

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

WAKE COUNTY

STATE OF NORTH CAROLINA, on )  
 Relation of JAMES E. LONG, )  
 COMMISSIONER OF INSURANCE OF )  
 NORTH CAROLINA, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 STATE CAPITAL INSURANCE )  
 COMPANY, )  
 )  
 Respondent. )

ORDER OF LIQUIDATION  
AND INJUNCTIVE RELIEF  
(APRC; INJU)

FILED  
JUN 21 2004  
CLERK OF SUPERIOR COURT  
WAKE COUNTY, NC

THIS CAUSE came to be heard and was heard on June 21, 2004 before the undersigned Judge Presiding over the Superior Court of Wake County, North Carolina, upon the Verified Petition for an Order of Liquidation and Injunctive Relief filed herein, on behalf of the State of North Carolina by the Honorable James E. Long in his capacity as Commissioner of Insurance of the State of North Carolina (the Commissioner), seeking the entry of an Order of Liquidation and injunctive relief. Based upon the evidence presented and the arguments and representations of counsel, the Court makes the following:

FINDINGS OF FACT

1. The Petitioner is the Commissioner of Insurance of the State of North Carolina;
2. Respondent State Capital Insurance Company (State Capital), is a North Carolina stock property and casualty

insurance company with its operations, books and records located in Trenton, New Jersey, and is subject to the provisions of Chapter 58, Article 30;

3. The Respondent has been under the administrative supervision of the North Carolina Department of Insurance (the Department) since December 20, 2001;

4. Respondent has no current in-force policies;

5. The Respondent is insolvent within the meaning of N.C. Gen. Stat. § 58-30-10(13);

6. The Respondent is in such condition as to render the continuance of its business hazardous to the public or to the holders of its policies;

7. Appointment of a liquidator is necessary to protect the policyholders and the public and to prevent further waste of the assets of the Respondent corporation;

8. The Commissioner is entitled to appointment as liquidator of the Fund under the provisions of N.C. Gen. Stat. Chapter 58, Article 30;

9. Respondent waived formal service of process in this matter, and waives formal notice of and appearance at the hearing of the Commissioner's "Verified Petition for an Order of Liquidation, Appointment of Receiver, Court's Seizure Order and Preliminary Injunction," and consents to being placed into liquidation in North Carolina, the appointment of Petitioner as receiver, and the entry of preliminary injunctions. Unanimous

Consent of the Board of Directors of State Capital is attached to this Order;

CONCLUSIONS OF LAW

1. The Petitioner is the Commissioner of Insurance of the State of North Carolina, and the Petitioner has initiated this action in his official capacity on behalf of the State of North Carolina, pursuant to N.C. Gen. Stat. §§ 58-30-15, 58-30-20, 58-30-65, 58-30-100, 58-30-105, and Article 38 of Chapter 1 of the North Carolina General Statutes, by filing a Verified Petition for an Order of Liquidation, request for injunctive relief and summons with the Clerk of Superior Court of Wake County;

2. This matter is subject to the provisions of N.C. Gen. Stat. Chapter 58, Article 30;

3. Grounds for the entry of an Order of Liquidation and preliminary injunctions have been demonstrated;

4. The Petitioner is entitled to appointment as liquidator under the provisions of N.C. Gen. Stat. Chapter 58, Article 30; and

IT IS NOW, THEREFORE, ORDERED, ADJUDGED, AND DECREED that:

COMMISSIONER APPOINTED LIQUIDATOR

1. The Honorable James E. Long, in his capacity as Commissioner of Insurance of the State of North Carolina, and his successors in office, is appointed as liquidator of the Respondent, pursuant to the provisions of Article 30 of Chapter 58 of the North Carolina General Statutes;

TITLE OF ASSETS, RECORD NOTICE OF TITLE

2. This Order shall by operation of law vest title to all assets of the Respondent in the liquidator and the filing or recording of this Order with the Clerk of the Superior Court or, in the case of real estate, with the Register of Deeds of the county where the property is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that register of deeds, would have imparted;

POSSESSION AND CONTROL OF ASSETS

3. As such liquidator, he is hereby authorized, empowered and directed to take into his possession and control all property, stocks, bonds, securities, accounts, monies, books, papers, records, microfilm, microfiche, data processing programs, printouts and computations (both in existence and stored in memory), electronic, optical or magnetic storage devices or media, tapes, disks or Winchester drives and all other assets of any and all kinds and nature whatsoever belonging to the Respondent, wherever located, to which the liquidator may be entitled by virtue of the provisions of N.C. Gen. Stat. Chapter 58, Article 30, and to administer them under the general supervision of this Court;

OTHER POWERS OF LIQUIDATOR

4. The liquidator shall be vested with such other duties, powers, authorities, and obligations as are provided by N.C. Gen.

Stat. Chapter 58, Article 30;

APPOINTMENT OF SPECIAL DEPUTY COMMISSIONER, EMPLOYEES

5. Pursuant to N.C. Gen. Stat. § 58-30-120, the liquidator is authorized to appoint V. Boyce Oglesby as Special Deputy Commissioner to act for the liquidator in connection with the delinquency proceedings against the Respondent; that the liquidator or said Special Deputy Commissioner is authorized to employ and discharge such counsel, clerks or assistants as the liquidator or said Special Deputy Commissioner deems to be necessary, or to utilize State employees for said purposes if he has determined that the use of State employees to conduct certain aspects of the liquidation is the most cost effective method of administering the delinquency proceeding and that this action benefits the estate and its creditors; to fix the reasonable compensation for counsel, clerks or assistants or other such personnel, other than State employees, at prevailing customary rates; to obtain such bonds, errors and omissions type insurance, or excess liability insurance, in addition to that already provided for employees of the Insurance Department, as a reasonably prudent person charged with the duties would deem to be appropriate; and that the compensation for the services of the Special Deputy Commissioner, and for counsel, clerks or assistants and employees, and all expenses of taking possession of the Respondent and of conducting the delinquency proceedings against the Respondent;

APPOINTMENT OF ASSISTANT SPECIAL DEPUTIES

6. Special Deputy Commissioner Boyce Oglesby is authorized to appoint Michael J. Johnson and George J. Piccoli as Assistant Special Deputies.

LIQUIDATOR'S EXPENSES

7. The liquidator is authorized, empowered and directed to incur such expenses for communication and traveling expenses for himself, his agents or attorneys as may be necessary in the proper administration of his duties as liquidator and also to incur such other expenses as the liquidator may deem advisable or necessary in order to properly conduct and perform his duties as liquidator;

INJUNCTION AGAINST INTERFERING WITH LIQUIDATION

8. All persons, firms, corporations, municipalities, counties and the State of North Carolina are hereby enjoined and restrained from interfering in any manner with the property or assets of the Respondent or with said liquidator in the exercise of his duties, and they are further enjoined and restrained from instituting any suit or other action against the liquidator or the Respondent's property except by the permission of this Court first had and obtained;

STAY OF PENDING ACTIONS

9. That any and all pending actions against the Respondent are hereby stayed effective as of the date of this order;

INJUNCTION AGAINST ACTIONS BY CREDITORS

10. All persons, firms and corporations receiving actual notice of the Court's Order are hereby stayed from the obtaining of preferences, judgments, attachments, garnishments, or liens against the Respondent or its assets, or the levying of execution or foreclosure against the Respondent or its assets until further order of the Court;

INJUNCTION AGAINST WASTE, TRANSACTION OF BUSINESS

11. The Respondent, its trustees, officers, directors, agents, employees, and all other persons are hereby enjoined and restrained from the disposition, waste or impairment of any of its property or the transaction of further business unless supervised and approved by the liquidator or his agents or deputies until further order of the Court, and all such persons are hereby required to transfer to the liquidator any and all property of the Respondent wheresoever situated;

INJUNCTION AGAINST ALLOWING OBTAINMENT OF PREFERENCES

12. The Respondent, its trustees, officers, agents, servants, employees, directors and attorneys are hereby enjoined and restrained from doing or permitting to be done anything which may allow or suffer the obtainment of preferences, judgments, attachments or other liens, or the initiation of a levy against the Respondent, without prior permission of this Court;

ACCOUNTING AND REPORTING

13. Pursuant to N.C. Gen. Stat. § 58-30-105(e), the liquidator shall make a quarterly report to the Wake County Superior Court, and the liquidator shall include in the report a statement of receipts and disbursements to date and a balance sheet; that this accounting shall be filed in duplicate; that one copy shall be filed with the Clerk of Superior Court and one copy shall be submitted to the Judge presiding over the liquidation; that the requirement of this Order shall be satisfied by filing the accounting as provided and the liquidator shall not be required to seek the Court's approval of said accounting; that this accounting may be amended or supplemented in the liquidator's discretion;

COMMISSIONER'S BOND

14. The official bond of the Petitioner, the Commissioner of Insurance of the State of North Carolina, shall be sufficient to serve for the faithful performance of his duties and obligations herein imposed;

EFFECTIVE DATE OF ORDER OF LIQUIDATION

15. This Order shall be effective as of the 21st day of June 2004.

This the 21st day of June 2004

\_\_\_\_\_  
Judge Presiding

**CERTIFIED TRUE COPY FROM ORIGINAL**  
**Clerk of Superior Court Wake County**

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By: \_\_\_\_\_  
Assistant Deputy Clerk of Superior Court

Date: \_\_\_\_\_

CONSENT OF BOARD OF DIRECTORS OF STATE CAPITAL INSURANCE COMPANY

The Board of Directors of State Capital Insurance Company consent to the entry of the Order of Liquidation and Preliminary Injunction; waive formal notice of the hearing of and appearance at the hearing of the "Verified Petition for an Order of Liquidation, Appointment of Receiver, Court's Seizure Order and Preliminary Injunction" of the North Carolina Commissioner of Insurance; and further expressly waive formal service of process in this matter.

\_\_\_\_\_  
Stephen Lee Kibblehouse

6/18/04  
(date)

\_\_\_\_\_  
Albert Joseph Marino

6/18/04  
(date)

CERTIFICATE OF SERVICE

This is to certify that the foregoing Order of Liquidation and Injunctive Relief was this day served upon STATE CAPITAL INSURANCE COMPANY, by depositing a copy of the Order enclosed in a post-paid wrapper, in a post office or official depository under the exclusive care and custody of the United States Postal Service, and addressed to:

State Capital Insurance Company  
c/o Stephen Lee Kibblehouse, President  
275 Phillips Boulevard  
Lawrenceville, NJ 08618-1426

A copy of the Order of the Liquidation and Injunctive Relief was also mailed to:

Christopher J. Blake  
Nelson Mullins Riley & Scarborough, L.L.P.  
Post Office Box 30519  
Raleigh, North Carolina 27622-0519

This date: June 21, 2004.

ROY COOPER  
Attorney General

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