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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MERCER COUNTY
DOCKET NO. MER-C-

KENNETH E. KOBYLOWSKI,)
ACTING COMMISSIONER OF THE)
DEPARTMENT OF BANKING AND)
INSURANCE OF NEW JERSEY,)
Plaintiff,)

Civil Action

v.)

GARDEN STATE INDEMNITY)
COMPANY, INC.,)
Defendant.)

**VERIFIED COMPLAINT FOR AN
ORDER TO SHOW CAUSE WITH
TEMPORARY RESTRAINTS
PURSUANT TO RULE 4:52 AS
TO WHY AN ORDER OF
LIQUIDATION AND A
DECLARATION OF INSOLVENCY
SHOULD NOT BE ENTERED**

Plaintiff, Kenneth E. Kobylowski, Acting Commissioner
of Banking and Insurance ("Commissioner"), and his successors in

interest, with his principal office at 20 West State Street, Trenton, Mercer County, New Jersey, by way of complaint against the defendant, Garden State Insurance Company ("GSIC"), says:

PARTIES

1. The Office of the Commissioner of the Department of Banking and Insurance ("Department") was created and now exists pursuant to N.J.S.A. 17:1-1 et seq.

2. The Commissioner is responsible for the regulation of, among others, property and casualty insurance companies domiciled in New Jersey.

3. GSIC is a New Jersey domiciled property/casualty insurer licensed to transact insurance business in New Jersey. GSIC was originally formed on October 4, 1985 and commenced business on November 20, 1986. GSIC is licensed to transact automobile liability and automobile liability property damage insurance coverage pursuant to N.J.S.A. 17:17-1 et seq.

4. Due to serious reserve deficiencies and poor financial condition, GSIC was placed under consensual administrative supervision pursuant to N.J.S.A. 17:51A-1 et seq. on June 29, 1998.¹

¹The administrative supervision of insurers is confidential under N.J.S.A. 17:51A-4a; however, given the nature of GSIC's financial condition and the nature of the relief sought in this proceeding, the Commissioner deems the disclosure of the

5. In July 1999, the Department approved GSIC's plan to withdraw from the business of insurance. GSIC began withdrawing policies effective August 1999, and went into run-off status.

6. On May 24, 2010, pursuant to N.J.S.A. 17:27A-2, the Commissioner approved the acquisition of control of GSIC by Alfred Morelli, the principal owner of Taxisure Exchange ("Taxisure"). Taxisure was a reciprocal insurance exchange organized and authorized to transact business pursuant to N.J.S.A. 17: 50-1 et seq. Taxisure was originally authorized to transact business on October 31, 2003, and operated as a commercial automobile insurer specifically for taxicabs.

7. As a part of the plan for the acquisition of control approved by the Commissioner, on May 27, 2010, GSIC completed a statutory merger with Taxisure, under which Taxisure surrendered its New Jersey Certificate of Authority to transact business and left GSIC as the surviving entity (with the administrative supervision continuing in force).

existence of GSIC's administrative supervision to be in the best interest of the public under N.J.S.A. 17:51A-4d. The Commissioner presently deems it appropriate to maintain the statutory confidentiality of any hearings, notices, correspondence, reports, records, and other information in the Department's possession relating to GSIC's administrative supervision.

16. Pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6a, the impairment or insolvency of an insurer constitutes grounds for liquidation.

17. N.J.S.A. 17:30C-1a defines "impairment or insolvency" to mean "... the capital of a stock insurer ... shall be deemed to be impaired and the insurer shall be deemed to be insolvent, when such insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock"

18. GSIC's assets are less than equal to its liabilities and required reserves together with its statutorily required minimum capital and surplus.

19. Accordingly, GSIC is insolvent pursuant to N.J.S.A. 17:30C-1a, establishing grounds for a declaration of insolvency and grounds for liquidation pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6a.

COUNT TWO

20. Plaintiff incorporates the allegations of Count One by reference as if fully set forth herein.

21. The provisions of N.J.A.C. 11:2-27.1 et seq., a subchapter entitled "DETERMINATION OF INSURERS IN A HAZARDOUS

FINANCIAL CONDITION", provide guidelines to determine whether an insurer is in a hazardous financial condition.

22. N.J.A.C. 11:2-27.3(a) sets forth 29 factors to be considered "... either singly or in a combination of two or more, in determining whether an insurer is in a hazardous financial condition[.]"

23. N.J.A.C. 11:2-27.3(a)6 involves "[a] finding that the insurer's operating loss in the last 12 month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in non-admitted assets and cash dividends paid to shareholders, is greater than 50 percent of such insurer's remaining surplus as regards policyholders in excess of the minimum required[.]"

24. Based upon GSIC's 2010 annual statement, GSIC'S net operating loss for 2010 was (\$1,435,848). Conover Cert., ¶14, and Exhibit C.

25. The 2010 net operating loss of (\$1,435,848) is 4,874.4% of \$29,457, the balance of policyholders' surplus in excess of the statutorily required \$2,000,000 minimum capital and surplus. Conover Cert., ¶15, and Exhibit C.

26. Based upon GSIC's 2011 annual statement, GSIC'S net operating loss for 2011 was (\$2,192,730). Conover Cert., ¶16, and Exhibit D.

27. As stated above, GSIC has no remaining policyholders' surplus. Accordingly, the 2011 net operating loss of (\$2,192,730) is greater than 50% of the balance of policyholders' surplus in excess of the statutorily required \$2,000,000 minimum capital and surplus. Conover Cert., ¶17, and Exhibit D.

28. Accordingly, the Commissioner has determined that GSIC is in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3(a)6. Conover Cert., ¶18.

29. A finding that an insurer is in a hazardous financial condition constitutes grounds for liquidation pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6f.

COUNT THREE

30. Plaintiff incorporates the allegations of Counts One and Two by reference as if fully set forth herein.

31. N.J.A.C. 11:2-27.3(a)18 involves "[a] finding that the insurer does not possess the minimum capital and surplus ... required by statute to be maintained"

32. As more particularly set forth in Count One above, ¶¶13 - 14, the Commissioner has determined that GSIC does not possess the minimum capital and surplus required by statute

and that GSIC is in a hazardous financial condition pursuant to N.J.A.C. 11:2-27.3(a)18. Conover Cert., ¶19 - 22.

33. A finding that an insurer is in a hazardous financial condition constitutes grounds for liquidation pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6f.

COUNT FOUR

34. Plaintiff incorporates the allegations of Counts One, Two, and Three by reference as if fully set forth herein.

35. Pursuant to N.J.A.C. 11:2-26.4(a), "All insurers... shall have an annual audit by an independent certified public accountant on or before June 1 for the year ended December 31 immediately preceding."

36. On May 24, 2011, GSIC wrote to the Department requesting an extension to June 30, 2011 (original due date: June 1, 2011) to file its 2010 Annual Audited Financial Report, which extension was granted by the Department on June 1, 2011. Conover Cert., ¶25.

37. On June 15, 2011, GSIC wrote to the Department requesting a second extension to file its 2010 Annual Audited Financial Report pending the completion of a due diligence period in connection with a possible sale of the company. On

July 26, 2011, the Department granted GSIC a second extension to September 1, 2011, to file the Report. Conover Cert., ¶26.

38. On August 15, 2011, GSIC wrote to the Department requesting a third extension to September 30, 2011, to file its 2010 Annual Audited Financial Report. On August 19, 2011, the Department denied GSIC's request for a third extension. Conover Cert., ¶27.

39. GSIC did not file its 2010 Annual Audited Financial Report with the Department by September 1, 2011. Conover Cert., ¶28.

40. GSIC's 2010 Annual Audited Financial Report still has not been filed with the Department. Conover Cert., ¶29.

41. Pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6b, an insurer's refusal to submit its books, records, accounts, or affairs to the reasonable examination of the Commissioner constitutes grounds for liquidation.

42. Pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6g, an insurer's willful violation of any law of this State constitutes grounds for liquidation.

43. GSIC is required by N.J.A.C. 11:2-26.4(a) to file an Annual Audited Financial Report for 2010 with the Department. Despite the grant by the Department of two extensions of the time to file the 2010 Report, GSIC has not filed the Report.

44. GSIC's failure to file its 2010 Annual Audited Financial Report with the Department as required by law constitutes grounds for liquidation pursuant to N.J.S.A. 17:30C-8 and N.J.S.A. 17:30C-6b and g.

45. Given GSIC's history of ongoing financial difficulties and its current financial status, the Commissioner has determined that any attempt to rehabilitate GSIC would be useless and would only result in increased expenses of administration and increased delays in the administration of claims contrary to the best interests of GSIC's policyholders, creditors, and the public. Conover Cert., ¶43.

46. Accordingly, the Commissioner has determined that GSIC must be placed in liquidation.

WHEREFORE, plaintiff demands an order declaring that:

(a) GSIC is insolvent; is in a financial condition such that its further transaction of business will be hazardous to its policyholders, creditors, and the public; has refused to submit its books, records, accounts, and affairs to the reasonable examination of the Commissioner; and has willfully violated N.J.A.C. 11:2-26.4(a); and further

(b) appointing the Commissioner and his successors in office as Liquidator of GSIC in accordance with N.J.S.A. 17:30C-1 et seq., with all the powers and authority express or implied

thereunder and as set forth in the Order of Liquidation that is being filed herewith; and further

(c) directing the Commissioner to take immediate and exclusive possession and control forthwith of GSIC's property, to liquidate GSIC's business, to deal with GSIC's property and business in his own name as Commissioner or in the name of GSIC as the court may direct, and to give notice to creditors who may have claims against GSIC to present their claims; and further

(d) restraining and enjoining all persons or entities, including but not limited to GSIC, its officers, directors, or stockholders, from further conducting the business of GSIC; and further

(e) ordering that all persons and entities be permanently enjoined from pursuing litigation against GSIC or from interfering with the Commissioner's efforts to liquidate GSIC; and further

(f) halting all payment of claims by GSIC except at the directive of the Commissioner or of this court; and further

(g) ordering that all claims against GSIC be asserted no later than one year from the date of the Order of Liquidation, in the form established by the Commissioner, or such claims will be forever barred; and further

(h) ordering that the Commissioner as Liquidator establish procedures governing the payment of claims by GSIC; and further

(i) granting such further relief as the court may deem appropriate.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff,
Commissioner of Banking and
Insurance

By: 

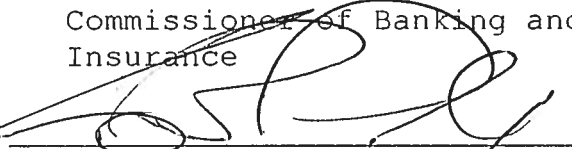
William D. Puskas, Jr.
Deputy Attorney General

Dated: April 27th, 2012

DESIGNATION OF TRIAL COUNSEL

Deputy Attorney General William B. Puskas, Jr. is hereby designated as trial counsel in this matter.

JEFFREY S. CHIESA
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff,
Commissioner of Banking and
Insurance

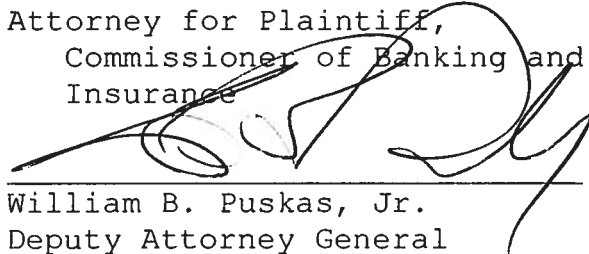
By: 
William B. Puskas, Jr.
Deputy Attorney General

Dated: April 27th, 2012

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiff hereby certifies pursuant to R. 4:5-1 that there are no other civil proceedings either pending or contemplated with respect to the matter in controversy herein and no other parties who should be joined to this action. I further certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

JEFFREY S. CHIESA
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Commissioner of Banking and
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By: 
William B. Puskas, Jr.
Deputy Attorney General

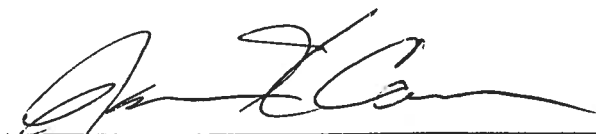
Dated: April 27th, 2012

VERIFICATION

I, RAYMOND K. CONOVER, of full age, hereby certify:

I am the Chief Insurance Examiner of the Office of Solvency Regulation for the New Jersey Department of Banking and Insurance. I have held this position since 2010. From 2004 to 2010, I held the position of Assistant Commissioner of the Office of Solvency Regulation for the Department. Prior to 2004, I held the position of Chief Insurance Examiner for the Department. My responsibilities include monitoring the financial condition of all insurance entities transacting business in New Jersey. I have read the Complaint and certify that the allegations contained in the Complaint are true to the best of my knowledge and belief.

I certify that the foregoing statements are true. I am aware that if any statement made herein is willfully false, I am subject to punishment.



RAYMOND K. CONOVER
CHIEF INSURANCE EXAMINER

Dated: April 24, 2012