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SUPERIOR COURT OF NJ
MERCER VICINAGE
CHANCERY

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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MERCER COUNTY
DOCKET NO. MER-C-

86-18

MARLENE CARIDE,)
COMMISSIONER OF THE)
DEPARTMENT OF BANKING AND)
INSURANCE OF NEW JERSEY,)

Plaintiff,)

Civil Action

v.)

BROADWAY INSURANCE &)
SURETY COMPANY INC.,)

Defendant.)

ORDER OF REHABILITATION

This matter having been opened to the court by Gurbir S. Grewal, Attorney General of New Jersey, by William B. Puskas, Jr., Deputy Attorney General, as attorney for Marlene Caride, the Commissioner of the Department of Banking and Insurance of the State of New Jersey ("Commissioner"), by way of Verified Complaint

and Order to Show Cause, directing the defendant, Broadway Insurance & Surety Company Inc. ("Broadway"), to appear and show cause why an Order should not be entered (a) declaring Broadway to be in such condition that further transaction of business will be hazardous to its policyholders, creditors, or the public; (b) declaring that Broadway has refused to submit its books, records, accounts or affairs to the reasonable examination of the Commissioner; (c) directing the Commissioner to rehabilitate Broadway; and (d) granting such injunctive and other relief as may be necessary to accomplish said directive, with a hearing having been held on the Order to Show Cause on March 22, 2019, 2019, with proper notice having been given to the defendant, and the Court having reviewed the proof of service and proof of notice to interested parties, and the Court having considered the Commissioner's application, the Court hereby finds that:

1. Broadway is an insurance company domiciled in the State of New Jersey and governed by the provisions of Title 17 of the Statutes of New Jersey.

2. This court has general jurisdiction pursuant to N.J.S.A. 17:30C-1 to -31 over this proceeding.

3. The written and published notice of the Petition for Rehabilitation to interested persons evidenced by the Certification and Notice filed with the court constitutes the best

notice practicable under the circumstances and meets the requirements of due process concerning such notice.

4. Sufficient grounds exist pursuant to N.J.S.A. 17:30C-6(f) and -6(b) for entry of an Order of Rehabilitation, and such Order of Rehabilitation should be entered pursuant to N.J.S.A. 17:30A-7.

and for the reasons placed upon the record;

It is, therefore, on this 22nd day of March, 2018, ORDERED:

1. Pursuant to N.J.S.A. 17:30C-1 to -31, Broadway is deemed to be in such a financial condition that its further transaction of business will be hazardous to its policyholders, to its creditors, and to the public.

2. Pursuant to N.J.S.A. 17:30C-1 to -31, Broadway is deemed to have refused to submit its books, records, accounts or affairs to the reasonable examination of the Commissioner.

3. The Commissioner is appointed as Rehabilitator of Broadway with all the power and authority expressed or implied by N.J.S.A. 17:30C-1 to -31, including the power to appoint and recompense a Deputy Rehabilitator pursuant to N.J.S.A. 17:30C-17. The Deputy Rehabilitator shall have no personal liability for his acts or omissions in connection with his duties as Deputy Rehabilitator provided that such acts or omissions are undertaken or committed in good faith and without willful misconduct, or

willful, wanton, or gross negligence or criminal intent. The Deputy Rehabilitator shall not be deemed to be an employee of the State of New Jersey and accordingly shall not be subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 to 12-3. All expenses and costs incurred by the Deputy Rehabilitator in connection with lawsuits against her in her personal capacity shall, subject to the prior written approval of the Commissioner and the court, be paid out of the funds and assets of Broadway, provided that such lawsuits are not the result of any bad faith, willful misconduct, gross negligence, or criminal actions on the part of the Deputy Rehabilitator. The Commissioner as Rehabilitator may also appoint and employ such counsel, clerks, professionals (e.g. actuaries, accountants, etc.), and assistants as deemed necessary in connection with the rehabilitation of Freelancers. All persons appointed by the Commissioner shall serve at the pleasure of the Commissioner.

4. The Commissioner is hereby vested with title to all assets of Broadway, including but not limited to any of Broadway's contracts, causes of action, books, records, bank accounts, certificates of deposits, funds, securities or other funds and all real or personal property of any nature, including furniture, fixtures and office supplies, wherever located, including such property of Broadway which may be discovered hereafter, and is

hereby directed to take immediate and exclusive possession and control of same. The filing or recording of this Order with the Clerk of this court and with the recorder of deeds of the jurisdiction in which Broadway's corporate administrative offices are located or, in the case of real estate, with the recorder of deeds of the jurisdictions where the properties are located, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title filed or recorded. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Rehabilitator, all agents and brokers and all other persons or entities holding funds, assets, or property of or on behalf of Broadway shall forthwith file an accounting of those funds, assets or property with the Rehabilitator and shall, within 10 days of the service of this Order, turn said funds, assets, or property over to the Rehabilitator. The Rehabilitator shall take such actions as she may deem necessary and appropriate to protect and preserve Broadway's assets.

5. The Commissioner is directed to take such action as she deems necessary or appropriate to reform, revitalize, rehabilitate, or run-off Broadway.

6. The Commissioner shall deal with the property and business of Broadway in her own name as Commissioner or as Rehabilitator in the name of Broadway.

7. All claims against Broadway must be asserted not later than one year from the date of the Order of Rehabilitation, in the form established by the Rehabilitator, or such claims will be forever barred. The Rehabilitator shall establish procedures governing the payment of claims by Broadway in accordance with her powers under N.J.S.A. 17:30C-1 to -31 and the provisions of this Order.

8. All secured creditors or parties, lienholders, collateral holders, or other persons claiming secured, priority, or preferred interests in any property or assets of Broadway, including any governmental entity, are hereby permanently enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of, or exercise purported rights in or against any property or assets of Broadway.

9. Broadway, its officers, directors, trustees, shareholders, policyholders, agents, and employees, and all other persons or entities of any nature, including but not limited to claimants, vendors, business partners, reinsurers, plaintiffs, petitioners and any governmental agencies having claims of any nature against Broadway, including crossclaims, counterclaims and third party claims, are hereby enjoined and restrained from:

(a) Conducting any portion or phase of the business of Broadway unless so authorized by the Rehabilitator or her designee;

(b) Pursuing litigation against Broadway, including bringing, maintaining or further prosecuting any action at law or equity, arbitration, special, or other proceeding against Broadway or against the Commissioner and her successors in office as Rehabilitator thereof, or against the Deputy Liquidator appointed pursuant to Paragraph 2 above;

(c) Making or executing any levy upon the property of Broadway;

(d) Threatening, instituting, maintaining or further presenting any suit at law or equity or any collection activity, or any other proceeding of any nature against any policyholder or insured of Broadway resulting from Broadway's financial condition or the failure of Broadway to pay any claim or to meet any of its contractual obligations due to its financial impairment; and

(e) Interfering in any way with the Rehabilitator, or any successors in office, in her possession of or title to the property and assets of Broadway, or in the discharge of her duties pursuant to this Order, including but not limited to any lease or sublease for office space or computer hardware or software,

contract or agreement (whether written or oral), license or other arrangement that is necessary to the operation of the business of Broadway.

10. Broadway, its officers, directors, policyholders, agents and employees, and all other persons or entities of any nature, having any property or records belonging to Broadway, or pertaining to the business of Broadway, including data processing information and records of any kind, are hereby directed to assign, transfer and deliver to the Rehabilitator all of such property in whatever name the same may be, and any persons, firms or corporations having any books, papers or records relating to the business of Broadway shall preserve the same and submit these to the Rehabilitator for examination at all reasonable times.

11. The Rehabilitator shall have the power:

(a) to conduct the business of Broadway under the general supervision of the Court;

(b) to pay from the funds or assets of Broadway or from such other funds that may become available to her all expenses of marshaling, taking possession of, conserving, conducting, rehabilitating, disposing of or otherwise dealing with the business and property of Broadway, as determined by the Rehabilitator in her discretion to be appropriate and reasonable;

(c) to collect all debts and monies due and claims belonging to Broadway, wherever located, where economically feasible and for this purpose:

(i) to institute and maintain timely actions in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts;

(ii) to do such other acts as are necessary or expedient to marshal, collect, conserve or protect any of Broadway's assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon such terms and conditions as she deems appropriate, and the power to initiate and maintain actions at law or equity or any other type of action or proceeding of any nature, in this and other jurisdictions;

(iii) to pursue any creditor's remedies available to enforce the Rehabilitator's claims;

(d) to conduct public and private sales of the assets and property of Broadway, including any real property;

(e) to acquire, invest, deposit, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any asset or property of Broadway, and to sell, reinvest, trade or otherwise dispose of any securities or bonds presently held by Broadway, upon such terms and conditions

as the Rehabilitator deems to be fair and reasonable, irrespective of the value at which such property was last carried on the books of Broadway. The Rehabilitator shall also have the power to execute, acknowledge, and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the rehabilitation;

(f) upon approval of the Court, to borrow money on the pledge of assets of Broadway with or without security and to execute and deliver all documents necessary to that transaction for the purpose of facilitating the rehabilitation. Neither the Commissioner nor her designees or appointees shall be held liable in their official or personal capacities for any loans made for such purposes;

(g) to enter into such contracts as are necessary to carry out this Order and to affirm or disavow any contracts to which Broadway is a party;

(h) to institute and to prosecute, in the name of Broadway or in her own name, any and all suits and other legal proceedings, to defend suits to which Broadway or the Rehabilitator is a party, in this State or elsewhere, commenced prior or subsequent to this Order, to abandon the prosecution or defense of suits, legal proceedings and claims which she deems inappropriate

to pursue further and to compromise suits, legal proceedings or claims on such terms and conditions as she deems appropriate;

(i) to prosecute any action which may exist on behalf of the creditors, policyholders, or shareholders of Broadway against any officer or director of Broadway or any other person or entity;

(j) to audit the books and records of all agents of Broadway insofar as those records relate to the business activities of Broadway;

(k) to perform such further and additional acts as she may deem necessary or appropriate for the accomplishment of or in aid of the purpose of rehabilitation, it being the intention of this Order that the aforesaid enumeration of powers shall not be construed as a limitation upon the Rehabilitator or Deputy Rehabilitator.

11. The Rehabilitator may at her discretion as of the date of this Order discontinue the defense of claims, suits and other proceedings, in this State and elsewhere, in which the insureds of Broadway are parties, including those claims made and suits and proceedings undertaken prior to the date of this Order.

12. The Rehabilitator shall give or cause to be given notice of the entry of this Order once in a newspaper of general circulation in the county within which Broadway's

corporate offices were located, specifically, The Newark Star Ledger; The Courier Post; and The New Jersey Law Journal, publication to occur as soon as practicable after the date of this Order.

13. The amounts recoverable by the Rehabilitator from any reinsurer of any reinsurance contract or reinsurer of Broadway shall not be reduced as a result of this delinquency proceeding, or by reason of any partial payment or distribution on a reinsured policy, contract or claim. Setoffs shall be allowed between Broadway and its reinsurer only with the consent of the Rehabilitator. Unless either the insurance contract or an applicable statute provides to the contrary, payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to Broadway.

14. (a) Any agent, broker, premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid premiums, whether earned or unearned, as shown on the records of Broadway as of the date of entry of this Order. No credit or set-off shall be allowed in favor of such person against his account with Broadway for the unearned portion of the premium on any canceled contract or policy, unless (i) that contract or policy was canceled prior to the entry of this Order; and (ii) the

unearned premium on the canceled contract or policy was in fact refunded or credited to the insured or his or her assigns prior to the entry of this Order. The Rehabilitator shall also have the right to recover from such person any part of an unearned premium that represents a commission to such person.

(b) All policyholders of Broadway shall be obligated to pay any unpaid earned premium due to Broadway at any time, as shown on the records of Broadway.

15. Existing contracts and other obligations by and between Broadway and any reinsurer may, at the discretion of the Rehabilitator, be terminated. Such termination shall be effected by written notice issued by the Rehabilitator addressed to the reinsurer.

16. All further papers filed in these proceedings shall bear the caption and be entitled: "I/M/O the Rehabilitation of Broadway Insurance & Surety Company Inc.".

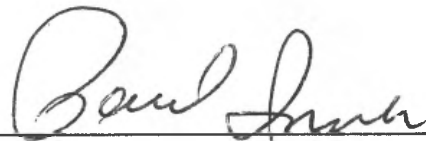
17. If any provision of this Order or the application thereof is for any reason held to be invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected.

18. Any person, corporation or other entity having notice of this Order who fails to abide by its terms shall be directed to appear before this Court to show good cause, if any

they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.

19. The Commissioner as Rehabilitator may at any time make further application for such additional and different relief as she sees fit.

20. This Court shall retain jurisdiction for all purposes necessary to effectuate and enforce this Order.



Paul Innes, P.J.Ch.Div.

Unopposed