

PRESENT: HON. MICHAEL D. STALLMAN
Justice

PART 21

Matter of
James J. WRYAN, Capt of Law
Re: Professional Liability Ins Co. of Am
America (Rehabilitation)

INDEX NO. 400986/10
MOTION DATE 4/28/10
MOTION SEQ. NO. 001
MOTION CAL. NO. _____

The following papers, numbered 1 to 3 were read on this motion to/for an order of rehabilitation

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits A-H
Supplemental Affidavit - Exhibit A
Answering Affidavits — Exhibits _____

PAPERS NUMBERED
<u>1-3</u>

Replying Affidavits _____

Cross-Motion: Yes No

After being counsel (see appearance on record)
Upon the foregoing papers, it is ordered that this ~~motion~~ application for an order of rehabilitation of Professional Liability Insurance Company of America is granted for the reasons stated on the record today (Evelyn Mysch, court reporter). Long-form order signed.

FILED

APR 30 2010

NEW YORK
COUNTY CLERK'S OFFICE

Dated: 4/28/10 - 5:28 PM

J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION
Check if appropriate: DO NOT POST REFERENCE

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

APR 21 10:43 AM
Part 21 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
21st day of April, 2010.

P R E S E N T:

HON. MICHAEL D. STALLMAN, J.S.C.

-----X
In the Matter of

the Application of

James J. Wrynn, Superintendent of Insurance
of the State of New York, for an order of
rehabilitation of

PROFESSIONAL LIABILITY INSURANCE
COMPANY OF AMERICA.

Index No.: 400986/10

**ORDER OF
REHABILITATION**

-----X

Petitioner, James J. Wrynn, Superintendent of Insurance of the State of New York (the "Superintendent"), having moved this Court for an order placing Professional Liability Insurance Company of America ("PLICA") into rehabilitation, and upon reading and filing the petition of the Superintendent, duly verified the 19th day of April, 2010, the affidavit of Eugene Bienskie, sworn to April 12, 2010, the supplemental affidavit of Jon G. Rothblatt, sworn to April 20, 2010, and the exhibits annexed thereto; *and after hearing based on the record;* this Court finds that:

1. PLICA was incorporated under the laws of the State of New York on March 6, 1958;
2. PLICA's statutory home office is located at 300 Park Avenue, 17th Floor, New York, New York, 10022 and its main administrative office is located at 1300 South Bemiston Avenue, Suite 506, St. Louis, MO, 63105;
3. PLICA is subject to the New York Insurance Law ("Insurance Law") and, in particular, to Article 74 thereof;
4. PLICA has been placed into conservatorship in another state; and

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APR 21 2010
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5. ~~PLICA, Stephen Kraysler, alleged current President and CEO of PLICA, and Howard Nathans, alleged former President and CEO of PLICA, do not oppose the granting of the order of rehabilitation;~~ *Heard Nathans opposed this order on the record by coming to the court at the Central office PLICA, it cannot be said that the*
giving the management to the Central office PLICA, it cannot be said that the
NOW, on motion of Andrew M. Cuomo, Attorney General of the State of New York, it is

ORDERED as follows:

1. The relief requested in the petition for an order of rehabilitation is granted;
2. The Superintendent, and his successors in office, are appointed rehabilitator ("Rehabilitator") of PLICA and are: (i) vested with all powers and authority expressed or implied under Insurance Law Article 74, in addition to the powers and authority set forth in this Order; and (ii) authorized and directed to take such steps and enter into such arrangements as they deem necessary to take possession and/or control of PLICA's property, conduct PLICA's business and remove the causes and conditions that make this proceeding necessary as they shall deem prudent and advisable;
3. The Rehabilitator may deal with the property and business of PLICA in its name or in the name of the Rehabilitator;
4. Notice directing all persons having claims against PLICA to file or present their claims to the Rehabilitator is deferred until further order of this Court;
5. PLICA, and each of its officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations and other persons or entities having any property belonging to or relating to PLICA, including but not limited to business records, insurance policies, claims files (electronic or paper), software programs, bank records or any tangible or intangible items of value, shall preserve such property and are directed, upon the Rehabilitator's request, to promptly assign, transfer, turn over and deliver such property to the Rehabilitator or his designees;
6. Any person or entity providing claims processing services, data processing services, electronic records retention services or other information technology services to PLICA shall maintain and preserve all information in its possession ("Information") relating in any way to PLICA, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (i.e., servers and printers), software programs and software licenses owned by PLICA, and are directed, upon the Rehabilitator's request, to promptly submit all such Information to the Rehabilitator or his designees for examination and copying;

7. Any bank, savings and loan association, other financial institution or any other entity or person, which has on deposit or in its possession, custody or control of any of PLICA's funds, accounts or assets shall immediately upon the Rehabilitator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Rehabilitator or his designees; (ii) transfer title of such funds, accounts or assets to the Rehabilitator or his designees; (iii) change the name of such accounts to the name of the Rehabilitator; (iv) transfer funds from such bank, savings and loan association or other financial institution; or (v) take any other action necessary for the proper conduct of the rehabilitation proceeding;
8. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of PLICA and all other persons other than the Superintendent and his agents are permanently enjoined and restrained, except as authorized by the Superintendent, from: (i) transacting the business of PLICA; (ii) wasting or disposing of or permitting to be done any act or thing that might waste or dispose of PLICA's property; (iii) interfering with the Rehabilitator in the possession, control and management of PLICA's property or in the discharge of his duties; and (iv) disclosing the name, address or contact information of PLICA's policyholders, or any other information that is proprietary to PLICA or not in the public domain, except as may be authorized by the Rehabilitator;
9. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against PLICA, the Rehabilitator or the New York Liquidation Bureau, its employees, attorneys or agents, with respect to any claims against PLICA;
10. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against PLICA's assets or any part thereof;
11. All parties to actions, lawsuits or special or other proceedings ("Litigation") in which PLICA is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise are enjoined and restrained from prosecuting, advancing or otherwise taking any action within such Litigation, including but not limited to trials, hearings, conferences or other court proceedings, applications or other requests to the court of any nature, proceedings on defaults, settlements or judgments, service of documents, motions, discovery or any other litigation tasks or procedures for a period of 90 days from the date of entry of this Order;
12. The Rehabilitator may at any time make further application to this Court for such further and different relief as he sees fit;
13. A copy of this Order shall be served forthwith by first class mail upon: (i) Stephen Kraysler, alleged current President and CEO of PLICA, and Howard Nathans, alleged former President and CEO of PLICA, at both the statutory and main

administrative offices of PLICA, located at 300 Park Avenue, 17th floor, New York, NY, 10022, and 130 South Bemiston Avenue, Suite 506, St. Louis, MO, 63105, respectively; (ii) Stephen Kraysler at the law offices of D'Amato and Lynch, LLP, at Two World Financial Center, New York, NY 10281; (iii) Stephen Kraysler at his current residential address at 151 Smallwood Drive, Unit 3B, Chokoloskee, FL 34138; (iv) Howard Nathans and Howard Wittner at the law offices of Joseph E. Gasperetti, Esq., at 115 Broadway, Suite 1505, New York, NY 10006; (v) Stephen Kraysler and Howard Nathans in care of the Conservator of PLICA appointed in another state; (vi) PLICA, in accordance with the provisions of the Insurance Law, to the Superintendent of Insurance of the State of New York, at 25 Beaver Street, New York, NY 10004; and (vii) any conservator, receiver, trustee, custodian or sequestrator of PLICA appointed in another state;

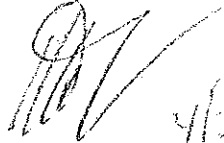
14. The Rehabilitator shall provide notice of this Order to all creditors, claimants and other interested persons by posting on the internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 30 days after the entry of this Order;
15. This Court shall retain jurisdiction over this matter for all purposes;
16. All further papers in this proceeding shall bear the caption:

In the Matter of

the Rehabilitation of

PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA.

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4/28/10 - 5:28 PM

J.S.C.

MICHAEL D. STALLMAN J.

J.S.C.

FILED

APR 30 2010

NEW YORK
COUNTY CLERK'S OFFICE

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

In the Matter of

the Rehabilitation of

PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA.

ORDER OF REHABILITATION

JOHN PEARSON KELLY

Attorney for Superintendent of Insurance

Office and Post Office Address, Telephone

New York Liquidation Bureau
123 William Street
New York, NY 10038-3889
(212) 341-6755
Fax (212) 608-3398

ATTORNEY CERTIFICATION

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

Dated: April 28, 2010
New York, New York

Handwritten signature of Kimara Patton
Kimara Patton

[] NOTICE OF ENTRY

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

[] NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges of the within named court, at
20 at

Dated: , on

Yours, etc.

JOHN PEARSON KELLY

Attorney for Superintendent of Insurance

Office and Post Office Address, Telephone
New York Liquidation Bureau
123 William Street
New York, NY 10038-3889
(212) 341-6755
Fax (212) 608-3398