

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

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

Plaintiffs,)

v.)

No. 99 CH 11920

ILLINOIS EARTH CARE)
WORKERS COMPENSATION TRUST,)
an Illinois Group Self-Insurer,)

Defendant.)

**AGREED ORDER OF LIQUIDATION
WITH 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, Illinois Earth Care Workers' Compensation Trust ("Earth Care" 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;

THE COURT FINDS THAT:

A. Sufficient cause exists for the entry of an order of liquidation of the Defendant. EARTH CARE, including the fact that EARTH CARE is currently insolvent; and

B. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of the order prayed for herein creates an estate comprising of all of the liabilities and assets of EARTH CARE; and

IT IS ORDERED THAT:

A. An Order of Liquidation be entered as to and against EARTH CARE, and the pending rehabilitation of EARTH CARE is hereby terminated; and

B. There being no just reason for delaying enforcement or appeal of this Order, this Order of Liquidation With a Finding of Insolvency is a final order within the meaning of Illinois Supreme Court Rule 307(a)(5); and

C. Pursuant to Section 194 of the Code, 215 ILCS 5/194, the rights and liabilities of EARTH CARE, and of its policyholders, members, creditors and all other persons interested in EARTH CARE's assets, 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 order of liquidation prayed for herein. 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. 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 EARTH CARE, 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 EARTH CARE; 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 EARTH CARE; 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 EARTH CARE to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of EARTH CARE'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 EARTH CARE in his name, as Director, and that the Liquidator is authorized to deal with the property, business and affairs of EARTH CARE in the name of EARTH CARE; 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 EARTH CARE, or any part thereof, and to sell or compromise all debts or claims owing to EARTH CARE having a value in the amount of Twenty-Five Thousand (\$25,000.00) Dollars, or less. Any such sale by the Liquidator of the real or personal property of EARTH CARE having a value in excess of Twenty-Five Thousand (\$25,000.00) Dollars, and sale or compromise of debts owing to EARTH CARE by the Liquidator where the debt owing

EARTH CARE exceeds Twenty-Five Thousand (\$25,000.00) Dollars 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 or officer of EARTH CARE or against any other person with 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 EARTH CARE; 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 liquidation order prayed for herein 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 said order was entered; and
- (ix) 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 EARTH CARE all administrative expenses incurred during the course of the liquidation of EARTH CARE; and
- (x) 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 Illinois Insurance Code, 215 ILCS 5/187 *et seq.*, nor for services rendered by any public officer for serving any process; and
- (xi) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of EARTH CARE's property and to recover such property or its value, if it has been converted; and

E. Subject to the further orders of the Court, the Liquidator is authorized to take such actions as the nature of the cause and the interests of EARTH CARE, its policyholders, members, creditors, 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 EARTH CARE, and of the premises occupied by EARTH CARE for the transaction of its business, and shall take such action as the nature of this cause and the interests of EARTH CARE's policyholders, members, creditors or the public may require, subject to further orders of this Court, 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 EARTH CARE'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 EARTH CARE; and
- (ii) The Liquidator may both sue and defend on behalf of EARTH CARE, or for the benefit of EARTH CARE's policyholders, members and creditors, in the courts either in his name as the Liquidator of EARTH CARE, or in the name of EARTH CARE; and

F. The Liquidator is vested with the right, title and interest in all funds recoverable under treaties and agreements of excess insurance or reinsurance heretofore entered into by or on behalf of EARTH CARE, and that all excess insurance or reinsurance companies involved with EARTH CARE be restrained and enjoined from making any settlements with any claimant or policyholder of EARTH CARE, or any other person, other than the Liquidator, except with the written consent of the Liquidator; and

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

**"IN THE MATTER OF THE
LIQUIDATION OF ILLINOIS EARTH CARE
WORKERS COMPENSATION TRUST"**

H. All costs of these proceedings shall be taxed and assessed against the Defendant, EARTH CARE; and

I. 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) All accountants, auditors and attorneys of the EARTH CARE 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 EARTH CARE, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships between them and EARTH CARE, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of EARTH CARE, or its respective agents, servants, officers, directors and/or employees, or which EARTH CARE may be, or is, entitled to as the result of its relationship with such accountants, auditors and attorneys; and
- (ii) EARTH CARE and its respective trustees, officers, agents, third party administrators, servants, representatives, employees, and affiliated companies, and all other persons and entities, shall give immediate possession and control to the Liquidator of all property, business, books, records and accounts of EARTH CARE, and all premises occupied by EARTH CARE for the transaction of its business; and
- (iii) EARTH CARE and its respective trustees, officers, agents, servants, representatives and employees, and all other persons and entities having knowledge of this Order are restrained from transacting any business of EARTH CARE, 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 EARTH CARE, until the further order of this Court; and
- (iv) The officers, trustees, agents, third party administrator, servants, representatives and employees of EARTH CARE, 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 EARTH CARE, 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 EARTH CARE, 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 EARTH CARE, 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 its possession accounts and any other assets which are, or may be, the property of EARTH CARE, 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 EARTH CARE, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with EARTH CARE, or having in its possession assets which are, or may be, the property of EARTH CARE, 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 and brokers of EARTH CARE, and their respective agents, servants, representatives and employees, and all other persons, are restrained from returning any unearned premiums or any money in its possession, or under its control, collected from premiums upon policies, contracts or certificates of insurance or reinsurance previously issued by EARTH CARE, to policyholders or others, and all said agents and brokers, and EARTH CARE'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 EARTH CARE, persons asserting claims against such policyholders, and creditors of EARTH CARE, and all other persons, companies and entities are restrained from instituting or pursuing any action or proceeding in any court or before any administrative agency, including boards and commissions administering worker's 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 EARTH CARE; and

- (viii) All insurance and reinsurance companies and entities that assumed liabilities from EARTH CARE arising under either contracts, policies of insurance, certificates of insurance, or contracts of reinsurance issued by EARTH CARE, are restrained from making any settlements with any claimant or policyholder of EARTH CARE, 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 the behalf of EARTH CARE's insured by the reinsurer.

ENTERED:

ENTERED

OCT 26 2000

JUDGE

JULIA M. NOWICKI 1293



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