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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MERCER COUNTY-
GENERAL EQUITY PART
DOCKET NO.: MER-C-60-06

STEVEN M. GOLDMAN :
COMMISSIONER OF BANKING AND :
INSURANCE, STATE OF NEW JERSEY: :
 :
Plaintiff, :
 :
v. :
 :
NJ EXCHANGE AND EXCHANGE, LLC, :
 :
 :
Defendants. :
 :

Civil Action

ORDER OF REHABILITATION

This matter having been opened to the Court by Zulima V. Farber, Attorney General of New Jersey, by Nathan J. Buurma, Deputy Attorney General, as attorney for plaintiff, Steven M. Goldman, Commissioner of the Department of Banking and Insurance of the State of New Jersey ("Commissioner"), by way of Verified Complaint and Order to Show Cause filed on May 16, 2006, directing defendants to appear and show cause why an Order

should not be entered (a) declaring NJ Exchange ("NJ Exchange") to be in such condition that further transaction of business will be hazardous to its policyholders, creditors, or the public and directing the Commissioner to rehabilitate NJ Exchange, and (b) granting such injunctive and other relief as may be necessary to accomplish said directive, with a hearing having been held on the Order TO Show Cause on June 29, 2006 at 10:00 a.m. with proper notice having been given to Defendants, and the Court having reviewed the proof of service and proof of notice to interested parties, and the Court having reviewed the papers in support of the Commissioner's application and no opposition having been filed by the Court hereby finds that:

1. NJ Exchange is a reciprocal insurance exchange authorized to transact insurance business in New Jersey, and is governed by the provisions of N.J.S.A. 17:30C-1, et seq., and N.J.S.A. 17:50-1, et seq.

2. This Court has original jurisdiction over this delinquency proceeding pursuant to N.J.S.A. 17:30C-2.

3. Sufficient grounds exist under N.J.S.A. 17:30C-1, et seq., for the entry of an order of rehabilitation to protect subscribers, creditors and the public; and for good cause having been shown;

IT IS, therefore, on this 10th day of July 2006,
ORDERED as follows:

Defendants or any other interested parties,

1. The application of the Commissioner is hereby granted;

2. The Commissioner, and his successors in office, is hereby appointed as Rehabilitator of NJ Exchange and is vested, in addition to the powers set forth herein, with all the powers and authority expressed or implied under the provisions of N.J.S.A. 17:30C-1, et seq. The Rehabilitator may do all the acts necessary and appropriate for the accomplishment of the rehabilitation of NJ Exchange.

3. The Rehabilitator may appoint a Deputy Rehabilitator to assist him in accomplishing the directives of this Order. The Deputy Rehabilitator shall, subject to the approval of the Rehabilitator, be entitled to exercise all of the powers and authority vested in the Rehabilitator pursuant to this Order and applicable law and shall serve at the pleasure of the Rehabilitator. Compensation of the Deputy Rehabilitator shall be set by the Rehabilitator, and paid out of the funds and assets of NJ Exchange. The Deputy Rehabilitator shall have no personal liability for his/her acts or omissions in connection with his/her duties as Deputy Rehabilitator provided that such

acts or omissions are undertaken or committed in good faith and without willful misconduct, or willful, wanton or gross negligence or criminal intent. The Deputy Rehabilitator shall not be deemed to be an employee of the State of New Jersey and thus, shall not be subject to provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. All expenses and costs incurred by the Deputy Rehabilitator in connection with lawsuits against him/her in his/her personal capacity shall, subject to the prior written approval of the Commissioner, be paid out of the funds and assets of NJ Exchange provided that such lawsuits are not the result of any bad faith, willful misconduct, gross negligence or criminal action on the part of the Deputy Rehabilitator.

4. The Rehabilitator is hereby directed to immediately begin conducting the business of NJ Exchange and to begin taking such steps as the Rehabilitator or her designee may deem appropriate toward removing the cause and conditions which have made rehabilitation necessary as well as to explore the liquidation of NJ Exchange. The Rehabilitator is hereby authorized to take such necessary steps as she may deem appropriate to protect and preserve the assets of NJ Exchange.

5. The Rehabilitator is hereby vested with title to all assets, contracts, causes of action, books, records, bank

accounts, certificates of deposits, funds, securities, and all real or personal property of any nature, including furniture, fixtures and office supplies, wherever located, including such property of NJ Exchange which may be discovered hereafter, and is hereby directed to take immediate and exclusive possession and control of same. The filing or recording of this Order with the Clerk of this Court and with the recorder of deeds of the jurisdiction in which NJ Exchange's principal offices are located, or in the case of real estate, with the recorder of deeds of the jurisdictions where the properties are located, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title filed or recorded. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Rehabilitator, all agents and brokers and all other persons or entities holding funds, assets or property of or on behalf of NJ Exchange or its direct insurance subsidiaries shall forthwith file an accounting of those funds, assets or property with the Rehabilitator and shall, within 20 days of the service of this Order, turn said funds, assets or property over to the Rehabilitator.

6. Except as otherwise provided herein, until further order of this Court, no obligation of NJ Exchange nor any claim of any nature shall be paid except those which in the

discretion of the Rehabilitator are necessary to conduct the business of NJ Exchange pursuant to the within proceeding. NJ Exchange and its directors, trustees, officers, employees, agents or representatives are hereby enjoined, restrained and prohibited from paying any claims or obligations of NJ Exchange without the express written consent or directive of the Rehabilitator or her designees or appointees.

7. All persons, corporations, partnerships and all other entities, wherever located are hereby enjoined and restrained from interfering in any manner with the Rehabilitator's possession, title and rights to the assets and property of NJ Exchange and from interfering in any manner with the conduct of the rehabilitation of NJ Exchange. Those persons, corporations, partnerships, and all other entities are hereby permanently enjoined and restrained from wasting, transferring, selling, concealing, destroying, disbursing or disposing of any assets, contracts, causes of action, funds, or other property of any nature of NJ Exchange. Any proposed assignment of any contract to which NJ Exchange is a party shall be on 30 days notice to the Rehabilitator for consent. If consent to such assignment is denied by the Rehabilitator, application may be made to the Court.

8. The Rehabilitator may change to his own name the name of any of NJ Exchange's accounts, funds or other property or assets held with any bank, savings and loan association or other financial institution, wherever located and may withdraw such funds, accounts, and other assets from such institutions or take any lesser action necessary for the proper conduct of the rehabilitation.

9. All secured creditors or parties, lien holders, collateral holders or other persons claiming secured, priority or preferred interests in any property or assets of NJ Exchange, including any governmental entity, are hereby permanently enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or against any property or assets of NJ Exchange.

10. Unless the action is related to the payment of a claim for benefits under a policy of insurance issued by NJ Exchange, all officers, directors, trustees, shareholders, investors, policyholders, subscribers, agents and employees of NJ Exchange and Exchange, LLC, and all other persons or entities of any nature, including but not limited to reinsurers, plaintiffs, petitioners and any governmental agencies having claims of any nature against NJ Exchange or Exchange, LLC,

including cross claims, counterclaims and third party claims, are hereby enjoined and restrained from::

(a) Conducting any portion or phase of the business of NJ Exchange or its subsidiaries unless so authorized by the Rehabilitator or his designee;

(b) Commencing or filing any action at law or equity, arbitration, special, or other proceeding against NJ Exchange or against the Commissioner and his successors in office as Rehabilitator thereof, or against the Deputy Rehabilitator appointed pursuant to paragraph 2 above.

(c) Making or executing any levy upon the property of NJ Exchange or its direct insurance subsidiaries;

(d) Instituting, maintaining or further presenting any suit at law or equity or any collection activity, or any other proceeding of any nature against any policyholder or insured of NJ Exchange resulting from NJ Exchange's financial condition or the failure of NJ Exchange to pay any claim or to meet any of its contractual obligations due to its financial impairment.

(e) Interfering in any way with the Rehabilitator, or any successors in office, in his possession of or title to the property and assets of NJ Exchange, or in the discharge of her duties, pursuant to this Order.

(f) Commencing, maintaining or further prosecuting any direct or indirect actions against any reinsurer of NJ Exchange for proceeds of reinsurance policies issued, to and treaties or other agreements with NJ Exchange.

11. NJ Exchange, its officers, directors, policyholders, agents and employees, Exchange, LLC and all other persons or entities of any nature, having any property or records belonging to NJ Exchange, including data processing information and records of any kind, are hereby directed to assign and transfer to the Rehabilitator all of such property in whatever name the same may be. Any persons, firms or corporations having any books, papers or records relating to the business of NJ Exchange shall preserve the same and submit these to the Rehabilitator for examination at all reasonable times.

12. In addition to the powers set forth at N.J.S.A. 17:30C-1, et seq., the Rehabilitator shall have the power:

(a) To conduct the business of NJ Exchange and its direct insurance subsidiaries, including the discretion to continue or not to continue to pay comprise claims;

(b) To honor, as expenses of administration, all expenses heretofore incurred by the Commissioner as Administrative Supervisor, or by his designees and appointees, which currently remain unpaid;

(c) To pay from the funds or assets of NJ Exchange or from such other funds that may become available to him, all expenses of marshaling, taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of NJ;

(d) To collect all debts and monies due and claims belonging to NJ Exchange, wherever located, where economically feasible, and for this purposes:

(i) To institute and maintain timely actions in this and other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts;

(ii) To do such other acts as are necessary or expedient to marshal, collect, conserve or protect NJ Exchange's assets or property, including the power to sell, compound, compromise or assign debts for purposes of collection upon such terms and conditions as she deems appropriate, and the power to initiate and maintain actions at law or equity or any other type of action or proceeding of any nature, in this and other jurisdictions;

(iii) To pursue any creditor's remedies available to enforce the Rehabilitator's claims;

(e) To conduct public and private sales of the assets and property of NJ Exchange including any real property;

(f) To acquire, invest, deposit, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any asset or property of NJ Exchange and to sell, reinvest, trade or otherwise dispose of any securities or bonds presently held by NJ Exchange, upon such terms and conditions as the Rehabilitator deems to be fair and reasonable, irrespective of the value at which such property was last carried on the books of NJ Exchange. The Rehabilitator shall also have the power to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the rehabilitation;

(g) Upon approval of the Court, to borrow money on the pledge of assets of NJ Exchange with or without security and to execute and deliver all documents necessary to that transaction for the purposes of facilitating the rehabilitation. Neither the Commissioner nor his designees or appointees shall be held liable in their official or personal capacities for any loans made for such purposes;

(h) To enter into such contracts as are necessary to carry out this Order, and to affirm, cancel or modify any contracts or leases to which NJ Exchange is a party;

(i) To institute and to prosecute, in the name of NJ Exchange or in his own name, any and all suits and other legal proceedings, to defend suits to which NJ Exchange or the Rehabilitator is a party, in this State or elsewhere, commenced prior or subsequent to this Order, to abandon the prosecution or defense of suits, legal proceedings and claims which he deems inappropriate to pursue further and to compromise suits, legal proceedings or claims on such terms and conditions as he deems appropriate. The Rehabilitator shall have the exclusive right to prosecute in his discretion any action which may exist on behalf of the creditors, policyholders or shareholders of NJ Exchange or any person claiming any right of NJ Exchange;

(j) To perform such further and additional acts as she may deem necessary or appropriate for the accomplishment of or in aid of the purpose of rehabilitation, it being the intention of this Order that the aforesaid enumeration of powers shall not be construed as a limitation upon the Rehabilitator or Deputy Rehabilitator.

13. The Rehabilitator may at his discretion, on 30 days notice to the affected parties, discontinue the defense of claims, suits and other proceedings, in this State and elsewhere, in which NJ Exchange insureds are parties, including those claims made and suits and proceedings undertaken prior to

the date of this Order. The affected parties may apply to this Court for relief from the determination to discontinue defense.

14. The Rehabilitator shall give or cause to be given notice of the entry of this Order as soon as possible by publication in The Newark Star Ledger, The Trenton Times, The New Jersey Law Journal, The New Jersey Lawyer and the Camden Courier Post. Such publication shall commence within 10 days and shall be repeated once a week thereafter for two successive weeks.

15. Specifically, the consolidated actions pending in Monmouth County Superior Court, captioned Genesis Capital One, LLC, et al. v. Vitale, and Campisano v. Exchange, LLC, et al., Docket No. MON-C-242-05 are hereby stayed as to NJ Exchange and Exchange, LLC. A copy of this Order shall be forwarded to the Honorable Alexander D. Lehrer, J.S.C. within 3 days.

16. The amounts recoverable by the Rehabilitator from any reinsurer of NJ Exchange shall not be reduced as a result of this delinquency proceeding, or by reason of any partial payment or distribution on a reinsured policy, contract or claim. Unless either the insurance contract or an applicable statute provided to the contrary, payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to NJ Exchange.

17. (a) Any agent, broker, premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid premiums, whether earned or unearned, as shown on the records of NJ Exchange as of the date of entry of this Order. No credit or set-off shall be allowed in favor of such person against his/her account with NJ Exchange for the unearned portion of the premium on any canceled contract or policy, unless:

(i) That contract or policy was canceled prior to entry of this Order; and

(ii) The unearned premium on the canceled contract or policy was in fact refunded or credited to the insured or his/her assigns prior to the entry of this Order. The Rehabilitator shall also have the right to recover from such person any part of an unearned premium that represents a commission to such person.

(b) All group and individual policyholders of NJ Exchange or its direct insurance subsidiaries shall be obligated to pay any unpaid earned premium due to NJ Exchange, as shown on the records of NJ Exchange.

18. Existing contracts (if any) and other obligations by and between NJ Exchange and any reinsurer may, at the discretion of the Rehabilitator, be terminated or commuted.

Such termination shall be effected by written notice issued by the Rehabilitator addressed to the reinsurer. No reinsurer may, without leave of the Commissioner, terminate or cancel any reinsurance agreement or make any additional premium charge to NJ Exchange under a reinsurance agreement.

19. All further papers filed in these proceedings shall bear the caption and be entitled:

"I/M/O the Rehabilitation of NJ Exchange."

20. If any provision of this Order or the application thereof is for any reason held to be invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected.

21. Any persons, corporation or other entity having notice of this Order who fails to abide by its terms shall be directed to appear before this Court to show good cause, if any they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.

22. The Commissioner as Rehabilitator at any time may make further application on notice for such additional and different relief as he sees fit.

23. Defendants or any other interested party may apply to this Court on notice for modification of this Order.

24. This Court shall retain jurisdiction for all purposes necessary to effectuate and enforce this Order.

s/
Neil H. Shuster, P.J. Ch. Div.