



GRANTED

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Transaction ID 16954662
Case No. 18668-VCS



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

IN THE MATTER OF)
THE REHABILITATION OF) C.A. No. 18668NC
STATEWIDE INSURANCE COMPANY)

FINAL JUDGMENT

The Honorable Matthew Denn, in his capacity as the Receiver of Statewide Insurance Company in Rehabilitation ("Statewide") has petitioned the Court for an Order (1) declaring that Statewide Insurance Company should be liquidated without a finding of insolvency on the grounds set forth in the "Receiver's Petition for Entry of Order of Liquidation Without Finding of Insolvency, Approval of the Final Report of the Receivership, Authorization for document Destruction, Release and Discharge of the Receiver, Deputy Receiver and Assistants, and Dissolution of Statewide Insurance Company Pursuant to 18 *Del. C.* §5911(b)" (the "Petition"); (2) approving the Final Report of the Receivership (the "Final Report"), filed contemporaneously with the Petition; (3) approving the Final Accounting of the estate and all prior accountings; (4) approving the Receiver's Claim Recommendation Report and Distribution Plan and authorizing and ordering distribution to the allowed claims pursuant to the Receiver's recommendation, and disallowing two other claims; (5) authorizing the Receiver to require, if the Receiver in his sole discretion deems it necessary to resolve potential tax liability of Statewide or its estate, that any payments to SIHC be contingent upon SIHC's execution of an appropriate indemnity agreement whereby SIHC agrees to indemnify and hold harmless the Statewide estate, and the Receiver and Deputy Receiver and their Assistants, from and against any and all potential tax liability resulting from the initial distribution, the final distribution or any other payments from the estate.

In the event that the expense reserve is insufficient to pay all final expenses of this estate, the Receiver requests the authority to decrease accordingly the payment to SIHC to cover any deficiency in the expense reserve. Otherwise, the Receiver seeks authority to pay all assets remaining after distribution to all creditors in full and payment in full of all administrative expenses of any remaining assets to SIHC after the conclusion of all steps to terminate the Statewide estate; (6) authorizing the Receiver to destroy all of the estate's records upon the discharge of the Receiver or, if the records are deemed unnecessary for winding up or tax purposes, then upon the completion of the distribution according to the Claim Recommendation Report and Distribution Plan; (7) releasing and discharging the Receiver, his Deputy Receiver, their predecessors, and their Assistants upon the completion of the distribution according to the Claim Recommendation Report and Distribution Plan, the filing of the tax returns and the acceptance of such returns by the Internal Revenue Service through its expedited determination process unless the Receiver determines that an early determination is not necessary for a particular tax year, the payment of all administrative expenses of the estate, and the distribution of any remaining assets to SIHC; (8) dissolving Statewide Insurance Company pursuant to 18 *Del. C.* §5911(b) upon the entry of this Order, and ordering the Delaware Secretary of State, Division of Corporations, to accept the filing of this Order as the Certificate of Dissolution, effective immediately upon filing with no winding up period, without the payment of any filing fees pursuant to 18 *Del. C.* §5922; (9) amending the caption in this matter to reflect the entry of an order to liquidate Statewide, so that the caption hereafter reads "In the Matter of Statewide Insurance Company in Liquidation"; and (10) granting such other relief relating to the termination of the Receivership as may be just, equitable, necessary and proper in light of the Final Report.

In support thereof the Receiver has supplied the Court with information supporting the conclusion that the relief sought in the Petition is in the best interests of the estate, the policyholders, other creditors, the sole stockholder, and the public. Having considered the matter and concluding that the relief sought in the Petition is in the best interests of the estate, the policyholders, other creditors, the sole stockholder, and the public,

NOW, THEREFORE, IT IS HEREBY ORDERED as of the date this Order is docketed in the above-captioned matter that:

1. The Petition is hereby GRANTED;
2. The Court finds that Statewide is impaired, in unsound condition, or in such condition as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, as those terms are defined in 19 *Del. C.* §5901. The Court finds that sufficient grounds exist pursuant to 18 *Del. C.* §5911(b) to Order Statewide liquidated without a finding of insolvency, and therefore, the Receiver is hereby ordered to liquidate Statewide.
3. The Court further finds that Statewide is currently solvent and, therefore, nothing in this Order shall be deemed to be a finding of insolvency against Statewide. Further, as this Court is not issuing a finding of insolvency against Statewide, the involvement of the Delaware Insurance Guaranty Association (“DIGA”) is not being triggered by the entry of this Order and DIGA shall have no duties or obligations concerning Statewide’s receivership proceedings. Further, nothing in this Order shall be construed to trigger the involvement of any other state insurance guaranty association.
4. The Insurance Commissioner of the State of Delaware shall continue in his capacity as the Receiver of Statewide Insurance Company until discharged pursuant to the terms of this Order. Until discharged, the Receiver is hereby directed to continue in his exclusive

possession and control of, and continue to be vested with all right, title and interest in, of or to the property of Statewide, including, without limitation, all of Statewide's assets, contracts, rights of action, funds recoverable under treaties and agreements of reinsurance heretofore entered into by Statewide as the ceding insurer, books, records, bank accounts, certificates of deposit, collateral securing obligations to, or for the benefit of, Statewide or any trustee, bailee or any agent acting for, or on behalf of, Statewide (collectively, the "Trustees"), securities or other funds, and all real or personal property of any nature of Statewide including, without limitation, furniture, fixtures and office supplies, wherever located, and including such property of Statewide or collateral securing obligations to, or for the benefit of, Statewide or any Trustee thereof that may be discovered hereafter, and all proceeds of or accessions to any of the foregoing, wherever located, in the possession, custody or control of Statewide or any Trustee therefore (collectively, the "Assets"), and to liquidate Statewide pursuant to the provisions of Chapter 59 of Title 18 of the *Delaware Code*, and the Receiver is further authorized to take such actions as the nature of this cause and interests of the policyholders, creditors and stockholders of Statewide and the public may require.

5. The Receiver's is hereby continued to be vested with title to all property, contracts, and rights of action of Statewide and is hereby authorized to continue to deal with the Assets, business and affairs of Statewide, including, without limitation, the right to sue for, defend for or continue suits already commenced by Statewide, or for the benefit of Statewide's policyholders, stockholders and creditors, in the courts and tribunals, agencies or arbitration panels in this State and other states in his name as the Insurance Commissioner of the State of Delaware, or in the name of Statewide. However, nothing herein shall be construed to vacate this Court's Order Approving Plan of Rehabilitation of Statewide Insurance Company and

Establishing Bar Date of February 28, 2006 for Filing Claim, dated January 13, 2006 (the “Rehabilitation Plan/Bar Date Order”), which set February 28, 2006, as the date by which all claims against Statewide were required to be filed with the Receiver or be barred from the estate and not receive any distributions from the general assets of the estate of Statewide. The February 28, 2006, Bar Date shall remain in effect and shall continue to supersede any applicable statutes of limitations, as set forth in paragraph 6 of the Rehabilitation Plan/Bar Date Order. Any claim not already deemed allowed or filed with the Receiver by the Bar Date is hereby barred from sharing in any distribution of the estate’s assets. All persons and entities shall also continue to be specifically enjoined and restrained from proceeding with a claim against an insured or other person or entity to whom Statewide owed a defense or indemnification under an insurance policy or contract issued by Statewide to the extent of the limits of liability of the Statewide policy. Nothing herein is intended to revive an expired statute of limitations as to any claims.

6. The filing or recording of this Order or a certified copy hereof with the Clerk of this Court and, in the case of real estate, with the recorder of deeds of the jurisdictions where the property is located, shall impart the same notice as would be imparted by a deed, bill of sale or other evidence of title duly filed or recorded with that recorder of deeds.

7. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Receiver, all agents and brokers, officers, directors, stockholders and all other persons or entities now or prospectively holding Assets of, or on behalf of, Statewide shall continue in their obligation to provide an accounting of any Assets in their possession, and to turn over such Assets to the Receiver immediately without any deduction for unearned premium, unearned commission, claims or any other deduction not authorized by the Receiver.

8. The Receiver is also hereby authorized to employ or continue the employment of such deputies, counsel, clerks, employees, accountants, actuaries, consultants, assistants, and other personnel as are necessary to wind up this estate pursuant to 18 Del. C. §5913(f). Such persons or entities shall serve at the pleasure of the Receiver, and shall qualify as Designees and Indemnitees, as those terms are defined in paragraphs 8 and 9 of the February 8, 2001, Stipulated Rehabilitation and Injunction Order entered in this matter (hereinafter the “Rehabilitation Order”). Each and every Designee shall be deemed to have submitted to the jurisdiction of this Court for the resolution of any disputes between the Receiver and such Designee concerning such Designee’s rights, obligations and compensation. While authorized by the Receiver, the Deputy Receiver shall continue to be entitled to exercise all of the powers and authorities vested in the Receiver pursuant to this Order and applicable law. The compensation and expenses of the Deputy Receiver(s) and the Designees and of liquidating Statewide shall be paid out of the funds and assets of Statewide as administrative expenses under 18 *Del. C.* §5913(f), pursuant to the terms of this Order.

9. The Receiver, the Deputy Receivers and the Designees (collectively, the “Indemnitees”) shall have no personal liability for their acts or omissions in connection with their duties during the liquidation proceedings, provided that such acts or omissions are or were undertaken in good faith and without willful misconduct, gross negligence or criminal intent. All expenses, costs and attorney’s fees incurred by the Indemnitees in connection with any lawsuit brought against them in their representative capacities shall be subject to the approval of the Receiver and shall be exclusively paid out of the funds and assets of Statewide. The Indemnitees shall not be deemed to be employees of the State of Delaware.

10. The Receiver's right, title and interest in and to all funds recoverable under treaties and agreements of reinsurance heretofore entered into by Statewide as the ceding insurer, is hereby continued until such time as the Receiver is discharged pursuant to the terms of this Order. All reinsurance companies involved with Statewide are enjoined and restrained from making any settlements with any claimant or policyholder of Statewide other than the Commissioner as Receiver, except as permitted by cut-through agreements or endorsements which were issued to the policyholder, which were properly executed before the date of the Rehabilitation Order, and which comply in all respects with 18 Del. C. §914, as amended by 72 Del. Laws c. 405. The amounts recoverable by the Receiver from any reinsurer of Statewide shall not be reduced by reason of Statewide's impairment, as a result of this liquidation proceeding, or by reason of any partial payment or distribution on a reinsured policy, contract or claim, and each such reinsurer of Statewide is hereby enjoined and restrained from terminating, canceling, failing to extend or renew, or reducing or changing coverage under any reinsurance policy or contract with Statewide. The Receiver may terminate or rescind any reinsurance policy or contract that is contrary to the best interests of the estate in liquidation. Nothing in this Order shall be construed as vacating any order in the rehabilitation proceedings approving any reinsurance commutation agreement and shall not be construed to affect any such reinsurance commutation agreement entered into by the Receiver and any Statewide reinsurer during the rehabilitation proceedings.

11. The Receiver may change to his own name the name of any of Statewide's accounts, funds or other property or assets held with any bank, savings and loan association or other financial institution, and may withdraw such funds, accounts and other property or assets from such institutions or take any lesser action necessary for the proper conduct of this liquidation proceeding.

12. The Receiver may reject any executory contract to which Statewide was a party prior to the entry of the Rehabilitation Order that the Receiver in his discretion determines is burdensome to Statewide or is otherwise not in its best interest.

13. Statewide, its officers, directors, stockholders, agents, servants and employees and all other persons having notice of these proceedings or of this Order are hereby prohibited from transacting any business of, or on behalf of Statewide or selling, transferring, destroying, wasting, encumbering or disposing of any of the Assets, without the prior written permission of the Receiver or until further Order of this Court.

14. All banks, brokerage houses, agents, reinsurers, or other companies or persons, either having in their possession Assets or possible Assets (including, without limitation, books or records) of Statewide, or having notice of these proceedings or of this Order, are hereby enjoined and restrained from disposing of, selling, wasting, encumbering, transferring or destroying any such Assets or possible Assets (including, without limitation, books or records of Statewide). This prohibition includes, without limitation, Assets, possible Assets, books or records pertaining to any business transaction between Statewide and any of said parties. No actions concerning, involving, or relating to such Assets, possible Assets, books or records may be taken by any of the aforesaid persons or entities enumerated herein, without the prior written consent of the Receiver, or until further Order of this Court.

15. All officers, directors, stockholders, agents, servants and employees of Statewide, and all other persons and companies having notice of these proceedings or of this Order, are hereby enjoined and restrained from instituting or further prosecuting any action at law or in equity or in other proceedings against Statewide, the Commissioner as Receiver, the Deputy Receiver(s) or the Designees in connection with their duties as such, or from obtaining preferences, judgments, attachments or other like liens or encumbrances, or foreclosing upon or making of any levy against Statewide or the Assets, or exercising any right adverse to the right of Statewide to or in the Assets, or in any way interfering with the Receiver, the Deputy Receiver(s) or the Designees either in their possession and control of the Assets, books, and records of Statewide or in the discharge of their duties hereunder.

16. All persons and companies are hereby enjoined and restrained from asserting any claim against the Commissioner as Receiver of Statewide, or against the Deputy Receiver(s) or the Designees in connection with their duties as such, or against the Assets, except insofar as such claims are authorized by the Rehabilitation Plan/Bar Date Order or this Order and only if such claims are brought in the liquidation proceedings of Statewide.

17. All parties to lawsuits in this State and all other states and territories of the United States, are hereby enjoined and restrained from proceeding with any pretrial conference, trial, application for judgment or proceedings on judgment or settlements and any such action at law, in equity, special or other proceedings in which Statewide is or was obligated to defend a party insured or any other person it is or was legally obligated to defend by virtue of its insurance contract, to the extent of the coverage afforded by such insurance policy or contract.

18. The Receiver is hereby relieved of his obligation pursuant to 18 *Del. C.* §5911(c) to file an early access plan for the applicable guaranty associations on the ground that involvement of DIGA, the only affected guaranty association, has not been triggered and all policy claims against Statewide have already been resolved in the rehabilitation proceedings.

19. The Final Report is hereby APPROVED in its entirety;

20. The accounting of the Receiver as stated in his Twelfth and Final Accounting and all prior accountings filed by the Receiver in the rehabilitation proceedings are hereby approved, and the expenses and reserves set forth therein are allowed.

21. The Receiver's Claim Recommendation Report and Distribution Plan set forth in Exhibit 1 to the Final Report is hereby approved in its entirety. The Receiver is directed to pay the Adjusted Proofs of Claim against the estate in the amounts set forth in the Receiver's Claim Recommendation Report and Distribution Plan in Exhibit 1 to the Final Report. All payments made to a claimant pursuant to this Order shall constitute a full and final settlement of Statewide's obligations on the underlying claim, and a full and complete release and discharge of Statewide, the Receiver, the Deputy Receiver and the Designees or any and all claims, of any kind or description whatsoever, whether arising at law or in equity, known and unknown, arising out of or relating to the underlying claim. The Receiver is authorized to require such Claimants to provide any information necessary for the Receiver to comply with tax laws concerning such distributions before making payment to such Claimants. The claims filed by John Dobry and the South Dakota Division of Insurance are hereby DISALLOWED in their entirety and shall not share in any distribution of the estate's assets.

22. The Receiver is authorized to pay from an expense reserve of \$75,000 the administrative expenses associated with the termination of the estate. In the event that the expense reserve proves insufficient to pay all final expenses, the Receiver may make application to this Court to increase the reserve or make a claim pursuant to an indemnification agreement between the Receiver and SIHC in order to cover any such deficiency. Any such application shall be made prior to any disbursement to and upon notice to Statewide Insurance Holding Company, Statewide's sole shareholder, as provided for in paragraph 23 of this Order, and any approved increase in the expense reserve will be funded by a corresponding decrease in the amount of such disbursement.

23. The Receiver is directed and authorized to pay to Statewide Insurance Holding Company ("SIHC"), which is the sole shareholder of Statewide Insurance Company, the remaining balance of the expense reserve, after all final administrative expenses are paid, together with the balance of any other funds remaining in the estate after final distribution of the assets of the estate in accordance with the approved plan of distribution. The Receiver is authorized to require, if the Receiver in his sole discretion deems it necessary to resolve potential tax liability of Statewide or its estate, that any payments to SIHC be contingent upon SIHC's execution of an appropriate indemnity agreement whereby SIHC agrees to indemnify and hold harmless the Statewide estate, and the Receiver, the Deputy Receiver and the Designees, from and against any and all potential tax liability resulting from the initial distribution, the final distribution or any other payments from the estate. In the event that the expense reserve is insufficient to pay all final expenses of this estate, the Receiver is hereby authorized to decrease accordingly the payment to SIHC to cover any deficiency in the expense reserve prior to the

distribution to SIHC. The Receiver is authorized to require from SIHC prior to any distribution any information Statewide requires to comply with any applicable tax law.

24. The corporate charter of Statewide Insurance Company is hereby revoked pursuant to 18 *Del. C.* §5911(b). A copy of this Order shall be filed by the Receiver with the Delaware Secretary of State. Pursuant to 18 *Del. C.* §5922, the Receiver is exempt from and shall not be required to pay any fee to the Delaware Secretary of State for the filing, recording, or issuing a transcript or certificate authenticating this Order.

25. Upon the filing of evidence of the completion of all acts directed or authorized by this Order, Matthew Denn, Insurance Commissioner of the State of Delaware, in his capacity as Receiver, George J. Piccoli, in his capacity as Deputy Receiver, their predecessors, and their Assistants (as that term is defined in the Petition) and other Designees shall be RELEASED and DISCHARGED from any and all claims or demands relating in any way to the above-captioned proceeding, including but not limited to any and all claims: (i) against or on behalf of any policyholder of Statewide Insurance Company, or by or on behalf of any person or entity asserting a claim against any policyholder of or directly against Statewide Insurance Company; (ii) for the payment or reimbursement of expenses incurred by, on behalf of, or in the defense of the policyholders of Statewide Insurance Company or on behalf of the estate; (iii) for reinsurance premium or reinsurance recoverables owed or allegedly owed by Statewide Insurance Company or the estate; or (iv) relating to any reinsurance proceeds that may be due to or from the estate but which have not been collected. Furthermore, upon the filing of such evidence of completion, the within proceeding shall be dismissed, without further notice, upon application to this Court.

26. Upon his discharge and release in accordance with paragraph 12 of this Order, the Receiver shall destroy the records of the estate, provided, however, that in order to avoid wasting the remaining assets of the estate, upon the completion of the distribution according to the Claim Recommendation Report and Distribution Plan, the Receiver may destroy such Statewide records as are deemed not necessary to discharge his remaining duties hereunder.

27. Any assets of this estate received after the discharge and release of the Receiver shall be disbursed to Statewide Insurance Holding Company, with any unpaid costs of collection being paid from the proceeds of the assets or Statewide Insurance Holding Company.

28. The caption in this matter is hereby amended to reflect the entry of an order of liquidation, so that the caption hereafter shall read “In the Matter of Statewide Insurance Company in Liquidation.”

IT IS SO ORDERED as of the date this Order is docketed in the above-captioned matter.

Vice Chancellor

This document constitutes a ruling of the court and should be treated as such.

Court: DE Court of Chancery

Judge: Leo E Strine

File & Serve

Transaction ID: 16937459

Current Date: Nov 06, 2007

Case Number: 18668-VCS

Case Name: I/M of Rehabilitation of Statewide Insurance Co

/s/ **Judge Leo E Strine**