

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.,)
PAULA A. FLOWERS,)
Commissioner of Commerce and)
Insurance for the State of Tennessee,) No. 03-3731-IV
)
Petitioner,)
v.) FILED IN COURT: 5/27/2005
)
EXCHANGE INSURANCE COMPANY,)
a Tennessee domiciled insurance company,)
)
Respondent.)

**MOTION FOR SCHEDULING ORDER SETTING A HEARING ON PLAN OF
REHABILITATION AND PRESCRIBING NOTICE**

COME NOW Paula A. Flowers, Commissioner of the Department of Commerce and Insurance for the State of Tennessee, in her capacity as Rehabilitator of Exchange Insurance Company (“EIC”), and Kathy Fussell, Special Deputy Rehabilitator of EIC, and move this Court under Tenn. Code Ann. § 56-9-303(e) to enter an order 1) scheduling August 3, 2005 at 10 a.m. (reserved) for hearing of the Rehabilitator’s Motion to Approve Plan of Rehabilitation of EIC, and Plan, filed herewith, and 2) prescribing the content and breadth of the Notice to be given by the Rehabilitator for the Plan Hearing.

1. The Rehabilitator has filed a Plan of Rehabilitation. Before this Court may approve the Rehabilitator’s proposal, the Court must establish a hearing date and prescribe notice of the Plan. Tenn. Code Ann. § 56-9-303(e) states in relevant part:

If the rehabilitator determines that reorganization, consolidation, conversion, reinsurance, merger or other transformation of the insurer is appropriate, the rehabilitator shall prepare a plan to effect such changes. Upon application of the rehabilitator for approval of the plan, and after such notice and hearings as the

court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified. Any plan approved under this section shall be, in the judgment of the court, fair and equitable to all parties concerned. If the plan is approved, the rehabilitator shall carry out the plan.

2. The Rehabilitator deems that an appropriate hearing date on the Plan submitted herewith should occur in at least 30 days, to allow the mailing and publication of the Notice of the Plan to interested parties in addition to those who have received this Motion, but without unduly delaying the beneficial transaction contemplated by the Plan. The Court has available and has tentatively reserved the date of August 3, 2005 at 10:00 a.m. Because the Plan of Rehabilitation is not designed to reduce any policyholder's current insurance coverage, nor any liabilities of the EIC corporate entity, and because the Plan, if approved, should change very little about the operations of the remaining insurance business of EIC, the Rehabilitator deems that a prompt hearing date after notice prescribed as requested below should be adequate to afford affected parties an opportunity to respond to the Plan.

3. Since April 1, 2003, and during the entirety of this Rehabilitation Proceeding (the "Proceeding"), EIC has been a party to a portfolio reinsurance agreement with National Lloyds Insurance Company, a Texas domiciled insurance company ("NLIC"), and to a management agreement with NLIC's affiliate, NLASCO Services, Inc. ("NLASCO"), through which agreements those companies had acquired substantially all of EIC's property and equipment and agreed to assume its operating expenses as EIC wound down its business. In order to avoid their expiration, and to facilitate the consummation of the transactions contemplated by the proposed Plan of Rehabilitation, these agreements have recently been extended on terms that call for them to remain in force from month to month commencing April 1, 2005. NLIC and NLASCO are receiving copies of this Motion.

4. During the pendency of the Rehabilitation Proceeding, the Rehabilitator has marshaled various assets, resolved various claims, and generally overseen the management of EIC by NLASCO. The Motion to Approve Plan of Rehabilitation brings up to date EIC's status since the Rehabilitator's Accounting and Second Status Report of Rehabilitation Pursuant to Tenn. Code Ann. § 56-9-302(b) on December 17, 2004. The Motion describes the terms of the attached Plan (and Agreement of Assumption by NLIC) and explains that under the terms of the Plan, all of EIC's remaining obligations to provide insurance coverage will either have been released or settled or will have become instead solely the obligations of NLIC.

5. The proposed Plan of Rehabilitation, a copy of which is attached as Exhibit A to the Motion to Approve Plan of Rehabilitation, contemplates:

- 1) That NLIC will assume and become the direct insurer for the outstanding insurance obligations of EIC,
- 2) That EIC has already discharged its oil and gas bond liabilities,
- 3) That EIC will be released and discharged from the obligations assumed by NLIC,
- 4) That EIC will give up its certificate of authority and its right to carry on the business of insurance,
- 5) That at the closing of the Agreement of Assumption, NLIC will receive from EIC, a portion of the cash and cash equivalent assets of EIC as described in the Agreement at Section 3 (current case reserves as of the Assumption Date plus \$90,000 representing IBNR for Notary Bonds);
- 6) That title to and possession of the assets of EIC not paid in connection with the closing of the Agreement of Assumption be retained by EIC.

6. **Request to Prescribe Notice:** The Rehabilitator requests this Court to approve the following procedures to supply notice of the Plan hearing and the terms of the Plan:

A. Upon the entry of this Court's Order setting a hearing for the Motion to Approve Plan, the Rehabilitator will serve as soon as practicable, the Notice of Hearing, a form of which is attached to the Proposed Order as Exhibit A, by regular mail upon NLIC, NLASCO, and the last known addresses as indicated by the records of EIC of:

- i. Notary bond and fidelity bond principals/policyholders with bonds that were still effective on or after April 1, 2003;
- ii. Surety obligees on notary bonds (the office of county clerk in each of the 95 counties of Tennessee, see Tenn. Code Ann. § 8-16-104);
- iii. The Tennessee Department of Environment and Conservation (former obligee of EIC's discharged oil and gas bonds);
- iv. Known claimants;
- v. Current creditors including unclaimed property owners for amounts over \$50 (Fifty dollars);
- vi. EIC's shareholders and board of directors;
- vii. and insurance agents on record as agents for EIC at any time after May 2001;

B. To afford other reasonable notice to the general public, the Rehabilitator will also publish the Motion, the attached Plan, and the Agreement of Assumption between EIC and NLIC, which is an exhibit to the Plan, on the website of the Tennessee Department of Commerce and Insurance portion

devoted to significant documents from this Proceeding, and will publish said Notice (Exhibit A hereto) in newspapers of general circulation in the metropolitan Knoxville, Nashville, and Memphis, Tennessee areas.

The Rehabilitator will file a certification to having taken these prescribed notice steps before or at the hearing of the Plan.

The basis for the notice is that it makes provision for direct mailed notice to persons with active surety coverage, to persons who have given notice of claims that have not been resolved, and to former surety bond holders within a reasonable period of prior coverage from EIC. The publication notice is similar to Tenn. Code Ann. § 56-9-311 which prescribes the notice given for a liquidation in order to allow for conclusive distribution of the assets of the insurer with respect to all claimants. Tenn. Code Ann. § 56-9-311(d).

WHEREFORE, the Rehabilitator prays that the Court enter the attached Proposed Order:

a) Establishing a date of August 3, 2005 at 10:00 a.m. for public hearing and commentary on the merits of the Motion to Approve Plan of Rehabilitation; and establishing a deadline for written responses or objections to the Motion to be filed in the Clerk & Master's Office of this Court on or before close of business on July 27, 2005.

b) Prescribing and approving the Notice attached to the Proposed Order as Exhibit A to be mailed and published as set forth in paragraph 6 above.

Respectfully submitted,

SIGNED/

SARAH A. HIESTAND (BPR 14217)
Senior Counsel
Attorney General, Financial Division
P.O. Box 20207

Nashville, TN 37202
(615) 741-6035

SIGNED/

HUGH O. BROCK (BPR 22645)
Chief Counsel for Insolvency and Receivership
Tennessee Department of Commerce and Insurance
500 James Robertson Parkway, 9th Floor
Nashville, TN 37243
(615) 741-6173 fax (615) 532-2862

Attorneys for Paula A. Flowers, Commissioner of
Commerce and Insurance for the State of
Tennessee, as Rehabilitator of Exchange Insurance
Company, and Kathy Fussell, Special Deputy
Rehabilitator

**THIS MOTION IS SCHEDULED TO BE HEARD ON FRIDAY, JUNE 10, 2005,
AT 9:00 A.M. IN PART IV OF THIS COURT.
IF NO RESPONSE IS TIMELY FILED AND SERVED, THE MOTION AND SCHEDULING
ORDER PROPOSED SHALL BE GRANTED WITHOUT FURTHER HEARING.**

82529

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Motion for Scheduling Order on Plan of Rehabilitation has been delivered by U.S. Mail postage prepaid to:

Respondent

Mr. Martin Cohen
Chairman, (inactive) Board of Directors
Exchange Insurance Company
6330 Torrington Road
Nashville, Tennessee 37205

ROMELCO, Inc. (81% owner of EIC)
Marcia Cohen, Registered Agent
6330 Torrington Road
Nashville, TN 37205

Mr. Robins S. Ledyard
Bass, Berry & Sims
315 Deaderick Street, Suite 2700
Nashville, TN 37238-3001
615-742-6259 fax 615-742-6293

Courtesy copy

Management Agreement Contacts:

National Lloyds Insurance Company
Greg Vanek, President
P.O. Box 2650
Waco, Texas 76702-2650
Fax (254) 399-0765

NLASCO Services, Inc.
Attn: Gordon Robinson
900 Austin Avenue, 12th floor
Waco, Texas 76701
Fax (254) 756-0050

Pat Beard, Esq.
Beard & Kultgen
5400 Bosque Blvd., Suite 301
Waco, Texas 76710
Fax (254) 776-3591

this 27th day of May, 2005.

Signed/_____
SARAH ANN HIESTAND

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.,)
PAULA A. FLOWERS,)
Commissioner of Commerce and)
Insurance for the State of Tennessee,) No. 03-3731-IV
)
Petitioner,)
v.)
)
EXCHANGE INSURANCE COMPANY,)
a Tennessee domiciled insurance company,)
)
Respondent.)

[This order may be entered without hearing if no timely opposition to the motion seeking its approval is received by the Court]

**ORDER SETTING A HEARING DATE ON PLAN OF REHABILITATION AND
PRESCRIBING NOTICE**

Upon considering the Motion of Paula A. Flowers, Commissioner of the Department of Commerce and Insurance for the State of Tennessee, in her capacity as Rehabilitator of Exchange Insurance Company (“EIC”), and Kathy Fussell, Special Deputy Rehabilitator of EIC, under Tenn. Code Ann. § 56-9-303(e) for an order 1) scheduling a hearing on the Rehabilitator’s Motion to Approve Plan of Rehabilitation of EIC, and Plan, filed in this Court, and 2) prescribing the content and breadth of the Notice to be given by the Rehabilitator for the Plan Hearing; that was filed for hearing on May 27, 2005, this Court finds good cause for the relief requested therein, and ORDERS as follows:

1) The date for public hearing and commentary on the Rehabilitator’s Motion to Approve Plan of Rehabilitation shall be August 3, 2005 at 10:00 a.m.; Written Responses or Objections to the Motion shall be filed in the Clerk & Master’s Office of this Court on or before close of business on July 27, 2005.

2) The Court prescribes and approves the Notice attached hereto as Exhibit A to be mailed and published [as set forth in paragraph 6 in the Motion for Scheduling Order] as follows:

A. Upon the entry of this Order setting a hearing for the Motion to Approve Plan, the Rehabilitator will serve as soon as practicable, the Notice of Hearing, a form of which is attached hereto as Exhibit A, by regular mail upon NLIC, NLASCO, and the last known addresses as indicated by the records of EIC of:

i. Notary bond and fidelity bond principals/policyholders with bonds that were still effective on or after April 1, 2003;

ii. Surety obligees on notary bonds (the office of county clerk in each of the 95 counties of Tennessee, see Tenn. Code Ann. § 8-16-104);

iii. The Tennessee Department of Environment and Conservation (former obligee of EIC's discharged oil and gas bonds);

iv. Known claimants;

v. Current creditors including unclaimed property owners for amounts over \$50 (Fifty dollars);

vi. EIC's shareholders and board of directors;

vii. and insurance agents on record as agents for EIC at any time after May 2001;

B. To afford other reasonable notice to the general public, the Rehabilitator will also publish the Motion, the attached Plan, and the Agreement of Assumption between EIC and NLIC, which is an exhibit to the Plan, on the website of the Tennessee Department of Commerce and Insurance portion devoted to significant documents from this Proceeding, and will publish said

Notice (Exhibit A hereto) in newspapers of general circulation in the metropolitan Knoxville, Nashville, and Memphis, Tennessee areas.

Certification that any prescribed steps taken to give notice shall be filed or placed into evidence at the hearing of the Plan.

IT IS SO ORDERED:

CHANCELLOR

Approved for entry by:

SIGNED/

SARAH A. HIESTAND (BPR 14217)
Senior Counsel
Attorney General, Financial Division
P.O. Box 20207
Nashville, TN 37202
(615) 741-6035 fax (615) 532-8223

SIGNED/

HUGH O. BROCK (BPR 22645)
Chief Counsel for Insolvency and Receivership
Tennessee Department of Commerce and Insurance
500 James Robertson Parkway, 9th Floor
Nashville, TN 37243
(615) 741-6173 fax (615) 532-2862

Attorneys for Paula A. Flowers, Commissioner of Commerce and Insurance for the State of Tennessee, as Rehabilitator of Exchange Insurance Company, and Kathy Fussell, Special Deputy Rehabilitator

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Proposed Scheduling Order on Plan of Rehabilitation has been delivered by U.S. Mail postage prepaid to the parties receiving the Motion for Scheduling Order, this 27th day of May, 2005.

Respondent
Mr. Martin Cohen

Chairman, (inactive) Board of Directors
Exchange Insurance Company
6330 Torrington Road
Nashville, Tennessee 37205

ROMELCO, Inc. (81% owner of EIC)
Marcia Cohen, Registered Agent
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Mr. Robins S. Ledyard
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P.O. Box 2650
Waco, Texas 76702-2650
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Attn: Gordon Robinson
900 Austin Avenue, 12th floor
Waco, Texas 76701
Fax (254) 756-0050

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5400 Bosque Blvd., Suite 301
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v.)
)
EXCHANGE INSURANCE COMPANY,)
a Tennessee domiciled insurance company,)
)
Respondent.)

NOTICE OF HEARING ON REHABILITATOR’S MOTION TO APPROVE PLAN OF
REHABILITATION AND PLAN

TO POLICYHOLDERS, CREDITORS, SHAREHOLDERS AND OTHER INTERESTED
PARTIES RE: EXCHANGE INSURANCE COMPANY

PLEASE TAKE NOTICE. On May 27, 2005, the Commissioner of Commerce and Insurance, in her capacity as Rehabilitator of Exchange Insurance Company (“EIC”), filed her Motion for Scheduling Order Setting Hearing on Plan of Rehabilitation, and her Motion to Approve Plan of Rehabilitation (“Motion”), and Plan (“Proposed Plan”), with the Chancery Court of Davidson County, Tennessee, Case No. 03-3731-IV. The Rehabilitator is asking the Court to approve the Proposed Plan. If approved, the remaining insurance policy and notary bond obligations of Exchange Insurance Company will be assumed by National Lloyds Insurance Company (“NLIC”) and EIC will be discharged from those obligations as described in the transaction. EIC will pay NLIC some of its assets for this transaction, the other assets to remain in EIC, and EIC would then cease doing business as an insurance company and surrender its certificate of authority to the Tennessee Department of Commerce and Insurance.

The Court has ordered that the Motion and the Proposed Plan be considered at a hearing on August 3, 2005 at 10:00 a.m., in Part IV of the Davidson County Chancery Court, located at First Image Building, Second Floor, 501 Great Circle Rd., Nashville, TN 37228. If any person affected by the Proposed Plan wishes to be heard in response to the Proposed Plan, the response must be filed in the Davidson County Chancery Court, Clerk & Master’s Office, by no later than July 27, 2005, and a copy served on or before that date to the Rehabilitator’s counsel, Sarah A. Hiestand, Senior Counsel, Financial Division, Tennessee Attorney General’s Office, P.O. Box 20207, Nashville, TN 37202-0207 (or by fax to 615-532-8223) Copies of the Motion to Approve Plan of Rehabilitation, and Plan, may be viewed on the worldwide website:

<http://www.state.tn.us/commerce/insurance/companyactions.html> under “Exchange Insurance” or may be requested from Rehabilitator’s counsel.

[Exhibit A]