

STATE OF INDIANA )  
 ) SS:  
COUNTY OF MARION )

IN THE MARION CIRCUIT COURT  
CAUSE NO. 49C01-1809-MI-039316

STEPHEN W. ROBERTSON, as the Insurance Commissioner of the Department of Insurance of the State of Indiana,

**Petitioner,**

V.

## GENEVA INSURANCE COMPANY

### Respondent.

FILED

July 8, 2019

Myra A. Eldridge

CLERK OF THE COURT

NTY

## **FINAL ORDER OF LIQUIDATION**

On the 2<sup>nd</sup> day of July 2019, Stephen W. Robertson, as the Commissioner of the Department of Insurance of the State of Indiana (“Commissioner”), filed a Verified Petition for Liquidation by Consent (“Verified Petition”) against Geneva Insurance Company (“Geneva” or the “Company”), pursuant to Ind. Code § 27-9-3-6. Having considered the Verified Petition, the exhibits attached thereto, and the Consent of the Company to Liquidation, and being duly advised, the Court now Finds and Concludes that:

1. Geneva is an Indiana domiciled non-standard auto insurance company. Geneva issued policies to drivers whose risk factors make it difficult or impossible to obtain auto insurance at standard or preferred rates. Geneva is licensed to do business as an insurer in Indiana, Oklahoma, and Arizona. The Commissioner ordered Geneva, on September 10, 2018, to stop writing business in all states.

2. This Court appointed the Commissioner as Rehabilitator of Geneva, by the Order of Rehabilitation, on October 3, 2018, pursuant to Ind. Code § 27-9-3-2. The Rehabilitator appointed Michael P. Kilkenny, in his capacity as Chief Executive Officer of Ingardus, LLC, as

Special Deputy Rehabilitator of Geneva (the “Special Deputy”). The Rehabilitator filed notice of the appointment with the Court on October 18, 2018.

3. The Rehabilitator has taken actions to reduce the policy count, payroll, and disbursements of Geneva, as set out in the First Accounting and Report of Rehabilitation. However, the Rehabilitator has been unable to reduce all expenses that continue to burden the financial condition of Geneva.

4. The Rehabilitator has determined that Geneva remains in such condition that the further transaction of business would be hazardous, financially, to its policyholders, creditors, or the public.

5. Geneva, as set out in the Verified Petition for Rehabilitation by Consent, required an immediate minimum capital infusion of not less than one million nine hundred sixty-three thousand seven hundred twenty-four dollars (\$1,963,724), to bring the Company back into compliance with statutory financial requirements for operation of an insurance company. Geneva would have needed an injection of further capital, in order to maintain day-to-day operations going forward. The shareholders of Geneva were unable or unwilling to contribute any additional capital to Geneva.

6. Geneva’s Financial Statement as of March 31, 2019 also shows Geneva’s capital stock and surplus is five hundred eighty nine thousand one hundred ninety three dollars (\$589,193), which is inadequate, and in violation of Ind. Code § 27-1-6-14 (c) and (e).

7. It is therefore necessary and appropriate that an Order of Liquidation be entered against Geneva, pursuant to the authority granted by Ind. Code § 27-9-3-6. The Commissioner has given Geneva notice of this liquidation proceeding to Geneva’s Secretary Treasurer, Elizabeth Star. Ms. Star has reviewed this Verified Petition and the proposed Order of

Liquidation. Ms. Star has consented to the entry of an Order of Liquidation, and waived a hearing on this Verified Petition.

8. Given the consent of the Company to the Verified Petition and Order of Liquidation, and its waiver of a hearing, a hearing on this Verified Petition is not necessary, since there would be no opposition by the Company or its prior management to the relief sought in the Verified Petition.

9. It is essential to protect Geneva's policyholder claimants by further reducing expenses, and by protecting Geneva from direct actions in other courts against the Company. Any such actions should be addressed within the claims procedures of the liquidation proceeding, in this Court. Entry of a liquidation order will halt litigation under Ind. Code § 27-9-3-12, and bring adjudication of all existing claims within this receivership proceeding.

10. Under Ind. Code § 27-9-3-8, all policies of an insurer, other than life, health or annuity policies, terminate thirty (30) days after entry of an order of liquidation, in the absence of transfer of the policy obligations pursuant to reinsurance.

11. Geneva has no current policies in force. Therefore, no insurance policies will cancel by operation of statute as a result of a liquidation order.

12. Geneva should be liquidated for the protection of its policyholder claimants.

13. The Verified Petition should be granted, and all Exhibits thereto approved.

NOW THEREFORE, Having made said Findings and Conclusions, the Court now grants the Verified Petition, and approves said Exhibits. It is hereby ORDERED, ADJUDGED and DECREED that:

14. The Commissioner and his successors in office are appointed as Liquidator of Geneva, pursuant to Ind. Code 27-9-3 ("Liquidator").

15. The Liquidator is hereby bestowed with all authority and powers of a Liquidator, including but not limited to authority to:

- (a) Appoint a special deputy to act for the Liquidator, and determine a reasonable compensation for that special deputy.
- (b) Employ employees and insurance producers, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as the Liquidator considers necessary to assist in the liquidation.
- (c) Fix the reasonable compensation of employees and insurance producers, legal counsel, actuaries, accountants, appraisers, and consultants.
- (d) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of Geneva.
- (e) Enter into, affirm, or disavow contracts on behalf of Geneva.

16. The Liquidator shall as soon as possible take possession of the assets of Geneva and administer them under the general supervision of this Court.

17. The Liquidator is vested with title to all of the property, contracts, and rights of action and all of the books and records of Geneva, wherever located.

18. No action at law or equity may be brought against Geneva or the Liquidator, whether in Indiana or elsewhere, nor shall any existing actions be maintained or further presented. All existing actions against Geneva shall be stayed permanently, and may be pursued only as claims in the liquidation proceeding in this Court. The rights and liabilities of Geneva's creditors, policyholders, shareholders, and all other persons interested in its estate are fixed as of the date of entry of this Order.

19. The Liquidator shall file accountings with this Court at six (6) month intervals.
20. The Liquidator shall send notice of this Order within sixty (60) days of its entry in the following manner:
  - (a) As to policyholders and other claimants or potential claimants, known or reasonably expected to have claims against the insurer, by first class mail, substantially in the form of Exhibits B and C, as set out below.
  - (b) To the state insurance commissioners of Oklahoma and Arizona.
  - (c) To the state guaranty associations applicable to Geneva.
  - (d) As to insurance producers of Geneva, by first class mail, substantially in the form of Exhibit D, as set out below.
  - (e) First-class mail to the secretary of state's office; and
  - (f) Publication in a newspaper of general circulation in the county in which Geneva has its principal place of business and in all other locations the liquidator considers appropriate, substantially in the form of Exhibit E.
21. Notice of the liquidation order shall be given only to policyholders whose policies were in force within one hundred twenty (120) days of the date when notice is sent. Geneva shall maintain its post office box that receives all claims notices.
22. Notice of the liquidation order shall be given only to insurance producers with policyholder clients whose policies were in force within one hundred twenty (120) days of the date when notice is sent.
23. The forms of notice attached to the Verified Petition as Exhibits B, Exhibit C, Exhibit D, and Exhibit E, are approved.

24. The Liquidator shall employ a Proof of Claim in substantially the form of Exhibit F to the Verified Petition. The Liquidator shall include said form in the applicable mailings to be sent in accordance with paragraph 20 above. The Liquidator shall provide a copy of the Proof of Claim to anyone who submits a written request therefor.

25. The date after which the filing of claims in the liquidation are barred shall be June 30, 2021. ("Bar Date").

26. Any person or entity wishing to make a claim of any sort against Geneva shall mail a completed Proof of Claim form as directed in the Proof of Claim, by first-class United States mail, post-marked not later than the Bar Date.

The Court expressly determines that there is no just reason for delay and expressly directs entry of this order as a final judgment.

Dated: July 8, 2019

*Sherry Lynch*

JUDGE, Marion Circuit Court

Copies to:

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Elizabeth Star, Secretary Treasurer  
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