

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN THE DISTRICT COURT
OKLAHOMA COUNTY, OKLA.

MAY 20 2005

PATRICIA PREBLEY, COURT CLERK
by Deputy

STATE OF OKLAHOMA, ex rel.)
KIM HOLLAND, Insurance Commissioner,)
)
Plaintiff,)
)
v.)
)
TOP FLIGHT INSURANCE COMPANY,)
A licensed domestic insurer in the)
State of Oklahoma, and)
SOURCE GENERAL AGENCY, INC.,)
a licensed resident insurance producer,)
)
Defendant.)

Case No.: CJ-2005-3609

**ORDER PLACING INSURER INTO RECEIVERSHIP AND
APPOINTING RECEIVER, PERMANENT INJUNCTION AND
ORDER FOR LIQUIDATION**

NOW on this 20 day of May, 2005, there comes for hearing the Court's May 4, 2005 Order Directing Insurer to Show Cause, Allowing Injunctive Relief and Order for Hearing. Petitioner, Kim Holland, Insurance Commissioner, appears by and through Darren Ellingson, Assistant General Counsel for the Oklahoma Insurance Department and George M. Emerson of Riggs, Abney, Neal, Turpen, Orbison & Lewis. Respondents, Top Flight Insurance Company (hereinafter "Top Flight") and Source General Agency, Inc. (hereinafter "Source General Agency"), do not appear in opposition to the requested relief.

The Court, having examined the Petitioner's Application and the Court's May 4, 2005 Order; having viewed the evidence presented thus far; having heard the arguments, representations and statement of the parties; and being well advised in the premises, finds as follows:

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. Pursuant to 36 O.S. § 1903, the Insurance Commissioner may appear in the District Court to make application for an order directing the insurer to show cause why an Order of Liquidation or Rehabilitation should not be entered and a Receiver appointed.

2. This Court has jurisdiction of this action pursuant to 36 O.S. § 1902(A).

3. Venue in this Court is appropriate pursuant to 36 O.S. § 1902(F).

4. Top Flight is an Oklahoma domestic insurance company, whose business practices qualify it as an "insurer" pursuant to Oklahoma law, and subject it to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the Oklahoma Insurance Commissioner. 36 O.S. § 1901(A).

5. Source General Agency is an Oklahoma resident insurance producer, managing general agent and affiliate of Top Flight, whose business practices qualify it as an "insurer" pursuant to Oklahoma law, and subject it to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the Oklahoma Insurance Commissioner. 36 O.S. § 1901(A).

6. Pursuant to 36 O.S. § 1910(B), the Receiver may apply to the Court for an order of liquidation if at any time she deems that further efforts to rehabilitate the insurer would be useless.

7. Notice of the Petitioner's Application For Order Directing Insurer to Show Cause and for Injunctive Relief, Order Directing Insurer to Show Cause, Allowing Injunctive Relief, and Order for Hearing and the Order Resetting Hearing, have all been properly served on Top Flight and Source General Agency.

8. Pursuant to 36 O.S. § 1911, an order to liquidate the business of a domestic insurer shall direct the Receiver forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in her own name or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present such claims.

9. Pursuant to 36 O.S. § 1901(1), an insurer shall be deemed to be insolvent when such insurer shall not be possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock.

10. On April 28, 2005, Kim Holland, Insurance Commissioner, entered an Order of Supervision, placing Top Flight under supervision pursuant to Article 18 of the Oklahoma Insurance Code, 36 O.S. § 1801, *et seq.*

11. On April 28, 2005, Kim Holland, Insurance Commissioner, entered an Order of Supervision, placing Source General Agency under supervision pursuant to Article 18 of the Oklahoma Insurance Code, 36 O.S. § 1801, *et seq.*

12. Sufficient cause and evidence exists for the entry of this Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation against Defendants Top Flight and Source General Agency, including the fact that Top Flight and Source General Agency are statutorily insolvent and unable to meet their obligations as they come due.

13. Pursuant to 36 O.S. § 1707 (3), this Court is authorized to release Top Flight's statutory security deposit to the Receiver.

IT IS THEREFORE ORDERED AND DECREED THAT:

1. This Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation is hereby entered as to and against Top Flight and Source General Agency. This is a final order.

2. Top Flight is statutorily insolvent.

3. Source General Agency is statutorily insolvent.

4. Top Flight is unable to meet its obligations as they come due.

5. Source General Agency is unable to meet its obligations as they come due.

6. The condition of Top Flight is such that the continued operation would be hazardous to the policyholders, creditors or the general public. The continued transaction of business of Top Flight will result in the further depletion of Top Flight assets to the detriment of Top Flight, and ultimately to the detriment of Top Flight's policyholders and creditors, and the public.

7. The condition of Source General Agency is such that the continued operation would be hazardous to the policyholders, creditors or the general public. The continued transaction of business of Source General Agency will result in the further depletion of Source General Agency assets to the detriment of Source General Agency, and ultimately to the detriment of Top Flight's policyholders and to the creditors of Source General Agency, and the public.

8. Top Flight is hereby placed into receivership pursuant to the provisions of 36 O.S. §§ 1901 *et seq.*

9. Source General Agency is hereby placed into receivership pursuant to the provisions of 36 O.S. §§ 1901 *et seq.*

10. Kim Holland, Insurance Commissioner of the State of Oklahoma, is hereby appointed Receiver of Top Flight and Source General Agency, and presently directed to liquidate said entities pursuant to the laws of the State of Oklahoma.

11. The Receiver is vested with all powers and authority, express or implied, under the provisions of 36 O.S. §§ 1901 *et seq.*, in order to liquidate Top Flight and Source General Agency.

12. The Receiver shall forthwith take possession of the property of Top Flight and Source General Agency and liquidate its business and give notice to all creditors who may have claims against Top Flight and Source General Agency to present such claims.

13. The Receiver is hereby vested by operation of law with the title to all of the property, accounts, assets, contracts, rights of action and all of the books and records of Top Flight and Source General Agency wherever located, now or hereafter discovered, as of the date of this Order.

14. Pursuant to 36 O.S. § 1925, the rights and liabilities of Top Flight and its creditors, policyholders, stockholders, members, subscribers, and all other persons interested in its estate shall be fixed as of the date of this Order, subject to the provisions otherwise set forth herein or further order of this court with respect to the rights of claimants holding contingent claims.

15. With respect to claimants holding contingent claims, including causes of action against Top Flight insureds, the provisions of 36 O.S. § 1929 shall govern said claimants' rights in this liquidation proceeding.

16. All direct policies and/or certificates of insurance heretofore issued by Top Flight are hereby cancelled upon the following terms. The termination of policies set forth herein supercedes any contractual or statutory provisions pertaining to the renewal or cancellation of policies:

- a. All direct policies and/or certificates of insurance which may give rise to "covered claims" as defined and set forth in the Oklahoma Property and Casualty Insurance

Guaranty Association Act, 36 O.S. § 2001, *et seq.*, 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:

- (i) 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 of entry of this Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation; or
- (ii) Upon the expiration of any such direct policy and/or certificate of insurance, if the expiration date is within thirty (30) days from the date of entry of this Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation; or
- (iii) Upon the date the insured or policyholder of any such direct policy and/or certificate of insurance requests cancellation, if the insured or policyholder does so within thirty (30) days following the date of entry of this Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation.

- b. All other direct policies and/or certificates of insurance issued by Top Flight shall be cancelled effective as of the date of entry of this Order Placing Insurer Into Receivership and Appointing Receiver, Permanent Injunction and Order for Liquidation.

17. As Receiver, the Insurance Commissioner may appoint one or more assistant commissioners or receivers to act for her and may employ such counsel, clerks, and assistants as she deems necessary. The Insurance Commissioner’s appointment of Tharp and Associates as Assistant

Receiver is hereby approved. The Insurance Commissioner's selection of Riggs, Abney, Neal, Turpen, Orbison & Lewis, as counsel for the Receiver is hereby approved. The compensation of the assistant commissioners or receivers, counsel, clerks, or deputies, and all expenses of taking possession of Top Flight and Source General Agency, and of conducting the proceedings, including the compensation from May 4, 2005 forward, shall be fixed by the Insurance Commissioner, as Receiver, subject to approval of this Court, and shall be paid out of the funds or assets of Top Flight and Source General Agency, as appropriate and approved by the Court. Within the limits of duties imposed upon them, any assistant commissioner or assistant receiver shall possess all of 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 these proceedings. 36 O.S. § 1914(F).

18. If any legal action is commenced against the Insurance Commissioner, Receiver, assistant commissioners or receivers, retained counsel, deputies, and/or any of their employees or personnel, whether personally or in an official capacity, alleging property damage, property loss, personal injury, or other civil liability caused by or resulting from any alleged act, error, or omissions of any such person, the Insurance Commissioner, Receiver, assistant commissioners or receivers, deputies, retained counsel, and/or any of their employees or personnel shall be immune from liability and indemnified as defined and set forth under 36 O.S. § 1937.

19. Until further order of the Court, no obligation, claim or debt of Top Flight or Source General Agency, shall be paid except those which the Receiver deems to be necessary or appropriate to facilitate the taking of possession or commencement/furtherance of liquidation. Except as provided for herein, no distribution of the property of Top Flight or Source General Agency, will be made without approval of the Court.

20. Top Flight and Source General Agency and each of their respective officers, employees, directors, trustees, stockholders, members, subscribers, agents, representatives, and all other persons, are hereby permanently enjoined and prohibited from transacting any further business of Top Flight and Source General Agency, and are further permanently enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing of, or assigning any assets, contracts, causes of action, funds, records, correspondence, memoranda, or any other documents or other property of Top Flight and Source General Agency, or any of their respective affiliates.

21. Top Flight and Source General Agency, their respective officers, employees, directors, affiliates, trustees, stockholders, shareholders, insurers, agents, representatives, contractors, subcontractors and all other persons, are hereby directed to assign, transfer and deliver any/all amounts owed to and/or property of Top Flight and Source General Agency to the Insurance Commissioner, as Receiver.

22. Any and all authority of Top Flight and Source General Agency's officers and directors is hereby terminated.

23. Until further order from this Court, all persons and entities (including secured creditors, unsecured creditors, claimants and/or litigants) are hereby enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing and assigning, in any manner, the assets and/or property of Top Flight and Source General Agency; and are further enjoined and prohibited from prosecuting any pending action or litigation involving Top Flight and Source General Agency (whether as a plaintiff or defendant) or against its insureds; obtaining any preferences, judgments, attachments, or other liens against Top Flight and Source General Agency or their insureds; or making any levy against Top Flight or Source General Agency or against their

assets or any part thereof. Notwithstanding anything to the contrary herein, pursuant to 36 O.S. § 2020, all proceedings, including all claims and causes of action whether against Top Flight and Source General Agency, their policyholders, or their co-Defendants, in every case in which Top Flight and Source General Agency, their policyholders, or the Oklahoma Property and Casualty Insurance Guaranty Association is a party, is hereby mandatorily stayed for one-hundred twenty (120) days from the date of this order.

24. Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order and having in its possession accounts or any other assets which are, or may be, the property of Top Flight or Source General Agency are restrained from disbursing or disposing of said accounts or assets, and are further restrained from disposing of or destroying any records, pertaining to any business transaction between Top Flight and Source General Agency; and such banks, brokerage houses, financial institutions, companies, persons or entities having done business or doing business with Top Flight or Source General Agency or having in its possession assets which are, or may be, the property of Top Flight and Source General Agency are ordered to immediately deliver any and all such assets and/or records to the Receiver.

25. All agents, brokers and fronting companies of Top Flight and Source General Agency and their respective agents, servants, representatives 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 Top Flight and Source General Agency to policyholders or others; and all such agents, servants, representatives and employees are directed to turn over all such funds in their possession or under their control, including any premium or money

to which they may hereafter acquire possession or control, to the Receiver in gross and not net of any commissions which may be due thereon.

26. All expenses of these proceedings, including those incurred May 4, 2005 and thereafter but prior to the Entry of this order, shall be taxed and assessed against Top Flight and Source General Agency, as approved by the Court.

27. Except as noted herein, in the interest of judicial economy and until further order from this Court, entry of this Order, by filing with the clerk of any court in this state with competent jurisdiction along with an affidavit of counsel of record that a Top Flight and/or Source General Agency insured is a named party in a lawsuit, will serve to stay any action, against Top Flight or Source General Agency insureds only, either commenced or in the process of being prosecuted without further notice or the necessity of a separate motion to stay a pending or commenced action. Notwithstanding anything contrary contained herein, this stay order shall not prevent the commencement of any new action against any Top Flight or Source General Agency insured, provided however that such new action shall become subject to the provisions of this order including the stay provisions herein.

28. The Court hereby Orders the statutory security deposit of Top Flight be released to the control and use of the Assistant Receiver, pursuant to 36 O.S. § 1707 (3).

29. The Court, being duly informed, authorizes the Receiver to pay any and all remaining supervision expenses, including examiners fees, which were incurred during the supervision of Top Flight and Source General Agency, but which may not have been fully invoiced and paid during the supervision of Top Flight and Source General Agency prior to the inception of the Top Flight and Source General Agency receivership.

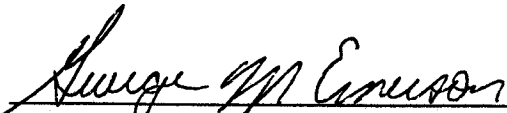
30. Pursuant to 36 O.S. § 1923, the Insurance Commissioner shall not be required to pay any fee to any public officer in this state for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the Insurance Commissioner, as Receiver, of any of the powers or duties conferred upon her, whether or not such paper or instrument be executed by the Insurance Commissioner or her assistants, deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the Insurance Commissioner, or with the subsequent conduct of such action or proceeding.

31. Unless otherwise ordered by this Court, any violation of this Order or the injunctive relief set forth herein shall be deemed a contempt of Court and shall subject the violating party to such penalties as allowed by law.

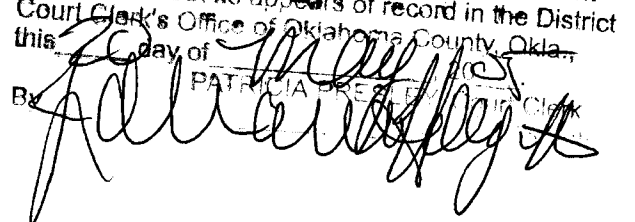
Signed and entered this 20 day of May, 2005.

VICKI ROBERTSON

JUDGE OF THE DISTRICT COURT



George M. Emerson, OBA No. 13159
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STATE OF OKLAHOMA, EX REL.
KIM HOLLAND, INSURANCE COMMISSIONER

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 20 day of May, 2005.
By  PATRICIA PRESLEY, Court Clerk