

19<sup>TH</sup> JUDICIAL DISTRICT COURT

STATE OF LOUISIANA

PARISH OF EAST BATON ROUGE

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

Plaintiff,

VERSUS

STATE NATIONAL FIRE  
INSURANCE COMPANY,  
COLUMBUS UNDERWRITERS LLC,  
and COLUMBUS HOLDINGS LLC,

Defendants

\* NUMBER: 713,121  
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\* SECTION: 24  
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MOTION FOR THE LIQUIDATION OF STATE NATIONAL FIRE INSURANCE  
COMPANY, COLUMBUS UNDERWRITERS LLC, AND COLUMBUS HOLDINGS LLC  
AND FINDING OF INSOLVENCY

NOW INTO COURT, through undersigned counsel, comes James J. Donelon, Commissioner of Insurance for the State of Louisiana (“Commissioner” or “Rehabilitator”), in his capacity as Rehabilitator of State National Fire Insurance Company, Columbus Underwriters LLC, and Columbus Holdings LLC (collectively “SNFIC” or “Defendants”), through his delegated and court-appointed Receiver, Billy J. Bostick (“Receiver”), who respectfully requests an order for the liquidation of SNFIC and a finding of insolvency as follows:

1.

On November 10, 2021, this Court issued an order placing SNFIC in rehabilitation and appointing the Commissioner as Rehabilitator, Billy Bostick as Receiver, and Arlene Knighten as Deputy Receiver, of SNFIC in accordance with La. R.S. 22:2001, et seq. A permanent order for the rehabilitation of SNFIC was issued November 17, 2021 (“Order of Rehabilitation”).

2.

The Rehabilitator’s primary, immediate objectives in the rehabilitation of SNFIC were twofold: (1) ensuring the payment of policyholders’ claims and (2) avoiding a blanket cancellation of State National Fire Insurance Company’s policies that would leave thousands of policyholders without insurance coverage. Both of these goals have been accomplished. The Louisiana Insurance Guaranty Association (“LIGA”) is administering and paying policyholders’ covered

claims incurred prior to December 1, 2021, and all of State National Fire Insurance Company's in-force policies issued in Louisiana and Texas ("**Assumed Policies**") have been assumed by a solvent insurer, SafePoint Insurance Company ("**SafePoint**"), through a transaction approved by this Court, thereby preserving coverage for all claims incurred on or after December 1, 2021, for the natural life of these Assumed Policies and giving insureds the option to renew these policies with SafePoint for an additional year on similar terms.

3.

La. R.S. 22:2009 provides in part that "[i]f at any time the commissioner of insurance shall find that further efforts to rehabilitate the insurer would be futile and would result in loss to the creditors, policyholders, stockholders or any other persons interested, he may apply to the court in the same proceeding for an order directing the liquidation of the property, business and affairs of such insurer." La. R.S. 22:2009(C).

4.

As of November 20, 2021, State National Fire Insurance Company's liabilities substantially exceeded its admitted assets plus capital and surplus, and State National Fire Insurance Company remains unable to pay its obligations when due. Consequently, State National Fire Insurance Company and related companies are insolvent within the meaning of La. R.S. 22:2003(3), and liquidation is proper under La. R.S. 22:2005. The liquidation of SNFIC is also warranted by La. R.S. 22:2009, as the companies are unable to continue business as an insurer, and further efforts to rehabilitate SNFIC would be futile, wasteful and harmful to SNFIC's creditors and policyholders.

5.

The former directors and officers of State National Fire Insurance Company have been consulted, and Michael L. Toffoli, its former President & CEO and Director, has represented that "State National Fire Insurance Company's Board of Directors and its sole shareholder, Columbus Holdings LLC, consent to the liquidation." A copy of Mr. Toffoli's email dated January 7, 2022, is attached as Exhibit 1.

6.

The Commissioner respectfully requests an order finding SNFIC to be insolvent and directing the Commissioner to liquidate SNFIC in accordance with Louisiana law. The specific relief sought by this motion is set forth in the proposed "Order of Liquidation and Finding of Insolvency," attached as Exhibit 2.

**WHEREFORE**, James J. Donelon, Commissioner of Insurance for the State of Louisiana, in his capacity as Rehabilitator of State National Fire Insurance Company, Columbus Underwriters LLC, and Columbus Holdings LLC, through his delegated and court-appointed Receiver, Billy J. Bostick, prays that this Court grant this motion and issue an order for the liquidation of State National Fire Insurance Company, Columbus Underwriters LLC, and Columbus Holdings LLC and a finding of insolvency, as requested herein.

Respectfully submitted,

TAYLOR, PORTER, BROOKS & PHILLIPS L.L.P.

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**ORDER OF LIQUIDATION WITH FINDING OF INSOLVENCY**

**CONSIDERING** the Motion for Order of Liquidation filed by James J. Donelon, Commissioner of Insurance for the State of Louisiana (“**Commissioner**” or “**Rehabilitator**”) in his capacity as Rehabilitator of State National Fire Insurance Company, Columbus Underwriters LLC, and Columbus Holdings LLC (collectively “**SNFIC**”), pursuant to La. R.S. 22:2009, the exhibit attached thereto, the preliminary and permanent Orders of Rehabilitation, the arguments of counsel, the record herein, and the law and evidence entitling the Rehabilitator to the relief sought therein, and finding that SNFIC is insolvent within the meaning of La. R.S. 22:2003(3); that further efforts to rehabilitate SNFIC would be futile and would result in loss to SNFIC’s creditors and policyholders; that the law and evidence favor granting the relief requested by the Commissioner herein; and the Board of Directors of State National Fire Insurance Company and its sole owner, Columbus Holdings LLC, have consented to the entry of this Order of Liquidation.

**IT IS ORDERED** that the Commissioner’s motion is **GRANTED**; an Order of Liquidation with a Finding of Insolvency is hereby entered against SNFIC;

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

**IT IS FURTHER ORDERED** that the Commissioner and his successor and successors in office shall be vested by operation of law with the title to all property, contracts, and rights of action of SNFIC as of November 10, 2021;

**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 SNFIC, under which any guarantee or insurance is provided, shall be cancelled as follows:

(a) All insurance policies issued by SNFIC in the state of South Carolina 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 SNFIC, 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 State National Fire Insurance Company in the states of Louisiana and Texas ("**Assumed Policies**") were extinguished as a matter of law upon SafePoint Insurance Company's assumption of these policies with a novation; 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 State National Fire Insurance Company, as all such obligations owed under such policies have been assumed by SafePoint Insurance Company; and

(c) All executory contracts of SNFIC may be enforced, cancelled or modified by the Liquidator or Receiver in their discretion or as otherwise ordered by this Court;

**IT IS FURTHER ORDERED** that the rights and liabilities of SNFIC and of its creditors, except those holding contingent claims, and of its policyholders, stockholders, or members and of all other persons interested in its 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.**;

**IT IS FURTHER ORDERED** that the Liquidator shall notify every holder of a certificate of coverage or contract of insurance issued by State Fire National Insurance Company, and every known creditor of State National Fire Insurance Company, 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;

**IT IS FURTHER ORDERED** that the Liquidator is authorized to notify persons who may have claims against SNFIC pursuant to La. R.S. 22:2027 in the following manner:

(a) By sending notice to all persons who, according to SNFIC's books and records, have or may have claims against SNFIC, its property or assets to present and file with the Receiver proper, completed proofs of claim in the form required by this Order on or before 4:30 p.m. CDT on April 29, 2022, at a place specified in the notice. Said notice by the Liquidator shall specify April 29, 2022, at 4:30 p.m. CDT, 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**");

(b) By providing notice to all persons who have or may have claims against SNFIC, 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 SNFIC, its 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 location 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 SNFIC, its 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 and the consideration provided; (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 SNFIC 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, the Receiver, and the Deputy 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 SNFIC;
- (b) To deal with the property and business of SNFIC in his name as commissioner of insurance, in the name of the Receiver, or in the name of SNFIC;
- (c) To sell or otherwise dispose of the property, or any part thereof, of SNFIC;
- (d) To sell or compromise all doubtful or uncollectible debts or claims owing to or by SNFIC;
- (e) To avoid preferences and liens;
- (f) To avoid fraudulent transfers;
- (g) To audit the books and records of all agents, including producers, of SNFIC insofar as those records relate to the business activities of SNFIC;
- (h) To enter into agreements or contracts as necessary to carry out the order to liquidate;
- (i) To affirm or disavow any contracts to which SNFIC is a party;
- (j) All powers and authority conferred to the Commissioner as Rehabilitator, the Receiver and the Deputy Receiver in the Orders of Rehabilitation to the extent such powers and authority do not conflict with this Order of Liquidation or Louisiana law governing the liquidation of insurers;



**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 SNFIC;

**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 SNFIC, its 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 SNFIC, its property, or assets, the Commissioner in his capacity as Liquidator of SNFIC, the Receiver, and the Deputy Receiver except with the concurrence of the Liquidator, Receiver or Deputy Receiver or until further written order of this Court;

**IT IS FURTHER ORDERED** that all suits, proceedings, seizures and any other legal actions against SNFIC or their policyholders, or relating to SNFIC'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 SNFIC, or the ownership, operations, management, or control of SNFIC except with the concurrence of the Liquidator, Receiver or Deputy 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; the Deputy 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;

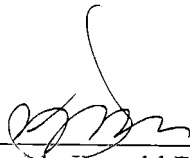
**IT IS FURTHER ORDERED** that all individuals and entities are enjoined from interfering with these proceedings, the conduct of the business of SNFIC by the Liquidator, Receiver or Deputy Receiver, and their management, possession and control of SNFIC or any title, rights or interest therein, and from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

**IT IS FURTHER ORDERED** that the Commissioner as Liquidator, the Receiver, and the Deputy 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 SNFIC or their policyholders, creditors, 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, Receiver or Deputy 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 preliminary order of rehabilitation issued November 10, 2021, and the permanent order of rehabilitation issued November 17, 2021, shall remain in full force and effect to the extent they do not conflict with this Order of Liquidation or Louisiana law governing the liquidation of insurers.

**SO ORDERED, READ AND SIGNED** at Baton Rouge, Louisiana, this 07 day of January, 2022.



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Honorable Donald R. Johnson  
Judge, 19<sup>th</sup> Judicial District Court

Order submitted by:  
By Attorneys,  
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**THIS ORDER IS ISSUED IN CONNECTION WITH THE MOTION OF JAMES J. DONELON, COMMISSIONER OF INSURANCE FOR THE STATE OF LOUISIANA IN HIS CAPACITY AS REHABILITATOR, FOR AN ORDER OF LIQUIDATION WITH FINDING OF INSOLVENCY.**