

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* )  
NATHANIEL S. SHAPO, DIRECTOR OF )  
INSURANCE OF THE STATE OF ILLINOIS, )

Plaintiffs, )

v. )

No. 99 CH 06024

BACK OF THE YARDS NEIGHBORHOOD )  
COUNCIL RISK MANAGEMENT ASSOCIATION, )  
INC., a/k/a BACK OF THE YARDS RISK )  
MANAGEMENT ASSOCIATION )

Defendant. )

**AGREED ORDER OF LIQUIDATION  
WITH FINDING OF INSOLVENCY**

THIS CAUSE COMING TO BE HEARD upon the Verified Complaint for Liquidation with a Finding of Insolvency, filed herein by, THE PEOPLE OF THE STATE OF ILLINOIS, upon the relation of NATHANIEL S. SHAPO, Director of Insurance of the State of Illinois, (the "Director") by and through their attorney, JAMES E. RYAN, Attorney General of the State of Illinois, against the Defendant, BACK OF THE YARDS NEIGHBORHOOD COUNCIL RISK MANAGEMENT ASSOCIATION, INC., a/k/a BACK OF THE YARDS RISK MANAGEMENT ASSOCIATION, ("BYRMA" or the "Company"), pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187, *et seq.*; the Court having jurisdiction

over the parties hereto and the subject matter hereof; the Court having reviewed the pleadings filed herein and having considered the evidence and arguments of counsel thereon, and the Court then being otherwise advised in the premises, and for good cause appearing therefore;

**THE COURT FINDS THAT:**

A. Sufficient cause exists for the entry of an order of liquidation of the Defendant, BYRMA, including the fact that BYRMA is currently insolvent; and

B. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of the order prayed for herein creates an estate comprising of all of the liabilities and assets of BYRMA; and

**IT IS ORDERED THAT:**

A. An Order of Liquidation be entered as to and against BYRMA, and the pending rehabilitation of BYRMA is hereby terminated; and

B. There being no just reason for delaying enforcement or appeal of this Order, this Order of Liquidation With a Finding of Insolvency is a final order within the meaning of Illinois Supreme Court Rule 307(a)(5); and

C. Pursuant to Section 194 of the Code, 215 ILCS 5/194, the rights and liabilities of BYRMA, and of its policyholders, members, creditors and all other persons interested in BYRMA's assets, except for those persons entitled to file contingent claims or to have their claims estimated, are fixed as of the date of the entry of the order of liquidation prayed for herein. The

rights of persons entitled to file contingent claims or to have their claims estimated shall be determined as provided in Sections 209(4)(b), (6) and (7) of the Code, 215 ILCS 5/209(4)(b), (6) and (7); and

D. Pursuant to Section 209 (5) of the Code, 215 ILCS 5/209(5), BYRMA's obligation, if any, to defend or continue the defense of any claim or suit under a pooling agreement or other insurance policy is terminated upon entry of the Order of Liquidation.

E. Nathaniel S. Shapo, Director of Insurance of the State of Illinois, and his successors in office, is affirmed as the statutory Liquidator (the "Liquidator") of BYRMA, with all of the powers appurtenant thereto, including but not limited to:

- (i) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is vested by operation of law with the title to all property, contracts, and rights of action of BYRMA; and
- (ii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is entitled to immediate possession and control of all property, contracts, and rights of action of BYRMA; and
- (iii) Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is authorized to remove any and all records and property of BYRMA to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of BYRMA's liquidation; and
- (iv) Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Liquidator is authorized to deal with the property, business and affairs of BYRMA in his name, as Director, and that the Liquidator is authorized to deal with the property, business and affairs of BYRMA in the name of BYRMA; and
- (v) Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Liquidator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of BYRMA, or any part thereof, and to sell or compromise all debts or claims owing to BYRMA having a value in the amount of Twenty-Five Thousand (\$25,000.00) Dollars, or

less. Any such sale by the Liquidator of the real or personal property of BYRMA having a value in excess of Twenty-Five Thousand (\$25,000.00) Dollars, and sale or compromise of debts owing to BYRMA by the Liquidator where the debt owing BYRMA exceeds Twenty-Five Thousand (\$25,000.00) Dollars shall be made subject to the approval of the Court; and

- (vi) Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Liquidator is authorized to bring any action, claim, suit or proceeding against any director or officer of BYRMA or against any other person with respect to that person's dealings with the company including, but not limited to, prosecuting any action, claim, suit, or proceeding on behalf of the creditors or policyholders of BYRMA; and
- (vii) Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Liquidator may, within two (2) years after the entry of the liquidation order prayed for herein or within such further time as applicable law permits, institute an action, claim, suit, or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the complaint upon which said order was entered; and
- (viii) Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Liquidator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of this Court, from the assets of BYRMA all administrative expenses incurred during the course of the liquidation of BYRMA; and
- (ix) Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Liquidator shall not be required to pay any fee to any public officer for filing, recording or in any manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Illinois Insurance Code, 215 ILCS 5/187 *et seq.*, nor for services rendered by any public officer for serving any process; and
- (x) Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of BYRMA's property and to recover such property or its value, if it has been converted; and

F. Subject to the further orders of the Court, the Liquidator is authorized to take such actions as the nature of the cause and the interests of BYRMA, its policyholders, members, creditors, or the public may require including, but not limited to, the following:

- (i) The Liquidator shall proceed to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of BYRMA, and of the premises occupied by BYRMA for the transaction of its business, and shall take such action as the nature of this cause and the interests of BYRMA's policyholders, members, creditors or the public may require, subject to further orders of this Court, pursuant to the provisions of Article XIII of the Code, *supra*, and the Liquidator is further directed and authorized to liquidate, wind down, or terminate BYRMA's business and affairs, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the liquidation of BYRMA; and
- (ii) The Liquidator may both sue and defend on behalf of BYRMA, or for the benefit of BYRMA's policyholders, members and creditors, in the courts either in his name as the Liquidator of BYRMA, or in the name of BYRMA; and

G. The Liquidator is vested with the right, title and interest in all funds recoverable under treaties and agreements of excess insurance or reinsurance heretofore entered into by or on behalf of BYRMA, and that all excess insurance or reinsurance companies involved with BYRMA be restrained and enjoined from making any settlements with any claimant or policyholder of BYRMA, or any other person, other than the Liquidator, except with the written consent of the Liquidator; and

H. The caption in this cause and all pleadings filed in this matter shall read:

**“IN THE MATTER OF THE LIQUIDATION OF  
BACK OF THE YARDS NEIGHBORHOOD COUNCIL  
RISK MANAGEMENT ASSOCIATION, INC.”**

I. All costs of these proceedings shall be taxed and assessed against the Defendant, BYRMA; and

J. Pursuant to its authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

- (i) To enable the Liquidator to fulfill his statutory obligation to marshal the assets of the estate, including the investigation of potential claims of improper conduct against any person with respect to their dealings with the company as provided under Section 193(3) of the Code, 215 ILCS 5/193(3), all accountants, auditors and attorneys of the BYRMA are ordered to deliver to the Liquidator, at his request, copies of all documents in their possession or under their control concerning or related to BYRMA, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships between them and BYRMA, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of BYRMA, or its respective agents, servants, officers, directors and/or employees, or which BYRMA may be, or is, entitled to as the result of its relationship with such accountants, auditors and attorneys; and
- (ii) BYRMA and its respective trustees, officers, agents, third party administrators, servants, representatives, employees, and affiliated companies, and all other persons and entities, shall give immediate possession and control to the Liquidator of all property, business, books, records and accounts of BYRMA, and all premises occupied by BYRMA for the transaction of its business; and
- (iii) BYRMA and its respective trustees, officers, agents, servants, representatives and employees, and all other persons and entities having knowledge of this Order are restrained from transacting any business of BYRMA, or disposing of any company property or assets, without the express written consent of the Liquidator, or doing or permitting to be done any action which might waste the property or assets of BYRMA, until the further order of this Court; and
- (iv) The officers, trustees, agents, third party administrator, servants, representatives and employees of BYRMA, and all other persons and entities having knowledge of this Order are restrained from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against BYRMA, or its

property or assets, or the Director or Liquidator, except insofar as those claims, actions or proceedings arise in or are brought in the liquidation proceedings prayed for herein; or from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against BYRMA, or its property or assets while in the possession and control of the Liquidator, or from interfering in any way with the Liquidator in his possession or control of the property, business, books, records, accounts, premises and all other assets of BYRMA, until the further order of this Court; and

- (v) Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order having in their possession accounts and any other assets which are, or may be, the property of BYRMA, are restrained from disbursing or disposing of said accounts and assets and are further restrained from disposing of or destroying any records pertaining to any business transaction between BYRMA, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with BYRMA, or having in their possession assets which are, or may be, the property of BYRMA, and further, that each such person or entity is ordered to immediately deliver any and all such assets and/or records to the Liquidator; and
- (vi) All agents and brokers of BYRMA, and their respective agents, servants, representatives and employees, and all other persons, are restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums upon policies, contracts or certificates of insurance or reinsurance previously issued by BYRMA, to policyholders or others, and all said agents and brokers, and BYRMA's agents, representatives, employees and servants are directed to turn over all such funds in their possession or under their control, or to which they may hereafter acquire possession or control, to the Liquidator in gross and not net of any commissions which may be due thereon; and
- (vii) All policyholders under policies of insurance issued by BYRMA, persons asserting claims against such policyholders, and creditors of BYRMA, and all other persons, companies and entities are restrained from instituting or pursuing any action or proceeding in any court or before any administrative agency, including boards and commissions administering worker's compensation or occupational diseases or similar laws of the State of Illinois, or any other state, or of the United States, which seek in any way, directly or indirectly, to contest or interfere with the Liquidator's exclusive

right, title and interest to funds recoverable under treaties and agreements of reinsurance or excess insurance heretofore entered into by or on behalf of BYRMA; and

- (viii) All insurance and reinsurance companies and entities that assumed liabilities from BYRMA arising under either contracts, policies of insurance, certificates of insurance, or contracts of reinsurance issued by BYRMA, are restrained from making any settlements with any claimant or policyholder of BYRMA, or any other person other than the Liquidator, except with the written consent of the Liquidator, except when the reinsurance agreement, certificate, contract or treaty lawfully provides for payment to or on the behalf of BYRMA's insured by the reinsurer.

ENTERED:

**ENTERED**

JAN 22 2001

JUDGE

THOMAS P. DURKIN # 474

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