusually difficult due to outstanding issues in the underlying matters, such as determination of ultimate damages and apportionment of such damages to the various defendants or financially responsible parties. There are also substantial issues as to whether coverage exists. These include preliminary issues, such as verifying the relationship of the entity seeking coverage to the entity that purchased the given Highlands policies. Other issues include comparison of factual information to the definition of "occurrence," analysis of policy exclusions, the applicable



DC Civil

BK08162 PG691

"trigger of coverage" and proper allocation of any covered loss and expense to the appropriate policies. Therefore, any estimation of these liabilities is subject to significantly greater than normal variation and uncertainty.

C. Third-Party Risks.

At various times in its history, policies were written on Highlands paper that it later transferred to third parties. Third parties also initially managed and administered other policies. While the policies remained for the most part on Highland's paper, the responsibility to administer the policies, collect and retain premiums, and process and pay claims resides with the third-party. Such transfers were made to, *inter alia*, Highlands (UK) Ltd. and Cravens, Dargen & Company, Pacific Coast, Northwest National Insurance Company ("NNIC"), and possibly others.

Highlands also manages and administers claims on behalf of other third parties such as Sunbelt, NNIC and Qatar. These claims continue to be paid as necessary to protect claimants until a final determination can be made regarding the ultimate liability for these policies.

It is a risk that claims might be made against Highlands by policyholders if the third parties ultimately proved unable or unwilling to perform their contractual obligations to Highlands and the policyholders.

D. Custom Bond Exposures.

From April 1, 2000 until October 24, 2000, Global Solutions issued federal custom bonds on Highlands paper. Over five thousand bonds were written under this program. The U.S. Customs Service has filed claims against the Estate in excess of \$96 million attributable to these bonds. These claims are for anti-dumping duties imposed on foreign shippers and importers. The foreign entities covered by these bonds are either bankrupt or cannot be located. U.S. Customs now seeks payment from Highlands under the bonds. The Special Deputy Receiver has



DC Civil

BK08162 PG692

begun negotiations with the U.S. Customs Service to substantially reduce and resolve the claim.

E. Discounting Methodology.

Because reserve projections are made on a discounted (present value) basis, the uncertainty inherent to these estimates is further increased. That is, besides the risk of underestimating or overestimating the total amount of losses, there is the additional risk that the timing of the future payment of liabilities, the expected return on investments or the lag on reinsurance recoveries will differ materially from the assumptions underlying the projections made in the ECFM. Actual loss and loss adjustment expense payments could occur materially more or less rapidly than projected due to random variations and the timing of large claim payments. Also, the yield on assets supporting the liabilities may be affected by capital gains or losses, or significant changes in economic conditions.

ARTICLE IV.

CLASSIFICATION AND TREATMENT OF CLAIMS

4.1 Secured and Special Deposit Claims.

A. Definition of Secured Claims

A "secured claim" is defined by § 443.003(26). The following secured claims and special deposit claims exist against the Estate. The listing of any such claim below shall not limit the right or ability of the Special Deputy Receiver to object to all or any portion of such claim or its secured status. Subject to the foregoing, the secured claims are:

(1) Secured Claimant Virginia Surety.

The claim of Virginia Surety arises from agreements between Highlands and Virginia Surety for Quota Share reinsurance and certain policies with cut-through endorsements. A trust account has been established to provide security for the claimant. The balance in the trust account as of July 31, 2007 was \$4,986,432. The liabilities of the trust are estimated to be



DC Civil

BK08162 PG693

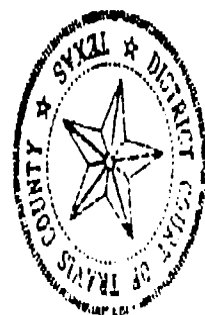
\$159,901.

(2) Secured Claimant Everest Re.

Highlands Insurance Company assumed the risk of the Bollinger Club Program from Everest Reinsurance Company in 1999. The Trust Agreement names Highlands as the Grantor and Everest Re and Everest National as the beneficiaries. Highlands transferred funds into the account to secure its obligations under a variety of reinsurance agreements. The obligations include losses and expense paid by the Beneficiary, but not recovered from Grantor, reserves for losses reported and IBNR (Incurred But Not Reported expense and loss) and reserves for unearned premium. Claims processing is handled by Highlands and made through a Highlands bank account. Everest Reinsurance then reimburses Highlands for the initial cash outlay of these claims. On a periodic basis, Everest prepares a bill for Highlands outlining the risk and expense for the assumed business. Funds from the trust account are used to pay the bills presented by Everest once approved by the Highlands reinsurance department. The claim of Everest RE is secured by a trust account which as of July 31, 2007 has a balance of \$4,180,226. The liabilities of the trust are estimated to be \$274,691.

(3) PMA Insurance Company.

PMA Insurance Company ("PMA") was a reinsurer for Highlands on the Bollinger Program. The trust account was established to protect PMA's risk on this program for policies issued on Highlands paper. This reinsurance has subsequently been commuted and discussions are being held with PMA regarding the release of the collateral. The claim of PMA Insurance Company is secured by a trust account which as of July 31, 2007 had a balance of \$2,337,687. The liabilities of the trust are estimated to be \$299,670.



DC Civil

BK08162 PG694

(4) Special Deposit Claims.

Before it was placed in receivership, Highlands made special deposits with several states and governmental entities as required by the state's insurance regulatory laws ("Special Deposits"). The Special Deputy Receiver is in the process of requesting releases of the Special Deposits and resolving any remaining Special Deposit claims.

B. Treatment of Secured Claims.

Allowed amounts of secured claims shall be treated in accordance with the Insurer Receivership Act §443.260 and pursuant to the trust agreements in effect with respect to such claims. Any value of the security held by such claimant in excess of its Allowed claim shall forthwith be returned to the Estate. If a deficiency exists or may exist on the Allowed secured claim after crediting the value of the security therefore, the claimant must have filed a proof of claim for such deficiency or estimated deficiency as an unsecured claim by the General Claims Bar Date.

Special Deposit claims shall be paid from the special deposit in the ordinary course of the agreements creating the special deposits and the applicable insurance regulatory laws. If the claimant believes that any deficiency exists or is likely to exist after application of the Special Deposit, such claimant must have filed a proof of claim by the General Claims Bar Date.

4.2 Administrative Claims.

Costs of administration include all administrative costs and expenses of the Estate that are expressly approved or ratified by the Special Deputy Receiver, including the actual and necessary costs of preserving or recovering the property of the Estate. These costs and expenses would be classified as Class 1 in a liquidation proceeding.

Costs and expenses of administration shall be paid on an ongoing basis upon the approval



DC Civil

BK08162 PG695

of the Special Deputy Receiver and Receiver pursuant to §443.015, the Rehabilitation Order and the Order Approving Application for Approval of Fees and Expenses entered December 16, 2005. This is the same treatment that would be accorded to the Special Deputy Receiver's expenses in liquidation under §443.301(a).

4.3 Defense Costs

The Special Deputy Receiver may continue to provide a defense for claims against policyholders pursuant to the terms of the policy, including posting *supersedeas* deposits/bonds if in the judgment of the Special Deputy Receiver it is advisable to do so. The Special Deputy receiver shall reserve the right to seek to stay such actions pursuant to §443.008 of the Code.

4.4 Policy Claims

A. Definition of Policy Claims

"Policy Claims" as used in this Plan are claims covered under policies of insurance, including third-party claims and are defined in § 443.301(b). Policy Claims include both claims that would be covered by Guaranty Associations and those Policy Claims and portions thereof that are not covered by any Guaranty Association. Bond claims are excluded from Policy Claims to the extent provided by the Insurer Receivership Act. Policy Claims are classified as Class 2 claims in a liquidation proceeding. Both the Insurer Receivership Act and most state guaranty acts contain specific provisions to ensure the continued payment of claims under workers compensation policies. Because of these distinctions, the following descriptions shall be used in the Plan:

Claims for Worker's Compensation Benefits - Benefits payable under workers compensation policies. In a liquidation proceeding these claims are typically payable in full by Guaranty Associations, which have a Class 2 claim for the amount paid. In a liquidation, the liquidator has authority to continue the payment of workers' compensation claims pursuant to



DC Civil

BK08162 PG696

§443.302 (d) of the Code.

Other Policy Claims – Policy Claims not including workers compensation benefits. In a liquidation proceeding, certain of these claims are payable by state Guaranty Associations, subject to certain limitations, such as “caps” on the total amount payable and other important exclusions. Because of the limits and exclusions, significant Policy Claims or portions thereof in the Highlands’ Estate, are not likely to be payable by a Guaranty Association. In liquidation, a Guaranty Association has a Class 2 claim for the amounts that it pays to claimants, and the claimant generally has a Class 2 claim for any allowed policy claim that is not payable by a Guaranty Association.

B. Treatment of Workers Compensation Claims

Claims for allowable worker’s compensation benefits shall be payable in full during the course of the rehabilitation proceeding. This is the same treatment that such claims would receive in liquidation.

C. Treatment of Other Policy Claims

Policy Claims shall be payable in full in the Allowed amounts during the course of the rehabilitation proceeding, except as otherwise provided herein. If the cash assets of the Estate are subsequently determined by the Special Deputy Receiver to be insufficient to pay the Allowed amount of Policy Claims in full at the time due (but ultimately can be paid in full), the Estate shall pay at least the amount that in the judgment of the Special Deputy Receiver would be paid in liquidation pursuant to a protocol that will be submitted by the Special Deputy Receiver under § 443.007 at that time. The protocol shall provide that any suspension of payments shall not exceed six months. The Estate will make subsequent distributions on the unpaid Allowed amount of the Policy Claims on a pro rata basis until paid in full. Any amounts payable on settlements approved by the Court would be payable as provided in the order



DC Civil

BK08162 PG697

approving the settlement. No indemnity claim under a policy of insurance may be Allowed for an amount in excess of the applicable policy limits.

4.5 Non-Policy Claims

A. Definition of Non-Policy Claims

Claims that are not Policy Claims are subordinated to Policy Claims in a liquidation.

These claims include the following:

Federal Government Claims - Claims of the federal government, to the extent they are not Policy Claims. These claims are not covered by state Guaranty Associations, and would be classified as Class 3 in a liquidation proceeding.

Employee Priority Wage Claims - Claims due employees for services or benefits to the extent they do not exceed \$5,000 or two months salary, whichever is lesser, and represent payment for services performed within one year before the entry of the receivership order. These claims are not covered by state Guaranty Associations, and would be classified as Class 4 in a liquidation proceeding.

Remaining Unsecured Claims / Reinsurance Obligations - Claims under reinsurance contracts and other general creditor claims, including unsecured claims not included in the categories listed above. These claims are not covered by Guaranty Associations, and would be classified as Class 5 in a liquidation proceeding.

Remaining Local and State Government Claims - Claims including certain state or local government claims not specifically classified elsewhere and claims of certain types of attorneys fees. These claims are not covered by Guaranty Associations, and would be classified as Class 6 in a liquidation proceeding.

Penalty and Forfeiture Claims - Claims including certain state and local governmental penalty and forfeiture claims. These claims are not covered by Guaranty Associations, and



DC Civil

BK08162 PG698

would be classified as Class 7 in a liquidation proceeding.

Late Filed Claims - Claims filed after the claims filing deadline. These claims would be classified as Class 8 in a liquidation proceeding, except to the extent that the claim is payable by a Guaranty Associations. Many guaranty acts exclude the payment of claims filed after the claims filing deadline.

Surplus and Capital Note Contribution Claims - Claims including surplus notes, capital notes or contributions or similar obligations, and certain premium refunds. These claims are not covered by Guaranty Associations, and would be classified as Class 9 in a liquidation proceeding.

Interest - Claims including interest on Allowed Claims. These claims are not covered by Guaranty Associations, and would be classified as Class 10 in a liquidation proceeding.

Equity - Claims including shareholders and other equity claims. These claims are not covered by Guaranty Associations, and would be classified as Class 11 in a liquidation proceeding.

B. Treatment of Non-Policy Claims.

Distributions will be made on claims that are not Policy Claims only if all Policy Claims are paid in full, or adequate funds are reserved for their full payment or as necessary to preserve, protect and/or increase the assets of the Estate. In the event that funds are generally available to non-Policy Claims, the Special Deputy Receiver will file an application with the Court to make distribution thereon, and such claims will be paid in the same order of priority as provided in §443.301(c) through (k). All claims within each such class will be paid substantially the same percentage.

The Special Deputy Receiver shall have no obligation to incur costs to provide or pay for a defense made on any non-Policy Claims during the administration of this Plan unless and until



DC Civil

BK08162 PG699

the Special Deputy Receiver determines that a distribution to such classes is likely. If Highlands is obligated to provide a defense prior to such a determination, the cost of doing so shall instead be borne by the claimant and added to its claim herein.

4.6 Third-Party Claim Processing

Certain third parties are currently processing and paying claims under various contractual arrangements with Highlands, such as for example, reinsurance contracts. The processing and payment of such claims will continue under the existing agreements.

4.7 Automatic Disallowance of DeMinimis Claims (Under \$50).

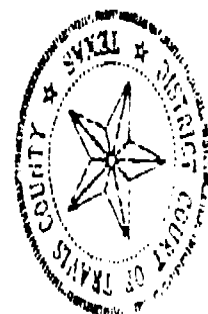
Claims in any class, except administrative claims and worker's compensation benefits, that are Allowed for \$50 or less, are automatically disallowed and shall not be paid by the Special Deputy Receiver. This is consistent with the process for disallowing claims under § 443.253(h) of the Code.

4.8 Treatment of Guaranty Association Claims and Interests.

As Guaranty Associations will have no obligations for the duration of rehabilitation, there will be no claims by Guaranty Associations under the Amended Plan. In event of liquidation, Guaranty Associations shall be entitled to file claims under § 443.251 of the Code, and nothing in this Plan shall limit these rights. Claims by the Guaranty Associations are not subject to the General Claims Bar Dates described below.

4.9 Set-off Rights.

In connection with the payment of Allowed claims by the Special Deputy Receiver, the Estate shall set off all mutual debts or credits on such Allowed claim, and only the balance shall be paid by the Estate. Any net receivable to the Estate following the setoff shall be paid promptly by the party owing the net receivable. Claimant shall not be allowed a setoff except to



DC Civil

BK08162 PG700

the extent allowed by §443.209 of the Insurer Receivership Act. Except as provided in section 7.6, all claimants asserting a setoff are required to file a proof of claim.

ARTICLE V.
EXECUTORY CONTRACTS AND LEASES

5.1 Assumption or Rejection of Executory Contracts and Leases.

After notice and hearing before the Receivership Court, the Special Deputy Receiver may assume or reject any executory contract or lease to which Highlands or its subsidiaries are parties at any time during the course of the receivership.

5.2 Claims for Damages Arising from Rejection of Executory Contracts or Leases.

If a party to a contract or lease that is rejected or to be rejected under this Plan believes that the rejection gives rise to a claim payable by the Estate, the party shall file a proof of claim on or before sixty days after the date of rejection containing, *inter alia*, information showing the basis for and calculation of the damage claim, per the requirements of Article VI, below.

ARTICLE VI.
CLAIM RESOLUTION PROCESS

6.1 Proof of Claim Form.

Claims to be paid pursuant to the Plan, except for administrative claims, must be supported by a timely filed or otherwise allowed proof of claim that complies with §443.252, and which includes without limitation a statement signed by the claimant that gives the particulars of the claim, the amount and any security for the claim, and the name and address of the claimant or its counsel. The proof of claim amount shall be net of all payments thereon and shall state that the sum claimed is justly owing and that no setoff, counterclaim, or defense to the claim exists. Documentation supporting the claim shall be described in detail in the proof of claim or attached.



DC Civil

BK08162 PG701

If not attached, documents to support the claim shall be promptly provided to the Special Deputy Receiver within thirty days of request or the claim may be disallowed. Notice to Highlands of the existence of a claim does not constitute the filing of a proof of claim, and does not satisfy the requirements under this section. Detailed information about how to file a claim will be available at www.highlandsrehabplan.com. This website will include the forms and instructions needed to file a claim.

The Special Deputy Receiver shall retain the rights given in the Insurer Receivership Act to file claims in the name of claimants and to process such claims.

6.2 Privacy/Disclosure Notice.

By submitting a proof of claim, the claimant understands that some or all of the information on the claim or the attachments will be used in evaluating the claim and may become publicly available. By submitting a proof of claim, claimant authorizes Highlands Insurance Company and the Special Deputy Receiver, and their affiliates, representatives and agents to disclose, discuss and/or release orally or in writing information contained in the proof of claim form and its attachments to the extent deemed necessary or desirable by the Special Deputy Receiver to evaluate, allow or object to such claim.

If a claimant has already submitted a proof of claim form AND DOES NOT AGREE to the privacy/disclosure notice policy set forth above, the claimant must withdraw the claimant's proof of claim by affirmatively contacting the Special Deputy Receiver and requesting withdrawal of the proof of claim in writing.

6.3 Address for Proofs of Claim.

Proof of claims, together with supporting documents, shall be mailed to the Special Deputy Receiver or faxed to the Special Deputy Receiver's dedicated claim fax number 609-



DC Civil

BK08162 PG702

671-6008. The mailing address is:

Highlands Insurance Company
Attn: Operations
P.O. Box 6013
Lawrenceville, NJ 08648-0013

Claims are considered served on the Special Deputy Receiver, if properly addressed and prepaid:

- a) on the date postmarked, if mailed using the United States postal service; or
- b) on the date faxed to 609-671-6008.

6.4 Claims for which No Proof of Claim is Necessary/Deemed Filed.

The Special Deputy Receiver shall deem as having been timely filed with it claims made prior to or after the approval of this Plan under applicable statutory benefit workers compensation policies. Claimants under such policies shall not need to file a separate proof of claim.

Additionally, proof of claims filed with the Special Deputy Receiver before the March 30, 2007 General Bar Date need not be refiled. The Special Deputy Receiver will treat such proof of claims as if they had been filed pursuant to this Plan. Those claims already processed and paid are deemed Allowed under this Plan.

6.5 Third-Party Claims /Waiver of Rights Against Insureds.

If a party who has a claim against an insured policyholder files a proof of claim in the Estate pursuant to this Plan, the third-party claimant waives any right to pursue the personal assets of the insured to the extent that Highlands provides policy limits or coverage under the policy.



DC Civil

BK08162 PG703

6.6 Claims of Codebtors.

If a creditor does not timely file a proof of the creditor's claim, an entity that is liable to the creditor together with the insurer, or that has secured the creditor, may file a proof of the claim in the manner described in §443.259.

6.7 Bar Dates for Claims.

Except for claims by Guaranty Associations, all proofs of claim by any claimant must be served on the Special Deputy Receiver by the following deadlines ("**Bar Dates**"):

A. General Claims Bar Date.

Except for the claims described below in subparts B through D, the deadline by which proofs of claim must have been served on the Special Deputy Receiver was March 30, 2007. Claims served after this deadline shall be treated as Class Eight Late Claims, unless one of the exceptions below applies.

B. Executory Contract and Lease Claims.

Claims for damages arising from the rejection or anticipated future rejection of any executory contract or lease must be served on the Special Deputy Receiver on or before the sixty days after rejection of the contract or lease.

C. Claims Arising from Avoided Transfers/Preferences.

Claims arising from any successful avoidance action for preference, fraudulent transfers, lien avoidance or otherwise, must be served on the Special Deputy Receiver within forty-five days of the date of the order which creates the avoidance.

D. Late Filed Claims Bar Date.

If a claimant establishes to the satisfaction of the Special Deputy Receiver or the Receivership Court that the claimant (i) did not know of the General Claims Bar Date and had not received notice thereof, (ii) filed a proof of claim by the earlier of (a) March 31, 2009 or (b) ninety days after first learning of the General Claims Bar Date, and (iii) payment of the claim will not prejudice the orderly



DC Civil

BK08162 PG704

administration of the Estate, then the claim shall be processed and paid to the extent allowable consistent with other similarly classified claims.

E. Final Claims Liquidation Date.

At such time as the Special Deputy Receiver believes that the administration of the Estate warrants, it may apply to the court to fix a final claims liquidation and bar date by which any remaining claim must be filed, whether or not liquidated, mature or contingent. The application shall further describe the process for estimating and paying at present value any remaining contingent or unmatured claims, or for disallowing such claims as allowed by the Insurer Receivership Act.

6.8 Claim Allowance.

With respect to claims that are likely to be paid, in whole or in part, the Special Deputy Receiver shall utilize the following procedures:

A. Workers Compensation Claims.

Claims under statutory benefit workers compensation programs will be administered and paid pursuant to applicable statutory guidelines and procedures.

B. Claims Under Third-Party Administration.

Certain third parties are currently processing and paying claims pursuant to contractual relationships, such as reinsurance agreements, with Highlands. The processing and payment of such claims will continue under the existing agreements.

C. All Other Claims.

- a) The Special Deputy Receiver shall review the proofs of claim filed in accordance with this Plan, and may classify, allow, disallow or compromise the claim, in whole or in part. Allowance of a claim as filed or with modification consented to by the claimant may be authorized by the Special Deputy Receiver without specific court approval except that the Special Deputy Receiver shall seek court approval if the claim payment amount equals or exceeds \$1 million dollars. The Special Deputy Receiver may seek court approval of its action on a claim if, in the Special Deputy Receiver's discretion, it is deemed appropriate or



DC Civil

BK08162 PG705

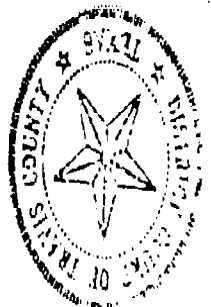
necessary. All of the foregoing is subject to section 7.6 hereof.

- b) If the Special Deputy Receiver objects to a claim, it shall notify the claimant and the claimant's attorney of the substance of the objection. No later than the 45th day after the mailing of the notice to claimant of the Special Deputy Receiver's recommendation, the claimant may serve on the Special Deputy Receiver written objections to the recommendation. The objection must clearly set out all facts and the legal basis, if any, for the objection and the reasons why the claims should be Allowed at a different amount or in a different priority class.

Objections must be served on the Special Deputy Receiver at the following address:

Highlands Insurance Co. In Receivership
Attn: Claim Objections
27310 Ranch Road 12
Dripping Springs, TX 78620

- c) If no timely objection is filed by the claimant, the Special Deputy Receiver's recommendation is final and the claim may be processed and, if applicable, paid without further court order.
- d) If an objection is timely filed and the Special Deputy Receiver and the claimant are unable to resolve the objection, the objection will be resolved by the Receivership Court per procedures and on a timetable to be set by the court, after application for a hearing by the Special Deputy Receiver.
- e) The decision of the Receivership Court under subparagraph (d) above is deemed a final judgment for purposes of appeal.
- f) A claim is considered "Allowed" under this Plan if:
- i) The Special Deputy Receiver has allowed the claim under subparagraph (a), and no objection is timely filed, or
 - ii) The Receivership Court has allowed the claim under subparagraph (d) pursuant to a final and non-appealable order.



DC Civil

BK08162 PG706

D. Confidentiality.

If the Special Deputy Receiver determines that information concerning the resolution of a claim or category of claims requires confidentiality, it may take such steps as are prudent to maintain confidentiality.

ARTICLE VII.
MEANS OF IMPLEMENTING PLAN

7.1 Staffing.**A. Special Deputy Receiver Staff.**

The Special Deputy Receiver is Prime Tempus, Inc. ("Tempus") which has provided services to the Texas Department of Insurance for over 14 years in sixteen Texas insurance receiverships. Tempus and/or its President, Craig A. Koenig have been appointed Special Deputy Receiver for eight of these receivership. Mr. Koenig is primarily responsible for the administration of the receivership Estate. Mr. Koenig has over twenty years of experience in the administration and liquidation of insolvent entities, including oversight of ten asset management contracts with assets located in over 40 states totaling over \$4 billion with federal agencies such as the Federal Deposit Insurance Corporation, Resolution Trust Corporation, Federal Asset Disposition Association and Freddie Mac. Mr. Koenig also managed and liquidated a \$300,000,000 portfolio of assets consisting of bankrupt partnership loans and commercial real estate located across the United States for Archon Group, Inc.

Tempus has retained subcontractors to assist in specialized areas of the Estate. These subcontractors include four individuals who have themselves served as special deputy receivers for Texas receiverships; three law firms that previously served concurrently as counsel for special deputy receivers on 63 receivership estates, including the largest multi-state P & C receivership in the State of Texas; one law firm that has national bankruptcy experience; an



DC Civil

BK08162 PG707

accounting firm that previously provided accounting services on the largest P & C receivership in the history of Texas; a reinsurance consulting firm whose principal previously provided reinsurance consulting services and handled retrospectively rated premium collections for the largest three P & C receiverships in Texas; and a claims processing company that is currently the largest single service provider to the Texas Property and Casualty Insurance Guaranty Association.

B. Highlands' Staff.

An important component of the Special Deputy Receiver's administration plan for this receivership has been the utilization of Highlands' existing employees. Highlands' offices are located in Ewing Township, New Jersey and Houston, Texas. The company's records storage facility is located in New Berlin, Wisconsin. Highlands currently employs 77 employees at these locations. These employees perform key services such as claims administration, reinsurance accounting and collection, actuarial consulting, information technology, accounting and finance and human resources.

Highlands had 160 employees when the Special Deputy Receiver was appointed. Since the Special Deputy Receiver's appointment, a reduction in work force of 83 employees has occurred. The reduction in the total number of receivership employees is a net result of resignations, terminations and new hiring of receivership staff. The receivership has been able to rehire experienced staff members previously terminated by Highlands prior to the Special Deputy Receiver's appointment. This net reduction in number of employees has lowered monthly salary expenses by \$486,002, or \$5,832,019 on an annual basis. As of August 1, 2007, Highlands had a total of 77 employees (29 are assigned to the claim department, 13 to actuarial/reinsurance, 5 to accounting/finance, 12 to information services and 18 to operations/administrative support) and an annual payroll for these employees of approximately



DC Civil

BK08162 PG708

\$5,450,000.

Other operational costs are being closely analyzed by the Special Deputy Receiver and receivership employees. Lease expenses have historically represented substantial operational cost to the company. The New Jersey office previously occupied 41,098 square feet of space with monthly rent of \$76,065.55. The Special Deputy Receiver and key receivership employees negotiated a reduction in office space to approximately 9,415 rentable square feet (a reduction of 31,683 square feet from existing space) with monthly rent of \$17,545. The lease commenced May 30, 2006 and has resulted in annual savings to the receivership in excess of \$702,000.

7.2 Powers of the Special Deputy Receiver and the Receiver

The Receiver shall retain under this Plan and have all of the rights, powers and defenses, and in discharging those rights shall be subject to the duties, of a Receiver under the Insurer Receivership Act to recover, liquidate, otherwise deal with and protect property of the Estate, regardless whether such rights, powers and defenses are enumerated in this Plan. The Special Deputy Receiver is authorized to exercise the powers of the Receiver, including the powers given pursuant to this Plan, subject to its contract with the Receiver.

Nothing in this Plan shall limit the authority or rights granted to either the Receiver or the Special Deputy Receiver pursuant to applicable Texas law including the Insurer Receivership Act, the Rehabilitation Order, or any order previously entered by the Receivership Court. Pursuant to this Plan, the Receiver retains the title to all of Highlands' property, contracts, and rights of action, wherever located. Nothing in this Plan shall preclude the maintenance of any appropriate action held by the Estate, and the approval of this Plan by the Receivership Court preserves for the benefit of the Estate all rights and powers to bring any and all such actions.

This Plan does not limit the Special Deputy Receiver's pursuit of collections or claims to



DC Civil

BK08162 PG709

those matters which are already in litigation, and the Special Deputy Receiver shall retain the right to bring any appropriate claim, including, but not limited to:

- a) claims against officers, directors, auditors and corporate insiders and affiliates;
- b) claims against reinsurers;
- c) claims against insureds for retrospective premium;
- d) claims on bonds from responsible parties, and claims against bond collateral;
- e) claims against persons liable on contracts to Highlands;
- f) claims for the return of any assets of Highlands held by third parties;
- g) claims under the avoidance and preference provisions of the Code;
- h) claims against responsible parties and insurers for subrogation;
- i) claims against agents for commission balances owed; and
- j) other claims of Highlands.

Nothing in this Plan shall preclude the maintenance of any appropriate action held by the Estate, and the approval of this Plan by the Receivership Court preserves for the benefit of the Estate all rights and powers to bring any and all such actions.

7.3 Authority to Prosecute Collection and Avoidance Actions.

In addition to the powers that are specifically applicable in a rehabilitation proceeding, the Insurer Receivership Act gives the Receiver expansive powers to compel turnover of property of the Estate, recover preferences (as defined in §204 thereof), avoid fraudulent transfers (Id. at §205), avoid liens (Id. at §206) and generally recover, collect and liquidate property of the Estate. Nothing in this Plan shall limit or in any way restrict the Special Deputy Receiver's exercise of such powers. Specifically, but not by way of limitation, any transferee who received property or liens of Highlands in the preference or fraudulent transfer periods defined by the Insurer Receivership Act is hereby put on notice that such transfers may be subject to avoidance by the Special Deputy Receiver.

Unless limited by §443.009, actions by the Special Deputy Receiver to enforce rights of



DC Civil

BK08162 PG710

the Estate under Subchapter E of the Insurer Receivership Act may be brought at anytime during the course of the receivership, and defenses such as limitations, laches, *res judicata*, collateral estoppel and similar affirmative defenses shall not apply to the extent such defenses did not exist as of the commencement of the receivership; provided, however, that nothing in this Plan shall limit or otherwise effect a reinsurer's contractual or statutory rights and defenses, or such rights and defenses otherwise available to a reinsurer at law or in equity, arising at any time during this Receivership.

7.4 Coordination with State Guaranty Associations.

During the receivership the Special Deputy Receiver has been in regular contact with the various State Guaranty Associations to discuss the status of the Estate. These Guaranty Associations have signed confidentiality agreements to allow them access to Estate information. Uniform Data Standards downloads are provided quarterly to the National Conference of Insurance Guaranty Funds ("NCIGF") to allow Guaranty Association to review the claims data contained in the Highlands' system. The Special Deputy Receiver has met periodically with representatives of the NCIGF to discuss the Estate and its progress. These meetings are anticipated to continue on a semi-annual basis. The meetings and the data exchanged therein are confidential and nothing in this plan shall operate to limit the confidentiality of the Estate's relationship with the Guaranty Associations.

7.5 Pro Forma Budget for On-going Operations.

Attached as Exhibit "A" is a *pro forma* budget prepared by the Special Deputy Receiver providing its best estimate of the costs of operating the Estate after approval of the Plan. This budget is based on actual operating costs to date as well as projections prepared by or for the Special Deputy Receiver of future operating costs. This budget is an estimate only, and actual



DC Civil

BK08162 PG711

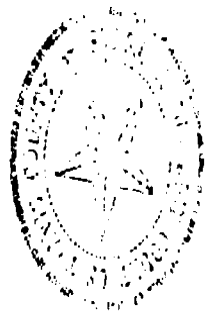
operating costs may be less than or greater than the projection based on numerous factors, including the frequency and extent of litigation on claims or over reinsurance, the timing of receipt of proofs of claims and the extent of variance between those claims and the Estate's projections, the staffing needs and the costs of operations that are still years in the future.

7.6 Continuation of Reinsurance Agreements.

Highlands is a party to various agreements pursuant to which third parties provide reinsurance for policy obligations owed by Highlands (the "Reinsurance Agreements"). The Reinsurance Agreements include, but are not limited to, quota share reinsurance contracts with Lloyd's Underwriters, New England Reinsurance Corporation, Markel International Insurance Company Limited f/k/a Terra Nova Insurance Company Limited, and AXA Reinsurance Company (the "Quota Share Reinsurers"). The Reinsurance Agreements also include, but are not limited to, excess of loss reinsurance contracts entered into both for the benefit of Highlands and for the benefit of its Quota Share Reinsurers ("Common Account Contracts").

In connection with certain of the Reinsurance Agreements, Highlands has entered into, and the Receivership Court has authorized, agreements on specific matters involving without limitation Bergstrom Paper Company, Inc., Colt Industries, Inc. and Fuller-Austin Insulation Company, that address, among other things, receivables under various excess of loss reinsurance contracts (collectively, the "Funding Agreements").

Nothing in this Plan shall be used to interpret, modify, expand or limit any of the substantive or procedural rights existing under the Reinsurance Agreements or the Funding Agreements, but the Special Deputy Receiver shall retain the right to assert that any setoff taken under such agreements violates § 443.209 of the Insurer Receivership Act and should be disallowed. Nothing in this Plan precludes Highlands or the Receiver from entering into future



DC Civil

BK08162 PG712

funding agreements substantially in the form of those Funding Agreements previously authorized by the Receivership Court.

Parties to the Reinsurance Agreements and Funding Agreements shall not be obligated to file proofs of claim in connection with claims arising from the ordinary course of operations under such agreements. Notwithstanding the foregoing, a proof of claim shall be required for (a) any claim that a deficiency exists for any secured claim; (b) any claim for setoff that does not arise in the ordinary course of operations under a Reinsurance Agreement or Funding Agreement, or that is not authorized by § 443.209 of the Insurer Receivership Act, and (c) any claim that has not yet been liquidated and paid by the time, if any, set by the court for a final claims liquidation bar date. Parties to agreements pursuant to which the Estate is obligated to act as reinsurer for the benefit of others must file proofs of claim on such agreements.

The Estate shall have no claim under any Reinsurance Agreement or Funding Agreement to any property, deposit or fund that is not property of the Estate. Claim recoveries received by Highlands, or any party acting on behalf of Highlands or the Receiver, under the Common Account Contracts shall be apportioned and distributed according to the respective interests and liabilities of Highlands and its reinsurers under the Reinsurance Agreements. Amounts collected pursuant to the Common Account Contracts for the benefit of Highlands' reinsurers do not constitute and shall not be considered assets of the Estate. Each of the Quota Share Reinsurers and Highlands retains the right to effectuate recoveries under the Common Account Contracts for its own respective account.

ARTICLE VIII.

LIQUIDATION ANALYSIS AND COMPARISON

8.1 Legal Requirements

Pursuant to §443.103 of the Insurer Receivership Act, a rehabilitation plan must provide



DC Civil

BK08162 PG713

claimants with "no less favorable treatment of a claim or class of claims than would occur in liquidation." This accords with constitutional due process in insurance company insolvencies, which requires that claimants be treated no worse than in a liquidation. *Neblett v. Carpenter*, 305 U.S. 297, 59 S.Ct. 355 (1938).

The Special Deputy Receiver respectfully submits that the Plan satisfies the constitutional and statutory requirements. As set forth in Article III, the Economic Cash Flow Model indicates that Highlands, operating in rehabilitation, will be able to pay one hundred percent of the Allowed amount of Policy Claims as they come due and are allowed throughout the ten year period of the model. In addition, the Special Deputy Receiver believes that sufficient reserves will exist in the years after the ten year *pro forma* period to continue to fully pay these claims as they come due. The Special Deputy Receiver believes that if Highlands were placed in liquidation, it would impede the collection of assets, increase costs, and ultimately delay and reduce the distribution of assets to claimants.

8.2 Impact of Liquidation on Assets

A liquidation of Highlands would likely reduce the assets available to pay claims because of decreased asset collections, and increased expenses to the Estate.

In rehabilitation, claims paid by the Estate are reported to the reinsurer for payment. In liquidation, claims are referred by the Estate to the various Guaranty Associations, which then file reports with the Estate after claims are paid. This information is then reported to the reinsurer by the Estate. These additional steps can impede the payment of reinsurance proceeds, as well as any related audits.

Liquidation triggers Guaranty Associations' responsibilities to review and pay only "covered claims" under insurance policies. As many of Highlands' Policy Claims will exceed



DC Civil

BK08162 PG714

the Guaranty Associations' payment limitations or otherwise be excluded because they do not meet the definition of "covered claims," the Special Deputy Receiver will remain obligated to process many Policy Claims or components of such claims that are not covered by Guaranty Associations. While the Guaranty Association limitations vary, they can include limits on the total amount payable, residency requirements, non-duplication of recovery exclusions, requirements to exhaust other insurance, and net worth exclusions. Any portion of a Policy Claim that is not covered by a Guaranty Association would be processed by the liquidation Estate under the provisions of §443.301 through §443.304, and distributions would be made upon approval by the Court. Therefore, many claims will have to be reviewed by both the Estate and a Guaranty Association. There would be additional costs resulting from handling the claim twice. Both the Special Deputy Receiver's and Guaranty Associations' costs would ultimately be borne by the Estate, as the Guaranty Associations would have a claim against the Estate for its costs. In comparison, rehabilitation would permit the adjudication of claims by the Estate in a single, uniform process, and avoid the necessity of triggering Guaranty Associations in fifty states and two territories.

In addition, liquidation would hinder the ability to effectuate policy buy-backs because of the requirements for making cash distributions. Rehabilitation facilitates these transactions, as well as the collection of reinsurance payable in connection with the policies. To date, policyholder "buy-backs" and related reinsurance settlements have enabled Highlands to reduce its liabilities and enhance its assets.

8.3 Impact of Liquidation on Claims

Based on experience with other insurance liquidations, the process for approving and paying claims that are not covered by Guaranty Associations can take years, and sometimes



DC Civil

BK08162 PG715

decades. This is demonstrated by an analysis of three substantial property and casualty liquidations of Texas insurers.

- A. **Employer's Casualty Company (ECC).** ECC was placed into liquidation in January 1994. The estate has assets of approximately \$230 million, including early access payments. The estate made an interim distribution of approximately 50% of approved policyholder claims pursuant to an order entered on October 5, 2001. A final distribution is expected in late 2007 or early 2008.
- B. **American Eagle Insurance Company (AEIC).** AEIC was placed into liquidation in December 1997. The estate has assets of approximately \$43 million, including early access payments. Distributions have not yet been made to policyholders on non-covered claims.
- C. **Employers National Insurance Company (ENIC).** ENIC was placed into liquidation in January 1994, and was closed in 2005. The estate had assets of approximately \$35 million. Early access payments to Guaranty Associations were made, but a distribution to policyholders on non-covered claims was not made until August 2005.

The history of these estates demonstrates significant delays that a liquidation proceeding can impose on the process of making distributions on claims that are not covered by a Guaranty Association.

Also relevant to a liquidation analysis is the treatment of Guaranty Associations' expenses and claim payments. These expenses and payments become claims against the Estate under §443.301 of the Code. Approved expenses, including defense costs, are Class 1 claims, and approved policy payments are Class 2 claims. As the Guaranty Association has a claim in the Estate for all amounts paid to or on behalf of a claimant, the payment of claims by a Guaranty Association does not increase the Estate's assets.

A liquidation could trigger "cut-through" provisions of certain policies that allow those policy holders access to additional sources of funds not available in a rehabilitation. Approximately 12,700 policies have cut-through endorsements. The lines of business that have cut-through policies are homeowner, commercial multi-peril, inland marine, workers comp, other



DC Civil

BK08162 PG716

liability, product liability, and commercial auto liability. The only cut-through endorsements on open claims are with American Healthcare Indemnity Company ("AHIC"). The case reserves on these claims are approximately \$4.4 million, and there are 119 open claims as of the end of the June 2007. Upon liquidation these claims would likely be transferred to AHIC for adjudication and payment. However, based on the current projections that Policy Claims will be paid in full in rehabilitation, these claimants should be no better off in a liquidation.

8.4 Summary

Based on the projection that the Estate will pay all Allowed Policy Claims in full, it does not appear that claimants will benefit more from liquidation than under the Plan.

ARTICLE IX. TERMINATION OF REHABILITATION

9.1 Sale or Transfer of Business.

In the event that this Court approves a sale or transfer of Highlands' insurance business pursuant to § 443.102 (b), the Special Deputy Receiver will file an application to dispose of the Estate's remaining assets and any non-Policy Claims, and close the Estate. A transfer of the workers compensation policies will at some point become a necessity. Otherwise, the rehabilitation proceeding would have to continue for several decades until the last payment is made. Depending upon the Estate's financial condition, the Special Deputy Receiver will attempt to transfer these policies through an assumption or a sale of Highlands to another insurer.

9.2 Conversion to Liquidation.

If the Special Deputy Receiver determines that the Estate's financial condition will not be sufficient to pay the Allowed amounts of all Policy Claims in full as they come due, it may be necessary to file an application for liquidation. In the event that the Special Deputy Receiver determines that rehabilitation may not be successful, the Special Deputy Receiver will coordinate



DC Civil

BK08162 PG717

with the potentially obligated Guaranty Associations as provided in §443.105. Upon the entry of any order of liquidation, the Guaranty Associations will be provided with Estate records necessary to process claims.

In the event of liquidation, the Special Deputy Receiver proposes that the General Claims Bar Date remain effective for the liquidation process, except as to claims filed by the Guaranty Associations. The Special Deputy Receiver requests that no new claims bar date for liquidation be set by the Receivership Court. The court shall retain the authority to modify the General Claims Bar Date and any other bar date set by this plan to the full extent allowed by the Insurer Receivership Act.

ARTICLE X.
GENERAL PROVISIONS

10.1 Continuation of Prior Receivership Orders.

Unless modified by this Plan, the prior orders of the Receivership Court shall remain in full force and effect throughout the period of this Plan. These orders include without limitation, the Rehabilitation Order, including but not limited to the Permanent Injunction granted therein; orders approving settlements of claims, litigation, or policy buy-backs; the Orders Granting Authority to Adopt Modified Employee Benefit Plans (dated April 26, 2004 and May 3, 2004); the Order Approving Application for Approval of Fees and Expenses; and the Order Granting Application to Approve Investment Program.

10.2 Plan is Exclusive Process for Filing, Resolving and Paying Claims.

The Plan shall be the exclusive means by which claims against the Estate shall be filed, resolved and paid.

10.3 No Limitation on Supervising Court Jurisdiction Granted by Sec. 443.005.

Section 443.005 of the Insurer Receivership Act shall apply to this Plan, and nothing in



DC Civil

BK08162 PG718

the Plan shall limit or modify the jurisdiction and venue provisions thereof.

10.4 Texas Law Governs Interpretation and Implementation of Plan.

The Plan shall be governed by the substantive law of the State of Texas, without giving effect to any choice of law provisions thereunder.

10.5 Stay of Actions Against Estate.

Section 443.008(a) of the Insurer Receivership Act provides that the Receivership Court may issue any order, process, or judgment, including stays, injunctions or orders, as necessary or appropriate to carry out the provisions of the Insurer Receivership Act or an approved rehabilitation plan. The Special Deputy Receiver believes that a stay of action against the Estate as provided in the Insurer Receivership Act §443.008(c) is necessary to the implementation of Plan, including but not limited to its claims processing and payment provisions. Generally, this section of the Act, enjoins any person from continuing any action against the Estate. In addition to the existing injunctions created in the Rehabilitation Order or by prior orders of the Receivership Court, on approval of this Plan by the Receivership Court, the stay/injunctive provisions of section 443.008(c) shall be in full effect except to the extent inconsistent with the provisions of this Plan, and shall remain effective until modified by further order of the Receivership Court. Section 443.008(e)-(m) of the Insurer Receivership Act shall also apply to the stay. The Special Deputy Receiver reserves the right to request additional stay orders, injunctions and orders including injunctions against actions by third parties against insureds, as it deems necessary.

10.6 Limitations.

Except as modified herein, Insurer Receivership Act, §443.009 regarding statutes of limitations shall apply in this Plan.



DC Civil

BK08162 PG719

Dated: May 26, 2008

Respectfully submitted

PRIME TEMPUS, INC.
AS SPECIAL DEPUTY RECEIVER OF
HIGHLANDS INSURANCE COMPANY

By: /s/ Craig Koenig

Craig Koenig

Its: President

2301804.2



DC Civil

BK08162 PG720

Highlands Insurance Company
Operating Expense Projection
FY 2006 thru 2010

	2006	2007	2008	2009	2010
Actual and Audit Fees	\$16,000	\$15,000	\$16,000	\$16,000	\$16,000
Bank Charges	27,000	27,000	27,000	27,000	27,000
Boards & Bureaus	11,000	11,000	11,000	11,000	11,000
Collection Expense	4,000	4,000	4,000	4,000	4,000
Communications	220,000	220,000	220,000	220,000	220,000
Computer Software	114,000	114,000	114,000	114,000	114,000
Contract Labor	300,000	180,000	80,000	80,000	80,000
Data Processing Service	173,000	173,000	173,000	173,000	173,000
Employee Recruiting	9,000	9,000	9,000	9,000	9,000
Employee Relations	9,000	9,000	9,000	9,000	9,000
Insurance Employees	574,000	538,000	475,000	411,000	348,000
Insurance Expense	166,000	155,000	24,000	24,000	24,000
Investment Exp	132,000	132,000	132,000	132,000	132,000
Legal Expense	917,000	720,000	540,000	420,000	380,000
License & Fees	13,000	13,000	13,000	13,000	13,000
Misc Exp	10,000	10,000	10,000	10,000	10,000
Office Equipment	109,000	109,000	109,000	109,000	109,000
Office Supplies	80,000	80,000	80,000	80,000	80,000
Periodicals	3,000	3,000	3,000	3,000	3,000
Postage	164,000	164,000	154,000	154,000	154,000
Property tax	44,000	44,000	44,000	44,000	44,000
Printing & Reproduction	2,000	2,000	2,000	2,000	2,000
Rent Office Facilities	889,000	660,000	680,000	680,000	660,000
SDR Professional Expense	1,766,000	1,660,000	1,600,000	1,320,000	1,200,000
TDI Expense Allocation / TDI Contractor	112,000	120,000	120,000	120,000	120,000
Travel Reimbursement	59,000	53,000	48,000	43,000	39,000
Salaries Paid	8,360,000	6,043,000	6,340,000	4,616,000	3,917,000
Incidental Employee Expense	17,000	73,000	101,000	82,000	91,000
Payroll Taxes Paid	562,000	516,000	457,000	386,000	336,000
Canadian Branch Expenses	106,000	0	0	0	0
Total Operating Expenses	\$12,956,000	\$11,867,000	\$10,484,000	\$9,279,000	\$8,285,000



EXH A

I, AMALIA RODRIGUEZ-MENDOZA, District Clerk,
Travis County, Texas, do hereby certify that this is
a true and correct copy as same appears of
record in my office. Witness my hand and seal of
office on 6-11-08.

AMALIA RODRIGUEZ-MENDOZA



DISTRICT CLERK

By Deputy:

Marie Tamm

EXHIBIT B

HIGHLANDS INSURANCE COMPANY

In Receivership
27310 Ranch Road 12
Dripping Springs, Texas 78620
(512) 894-3705

Prime Tempus, Inc
Special Deputy Receiver

TELEFAX
(512) 894-3725

December 7, 2021

Ms. Adrienne A. Harris
Acting Superintendent of Financial Services of the State of New York
New York Liquidation Bureau
180 Maiden Lane, 15th Floor
New York, NY 10038

RE: Highlands Insurance Company (In Liquidation)

Dear Ms. Harris,

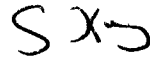
As you are aware, Highlands Insurance Company ("Highlands") was ordered into liquidation by the District Court of the State of Texas on October 29, 2021. The order was accompanied by a finding of insolvency which triggers guaranty funds in the states in which Highlands did business.

Highlands was licensed to do business in New York. We understand that an ancillary receivership in New York is required to be opened so that the New York Security Fund can handle open and newly reported Highlands claims. This letter constitutes a formal request that a New York ancillary receivership proceeding be opened. We believe that Texas and New York should be considered reciprocal states under each state's applicable receivership laws.

Texas adopted the Texas Insurer Receivership Act, Texas Insurance Code §§ 443.001 et seq. effective September 1, 2005. This statute is based on the National Association of Insurance Commissioners (NAIC) 2005 version of the NAIC's Insurer Receivership Model Act #555. New York's Uniform Liquidation Act is based on an earlier version of NAIC's Model Act 555. We believe that Texas and New York should be considered as reciprocal states under each state's applicable receivership laws.

Prior to Texas' adoption of Texas Insurer Receivership Act in 2005, some case law addressed Texas as a non-reciprocal state. With the adoption of the current Chapter 443, we believe that such case law is no longer applicable.

Sincerely,

A handwritten signature in black ink, appearing to read "S X S" with a stylized flourish.

Craig Koenig, President
Prime Tempus, Inc. as Special Deputy Receiver
of Highlands Insurance Company

EXHIBIT 3

At IAS Part 37 of the Supreme Court of the State of New York, at the courthouse located at 60 Centre in the City, County and State of New York, on the 16th day of December, 2020.

PRESENT: A. Engoron
HON. _____ J.S.C.

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

-----X
In the Matter of

the Application of

Linda A. Lacewell, Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

AMERICAN COUNTRY INSURANCE COMPANY.
-----X

Index No.: 45 2250/2020

**ORDER OF ANCILLARY
RECEIVERSHIP**

Linda A. Lacewell, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved this Court by order to show cause for an order appointing the Superintendent and her successors in office as ancillary receiver ("Ancillary Receiver") of American Country Insurance Company ("ACIC"), and upon reading and filing the petition of the Superintendent, duly verified on the 9th day of November, 2020 ("Verified Petition"), the Affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 22nd day of October, 2020, and the exhibits annexed thereto, this Court finds that:

I. ACIC is an Illinois-based property and casualty insurance company wholly owned by American Service Insurance Company; which, in turn, is wholly owned by American Insurance

Acquisition Inc., a Delaware corporation; which, in turn, is wholly owned by Atlas Financial Holdings, Inc., a Cayman Island corporation;

2. By order dated August 11, 2020, the Circuit Court of Cook County, Illinois, County Department, Chancery Division issued an Agreed Order of Liquidation finding ACIC to be insolvent ("Liquidation Order") and appointing Robert H. Muriel, Director of the Illinois Department of Insurance, Liquidator ("Illinois Liquidator") of ACIC;

3. ACIC is subject to Article 74 of the New York Insurance Law ("Insurance Law");

4. Illinois is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

5. The Illinois Liquidator requested that the Superintendent commence an ancillary receivership proceeding for ACIC; and

6. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of ACIC.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership ("Order") is granted in its entirety;
2. The Superintendent and her successors in office is appointed Ancillary Receiver of ACIC and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The material provisions of the Liquidation Order, including, but not limited to, the injunctions, restrictions, and directions contained in paragraph 7 apply to this ancillary receivership proceeding;
4. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits, or proceedings against ACIC in ancillary receivership, the Superintendent as Ancillary Receiver of ACIC or as administrator of the New York security funds, the New York Liquidation Bureau, and their

employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;

5. All parties to actions, lawsuits, and special or other proceedings in the State of New York against insureds of ACIC or in which ACIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy, are enjoined and restrained from obtaining any judgment or 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 this Order is signed;
6. All persons who have first party policyholder loss claims against ACIC in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date this Order is signed;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of ACIC and as administrator of the New York security funds, her 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 this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76 and Article 6A of the New York Workers' Compensation Law;
8. The Ancillary Receiver shall serve a copy of this Order on the Illinois Liquidator by overnight delivery to the Office of the Special Deputy Receiver, representing Robert H. Muriel, Director of the Illinois Department of Insurance in his capacity as Domestic Receiver of American Country Insurance Company at 222 Merchandise Mart Plaza, Suite 960, Chicago, Illinois 60654, Att'n.: J. Kevin Baldwin;
9. The Ancillary Receiver shall provide notice of this Order to all creditors, claimants, and interested persons located in the State of New York by posting the 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;
10. ACIC's license to do business in the State of New York is hereby revoked;

11. The caption for this proceeding is hereby amended as follows:

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

-----X

In the matter of

the Ancillary Receivership of

AMERICAN COUNTRY INSURANCE COMPANY.

-----X

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

ENTER



J.S.C.

L 29623/map

SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: HON. ARTHUR F. ENGORON

PART

IAS MOTION 37EFM

Justice

-----X

LINDA LACEWELL

Petitioner,

- v -

Respondent.

-----X

INDEX NO.

452249/2020

MOTION DATE

N/A

MOTION SEQ. NO.

001

DECISION + ORDER ON MOTION

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 11, 13, 14
were read on this motion to/for INJUNCTION/RESTRAINING ORDER.

Upon the foregoing documents, it is ordered that the instant petition is granted. Order signed and
e-filed as NYSCEF Document 14.

12/2/2020

DATE

CHECK ONE:

☒

CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☐

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

OTHER

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

REFERENCE

20201202112450AENGORON642546F3C6524639B55E6F2BA74ED4C2


ARTHUR F. ENGORON, J.S.C.

At IAS Part 37 of the Supreme Court of the State of New York, at the courthouse located at 60 Centre St. _____, in the City, County and State of New York, on the 2nd day of Dec. _____, 2020.

P R E S E N T :

HON. A. Engoron J.S.C.

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

-----X
In the Matter of

Index No.:

the Application of

Linda A. Lacewell, Acting Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

**ORDER OF ANCILLARY
RECEIVERSHIP**

AMERICAN SERVICE INSURANCE COMPANY.
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court by order to show cause for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of American Service Insurance Company (“ASIC”), and upon reading and filing the petition of the Superintendent, duly verified on the 9th day of November, 2020 (“Verified Petition”), the Affidavit of Joan Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 22nd day of October, 2020, and the exhibits annexed thereto, this Court finds that:

1. ASIC is an Illinois-based property and casualty insurance company wholly owned by American Insurance Acquisition Inc., a Delaware corporation; which, in turn, is wholly owned by Atlas Financial Holdings, Inc., a Cayman Island corporation;

2. By order dated August 11, 2020, the Circuit Court of Cook County, Illinois, County Department, Chancery Division issued an Agreed Order of Liquidation finding ASIC to be insolvent (“Liquidation Order”) and appointing Robert H. Muriel, Director of the Illinois Department of Insurance, as Liquidator (“Illinois Liquidator”) of ASIC;

3. ASIC is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

4. Illinois is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

5. The Illinois Liquidator requested that the Superintendent commence an ancillary receivership proceeding for ASIC; and

6. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of ASIC.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;
2. The Superintendent and her successors in office is appointed Ancillary Receiver of ASIC and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The material provisions of the Liquidation Order, including, but not limited to, the injunctions, restrictions, and directions contained in paragraph 7, apply to this ancillary receivership proceeding;
4. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits, or proceedings against ASIC in ancillary receivership, the Superintendent as Ancillary Receiver of ASIC or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;

5. All parties to actions, lawsuits, and special or other proceedings in the State of New York against insureds of ASIC or in which ASIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or 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 this Order is signed;
6. All persons who have first party policyholder loss claims against ASIC in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date this Order is signed;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of ASIC and as administrator of the New York security funds, her 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 this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76 and Article 6A of the New York Workers' Compensation Law;
8. The Ancillary Receiver shall serve a copy of this Order on the Illinois Liquidator by overnight delivery to the Office of the Special Deputy Receiver, representing Robert H. Muriel, Director of the Illinois Department of Insurance in his capacity as Domestic Receiver of American Service Insurance Company at 222 Merchandise Mart Plaza, Suite 960, Chicago, Illinois 60654, Att'n: J. Kevin Baldwin;
9. The Ancillary Receiver shall provide notice of this Order to all creditors, claimants, and interested persons located in the State of New York by posting the 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;
10. ASIC's license to do business in the State of New York is hereby revoked;
11. The caption for this proceeding is hereby amended as follows:

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

-----X
In the matter of

the Ancillary Receivership of

AMERICAN SERVICE INSURANCE COMPANY.

-----X

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

ENTER

Arthur F.
Engoron

Digitally signed by Arthur F. Engoron
DN: C=US, OU=NY County Supreme Court,
O=New York State Courts, CN=Arthur F.
Engoron, E=AENGORON@NYCOURTS.GOV
Reason: I am the author of this document
Location: Molly987987!
Date: 2020.12.02 11:15:47-05'00'
Foxit PhantomPDF Version: 10.1.0

J.S.C.

L 29623/map

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

PRESENT: HON. W. FRANC PERRY

PART

IAS MOTION 23EFM

Justice

-----X

LINDA LACEWELL,

Petitioner,

- v -

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN,

Respondent.

-----X

INDEX NO. 450931/2019MOTION DATE N/AMOTION SEQ. NO. 001

**DECISION ON PETITION FOR
ANCILLARY RECEIVERSHIP**

The following e-filed documents, listed by NYSCEF document number (Motion 001) 7, 11, 12, 13, 14
were read on this motion to/for SPECIAL PROCEEDING / RECEIVERSHIP

Upon the foregoing documents, and as stated on the record at oral argument on August 8,
2019, it is hereby

ORDERED that the Petition is granted in accordance with the annexed Order Of
Ancillary Receivership, dated August 8, 2019; and it is further

ORDERED that the proceeding shall bear the following amended caption:

In the matter of

the Ancillary Receivership of

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.

X

And it is further

ORDERED that counsel for the moving party shall serve a copy of this order with notice
of entry upon the County Clerk (60 Centre Street, Room 141B) and the Clerk of the General

FILED: NEW YORK COUNTY CLERK 08/08/2019 02:40 PM

INDEX NO. 450931/2019

NYSCEF DOC. NO. 15

RECEIVED NYSCEF: 08/08/2019

Clerk's Office (60 Centre Street, Room 119), who are directed to mark the court's records to reflect the changes to the caption; and it is further

ORDERED that such service upon the County Clerk and the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/supctmanh)).

This constitutes the decision and order of the court.

8/8/2019

DATE

CHECK ONE:

☐

CASE DISPOSED

☒

GRANTED

☐

DENIED

APPLICATION:

☐

SETTLE ORDER

CHECK IF APPROPRIATE:

☐

INCLUDES TRANSFER/REASSIGN

☒

NON-FINAL DISPOSITION

☐

GRANTED IN PART

☐

SUBMIT ORDER

☐

FIDUCIARY APPOINTMENT

☐

OTHER

☐

REFERENCE


W. FRANC PERRY, J.S.C.

At IAS Part 23 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, in the County, City and State of New York, on the 8th day of August, 2019.

P R E S E N T :

HON. W. FRANC PERRY, III J.S.C.

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

-----X
In the Matter of

Index No.: 450931/2019

the Application of

Linda A. Lacewell, Acting Superintendent of
Financial Services of the State of New York, for an
Order of Appointment as Ancillary Receiver of

**ORDER OF ANCILLARY
RECEIVERSHIP**

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved this Court for an order appointing the Superintendent and her successors in office as ancillary receiver ("Ancillary Receiver") of Northwestern National Insurance Company of Milwaukee, Wisconsin ("NNIC"), and upon reading and filing the petition of the Superintendent, duly verified on the 13th day of June, 2019 ("Verified Petition"), the Affidavit of Joan L. Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 13th day of May, 2019, and the exhibits annexed thereto, this Court finds that:

1. NNIC is a property and casualty insurer domiciled in the State of Wisconsin. The company was organized in 1869 by an act of the Wisconsin legislature, and maintained its

administrative office in West Chester, Ohio, and its principal place of business in Madison, Wisconsin;

2. NNIC was licensed in the State of New York to transact the kinds of insurance specified in New York Insurance Law § 1113(a)(3) – (17) and (19) – (21);

3. By order dated May 2, 2019, the Circuit Court, Dane County, Madison, Wisconsin issued an Order for Liquidation finding NNIC to be insolvent (“Liquidation Order”) and appointing Mark Afable, Wisconsin Commissioner of Insurance, Liquidator (“Wisconsin Liquidator”) of NNIC. The Liquidation Order also, among other things, established the date that is six months from the date of entry of the Liquidation Order, which is November 2, 2019, as the bar date for the filing of claims against NNIC (“Claims Bar Date”);

4. NNIC is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

5. Wisconsin is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

6. The Wisconsin Liquidator requested that the Superintendent commence an ancillary receivership proceeding for NNIC; and

7. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of NNIC.

NOW, on the motion of the Honorable Letitia James, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;
2. The Superintendent and her successors in office is appointed Ancillary Receiver of NNIC and is vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;

3. The material provisions of the Liquidation Order as it pertains to this ancillary receivership proceeding, including injunctions, restrictions and directions set forth in paragraphs 11, 12, 13, 14, 16 and 23 apply to this ancillary receivership proceeding;
4. In accordance with Insurance Law § 7412(a), the Claims Bar Date of November 2, 2019, established in paragraph 23 of the Liquidation Order, applies to this ancillary receivership proceeding and all New York claims under NNIC policies and evidence supporting such claims must be submitted to the Ancillary Receiver by November 2, 2019, and if not submitted by that date shall be barred;
5. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against NNIC, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against NNIC, the Superintendent as Ancillary Receiver or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
6. All parties to actions, lawsuits, and special or other proceedings against insureds of NNIC or in which NNIC is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or 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;
7. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of NNIC and as administrator of the New York security funds, her 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 this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76 and Article 6-A of the New York Workers' Compensation Law;
8. The Ancillary Receiver shall serve a copy of this Order on the Wisconsin Liquidator by overnight delivery to Mark Afable, Commissioner of Insurance for the State of Wisconsin, 125 South Webster Street, Madison, WI 53703-3474, and Amy J. Malm, Special Deputy Liquidator for NNIC at the same address;
9. The Ancillary Receiver shall provide notice of this Order, substantially in the form attached hereto (the "Notice"), to all creditors, claimants, and interested persons located in the State of New York by: (i) publication of the Notice in the *New York Daily News*, or a publication of similar circulation, within 30 days of entry of this Order; and (ii) posting the Notice and the 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;

10. NNIC's license to do business in the State of New York is hereby revoked;
11. The caption for this proceeding is hereby amended as follows:

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

-----X
In the matter of

the Ancillary Receivership of

NORTHWESTERN NATIONAL INSURANCE COMPANY
OF MILWAUKEE, WISCONSIN.

-----X

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

ENTER



J.S.C.
HON. W. FRANC PERRY, III
J.S.C.