

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

NOV 18 2009

PATRICIA PRESLEY, COURT CLERK
~~By~~ _____
DEPUTY

STATE OF OKLAHOMA, ex rel.)
KIM HOLLAND, Insurance Commissioner,)
)
Petitioner,)
)
vs.)
)
PARK AVENUE PROPERTY AND)
CASUALTY INSURANCE COMPANY f/k/a)
PROVIDENCE PROPERTY AND CASUALTY)
INSURANCE COMPANY, a domestic)
insurance company,)
)
Defendant.)

Case No. CJ-2009-11178

Judge Gurich

**CONSENT ORDER OF LIQUIDATION WITH A FINDING OF INSOLVENCY
AND PERMANENT INJUNCTION**

On November 13, 2009, the Court granted the Insurance Commissioner’s Application for Order of Rehabilitation and Injunctive Relief and ordered (1) that the Insurance Commissioner be appointed receiver and (2) that Park Avenue Property and Casualty Insurance Company f/k/a Providence Property and Casualty Insurance Company (“PAPC”) to show cause why it should not be placed in rehabilitation and/or liquidation. The show cause hearing is set for November 20, 2009, at 1:30 p.m. The parties have advised the Court that PAPC has voluntarily consented to be placed in liquidation. Thus, the parties request that the Court issue this Consent Order of Liquidation with Finding of Insolvency and Permanent Injunction.

After reviewing the Insurance Commissioner’s Application filed on November 13, 2009, this Court’s Order of November 13, 2009, and representations by counsel, the Court hereby finds:

1. Kim Holland is the duly qualified and acting Insurance Commissioner of the State of Oklahoma and as such is charged with the duty of administering and regulating the state's insurance industry. The Insurance Commissioner has the authority to appear in the District Court to make application for an order directing the insurer to show cause why an Order of Rehabilitation should not be entered and a Receiver appointed. 36 O.S. § 1903.

2. This Court has jurisdiction over this matter pursuant to the provisions of 36 O.S. § 1902(A), which gives the District Court exclusive original jurisdiction of such proceedings against any insurer.

3. Venue is proper in the District Court within Oklahoma County pursuant to the provisions of 36 O.S. § 1902(F).

4. P APC is an Oklahoma domestic insurer licensed to transact property, casualty and workers' compensation insurance in this state. P APC holds certificate of authority number 2538.

5. P APC is an "insurer" as defined in 36 O.S. § 1901(2) and it is impaired and/or insolvent as defined in 36 O.S. § 1901(2).

6. This delinquency proceeding and the appointment of the Insurance Commissioner as P APC's Receiver are authorized by 36 O.S. § 1901 – 1938.

7. By a majority vote of its controlling stockholders or members, P APC consented to being placed in liquidation.

8. Based upon the Insurance Commissioner's findings as set forth in her Application and the Court's November 13, 2009, Order – which P APC does not contest –

sufficient cause exists for this Consent Order of Liquidation with a Finding of Insolvency.

The Court therefore orders the following:

1. P APC is placed in receivership and such proceedings shall proceed in accordance with 36 O.S. § 1901 – 1938 or as the law otherwise requires.

2. P APC is impaired and/or insolvent.

3. The Insurance Commissioner is hereby appointed Receiver of P APC and is directed to liquidate P APC under the laws of the State of Oklahoma.

4. The Insurance Commissioner, as Receiver, is vested with all powers and authority, express or implied, as set forth in 36 O.S. § 1901 – 1938 or any other applicable law.

5. The Insurance Commissioner, as Receiver, shall take possession of P APC's the property, liquidate its business, deal with P APC's property and business in the Insurance Commissioner's own name or in P APC's name – as the court may direct – and give notice to all creditors who may have claims against P APC. to present such claims. Additionally, the Receiver may request the Court convert the receivership from a liquidation to a rehabilitation should the facts warrant and such change be in the best interests of P APC's policyholders and creditors.

6. The Insurance Commissioner, as Receiver, is vested by operation of law with the title to all of the property, contracts, and rights of action and all of the books and records of the insurer wherever located.

7. This Consent Order shall be filed with the Oklahoma County Clerk's Officer.

8. The Insurance Commissioner, as Receiver, shall be responsible for the proper administration of all assets coming into the Receiver's possession or control. The Court may at any time require a bond from the Receiver or any assistants or deputies if deemed desirable for the protection of the assets.

9. The Insurance Commissioner, as Receiver, may appoint one or more assistant receivers to act for the Receiver and may employ such counsel, clerks, and assistants as are deemed necessary. The compensation of the assistant receivers, counsel, clerks, or deputies and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the Receiver, subject to the approval of the Court, and shall be paid out of PAPC's funds or assets. Within the limits of duties imposed upon them, assistant receivers shall possess all the powers given to the Receiver and, in the exercise of those powers, shall be subject to all of the duties, powers, and limitations imposed upon the Receiver with respect to such proceedings. But the Insurance Commissioner, as Receiver, is prohibited from appointing any person who is related to the Insurance Commissioner within the third degree of consanguinity or affinity. The Insurance Commissioner, as Receiver, is further prohibited from entering into any contract with any person who is related to the Insurance Commissioner within the third degree of consanguinity or affinity. Any appointments or contracts in violation of this paragraph are void.

10. The Insurance Commissioner has appointed Mark D. Tharp as Assistant Receiver and Andrew D. Downing of the Rhodes, Hieronymus, Jones, Tucker & Gable law firm as counsel for the Receiver. These appointments are approved.

11. The Receiver is authorized to use up to \$100,000 to cover the initial expenses of this receivership. Thereafter, the Receiver shall file an application for approval of administrative fees and expenses. An itemized list of fees and/or expenses authorized for the initial expenses of the receivership shall be filed for approval with the Receiver's first application for approval of administrative fees and expenses.

12. If any legal action is commenced against the Receiver or any employee, whether against him personally or in his official capacity, alleging property damage, property loss, personal injury or other civil liability caused by or resulting from any alleged act, error or omission of the Receiver or any employee arising out of or by reason of their duties or employment, the Receiver and any employee shall be indemnified from PAPC's assets for all expenses, attorneys' fees, judgments, settlements, decrees or amounts due and owing or paid in satisfaction of or incurred in the defense of such legal action unless it is determined upon a final adjudication on the merits that the alleged act, error or omission of the Receiver or employee giving rise to the claim did not arise out of or by reason of his duties or employment, or was caused by intentional or willful and wanton misconduct. All duties, powers, and rights set forth in 36 O.S. § 1937 are incorporated by reference.

13. Until further order of the Court, no obligation, claim or debt of PAPC shall be paid except those which the Receiver deems necessary or appropriate to facilitate taking possession of commencement or furtherance of liquidation. Except as provided herein, no distribution of PAPC's property will be made without the Court's approval.

14. PAPC and its officers, employees, directors, trustees, stockholders, shareholders, members, subscribers, agents, representatives, Imperial Casualty and

Indemnity Company (who has served as PAPC's claims administrator) and all other persons are hereby permanently enjoined and prohibited from further transacting PAPC's business of PAPC, and are enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing, or assigning any asset, contracts, causes of action, funds, records, correspondence, memoranda, or any other documents or other PAPC property. This injunction shall apply to all PAPC affiliates.

15. PAPC and its officers, employees, directors, affiliates, trustees, stockholders, shareholders, members, subscribers, enrollees, insurers, reinsurers, agents, representatives, contractors, subcontractors, Imperial Casualty and Indemnity Company, and all other persons are hereby directed to assign transfer, and deliver any and all property or amount owed to PAPC to the Insurance Commissioner as Receiver.

16. The authority of PAPC's officers and directors is terminated.

17. Until further order of the Court, all persons and entities – including secured creditors, unsecured creditors, claimants and/or litigants – are enjoined and prohibited (1) from wasting, transferring, selling, concealing, destroying, disbursing, disposing, assigning, in any manner, the assets or property of PAPC; and (2) from prosecuting any pending action or litigation involving PAPC; obtaining any preferences, judgments, attachments, or liens against PAPC; or making any levy against PAPC or its assets.

18. All proceedings in which PAPC, its policyholder, or the Oklahoma Property & Casualty Insurance Association is a party in any court in this state shall be stayed 120 days from the date of this Consent Order to permit proper legal action by the Guaranty Association on any matters germane to its powers and duties. As to judgment

under any decision, order, verdict or finding based on default, the Guaranty Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

19. Any amounts recovered and recoverable from contractors, reinsurers, or other insurers of PAPC shall not be reduced as a result of this delinquency proceeding.

20. The Court authorizes the payment of all expenses incurred by the Insurance Commissioner acting in her capacity as Receiver that were incurred with her approval since the Court's November 13, 2009, Order.

21. Neither this order nor PAPC's consent thereto is an admission of a violation of any law, regulation, or policy, or a waiver of any claim, defense, right or remedy by PAPC's officers, directors, agents, employees, or consultants.

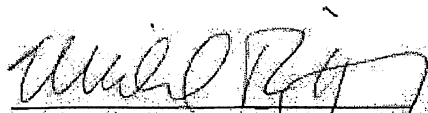
22. Unless otherwise ordered by the Court, any violation of this Order or the injunctive relief set forth herein shall be deemed contempt of Court and shall be subject the violator to all penalties allowed by law.

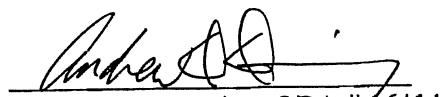
IT IS SO ORDERED this 18 day of November 2009.

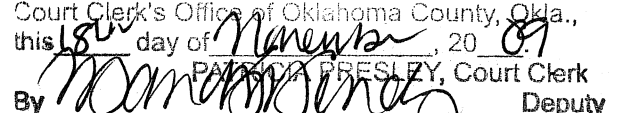
NOMA GURICH

JUDGE OF THE DISTRICT COURT

APPROVED:


Michael Ridgeway, OBA # 15657
Caleb J. Muckala, OBA # 20293
Oklahoma Insurance Department


Andrew D. Downing, OBA # 16414
Counsel for the Receiver

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I, PATRICIA PRESLEY, Court Clerk for Oklahoma County, Okla., hereby certify that the foregoing is a true, correct and complete copy of the instrument herewith set out as appears of record in the District Court Clerk's Office of Oklahoma County, Okla., this 18th day of November, 20 09.
By  PATRICIA PRESLEY, Court Clerk
Deputy



Authorized Representative for
Park Avenue Property and Casualty
Insurance Company f/k/a Providence
Property and Casualty Insurance Company



Counsel for Park Avenue Property and
Casualty Insurance Company f/k/a
Providence Property and Casualty
Insurance Company