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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION- MERCER COUNTY
DOCKET NO.

MER-C-107-02

HOLLY C. BAKKE, COMMISSIONER)
OF THE DEPARTMENT OF BANKING)
AND INSURANCE OF NEW JERSEY,)
Plaintiff,)
v.)
MASTERCARE INSURANCE COMPANY,)
Defendant.)

Civil Action

CONSENT ORDER OF REHABILITATION
OF A PROPERTY/CASUALTY
INSURANCE COMPANY

This matter having been opened to the Court by David Samson, Attorney General of New Jersey, by Heather L. Leibowitz, Deputy Attorney General, as attorney for plaintiff, Holly C. Bakke, Commissioner of the Department of Banking and Insurance of the State of New Jersey ("Commissioner"), by way of Verified Complaint and Order to Show Cause filed on August 16, 2002, directing defendants to appear and show cause why an Order should not be

entered (a) declaring Mastercare to be in such condition that further transaction of business will be hazardous to its policyholders, creditors or the public and directing the Commissioner to rehabilitate Mastercare Insurance Company ("Mastercare"), and (b) granting such injunctive and other relief as may be necessary to accomplish said directive, with a hearing having been held on the Order to Show Cause on September 10, 2002, with proper notice having been given to defendants, and the Court having considered the Commissioner's application, and the evidence, arguments, objections, ^{*} statements and matters presented by interested persons, and the Board of Directors of Mastercare having consented to the entry of this Order, the Court hereby finds that:

1. Mastercare is a stock property and casualty insurance company authorized to transact insurance business in New Jersey since July 16, 1996, and is governed by the provisions of N.J.S.A. 17:17-1, et seq.

2. This Court has original jurisdiction over this delinquency proceeding pursuant to N.J.S.A. 17:30C-2.

3. Mastercare is in such condition that further transaction of business will be hazardous to its policyholders, creditors or the public. To protect policyholders, creditors and the public, Mastercare must be placed in rehabilitation.

5. Sufficient grounds exist under N.J.S.A. 17:30C-1, et seq., for the entry of an order of rehabilitation, and such an

* No opposition has been filed. *MS*

Order of Rehabilitation should be entered pursuant to N.J.S.A.
17:30C-1.

6. The Board of Directors having presented a resolution consenting to this Order, such action having been taken on July 22, 2002.

IT IS, therefore, on this 10th day of September, 2002,
ORDERED as follows:

1. The application of the Commissioner is hereby granted;

2. The Commissioner, and her successors in office, is hereby appointed as Rehabilitator of Mastercare and is vested, in addition to the powers set forth herein, with all the powers and authority expressed or implied under the provisions of N.J.S.A. 17:30C-1 et seq. The Rehabilitator may do all the acts necessary and appropriate for the accomplishment of the rehabilitation of Mastercare. The Rehabilitator may appoint a Deputy Rehabilitator to assist her in accomplishing the directives of this Order. The Deputy Rehabilitator shall, subject to the approval of the Rehabilitator, be entitled to exercise all of the powers and authority vested in the Rehabilitator pursuant to this Order and applicable law and shall serve at the pleasure of the Rehabilitator. Compensation of the Deputy Rehabilitator shall be set by the Rehabilitator, and paid out of the funds and assets of Mastercare. The Deputy Rehabilitator shall have no personal

liability for his/her acts or omissions in connection with his/her duties as Deputy Rehabilitator provided that such acts or omissions are undertaken or committed in good faith and without willful misconduct, or willful, wanton or gross negligence or criminal intent. The Deputy Rehabilitator shall not be deemed to be an employee of the State of New Jersey and thus, shall not be subject to the provisions of the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. All expenses and costs incurred by the Deputy Rehabilitator in connection with lawsuits against him/her in his/her personal capacity shall, subject to the prior written approval of the Commissioner and the court, be paid out of the funds and assets of Mastercare provided that such lawsuits are not the result of any bad faith, willful misconduct, gross negligence or criminal actions on the part of the Deputy Rehabilitator.

3. The Rehabilitator is hereby directed to immediately begin conducting the business of Mastercare and to begin taking such steps as the Rehabilitator or her designee may deem appropriate toward removing the cause and conditions which have made rehabilitation necessary as well as to explore the liquidation of Mastercare. The Rehabilitator is hereby authorized to take such necessary steps as she may deem appropriate to protect and preserve the assets of Mastercare.

4. The Rehabilitator is hereby vested with title to all assets, contracts, causes of action, books, records, bank accounts,

certificates of deposits, funds, securities or other funds and all real or personal property of any nature, including furniture, fixtures and office supplies, wherever located, including such property of Mastercare which may be discovered hereafter, and is hereby directed to take immediate and exclusive possession and control of same. The filing or recording of this Order with the Clerk of this Court and with the recorder of deeds of the jurisdiction in which Mastercare's corporate administrative offices are located, or, in the case of real estate, with the recorder of deeds of the jurisdictions where the properties are located, shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title filed or recorded. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Rehabilitator, all agents and brokers and all other persons or entities holding funds, assets or property of or on behalf of Mastercare or its direct and indirect insurance subsidiaries shall forthwith file an accounting of those funds, assets or property with the Rehabilitator and shall, within 10 days of the service of this Order, turn said funds, assets or property over to the Rehabilitator.

5. Until further order of this Court, no obligation of Mastercare nor any claim of any nature shall be paid except those which in the discretion of the Rehabilitator are necessary to conduct the business of Mastercare pursuant to the within

proceeding. Mastercare and its directors, trustees, officers, employees, agents or representatives are hereby enjoined, restrained and prohibited from paying any claims or obligations of Mastercare and its direct and indirect insurance subsidiaries without the express written consent or directive of the Rehabilitator or her designees or appointees.

6. All persons, corporations, partnerships and all other entities, wherever located are hereby enjoined and restrained from interfering in any manner with the Rehabilitator's possession, title and rights to the assets and property of Mastercare and from interfering in any manner with the conduct of the rehabilitation of Mastercare. Those persons, corporations, partnerships, and all other entities are hereby permanently enjoined and restrained from wasting, transferring, selling, concealing, destroying, disbursing, disposing of, or assigning any assets, contracts, causes of action, funds, or other property of any nature of Mastercare.

7. The Rehabilitator may change to her own name the name of any of Mastercare's accounts, funds or other property or assets held with any bank, savings and loan association or other financial institution, wherever located and may withdraw such funds, accounts, and other assets from such institutions or take any lesser action necessary for the proper conduct of the rehabilitation.

8. All secured creditors or parties, lienholders, collateral holders or other persons claiming secured, priority or preferred interests in any property or assets of Mastercare, including any governmental entity and General Cologne Reinsurance Corporation, are hereby permanently enjoined from taking any steps whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or against any property or assets of Mastercare including the trust fund established pursuant to an agreement dated January 1, 1998, among Mastercare and General Cologene Reinsurance Corporation and First Union National Bank, as trustee.

9. All officers, directors, trustees, shareholders, policyholders, agents, and employees of Mastercare and all other persons or entities of any nature, including but not limited to claimants, reinsurers, plaintiffs, petitioners and any governmental agencies having claims of any nature against Mastercare, including crossclaims, counterclaims and third party claims, are hereby enjoined and restrained from:

(a) Conducting any portion or phase of the business of Mastercare or its direct and indirect insurance subsidiaries unless so authorized by the Rehabilitator or her designee;

(b) Pursuing litigation against Mastercare including bringing, maintaining or further prosecuting any action at law or equity, arbitration, special, or other proceeding against

Mastercare or its direct and indirect insurance subsidiaries or against the Commissioner and her successors in office as Rehabilitator thereof, or against the Deputy Rehabilitator appointed pursuant to paragraph 2 above;

(c) Making or executing any levy upon the property of Mastercare or its direct and indirect insurance subsidiaries;

(d) Instituting, maintaining or further presenting any suit at law or equity or any collection activity, or any other proceeding of any nature against any policyholder or insured of Mastercare resulting from Mastercare's financial condition or the failure of Mastercare to pay any claim or to meet any of its contractual obligations due to its financial impairment.

(e) Interfering in any way with the Rehabilitator, or any successors in office, in her possession of or title to the property and assets of Mastercare, or in the discharge of her duties, pursuant to this Order. All persons or entities of any nature, other than the Rehabilitator, are hereby restrained from commencing, maintaining or further prosecuting any direct or indirect actions against any reinsurer of Mastercare for proceeds of reinsurance policies issued, to and treaties or other agreements with Mastercare.

10. Mastercare, its officers, directors, policyholders, agents and employees, and all other persons or entities of any nature, having any property or records belonging to Mastercare, or

pertaining to the business of Mastercare, including data processing information and records of any kind, are hereby directed to assign, transfer and deliver to the Rehabilitator all of such property in whatever name the same may be, and any persons, firms or corporations having any books, papers or records relating to the business of Mastercare shall preserve the same and submit these to the Rehabilitator for examination at all reasonable times.

11. In addition to the powers set forth at N.J.S.A. 17:30C-1 et seq., the Rehabilitator shall have the power:

(a) to conduct the business of Mastercare and its direct and indirect insurance subsidiaries, including the discretion or not to continue to pay claims;

(b) to honor, as expenses of administration, all expenses heretofore incurred by the Commissioner as Administrative Supervisor, or by her designees and appointees, which currently remain unpaid;

(c) to pay from the funds or assets of Mastercare or from such other funds that may become available to him, all expenses of marshaling, taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of Mastercare or its direct and indirect insurance subsidiaries;

(d) to collect all debts and monies due and claims belonging to Mastercare, wherever located, where economically feasible, and for this purpose:

(i) to institute and maintain timely actions in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts;

(ii) to do such other acts as are necessary or expedient to marshal, collect, conserve or protect Mastercare's assets or property, or the assets and property of its direct and indirect insurance subsidiaries, including the power to sell, compound, compromise or assign debts for purposes of collection upon such terms and conditions as she deems appropriate, and the power to initiate and maintain actions at law or equity or any other type of action or proceeding of any nature, in this and other jurisdictions;

(iii) to pursue any creditor's remedies available to enforce the Rehabilitator's claims;

(e) to conduct public and private sales of the assets and property of Mastercare including any real property;

(f) to acquire, invest, deposit, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any asset or property of Mastercare and to sell, reinvest, trade or otherwise dispose of any securities or bonds presently held by Mastercare, upon such terms and conditions as the

Rehabilitator deems to be fair and reasonable, irrespective of the value at which such property was last carried on the books of Mastercare. The Rehabilitator shall also have the power to execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the rehabilitation;

(g) upon approval of the Court to borrow money on the pledge of assets of Mastercare with or without security and to execute and deliver all documents necessary to that transaction for the purpose of facilitating the rehabilitation. Neither the Commissioner nor her designees or appointees shall be held liable in their official or personal capacities for any loans made for such purposes;

(h) to enter into such contracts as are necessary to carry out this Order, and to affirm or disavow any contracts to which Mastercare is a party;

(i) to institute and to prosecute, in the name of Mastercare or in her own name, any and all suits and other legal proceedings, to defend suits to which Mastercare or the Rehabilitator is a party, in this State or elsewhere, commenced prior or subsequent to this Order, to abandon the prosecution or defense of suits, legal proceedings and claims which she deems inappropriate to pursue further and to compromise suits, legal

proceedings or claims on such terms and conditions as he deems appropriate;

(j) to prosecute any action which may exist on behalf of the creditors, policyholders or shareholders of Mastercare against any officer or director of Mastercare, or any other person or entity;

(k) to perform such further and additional acts as she may deem necessary or appropriate for the accomplishment of or in aid of the purpose of rehabilitation, it being the intention of this Order that the aforesaid enumeration of powers shall not be construed as a limitation upon the Rehabilitator or Deputy Rehabilitator.

12. The Rehabilitator may at her discretion as of the date of this Order discontinue the defense of claims, suits and other proceedings, in this State and elsewhere, in which Mastercare insureds, including those claims made and suits and proceedings undertaken prior to the date of this Order.

13. The Rehabilitator shall give or cause to be given notice of the entry of this Order as soon as possible by publication in a newspaper of general circulation in the counties in which Mastercare currently has its corporate and administrative offices as well as in the New York Times, the Newark Star Ledger, the Courier Post, as well as such other newspapers circulated in such locations that the Rehabilitator may deem appropriate. Such

publication shall commence within 15 days and shall be repeated once a week thereafter for two successive weeks.

14. The amounts recoverable by the Rehabilitator from any reinsurer of Mastercare shall not be reduced as a result of this delinquency proceeding, or by reason of any partial payment or distribution on a reinsured policy, contract or claim. Unless either the insurance contract or an applicable statute provides to the contrary, payment made directly to an insured or other creditor shall not diminish the reinsurer's obligation to Mastercare.

15. (a) Any agent, broker, premium finance company, or any other person, other than the insured, responsible for the payment of a premium, shall be obligated to pay any unpaid premiums, whether earned or unearned, as shown on the records of Mastercare as of the date of entry of this Order. No credit or set-off shall be allowed in favor of such person against his/her account with Mastercare for the unearned portion of the premium on any canceled contract or policy, unless:

(i) that contract or policy was canceled prior to the entry of this Order; and

(ii) the unearned premium on the canceled contract or policy was in fact refunded or credited to the insured or his/her assigns prior to the entry of this order. The Rehabilitator shall also have the right to recover from such person

any part of an unearned premium that represents a commission to such person.

(b) All group and individual policyholders of Mastercare or its direct and indirect insurance subsidiaries shall be obligated to pay any unpaid earned premium due to Mastercare, as shown on the records of Mastercare.

16. Existing contracts and other obligations by and between Mastercare and any reinsurer may at the discretion of the Rehabilitator, be terminated. Such termination shall be effected by written notice issued by the Rehabilitator addressed to the reinsurer;

17. All further papers filed in these proceedings shall bear the caption and be entitled:

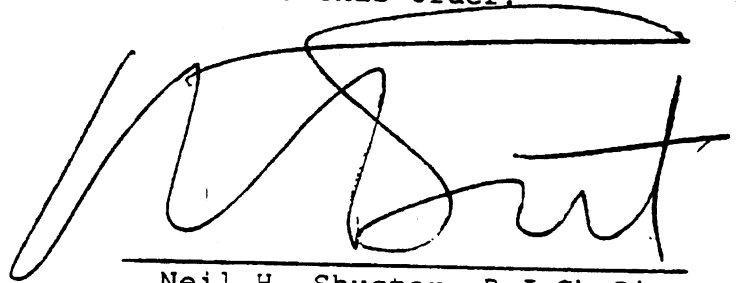
"I/M/O the Rehabilitation of Mastercare Insurance Company"

18. If any provision of this Order or the application thereof is for any reason held to be invalid, the remainder of this order and the application thereof to other persons or circumstances shall not be affected.

19. Any person, corporation or other entity having notice of this order who fails to abide by its terms shall be directed to appear before this Court to show good cause, if any they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.

20. The Commissioner as Rehabilitator may at any time make further application for such additional and different relief as she sees fit.

21. This Court shall retain jurisdiction for all purposes necessary to effectuate and enforce this Order.

A handwritten signature in black ink, appearing to read "N. Shuster", written over a horizontal line.

Neil H. Shuster, P.J.Ch.Div.

The reasons have been placed on the record. *NHS*

Service of this Order shall also be made upon the Civil Presiding Judges of this State and the Civil Division Managers in each vicinage. *NHS*