

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

IN THE MATTER OF THE LIQUIDATION)
OF ILLINOIS EARTH CARE WORKERS) NO. 99 CH 11920
COMPENSATION TRUST)

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

THIS CAUSE COMING 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 (the "Liquidator") of Illinois Earth Care Workers Compensation Trust ("EARTH
CARE"), pursuant to 215 ILCS 5/194 for entry of an Order fixing rights and liabilities, and for
an order providing for the filing of claims and the setting of a claim filing deadlines; due notice
having been provided, the Court having jurisdiction over the parties hereto and the subject matter
hereof, the Court having reviewed the pleadings filed herein and having heard counsel thereon,
and the Court being otherwise fully advised in the premises:

THE COURT FINDS:

1. Petitioner is the statutory and Court affirmed Liquidator of EARTH CARE,
pursuant to an Agreed Order of Liquidation with a Finding of Insolvency entered by this Court
on October 26, 2000. The Order of Liquidation affirmed the Director of Insurance, and his
successors in office, as Liquidator of EARTH CARE and authorized him to take such action as

the nature of the cause and the interests of EARTH CARE, its policyholders/members, creditors, and the public, may require.

2. That pursuant 215 ILCS 5/209(5) the obligation of EARTH CARE, 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 Order of Liquidation.

3. The Liquidator has determined that hundreds of persons, companies and entities have, claim to have, or may have, claims against EARTH CARE, its policyholders/members, or its property or assets.

4. The Liquidator has further determined that, in order to effectively and promptly administer the affairs and assets of EARTH CARE and to protect the interests of its policyholders/members, creditors, 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 EARTH CARE and of its creditors, policyholders/members, and all other persons interested in its property or assets; establishing a procedure for the filing of proofs of claim against the assets of EARTH CARE in order that such claims, if meritorious, may share in any distribution of estate assets; and 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 ORDERED:

A. That the rights and liabilities of EARTH CARE and its policyholders/members, creditors, and all other persons interested in EARTH CARE's property or assets are fixed, pursuant to the terms of the Order of Liquidation and Section 194 of the Code, 215 ILCS 5/194,

as of October 26, 2000, except to the extent that persons are entitled to file contingent claims as hereinafter set forth, or unless otherwise provided by subsequent order of this Court.

B. That the Liquidator is hereby directed to notify all persons, companies and entities, as hereinafter set forth in Paragraphs (C) and (D), which EARTH CARE's books and records reveal have, or may have, claims against EARTH CARE, its property or assets, or against an EARTH CARE policyholder, that all such claims must be presented to and filed with the Liquidator in the form of a proper proof of claim as hereinafter set forth, on or before October 26, 2001 at 4:30 p.m. C.D.T. Said notice by the Liquidator shall specify October 26, 2001 at 4:30 p.m. C.D.T. to be the last day by which any such proof of claim may actually be received by the Liquidator of EARTH CARE, for the purposes of participating in any distribution of 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 the terms "presented to and filed with the Liquidator" and "actually received by the Liquidator" mean that in order for a proof of claim to be timely filed, the Liquidator must have actual physical custody of the proof of claim form.

C. That a notice of the claim filing procedures and claim filing deadline be served upon those persons, companies and entities which EARTH CARE's books and records reveal have, or may have, claims against EARTH CARE, its property or assets, or against an EARTH CARE policyholder/member, 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 EARTH CARE's books and records.

D. That the Liquidator shall also provide notice by publication to all persons, companies or entities who have, or may have, claims against EARTH CARE, its property or assets, or against its policyholders/enrollees, 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 EARTH CARE, its property or assets, or against an EARTH CARE policyholder/member 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) specifying the last day by which proofs of claims may actually 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 the term "actually received by the Liquidator" means that in order for a proof of claim to be timely filed the Liquidator must have actual physical custody of the proof of claim form.

E. That all persons, companies or entities having, or claiming to have, any accounts, debts, claims or demands against EARTH CARE, its property or assets, or against an EARTH CARE policyholder/member, to present its 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. Ordering that a proper proof of claim must consist of a statement, under oath, in writing, signed by the claimant, 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 EARTH CARE to the claimant; and 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. That pursuant to Section 209(4) of the Code, 215 ILCS 5/209(4), any insured under an insurance policy issued by EARTH CARE 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. Further, that the final date by which evidence supporting the liquidation of any such contingent claim may be received by the Liquidator shall be October 28, 2002 at 4:30 p.m. (C.S.T.); and that no such contingent claim shall be allowed for purposes of participating in any distribution of estate assets that may be made at the class "d" 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 October 28, 2002 at 4:30 p.m. (C.S.T.). Furthermore, that 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 October 28, 2002, may be estimated pursuant to Section 209(4)(b) of the Code, 215 ILCS 5/209(4)(b), for purposes of participating in any distribution of estate assets that may be made at the class "e" 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 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 class "e" priority level.

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

H. That pursuant to Section 209(6) any person, company or entity having a cause of action against an EARTH CARE insured under an insurance policy issued by EARTH CARE, whose claim was a contingent claim as of the entry of the 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 this Court for good cause shown shall otherwise direct, that no further valid claims against EARTH CARE arising out of the cause of action other than those already presented can be made; and (c) if the total liability of EARTH CARE 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. That, subject to the provisions for the late filing of claims contained in 215 ILCS 5/208(2)-(3), that no person having or claiming to have any claim or claims against EARTH CARE shall participate in any distribution of the assets of EARTH CARE unless such claims are

filed or presented in accordance with and within the time limits established by the order prayed for herein.

J. That the Liquidator, pursuant to Section 209 of the Code, 215 ILCS 5/209, and subject to the further order of the Court, to examine and investigate any and all properly filed proofs of claim and to 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. Further ordering that upon the filing of such report on claim 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. That the Liquidator shall not pay the claims of any creditors, policyholders or other claimants of EARTH CARE required to file proofs of claim until the deadlines for the timely presentment of proofs of claim to the Liquidator have passed, 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.

ENTERED:

ENTERED

JAN 16 2001

JUDGE
Judge Presiding JULIA M. NOWICKI - 293

D. Daniel Barr
J. Kevin Baldwin
Counsel to the Receiver
222 Merchandise Mart Plaza
Suite 1450
Chicago, Illinois 60654
(312) 836-9500
Attorney Code # 16819

