

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JOHN J. KELLEY PART 56M

Justice

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INDEX NO. 450746/2023

In the Matter of

MOTION DATE 04/25/2023

ADRIENNE A. HARRIS, Superintendent of Financial Services of the State of New York,

MOTION SEQ. NO. 001

Petitioner,

- v -

DECISION + ORDER ON MOTION

UNITED PROPERTY & CASUALTY INSURANCE COMPANY,

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 001) 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13

were read on this motion to/for INJUNCTION/APPOINT RECEIVER

It is hereby

ORDERED that the petition seeking appointment as an ancillary receiver and related requests ancillary relief are granted, without opposition, in accordance with the order of this court dated May 4, 2023, annexed hereto.

This constitutes the Decision and Order of the court.

5/4/2023

DATE

[Handwritten signature of John J. Kelley]

JOHN J. KELLEY, J.S.C.

CHECK ONE:

Form with checkboxes for CASE DISPOSED, GRANTED, SETTLE ORDER, INCLUDES TRANSFER/REASSIGN

CASE DISPOSED

GRANTED

SETTLE ORDER

INCLUDES TRANSFER/REASSIGN

Denial checkbox

DENIED

Form with checkboxes for NON-FINAL DISPOSITION, GRANTED IN PART, SUBMIT ORDER, FIDUCIARY APPOINTMENT

NON-FINAL DISPOSITION

GRANTED IN PART

SUBMIT ORDER

FIDUCIARY APPOINTMENT

Other checkbox

OTHER

Reference checkbox

REFERENCE

At IAS Part 56 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 71 Thomas Street in the County, City and State of New York, on the 4th day of May, 2023.

P R E S E N T :

HON. JOHN J. KELLEY, J.S.C.

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

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In the Matter of

Index No.: 450746/2023

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**

UNITED PROPERTY & CASUALTY
INSURANCE COMPANY.
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Adrienne A. Harris, 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 United Property & Casualty Insurance Company (“UPC”), and upon reading and filing the petition of the Superintendent, duly verified on the 20th day of March, 2023 (“Verified Petition”), the Affidavit of Eileen Fox, Assistant Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 14th day of March, 2023, and the exhibits annexed thereto, this Court finds that:

1. UPC is a property/casualty insurer organized under the laws of the State of Florida, with its main administrative office located in St. Petersburg, Florida;

2. UPC was licensed in the State of New York to transact the kinds of insurance specified in New York Insurance Law §§ 1113(a)(4) – (9), (12-14), and (20);

3. By order dated February 27, 2023, the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida issued a Consent Order Appointing the Florida Department of Financial Services as Receiver of UPC for Purposes of Liquidation, Injunction and Notice of Automatic Stay (the “Liquidation Order”). The Liquidation Order found UPC to be insolvent and appointed the Florida Department of Financial Services as receiver (“Florida Receiver”) of UPC. The Liquidation Order also, among other things, established the date that is one year from the date of the Liquidation Order, which is February 27, 2024, as the bar date for the filing of claims against UPC (the “Claims Bar Date”);

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

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

6. The Florida Receiver requested that the Superintendent commence an ancillary receivership proceeding for UPC; and

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

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 are appointed Ancillary Receiver of UPC and are vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;

3. In accordance with Insurance Law § 7412(a), the Claims Bar Date of February 27, 2024, established in paragraph 35 of the Liquidation Order, applies to this ancillary receivership proceeding and all New York claims under UPC policies and evidence supporting such claims must be submitted to the Ancillary Receiver by February 27, 2024, and if not submitted by that date shall be barred;
4. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against UPC, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings, the obtaining of preferences, judgments, attachments, or other liens, or making any levy in the State of New York against UPC, the Superintendent as Ancillary Receiver or as administrator of the Property/Casualty Insurance Security Fund ("P/C Fund"), 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 against insureds of UPC or in which UPC 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 UPC 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. Payment of eligible unearned premiums by the P/C Fund shall be made only if there is sufficient funding available, all the necessary data is provided by the Florida Receiver, and no less than 270 days after entry of this Order have elapsed;
8. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of UPC and as administrator of the P/C Fund, 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;
9. The Ancillary Receiver shall serve a copy of this Order on the Florida Department of Financial Services c/o Michael B. Dobson, General Counsel on behalf of the Receiver of United Property & Casualty Insurance Company, at 400 South Monroe Street, PL 11, Tallahassee, FL 32399; Florida Department of Financial Services, Division of Rehabilitation and Liquidation c/o Lorrie Arterburn, Division Director, at 325 John Knox Road, Suite 101, The Atrium, Tallahassee, Florida 32303; and Florida Department of Financial Services, Division of Rehabilitation and

Liquidation c/o Miriam O. Victorian, Chief Attorney, at 325 John Knox Road, Suite 101, The Atrium, Tallahassee, Florida 32303, by overnight mail;

- 10. 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 this Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
- 11. UPC's license to do business in the State of New York is hereby revoked;
- 12. The caption for this proceeding is hereby amended as follows:

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

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In the matter of

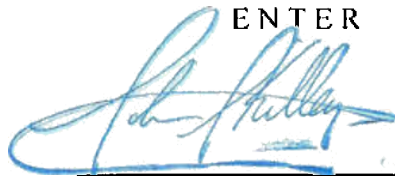
the Ancillary Receivership of

UNITED PROPERTY & CASUALTY INSURANCE COMPANY.

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

ENTER

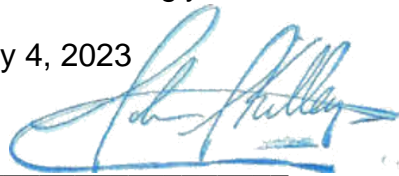


JOHN J. KELLEY, J.S.C.

And it is further,

ORDERED that, on the court's own motion, within 15 days of the entry of this order, the petitioner shall serve a copy of this order upon the Trial Support Office (60 Centre Street, Room 148, New York, NY 10007), and shall separately file and upload the notice required by CPLR 8019(c) in a completed Form EF-22, and the Trial Support Office shall thereupon amend the court records accordingly.

Dated: May 4, 2023



JOHN J. KELLEY, J.S.C.