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

Merrimack Superior Court  
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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**

Please be advised that on October 03, 2012 Judge Smukler made the following order relative to:

Verified and Assented to Petition for Liquidation "Granted".

[Proposed] Order of Liquidation "Approved. So Ordered" (copy attached).

October 22, 2012

William S. McGraw  
Clerk of Court

(484)

C: Bruce A Harwood, ESQ

[Faint mirrored text]

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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

**[PROPOSED]**  
**ORDER OF LIQUIDATION**

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. The Commissioner, as Rehabilitator, has now determined pursuant to RSA 402-C:19, I that further attempts to rehabilitate ACA would be futile and would endanger creditors, policyholders and the public, and that ACA should be liquidated. On September 28, 2012, the Commissioner, as Rehabilitator, filed a Verified and Assented to Petition for Liquidation pursuant to RSA 402-C:5 and RSA 402-C:19 (the "Petition"), in which he has sought an order of liquidation for ACA, his

appointment as Liquidator and the requested orders. After having heard and considered the facts set forth in the Petition, the Court finds that the law and facts are as the Commissioner has alleged in the Petition and that there exists a present necessity for the entry of this order.

WHEREFORE, the Verified and Assented to Petition for Liquidation is GRANTED, and it is hereby ordered, adjudged and decreed that:

(a) The proceeding for the rehabilitation of ACA is hereby terminated pursuant to RSA 402-C:19;

(b) Sufficient cause exists for an order to liquidate ACA;

(c) Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, and his successors in office, is hereby appointed Liquidator of ACA;

(d) The Liquidator is authorized, in his discretion, to pay expenses incurred in the course of rehabilitating and liquidating ACA, including the actual, reasonable and necessary costs of preserving or recovering the assets of ACA, wherever located, and the costs of goods and services provided to the ACA estate in this and other jurisdictions.

Such costs shall include, but not be limited to: (1) reasonable professional fees for accountants, actuaries, attorneys and consultants with other expertise retained by the New Hampshire Department of Insurance, the Commissioner or the Liquidator to perform services relating to the liquidation of ACA or the feasibility, preparation, implementation or operation of a liquidation plan; (2) compensation and other costs related to representatives, employees or agents of ACA or its affiliates who perform services for ACA in liquidation; and (3) the costs and expenses of and a reasonable allocation of costs and expenses associated with time spent by New Hampshire Insurance Department

personnel and New Hampshire Department of Justice personnel in connection with the rehabilitation and liquidation of ACA;

(e) The Liquidator is authorized to employ or continue to employ, to delegate authority to and fix the compensation of such appropriate personnel, including actuaries, accountants, consultants, special counsel and counsel in this and other jurisdictions, as he deems necessary to carry out the liquidation of ACA, subject to compliance with the provisions of RSA 402-C, the supervision of the Liquidator and this Court. The Liquidator is authorized to appoint and the Court approves the appointment of Peter A. Bengelsdorf as Special Deputy Liquidator for the Liquidator of ACA pursuant to the Consulting Agreement attached to the Petition as Exhibit B, and the Special Deputy Liquidator shall be a state official for purposes of RSA 99-D:2, RSA 541-B:19 and RSA 400-A:37 IX, and thus be entitled to the protections and immunities of those laws, which protections shall continue beyond the termination of the contract attached as Exhibit B.

(f) The actual, reasonable and necessary costs of preserving, recovering, distributing or otherwise dealing with the assets of ACA, wherever located, and the costs of goods or services provided to the ACA estate pursuant to the Rehabilitation Order, during the rehabilitation proceeding, and under paragraphs (d), (e) and (f) of the Liquidation Order, during the liquidation proceeding, shall be treated as “costs and expenses of administration,” pursuant to RSA 402-C:44, I;

(g) The Liquidator is directed forthwith to take possession of the assets of ACA wherever located and administer them under the orders of the Court. The Liquidator is vested with title to all assets, property, contracts and rights of action and all of the books

and records, accounts and other documents of ACA, wherever located, and in whomever's possession they may be found;

(h) The Liquidator is authorized to transfer, invest, re-invest and otherwise deal with the assets and the property of ACA so as to effectuate its liquidation;

(i) The Liquidator is authorized to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, without the prior permission of the Court in the ordinary course of business;

(j) The Liquidator is authorized to enter into such contracts as are necessary to carry out the Order, and to affirm or disavow any contracts to which ACA is a party;

(k) ACA and its directors, officers, employees, agents and representatives are prohibited from proceeding with the business of ACA, except upon the express written authorization of the Liquidator;

(l) ACA and officers, directors, agents, employees, and representatives of ACA, and any persons acting in concert with ACA, are prohibited from disposing, using, transferring, removing or concealing any property of ACA, without the express written authority of the Liquidator.

(m) Any bank, savings and loan association or other financial institution or other legal entity is prohibited from disposing of, allowing to be withdrawn or concealing in any manner any property or assets of ACA, except under the express written authorization of the Liquidator or by the further order of this Court;

(n) All actions against ACA whether in this state or elsewhere shall be abated in accordance with RSA 402-C:28 and RSA 402-C:5, except to the extent the Liquidator sees fit and obtains leave to intervene;

(o) To the full extent of the jurisdiction of the Court and the comity to which the orders of the Court are entitled, all persons are hereby permanently enjoined and restrained from and of the following actions:

(1) commencing or continuing any judicial, administrative or other action or proceeding against ACA, the Rehabilitator or the Liquidator;

(2) commencing or continuing any judicial, administrative or other action or proceeding against ACA's, the Rehabilitator's or Liquidator's present or former directors, officers, employees, agents, representatives or consultants, arising from their actions on behalf of ACA;

(3) enforcing any judgment against ACA or its property;

(4) any act to obtain possession of property of ACA or to exercise control over property of ACA;

(5) any act to create, perfect or enforce any lien against property of ACA;

(6) any act to collect, assess or recover a claim against ACA, other than the filing of a proof of claim with the Liquidator; and

(7) the setoff of any debt owing to ACA; provided, however, that notwithstanding anything in this Order to the contrary, nothing herein is intended nor shall it be deemed to stay any right of setoff of mutual debts or mutual credits by reinsurers as provided in and in accordance with RSA 402-C:34.

(p) The Court hereby seeks and requests the aid and recognition of any Court or administrative body in any State or Territory of the United States and any Federal Court or administrative body of the United States and any Court or administrative body in any Province or Territory of Canada and any Canadian Federal Court or administrative body to act in aid of and to be complementary to this Court in carrying out the terms of the Order;

(q) All persons doing business with ACA on the date of the Liquidation Order are permanently enjoined and restrained from terminating or attempting to terminate such relationship for cause under contractual provisions on the basis of the filing of either petition to rehabilitate ACA, ACA's assent to the entry of either Rehabilitation Order, the filing of this Petition, the entry of the Liquidation Order, the rehabilitation or liquidation proceedings for ACA or ACA's financial condition during the rehabilitation or liquidation proceedings;

(r) All persons in custody or possession of any property of ACA are hereby directed and ordered to turn over any such property to the Liquidator;

(s) The Liquidator is directed to administer and make payments on all claims against the ACA estate filed with the Liquidator in accordance with New Hampshire's priority statute, RSA 402-C:44;

(t) The amounts recoverable by the Liquidator from any reinsurer of ACA shall not be reduced as a result of the prior rehabilitation proceeding or this liquidation proceeding or by reason of any partial payment or distribution on a reinsured policy, contract or claim, and each reinsurer of ACA is, without first obtaining leave of this Court, hereby enjoined and restrained from terminating, canceling, failing to extend or

renew or reducing or changing coverage under any reinsurance policy or contract with ACA. The Liquidator may, in his discretion, commute any contract with a reinsurer or reinsurers;

(u) The policies assumed by Supreme Council of the Royal Arcanum and L'Union Vie Compagnie Mutuelle D'Assurance ceased to be policies of ACA upon the date of their assumption, and these policies are therefore not policies of ACA for purposes of the continuation provisions of RSA 402-C:22;

(v) The life insurance policies held by ACA retirees and members of the ACA board of directors shall be discontinued and terminated in accordance with RSA 402-C:22 on thirty-first (31st) day after the date of this Order;

(w) Within one year of the entry of this Order, and then annually thereafter, the Liquidator shall file with the Court a financial report, as of the preceding December 31, in accordance with RSA 402-C:21, V, which shall include, at a minimum, the assets and liabilities of ACA and all funds received or disbursed by the Liquidator during the period;

(x) The Liquidator shall have the full powers and authority given the Liquidator under RSA Chapter 402-C, and under provisions of all other applicable laws, as are reasonable and necessary to fulfill the duties and responsibilities of the Liquidator under RSA Chapter 402-C, and under the Order, specifically including, but not limited to, each and every power and authority bestowed upon the Liquidator under RSA 402-C:25, the provisions of which are incorporated by reference in their entirety into this Order;

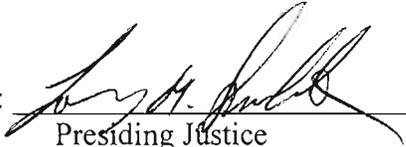
(y) the proposed claim procedures, including the Liquidator's acceptance of the full amount of all assessments imposed on ACA's insurance policies as valid claims in

the estate, without requiring policyholders to file proofs of claim to that effect, with the Liquidator are hereby approved;

(z) the proposed notice and proof of claim form to be sent to potential creditors pursuant to RSA 402-C:26 , including to the assuming insurance carriers of ACA Assumed Policies, is hereby approved, and such notice need not be provided to former ACA policyholders of Assumed Policies individually or to independent insurance agents of ACA directing the agents to give notice to policyholders;

(aa) The final deadline and bar date for the filing of claims pursuant to RSA 402-C:26, II, RSA 402-C:37, I and RSA 402-C:40, II, shall be six (6) months from the date of this Order. Any new claims postmarked after this date will be considered unexcused late filed pursuant to RSA 402-C:37 III. and will not be considered.

*Approved.*  
*So Ordered*  
Date: 10/3/12  
Time: 8:30 AM

By:   
Presiding Justice