

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, ex rel.,)
ANDREW R. STOLFI, ACTING DIRECTOR OF)
INSURANCE OF THE STATE OF ILLINOIS,)

Plaintiffs,)

v.)

ILLINOIS RESTAURANT RISK MANAGEMENT)
ASSOCIATION, INC., an Illinois Domestic Group)
Workers' Compensation Pool,)

Defendant.)

NO.

11CH40307

**AGREED ORDER OF LIQUIDATION
WITH FINDING OF INSOLVENCY**

THIS CAUSE COMING TO BE HEARD upon the Verified Complaint for Liquidation With a Finding of Insolvency filed herein by THE PEOPLE OF THE STATE OF ILLINOIS, upon the relation of ANDREW R. STOLFI, Acting Director of Insurance of the State of Illinois (the "Director"), seeking an Order of Liquidation with a Finding of Insolvency as to and against ILLINOIS RESTAURANT RISK MANAGEMENT ASSOCIATION, INC. ("IRRMA") pursuant to the provisions of Article XIII of the Illinois Insurance Code (the "Code"), 215 ILCS 5/187, *et seq.*; the Court having jurisdiction over the parties hereto and the subject matter hereof; the Court having reviewed the pleadings filed herein and having considered arguments of counsel thereon, and the Court then being otherwise advised in the premises, and for good cause appearing therefore;

THE COURT FINDS:

1. Sufficient cause exists for the entry of an order for liquidation of the Defendant, IRRMA, including that IRRMA is insolvent; that its further transaction of business would be hazardous to its policyholders, members, beneficiaries and creditors, and to the public and; that a majority of its directors have agreed and consented to the entry of this order of liquidation; and

2. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the entry of this Order creates an estate comprising of all of the liabilities and assets of IRRMA; and

3. This Order is a final order within the meaning of Illinois Supreme Court Rule 307(a)(5); and

4. With the entry of this Order, Liquidator's statutory authority includes, without limitation, the following:

a. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is vested by operation of law with the title to all property, contracts, and rights of action of IRRMA; and

b. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is entitled to immediate possession and control of all property, contracts, and rights of action of IRRMA; and

- c. Pursuant to Section 191 of the Code, 215 ILCS 5/191, the Liquidator is authorized to remove any and all records and property of IRRMA to his possession and control or to such other place as may be convenient for purposes of the efficient and orderly administration of IRRMA's liquidation; and
- d. Pursuant to Section 193(1) of the Code, 215 ILCS 5/193(1), the Liquidator is authorized to deal with the property, business and affairs of IRRMA in his name, as Director, and that the Liquidator is authorized to deal with the property, business and affairs of IRRMA in the name of IRRMA; and
- e. Pursuant to Section 193(2) of the Code, 215 ILCS 5/193(2), the Liquidator, without the prior approval of the Court, is authorized to sell or otherwise dispose of any real or personal property of IRRMA, or any part thereof, and to sell or compromise all debts or claims owing to IRRMA having a value in the amount of Twenty-Five Thousand Dollars (\$25,000.00), or less. Any such sale by the Liquidator of the real or personal property of IRRMA having a value in excess of Twenty-Five Thousand Dollars (\$25,000.00), and sale or compromise of debts owing to IRRMA by the Liquidator where the debt owing to IRRMA exceeds Twenty-Five Thousand Dollars (\$25,000.00) shall be made subject to the approval of this Court; and
- f. Pursuant to Section 193(3) of the Code, 215 ILCS 5/193(3), the Liquidator is authorized to bring any action, claim, suit or proceeding against any person with respect to that person's dealings with IRRMA including, but not limited to,

prosecuting any action, claim, suit, or proceeding on behalf of the policyholders, members, beneficiaries or creditors of IRRMA; and

- g. Pursuant to Section 193(4) of the Code, 215 ILCS 5/193(4), the Liquidator may solicit contracts whereby a solvent company agrees to assume, in whole or in part, or upon a modified basis, the liabilities of IRRMA owing to former policyholders and creditors; and
- h. Pursuant to Section 194(a) of the Code, 215 ILCS 5/194(a), the rights and liabilities of IRRMA, and of its policyholders, members and creditors, and all other persons interested in IRRMA's assets are fixed as of the date of the entry of this Order, unless otherwise provided by further orders of this Court; and
- i. Pursuant to Section 194(b) of the Code, 215 ILCS 5/194(b), the Liquidator may, within two (2) years after the entry of this Order or within such further time as applicable law permits, institute an action, claim, suit, or proceeding upon any cause of action against which the period of limitation fixed by applicable law had not expired as of the filing of the complaint upon which this Order is entered; and
- j. Subject to the provisions of Section 202 of the Code, 215 ILCS 5/202, the Liquidator is authorized to appoint and retain those persons specified in Section 202(a) of the Code, 215 ILCS 5/202(a), and to pay, without the further order of this Court, from the assets of IRRMA, all administrative expenses incurred during the course of the liquidation of IRRMA; and

- k. Pursuant to Section 203 of the Code, 215 ILCS 5/203, the Liquidator shall not be required to pay any fee to any public officer for filing, recording or in any manner authenticating any paper or instrument relating to any proceeding under Article XIII of the Illinois Insurance Code, 215 ILCS 5/187, *et seq.*, nor for services rendered by any public officer for serving any process; and
- l. Pursuant to the provisions of Section 204 of the Code, 215 ILCS 5/204, the Liquidator may seek to avoid preferential transfers of IRRMA's property and to recover such property or its value, if it has been converted; and
- m. Pursuant to Section 209(5) of the Code, 215 ILCS 5/209(5), the obligation of IRRMA, if any, to defend or continue the defense of any claim or suit under a liability insurance policy shall terminate upon the entry of this Order.

IT IS, THEREFORE, HEREBY ORDERED THAT:

A. Andrew R. Stolfi, Acting Director of Insurance of the State of Illinois, and his successors in office, is affirmed as the statutory Liquidator (the "Liquidator") of IRRMA, with all of the powers appurtenant thereto.

B. The Liquidator, subject to the further orders of this Court, is authorized to take such actions as the nature of the cause and the interests of IRRMA, its policyholders, beneficiaries, members, creditors, or the public may require including, but not limited to, the following:

- i. The Liquidator is directed and authorized to take immediate possession and control of the property, books, records, accounts, business and affairs, and all other assets of IRRMA, and of the premises occupied by IRRMA for the transaction of its business, and to take such action as the nature of this cause and the interests of IRRMA's policyholders, beneficiaries, members, creditors or the public may require, subject to further orders of this Court, pursuant to the provisions of Article XIII of the Code, *supra*; and the Liquidator is further directed and authorized to liquidate, wind down, or terminate IRRMA's business and affairs, and to make the continued expenditure of such wages, rents and expenses as he may deem necessary and proper for the administration of the liquidation of IRRMA; and
 - ii. The Liquidator is authorized to sue, defend, and settle claims on behalf of IRRMA, or for the benefit of IRRMA's policyholders, beneficiaries, members and creditors, in the courts either in his name as the Liquidator of IRRMA, or in the name of IRRMA.
- C. The caption in this cause and all pleadings filed in this matter shall hereafter read:
- "IN THE MATTER OF THE LIQUIDATION OF
ILLINOIS RESTAURANT RISK MANAGEMENT ASSOCIATION, INC."**
- D. All costs of these proceedings shall be taxed and assessed against the IRRMA.

E. Pursuant the authority under Section 189 of the Code, 215 ILCS 5/189, the Court hereby issues the following mandatory and prohibitive injunctions:

i. In accordance with Section 191 of the Code, *supra*, all persons, companies, and entities shall immediately release their possession and control of any and all property, contracts, and rights of action of IRRMA to the Director including, but not limited to, bank accounts and bank records, premium and related records, and claim, underwriting, accounting and litigation files, as follows:

a. All accountants, auditors, actuaries, and attorneys of IRRMA having knowledge of this Order, are ordered to deliver to the Liquidator, at his request, copies of all documents in their possession or under their control concerning or related to IRRMA, and to provide the Liquidator with such information as he may require concerning any and all business and/or professional relationships between them and IRRMA, and concerning any and all activities, projects, jobs and the like undertaken and/or performed by them at the request of IRRMA, or its agents, servants, officers, trustees, directors, third party administrators and/or employees, or which IRRMA may be, or is, entitled to as the result of its relationship with such accountants, auditors, actuaries, and attorneys; and

b. IRRMA and its directors, trustees, officers, agents, third party administrators, servants, representatives and employees, and all other persons and entities having knowledge of this Order are ordered to give immediate possession and control to the Liquidator of all property,

- business, books, records and accounts of IRRMA, and all premises occupied by IRRMA for the transaction of its business; and
- c. All banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order are ordered to immediately deliver any and all such assets and/or records to the Liquidator; and
 - d. IRRMA's agents, representatives, employees and servants having knowledge of this Order are ordered to immediately turn over all such funds, including but not limited to premium, in their possession or under their control, or to which they may hereafter acquire possession or control, to the Liquidator in gross and not net of any commissions which may be due thereon; and
- ii. IRRMA and its directors, trustees, officers, agents, third party administrators, servants, representatives and employees, and all other persons and entities having knowledge of this Order are enjoined and restrained from transacting any business of IRRMA, or disposing of any company property or assets, without the express written consent of the Liquidator, or doing or permitting to be done any action which might waste the property or assets of IRRMA, until the further order of this Court; and
 - iii. The directors, trustees, officers, agents, third party administrators, servants, representatives and employees of IRRMA, and all other persons and entities, including IRRMA's policyholders and creditors, having knowledge of this Order

are enjoined and restrained from bringing or further prosecuting any claim, action or proceeding at law or in equity or otherwise, whether in this State or elsewhere, against IRRMA, or its property or assets, or the Director as its Liquidator, except insofar as those claims, actions or proceedings arise in or are brought in these liquidation proceedings; and from obtaining, asserting or enforcing preferences, judgments, attachments or other like liens, including common law retaining liens, or encumbrances or the making of any levy against IRRMA, or its property or assets while in the possession and control of the Liquidator; and from interfering in any way with the Liquidator in his possession or control of the property, business, books, records, accounts, premises and all other assets of IRRMA, until the further order of this Court; and

- iv. Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order prayed for herein, having in its possession accounts and any other assets which are, or may be, the property of IRRMA, are enjoined and restrained from disbursing or disposing of said accounts and assets and are further enjoined and restrained from disposing of or destroying any records pertaining to any business transaction between IRRMA, and such banks, brokerage houses, financial institutions, companies, persons or entities having done business, or doing business, with IRRMA, or having in its possession assets which are, or may be, the property of IRRMA; and
- v. All agents and brokers of IRRMA, and their respective agents, servants, representatives and employees, and all other persons or entities having knowledge

of this Order, are enjoined and restrained from returning any unearned premiums or any money in its possession, or under its control, collected from premiums, contributions or assessments upon policies, contracts or certificates of insurance or reinsurance previously issued by IRRMA, to policyholders, beneficiaries, members or others; and

- vi. All policyholders, members and beneficiaries under policies or certificates of insurance issued by IRRMA, persons asserting claims against such policyholders, members, beneficiaries, and creditors of IRRMA, and all other persons, companies and entities having knowledge of this Order, are enjoined and restrained from instituting or pursuing any action or proceeding in any court or before any administrative agency, including boards and commissions administering worker's compensation or occupational diseases or similar laws of the State of Illinois, or any other state, or of the United States, which seek in any way, directly or indirectly, to contest or interfere with the Liquidator's exclusive right, title and interest to funds recoverable under treaties and agreements of reinsurance or excess insurance heretofore entered into by or on behalf of IRRMA; and
- vii. The Director is vested with the right, title and interest in all funds recoverable under treaties and agreements of excess insurance or reinsurance heretofore entered into by or on behalf of IRRMA, and that all insurance and reinsurance companies and entities that assumed liabilities from IRRMA arising under either contracts, policies, certificates, treaties or agreements of insurance or reinsurance

issued by IRRMA, are enjoined and restrained from making any settlements with any claimant or policyholder of IRRMA, or any other person other than the Liquidator, except with the written consent of the Liquidator, or when the insurance or reinsurance contract, policy, certificate, treaty or agreement lawfully provides for payment to or on the behalf of IRRMA's insured by the assuming reinsurer.

F. All direct policies and/or certificates of insurance heretofore issued by IRRMA are hereby canceled effective as of the date of the entry of this Order.

G. This Court retains jurisdiction in this cause for the purpose of granting further relief as the nature of this cause and the interests of IRRMA, its policyholders, members, beneficiaries, and creditors, or of the public, may require and/or as this Court may deem proper in the premises.

ENTERED: **ENTERED**
Assoc. Judge Franklin Ulyses Valderrama-1968
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DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK
Judge _____

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