

FILED

STATE OF NORTH CAROLINA 12 PM 3:18 IN THE GENERAL COURT OF JUSTICE
WAKE COUNTY WAKE CO., C.S.C. SUPERIOR COURT DIVISION
FILE NO.: 18 CVS 14480

MIKE CAUSEY,)
COMMISSIONER OF INSURANCE)
OF NORTH CAROLINA,)

Petitioner,)

v.)

NORTH CAROLINA MUTUAL)
LIFE INSURANCE COMPANY,)
A North Carolina Domiciled)
Insurance Company,)

Respondent.)

ORDER OF LIQUIDATION AGAINST
NORTH CAROLINA MUTUAL LIFE
INSURANCE COMPANY, GRANTING
INJUNCTIVE RELIEF AND
APPROVING SERVICE AGREEMENT
AND EARLY ACCESS AGREEMENT

THIS CAUSE came to be heard and was heard on the 11th day of October, 2022, before the undersigned Judge presiding over the Superior Court of Wake County, North Carolina, upon the Verified Petition filed herein on behalf of the State of North Carolina by the Petitioner Mike Causey, Commissioner of Insurance of the State of North Carolina ("Petitioner"), seeking the entry of an Order of Liquidation against North Carolina Mutual Life Insurance Company ("Respondent"), injunctive relief and approval of Service Agreement and Early Access Agreement. Based upon the evidence presented, and the arguments and representations of counsel, the Court makes the following:

FINDINGS OF FACT

1. The Petitioner is the Commissioner of Insurance of the State of North Carolina.
2. The Respondent is a mutual life, accident and health insurance company as defined in Chapter 58 of the North Carolina General Statutes with its principal place of business located at 411 West Chapel Hill Street, in Durham, Durham County, North Carolina.

3. This Court entered an Order of Rehabilitation against Respondent on December 3, 2018.

4. On September 24, 2021, Petitioner filed its Verified Petition for an Order of Liquidation against North Carolina Mutual Life Insurance Company, Petition Seeking Injunctive Relief and Approval of Service Agreement and Early Access Agreement (the “Verified Petition”). The grounds asserted by Petitioner included that Respondent is insolvent as defined under N.C. Gen. Stat. § 58-30-10(13) in that its liabilities exceeded its assets by at least \$78,350,851.

5. On September 28, 2021, the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”) filed its Statement in Support of Service Agreement and Early Access Agreement.

6. The hearing regarding this matter was originally scheduled for December 20, 2021. That hearing date was stayed due to a ransomware incident that has been resolved as addressed in this Court’s Order dated August 12, 2022.

7. Respondent’s directors have not appeared pursuant to N.C. Gen. Stat. § 58-30-95 or opposed the Verified Petition and no other appearance or opposition has been filed with the Court.

8. Based upon the uncontested facts set forth in the Verified Petition, Respondent is insolvent as defined under N.C. Gen. Stat. § 58-30-10(13) in that its liabilities exceeded its admitted assets by at least \$78,350,851. Respondent’s insolvency is further confirmed by the Rehabilitator’s Quarterly Report filed on November 23, 2021 which identifies that Respondent is insolvent by \$80,692,743 as of September 30, 2021 and by the Rehabilitator’s Quarterly Report filed on May 19, 2022 which identifies that Respondent is insolvent by \$80,879,510 as of December 31, 2021.

9. Sufficient grounds for the appointment of Petitioner as Liquidator of Respondent have been shown under the provisions of N.C. Gen. Stat. Chapter 58, Article 30.

10. The Petitioner is entitled to appointment as liquidator of Respondent under the provisions of N.C. Gen. Stat. Chapter 58, Article 30.

11. It is in the public interest that an injunction be entered which prohibits the disposition, waste or impairment of the property of Respondent, or the unauthorized transaction of further business on behalf of Respondent, requires the transfer of all property of Respondent to Petitioner, prevents interference with the Petitioner or this proceeding, prohibits the commencement or prosecution of any actions against the Petitioner or Respondent, and prohibits any party or person from obtaining preferences, judgments, attachments or other liens, or the initiation of any levy against Respondent or any of its general assets.

12. Each state where Respondent is or was licensed to engage in the business of insurance has established a life and health insurance guaranty association (“Association”) to provide protection to policyholders and beneficiaries of insurance products in the event an insurer, such as Respondent, is placed into liquidation with a finding of insolvency, subject to statutory limits, as provided for in the state legislation creating each such Association (referred to herein as “GA Enabling Act(s)”) See e.g. N.C. Stat. § 58-62-2 *et seq.*, (establishing the North Carolina Life and Health Insurance Guaranty Association.

CONCLUSIONS OF LAW

1. The Petitioner is the Commissioner of Insurance of the State of North Carolina, and the Petitioner has initiated this action in his official capacity on behalf of the State of North Carolina pursuant to the North Carolina Insurance Law, including but not limited to, N.C. Gen. Stat. §§ 58-30-1, *et seq.*, and more specifically N.C. Gen. Stat. §§ 58-30-15, 58-30-20, 58-30-25, 58-30-71, 58-30-95, 58-30-100, and 58-30-120 of the North Carolina General Statutes by filing the Verified Petition with the Clerk of Superior Court of Wake County.

2. Respondent is subject to the provisions of Article 30 of Chapter 58 of the North Carolina General Statutes.

3. Respondent is insolvent as defined pursuant to N.C. Gen. Stat. § 58-30-10(13).

4. Grounds for the entry of an Order of Liquidation and injunctive relief have been demonstrated by Petitioner.

5. The Petitioner is entitled to appointment as Liquidator of Respondent under the provisions of Article 30 of Chapter 58 of the North Carolina General Statutes.

6. Respondent is declared insolvent and placed under an Order of Liquidation.

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED as follows:

COMMISSIONER APPOINTED AS LIQUIDATOR

1. Mike Causey, Commissioner of Insurance of the State of North Carolina, including his successors in office is HEREBY APPOINTED as Liquidator of Respondent North Carolina Mutual Life Insurance Company, pursuant to the provisions of Article 30 of Chapter 58 of the North Carolina General Statutes and as Liquidator is vested with all duties, powers, authorities and obligations as are provided by Article 30 of Chapter 58 of the North Carolina Statutes.

TITLE OF ASSETS AND RECORDED NOTICE OF TITLE

2. The Liquidator is vested with the title to all of the property, contracts, rights of action, books, records and assets of Respondent and that the filing or recording of this Order with the Clerk of the Superior Court and the Register of Deeds of the county in which Respondent's principal office or place of business is located; or, in the case of real estate, with the Register of Deeds of the county where the property is located, shall impart the same notice as a deed, bill of sale, or other evidence of title duly filed or recorded with that Register of Deeds, would have imparted.

3. The Liquidator is authorized, empowered and directed to take into his possession and control all property, causes of action, stocks, bonds, securities, bank accounts, savings accounts, monies, accounts receivable, books, papers, records, data bases, printouts and computations, whether stored by microfilm, electronic, optical, magnetic or other means, whether stored in tapes, disks, or other media, and all other assets of any and all kinds and nature whatsoever belonging to Respondent, wherever located, to which the Liquidator may be entitled by virtue of the provisions of Article 30 of Chapter 58 of the North Carolina General Statutes, be delivered to the Liquidator, and to conduct Respondent's business and administer Respondent's assets and affairs under the general supervision of this Court.

4. The Liquidator is vested with all power, authority, and duties as are provided by Article 30 of Chapter 58 of the North Carolina General Statutes and with the powers and duties of a receiver under all other applicable laws of the State of North Carolina.

5. Pursuant to N.C. Gen. Stat. § 58-30-120, the Liquidator is authorized to appoint one or more Special Deputy Liquidators to act for the Liquidator in connection with the delinquency proceedings against Respondent and that said Special Deputy Liquidator(s) are authorized to employ and discharge at the prevailing customary rates such counsel, clerks or assistants as the Liquidator or said Special Deputy Liquidator(s) shall deem to be necessary, or to utilize State employees for said purposes if he has determined that the use of State employees to conduct certain aspects of the liquidation is the most cost effective method of administering the delinquency proceeding and that this action benefits the estate and its creditors; and said Liquidator or Special Deputy Liquidator(s) are authorized to obtain such bonds, errors and omissions type insurance, or excess liability insurance in addition to any such insurance that may be already provided for employees of the North Carolina Department of Insurance, as a reasonably prudent person charged

with the duties would deem to be appropriate; and that all expenses of taking possession of and administering and conserving Respondent, its assets and property, and of conducting the delinquency proceedings against Respondent and otherwise dealing with its business and property, whether incurred by or at the direction of the Rehabilitator of the remaining Respondents or any Special Deputy Rehabilitator of the remaining Respondents or by the Liquidator and any Special Deputy Liquidator(s), shall be paid out of the funds or assets of Respondent pursuant to N.C. Gen. Stat. §§ 58-30-85(a)(4) and 58-30-120(a)(4) and considered class-one claims under N.C. Gen. Stat. § 58-30-220(1), all in accordance with Article 30 of Chapter 58 of the North Carolina General Statutes.

6. The Liquidator is authorized, empowered and directed to incur such expenses for communication and traveling expenses for himself, his agents or attorneys as may be necessary in the proper administration of his duties as Liquidator and also to incur such other expenses as the Liquidator may deem advisable or necessary in order to properly conduct and perform his duties as Liquidator and that any compensation and expenses paid by the Liquidator be reported to the Court and approved on an interim basis subject to the jurisdiction of the Court to approve the amounts of final compensation and expenses.

7. The Petitioner, as Liquidator, is authorized to notify state or federal regulators of this action, and to take any action relating to the licenses or certificates of Respondent as may be required to carry out the Liquidation.

8. As of the effective date of this Order of Liquidation, the rights and liabilities of Respondent and of Respondent's creditors, policyholders, shareholders, members and all other persons interested in its estate shall become fixed except as otherwise provided in the North Carolina Insurance Law. Pursuant to N.C. Gen. Stat. § 58-30-110, Respondent's policies of life

or health insurance or annuities shall continue in force for such period and under such terms as is provided for by any applicable GA Enabling Acts.

9. Respondent is hereby placed in liquidation and declared insolvent.

10. This Court has sole and exclusive jurisdiction over this matter pursuant to N.C. Gen Stat. § 58-30-15, is vested with exclusive original jurisdiction of delinquency proceedings for Respondent, and is authorized to make all necessary and proper orders to carry out the purposes of Article 30, Chapter 58 of the North Carolina General Statutes, including but not limited to determining all suits or motions related to Respondent assets, claims against Respondent, the enforcement of this Order or any litigation related to Respondent or the Liquidator and his deputies, agents, employees or representatives, all of which shall be determined solely and exclusively in this liquidation proceeding.

11. Venue for these delinquency proceedings is proper in this Court pursuant to N.C. Gen. Stat. § 58-30-15.

APPOINTMENT OF RECEIVER

12. Mike Causey, Commissioner of Insurance of the State of North Carolina, and his successors in office, is HEREBY APPOINTED as Receiver of Respondent, as provided by the North Carolina Insurance Law.

INJUNCTION AGAINST INTERFERENCE WITH LIQUIDATION

13. Injunctive relief is HEREBY GRANTED, pursuant to N.C. Gen. Stat. §§ 58-30-20 and 58-30-130, prohibiting any person from interfering in any manner with the property or assets of Respondent or with said Liquidator in the performance of his duties, and further enjoining and restraining any person from instituting or prosecuting any suit or other action against the Liquidator or Respondent's property; a stay is hereby granted prohibiting all persons, firms and

corporations with notice of the Court's Order from the obtaining of preferences, judgments, attachments, garnishments, or liens against Respondent or its assets, or the levying of execution or foreclosure against Respondent or its assets, until further order of the Court; the enjoining and restraining of Respondent, its trustees, officers, directors, agents, employees, or third party administrators, and all other persons from the disposition, waste or impairment of any of Respondent's property, assets, or records; the enjoining of the transaction of further business unless supervised and approved by the Liquidator or his agents or deputies, until further order of the Court; all such persons are ordered to transfer to the Liquidator any and all property of Respondent wheresoever situated, and Respondent, its trustees, officers, agents, servants, employees, third party administrators, directors or attorneys are enjoined and restrained from doing or permitting to be done anything which may allow or suffer the obtainment of preferences, judgments, attachments or other liens, or the initiation of a levy against Respondent, without prior permission of this Court.

ACCOUNTING AND REPORTING

14. Pursuant to N.C. Gen. Stat. § 58-30-105(e), the Liquidator shall make a quarterly report to the Wake County Superior Court and the liquidator shall include in said report a statement of receipts and disbursements to date and a balance sheet, that one original be filed with the Clerk of Superior Court and a copy shall be submitted to the Judge presiding over the liquidation, that the requirement of the Order shall be satisfied by filing the accounting as provided and the liquidator shall not be required to seek the Court's approval of said accounting, that this accounting may be amended or supplemented in the liquidator's direction.

COMMISSIONER'S BOND

15. The official bond of the Commissioner of Insurance of the State of North Carolina shall be sufficient to serve for faithful performance of his duties and obligations here imposed.

APPROVAL OF SERVICE AGREEMENT AND EARLY ACCESS AGREEMENT

16. The Service Agreement is approved. Petitioner, in his capacity as Liquidator, is authorized to finalize, enter into, and implement the Service Agreement on terms not materially different from the form of agreement attached as Exhibit B to the Verified Petition, including but not limited to, utilizing the name of Respondent, accounts, and any other assets of Respondent as part of providing services thereunder.

17. The Liquidator, in implementing the Service Agreement, may utilize additional forms required by the Associations for providing coverage, including, but not limited to, requiring as a condition precedent to coverage and/or payment, receipt of completed Release, Subrogation and Assignment Forms on terms not materially different from Exhibit C to the Verified Petition.

18. The Early Access Agreement is approved. Petitioner, in his capacity as Liquidator, is authorized to finalize, enter into, and implement the Early Access Agreement on terms not materially different from Exhibit D to the Verified Petition.

EFFECTIVE DATE OF ORDER OF LIQUIDATION

19. This Order shall be effective on October 31, 2022. Petitioner and/or NOLHGA may petition the Court for a later effective date.

20. The Court hereby directs that notice be given to creditors and others of the entry of this Order, as required by N.C. Gen. Stat. §58-30-125.

21. The Court retains jurisdiction of this matter for the determination of such further matters in connection with this liquidation that may properly come before the Court.

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This 11th day of October, 2022.



THE HONORABLE A. GRAHAM SHIRLEY, II
Superior Court Judge Presiding