State of Tennessee
Department of State
Administrative Procedures Division
312 Eighth Avenue North
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243
Phone: (615) 741-7008/Fax: (615) 741-4472

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LEGAL SERVICES
DEPT. OF COMMERCE & INSURANCE

October 18, 2006

Commissioner Paula Flowers
TN Dept. Commerce & Insurance
5th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243-5065

Tony Greer
Staff Attorney
Dept of Commerce & Insurance
Office of General Counsel
12th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243

Shelby Casualty Ins. Co.
David Wayne Lacefield, President
3760 River Run Dr.
Birmingham, AL 35243

RE: In the Matter of: Shelby Casualty Ins. Com. Docket No. 12.01-092778J
C & I No. 06-081

Dear Parties:

Please find enclosed a copy of the Initial Order rendered in connection with the above-styled case.

Sincerely,

Charles C. Sullivan, II
Administrative Procedures Division

/ncp
Enclosure

The Department of State is an equal opportunity, equal access, affirmative action employer.

BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

SHELBY CASUALTY INSURANCE CO. **DOCKET NO.: 12.01-092778J**

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **November 2, 2006.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 EIGHTH AVENUE NORTH, 8th FLOOR
NASHVILLE, TENNESSEE 37243-0307

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

BEFORE THE DEPARTMENT OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION,	)	
Petitioner	)	
	)	**Docket No. 12.01-092778J**
v.	)	**C & I No.: 06-081**
	)	
SHELBY CASUALTY INSURANCE COMPANY,	)	
Respondent	)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter was heard on September 6, 2006, before Mattielyn B. Williams, Administrative Judge assigned to the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance, in Nashville, Tennessee. Mr. Tony Greer, Staff Attorney, Department of Commerce and Insurance, represented the State. The Respondent, Shelby Casualty Insurance Company, was not present at the hearing nor did an attorney appear on its behalf. No motion for a continuance had been received from the Respondent.

NOTICE OF DEFAULT

This matter was heard upon the Petitioner's Motion for Default, due to Respondent's failure to appear or be represented at the hearing, after receiving proper notice thereof. Respondent was properly served under the provisions of Title 56, Chapter 2, Part 5. More specifically, Respondent signed the green Certified Mail Return Receipt Card on July 28, 2006, a date more than thirty (30) days in advance of the hearing.

After consideration of the record, it was determined that the Petitioner's motion was proper. The Respondent, Shelby Casualty Insurance Company, was held in **DEFAULT**, and the Petitioner's motion to proceed on an uncontested basis was also **GRANTED**.

INITIAL ORDER

The subject of this hearing was the proposed revocation of the Respondent's foreign certificate of authority to operate in Tennessee. After consideration of the argument of counsel and the record in this matter, it is **DETERMINED** that the Respondent's certificate of authority should be **REVOKED**.

This decision is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. The Commissioner of the Department of Commerce and Insurance for the State of Tennessee (Commissioner) has her official residence in Nashville, Tennessee at Davy Crockett Tower, Fifth Floor, 500 James Robertson Parkway. The Commissioner has jurisdiction pursuant to Tennessee Code Annotated § 56-1-416. This section places the responsibility for the administration of its provisions upon the Commissioner.

2. The Petitioner, the Tennessee Insurance Division (Division), is the lawful agent through which the Commissioner administers Tennessee Insurance Law and is authorized to bring actions for the protection of the public.

3. Respondent Shelby Casualty Insurance Company is an insurance company domiciled in the State of Illinois. Respondent requested and received a certificate of authority to sell property, casualty, vehicle and surety lines of insurance in the State of Tennessee, and is subject to regulation under the Tennessee Insurance Law, codified at Title 56 of the Tennessee Code.

4. Respondent is a one hundred percent (100%) owned subsidiary of Vesta Fire Insurance Corporation (Vesta). Vesta and its subsidiaries, including the Respondent, were placed into rehabilitation on June 28, 2006 by an Agreed Order Appointing Rehabilitator and Permanent Injunction (hereinafter referred to as the "Order") entered by the District Court of Travis County, Texas, 126th Judicial District.

5. The Order was entered as a result of the Plaintiff's Original Petition, Application for Order Appointing Rehabilitator, and Request for Injunctive Relief (Plaintiff's Petition). In the Plaintiff's Petition, the Texas Department of Insurance alleged the Respondent was in hazardous financial condition.

6. On July 18, 2006, the Texas Department of Insurance filed an Application for Order of Liquidation and Request for Expedited Hearing (Application). As grounds for Vesta's and the Respondent's liquidation, the Texas Department of Insurance alleged that the Respondent could not continue as an ongoing insurer; that the Respondent lacked sufficient liquid assets to obtain external reinsurance; and that a run-off of all the Respondent's liabilities could not be achieved due to lack of liquid assets. The Texas Application was granted.

7. On July 6, 2005, the Commissioner suspended the certificate of authority of Lumbermen's Mutual Casualty Company (hereinafter referred to as "LMC") due to LMC's having a surplus of negative four hundred two million, two hundred sixteen thousand, one hundred twenty dollars (-$402,216,120).

8. On Schedule F of its financial statement, the Respondent reported a reinsurance recoverable due from LMC in the amount of thirty-three million, thirty-two thousand dollars ($33,032,000). The reinsurance recoverable due from LMC, thirty-three million, thirty-two

thousand dollars ($33,032,000), is greater than the policyholders' surplus, fourteen million, two hundred seventy-two thousand, six hundred sixty-five dollars ($14,272,665), reported as of December 31, 2005.

9. Respondent's financial statement, filed with the Department, reported, as of December 31, 2005, a net loss of seven million, five hundred eight thousand, five hundred sixty-nine dollars (-$7,508,569) for the year 2005. As of December 31, 2005, the Respondent's net loss represented over sixty-one percent (61%) of the remaining policyholders' surplus in excess of the minimum required, which was twelve million, two hundred seventy-two thousand, six hundred sixty-five dollars (12,272,665).

CONCLUSIONS OF LAW

1. Tenn. Code Ann. § 56-1-416(a)(1)(A) provides that, if the Commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, then the Commissioner shall revoke or suspend all certificates of authority granted to the company.

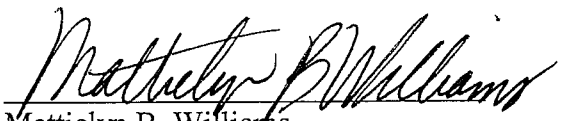
2. The State bears the burden of proof, by a preponderance of the evidence, to show that action should be taken against the Respondent's certificate of authority and to show that the type of action requested is proper.

3. It is **CONCLUDED** that the Division has established, by a preponderance of the evidence, that Respondent Shelby Casualty Insurance Company is in a financially unsound condition, with a net loss of seven million, five hundred eight thousand, five hundred sixty-nine dollars (-$7,508,569), that action should be taken against Respondent's certificate of authority,

and that revocation is the proper action.

4. Accordingly, it is **ORDERED** that Respondent Shelby Casualty Insurance Company's certificate of authority to do business, as a foreign insurance company in the State of Tennessee, is hereby **REVOKED**.

This Initial Order entered and effective this 18 day of October, 2006.



Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, this 18 day of October, 2006.

Charles C. Sullivan, II, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Eighth Avenue N., Nashville, Tennessee, 37243. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.