

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT**

Merrimack Superior Court  
163 North Main St./PO Box 2880  
Concord NH 03302-2880

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**NOTICE OF DECISION**

**J. Christopher Marshall, ESQ  
NH Attorney Generals Office  
33 Capitol Street  
Concord NH 03301-6397**

**Case Name: In the Matter of the Rehabilitation of ACA Assurance  
Case Number: 217-2006-EQ-00380**

Enclosed please find a copy of the court's order of September 09, 2014 relative to:

Order Approving All Remaining Claims Determinations, Settlement Agreements, The Mandated RSA 402-C:35 Report, The Proposed Plan Of Distribution And The Distribution of Assets

September 09, 2014

William S. McGraw  
Clerk of Court

(614)

C: ACA;; ACA Assurance; Peter A. Bengelsdorf

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of ACA Assurance  
Docket No. 06-E-380

**[PROPOSED]**

**ORDER APPROVING ALL REMAINING CLAIMS DETERMINATIONS,  
SETTLEMENT AGREEMENTS, THE MANDATED RSA 402-C:35 REPORT,  
THE PROPOSED PLAN OF DISTRIBUTION AND THE DISTRIBUTION OF  
ASSETS**

This proceeding was commenced on October 11, 2006, upon the Verified Petition for Rehabilitation of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire (the "Commissioner"). The Commissioner filed the Verified Petition pursuant to RSA 402-C:15, seeking appointment as Rehabilitator of ACA Assurance ("ACA"). On October 11, 2006, this Court entered an Order Appointing Rehabilitator, in which the Commissioner was appointed Rehabilitator of ACA. On July 2, 2007, the Commissioner made a Motion to terminate the initial rehabilitation; provided that ACA remain subject to a Supervision Order requiring it to maintain a minimum level of surplus. This Court granted the Motion to terminate the initial rehabilitation on July 2, 2007. On September 8, 2008, the Commissioner filed a Verified Petition to Re-open Rehabilitation, due to the deterioration of the financial position of ACA, which was granted by this Court on the same day. On September 28, 2012, the Commissioner filed a verified, assented to petition seeking to be appointed as liquidator for ACA and for certain other relief. An order granting the petition and appointing the Commissioner as Liquidator was issued by this Court on October 10, 2012. The Commissioner filed a motion seeking approval of notice and publication requirements on July 3, 2014. An

Order approving the notice and publication requirements was issued by this Court on July 10, 2014 (the "Notice Order"). The Commissioner has filed a report with the Court confirming that he has complied with the terms of the Notice Order. No objection was filed with this Court by any person during the forty (40) days following the Court's issuance of the Notice Order. The Commissioner now seeks an order approving all remaining claims determinations, certain settlement agreements, the plan of distribution and distributions, and the Commissioner's determinations made pursuant to RSA 402-C:35.

WHEREFORE, no objection having been received within the forty (40) day period set forth in the Notice Order, the Verified Motion to Approve all Remaining Claims Determinations, Settlement Agreements, the Mandated RSA 402-C:35 Report, Proposed Plan of Distribution and Distribution of Assets is GRANTED, and it is hereby ordered, adjudged and decreed that:

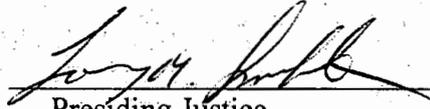
- (a) the determination of the Landlord Claim as a Class V priority classification in an allowed amount of \$125,000 and the Landlord Settlement Agreement are hereby approved;
- (b) the RA Settlement Agreement, including the Liquidator's determinations with respect to the approval of Royal Arcanum's claims for administrative expenses, is hereby approved;
- (c) the Liquidator's determination of all Assessment Claims in full as Class IX priority claims pursuant to RSA 402-C:44 is approved;
- (d) the Liquidator's proposed application of funds for the payment of the Assessment Claims is approved, such that the funds available for payment of

the Assessment Claims shall be applied beginning at the 40% assessment, with the effect of partially reducing the assessment on ACA's former pre-need policyholders, but without reducing the level of the assessment on ACA's other former policyholders;

- (e) the Proposed Plan of Distribution and the distribution of ACA's assets (after establishment of a reserve not to exceed \$52,000.00 for the Liquidator's administration costs) to claimants with allowed claims in ACA's estate in accordance with the Proposed Plan of Distribution are hereby approved;
- (f) the Liquidator's report pursuant to RSA 402-C:35, including the Liquidator's determination that an additional assessment is not appropriate or authorized under RSA 402-C:35 and the Liquidator's recommendation that no additional assessment be imposed pursuant to RSA 402-C:35, is hereby approved.

*Approved. So Ordered*

Date: 9/9/14  
Time: 8:24 AM

By:   
Presiding Justice

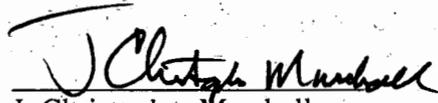
**CERTIFICATE OF SERVICE**

I, J. Christopher Marshall, do hereby certify that on August 26, 2014, I served a true copy of the foregoing, by first class mail, postage prepaid, to:

Roger A. Sevigny  
NH Commissioner of Insurance  
21 S. Fruit Street, Suite 14  
Concord, NH 03301

Steven J. Lauwers, Esq.  
Rath, Young & Pignatelli, P.C.  
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Concord, NH 03302-1500

Peter A. Bengelsdorf  
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ACA Assurance in Liquidation  
61 Broadway, 6<sup>th</sup> Floor  
New York, NY 10006

  
J. Christopher Marshall