

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

IN THE MATTER OF THE LIQUIDATION OF)
GALLANT INSURANCE COMPANY) NO. 02 CH 04056
AND VALOR INSURANCE COMPANY)

ORDER PROVIDING FOR
THE FILING OF CLAIMS AND
SETTING 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 of Gallant Insurance Company and Valor Insurance Company (the "Liquidator"), for the entry of an Order Providing for the Filing of Claims and Setting of Claim Filing Deadlines; and in support thereof, respectfully states as follows:

THE COURT FINDS:

1. That on August 23, 2002, after a 14 day stay, this Court entered Orders of Liquidation against Gallant Insurance Company ("GALLANT") and Valor Insurance Company ("VALOR") pursuant to Section 188 of the Illinois Insurance Code (the "Code"), 215 ILCS 5/188. The Orders of Liquidation affirmed the Director of Insurance, and his successors in office, as Liquidator of GALLANT and VALOR and authorized him to take such action as the nature of the cause and the interests of GALLANT and VALOR, their policyholders, creditors, stockholders, and the general public may require.

2. That the Orders of Liquidation further provided, *inter alia*, that the rights and liabilities of GALLANT and VALOR, and of their policyholders, creditors and stockholders, and of all other persons interested in GALLANT or VALOR's property or assets were fixed as of the

entry of the Orders of Liquidation pursuant to 215 ILCS 5/194.

3. That, pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), the obligation of GALLANT and VALOR, 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.

4. That the Liquidator has determined that a number of persons, companies and entities have, claim to have, or may have, claims against GALLANT and VALOR, and their insureds or policyholders, or their property or assets.

5. That the Liquidator has determined that, in order to effectively and properly administer the affairs and assets of GALLANT and VALOR and to protect the interests of their policyholders, creditors, stockholders, and the public, it is necessary that an order be entered pursuant to Sections 208 and 209 of the Code, 215 ILCS 5/208 and 5/209, establishing a procedure for the filing of proofs of claim against the assets of GALLANT or VALOR 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. 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 (B) and (C), which GALLANT's or VALOR's books and records reveal have, or may have, claims against GALLANT or VALOR, their property or assets, or against a GALLANT or VALOR insured or policyholder, that all such claims must be presented to and filed with the Liquidator, or a duly authorized Ancillary Receiver of GALLANT or VALOR, if any, in the form of a proper proof of

claim as hereinafter set forth, on or before February 23, 2004 at 4:30 p.m. (C.D.T.). Said notice by the Liquidator shall specify February 23, 2004 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 GALLANT or VALOR, if any, for the purposes of participating in any distribution of the assets that may be made on timely filed claims against either the GALLANT or VALOR estates which are allowed in these proceedings. The notice shall further specify that for purposes of these claim filing procedures, a claim shall be deemed filed upon the Liquidator's receipt thereof.

B. A notice of the claim filing procedures and claim filing deadlines shall be served upon those persons, companies and entities which GALLANT's or VALOR's books and records reveal have, or may have, claims against GALLANT or VALOR, their property or assets, or against a GALLANT or VALOR 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 GALLANT or VALOR's books and records.

C. 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 GALLANT or VALOR, their property or assets, or against their 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) as he may deem advisable. The notice so published shall: (a) advise all such persons, companies and entities of their right to present their claim or claims against GALLANT or VALOR, its property or assets, or against a GALLANT or VALOR

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.

D. All persons, companies or entities having, or claiming to have, any accounts, debts, claims or demands against GALLANT or VALOR, their property or assets, or against a GALLANT or VALOR 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 (A) above, by way of a properly completed proof of claim. Pursuant to Section 209(1) of the Code, 215 ILCS 5/209(1), that a proper proof of claim must consist of a notarized 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 GALLANT or VALOR 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.

E. Pursuant to Section 209(4) of the Code, 215 ILCS 5/209(4), any insured under an insurance policy issued by GALLANT 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 (A) above. Further ordering that the final date by which evidence supporting the liquidation of any such contingent claim may be received by the Liquidator shall be August 23, 2004 at 4:30 p.m. (C.D.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 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 August, 23, 2004 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 (A) above, but which is not liquidated by August 23, 2004, 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)].

F. Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), which provides that the obligation of GALLANT or VALOR, 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, that an insured of GALLANT or VALOR 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 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 (E) above.

G. Pursuant to Section 209(4) of the Code, 215 ILCS 5/209(4), that any person, company or entity having a cause of action against a GALLANT or VALOR insured under an insurance policy issued by GALLANT or VALOR, whose claim was a contingent claim as of the entry of the Order of Liquidation, may file its claim as set forth in Paragraph (A) 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 GALLANT or VALOR; (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 GALLANT or VALOR arising out of the cause of action other than those already presented can be made; and (c) if the total liability of GALLANT or VALOR to all claimants arising out of the same act shall be no greater than its total liability would be were it not in liquidation.

H. 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*, that no person having or claiming to have any claim or claims against GALLANT or VALOR shall participate in any distribution of the assets of GALLANT or VALOR unless such claims are filed or presented in accordance with, and within the time limits established by, this Order.

I. 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 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, and the

Court therefore exempts the Liquidator pursuant to 215 ILCS 5/209(12) from 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.

ENTERED: **ENTERED**

OCT 16 2002

~~ROSE~~ JUDGE
Judge Presiding, BOHARIC - 181

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