

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

**IN THE MATTER OF THE LIQUIDATION)
OF DELTA CASUALTY COMPANY) NO. 01 CH 20445**

**ORDER FIXING RIGHTS AND LIABILITIES AND
PROVIDING FOR THE FILING OF CLAIMS
AND THE SETTING OF CLAIM FILING DEADLINES**

THIS CAUSE COMING ON TO BE HEARD upon the petition of Nathaniel S. Shapo, Director of Insurance of the State of Illinois, in his capacity as statutory and court affirmed Liquidator of Delta Casualty Company (the "Liquidator"), for the entry of an Order fixing the rights and liabilities and providing for the filing of claims and setting the claim filing deadlines; the Court having jurisdiction over the parties and the subject matter; the Court having reviewed the petition filed herein and having heard counsel thereon, and the Court then being otherwise fully advised in the premises;

THE COURT FINDS:

1. That on December 4, 2001, this Court entered an Agreed Order of Liquidation With a Finding of Insolvency (the "Agreed Order of Liquidation") against Delta Casualty Company ("DELTA") pursuant to Section 188 of the Illinois Insurance Code (the "Code"), 215 ILCS 5/188. The Agreed Order of Liquidation affirmed the Director of Insurance, and his successors in office, as Liquidator of DELTA and authorized him to take such action as the nature of the cause and the interests of DELTA, its policyholders, creditors, stockholders, and the public, may require.

2. That, pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), the obligation of DELTA, if any, to defend or continue the defense of any claim or suit under a liability insurance policy was terminated upon the entry of the Agreed Order of Liquidation.

3. That the Liquidator has determined that a number of persons, companies and entities have, claim to have, or may have, claims against DELTA, its insureds or policyholders, or its property or assets.

4. That the Liquidator has determined that, in order to effectively and properly administer the affairs and assets of DELTA and to protect the interests of its policyholders, creditors and stockholders, and the public, it is necessary that an order be entered pursuant to Sections 194, 208 and 209 of the Code, 215 ILCS 5/194, 5/208 and 5/209, fixing the rights and liabilities of DELTA and of its policyholders, creditors and stockholders, and all other persons interested in its property or assets; establishing a procedure for the filing of proofs of claim against the assets of DELTA in order that such claims, if meritorious, may share in any distribution of estate assets; setting a deadline for the filing of any such proofs of claim; and fixing the last date by which evidence supporting the liquidation of timely filed contingent claims may be received by the Liquidator.

IT IS HEREBY ORDERED THAT:

A. The rights and liabilities of DELTA and its policyholders, creditors and stockholders, and all other persons interested in DELTA's property or assets were fixed, pursuant to the terms of the Agreed Order of Liquidation and Section 194 of the Code, 215 ILCS 5/194, as of December 4, 2001; except to the extent that direct policies and/or certificates of insurance were terminated pursuant to Paragraph (J) of the Agreed Order of Liquidation; or to the extent that persons are entitled to file contingent claims as hereinafter set forth, or unless otherwise provided by subsequent order of the Court.

B. Pursuant to Section 208 of the Code, 215 ILCS 5/208, the Liquidator shall notify all persons, companies and entities, as hereinafter set forth in Paragraphs (C) and (D), which DELTA's books and records reveal have, or may have, claims against DELTA, its property or assets, or against a DELTA insured or policyholder, that all such claims must be presented to and filed with the Liquidator, or a duly authorized Ancillary Receiver of DELTA, if any, in the form of a proper proof of claim as hereinafter set forth, on or before December 4, 2002 at 4:30 p.m. (C.D.T.). Said notice by the Liquidator shall specify December 4, 2002 at 4:30 p.m. (C.D.T.) to be the last day by which any such proof of claim may be received by the Liquidator, or a duly authorized Ancillary Receiver of DELTA, if any, for the purposes of participating in any distribution of the assets that may be made on timely filed claims which are allowed in these proceedings. Said notice shall further specify that for purposes of these claim filing procedures, a claim shall be deemed filed upon the Liquidator's receipt.

C. A notice of the claim filing procedures and claim filing deadlines shall be served upon those persons, companies and entities which DELTA's books and records reveal have, or may have, claims against DELTA, its property or assets, or against a DELTA insured or policyholder, by the Liquidator depositing a copy of said notice, together with a proof of claim form, in the United States mail, enclosed in an envelope, with first class postage prepaid, addressed to each such person, company or entity at his, her or its last known address as disclosed by DELTA's books and records.

D. Pursuant to Section 208(1) of the Code, 215 ILCS 5/208(1), the Liquidator shall also provide notice by publication to all persons, companies or entities who have, or may have, claims against DELTA, its property or assets, or against its insureds or policyholders, by causing a notice to be published at least once each week for three consecutive weeks in a newspaper of general circulation published in the County of Cook, State of Illinois, and in such other newspaper(s) and/or publication(s) as he may deem advisable. That the notice so published shall: (a) advise all such persons, companies and entities of their right to present their claim or claims against DELTA, its property or assets, or against a DELTA insured or policyholder, to the Liquidator; (b) advise all such persons, companies and entities of the procedure by which they may present their claims to the Liquidator; (c) advise all such persons, companies and entities of the location of the Liquidator's office where they may present their claims; and (d) specify the last day by which proofs of claims may be received by the Liquidator for purposes of participating in any distribution of assets that may be made on timely filed

claims allowed in these proceedings. Said notice shall further specify that for purposes of these claim filing procedures, a claim shall be deemed filed upon the Liquidator's receipt.

E. All persons, companies or entities having, or claiming to have, any accounts, debts, claims or demands against DELTA, its property or assets, or against a DELTA insured or policyholder, shall present their claims to the Liquidator at his office, as designated in the above described notice, on or before the claim filing deadline set forth in Paragraph (B) above, by way of a properly completed proof of claim. That, pursuant to Section 209(1) of the Code, 215 ILCS 5/209(1) a proper proof of claim must consist of a written statement, signed by the claimant, under oath, setting forth a specific claim, the consideration therefore, and whether any, and if so what, payments have been made thereon, and that the sum so claimed is justly owing from DELTA to the claimant; and, furthermore, that whenever a claim is founded upon an instrument in writing, such instrument, unless lost or destroyed, shall be filed with the proof of claim and, if such instrument is lost or destroyed, a statement of such fact and the circumstances of such loss or destruction shall be filed under oath with the claim.

F. Pursuant to Section 209(4) of the Code, 215 ILCS 5/209(4), any insured under an insurance policy issued by DELTA shall have the right to present the Liquidator with a proof of claim setting forth a contingent claim, subject to the claim filing deadline set forth in Paragraph (B) above. The final date by which evidence supporting the liquidation of any such contingent claim may be received by the Liquidator shall be December 4, 2003 at 4:30 p.m. (C.D.T.); and no such contingent claim shall be allowed

for purposes of participating in any distribution of estate assets that may be made at the fourth priority level, 215 ILCS 5/205(1)(d), unless such claim has been liquidated and the insured claimant has presented evidence of payment of such claim to the Liquidator on or before December 4, 2003 at 4:30 p.m. (C.D.T.). Further, any contingent claim for which a proof of claim was received by the claim filing deadline set forth in Paragraph (B) above, but which is not liquidated by December 4, 2003, may be estimated pursuant to Section 209(4)(b) of the Code, 215 ILCS 5/209(4)(b), for the purposes of participating in any distribution of estate assets that may be made at the fifth priority level, 215 ILCS 5/205(1)(e), unless the Court has issued an order pursuant to 215 ILCS 5/209(12) relieving the Liquidator of his responsibility to review the unliquidated contingent claims based upon the Liquidator's report to the Court that the assets of the estate will not be sufficient to pay claims at the fifth priority level, 215 ILCS 5/205(1)(e).

G. Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), which provides that the obligation of DELTA, if any, to defend or continue the defense of any claim or suit under a liability insurance policy was terminated upon the entry of the Agreed Order of Liquidation, an insured of DELTA may include in their contingent claims reasonable attorneys' fees for services rendered subsequent to the entry of the Agreed Order of Liquidation in the defense of claims or suits covered by the insured's liability insurance policy, provided that all such attorneys' fees have actually been paid by the assured and evidence of such payment has been presented in the manner required for the liquidation of an insured's contingent claim as set forth in Paragraph (F) above.

H. Pursuant to Section 209(4) of the Code, 215 ILCS 5/209(4), any person, company or entity having a cause of action against a DELTA insured under an insurance policy issued by DELTA, whose claim was a contingent claim as of the entry of the Agreed Order of Liquidation, may file its claim as set forth in Paragraph (B) above, and such claim may be allowed: (a) if it may be reasonably inferred from the proof presented upon the claim that the claimant would be able to obtain a judgment upon the cause of action against such insured; (b) if such person, company or entity has furnished suitable proof, unless the Court for good cause shown shall otherwise direct, that no further valid claims against DELTA arising out of the cause of action other than those already presented can be made; and (c) if the total liability of DELTA to all claimants arising out of the same act shall be no greater than its total liability would be were it not in liquidation.

I. Subject to the provisions for the late filing of claims contained in Sections 208(2) and 208(3) of the Code, 215 ILCS 5/208(2)-(3), and Section 545(b) of the Code, 215 ILCS 5/545(b), which exempts the Illinois Insurance Guaranty Fund and any similar organization in another state from the requirements of Sections 208 and 209 of the Code, supra, no person having or claiming to have any claim or claims against DELTA shall participate in any distribution of the assets of DELTA unless such claims are filed or presented in accordance with and within the time limits established by the order prayed for herein.

J. Pursuant to Section 209 of the Code, 215 ILCS 5/209, and subject to the further order of the Court, the Liquidator shall examine and investigate any and all properly filed proofs of claim and submit his recommendations as to the allowance or disallowance, in whole or in part, of each such claim to the Court, unless it is reported to the Court that the assets of the estate will not be sufficient to pay claims at a certain level of priority under 215 ILCS 5/205, and the Court therefore exempts the Liquidator pursuant to 215 ILCS 5/209(12) from the evaluation or adjudication of any claims at the designated level of priority. Upon the filing of such report on claims recommendations pursuant to 215 ILCS 5/209(13), and any hearing on any objections thereto, the Court shall thereupon take further action as justice may require.


K. The Liquidator shall not pay the claims of any creditors, policyholders, insureds or other claimants of DELTA required to file proofs of claim until the deadlines for the timely presentment of proofs of claim to the Liquidator and the submission of evidence for the liquidation of insureds' contingent claims have both passed, and the Liquidator has estimated all unliquidated contingent claims, or the Court has entered an order pursuant to 215 ILCS 5/209(12) as set forth in Paragraph (F) herein, and all such claims have been allowed or disallowed, in whole or in part, by order of the Court, unless payment of such claims is hereafter authorized or approved by the Court, or payment is

made to the Illinois Insurance Guaranty Fund or to any similar organization in another state pursuant to Section 205(2) of the Code, 215 ILCS 5/205(2).

ENTERED: **ENTERED**

JAN 29 2002

JUDGE



JULIA M. NOWICKI - 293
Judge Presiding

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