

Petitioner Adrienne A. Harris, Superintendent of Financial Services of the State of New York ("Superintendent"), having moved before this Court for an order placing American Independent Network Insurance Company of New York ("AINIC") into liquidation, and upon reading and filing the Order to Show Cause dated September 3, 2023, the Verified Petition of the Superintendent, duly verified on February 16, 2023 ("Petition"), the exhibits attached to the Petition, including the supporting affidavit of David E. Wilson, Special Deputy Receiver ("Special Deputy"), and this Court having fully considered the requested relief, the Court finds that:

- a) AINIC was incorporated in the State of New York on April 9, 1997.
- b) AINIC obtained a license to conduct insurance business in the State of New York as an Article 42 accident and health insurance company and commenced business on May 12, 1998.
- c) AINIC is licensed to transact the business of insurance in accordance with New York Insurance Law ("Insurance Law") § 1113(a).
- d) AINIC's principal line of business is long-term care insurance. AINIC is not licensed to conduct the business of insurance in any other state.
- e) AINIC is subject to the Insurance Law, including Article 74 thereof.
- f) By Order dated March 30, 2023 and filed April 5, 2023, this Court ordered AINIC into rehabilitation, appointed the Superintendent and her successors and assigns as rehabilitator of AINIC ("Rehabilitator"), and named David E. Wilson as the Special Deputy of AINIC and agent of the Rehabilitator ("Rehabilitation Order").
- g) AINIC has consented to the entry of an order of liquidation pursuant to Article 74 of the Insurance Law.
- h) AINIC is insolvent within the meaning of Insurance Law § 1309.
- i) It is in the best interest of AINIC's policyholders, creditors, and the general public that the Superintendent be directed to take possession of AINIC's property and to liquidate its business and affairs.
- j) Judicial immunity applies to the Superintendent, the Special Deputy, and their respective employees, attorneys, representatives, and agents for any action taken by them when acting in good faith, in accordance with the orders of this Court, and/or, in the case of the Superintendent and the Special Deputy, in the performance of their duties pursuant to Article 74 of the Insurance Law.

NOW, on motion of Cynthia J. Borrelli, Esq., attorney for the Superintendent and Special Deputy, it is ORDERED as follows:

- 1) The relief requested in the Petition is **GRANTED**.
- 2) The rehabilitation Order of March 30, 2023 is hereby **TERMINATED**.
- 3) The Superintendent and her successors in office are appointed liquidator ("Liquidator") of AINIC.
- 4) David E. Wilson, of D.E. Wilson & Associates, is appointed as Special Deputy of AINIC and agent of the Liquidator, empowered to carry out all duties and exercise the authority of the Liquidator granted herein and in the Insurance Law. The Superintendent may subsequently identify, anyone, including the New York Liquidation Bureau ("NYLB"), to be Special Deputy of AINIC and agent of the Liquidator.
- 5) The Liquidator is authorized and directed to take possession and/or control of AINIC's property and assets and to liquidate AINIC's business and affairs in accordance with Article 74 of the Insurance Law, including, but not limited to the settlement of any and all claims.
- 6) The Liquidator is vested with all powers and authority expressed or implied under Article 74 of the Insurance Law, in addition to the powers and authority set forth in this Liquidation Order ("Liquidation Order") and with title to and all rights in AINIC's property, real estate, contracts and agreements however described, rights of action, and all of its books and records, wherever located, as of the date of entry of this Liquidation Order.
- 7) The Liquidator may address the property and business of AINIC in AINIC's name or in the name of the Liquidator, including without limitation, to continue, commence, advance, defend, or prosecute any action, claim, lawsuit, arbitration, alternative dispute resolution proceeding, or other formal legal or administrative proceeding (each, a "Proceeding") in any municipal, state, federal, or foreign court, administrative body, or other tribunal.
- 8) The Liquidator is authorized to, in her discretion, enter into any contracts, leases, or other agreements necessary to effectuate the business of AINIC, and to reject any contracts, leases, or other agreements to which AINIC is already a party, in which case all liability under such contracts or agreements shall cease and be fixed as of the date of rejection.
- 9) The Liquidator is authorized to pay the actual and necessary expenses incurred by the Liquidator in the administration of this liquidation proceeding ("Liquidation Proceeding") as Class One Claims within the meaning of the Insurance Law without further order of the Court or need to file the same (collectively, "Administrative Expenses").
- 10) All persons and entities, other than the Liquidator, are permanently enjoined and restrained, except as authorized by the Liquidator or her designee in writing, from: (i) transacting AINIC's business; (ii) disposing of AINIC's property; (iii) interfering with the Liquidator's possession, control, or management of AINIC's property or the discharge of the Liquidator's duties with regard to AINIC or the Liquidation Proceeding; and (iv) disclosing the name, address, or contact information of any person who is or was covered by an insurance policy issued by AINIC ("Insured"), or any information that is proprietary to AINIC or not in the public domain.
- 11) All persons and entities are permanently enjoined and restrained from wasting or permitting to be done any act or thing that might waste AINIC's property.
- 12) The Liquidator or the Special Deputy may make early access distributions, as available, to the Life and Health Insurance Company Guaranty Corporation of New York ("Guaranty Corporation"), of those assets of AINIC attributable to policies giving rise to covered obligations of the Guaranty Association pursuant to Insurance Law § 7701 et seq. ("Early Access Distributions"). The Liquidator is authorized to enter into an Early Access Agreement with the Guaranty Corporation substantially in the form attached hereto as Exhibit 1.
- 13) Except for any investigation or enforcement action by any municipal, state, or federal agency, all persons and entities are enjoined and restrained from (a) commencing, continuing, advancing, or otherwise prosecuting any Proceeding, or (b) proceeding with any discovery or other litigation tasks or procedures, including serving any subpoenas or other third-party discovery requests in any pending or future action, against (i) AINIC; or (ii) the New York State Department of Financial Services ("DFS"), the Superintendent, the Special Deputy, the NYLB, or any of their respective officers, employees, attorneys, representatives, or agents, or any directors, officers, employees, attorneys, representatives, or agents of AINIC, arising out of or related to AINIC or the commencement or continuation of the Liquidation Proceeding.
- 14) All persons and entities are enjoined and restrained from asserting or obtaining any preferences, judgments, attachments, or other liens, or taking any steps to transfer, foreclose, sell, assign, garnish, levy, encumber, attach, dispose of, exercise or enforce purported rights, in or against AINIC, with respect to any claimed interest in any property or assets of AINIC or any part thereof.
- 15) Any party that has a contract with AINIC (or any third-party beneficiary of such a contract) is prohibited from modifying or terminating such contract or the rights or obligations of AINIC thereunder, including by declaring an event of default under the existing contract, on account of the insolvency of AINIC, the commencement or continuation of this Liquidation Proceeding, any non-payment by AINIC, the financial condition of AINIC prior to this Liquidation Proceeding, or any action by the Superintendent with respect to AINIC.
- 16) AINIC and all persons and entities having any property, papers (including attorney work product and documents held by attorneys) and/or information, including but not limited to business records, insurance policies, underwriting data, reinsurance policies, claims files (electronic or paper), software programs, bank records, and/or any tangible or intangible items of value belonging to or relating to AINIC shall preserve such property and/or information and immediately, upon the Liquidator's request and at her direction, assign, transfer, turn over and deliver such information to the Liquidator.
- 17) Any person or entity providing claims processing services, data processing services, electronic records retention services, or other information technology services to or on behalf of AINIC shall continue providing such services to AINIC and shall maintain and preserve all information in their or its possession relating in any way to AINIC and its rights and obligations, wherever located, including but not limited to all documents, data, electronic files and records, computer equipment (e.g., servers and printers), software programs, and software licenses owned or leased by AINIC.
- 18) Any bank, savings and loan association, other financial institution, or any other entity or person, that has on deposit or in their or its possession, custody, or control any of AINIC's funds, accounts (including escrow accounts) or assets shall immediately, upon the Liquidator's request and at her direction: (a) turn over custody and control of such funds, accounts or assets to the Liquidator; (b) transfer title of such funds, accounts, or assets to the Liquidator; (c) change the name of such accounts to the name of the Liquidator; (d) transfer funds from such bank, savings and loan association, or other financial institution; and/or (e) take any other action reasonably necessary for the proper conduct of the Liquidation Proceeding.
- 19) Judicial immunity applies to the Liquidator, the Special Deputy, and their representative employees, attorneys, representatives, and agents for any action taken by them when acting in good faith, in accordance with the orders of this Court, and/or, in the case of the Liquidator and the Special Deputy, in the performance of their duties pursuant to Article 74 of the Insurance Law, and all persons and entities are enjoined and restrained from seeking to impose liability relating to or arising out of the conduct of the business or affairs of AINIC or the Liquidation Proceeding. This immunity is in addition to and without prejudice to any other immunities that may be provided by law, including the immunities of directors, officers, agents, and representatives of the Guaranty Corporation under Ins. Law § 7716.
- 20) All claims for payment under insurance policies issued by AINIC (collectively, "Policy Claims") shall be deemed filed. Policy Claims previously submitted need not be resubmitted.
- 21) All claims lower than class two pursuant to Ins. Law § 7434 shall be fixed as of the date of the entry of this Liquidation Order.
- 22) Any person seeking modification of, or relief from, the injunctive relief set forth in this Liquidation Order ("Objecting Party") shall submit a written request to the Liquidator setting forth good cause for such modification or relief. If the Objecting Party and the Liquidator reach an agreement regarding such modification or relief, the Liquidator shall submit a request to this Court seeking approval of such agreement. If the Objecting Party and the Liquidator fail to reach an agreement within 30 days of the Liquidator's receipt of such request, or such longer time as both the Liquidator and the Objecting Party agree, the Objecting Party may seek relief from this Court.
- 23) The Liquidator may at any time make further application to this Court for such further and different relief as she deems necessary and appropriate.
- 24) A copy of this Liquidation Order shall be served forthwith by overnight delivery upon: (a) American Independent Network Insurance Company of New York, 1370 Avenue of the Americas, 29th Floor, New York, New York 10019; (b) D.E. Wilson & Associates, LLC, 2266 S. Norse Street, Lakewood, CO 80228; (c) Penn Treaty, 3440 Lehigh Street, Allentown, PA 18103; (d) Davies Group, 1500 Main Street, Suite 1400, Springfield, MA 01115; (e) United Health Actuarial Services, Inc., 11611 N. Meridian Street, Suite 330, Carmel, IN 46032; and (f) any person or entity who or that timely filed and served papers in opposition to the relief sought.
- 25) The Liquidator shall provide notice of the this Liquidation Order to all Insureds and other known creditors by (i) publishing such notice in any of the New York Post, the Buffalo News, the Democrat & Chronicle, and/or the Albany Times Union, in the Liquidator's discretion; (ii) posting such notice on the internet website maintained for the Liquidation Proceeding (<https://www.penn treaty.com/ainic/home.aspx>) within 30 days after the entry of this Liquidation Order; and (iii) mailing a copy of this Liquidation Order to all insureds at their last known address available in the books and records of AINIC along with a notice, a proposed example of which is attached hereto as Exhibit 2.
- 26) The notice in the proceeding two paragraphs shall constitute sufficient and proper notice to all persons interested in AINIC. No address or mailing required in the above-referenced paragraphs need be verified by AINIC, the Liquidator, the Special Deputy or their assigns.
- 27) This Court shall have exclusive jurisdiction to interpret, implement, and enforce the provisions of this Liquidation Order and to hear any and all matters relating to the Liquidation Proceeding.
- 28) All further papers with respect to AINIC in this proceeding shall bear the caption:

WHEREFORE, the foregoing is ordered this 26th day of September, 2023 by the undersigned.

/s/ HON. ERIKA M. EDWARDS, J.S.C.
Dated 9/26/23

The following e-filed documents, listed by NYSCEF document number (Motion 002) 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 were read on this motion to/for MISC. SPECIAL PROCEEDINGS. Upon the foregoing documents, it is hereby ORDERED that as set forth in the attached Order of Liquidation, the court grants the motion by order to show cause filed under motion sequence 002 by Cynthia J. Borrelli, Esq., attorney for Adrienne A. Harris, Superintendent of Financial Services of the State of New York, and her Special Deputy Receiver; and it is further ORDERED that the court grants the request to amend the caption and directs the Clerk of the Court to amend the caption in this matter to the following: In the Matter of The Liquidation of AMERICAN INDEPENDENT NETWORK INSURANCE COMPANY OF NEW YORK. and it is further ORDERED that counsel for the movant shall serve a copy of this order with notice of entry upon the Clerk of the General Clerk's Office (60 Centre Street, Room 119) within twenty (20) days of the date of this order, who is directed to mark the court's records to reflect the amended caption; and it is further

ORDERED that such service upon the Clerk of the General Clerk's Office shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically filed Cases (accessible at the "E-Filing" page on the court's website at the address (www.nycourts.gov/suptcmah)); and it is further

ORDERED that the court directs the parties to appear for a status conference before the court on January 25, 2024, at 10:00 a.m., in Part 10, located at 60 Centre Street, New York, New York.

This constitutes the decision and order of the court.

/s/ HON. ERIKA M. EDWARDS, J.S.C.
Dated 9/26/23

