

FILED DISTRICT COURT
Third Judicial District

AUG 28 2012

By _____
SALT LAKE COUNTY
Deputy Clerk

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

In Re: : ORDER GRANTING THE LIQUIDATOR'S
WESTERN INSURANCE COMPANY, : MOTION FOR A TEMPORARY
: RESTRAINING ORDER AND
: PRELIMINARY INJUNCTION
:
: Case No. 110917050

For the reasons set forth in the Special Deputy Liquidator's Motion for a Temporary Restraining Order and for a Preliminary Injunction, this Motion is granted.

By previous Order of this Court, claims filed directly by the purchasers of Vehicle Service Contracts from members of NADC were disallowed. Claims so filed will not be honored. Because those claims may not be directly filed with the Special Deputy Liquidator, it is inappropriate and wasteful to direct those claimants to contact the Special Deputy Liquidator directly.

The Court further concludes that the Special Deputy Liquidator has fully established that the requirements of Rule 65A, Utah Rules of Civil Procedure, have been satisfied.

First of all, the Court concludes that the Special Deputy Liquidator, and the assets that he manages, will suffer irreparable harm and loss if forced to continue to deal with the voluminous claims filed by the purchasers of those Vehicle Service Contracts. Each time the Liquidator and his staff is forced to process one of these claims,

resources are lost that would otherwise be available to satisfy the claims of all of the claimants.

The Court concludes that the injury to the Special Deputy Liquidator, and the assets that he oversees, outweigh whatever damage that this Order or Injunction may cause to NADC or NADS. In fact, there is no real harm to NADC or NADS if those claimants which cannot file directly with the Liquidator, as previously ordered, are given accurate information as to the status of their claims. Those claimants would be benefitted by their receipt of accurate information.


The Court concludes that this Order and Injunction would not be adverse to the public interest for those reasons mentioned previously.

Finally, the Court concludes that there is a substantial likelihood that the Special Deputy Liquidator will prevail on the merits of this underlying claim against NADC and NADS. As stated previously, to continue to direct those contract purchasers to contact the Special Deputy Liquidator directly is both unfair and wasteful to those purchasers, and is wasteful, as well, to the Special Deputy Liquidator and his staff. There really is no good reason to allow this practice to continue.

Therefore, NADC and NADS are ordered to cease and desist from referring the purchasers of those service agreements to the Special Deputy Liquidator. Those parties are also directed to inform consumers that policies which expire on and after December 12, 2011 do not

constitute a claim against the estate of Western Insurance Company. NADC and NADS are also directed to inform consumers that they should contact dealers from whom they purchased these agreements about any reimbursement to which they may be entitled. And finally, the Special Deputy Liquidator is authorized to post notice referring all NADS customers to their dealer or to NADS for appropriate relief.

Dated this 27 day of August, 2012.



ROBIN W. REESE
DISTRICT COURT JUDGE



MAILING CERTIFICATE

I hereby certify that I mailed a true and correct copy of the foregoing Order Granting the Liquidator's Motion for a Temporary Restraining Order and Preliminary Injunction, to the following, this 21 day of August, 2012:

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