

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

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PEOPLE OF THE STATE OF ILLINOIS, ex rel.
NATHANIEL S. SHAPO, DIRECTOR OF
INSURANCE OF THE STATE OF ILLINOIS,

Plaintiffs,

v.

DELTA CASUALTY COMPANY,
an Illinois Domestic Stock, Property and Casualty
Insurance Company,

Defendant.

NO. 01 CH 20445

**AGREED ORDER OF LIQUIDATION
WITH A FINDING OF INSOLVENCY**

THIS CAUSE COMING TO BE HEARD upon the Verified Complaint for Liquidation With a Finding of Insolvency, filed herein by THE PEOPLE OF THE STATE OF ILLINOIS, upon the relation of NATHANIEL S. SHAPO, Director of Insurance of the State of Illinois (the "Director"), by and through their attorney, JAMES E. RYAN, Attorney General of the State of Illinois, against the Defendant, DELTA CASUALTY COMPANY ("DELTA" or the "Company"), pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187 et seq.; the Court having jurisdiction over the parties hereto and the subject matter hereof; the Court having reviewed the pleadings filed herein and having considered the evidence and arguments of counsel thereon; and the Court then being otherwise advised in the premises; and for good cause appearing therefore;

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THE COURT FINDS THAT:

1. Sufficient cause exists for the entry of an agreed order of liquidation against the Defendant, DELTA, including the fact that DELTA is insolvent and has consented to liquidation; and

2. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of the Agreed Order of Liquidation creates an estate comprising all of the liabilities and assets of DELTA; and

IT IS ORDERED THAT:

A. An Agreed Order of Liquidation With a Finding of Insolvency be entered as to and against DELTA; and

B. This Agreed Order of Liquidation With a Finding of Insolvency is a final order; and

C. Pursuant to Section 194 of the Code, 215 ILCS 5/194, the rights and liabilities of DELTA, and of its policyholders, creditors and stockholders, and all other persons interested in DELTA's assets, except as provided in Paragraph (J) and except for those persons entitled to file contingent claims or to have their claims estimated, are fixed as of the date of the entry of the Agreed Order of Liquidation. The rights of persons entitled to file contingent claims or to have their claims estimated shall be determined as provided in Sections 209(4)(b), (6) and (7) of the Code, 215 ILCS 5/209(4)(b), (6) and (7); and

D. Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), DELTA's obligation,

if any, to defend or continue the defense of any claim or suit under a liability insurance policy is terminated upon the entry of the Agreed Order of Liquidation; and

E. Nathaniel S. Shapo, Director of Insurance of the State of Illinois, and his successors in office, is affirmed as the statutory Liquidator (the "Liquidator") of DELTA, with all of the powers appurtenant thereto, including but not limited to:

- (i) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is vested by operation of law with the title to all property, contracts, and rights of action of DELTA; and
- (ii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is entitled to immediate possession and control of all property, contracts, and rights of action of DELTA; and
- (iii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is authorized to remove any and all records and property of DELTA to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of DELTA's liquidation; and
- (iv) Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Liquidator is authorized to deal with the property, business and affairs of DELTA in his name, as Director, and that the Liquidator is authorized to deal with the property, business and affairs of DELTA in the name of DELTA; and
- (v) Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Liquidator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of DELTA, or any part thereof, and to sell or compromise all debts or claims owing to DELTA having a value in the amount of Twenty-Five Thousand Dollars (\$25,000.00) or less. Any such sale by the Liquidator of the real or personal property of DELTA having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00), and sale or compromise of debts owing to DELTA by the Liquidator where the debt owing DELTA exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be made subject to the approval of the Court; and
- (vi) Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Liquidator is authorized to bring any action, claim, suit or proceeding against any director, officer, or trustee of DELTA, or against any other person with

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respect to that person's dealings with the company, including, but not limited to, prosecuting any action, claim, suit or proceeding on behalf of the creditors or policyholders of DELTA; and

- (vii) Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Liquidator may, within two (2) years after the entry of the Agreed Order of Liquidation or within such further time as applicable law permits, institute an action, claim, suit or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the complaint upon which the Agreed Order of Liquidation was entered; and
- (viii) Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Liquidator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of this Court, from the assets of DELTA all administrative expenses incurred during the course of the liquidation of DELTA; and
- (ix) Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Liquidator shall not be required to pay any fee to any public officer for filing, recording or in any manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Code, supra, nor for services rendered by any public officer for serving any process; and
- (x) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of DELTA's property and to recover such property or its value, if it has been converted; and

F. The Liquidator is authorized to take such actions as the nature of the cause and the interests of DELTA, its policyholders, creditors, members, stockholders or the public may require, including, but not limited to, the following:

- (i) The Liquidator shall proceed to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of DELTA, and of the premises occupied by DELTA for the transaction of its business, and shall take such action as the nature of this cause and the interests of DELTA's policyholders, creditors, members, stockholders or the public may require, pursuant to the provisions of Article XIII of the Code, supra, and the Liquidator is further directed and authorized to liquidate, wind down, or terminate DELTA's business and affairs, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the liquidation of DELTA; and

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- (ii) The Liquidator may both sue and defend on behalf of DELTA, or for the benefit of DELTA's policyholders and creditors, in the courts either in his name as the Liquidator of DELTA, or in the name of DELTA; and

G. Vesting the Director with the right, title and interest in all funds recoverable under any insurance policies, and any treaties and agreements of excess insurance or reinsurance heretofore entered into by or on behalf of DELTA, and that all insurance, excess insurance or reinsurance companies involved with DELTA be restrained and enjoined from making any settlements with any claimant or policyholder of DELTA, or any other person, other than the Director as Liquidator, except with the written consent of the Director; and

H. The caption in this cause and all pleadings filed in this matter shall read:

**“IN THE MATTER OF THE LIQUIDATION OF
DELTA CASUALTY COMPANY”**

I. All costs of these proceedings shall be taxed and assessed against the Defendant, DELTA; and

J. All direct policies and/or certificates of insurance heretofore issued by DELTA are hereby canceled upon the following terms:

- (i) All direct policies and/or certificates of insurance which may give rise to “covered claims,” as defined in Sections 534.3 and 537.2 of the Code, 215 ILCS 5/534.3 and 537.2, of the Illinois Insurance Guaranty Fund or which may give rise to “covered claims” of a similar organization in any other state, as defined by the provisions of such similar statute in any such other state, shall be cancelled:

- 630
- (a) At 12:01 a.m., local time of the insured or policyholder of any such direct policy and/or certificate of insurance, on the thirty-first (31st) day following the date on which the Agreed Order of Liquidation is entered; or
 - (b) Upon the expiration date of any such direct policy and/or certificate of insurance, if the expiration date is less than thirty-one (31) days after the date on which the Agreed Order of Liquidation is entered; or
 - (c) Upon the date the insured or policyholder of any such direct policy and/or certificate of insurance replaces the direct policy and/or certificate of insurance, or on request effects cancellation, if the insured or policyholder does so prior to the thirty-first (31st) day following the date on which the Agreed Order of Liquidation is entered, whichever is earlier.
- (ii) All other direct policies and/or certificates of insurance issued by DELTA shall be cancelled effective upon the date on which the Agreed Order of Liquidation is entered; and

K. Pursuant to its authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

- (i) To enable the Liquidator to fulfill his statutory obligation to marshal the assets of the estate, including the investigation of potential claims of improper conduct against any person with respect to their dealings with the company as provided under Section 193(3) of the Code, 215 ILCS 5/193(3), all accountants, auditors, actuaries and attorneys of DELTA, and all other persons or entities having knowledge of this Order, are ordered to deliver to the Liquidator, at his request, copies of all documents in their possession or under their control concerning or related to DELTA, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships or dealings with DELTA, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of DELTA, or its respective agents, servants, officers, directors and/or employees, or which DELTA may be, or is, entitled to as the result of its relationship with such accountants, auditors, actuaries, attorneys, persons and entities; and
- (ii) DELTA and its respective trustees, officers, directors, agents, third party administrators, managing general agents, servants, representatives, employees, and affiliated companies, including but not limited to Creative

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Insurance Underwriters, Inc., and all other persons and entities having knowledge of this Order, shall give immediate possession and control to the Liquidator of all property, business, books, records and accounts of DELTA, and all premises occupied by DELTA for the transaction of its business; and

- (iii) DELTA and its respective trustees, officers, directors, agents, servants, representatives and employees, and all other persons and entities having knowledge of this Order, are restrained from transacting any business of DELTA, or disposing of any company property or assets, without the express written consent of the Liquidator, or doing or permitting to be done any action which might waste the property or assets of DELTA, until the further order of this Court; and
- (iv) The officers, directors, trustees, agents, third party administrators, managing general agents, servants, representatives, policyholders, creditors, and employees of DELTA, and all other persons and entities having knowledge of this Order, are restrained from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against DELTA or its property or assets, or the Director or Liquidator, except insofar as those claims, actions or proceedings arise in or are brought in the liquidation proceedings prayed for herein; or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against DELTA, or its property or assets while in the possession and control of the Liquidator, or from interfering in any way with the Liquidator in his possession or control of the property, business, books, records, accounts, premises and all other assets of DELTA, until the further order of this Court; and
- (v) Any and all banks, brokerage houses, financial institutions, and any and all other companies, persons or entities having knowledge of this Order, having in their possession accounts and any other assets which are, or may be, the property of DELTA, are restrained from disbursing or disposing of said accounts and assets and are further restrained from disposing of or destroying any records pertaining to any business transaction between DELTA and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with DELTA, or having in their possession assets which are, or may be, the property of DELTA, and further, that each such person or entity is ordered to immediately deliver any and all such assets and/or records to the Liquidator; and
- (vi) All agents, managing general agents, third-party administrators, and brokers of DELTA, and their respective agents, servants, representatives

100

and employees, and all other persons having knowledge of this Order, are restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums upon policies, contracts or certificates of insurance or reinsurance, previously issued by DELTA, to policyholders or others, and all said agents and brokers, and DELTA's agents, representatives, employees and servants, are directed to turn over all such funds in their possession or under their control, or to which they may hereafter acquire possession or control, to the Liquidator in gross and not net of any commissions which may be due thereon; and

- (vii) All policyholders under policies of insurance issued by DELTA, employees, and any other persons asserting claims against such policyholders, and creditors of DELTA, and all other persons, companies and entities having knowledge of this Order, are restrained from instituting or pursuing any action or proceeding in any court or before any administrative agency, including boards and commissions administering workers' compensation or occupational diseases or similar laws of the State of Illinois, or any other state, or of the United States, which seek in any way, directly or indirectly, to contest or interfere with the Liquidator's exclusive right, title and interest to funds recoverable under treaties and agreements of reinsurance or excess insurance heretofore entered into by or on behalf of DELTA; and

- (viii) All insurance and reinsurance companies and entities that assumed liabilities from DELTA arising under either contracts, policies of insurance, certificates of insurance, or contracts of reinsurance issued by DELTA, are restrained from making any settlements with any claimant or policyholder of DELTA, or any other person other than the Liquidator, except with the written consent of the Liquidator, except when the reinsurance agreement, certificate, contract or treaty lawfully provides for payment to or on behalf of DELTA's insured by the reinsurer; and

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L. This Honorable Court shall make such further, different or other orders as it may deem proper in the premises.

ENTERED: JUDGE NANCY J. ARNOLD
DEC 4 2001
Circuit Court-1732

Judge Presiding

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