

STATE OF SOUTH CAROLINA
RICHLAND COUNTY

Scott H. Richardson, as Director of the South
Carolina Department of Insurance,

Petitioner,

vs.

Transportation Liability Insurance Company,
A RRG,

Respondent.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Civil Action Number 09-CP-40-1908

**ORDER DECLARING
INSOLVENCY, COMMENCING
LIQUIDATION PROCEEDINGS
& GRANTING AN INJUNCTION
& AUTOMATIC STAY OF
PROCEEDINGS**

FILED
RICHLAND COUNTY
JUN 30 PM 3:42
STEPH. W. FERRIDE
C.P. & G.S.

This matter comes before me pursuant to the South Carolina Insurer's Supervision, Rehabilitation and Liquidation Act [S.C. Code Ann. § 38-27-10 *et seq.* (2004)]. The Petitioner seeks an order appointing him as Liquidator of Transportation Liability Insurance Company, A RRG, the Respondent and authorizing him to commence formal liquidation proceedings. The Respondent has consented to this action in a Consent Order for Rehabilitation dated March 11, 2009, and consented to by Michael G. Karlis Vice President of the Respondent and Geoffrey R. Bonham, co-counsel for the Petitioner.

The Court, having reviewed the pleadings or record, having heard presentation of counsel, and otherwise being fully informed in the premises, finds:

1. The Respondent is a South Carolina industrial insured captive (stock) insurance company formed as a Risk Retention Group and organized and licensed under the

provisions of S.C. Code Ann. §§ 38-90-10 *et seq.* As such it is subject to the primary regulatory authority of the South Carolina Department of Insurance (the Department). It is not publicly traded.

2. The Department granted Respondent a license to transact business on May 6, 2004.
3. On May 15, 2008, Respondent filed a financial statement for the quarter ending March 31, 2008. In that statement, Respondent reported losses and lost adjustment expenses of \$3,307,076 and \$373,431, respectively, and a net loss of \$752,233, reflecting surplus as regards policyholders of \$385,481, which is below the statutory minimum of \$500,000, and is significantly less than the \$2,000,000 required in its licensing letter or the re-established minimum of \$1,800,000. *See* S.C. Code Ann. §§38-90-40(A)(1)(c) and 38-90-50(A)(1)(c) (2002).
4. On May 22, 2008 the Director took regulatory action to protect the Respondent's remaining assets by placing Respondent in administrative supervision pursuant to § 38-26-40(A)(1) & (3) (2002). The Director subsequently engaged Michael J. FitzGibbons as Supervisor of the Respondent.
5. The Director and his successors in office were appointed Receiver for the purposes of rehabilitation of the Respondent pursuant to a Consent Order Commencing Rehabilitation Proceedings & Granting an Injunction & Automatic Stay Of Proceedings dated March 11 2009. Said order was consented to by Michael G. Karlis, Vice President of the Respondent and Geoffrey R. Bonham, attorney for the Petitioner. The Director then appointed Michael J. FitzGibbons as the Special Deputy Rehabilitator (Rehabilitator) to act on his behalf in the rehabilitation proceedings.

6. The Rehabilitator compiled and filed the March 31, 2009 quarterly statutory financial statement. There was again an erosion of capital and surplus in the amount of \$681,000. \$456,000 was attributable to adverse loss and loss expense development. The Rehabilitator determined this continued adverse development would not permit claims to be equitably adjudicated on a global basis under the Rehabilitation Order.
7. Paragraph (5) of the order section of the Consent Order states in part... "Upon petition by the Receiver stating that further efforts to rehabilitate Respondent would be useless, this Court will consider entry of an Order of Liquidation of Respondent without further notice of hearing".
8. This Court has jurisdiction over this matter.
9. The Respondent is insolvent and in such condition as to be hazardous, financially or otherwise to its policyholders, its creditors and the public and that the Petitioner, as Receiver for purposes of rehabilitation of the Respondent, has determined that further efforts to rehabilitate the Respondent would be useless and serve no legitimate purpose.
10. That the immediate appointment of a Liquidator for purposes of liquidation of the Respondent is necessary to protect the Respondent's creditors, claimants, and policyholders and it is in their best interest and the best interest of the public that a Final Order of Liquidation appointing Petitioner as Liquidator of the Respondent and dissolving the Respondent's corporate existence be issued.

IT IS THEREFORE ORDERED THAT:

1. PURSUANT TO S.C. Code Ann. §§ 38-27-360 and 38-27-370 (2004), the Petitioner and his successors in office are appointed Liquidator of the Respondent.

2. The Liquidator take immediate possession and control of the assets, estate, and all other property of the Respondent of every kind whatsoever and wherever situate and exercise all rights of the respondent in connection with any collateral or other assets being held for the benefit of the Respondent by any person or entity. The Liquidator is hereby vested with title to all of the property, contracts, and rights of action and all of the books and records of the Respondent, wherever located, as of the entry of this Final Order of Liquidation.

3. The Liquidator liquidate the Respondent's assets, including, but not limited to funds held by the Respondent's agents, subagents, producing agents brokers, solicitors, service representatives, or others under agency contracts or otherwise which are due and unpaid to the Respondent, including funds remitted by members , unearned commissions, agent balances agent reserve funds, and subrogation recoveries.

4. The Liquidator shall make an accounting to the court within six months after the date of this order and at least annually thereafter. Such reports shall include at a minimum the Respondent's assets and liabilities and all funds the Liquidator has received or disbursed during the current period, and shall be submitted to the Court for approval without necessity of a hearing.

5. The rights and liabilities of the Respondent and its creditors, policyholders, stockholders, members, and all other persons interested in the estate of the Respondent shall be fixed as of the date of entry of this order of Receiver except as provided by §38-27-560 of the South Carolina Code.

6. Pursuant to § 38-27-380 of the South Carolina Code, that all policies in effect at the time of this order, other than life or health insurance policies or annuities covered by the South Carolina Life Accident and Health Insurance Guaranty Association or a similar foreign guaranty association, will continue in force only for the lesser of :

- (1) a period of thirty days from the date of entry of this order;
- (2) the expiration of the policy coverage;
- (3) the date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy; or
- (4) the Liquidator has effected a transfer of the policy obligation pursuant to item (8) of subsection (a) of § 38-27-400.

7. All claims of any nature whatsoever against the assets of the Respondent held by the Liquidator must be filed upon such forms and accompanied by such proof as shall be required by the Liquidator not later than November 30, 2009.

8. The Liquidator shall have full power to take all actions reasonably necessary and proper for the discharge of his responsibilities including, without limitation, those powers in S.C. Code Ann. §38-27-400(2004). Specifically, it is ordered that the Liquidator shall employ and authorize compensation of legal counsel, actuaries, accountants, clerks, consultants and such assistants as he deems necessary, purchase or lease real estate property as he deems necessary, and authorize the payment of expenses of these proceedings and the necessary incidents thereof, to be paid out of the Respondent's assets in the possession of the Liquidator or coming into his possession.

9. Pursuant to S.C. Code Ann. §38-27-80 (2004), all present or former officers, managers, directors, trustees, employees, agents, and brokers of the Respondent, and any persons

with authority over or in charge of any segment of the Respondent's affairs, including attorneys-at-law now or previously retained to represent the Respondent, shall cooperate with the Liquidator in the discharge of his responsibilities, and shall, in addition to all other demands for cooperation, reply promptly in writing to any inquiry from the Liquidator requesting such a reply and make available to the Liquidator any books, accounts, documents, or other records or information or property of or pertaining to the respondent which may be in their possession, custody or control.

10. All present or former officers, managers, directors, trustees, owners, employees, insurance agents or brokers and any other individual or entity holding funds belonging to the Respondent are to account to the Liquidator for all funds of the Respondent held by them in their fiduciary capacity or due to the Respondent, and it is ordered that those funds be directed or forwarded by such individual or entity to the Liquidator unless authorized by the Liquidator to continue holding said funds in said fiduciary capacity until requested by the Liquidator.

11. Pursuant to S.C. Code Ann. § 38-27-390 (2004), the corporate existence of the Respondent be, and is hereby dissolved, and that the Liquidator file a certified copy of this order with the South Carolina Secretary of State.

12. The Liquidator or his designee is hereby relieved from giving any bond and shall be allowed his expenses related to this action, including such clerical or other help which may be necessary, and including, without limitation, expert and attorney fees from Respondent's funds.

NOTICE OF AUTOMATIC STAY

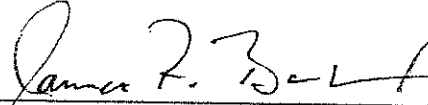
Notice is hereby given that pursuant to S.C. Code Ann. §§ 38-27-70 & 430, the Court grants an automatic stay applicable to all persons and proceedings, other than the Liquidator, which shall be permanent and survive the entry of the Order and which prohibits:

- (1) The transaction of further business;
- (2) The transfer of property;
- (3) Interference with the Liquidator or with a proceeding under Chapter 27 of Title 38 of the Code;
- (4) Waste of the insurer's assets;
- (5) Dissipation and transfer of banks accounts;
- (6) The institution or further prosecution of any actions or proceedings;
- (7) The obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets, or its policyholders;
- (8) The levying of execution against the insurer, its assets or its policyholders;
- (9) The making of any sale or deed for nonpayment of taxes or assessments that would lessen the value of the assets of the insurer;
- (10) The withholding from the Liquidator of books, accounts, documents, or other records relating to the business of the insurer; or
- (11) Any other threatened or contemplated action that might lessen the value of the insurer's assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of any proceeding under Chapter 27 of Title 38 of the South Carolina Code.

This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time may be necessary and appropriate.

This Order is effective immediately upon the signature of the Court.

AND IT IS SO ORDERED.



Hon. James R. Barber, III
Chief Administrative Judge
Fifth Judicial Circuit

This 30 ^{June} of July, 2009
Columbia, South Carolina