

EAST BATON ROUGE PARISH
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C-714982
23

JAMES J. DONELON,
COMMISSIONER OF INSURANCE
FOR THE STATE OF LOUISIANA

VERSUS

AMERICAS INSURANCE
COMPANY

NUMBER: C-714982 SEC: 23

19th JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

ORDER OF LIQUIDATION AND FINDING OF INSOLVENCY

CONSIDERING the “Motion for the Liquidation of Americas Insurance Company, Assure Holding Corporation, and Assure Underwriting Agency, LLC and Finding of Insolvency” filed by James J. Donelon, Commissioner of Insurance for the State of Louisiana (“Commissioner” or “Rehabilitator”), in his capacity as Rehabilitator, and by Billy J. Bostick as duly-appointed Receiver, of Americas Insurance Company (“AIC”), Assure Holding Corporation (“AHC”), and Assure Underwriting Agency, LLC (“AUA”) (collectively sometimes “the AIC Companies”), the exhibits attached thereto, the previous Rehabilitation Orders, Cadence Bank’s Memorandum in Opposition and Objection to the Commissioner’s Motion for the Liquidation of Americas Insurance Company, Assure Holding Corporation, and Assure Underwriting Agency, LLC and to the Finding of Insolvency (the “Objection”), the record herein, the evidence presented, and the law and evidence entitling the Rehabilitator and Receiver to the relief sought herein, and finding that the defendants, the AIC Companies, are insolvent within the meaning of La. R.S. 22:2003(3); and that further efforts to rehabilitate the AIC Companies would be futile and would result in loss to AIC’s policyholders and the AIC Companies’ creditors;

IT IS ORDERED, ADJUDGED AND DECREED that the Commissioner’s and Receiver’s Motion is GRANTED; this Court finds that Americas Insurance Company, Assure Holding Corporation, and Assure Underwriting Agency, LLC are insolvent under La. R.S. 22:2003(3) and sufficient cause exists for these AIC Companies’ liquidation in accordance with La. R.S. 22:2001, *et seq.*;

IT IS FURTHER ORDERED that the Commissioner is appointed as Liquidator of AIC, AHC, and AUA with all of the powers and authority provided by law and is directed to liquidate the property, business and affairs of AIC, AHC, and AUA in accordance with La. R.S. 22:2001, *et seq.*;

IT IS FURTHER ORDERED that Billy J. Bostick shall remain as Receiver of AIC, AHC, and AUA;

IT IS FURTHER ORDERED that the Commissioner and his successors in office shall be vested by operation of law with the title to all property, contracts, and rights of action of AIC as of January 14, 2022 and of AHC and AUA as of February 2, 2022;

IT IS FURTHER ORDERED that all of the contracts, covenants, bonds or policies, evidences, or certificates of coverage or insurance issued by or in the name of AIC, under which any guarantee or insurance is provided, shall be cancelled as follows:

(a) All insurance policies issued by AIC in the State of California are cancelled upon the earlier of (i) thirty (30) days after the date this Order of Liquidation is entered, at 12:01 a.m. local time of the insured or policyholder of such direct policy or certificate of insurance; (ii) the expiration date of any such direct policy and/or certificate of insurance for which timely notice was given by AIC, if the expiration date is sooner than thirty (30) days after the entry of this Order of Liquidation; or (iii) 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 effects cancellation, if the insured or policyholder does so within thirty (30) days after the entry of the Order of Liquidation;

(b) All insurance policies issued by AIC in the State of Louisiana ("**Assumed Policies**") were extinguished as a matter of law upon Safepoint Insurance Company's assumption of these policies with a novation approved by this Court on May 2, 2022; however, should a court find that the Assumed Policies were not extinguished by the assumption and novation, then the Assumed Policies shall be deemed to remain in effect solely for the purpose of preserving the Assumed Policies and binding the policyholders and Safepoint Insurance Company to the terms and conditions therein, until the expiration, cancellation or termination of these Assumed Policies in accordance with the policy provisions, unless otherwise ordered by this Court; however, the preservation of these Assumed Policies shall not obligate AIC, as all such obligations owed under such policies have been assumed by Safepoint Insurance Company;

(c) All executory contracts of AIC, AHC, and AUA may be enforced, cancelled, or modified by the Liquidator or Receiver in their discretion or as otherwise ordered by this Court; for clarity, the Commissioner and the Receiver acknowledge and agree that any and all existing Loan Documents (defined below) between any or all of AIC, AHC, and AUA, on the one hand, and Cadence Bank, on the other hand, whether or not determined to be executory contracts, are not subject to cancellation at this time or by entry of this Order, pending further determinations by the Court; and

(d) The Commissioner and the Receiver acknowledge a claim asserted by Cadence Bank to recover amounts claimed as due on a term loan in the original principal amount of \$8 million made to AHC on November 18, 2020 and guaranteed by affiliates of AHC, including AIC and AUA, and that Cadence Bank claims that the loan and guarantees are evidenced by the following documents dated November 18, 2020: (i) a Term Note; (ii) a Credit Agreement; and (iii) a Pledge and Security Agreement, all of which are attached to Cadence Bank's Objection (collectively, the Term Note, Credit Agreement, Pledge and Security Agreement and all other documents arising out of or relating to the loan are the "**Loan Documents**"); that Cadence Bank asserts that the Loan Documents provide Cadence Bank a first-priority lien on the assets, including cash assets, of AHC, AIC, and AUA; that these claims were set out in a Petition filed by Cadence Bank in Suit No. C-717212 in Section 27 of this Court; that the Receiver and Cadence Bank entered into a Stipulated Consent Order in that matter which provided for consolidation thereof with the present case and for interim actions to address the interests of Cadence Bank pending a determination of Cadence Bank's claims; and that the Commissioner and Receiver reaffirm that the terms of the Stipulated Consent Order—including, without limitation, that the AIC Companies shall maintain not less than \$6,250,000 in accounts at Cadence Bank—shall remain in effect and binding on them and Cadence Bank after entry of this Order of Liquidation and continuing for the period of time necessary for the parties to litigate, or otherwise resolve, all issues related to Cadence Bank's claim of first-priority lien against all cash accounts or other assets of the AIC Companies in accordance with due process and the Stipulated Consent Order, and with the parties otherwise reserving such rights, claims, and defenses they may have with respect to the Cadence Bank claims, notwithstanding other provisions of this Order concerning enforcement, cancellation, or

modification of contracts of AIC, AHC, and/or AUA; for clarity, to the extent any provisions of this Order conflict with this subsection (d), the terms of this subsection (d) with regard to the claims of Cadence Bank shall control.

IT IS FURTHER ORDERED that the rights and liabilities of AIC, AHC, and AUA, and of these entities' creditors, except those holding contingent claims, and of AIC's policyholders, and the companies' stockholders, or members, and of all other persons interested in the companies' assets shall, unless otherwise ordered by this Court, be fixed as of the date of the entry of this Order of Liquidation; the rights of claimants holding contingent claims on the date of the entry of this Order shall be determined in accordance with La. R.S. 22:2001, *et seq.*; and the rights of Cadence Bank shall be determined in the manner set out in subsection (d), above, and to any extent Cadence Bank may claim reimbursement of additional expenses, interest and fees related to the loans described in subsection (d), those claims will be resolved in due course in these proceedings, according to applicable law;

IT IS FURTHER ORDERED that the Liquidator shall notify every holder of a certificate of coverage or contract of insurance issued by AIC, and every known creditor of AIC, AHC, and AUA, of this Order of Liquidation within sixty (60) days of the date of this Order, notwithstanding the provisions of La. R.S. 22:2010 and 22:2011, and such notice may be emailed to the holder of a certificate at the discretion of the Receiver, when an email address has been provided, and such delivery shall be considered compliant with La. R.S. 22:2011 as if it were mailed by United States Mail;

IT IS FURTHER ORDERED that the Liquidator is authorized to notify persons who may have claims against AIC, AHC, and/or AUA pursuant to La. R.S. 22:2027 in the following manner:

(a) By sending notice to all persons who, according to the AIC Companies' books and records, have or may have claims against the AIC Companies, their property, or assets, to present and file with the Receiver completed proofs of claim in the form required by this Order, at a place specified in the notice, on or before 4:30 p.m. CDT on a date that is no later than four (4) months after the Order of Liquidation is signed, as set by the Receiver in the notice. Said notice by the Liquidator shall specify the deadline, no later than four (4) months from the date of the Order of Liquidation, to be the last day by which a proof of claim may be received by the Receiver for

purposes of participating in any distribution of assets that may be made on timely filed claims that are allowed in these proceedings (“**Claim-filing Deadline**”); and

(b) By providing notice to all persons who have or may have claims against the AIC Companies, their property, or assets, by publication in the New Orleans Times Picayune/Advocate, the Baton Rouge Advocate, and any other publications as deemed necessary by the Receiver. The published notice shall: (1) advise all such persons of their right to present their claim or claims against the AIC Companies, their property, or assets, to the Receiver; (2) advise all such persons of the procedure by which they may present their claims to the Receiver; (3) advise all such persons of the address of the Receiver’s office where they must present their claims; and (4) specify the Claim-filing Deadline for purposes of participating in any distribution of assets that may be made on timely filed claims allowed in these proceedings;

IT IS FURTHER ORDERED that all persons having, or claiming to have, any accounts, debts, claims or demands against AIC, AHC, and/or AUA, their property or assets, shall present their claims to the Receiver at the place specified in the notice, on or before the Claim-filing Deadline, by way of a properly completed proof of claim. A proof of claim must consist of a statement, under oath, in writing, signed by the claimant, setting forth the following: (1) the specific claim, the entity against which the claim is presented, and the consideration given; (2) whether any payments have been made on the claim, and, if so, what payments; and (3) that the sum claimed is justly owing from AIC, AHC, and/or AUA to the claimant. Whenever a claim is founded upon an instrument in writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim and, if such instrument is lost or destroyed, a statement of such fact and the circumstances of the loss or destruction shall be filed under oath with the claim. If the claim is secured, the claimant shall identify the claim as a secured claim and shall list all securities held;

IT IS FURTHER ORDERED that the Liquidator and the Receiver are granted all powers and authority afforded to them by La. R.S. 22:2001, *et seq.* and other applicable law, including the following:

(a) To liquidate the property, business, and affairs of AIC, AHC, and AUA;

- (b) To deal with the property and business of AIC, AHC, and/or AUA in his name as commissioner of insurance, in the name of the Receiver, or in the name of AIC, AHC, or AUA;
- (c) To sell or otherwise dispose of the property, or any part thereof, of AIC, AHC, and/or AUA;
- (d) To sell or compromise all doubtful or uncollectible debts or claims owing to or by AIC, AHC and/or AUA;
- (e) To avoid preferences and liens in accordance with applicable substantive and procedural law;
- (f) To avoid fraudulent transfers in accordance with applicable substantive and procedural law;
- (g) To audit the books and records of all agents, including producers, of AIC, AHC, and/or AUA insofar as those records relate to the business activities of AIC, AHC, and/or AUA;
- (h) To enter into agreements or contracts, and to honor agreements or contracts entered into during the Rehabilitation, as necessary to carry out the Order of Liquidation;
- (i) To affirm or disavow any executory contracts to which AIC, AHC, and/or AUA is a party, except that the claims of Cadence Bank based on the Loan Documents described above will be determined in the manner set out in subsection (d) on page 3; and
- (j) All powers and authority previously conferred to the Commissioner as Rehabilitator and the Receiver in the Rehabilitation Orders to the extent such powers and authority do not conflict with this Order of Liquidation or Louisiana law governing the liquidation of insurers and insurance company holding company systems;

IT IS FURTHER ORDERED that the Liquidator is authorized to coordinate the operation of the Receivership with the Louisiana Insurance Guaranty Association and, in the Liquidator's discretion, to enter into such contracts with the Louisiana Insurance Guaranty Association or any applicable guaranty association as may be required to effectuate the liquidation of AIC, AHC, and/or AUA;

IT IS FURTHER ORDERED that all individuals and entities are enjoined and stayed from obtaining preferences, judgments, attachments, or other like liens or the making of any levy against AIC, AHC or AUA, their property, or assets until further order of this Court;

IT IS FURTHER ORDERED that all individuals and entities are enjoined from instituting or taking further action in any suit or proceeding, and from pursuing, obtaining or executing a judgment, against AIC, AHC, or AUA, their property, or assets, the Commissioner in his capacity as Liquidator of AIC, AHC, and AUA, and/or the Receiver except with the concurrence of the Liquidator or Receiver or until further written order of this Court;

IT IS FURTHER ORDERED that all suits, proceedings, seizures and any other legal actions are enjoined and stayed as against AIC or its policyholders, or relating to AIC's possible obligation to provide a defense to any party in any court pursuant to any policy of insurance or certificate of coverage issued or assumed by AIC, or concerning the ownership, operations, management, or control of AIC, except with the concurrence of the Liquidator or Receiver or until further written order of this Court;

IT IS FURTHER ORDERED that there shall be no liability on the part of, and no cause of action of any nature shall exist against, the Louisiana Department of Insurance or its employees; the Commissioner as Liquidator; the Receiver; their assistants, contractors, or attorneys; or the attorney general's office for any action taken by them in performance of their powers and duties under the law;


IT IS FURTHER ORDERED that all individuals and entities are enjoined from interfering with these proceedings, the conduct of the business of AIC, AHC, and/or AUA by the Liquidator or Receiver, and their management, possession and control of AIC, AHC and/or AUA or any title, rights or interest therein, and from wasting the assets of AIC, AHC, and/or AUA, until further order of this Court;

IT IS FURTHER ORDERED that the Commissioner as Liquidator and the Receiver shall be granted all legal and equitable relief as may be necessary to fulfill their duties and for such other relief as the nature of the case and the interest of AIC's policyholders, the creditors of AIC, AHC, and/or AUA, or the public, may require; and except as expressly provided herein, nothing in this Order shall limit the powers, authority and protections granted to the Liquidator or Receiver in

connection with this proceeding under Louisiana law; and

IT IS FURTHER ORDERED that all provisions set forth in this Court's prior orders issued in this proceeding, including the Order of Rehabilitation of AIC issued on January 14, 2022, and the Order of Rehabilitation of AHC and AUA issued on February 2, 2022, and in the Stipulated Consent Order entered in Suit No. C-717212, Section 27, of the 19th Judicial District Court, shall remain in full force and effect.

SO ORDERED, READ AND SIGNED at Baton Rouge, Louisiana, this 23 day of June, 2022.



 THE HONORABLE KELLY BALFOUR
 JUDGE, 19TH JUDICIAL DISTRICT COURT

Order Approved as to Form:

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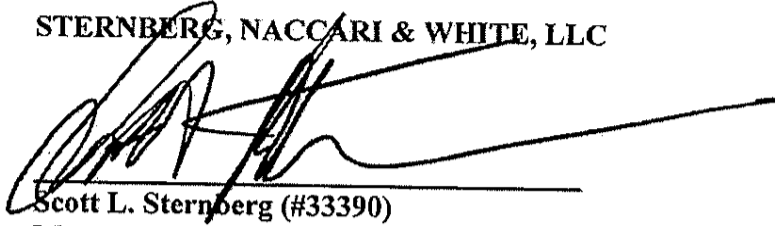
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