

FILED
05-23-2023
CIRCUIT COURT
DANE COUNTY, WI
2023CV001310
Honorable Stephen E
Ehke
Branch 15

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY

In the Matter of the Rehabilitation of:

Case No.

Wisconsin Reinsurance Corporation and 1st Auto &
Casualty 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, Nathan Houdek, 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 Wisconsin Reinsurance Corporation ("WRC") and 1st Auto & Casualty Insurance Company ("1st Auto") 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 WRC and 1st Auto 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 Houdek 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 WRC's and 1st Auto'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 WRC's and 1st Auto's financial condition (as set forth in more detail in the Petition for Rehabilitation), to protect WRC's and 1st Auto's assets and the company's policyholders, creditors, and the public. As WRC disclosed in its 2022 Annual Statement, "Losses to surplus in the last two years resulting from severe convective storm activity in the Midwest has raised substantial doubt about the [WRC's] ability to continue as a going concern within one year following the date of the financial statements." Similarly, 1st Auto stated in its 2022 Annual Statement, "Continued underwriting losses caused by increasing claims costs in recent years along with losses to WRC's surplus in the last two years resulting from severe convective storm activity in the Midwest has raised substantial doubt about the Company's ability to continue as a going concern within one year following the date of the financial statements." Hence, this injunction is necessary to protect policyholders' and WRC's and 1st Auto's remaining assets while the Rehabilitation Plan is developed and approved by the Court. The relief requested may prevent the need for more severe action arising from WRC's and 1st Auto'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 23rd day of May, 2023.

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Respectfully submitted,

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By: Electronically signed by James A. Friedman
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