



JON S. CORZINE
Governor

State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF LAW
PO Box 117
TRENTON, NJ 08625-0117

ANNE MILGRAM
Attorney General

ROBERT J. GILSON
Director

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BY HAND DELIVERY

State of New Jersey
Superior Court Chancery Division
Mercer County Courthouse
210 South Broad Street
P.O. Box 8068
Trenton, N.J. 08650-0068

Attention: Honorable Maria Marinari Sypek
Presiding Judge Chancery Division

Re: Steven Goldman v. Consumer First Insurance Company

Dear Judge Sypek:

Please accept this letter brief in lieu of a more formal brief in support of the application of the Commissioner of Banking and Insurance (the "Commissioner") for the entry of an Order to Show Cause as to why defendant, Consumer First Insurance Company ("Consumer First"), a New Jersey domiciled property and casualty insurer, should not be placed into rehabilitation and the Commissioner should not be appointed Rehabilitator pursuant to N.J.S.A. 17:30C-1 et seq. This request arises from the fact that Consumer First's business has generated (and continues to generate)



significant losses that have resulted in Consumer First's hazardous financial condition.

The Commissioner is seeking an Order that declares Consumer First to be in such condition that further transaction of business will be hazardous to its policyholders, creditors, and/or the public and directing the Commissioner to rehabilitate Consumer First and also granting such injunctive and other relief as may be necessary to accomplish said directive. Consumer First has consented to the entry of this order. See Certification of Raymond K. Conover ("Conover Certification"), ¶ 8 and Exhibit C.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

Consumer First is a New Jersey domiciled stock property and casualty insurer authorized to transact business in New Jersey since January 2, 2002, and is governed by the provisions of N.J.S.A. 17:17-1 et seq. Consumer First writes only private passenger automobile insurance coverage, and only in New Jersey. Consumer First's book of business is comprised of policies written through producers. Consumer First had approximately 6,825 in-force policies and approximately 1,220 open claims as of November 30, 2008. Conover Certification, ¶ 3.

In 2003, Consumer First wrote a significantly higher volume of business than it had projected it would write. Its liquidity ratio was sufficiently high to warrant closer scrutiny of Consumer First's key financial data. In addition, Consumer First

failed to respond to numerous requests for information from the Department, raising the concern that the continued unsupervised operation of Consumer First would be hazardous to the policyholders, creditors and/or public. Conover Certification, ¶ 4. As a result, Consumer First agreed to be placed in confidential administrative supervision. On April 27, 2004, the Commissioner issued Order No. A04-123, which placed Consumer First in confidential administrative supervision. One provision in that order required Consumer First to cease writing new business. Conover Certification, ¶ 5 and Exhibit A. On October 1, 2004, the Commissioner issued Order No. A04-146, which amended Order No. A04-123 and provided, inter alia, that Consumer First could resume writing new business subject to certain conditions. Conover Certification, ¶ 6 and Exhibit B.

Consumer First has been under consensual administrative supervision since April 27, 2004. Because its financial condition has continued to deteriorate since that time and it has been unable to obtain capital to halt the deterioration, the Commissioner issued Order No. A09-101 (January 30, 2009), which ordered Consumer First to cease writing new business and to cease issuing new renewal notices. Conover Certification, ¶ 9 and Exhibit D.

Consumer First now consents to the issuance of an Order of Rehabilitation. Conover Certification, ¶ 8 and Exhibit C.

ARGUMENT

THE ORDER OF REHABILITATION SHOULD BE GRANTED BECAUSE THE COMMISSIONER HAS SHOWN THAT CONSUMER FIRST'S FINANCIAL CONDITION IS SUCH THAT FURTHER TRANSACTION OF BUSINESS BY CONSUMER FIRST WOULD BE HAZARDOUS TO ITS POLICYHOLDERS, ITS CREDITORS AND THE PUBLIC.

N.J.S.A. 17:30C-6 sets forth the grounds upon which the Commissioner may seek an order of rehabilitation of an insurer. These grounds include circumstances in which an insurer

is found, after examination, to be in such [financial] condition that its further transaction of business will be hazardous to its policyholders, or to its stockholders, or to its creditors, or to the public [N.J.S.A. 17:30C-6f].

In addition, N.J.A.C. 11:2-27.3 sets forth factors that the Commissioner "shall consider ..., either singly or in a combination of two or more, in determining whether an insurer is in a hazardous financial condition." N.J.A.C. 11:2-27.3(a).

The most telling indicator of Consumer First's hazardous financial condition is the insurer's failure to maintain sufficient capital and surplus, as required by N.J.S.A. 17:17-6. Conover Certification, ¶ 7a; Order No. A09-101. In addition, Consumer First has failed four Insurance Regulatory Information System ("IRIS") tests, established by the National Association of Insurance Commissioners, another indicator that it is in as hazardous financial condition. N.J.A.C. 11:2-27.3(a)2; Conover

Certification, ¶¶ 7d(a) through 7d(d); Order No. A09-101. The Department also found that Consumer First had reported a Net Operating Loss as of September 30, 2008 (the last filed quarterly financial statement) greater than 50% of Policyholders' Surplus in excess of the minimum capital and surplus requirement. N.J.A.C. 11:2-27.3(a)6); Conover Certification, ¶ 7e; Order No. A09-101. Another finding was that Consumer First is experiencing liquidity problems. N.J.A.C. 11:2-27.3(a)2 and -27.3(a)15; Conover Certification, ¶ 7f; Order No. A09-101. The Commissioner also found that Consumer First's Risked-Based Capital ratio resulted in a finding that Consumer First was in a hazardous financial condition. N.J.A.C. 11:2-27.3(a)29; Conover Certification, ¶ 7g; Order No. A09-101.

In addition, Consumer First has been unable to maintain certain required standards set forth in Order No. A04-146, ¶ 4. Conover Certification, ¶¶ 7b and 7c; Order No. A09-101.

Consumer First's financial condition is unquestionably such that its continued operation would be hazardous to its policyholders and potential claimants, and that Consumer First's current financial condition requires that the Department take regulatory action and seek an Order of Rehabilitation. In fact, Consumer First itself has recognized the need for rehabilitation, and has consented to the relief sought herein. Conover Certification, ¶ 8 and Exhibit C.

Under these circumstances, the Commissioner is not only authorized, but required to seek an Order of Rehabilitation, as the entry of such an order is warranted under the New Jersey Uniform Insurers Rehabilitation and Liquidation Act. See N.J.S.A. 17:30C-1 et seq.

For the reasons set forth above, the Commissioner respectfully requests that the Court enter the Order to Show Cause, filed herewith.

Respectfully submitted,

ANNE MILGRAM
ATTORNEY GENERAL OF NEW JERSEY

By: Eleanor Heck
Eleanor Heck
Deputy Attorney General