

NO. D-1-GN-18-001933

TEXAS DEPARTMENT OF INSURANCE	§	IN THE DISTRICT COURT OF
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
GRAND COURT ORDER OF CALANTHE	§	250TH JUDICIAL DISTRICT

ORDER OF LIQUIDATION AND PERMANENT INJUNCTION

On this day the Court heard the *Application for Order of Liquidation* (Application) filed by Resolution Oversight Corporation, solely in its capacity as Special Deputy Receiver (SDR) of Grand Court Order of Calanthe *n/k/a* Calanthe Mutual Life Insurance Company, Defendant. The SDR and the Texas Life and Health Insurance Guaranty Association (TLHIGA) appeared by and through their counsel. In accordance with the *Order of Reference to Master* entered June 6, 2018 (Order of Reference), the Application was submitted to the Master appointed in this cause (Master). Having considered the Application, the evidence presented, the arguments of counsel, and the recommendations of the Master, the Court accepts the Master’s recommendations, and finds that the Application should be GRANTED.

It is therefore ORDERED, ADJUDGED and DECREED as follows:

I. FINDINGS OF FACT

1.1 Notice of the Application was given to all persons on the Certificate of Service in accordance with Tex. Ins. Code § 443.007 and the Order of Reference. Notice was also provided to counsel for the Calanthe Historical Society, which serves as an advisory committee under Tex. Ins. Code § 443.102, and posted on the SDR’s website. No objections were filed by any party. The SDR’s notice forms in Exhibits 1 and 2 were sufficient to provide the required notice.

- 1.2 The Application was submitted to the Master in accordance with the Order of Reference. The Master issued a recommendation that the Application should be granted pursuant to Rule 171 of the Texas Rules of Civil Procedure.
- 1.3 The SDR's financial report for the month ending on July 31, 2020, included in Exhibit 3, reflects that Defendant's liabilities exceed its assets. Exhibit 3 is admitted into evidence. Therefore, Defendant is insolvent as defined in Tex. Ins. Code § 443.004(a)(13).
- 1.4 Further attempts to rehabilitate Defendant would be futile, and its continued operation would substantially increase the risk of loss to policyholders and claimants.

II. CONCLUSIONS OF LAW

- 2.1 This Court has jurisdiction over the parties and the subject matter of this action under Tex. Ins. Code § 443.005(c). The SDR has the powers and responsibilities of the Rehabilitator pursuant to Tex. Ins. Code 443.102(a), and is authorized to file the Application under Tex. Ins. Code 443.104(a).
- 2.2 Grounds exist to place Defendant into liquidation pursuant to Tex. Ins. Code § 443.057, as it is insolvent as defined in Tex. Ins. Code § 443.004(a)(13). As a consequence of the entry of this Order and the finding of insolvency, Defendant is an "insolvent insurer" in accordance with Tex. Ins. Code § 463.003(6), and TLHIGA is authorized to pay Calanthe's "contractual obligations" as defined in Tex. Ins. Code § 463.003(3).
- 2.3 In accordance with Tex. Ins. Code § 443.058, the SDR is entitled to an order of liquidation and a Permanent Injunction, and the Texas Commissioner of Insurance (Commissioner) must be appointed as Liquidator of Defendant pursuant to Tex. Ins. Code § 443.151. An SDR appointed by the Liquidator can exercise the Liquidator's powers under

Tex. Ins. Code § 443.154(a). The Liquidator's designees referenced in this order include an SDR appointed by the Liquidator.

- 2.4 The Liquidator shall be vested by operation of law with title to all of Defendant's property as defined in Tex. Ins. Code § 443.004(a)(20). Such property shall include property of any kind or nature, whether real, personal, or mixed, including but not limited to money, funds, cash, stock, bonds, account deposits, statutory deposits, special deposits, contents of safe deposit boxes, funds held in shared escrow or trust accounts, retainages and retainers, letters of credit, real estate, fixtures, furniture, equipment, books, records, documents and insurance policies, intellectual property, computer software and systems, information technology, internet domain names, patents and intangible assets, whether owned individually, jointly, or severally, wherever located, and all rights, claims or causes of action belonging to Defendant, whether asserted or not, including but not limited to accounts receivable, notes, premiums, subrogation, insurance and reinsurance proceeds, and all licenses held by Defendant (collectively, "Defendant's Property"). The Liquidator's title shall extend to Defendant's Property, regardless of the name in which such items are held, or where such items are located.
- 2.5 Pursuant to Tex. Ins. Code § 443.151(a), the Liquidator shall be directed to take possession and control of Defendant's Property, wherever located.
- 2.6 The Liquidator may take action as he deems necessary or appropriate to perform his duties pursuant to the Insurer Receivership Act. The Liquidator shall have all the powers of Defendant's directors, officers, managers, and Worthy Counsellors, and the authority of such persons is suspended except as specifically permitted by the Liquidator or his designees.

- 2.7 Defendant and Defendant's agents shall be required to cooperate with the Liquidator and his designees pursuant to Tex. Ins. Code § 443.010.
- 2.8 It is necessary for this Court to issue a permanent injunction pursuant to Tex. Ins. Code § 443.008(a) to carry out the provisions of Tex. Ins. Code Chapter 443, and prevent irreparable injury, loss and damage to the general public and Defendant's creditors. A necessity exists to enjoin Defendant and Defendant's agents from conducting Defendant's business, except as specifically permitted by the Liquidator or his designees; to enjoin financial institutions or depositories from taking any actions in connection with Defendant's property, except as directed by the Liquidator or his designees; and to enjoin all claimants or creditors from asserting claims or causes of action against Defendant, except as permitted by the Insurer Receivership Act.
- 2.9 Pursuant to Tex. Ins. Code § 443.008(c), an automatic stay remains in effect with respect to actions against Defendant or its property, effective on the commencement of this proceeding. In accordance with Tex. Ins. Code § 443.008(f), such stay of actions against Defendant is in effect for the duration of this proceeding, and the stay of actions against Defendant's property is in effect for as long as the property belongs to the receivership estate.
- 2.10 Pursuant to Tex. Ins. Code § 443.151(a), this proceeding is exempt from any dormancy requirements.
- 2.11 Tex. Ins. Code § 443.001(b) provides that the Insurer Receivership Act may not be interpreted to limit the powers granted to the Commissioner under other provisions of law. Accordingly, this Order shall not be construed as a limitation of the Commissioner's powers granted under such provisions.

2.12 Proper notice of the Application was provided pursuant to Tex. Ins. Code § 443.007. The proposed notices of this Order attached as Exhibit 1 and Exhibit 2 to the Application comply with Tex. Ins. Code § 443.155.

III. APPOINTMENT OF LIQUIDATOR

The Commissioner is appointed as Liquidator of Defendant, and granted the following duties and powers:

3.1 The Liquidator has all powers and authority granted by the Insurer Receivership Act, and any and all other powers and authority under applicable statutes and the common law of this State.

3.2 Pursuant to Tex. Ins. Code § 443.151(a), title to all of Defendant's Property, including but not limited to all the assets and rights described in this Order, is vested in the Liquidator. The Liquidator is authorized to take control and possession of Defendant's Property, wherever located.

3.3 The Liquidator is authorized to conduct the Defendant's business, administer Defendant's operations, and enter into any contracts necessary to perform the Liquidator's duties, at his discretion, pursuant to Tex. Ins. Code § 443.154(a).

3.4 Pursuant to Tex. Ins. Code § 443.154, the Liquidator has all the powers of the Defendant's directors, officers, Worthy Counsellors and managers, and the authority of such directors, officers, Worthy Counsellors and managers is suspended, except as permitted by the Liquidator. The Liquidator is authorized to supervise, suspend, terminate, or dismiss any or all of the directors, officers, managers, employees, Worthy Counsellors, or agents of the Defendant, or retain such persons at his discretion, and compensate them as he deems necessary from the Defendant's funds.

- 3.5 The Liquidator has all of Defendant's rights as the customer of a financial institution. The Liquidator is authorized to withdraw Defendant's Property from any banks, financial institutions and other depositories, agencies of any state or the federal government, and any other entities, or continue the operation of any accounts established by Defendant or the Rehabilitator, at his discretion.
- 3.6 The Liquidator is authorized to file, prosecute, defend, or settle any action as he deems necessary, including any action to enforce the provisions of this Order.
- 3.7 Pursuant to Tex. Ins. Code § 443.154, the Liquidator may enter into contracts as necessary to perform his duties, and may assume or reject any executory contract or unexpired lease to which Defendant is a party at his discretion pursuant to Tex. Ins. Code § 443.013.
- 3.8 The Liquidator is authorized to receive, collect, control, open and review all mail addressed to or intended for Defendant.
- 3.9 Defendant and Defendant's agents shall be required to cooperate with the Liquidator and his designees pursuant to Tex. Ins. Code § 443.010.
- 3.10 Tex. Ins. Code § 443.154(a) authorizes the Liquidator to appoint a Special Deputy Receiver, and employ or contract with legal counsel and other personnel as he deems necessary pursuant to Tex. Ins. Code § 443.154(a). The Special Deputy Receiver shall have all the rights and powers of the Liquidator, subject to any limitations imposed by the Liquidator. Pursuant to Tex. Ins. Code § 443.015, the Liquidator is authorized to set the compensation of any such Special Deputy Receiver or other persons as he deems necessary, and pay for such services from Defendant's funds.
- 3.11 Pursuant to Tex. Ins. Code § 443.008(m), the Commissioner is not required to file a bond in connection with this proceeding, in his capacity as Liquidator or otherwise.

- 3.12 Any successor to the Commissioner shall be appointed as the Liquidator of Defendant. In the event a successor is appointed to be the Commissioner, the successor shall become the Liquidator upon his or her appointment as Commissioner, and the former Commissioner shall be discharged as Liquidator as a matter of law.
- 3.13 The enumeration of the Liquidator's powers and authority in this Order shall not be construed as a limitation on the Liquidator to take any other action authorized by the Insurer Receivership Act or other applicable law that is not specified in this Order.

IV. PERMANENT INJUNCTION

The Clerk of this Court shall issue a Permanent Injunction against the persons and entities named below, with the following force and effect:

TO: Defendant and its representatives and agents, including but not limited to: Defendant, its supreme governing body, lodges, courts, owners, affiliates, current and former officers, trustees, directors, and Worthy Counsellors (including but not limited to Laurice Brown, Rita Baldwin, Bayonne Moody, Pamela Watson, Pearlene Martin, Barbara Clemons, Linda Woods, and Beverly Jackson Brown), underwriters, managers, employees, agents, servants, representatives, attorneys, adjusters and other persons or entities acting on behalf of Defendant;

Financial institutions, including but not limited to:

Any and all banks, savings and loan associations; trust companies; credit unions; welfare trusts; or any other financial or depository institutions in the possession of any of Defendant's Property (including, but not limited to: JP Morgan Chase) any and all banks, savings and loan associations; trust companies; credit unions; welfare trusts; and

All other parties, including but not limited to:

Policyholders, creditors, claimants, reinsurers, insurers, intermediaries, attorneys and all other persons, associations, corporations, or any other legal entities asserting claims or causes of action against Defendant, or in possession of any of Defendant's Property, and the United States Postmaster.

Each of you are hereby RESTRAINED and ENJOINED from taking any and all of the following actions:

- 4.1 Doing, operating, or conducting Defendant's business under any charter, certificate of authority, license, permit, power or privilege belonging to or issued to Defendant, or exercising any direction, control, or influence over Defendant's business, except through the authority of the Liquidator or his designees;
- 4.2 Transacting any business of Defendant's in any manner except through the authority of the Liquidator or his designees;
- 4.3 Wasting, disposing of, converting, dissipating, or concealing, in any manner, any of Defendant's Property;
- 4.4 Using, releasing, transferring, selling, assigning, canceling, hypothecating, withdrawing, allowing to be withdrawn, offsetting, asserting ownership of, concealing, in any manner, or removing from this Court's jurisdiction or from Defendant's place of business, any of Defendant's Property, or any other items purchased by Defendant, or any items into which such property has been transferred, deposited or placed, or any other items owned by Defendant, wherever located, except through the authority of the Liquidator or his designees;
- 4.5 Releasing, transferring, selling, assigning or asserting ownership of, in any manner, any claims, accounts receivable, or causes of action belonging to Defendant, whether asserted or not, except through the authority of the Liquidator or his designees;
- 4.6 Doing anything, directly or indirectly, to prevent the Liquidator or his designees from gaining access to, acquiring, examining, or investigating any of Defendant's Property or any other property, books, documents, records, or other materials concerning Defendant's business, under whatever name they may be found;

- 4.7 Obstructing or interfering in any way with the conduct of this proceeding or any incidental investigation as prohibited by Tex. Ins. Code § 443.010(b);
- 4.8 Intervening in this proceeding for the purpose of obtaining a payment from the receivership estate of Defendant as prohibited by Tex. Ins. Code § 443.005(i);
- 4.9 Making any claim, charge or offset, or commencing or prosecuting any action, appeal, or arbitration, including administrative proceedings, or obtaining any preference, judgment, attachment, garnishment, or other lien, or making any levy against Defendant, Defendant's Property or any part thereof, or against the Liquidator, except as otherwise permitted by the Insurer Receivership Act.

EACH OF YOU ARE FURTHER SPECIFICALLY ORDERED to make available and disclose to the Liquidator or his designees the nature, amount, and location of Defendant's Property, and immediately surrender all such property to the Liquidator or his designees.

IT IS FURTHER ORDERED that Defendant and Defendant's agents, including but not limited to the persons and entities named above, must cooperate with the Liquidator or his designees as required by Tex. Ins. Code § 443.010(a).

IT IS FURTHER ORDERED that the Liquidator and his designees are authorized signatories on any accounts that name the Defendant, the Rehabilitator, or the SDR as authorized signatories. The Liquidator and his designees have full control over such accounts.

IT IS FURTHER ORDERED that the United States Postmaster and any other delivery services shall deliver to the Liquidator any items addressed to or intended for Defendant.

V. STAY OF PROCEEDINGS

- 5.1 An automatic stay remains in effect with respect to actions against Defendant or its property pursuant to Tex. Ins. Code § 443.008(c). In accordance with Tex. Ins. Code

§ 443.008(f), such stay of actions against Defendant is in effect for the duration of this proceeding, and the stay of actions against Defendant's property is in effect for as long as the property belongs to the receivership estate.

VI. CONTINUATION OF COVERAGE

- 6.1 In accordance with Tex. Ins. Code § 443.152(d), policies of life insurance or any portion thereof that are covered by TLHIGA shall continue in force for the period of time under the terms provided for under Chapters 443 and 463 of the Texas Insurance Code.

VII. CLAIM FILING DEADLINE

- 7.1 The deadline for filing proofs of claim in this proceeding under Tex. Ins. Code § 443.251 is November 12, 2020.

VIII. OTHER ORDERS

- 8.1 This Order shall issue and become effective immediately, and shall continue in full force and effect until the entry of an order by this Court terminating liquidation entered under Tex. Ins. Code § 443.352.
- 8.2 This is a final order pursuant to Tex. Ins. Code § 443.055, provided that this Court shall retain jurisdiction to issue further orders pursuant to the Insurer Receivership Act.
- 8.3 In accordance with Tex. Ins. Code § 443.001(b), this Order does not limit the rights of the Commissioner or the Texas Department of Insurance to take any administrative action or issue any administrative order pursuant to the Texas Insurance Code.
- 8.4 The notices attached as Exhibit 1 and Exhibit 2 to the Application are approved.
- 8.5 In accordance with Tex. Ins. Code § 443.007(d), the Liquidator and SDR may provide notice of any application by first class mail, electronic mail, or facsimile transmission, at his or its discretion.


8.6 Anyone over the age of 18 who is not a party to nor interested in the outcome of this suit may serve all citations, writs and notices in this cause.

8.7 All of the foregoing is subject to further orders of this Court.

SIGNED at Austin, Travis County, Texas, on this the 9th day of October, 2020.



TIM SULAK, JUDGE PRESIDING

PROPER NOTICE GIVEN
ACKNOWLEDGMENT OF NOTICE AND WAIVER
OF OBJECTION PRESENTED
SUBMITTED
RECOMMENDED
SIGNED ON 7th DAY OF Oct. 2020


TOM COLLINS, RECEIVERSHIP SPECIAL MASTER

Automated Certificate of eService

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Status as of 10/14/2020 12:36 PM CST

Associated Case Party: Grand Court Order of Calanthe

Name	BarNumber	Email	TimestampSubmitted	Status
Kimberly A. Yelkin	22151670	kyelkin@foley.com	10/9/2020 12:24:05 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
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Ann Hartley		ann.hartley@OAG.texas.gov	10/9/2020 12:24:05 PM	SENT