

FILED
05-18-2020
CIRCUIT COURT
DANE COUNTY, WI
2020CV001054
Honorable Richard G
Niess
Branch 9

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

In the Matter of the Rehabilitation of:

Case No.

Time Insurance Company
c/o: Office of the Commissioner of Insurance
125 South Webster Street
Madison, WI 53703

Case Code: 30703

MOTION FOR TEMPORARY INJUNCTIVE RELIEF

Pursuant to the authority granted under chapter 645 of the Wisconsin Statutes, Mark Afable, Commissioner of Insurance of the State of Wisconsin (the "Commissioner"), hereby moves the Court for immediate injunctive relief to protect the insureds and creditors of Time Insurance Company ("Time") and the public, in general. Wis. Stat. §§ 645.01(4) and 645.05(1). The Commissioner further makes this motion for temporary injunctive relief to preserve the status quo and to provide adequate time to transition Time to the stability of a court-approved rehabilitation. The Commissioner requests that the Court grant temporary injunctive relief in the form specified in the accompanying proposed order.

The grounds for this Motion are as follows:

1. Commissioner Afable is the duly appointed and confirmed Commissioner of Insurance of the State of Wisconsin, and he brings this Motion, as he is authorized to do, pursuant to Wis. Stat. § 645.05(1).

2. Wisconsin law establishes procedures for formal rehabilitation and authorizes the Commissioner to take any number of actions "whenever he or she believes that the insurer may be successfully rehabilitated without substantial increase in the risk of loss to creditors of the insurer or to the public." Wis. Stat. § 645.31(1).

3. Chapter 645 of the Wisconsin statutes also establishes that the Commissioner "may at any time apply for and any court of general jurisdiction in this state may grant" such temporary injunctions "as are deemed necessary and proper to prevent" *inter alia*, the "transfer of property," "waste of the insurer's assets," "dissipation and transfer of bank accounts," "the institution or further prosecution of any actions or proceedings," "the obtaining of preferences, judgments, attachments, garnishments or liens against the insurer or its assets," and "the withholding from the receiver of books, accounts, documents or other records relating to the business of the insurer." Wis. Stat. § 645.05(1).

4. All of the proposed injunction provisions here are necessary and proper to protect Time's assets, protect the rights of policyholders, creditors or shareholders, and to ensure an orderly administration of the rehabilitation proceeding.

5. Injunctive relief is also necessary and proper to prevent waste, lawsuits by policyholders outside of this proceeding, and interference with the Rehabilitator. These routine first-day injunctive measures are necessary to facilitate key benefits of rehabilitation proceedings including order, equity and preservation of assets.

6. An injunction is necessary and proper for several reasons, including permitting the Commissioner to closely monitor the payment of debts and other obligations before the finalization and approval of the Rehabilitation Order and Plan. This process also will provide the Commissioner time to notify all policyholders of the commencement of these proceedings, provide an opportunity for the Commissioner to perform administrative tasks such as the ascertainment and marshalling of claims paying resources, and facilitate a measured transition into rehabilitation.

7. An injunction also is necessary and appropriate to avoid improper preferences among policyholders.

8. Furthermore, the injunctive relief requested is necessary, based on Time's financial condition (as set forth in more detail in the Petition for Rehabilitation), to protect Time's assets, and the company's policyholders, creditors, and the public. Time has reported that calculating its risk-based capital ("RBC") under Wisconsin's RBC regulations would result in a mandatory control level event. Further, Time's Annual Statement for the Year 2019, filed with the Office of the Commissioner of Insurance (the "OCI") on April 3, 2020, notes that "[t]he Company's ability to continue as a going concern is dependent on approval of the remedial plan by the WI OCI and the PR OCI and the timely closing of the Novation Transaction." The Commissioner has denied that Transaction and instituted this rehabilitation proceeding. Hence, this injunction is necessary to protect policyholders and Time's remaining assets while the Rehabilitation Plan is developed and approved by the Court. The relief requested will prevent the need for more severe action arising from Time's financial condition, including the potential for liquidation and harm to policyholders.

9. Consistent with the remedial purposes of chapter 645 of the Wisconsin Statutes, the Commissioner requests that the Court enter the requested first-day, temporary injunctive relief as set forth in the proposed order attached hereto.

Dated at Madison, Wisconsin, this 18th day of May, 2020.

Respectfully submitted,

GODFREY & KAHN, S.C.

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By: Electronically signed by James A. Friedman

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