

Order prepared and submitted by:

VAN COTT, BAGLEY, CORNWALL & McCARTHY
Gerald H. Suniville (3160) (gsuniville@vancott.com)
36 South State Street, Suite 1900
Salt Lake City, UT 84111
Telephone: 801-532-3333
Facsimile: 801-534-0058

*Attorneys for Neal Gooch, Rehabilitator,
Western Insurance Company*

**IN THE THIRD JUDICIAL DISTRICT COURT OF SALT LAKE COUNTY
STATE OF UTAH**

In Re:)	LIQUIDATION ORDER, DECLARATION
)	OF INSOLVENCY AND RESTRAINING
WESTERN INSURANCE COMPANY)	ORDERS
)	
)	Case No. 110917050
)	
)	Judge Robin Reese
)	
)	

The Petition for Liquidation Order and for Declaration of Insolvency ("Petition") of Neal Gooch, in his capacity as the rehabilitator of Western Insurance Company in Rehabilitation petitioning the Court, pursuant to Utah Code Ann. § 31A-27a-101 et seq., for an order appointing him, and each of his successors in office, as liquidator ("Liquidator") of Western Insurance Company (Western) and directing the Liquidator to take immediate possession, control and title to all assets of Western and to administer them pursuant to the laws of the State of Utah and under the orders of the Court, came

before the Court on September 9, 2011.

Also considered at that same time was the Commissioner's motion ("Motion") for an order restraining Western, its directors, officers, trustees, managers, agents, sub-agents, employees, affiliates, policyholders, and attorneys, and any person participating with them or acting in concert with them: from transacting any business of Western; from removing from their current depositories or otherwise converting, changing or modifying title to, withdrawing or removing, assets of Western; from removing books and records or other information of Western from the principal office, or any other office where such is located; and from destroying or altering the books and records or other information of Western, wherever located, whether in the ordinary course of business or otherwise.

The Rehabilitator was represented by Gerald H. Suniville of Van Cott, Bagley, Cornwall & McCarthy.

Counsel for the Rehabilitator has previously presented a Stipulation to the rehabilitation of Western by Western's Board of Directors. Pursuant to 31A-27a-302(1)(b), Utah Code, the authority of the Board was suspended upon entry of the rehabilitation order and has not been redelegated.

The Court, having read the Commissioner's Petition and Motion, including the affidavit attached thereto, and further having reviewed the Stipulation on file with the Court, and pursuant to Section 31A-27a-401, Utah Code Ann., and there being no

appearance on behalf of Western, and upon motion of the Rehabilitator and the Court considering itself well-advised in the premises, hereby enters the following:

FINDINGS AND CONCLUSIONS

1. The Board of Directors of Western has stipulated to the rehabilitation of Western based upon a determination of insolvency by the Insurance Commissioner.

2. Western is a Utah-domiciled stock insurance company authorized to do business as surety company by a Certificate of Authority, Certificate Number 2081 issued by the Utah Insurance Commissioner on December 1, 2010.

3. Western is licensed in 35 states to write property and casualty insurance.

4. Utah Code Ann. § 31A-27a-207 provides that the Commissioner may petition the Court for a liquidation order on any of the grounds available under § 31A-27a-207.

5. The Commissioner has reasonable cause to believe that:

a. Western is insolvent, according to the definition of "insolvency" in Utah Code Ann. § 31A-1-301(82)(b) (amended 2010). Under Utah Code Ann. § 31A-27a-207(1)(b) the Court so finds and this condition is grounds for the Court to grant an order of liquidation.

b. Western is in the condition that further transaction of business would be hazardous, financially or otherwise, to its policyholders, its creditors, or the

public. Under Utah Code Ann. § 31A-27a-207(1)(h), this condition is grounds for the Court to grant an order of liquidation.

c. Western does not satisfy the requirements that would be applicable if it were seeking initial authorization to do the business of insurance in the State of Utah. Under Utah Code Ann. § 31 A-27a-207(1)(f), this condition is grounds for the Court to grant an order of liquidation.

6. The interests of policyholders and creditors of Western, and the public, will be irreparably harmed if the Commissioner is not granted the authority to take possession of Western's assets, business, property, books, accounts, documents, and other records.

7. The information, property, assets, business records, and other materials of Western are subject to removal, destruction, dissipation, diminution, depletion, alternation, and removal by Western's officers, directors, trustees, agents, or employees, if they are not enjoined from doing so, and if the above-referenced property, information, and materials are not placed in the possession and control of the Commissioner, and are not protected.

8. It is necessary that the Commissioner take immediate possession of the property, assets, books, accounts, documents, and other records of Western, to prevent further prejudice to the interests of policyholders and creditors of Western, and the public, and to prevent irreparable harm to the estate of Western, which will be detrimental to policyholders and creditors of Western, and the public.

9. The Commissioner is informed and believes that the liquidation of Western

would be in the best interests of policyholders and creditors of Western, and the public.

10. In view of the foregoing, it is in the best interests of policyholders and creditors of Western, and the public, for the Court immediately:

a. To issue a liquidation order, and to appoint the Utah Insurance Commissioner, and his successors in office, as Liquidator of Western;

b. To enjoin, in conjunction with the issuance of the liquidation order, Western and its current directors, officers, managers, affiliates, trustees, agents, subagents, employees, and all persons participating with them or acting in concert with them, from removing the assets of Western from their current depositories, or otherwise converting, changing or modifying title to the assets, withdrawing or removing the assets; and

c. To enjoin, in conjunction with the issuance of the liquidation order, Western and its current directors, officers, managers, affiliates, trustees agents, subagents, employees, and all persons participating with them or acting in concert with them, from removing, destroying or altering the books and records or other information of Western.

11. The Liquidator desires to appoint, and pursuant to 31A-27a-209(3)(a) recommends that the Court approve the appointment of, Lennard W. Stillman as a special deputy liquidator, and Jackie Muro as assistant special deputy liquidator to assist the Liquidator with the liquidation of Western.

WHEREFORE, the Court hereby enters the following:

ORDER

1. Utah Insurance Commissioner, Neal Gooch, and his successors in office, are hereby appointed Liquidator ("Liquidator") of Western under § 31A-27a-401, with all powers provided by the Utah Insurance Code, § 31A-27a-101 *et seq.*, generally, and § 31A-27a-405, specifically.

2. The Liquidator may do all acts necessary or appropriate to accomplish the liquidation of Western pursuant to § 31A-27a-405 *et seq.*

3. Pursuant to § 31A-27a-209(3)(a), the Liquidator is authorized to appoint Special Deputy Liquidators with all powers provided by § 31A-27a-405, and to fix their compensation, without further orders of this Court. The Court retains jurisdiction over compensation fixed by the Liquidator.

4. The Liquidator's appointment of, Lennard W. Stillman as a special deputy liquidator, and Jackie Muro as assistant special deputy liquidator, pursuant to § 31A-27a-209(3)(a) is hereby ordered.

5. The Liquidator is vested by operation of law with the title to all of the assets, property, contracts, and rights of action and all of the books and records of Western, wherever located, as of the date of the Liquidation Order. The Liquidator is directed to take immediate possession of the assets, business, property, contracts, rights of action, and all of the books and records of Western and to administer them pursuant to the provisions of § 31A-27a-101 *et seq.*, pursuant to any further orders of the Court, and under the general supervision of the Court.

6. All rights and liabilities of Western, and its creditors, policyholders, shareholders, members, and all other persons are fixed as of the date of entry of this Liquidation Order.

7. All actions and all proceedings against Western in Utah, and elsewhere, are stayed pursuant to §31A-27a-108 subject to the limitations of §31A-27a-108(4)(b).

8. The Liquidator is directed to exercise any and all rights of Western in connection with any collateral or other assets being held for the benefit of Western by any person or entity, including any and all trustee accounts and other accounts. Pursuant to § 31A-27a-402, all of Western's insurance policies and surety bonds, if any, will continue in force as a claim against Western's estate for the shortest of the following: (1) 90 days from the entry of this Liquidation Order; (2) the day on which the policy coverage expires; (3) the date the insured replaces or terminates the insurance coverage; or (4) some other date ordered by the Liquidation Court as proposed by the Liquidator.

9. The Liquidator shall file a report on the status of Western with the Court within 180 days after the issuance of this Liquidation Order and every quarter thereafter unless the Court orders otherwise. The status report shall be issued to the Court within 45 days of the end of each calendar quarter subsequent to the issuance of this Liquidation Order, unless the Court orders otherwise.

10. The Liquidator is authorized to employ, or to continue to employ, and to fix the compensation of such special deputies, counsel, agents, clerks, accountants,

actuaries, consultants, assistants and other personnel the Liquidator considers necessary, without further order of this Court, and all compensation and expenses of such persons, and all expense of taking possession of Western and of conducting and administering this liquidation proceeding shall be paid out of the funds or assets of Western pursuant to 31A-27a-115(5); and further, all such compensation and costs and expenses of such persons, and the costs and expenses of the taking possession of Western and of conducting and administering this liquidation, administrative expenses of the estate and subject to §31A-27a-701(2)(a)(i), are not claims, and shall be paid at the Liquidator's discretion.

11. No suit, action, proceeding, or claim at law or in equity of any kind shall be brought, maintained, or further prosecuted or presented on behalf of or in the name of Western or its Liquidator without the proper authorization of the Liquidator, except that with respect to such suits, actions, proceedings, and claims at law or in equity which have been initiated previously by Western, no further authorization by the Liquidator is necessary.

12. No action at law or in equity outside this Court may be brought against Western, its Liquidator, or its assets, whether in Utah or elsewhere, nor shall any existing actions outside this Court be maintained or further prosecuted against Western and any and all such actions are stayed.

13. All persons and entities, including but not limited to, Western's directors, officers, trustees, manager, agents sub-agents, employees, affiliates, policyholders,

attorneys, and any person participating with them or acting in concert with them, are hereby enjoined from:

(a) The obtaining of any preference, judgment, attachment, garnishment, or lien against Western, or any part thereof, wherever located, or the levying of execution against Western, or its property or assets, or any part thereof, wherever located, or the repossession of the property or assets of Western, or any part thereof, wherever located, or the commencement, prosecution or further prosecution of any suit, action or proceeding having any such purpose or effect.

(b) The transfer, waste, or dissipation of the bank accounts or any of the property or assets of Western, or the transaction of any business of Western without the approval of the Liquidator, the interference with the Liquidator in the administration of the liquidation of Western, or the withholding from the Liquidator of the books, accounts documents or other records relating to the business of Western, or the copying of the books, accounts documents or other records relating to the business of Western.

(c) The making of any sale or deed for the nonpayment of taxes or assessments that would lessen the value of the assets of Western.

(d) Any other threatened or contemplated action that might lessen the value of Western's assets or prejudice the rights of Western with respect to its policyholders, members, insureds, obligees, principals, creditors, shareholders, agents, brokers, intermediaries, reinsurers, ceding companies in the administration of

this proceedings under § 31A-27a-101 et seq.

14. All secured creditors or parties, pledgees, lien holders, collateral holders or other persons claiming a secured, priority, or preferred interest in any property or assets of Western, are hereby enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or against any property or assets of Western without the prior approval of the Liquidator.

15. The Liquidator is authorized to employ or continue the employment of legal counsel and other professionals in jurisdictions in and outside of Salt Lake County, Utah, to represent the interests of Western and the Liquidator, in prosecuting, defending or otherwise disposing of all litigation now pending or hereafter instituted in his capacity as Liquidator of Western or any or all of them, all upon reasonable terms. This authority shall include, but not be limited to, the fixing of the compensation of such professionals, as may be deemed appropriate by the Liquidator, without further orders of the Court. The Court retains jurisdiction over compensation fixed by the Liquidator.

16. All persons and entities with claims against Western will be required to follow the claims filing and other liquidation procedures established pursuant to § 31A-27a-601 *et seq.* . The deadline for filing claims as provided by § 31A-27a-601, other than the compensation for all Liquidator authorized services, including but not limited to all reasonable attorney fees and other professional services rendered in the supervision or liquidation of the estate, as well as all costs and expenses of the administration of the estate as approved by the Liquidator under § 31 A-27a-701, is the 9th day of March,

2012, at the hour of 5:00 p.m. MDT. All claimants required to file claims will be required to file a proof of claim consistent with the requirements as set forth in § 31A-27-602.

17. As soon as possible after the date of this Liquidation Order, the Liquidator shall give the notice of the Liquidation Order to persons and entities with claims against Western as required by § 31A-27a-406.

18. The Liquidator may enter into any contracts which are necessary to carry out the order to liquidate, and assume or reject any contracts to which Western is a party, pursuant to § 31A-27-405.

19. The Liquidator is authorized to dispose of any records not necessary for the liquidation of Western without further order of this court.

20. Pursuant to 31A-27a-114 *et seq.*, the Liquidator, Special Deputy Liquidator and the Assistant Special Deputy Liquidator are entitled to indemnification from the assets of Western if any legal action is commenced against the Liquidator, Special Deputy Liquidator or Assistant Special Deputy Liquidator, personally or in their official capacity, alleging property damage, property loss, personal injury or other civil liability caused by or resulting from any alleged act, error omission arising out of or by reason of their duties or employment, for all expenses, attorney fees, judgments, settlements, decrees, or amounts due and owing or paid in satisfaction or incurred in the defense of the legal action, unless it is determined that the alleged act, error or omission is caused by intentional or willful and wanton misconduct. Attorneys' fees and related expenses incurred in defending a legal action for which immunity or indemnity is

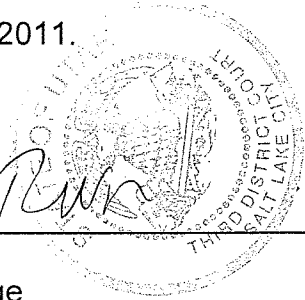
available shall be paid from the assets of Western as they are incurred, in advance of the final disposition of the action.

DATED this 13 day of Sept, 2011.

BY THE COURT:

Robin W. Reese

Robin W. Reese
District Court Judge



4836-6692-8394, v. 1

ORIGINAL DOCUMENT
THIRD DISTRICT COURT
SALT LAKE COUNTY STATE OF UTAH
DATE 9-13-11
Magdalena M.

