IN THE WORKERS COMPENSATION COURT
OF THE STATE OF MONTANA

FILED

DEC 27 2005

OFFICE OF
WORKERS' COMPENSATION JUDGE
HELENA, MONTANA

Dale Reesor, Petitioner	)	
	)	
vs.	)	WCC No.: 2002-0676
	)	
Montana State Fund, Respondent/Insurer	)	

RESPONSE TO SUMMONS

F. William Kobusch, Special Deputy Liquidator of the Liquidation Estates of Casualty Reciprocal Exchange and Equity Mutual Insurance Company, files the following response to the Summons received from the Court in the above captioned matter:

1. Casualty Reciprocal Exchange was an insurer authorized to provide workers compensation coverage in the State of Montana.

2. On August 17, 2004, Casualty Reciprocal Exchange was placed into liquidation by the Circuit Court of Cole County, Missouri. A copy of that order is attached as Exhibit A. Paragraphs XVI and XIX of that Order impose stays on litigation.

3. The Liquidation Estate may disallow any claim not disclosed by a proper and timely proof of claim.

4. The identified petitioners and all others similarly situated are subject to the Order of the Cole County, Missouri Circuit Court providing liquidation of Casualty Reciprocal Exchange, Exhibit A, and this proceeding should be stayed with regard to Casualty Reciprocal Exchange. Petitioner's claims should be presented to the Liquidation Estate by proof of claim.

5. As Special Deputy Liquidator I have reviewed the available claims records of the liquidated insurer, Casualty Reciprocal Exchange, and discovered only four (4) claims of injury or

DOCKET ITEM NO. 332

occupational disease which might have been subject to the matters being addressed by the Court, and in none of those cases were offsets taken for social security or age against the claim amounts.

6. That any claims following the date of August 17, 2004 would be the responsibility of the Insurance Guaranty Association for the State of Montana, in care of the Western Guaranty Fund Services.

Having responded to The Summons, the Special Deputy Liquidator requests the Court to dismiss the Liquidation Estate of Casualty Reciprocal Exchange from these proceedings subject to any claim being filed in the Liquidation Estate subject to the supervision of the Circuit Court of Cole County, Missouri.

F. William Kobusch
Special Deputy Liquidator
11880 College, Suite 500
Overland Park, KS 66210
Telephone No.: 913.339.5844
Fax No.: 913.339.5814

LIQUIDATION ESTATE OF CASUALTY
RECIPROCAL EXCHANGE

101781

IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI

FILED

AUG 18 2004

BRENDA A. UMSTATTD
CLERK CIRCUIT COURT
COLE COUNTY, MISSOURI

SCOTT B. LAKIN, DIRECTOR, DEPARTMENT OF INSURANCE STATE OF MISSOURI,	)	
Plaintiff,	)	
V.	)	**Case No. 02CV326311**
CASUALTY RECIPROCAL EXCHANGE,)	)	
and	)	
EQUITY MUTUAL INSURANCE COMPANY	)	
Defendants.	)	

JUDGMENT, DECREE AND
ORDER OF LIQUIDATION WITH FINDING OF INSOLVENCY

Now on this 18th day of August, Plaintiff appears by counsel Kevin R. Jones and Diane Garber. Defendants have each been duly served with Plaintiff's "Verified Petition for Final Judgment, Decree and Order of Liquidation," filed on or about August 13, 2004, together with a summons to appear before this Court on this date and at this time for summary hearing pursuant to Section 375.600, RSMo (2000), in the above captioned case. Dodson Management Corporation, attorney-in-fact for Defendant Casualty Reciprocal Exchange, appears for said Defendant on the aforementioned petition by counsel Alex Bartlett. Bruce Dodson Company, manager of Defendant Equity Mutual Insurance Company, appears for said Defendant on the aforementioned petition also by counsel Alex Bartlett. Defendants make no answer to the petition and decline further

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time to answer. With consent of Defendants, Plaintiff's "Verified Petition for Final Judgment, Decree and Order of Liquidation." cause is heard on the merits.

The Court having reviewed the Plaintiff's Verified Petition, having heard the evidence presented, and being fully apprised of the premises, for good cause shown, finds and concludes as follows:

1. Plaintiff Scott B. Lakin is the Director of the Missouri Department of Insurance, and was, pursuant to the Court's order of December 19, 2002 (the "rehabilitation order") in this proceeding, appointed as the statutory rehabilitator of Casualty Reciprocal Exchange and Equity Mutual Insurance Company, Defendants herein, both of whom are property and casualty insurance companies authorized to conduct insurance business in Missouri. F. William Kobusch is the duly appointed special deputy rehabilitator of the Defendants.

2. Defendant Casualty Reciprocal Exchange ("CRE") is a reciprocal or inter-insurance exchange organized under laws of this state, §§ 379.650 to 379.800, RSMo (2000). [References to RSMo (2000) are intended to include the 2003 Supplement and any subsequent amendments.]

3. The designated attorney-in-fact for CRE pursuant to § 379.660, RSMo (2000), is Dodson Management Corporation, a Missouri corporation, whose principal place of business is located at 58 C Street, Lake Lotawana, Missouri 64086, in Jackson County, Missouri. The current registered agent for Dodson Management Corporation is BSMWL, Inc., with a current registered office of Two Pershing Square, 2300 Main Street, Suite 1000, Kansas City, Missouri 64108, in Jackson County, Missouri. CRE was

duly served with a summons together with a copy of Plaintiff's "Verified Petition for Final Judgment, Decree and Order of Liquidation" in this case on August 16, 2004.

4. Plaintiff in his capacity as Rehabilitator of Defendant CRE succeeded to all of the rights of Dodson Management Corporation as attorney-in-fact for CRE, including any and all rights to direct and manage CRE and to act on behalf of the subscribers thereto, pursuant to the powers invested in the Rehabilitator under § 375.1168.2, RSMo (2000), and by the rehabilitation order.

5. Defendant Equity Mutual Insurance Company ("Equity Mutual") is an insurance company other than life organized under laws of this state, §§ 379.010 to 379.105, RSMo (2000).

6. Defendant Equity Mutual was a party to a management contract that designated Bruce Dodson Company, a Missouri corporation, as Equity Mutual's manager. Bruce Dodson Company has its principal place of business located at 58 C Street, Lake Lotawana, Missouri 64086, in Jackson County, Missouri. The current registered agent for Bruce Dodson Company is BSMWL, Inc., with a current registered office of Two Pershing Square, 2300 Main Street, Suite 1000, Kansas City, Missouri 64108, in Jackson County, Missouri. Defendant Equity Mutual was duly served with a summons together with Plaintiff's "Verified Petition for Final Judgment, Decree and Order of Liquidation" in this case on August 16, 2004.

7. Plaintiff in his capacity as Rehabilitator of Defendant Equity Mutual succeeded to all of the rights of Bruce Dodson Company as manager for Equity Mutual, including any and all rights to direct and manage Equity Mutual and to act on behalf of

its policyholders, pursuant to the powers invested in the Rehabilitator under § 375.1168.2, RSMo (2000), and by the rehabilitation order.

8. Cathleen Dodson Macauley is the chairman of the board and chief executive officer of Equity Mutual. Defendant CRE is "affiliated" with and "under common control with" Defendant Equity Mutual within the meaning of § 382.010(1) and (2), RSMo (2000), for the reasons stated in the Plaintiff's Verified Petition.

9. Defendants previously consented to the rehabilitation order and have submitted to the jurisdiction of this Court in this proceeding.

10. Each of the Defendants is hereby found to be insolvent within the meaning of §375.1152(13)(b), RSMo (2000), in that each Defendant's admitted assets do not exceed its liabilities plus the capital and surplus required by law for its organization.

11. Within a few months, the Rehabilitator anticipates that Defendants CRE and Equity Mutual will also each lack sufficient assets and be unable to meet current obligations when they are due, and each Defendant will thus also be insolvent within the meaning of § 375.1152(13)(b) for that reason.

12. Various grounds exist pursuant to §§ 375.1174 and 375.1175(1), (2) and (3), RSMo (2000), to liquidate Defendants CRE and Equity Mutual, each of which by itself is sufficient for the Court to enter the liquidation order requested herein, in that:

(a) in accordance with § 375.1174.1, RSMo (2000), the Rehabilitator reasonably believes that further attempts to rehabilitate either Defendant (other than the plan for preserving and selling the "charters" of one or both Defendants in the proposed liquidation proceeding, as further described herein) would substantially increase the risk of loss to creditors, policyholders or the public, or would be futile;

(b) in accordance with § 375.1175(2), each of the Defendants is insolvent; and

(c) in accordance with § 375.1175(3), each of the Defendants is in such condition that the further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors or the public.

13. Pursuant to his authority under § 375.1168 and under § 375.1182, RSMo (2000), the Plaintiff avers that he intends to propose to the Court a plan under which substantially all of the assets and liabilities of one or both of the Defendants in liquidation would be transferred to one or more liquidating trusts, and the remaining corporate entities of one or both of the Defendants (sometimes also referred to as the Defendants' "charters"), together with their certificates of authority and licenses to do business, would be prepared for prospective sale to purchasers interested in acquiring an insurance company. Such a sale could substantially supplement the assets available for distribution to claimants. If the plan is approved by the Court, the Plaintiff avers that it is anticipated that one or both of the corporate entities of CRE and Equity Mutual will be converted to a stock insurance company under Chapter 379, RSMo (2000), pursuant to an amended declaration and articles of incorporation.

14. The Plaintiff further avers that he intends to work with affected state insurance departments and state insurance guaranty associations in order to formulate and implement the prospective plan for the sale of "charters" described herein. Such a plan would be similar to other plans for rehabilitation which included liquidating trusts, as approved by this Court in the past in other insurance receivership proceedings; *see, e.g.*, the Court's "Order Approving Plan of Rehabilitation Including Liquidating Trust", dated

November 26, 1996, in *Angoff v. Lutheran Benevolent Insurance Exchange, et al.*, Case No. CV196-1363CC in the Circuit Court of Cole County, Missouri (the "LBI proceeding").

15. In accordance with the averments made in Plaintiff's Petition, Plaintiff believes that any further attempts to rehabilitate CRE and Equity Mutual would substantially increase the risk of loss to creditors, policyholders, or the public, and would be futile.

WHEREFORE, it is hereby further ADJUDGED, DECREED AND ORDERED:

I. The admissible assets of each Defendant, CRE and Equity Mutual, do not exceed its respective liabilities plus the capital and surplus required for its organization, pursuant to § 379.710.2 for CRE and § 379.010.2 for Equity Mutual. Therefore, Defendants Casualty Reciprocal Exchange and Equity Mutual Insurance Company are hereby found to be insolvent within the meaning of §§ 375.1152(13)(b) and 375.1175 (2), RSMo (2000).

II. Defendants CRE and Equity Mutual are in such condition that further transaction of business would be hazardous to their policyholders, creditors and the public.

III. Further attempts to rehabilitate Defendants CRE and Equity Mutual would substantially increase the risk of loss to creditors, policyholders and the public.

IV. The Court finds the Defendants CRE and Equity Mutual, and each of them, insolvent and orders them to be liquidated pursuant to the provisions of §§375.1150-375.1246, RSMo (2000).

V. This Judgment, Decree and Order of Liquidation with Finding of Insolvency is hereby entered against Defendants Casualty Reciprocal Exchange (CRE) and Equity Mutual Insurance Company (Equity Mutual).

VI. Plaintiff Scott B. Lakin, Director of the Missouri Department of Insurance and Rehabilitator, is appointed Liquidator of the Defendants with all powers and duties attendant thereto, including his existing powers, until further order of the Court.

VII. The Plaintiff's appointment of F. William Kobusch as special deputy liquidator of Defendants CRE and Equity Mutual under the same rates and terms as Mr. Kobusch is currently serving as special deputy rehabilitator is hereby approved.

VIII. The last date to file proofs of claim with the Liquidator is June 30, 2005 at 4:30 p.m. Central Daylight Time.

IX. The title and right to possession of each of Defendants' books, papers, records, property and assets, of whatever kind or nature and wherever located, is vested in Plaintiff as Liquidator of Defendants, pursuant to the supervision of this Court.

X. The Liquidator shall give or cause to be given notice of this Judgment, Decree and Order of Liquidation as soon as possible in accordance with § 375.1185, RSMo (2000), and such notice should be in accordance with the following:

a) *Notice by Liquidator.* The Liquidator shall notify by first class mail all persons whom the Defendants' books and records reveal or are known to have, or may reasonably be expected to have, claims against CRE or Equity Mutual, their property or assets, including all policyholders at their last known addresses as indicated by the records of the Defendants, to present and file with the Liquidator, or a duly authorized ancillary receiver of CRE or Equity Mutual, proper proofs of claim in the form approved by the Court, as soon as possible.

b) *Last Date to File Proofs of Claim.* Said notice by the Liquidator shall specify June 30, 2005, at 4:30 p.m., Central Daylight Time, to

be the last day by which a proof of claim may be received by the Liquidator, or a duly authorized ancillary receiver for CRE or Equity Mutual, for purposes of participating in any distribution of assets that may be made on timely filed claims which are allowed in these proceedings (the "Claims Bar Date").

c) *Notice by Publication.* The Liquidator shall also provide notice by publication to all persons who have, or may have, claims against CRE or Equity Mutual or against their insureds or policyholders, by causing a notice to be published at least once a week for three consecutive weeks in a newspaper of general circulation published in the County of Jackson, State of Missouri, and in such other newspapers as he may deem advisable. The notice shall: (i) advise all such persons of their right to present their claim or claims against CRE or Equity Mutual, their property or assets, or against their insureds, to the Liquidator; (ii) advise all such persons of the procedure by which they may present their claims to the Liquidator; (iii) advise all such persons of the location or address of the Liquidator's office where they must present their claims; and (iv) specify the last day by which proofs of claim may be received by the Liquidator for purposes of participating in any distribution of assets that may be made on timely filed claims allowed in these proceedings.

d) All persons having or claiming to have any accounts, debts, claims or demands against Defendants CRE or Equity Mutual, their property or assets, or against an insured or policyholder of CRE or Equity Mutual, shall present such claims to the Liquidator at his or her office as designated in the notice, on or before the claim filing deadline of the Claims Bar Date set forth above, by way of a proof-of-claim which must consist of a statement in writing, signed by the claimant, setting forth the following, including such information required under § 375.1208, RSMo (2000): (i) the basis for the claim, including the consideration given for it; (ii) the identity and amount of the security on the claim, if any; (iii) the payments, if any, that have been made on the claim or debt; (iv) that the sum claimed is justly owing from CRE or Equity Mutual to the claimant, and that there is no setoff, counterclaim or defense to the claim; (v) any right of priority of payment or other specific rights asserted by the claimant; (vi) whenever a claim is founded upon an instrument in writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim and, if such instrument is lost or destroyed, a statement of such fact, and the circumstances of the loss or destruction shall be filed under oath with the claim; and (vii) the name and address of the claimant and the attorney who represents the claimant, if any.

XI. Plaintiff shall forthwith proceed to take immediate possession of the assets of Defendants and to administer them subject to the supervision of this Court.

XII. The Defendants and their current or former managers, officers, directors, consultants, employees, attorneys and agents are hereby ordered to surrender and make accessible and available to the Plaintiff all books and records of the Defendants or in any way related to their business, including but not limited to all electronic data maintained with respect thereto.

XIII. The Defendants and their current or former managers, officers, directors, consultants, employees, attorneys and agents shall, at the request of the Plaintiff, cause or aid in the transfer of the books, records and other assets of the Defendants.

XIV. The Liquidator may prosecute any action which may exist on behalf of the creditors, members or policyholders of the Defendants, or either of them, against any officer of either insurer, or any other person, and he may pursue all legal remedies on behalf of the Defendants.

XV. The Liquidator shall have all powers provided by law to avoid preferential or fraudulent transfers.

XVI. All persons and entities are enjoined from instituting, prosecuting or maintaining any action at law or equity or other proceeding before any court or administrative commission or other tribunal of any kind, or in arbitration, against either of the Defendants or the Liquidator, whether in this state or elsewhere, and no such existing actions or proceedings shall be maintained or further presented after issuance of this Judgment, Decree and Order of Liquidation, unless the Liquidator consents to such action or proceeding in writing. All such actions and proceedings are stayed for a period

of ninety (90) days and for such further period as the Court may direct. All such persons and entities are further enjoined from attaching, executing upon, redeeming of or taking any other legal proceeding against, or self-help against, any of the property or other assets of the Defendants or either of them, wherever such property or assets may be located.

XVII. Whenever in the Liquidator's judgment protection of the estate of either Defendant necessitates intervention in an action that is pending outside this state, he may intervene in the action. The Liquidator may prosecute or defend any action in which he intervenes pursuant to this section at the expense of the estate of the subject Defendant.

XVIII. The Liquidator shall take such action respecting pending litigation as he deems necessary in the interests of justice and for the protection of creditors, policyholders, and the public, and he may settle, compromise, dismiss, try to conclusion or otherwise dispose of said litigation as he deems prudent.

XIX. The Liquidator shall consider all litigation pending and shall in the Liquidator's discretion petition the courts with jurisdiction over said matters to give full faith and credit to and honor as a matter of comity the stay contained herein and/or for a further stay of litigation when he deems it necessary to protect the estate of CRE or Equity Mutual.

XX. Defendants CRE and Equity Mutual and their current or former employees, agents, attorneys, consultants, managers, officers and directors are enjoined from the disposition of the property of CRE and Equity Mutual and from transaction of any of their business except as directed in writing by the Liquidator.

XXI. In accordance with §375.1182.5, RSMo (2000), the Director of the Missouri Department of Insurance as Liquidator, his special deputies, employees, agents

and attorneys, and all employees of the State of Missouri when acting with respect to the liquidation of the Defendants, shall be considered to be officers of the Court when acting in such capacities and as such shall be subject to the orders and directions of the Court with respect to their actions or omissions in connection with the liquidation; and they shall enjoy absolute judicial immunity and shall be immune from any claims against them personally for any act or omission committed in the performance of their functions and duties in connection with the liquidation of the Defendants.

XXII. Any policies of either of the Defendants still in force as of this date are hereby cancelled in accordance with § 375.1178.3, RSMo (2000), effective as provided therein. All of the contracts, covenants, bonds or policies, evidences or certificates of coverage or insurance, issued by or in the name of either of the Defendants under which any guarantee or insurance is provided, shall be canceled upon the earliest of the following:

(a) Thirty (30) days after the date this Judgment, Decree, and Order of Liquidation is entered, at 12:01 a.m. local time of the insured or policyholder of such direct policy or certificate of insurance; or

(b) Upon the expiration date of any such direct policy and/or certificate of insurance, if the expiration date is sooner than thirty (30) days after the entry of the Judgment, Decree, and Order of Liquidation; or

(c) Upon the date the insured or policyholder of any such direct policy and/or certificate of insurance replaces the direct policy and/or certificate of insurance, or effects cancellation, if the insured or policyholder does so within thirty (30) days after the entry of this Judgment, Decree, and Order of Liquidation.

XXIII. The Liquidator shall have all powers vested in receivers by §§ 375.1150 to 375.1246, RSMo (2000) and otherwise by law, and may exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with the provisions of §§ 375.1150 to 375.1246, RSMo (2000), or as same may be amended. The enumeration of the powers and authority of the Liquidator herein shall not be construed as a limitation upon him, nor shall it exclude in any manner his right to do such other acts not herein specifically enumerated or otherwise provided for, as may be necessary or appropriate for the accomplishment of or in aid of the purposes of this Judgment, Decree and Order or the liquidation proceedings.

XXIV. The costs and expenses of the liquidations of CRE and Equity Mutual shall be class one claims in the liquidation proceedings pursuant to § 375.1218.1, RSMo (2000).

XXV. This Court shall retain jurisdiction of this liquidation proceeding and all related proceedings for all purposes.

Thomas J. Brown, III
Circuit Judge
Division I

STATE OF MISSOURI
COUNTY OF COLE } SS

I, BRENDA A. UMSTATTD, Clerk of the Circuit Court of Cole County, Missouri, hereby certify that the above and foregoing is a full true and correct copy of Judgment Decree + Order as fully as the same remains of record in my said office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of my said office this 18 day of Aug '04.

BRENDA A. UMSTATTD, Clerk

Deputy Clerk
Circuit Court of Cole County, Missouri

CC 1319246v1

CASUALTY RECIPROCAL EXCHANGE
EQUITY MUTUAL INSURANCE COMPANY
11880 College, Suite 500
Overland Park, KS 66210

December 16, 12005

Workers' Compensation Court
Jackie Bockman, Deputy Clerk of Court
P.O. Box 537
Helena, MT 59624-0537

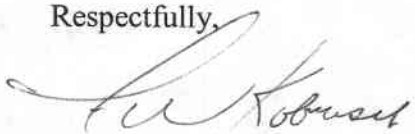
RE: Dale Reesor vs. Montana State Fund, Respondent/Insurer

Dear Ms Bockman:

The attached Response to Summons and Affidavit may have been mailed previously. If you receive the original filing, please disregard either set. The documents are duplicate.

If you have any questions or need additional information, please contact me at your convenience.

Respectfully,



F. William Kobusch
Special Deputy Liquidator
(913) 339-5844