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IN THE MATTER OF
THE REHABILITATION OF
THE INSURANCE CORPORATION OF NEW YORK.

**DECISION, ORDER AND
JUDGMENT**

Index: 401477/09
Motion Seq.:002
Submission Date: 2/23/10

For A Judgment Pursuant to CPLR Article 74 converting the
Rehabilitation Proceeding to a Liquidation Proceeding.

-----X
KENNEY, JOAN, M., J.

Recitation, as required by CPLR 2219(a), of the papers considered in review of this petition for an Order of Liquidation.

Papers

Numbered

Order to Show Cause, Verified Petition, Affidavit,
Exhibits and Proposed Order

1- 9

In this rehabilitation proceeding, James J. Wrynn, Superintendent of Insurance of the State of New York (Superintendent) and Rehabilitator¹ of The Insurance Corporation of New York (INSCORP), seeks an Order:

1. converting this rehabilitation proceeding to a liquidation proceeding pursuant to Insurance Law Section 7403(c);
2. appointing the Superintendent and his successors in office as liquidator of INSCORP;
3. vesting title to all INSCORP's property, contract and rights of action with the Superintendent as liquidator;
4. continuing the permanent injunctions provided for in Insurance Law Section 7419, including permanently enjoining and restraining all persons other than the Superintendent and his agents from transacting INSCORP's business, wasting or disposing of its property, interfering with the Superintendent or the proceeding, or commencing of prosecuting any actions, obtaining any preferences, judgments, attachments or other liens, or making any levy against INSCORP, its assets or any part thereof;

¹See, Justice Marilyn Shafer's Order of Rehabilitation dated June 29, 2009.

5. granting injunctions enjoining and restraining:
 - a) all parties from commencing or prosecuting any actions or proceedings against INSCORP, as Liquidator or the New York Liquidation Bureau, its employees, attorneys or agents with respect to any claims against INSCORP;
 - b) all parties to actions, lawsuits and special or other proceedings in which INSCORP is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days; and
 - c) all persons who have first party or New York Comprehensive Automobile Insurance Reparations Act (no-fault) policyholder loss claims, from presenting and filing claims with the Superintendent as Liquidator for a period of 90 days;
6. authorizing, permitting and allowing the Liquidator to sell, assign, transfer any and all stocks, bonds or securities of INSCORP at market price or at the best price obtainable at private sale;
7. terminating all contracts and agreements, unless otherwise expressly assumed by the Liquidator and fixing liability thereunder as of the date of entry of the Liquidation Order;
8. Requiring all persons or entities having property, including, but not limited to, insurance policies, claims files (electronic or paper), software programs and/or bank belonging or relating to INSCORP shall preserve such information and immediately, upon the Liquidator's request and direction, assign, transfer, turn over and deliver such information to the Liquidator;
9. extending judicial immunity to the Superintendent in his capacity as liquidator of INSCORP and his successors in office and their agents and employees and extending such immunity to them for any cause of action of any nature against them, individually or jointly, for any action or omission of any one or more of them when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Article 74 of the Insurance Law; and
10. granting such other relief as is just.

In support of the Petition for an Order of Liquidation, the Superintendent (petitioner) submits a verified petition and an affidavit from the assistant special deputy superintendent and agent of superintendent of Insurance of the State of New York, as Rehabilitator of INSCORP, Francesca G. Bliss (Assistant Superintendent).

Petitioner's application for an Order of Liquidation is granted without any written opposition from INSCORP. However, that portion of the application seeking an injunction enjoining and restraining all parties to actions, lawsuits and special or other proceedings in which INSCORP is obligated to defend a party pursuant to an insurance policy, bond, contract or otherwise, from proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days (the injunction), is denied, in its entirety.

On the return date of the instant application, approximately half a dozen attorneys appeared objecting to petitioner's request for yet another extension of the injunction. These attorneys indicated that continuing the injunction was impeding their rights to prosecute and/or defend their litigations for over 6 months. Although this Court acknowledge counsel's appearance, they did not have standing to submit papers in opposition.² Counsel were advised that serious consideration would

²In the interest of judicial economy, this Court denied requests to submit opposition papers to the application seeking the extension of the injunction. Waiting to serve, file and then receive said opposition papers would only have prolonged this determination. Moreover, extending the stay would violate Judge Shafer's Order. Petitioner objected to submission of opposition papers by attorneys who were representing non-parties to this proceeding. It is noted that the third-parties who appeared have not intervened here, and the other attorneys, with similarly situated cases, were not provided notice nor afforded the opportunity to submit papers. However, in reviewing the court file, a letter was discovered from Mid-Penninsula Housing Coalition, objecting to the any consideration to continue the injunction.

be given to the issues raised and the possible prejudice they and their clients would suffer as a result of an extension of the injunction.

By Order of Rehabilitation, Justice Shafer granted petitioner the injunction for a period of 120 days (versus the 180 days requested by petitioner at the time; see also, June 30, 2009, Order of Rehabilitation). On September 29, 2009, petitioner requested an additional 60 day extension of the injunction. Justice Shafer granted the extension until December 21, 2009 with the following Ordered language: “ORDERED, that no further extensions of the third-party injunction will be granted.”

Days before the expiration of the injunction, petitioner filed the instant Order to Show Cause seeking an Order of Liquidation. When Justice Shafer signed the Order to Show Cause on December 18, 2009, the following language was included in the Order language of the motion:

“ORDERED, the injunction provided for in the Court’s order of rehabilitation entered on June 30, 2009, which were extended by the Court’s order entered September 29, 2009, shall remain in effect pending the hearing of the petition.”

On December 18, 2009, Justice Shafer issued a separate Order, directing:

“...the injunction provided for in the Court’s order of rehabilitation entered on 6/30/09 and extended on 9/29/09 shall remain in effect pending a hearing of the OSC application, which is currently scheduled for 12/21/09³.”

Petitioner cites Insurance Law § 7419 as the statutory authority that supports its contention that the additional 180 day extension of the injunction is a reasonable request. Notably, petitioner’s

³Ultimately the motion was returnable on February 23, 2010. Because this Court does not hear oral argument on motions, the stay has remained in effect pending a determination of this petition.

prior rehabilitation petition, relied upon this section of the insurance law, to support its June 30, 2009 request for the original injunction.

The applicable Insurance Law Section is 7419(b) (see, *Matter of Frontier Ins. Co.*, 2006 NY Slip Op 1729 [1st Dept, 2006]). Insurance Law § 7419(b) reads, in pertinent part, as follows:

“Such court or justice **may** at any time during a proceeding under this article issue such other injunctions or orders as it deems necessary to prevent interference with the superintendent or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of any actions, the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer, its assets or any part thereof.” [emphasis added].

The language of the statute provides Courts with considerable discretion regarding the scope of any injunction granted pursuant to Insurance Law §7419(b).

Although Justice Shafer ordered that “no further extensions of the third-party injunction will be granted,” petitioner is seeking the very same relief again. On the adjourned date petitioner argued that this is not a request for an extension, but rather an entirely new application because it is a new proceeding. The fact remains, this is not a new case. Petitioner is seeking to convert the Rehabilitation proceeding, under the same index number, to a Liquidation proceeding. The rehabilitation, which was brought to preserve INSCORP has, according to petitioner, failed. The company’s business must be brought to a conclusion through a liquidation process (see also, *In re Allcity Ins. Co.*, 66 A.D.2d 531 [1st Dept 1979]).

This Court must honor Justice Shafer’s Order precluding petitioner from seeking a continuation of the injunction. Nor is there a statutory basis for this Court to vacate Justice Shafer’s determination to preclude any further extensions of the injunction (see, CPLR 2221).

The injunction has stayed litigation in the third-party actions for more than half a year. In fact, this injunction has had extraterritorial effects.⁴ A continuation of the injunction will be highly prejudicial to the potentially hundreds of parties with pending litigation.⁵ Petitioner has not identified all the affected parties, and without case by case details as to the reasonableness of staying all these third-party actions, and without identifying the prejudice, if any, petitioner would sustain if the third-party actions were permitted to continue. In fact, it is apparent that in at least one third-party case petitioner actually reviewed the file, and via stipulation, dated December 18, 2009 (the stipulation), permitted one of the hundreds parties affected by the injunction to conduct discovery in its litigation.

The stipulation reads, in its entirety, as follows:

“It is ORDERED, with consent of the Superintendent as follows: that discovery can continue in a series of cases pending before Justice Shirley Kornreich (illegible index #) involving an incident at 14 2nd Avenue on or about July 12, 2000. A trial of these related matters cannot proceed during the stay entered in connection with the above liquidation.⁶”

Apparently, in some cases petitioner did not object to a third-party proceeding with discovery. When petitioner’s counsel was asked on the return date of the within OSC, if they had any objection to a conditional injunction, the attorneys representing the Superintendent, stated that the stipulated cases were fact specific. Even if this Court accepts petitioner’s counsel’s representations to be true, it is certainly true that every third-party matter affected by the injunction deserves equal review of their

⁴The non-profit organization, Mid-Peninsula Housing Coalition, has a pending litigation in the State of California.

⁵Some of the third-party attorneys expressed concern that documents and discoverable information may no longer be available by the time an additional 180 day injunction expired.

⁶The reference to this matter being a liquidation at the time was cited in error as the matter was still a rehabilitation proceeding on the date this stipulation was executed. Note also, that the stipulation was “so ordered” by Justice Shafer.

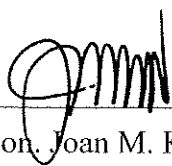
files. Perhaps those cases would also fall under the ambit of the cases that are already proceeding with the discovery process. In any event, the Superintendent's attorneys would not consent to any limited stay language. Petitioner could not demonstrate how continuing with these litigations, proceedings etc., would interfere with the Superintendent's duties and responsibilities, or the liquidation proceeding itself. An extension of the injunction appears to be unreasonable, particularly when some affected parties were not even aware (because they were not given direct notice) that a stay was in effect, until they attempted to proceed with some aspect of their cases. The argument that continuation of the stay is necessary, so petitioner may continue to obtain and review files (see, petition paragraph 15) does not consider the prejudice the third-parties have suffered by being precluded from conducting discovery, attending conferences, or prosecuting or defending actions. Petitioner has not considered the potential irreparable harm being suffered by the third-party litigants. Moreover, a balancing of the equities tilts against petitioner's application for a continued stay in this matter. Accordingly, it is

ORDERED, that Superintendent of Insurance of the State of New York and Rehabilitator of The Insurance Corporation of New York's petition for an Order of Liquidation is granted in accordance with the annexed Order of Liquidation; and it is further

ORDERED, that the request for a third-party injunction, is denied.

DATED: March 4, 2010

ENTER:



Hon. Joan M. Kenney
J.S.C.

Appearances/Notices to

NEW YORK LIQUIDATION BUREAU STATE ATTORNEY GENERAL'S OFFICE
123 WILLIAM STREET 120 BROADWAY
NEW YORK, NEW YORK 10038 NEW YORK CITY, N.Y. 10271
Attn: Susan Y. Shamoto, Esq.

THE INSURANCE COMPANY OF NY
C/O BRUCE SHULAN
1499 POST ROAD - 2ND FLOOR
FAIRFIELD, CT 06824

OLIVA & ASSOCIATES
11770 BERNARDO PLAZA COURT - SUITE 350
SAN DIEGO, CA 92128
Attn: Matthew Coorson Esq.

SMITH MAZURE DIRECTOR WILKINS, YOUNG & YAGERMAN, P.C.
111 JOHN ST
NEW YORK, NY 10038-3101
Attn: Matthew Markoff, Esq.

MORRIS DUFFY ALONSO & FALEY
2 RECTOR ST
NEW YORK, NY 10006-1819
Attn: Mark Healy, Esq.

SMITH & LAQUERCIA LLP
291 BROADWAY
NEW YORK, NY 10007-1814
Attn: Edwin L. Smith, Esq.

FORCHELLI, CURTO, CROWE, DEEGAN, SCHWARTZ, MINEO & COHN, LLP
333 EARLE OVINGTON BLVD. - SUITE 1010
UNIONDALE, NY 11553
Attn: Richard C. Goldberg, Esq.

MID-PENNINSU LAW HOUSING COALITION
303 VINTAGE PARK DRIVE - SUITE 250
FOSTER CITY, CA 94404
Attn: Sue Perkins

KELLNER, HERLIHY, GETTY & FRIEDMAN, LLP
470 PARK AVE S
NEW YORK, NY 10016-6819
Attn: Bruno Bianchi, Esq.

O'DONNELL & FOX PC
29 BROADWAY
NEW YORK, NY 10006
Attn: Thomas O'Donnell, Esq.

SIMON, EISENBERG & BAUM, LLP
24 UNION SQ E FL 5
NEW YORK, NY 10003-3201
Attn: Edward Paul Alper, Esq.

At IAS Part 8 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 4 day of MARCH, 2010.

P R E S E N T:

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

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In the Matter of

Index No. 401477/09

the Application of

ORDER OF LIQUIDATION

JAMES J. WRYNN, Superintendent of Insurance of the State of New York, for an order to take possession of and liquidate the business and affairs of

THE INSURANCE CORPORATION OF NEW YORK.

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Petitioner, James J. Wrynn, Superintendent of Insurance of the State of New York ("Superintendent"), moved this Court by order to show cause ("Order to Show Cause"), which was returnable on February 23, 2010 (the "Return Date"), for an order to convert the rehabilitation proceeding of The Insurance Corporation of New York ("INSCORP") to a liquidation proceeding. Pursuant to the Order to Show Cause, the Rehabilitator provided INSCORP claimants and creditors with notice, by posting at the Internet web page maintained by the New York Liquidation Bureau at least 30 days prior to the Return Date, of the Superintendent's application and Return Date, and were directed to serve all objections on the Superintendent and submit the same to this Court, at least seven days prior to the Return Date.

In the absence of objections to the Superintendent's application and upon reading and filing the petition of the Superintendent, duly verified the 15th day of December, 2009, and the exhibits attached thereto; this Court finds that:

1. INSCORP was placed into rehabilitation and the Superintendent was appointed rehabilitator (the "Rehabilitator") by order of this Court (the "Rehabilitation Order") entered June 30, 2009;

2. The Rehabilitation Order found that INSCORP consented to the entry of the Rehabilitation Order;

3. Further efforts to rehabilitate INSCORP would be futile;

4. INSCORP is insolvent;

5. INSCORP is subject to the New York Insurance Law ("Insurance Law") and, particularly, to Article 74 thereof; and

6. It is in the best interest of all persons concerned that the Superintendent be vested with title to all INSCORP's property, contracts and rights of action and directed to liquidate its business and affairs;

NOW, on motion of the Honorable Andrew M. Cuomo, Attorney General of the State of New York, it is hereby ORDERED as follows:

1. The petition is granted and INSCORP is found to be insolvent;
2. The rehabilitation proceeding of INSCORP instituted in the Supreme Court, New York County, is terminated;
3. This order shall constitute a final order of liquidation for purposes of triggering the property and casualty guaranty associations in the respective states in which INSCORP previously did business;
4. The Superintendent, and his successors in office, are appointed liquidator ("Liquidator") of INSCORP 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; (ii) vested with title to INSCORP's property, contracts, rights of action and all its books and records, wherever located, as of the date of entry of this Order; and (iii) directed to liquidate INSCORP's business and affairs in accordance with Insurance Law Article 74;

5. The Liquidator may deal with the property and business of INSCORP in its name or in the name of the Liquidator;
6. The Liquidator shall provide notice of this order to all creditors, claimants and other interested persons by: (a) service of a copy of this Liquidation Order upon Bruce Shulan, former General Counsel of INSCORP, as designated agent for service of process, by regular mail and certified mail, return receipt requested, on or before 12 day of MARCH, 2010; (b) 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 Liquidation Order; (c) publication in *Business Insurance* once a week in two consecutive publication weeks, commencing within four weeks of entry of this Order.
7. Such notice shall inform all creditors, claimants and other interested persons that this Order has been entered.
8. The notice prescribed in decretal paragraph 6 hereof is sufficient notice to all persons interested in INSCORP;
9. In accordance with Insurance Law Section 7405, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of INSCORP, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of this Order unless expressly assumed in writing by the Liquidator;
10. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all stocks, bonds or securities of INSCORP at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems is in the best interest of the creditors of INSCORP, and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, transfers and assignments;
11. INSCORP, its officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations, and other persons or entities: (i) having any property, records, books or papers belonging to INSCORP, wherever located, including but not limited to insurance policy, loss claim and legal files, shall preserve all of them and are directed to promptly assign, transfer, turn over and deliver them to the Liquidator; and (ii) having any property, records, books or papers relating to INSCORP, wherever located, shall preserve all of them and are directed, upon the Liquidator's request, to promptly submit them to the Liquidator for examination and copying;

12. Any persons or entities providing claims processing services, data processing services, electronic records retention services or other information technology services to INSCORP shall maintain and preserve all information in its possession ("Information") relating to INSCORP, 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 INSCORP, and are directed, upon the Liquidator's request, to promptly submit all such information to the Liquidator for examination and copying;
13. 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 INSCORP's funds, accounts or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; (iii) change the name of such accounts to the name of the Liquidator; (iv) withdraw funds from such bank, savings and loan association or other financial institution; or (v) take any lesser action necessary for the proper conduct of the liquidation proceeding;
14. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74;
15. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of INSCORP and all other persons other than the Superintendent and his agents are permanently enjoined and restrained from: (i) transacting INSCORP's business; (ii) wasting or disposing of, or permitting to be done any act or thing that might waste or dispose of, INSCORP's property; and (iii) interfering with the Liquidator in the possession, control or management of INSCORP's property or in the discharge of his duties;
16. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against INSCORP, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents with respect to any claims against INSCORP;
17. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against INSCORP's assets or any part thereof;

18. All persons who have first-party policyholder no-fault loss claims pursuant to Article 51 of the Insurance Law against INSCORP are enjoined from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of this Order;
19. Judicial immunity is extended to the Superintendent in his capacity as liquidator and his successors in office and their agents and employees and such immunity is extended to them for any cause of action of any nature against them, individually or jointly, for any action or omission by any one or more of them when acting in good faith, in accordance with this Order, or in the performance of their duties pursuant to Insurance Law Article 74;
20. The Liquidator may at any time make further application to this Court for such further and different relief as he sees fit;
21. This Court shall retain jurisdiction over this matter for all purposes;
22. All further papers in this proceeding shall bear the caption:

"In the Matter of

the Liquidation of

THE INSURANCE CORPORATION OF NEW YORK"

ENTER



JOAN M. KENNEY
J.S.C.

NEW YORK LIQUIDATION BUREAU
123 WILLIAM STREET
NEW YORK, NEW YORK 10038-3889
(212) 341-6755

To all persons or entities
interested in the affairs of
THE INSURANCE CORPORATION OF NEW YORK
Notice is Hereby Given:

- I. James J. Wynn, Superintendent of Insurance of the State of New York, has been appointed by an order of the Supreme Court of the State of New York, New York County, filed on [INSERT DATE] (the "Liquidation Order"), as the liquidator (the "Liquidator") of The Insurance Corporation of New York ("INSCORP") and, as such, has been: (i) vested with title to INSCORP's property, contracts, rights of action and all its books and records; and (ii) directed to liquidate INSCORP's business and affairs, pursuant to New York Insurance Law ("Insurance Law") Article 74. The Liquidator has, pursuant to Insurance Law Article 74, appointed Dennis J. Hayes, Special Deputy Superintendent of Insurance (the "Special Deputy") as his agent to liquidate the business of INSCORP. The Special Deputy carries out his duties through the New York Liquidation Bureau, 123 William Street, New York, New York 10038-3889.
- II. In accordance with Insurance Law Section 7432(b), all claims against INSCORP must be presented to the Liquidator by [INSERT DATE]. Claims presented after [INSERT DATE], will not share in the distribution of assets until all allowed claims that were filed on or before [INSERT DATE] have been paid in full with interest. All policyholders or claimants who appear on INSCORP's books and records as of the date of entry of the Liquidation Order are deemed to have duly filed proofs of claim prior to [INSERT DATE].
- III. In accordance with Insurance Law Section 7405, all contracts and agreements, including all leases, tax sharing agreements and employment contracts of INSCORP, however described, shall terminate and all liability thereunder shall cease and be fixed as of the date of entry of the Liquidation Order, unless expressly ratified in writing by the Liquidator.
- IV. The Liquidator is authorized, permitted and allowed to sell, assign or transfer any and all real or personal property, stocks, bonds or securities of INSCORP at market price or better, or if there is no market price, at the best price obtainable at private sale at such times and upon such terms and conditions as, in his discretion, he deems is in the best interest of the creditors of INSCORP, and he is further authorized to take such steps and to make and execute such agreements and other papers as may be necessary to effect and carry out such sales, assignments and transfers.
- V. INSCORP, its officers, directors, shareholders, members, depositories, policyholders, trustees, agents, servants, employees, attorneys, managers and affiliates, and all firms, corporations, associations, and other persons or entities: (i) having all property, records, books or papers belonging to INSCORP, wherever located, including but not limited to insurance policy, loss claim and legal files, shall preserve all of them and are directed to promptly assign, transfer, turn over and deliver them to the Liquidator, and (ii) having any property, records, books or papers relating to INSCORP, wherever located, shall preserve all of them and are directed, upon the Liquidator's request, to promptly submit them to the Liquidator for examination and copying.
- VI. Any persons or entities providing claims processing services, data processing services, electronic records retention services or other information technology services to INSCORP shall maintain and preserve all information in its possession ("Information") relating to INSCORP, wherever located, including but not limited to all documents, data, electronic files and records, and are directed, upon the Liquidator's request, to promptly submit all such Information to the Liquidator for examination and copying.

VII. 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 any of INSCORP's funds, accounts or assets shall immediately, upon the Liquidator's request and direction: (i) turn over custody and control of such funds, accounts or assets to the Liquidator; (ii) transfer title of such funds, accounts or assets to the Liquidator; and (iii) change the name of such accounts to the name of the Liquidator; (iv) withdraw funds from such bank, savings and loan association or other financial institution; or (v) take any lesser action necessary for the proper conduct of the liquidation proceeding.

VIII. Any distribution of assets shall be in accordance with the priorities set forth in Insurance Law Article 74.

IX. The officers, directors, shareholders, members, depositories, trustees, policyholders, agents, servants, employees, attorneys, managers and affiliates of INSCORP and all other persons are permanently enjoined and restrained from: (i) transacting INSCORP's business; (ii) wasting or disposing of, or permitting to be done any act or thing that might waste or dispose of, INSCORP's property; and (iii) interfering with the Liquidator in the possession, control or management of INSCORP's property or in the discharge of his duties.

X. All persons are permanently enjoined and restrained from commencing or prosecuting any actions or proceedings against INSCORP, the Liquidator or the New York Liquidation Bureau, its employees, attorneys and/or agents, with respect to any claims against INSCORP.

XI. All persons are permanently enjoined and restrained from obtaining preferences, judgments, attachments or other liens, or making any levy against INSCORP's assets or any part thereof.

XII. All persons who have first-party policyholder no-fault loss claims pursuant to Article 51 of the Insurance Law against INSCORP are enjoined from presenting and filing claims with the Liquidator for a period of 90 days from the date of entry of the Liquidation Order.

XIII. All communications relating to INSCORP and to the liquidation thereof should be addressed to:

New York Liquidation Bureau
123 William Street
New York, New York 10038-3889
(212) 341-6560

JAMES J. WRYNN
Superintendent of Insurance of
the State of New York as Liquidator
of The Insurance Corporation of New York

DENNIS J. HAYES
Special Deputy Superintendent of Insurance
and Agent for the Superintendent as
Liquidator of The Insurance Corporation of New York

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

PRESENT: Conroy
Justice

PART 8

INDEX NO. 401477/09
MOTION DATE _____
MOTION SEQ. NO. 4
MOTION CAL. NO. _____

INSURANCE CORP OF NY

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

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits ...

Answering Affidavits — Exhibits _____

Replying Affidavits _____

PAPERS NUMBERED

Cross-Motion: Yes No

Upon the foregoing papers, it is ordered that this motion granted pursuant
to the terms of the attached Order.

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

FILED
NOV 07 2012
NEW YORK
COUNTY CLERK'S OFFICE

RECEIVED
NOV - 7 2012
MOTION SUPPORT OFFICE
NYS SUPREME COURT - CIVIL

Dated: 10/25/12.

Joan M. Kenney
JOAN M. KENNEY J.S.C.

Check one: FINAL DISPOSITION NON-FINAL DISPOSITION
Check if appropriate: DO NOT POST REFERENCE
 SUBMIT ORDER/ JUDG. SETTLE ORDER/ JUDG.

FILED

NOV 07 2012

NEW YORK
COUNTY CLERK'S OFFICE

At IAS Part 8 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 71 Thomas Street, ^{Part 307} in the County, City and State of New York, on the 25 day of October, 2012.

PRESENT:

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

-----X
In the Matter of

the Liquidation of

THE INSURANCE CORPORATION OF NEW YORK.
-----X

Index No.: 401477/09

ORDER

Jonathan L. Bing, Special Deputy Superintendent (the "Special Deputy") and agent of the Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of The Insurance Corporation of New York ("InsCorp"), having moved this Court for an order: (i) approving the Liquidator's report ("Report") on the status of InsCorp's liquidation proceeding ("Liquidation Proceeding"); (ii) establishing December 31, 2012, as the bar date ("Bar Date") for presentment of all claims other than claims for administrative costs and expenses; (iii) authorizing and directing the Liquidator to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; (iv) barring and discharging all claims for losses reported after the Bar Date; (v) authorizing the continued payment of administrative costs and expenses; (vi) authorizing the Liquidator to distribute InsCorp's assets, consistent with this Court's orders and the priorities set forth in Insurance Law Section 7434, to those creditors of InsCorp with allowed claims, to the extent that, in the Liquidator's discretion, sufficient funds are available; (vii) extending judicial immunity to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office

RECEIVED

NOV - 7 2012

MOTION SUPPORT OFFICE
NYS SUPREME COURT - CIVIL

and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74; and (viii) providing for such other and further relief as this Court deems appropriate and just. Jonathan L. Bing has been succeeded by Michael J. Casey, Acting Special Deputy Superintendent and agent of the Superintendent as Liquidator of InsCorp;

NOW, upon reading the Verified Petition, dated August 23, 2012, due proof of service thereof upon all parties interested in InsCorp, and due deliberation having been had thereon, and upon the decision of this Court;

NOW, on application of John Pearson Kelly, attorney for the Liquidator, it is

ORDERED, that the application is granted; and it is further

ORDERED, that the Report and financial transactions delineated therein are approved; and it is further

ORDERED, that December 31, 2012 is the Bar Date for the presentment of all claims other than claims for administrative costs and expenses; and it is further

ORDERED, that the Liquidator is authorized and directed to consider only those claims for actual losses arising under policies issued by InsCorp that are presented to the Liquidator on or before the Bar Date; and it is further

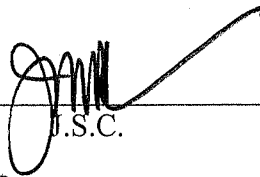
ORDERED, that all claims for losses presented to the Liquidator after the Bar Date are barred and discharged; and it is further

ORDERED, that the Liquidator is authorized to continue paying administrative costs and expenses; and it is further

ORDERED, that the Liquidator is authorized to distribute InsCorp's assets, consistent with this Court's orders and the priorities set forth in New York Insurance Law Section 7434, to those creditors of InsCorp with allowed claims to the extent that, in the Liquidator's discretion, sufficient funds are available; and it is further

ORDERED, that judicial immunity is extended to the Superintendent in his capacity as Liquidator of InsCorp, his successors in office and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Article 74.

ENTER 10-25-2012


J.S.C.

JOAN M. KENNEY

J.S.C.

FILED

NOV 07 2012

NEW YORK
COUNTY CLERK'S OFFICE

Index No. 401477

Year 2009

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

In the Matter of

the Liquidation of

THE INSURANCE CORPORATION OF NEW YORK.

ORDER

JOHN PEARSON KELLY

Attorney for Superintendent of Financial Services of the State of New York as Liquidator

Office and Post Office Address, Telephone

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

FILED

ATTORNEY CERTIFICATION

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

Dated: October 25, 2012
New York, New York

NEW YORK
COUNTY CLERK'S OFFICE
Melissa A. Dell'Orto

[] 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
for settlement to the HON.

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

Dated:

on
FILED
NOV 07 2012
NEW YORK
COUNTY CLERK'S OFFICE

Yours, etc.

JOHN PEARSON KELLY

Attorney for Superintendent of Financial Services
of the State of New York as Liquidator
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