

LANCASTER COUNTY

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CLERK OF THE  
DISTRICT COURT

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

L. TIM WAGNER, DIRECTOR OF  
INSURANCE OF THE STATE OF  
NEBRASKA,

Petitioner,

v.

THE PROTECTIVE NATIONAL  
INSURANCE COMPANY OF OMAHA,

Respondent.

Case No. CI 04-502

**ORDER OF LIQUIDATION,  
DECLARATION OF INSOLVENCY  
AND INJUNCTION**

THIS MATTER came on for determination on the Petition of the Director of Insurance, State of Nebraska, L. Tim Wagner ("Director"), pursuant to the Nebraska Insurers Supervision, Rehabilitation and Liquidation Act ("Act"), Neb. Rev. Stat. § 44-4801, et seq., for an Order of Liquidation and Request for Injunction and other relief as appropriate with respect to The Protective National Insurance Company of Omaha ("Protective National"). Hector L. Gonzalez, the Controlling Party of Protective National, through an insurance holding company system, has waived the right to be heard on the Petition and consented to the Court entering an Order of Liquidation, Declaration of Insolvency and Injunction. The Court, following receipt of the Affidavit of Houghton Furr, Jr., Deputy Rehabilitator of Protective National, finds as follows:

1. Protective National is a Nebraska domestic property and casualty insurer organized under the laws of Nebraska and authorized to do the business of insurance in Nebraska. Its principal place of business is 11128 John Galt Blvd., Suite 450, Omaha, NE 68137-6312.

2. The Court has jurisdiction over the subject matter and the parties.

3. On May 24, 1991, an Order of Rehabilitation was entered for Protective National in proceedings pending in the Court at Docket 466, Page 233.

4. Further attempts to rehabilitate Protective National would substantially increase the risk of loss to insureds, creditors of Protective National or the public and would be futile; Protective National is insolvent as defined by Neb. Rev. Stat. § 44-4803(14) and is in such financial condition that the further transaction of business by Protective National would be hazardous to its insureds, creditors and the public.

5. Grounds exist under Neb. Rev. Stat. § 44-4817 for the Director to liquidate Protective National and for the entry of an Order of Liquidation, Declaration of Insolvency and Injunction pursuant to Neb. Rev. Stat. § 44-4817.

6. The immediate appointment of a Liquidator is necessary to protect the insureds and creditors of Protective National; it is in their best interest and in the best interests of the public that an Order of Liquidation, Declaration of Insolvency and Injunction be entered appointing the Director as Liquidator of Protective National pursuant to Neb. Rev. Stat. § 44-4818.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

1. Protective National is insolvent as that term is defined by Neb. Rev. Stat. § 44-4803(14).
2. An Order of Liquidation, Declaration of Insolvency and Injunction is entered pursuant to Neb. Rev. Stat. § 44-4818 authorizing the liquidation of Protective National.
3. The Order of Rehabilitation entered on May 24, 1991, for Protective National is hereby terminated.
4. L. Tim Wagner, Director of Insurance, State of Nebraska, and his successors in office, is appointed Liquidator of Protective National pursuant to Neb. Rev. Stat. § 44-4818.
5. The Liquidator is authorized and directed to forthwith take possession and control of the assets of Protective National and administer them under the general supervision of this Court. Pursuant to Neb. Rev. Stat. § 44-4818, the Liquidator shall be vested by operation of law with title to all of the property, contracts and rights of action and all of the books and records of Protective National, wherever located, as of the entry of this Order of Liquidation. The Liquidator shall do all acts necessary or appropriate to accomplish the liquidation of Protective National.
6. Upon the issuance of this Order, the rights and liabilities of Protective National and its insureds, creditors, shareholders and all other persons interested in its estate shall become fixed as of the date of entry of this Order, except as provided in Neb. Rev. Stat. §§ 44-4818 and 44-4837.

7. The Liquidator shall have all powers and duties of a liquidator as stated under Neb. Rev. Stat. § 44-4801, et seq., including but not limited to, authority to appoint a special deputy who shall have all the powers granted to the Liquidator under Neb. Rev. Stat. § 44-4821. The Liquidator may employ employees, agents, legal counsel, actuaries, accountants, appraisers, consultants and such other personnel as he may deem necessary to assist in the liquidation. Reasonable compensation of the special deputy, employees, agents, legal counsel, actuaries, accountants, appraisers, consultants and other personnel and all expenses of taking possession of Protective National and conducting the liquidation proceedings shall be fixed by the Liquidator, with the approval of the Court, and shall be paid out of the funds and assets of Protective National.

8. All officers, managers, directors, trustees, shareholders, employees, or agents of Protective National shall cooperate with the Liquidator as required by Neb. Rev. Stat. § 44-4806.

9. All persons and other legal entities shall pay all sums due Protective National in accordance with Neb. Rev. Stat. §§ 44-4821(1)(h) and 44-4833 and deliver any and all property of Protective National, personal or real, of every kind or nature, to the Liquidator.

10. The Liquidator shall have all powers under Neb. Rev. Stat. §§ 44-4826 and 44-2827 to avoid fraudulent transfers.

11. Subject to Neb. Rev. Stat. § 44-4819, all policies and agreements to assume insurance risks in effect at the time of the

Order of Liquidation shall continue in force until the earliest of:

- (a) 30 days from the date of entry of the Order of Liquidation;
- (b) the expiration of the policy or reinsurance agreement;
- (c) the date when the insurance coverage is replaced with equivalent coverage in another insurer or the coverage has otherwise terminated; or
- (d) the Liquidator has effected a transfer of the coverage pursuant to the provisions of the Act.

12. The Liquidator shall give or cause to be given notice of this Order of Liquidation pursuant to Neb. Rev. Stat. § 44-4822 as soon as possible. Notice to potential claimants shall require them to file with the Liquidator their claims, together with proper proofs pursuant to Neb. Rev. Stat. § 44-4836 on or before one year from the date this Order of Liquidation is entered ("the Bar Date") for filing claims against Protective National.

13. The Liquidator shall file financial reports and accountings with the Court pursuant to Neb. Rev. Stat. § 44-4818 for the period ending December 31, 2003, and at least semi-annually thereafter. Such reports shall include, at a minimum, the assets and liabilities of Protective National and all funds received or disbursed by the Liquidator during the current period, and shall be submitted to the Court for approval without necessity of a hearing.

14. The Liquidator shall file, no later than 120 days after the Liquidation Order is entered, a list of Protective National

assets. This list shall be amended or supplemented as necessary as required by Neb. Rev. Stat. § 44-4825.

15. Pursuant to Neb. Rev. Stat. § 44-4824, no actions at law or in equity or in arbitration, whether in this state or elsewhere, may be brought against Protective National, or its Liquidator, nor shall any existing actions be maintained or further presented after issuance of this Order of Liquidation. The Liquidator may intervene in any pending action in order to protect the estate of Protective National.

16. The Liquidator may institute an action or proceeding on behalf of Protective National subject to Neb. Rev. Stat. § 44-4824(2).

17. Mutual debts or credits between Protective National and another person in connection with this Liquidation shall be subject to Neb. Rev. Stat. § 44-4830.

18. Any amount recoverable by the Liquidator from reinsurers shall not be reduced as a result of this Order of Liquidation or any provision in the reinsurance contract or other agreement pursuant to Neb. Rev. Stat. § 44-4832.

19. The officers, managers, agents and employees of Protective National and all persons and other legal entities, except the Liquidator, are enjoined from:

- A. The transaction of further business of Protective National except as directed by the Liquidator;
- B. The transfer of Protective National's assets and property;
- C. Interference with the Liquidator or his employees and assistants;
- D. Waste of Protective National's assets;

- E. Dissipation or transfer of bank accounts of Protective National;
  - F. Institution or further prosecution of any actions or proceedings;
  - G. The obtaining of preferences, judgments, attachments, garnishments, or liens against Protective National, its assets or its insureds;
  - H. The levying of execution against Protective National, its assets or its insureds;
  - I. The making of any sale or deed for nonpayment of taxes or assessments which would lessen the value of the assets of Protective National;
  - J. The withholding from the Liquidator of books, accounts, documents or other records relating to Protective National; and
  - K. Any other threatened or contemplated action that might lessen the value of Protective National's assets or prejudice the right of insureds, creditors or shareholders or the administration of any proceeding under the Nebraska Insurers Supervision, Rehabilitation and Liquidation Act, Neb. Rev. Stat. § 44-4801, et seq.
20. The Court shall retain jurisdiction of this matter for the purpose of granting such other and further relief as shall be just and equitable and the Liquidator shall apply to the Court for further instructions as necessary.

Dated February 12, 2004.

BY THE COURT:

  
District Judge

*Prepared & Submitted by  
THANK D STARR, #16164  
Assistant Attorney General*

**SUZANNE M. KIRKLAND**  
**CLERK of the DISTRICT COURT**  
**LANCASTER COUNTY**  
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**IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA**

**-CERTIFICATE-**


I, Lorraine J. Harre, Deputy Clerk of the District Court of Lancaster County, Nebraska, do hereby certify that the foregoing is/are a full and correct copy/copies of the original instrument(s) duly filed and of record in this Court. This Certificate, which bears the seal of the District Court of Lancaster County, State of Nebraska, USA, was signed on

2-12

, 2004.



By:

  
Lorraine J. Harre, Deputy Clerk