

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

AUG 21 2014

TIM RHODES
COURT CLERK

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STATE OF OKLAHOMA, ex rel. JOHN D.)
DOAK, Insurance Commissioner,)

Plaintiff,)

v.)

RED ROCK INSURANCE COMPANY,)
a licensed insurer in the State of Oklahoma,)

Defendant.)

Case No. CJ-2014-4353

**ORDER PLACING INSURER INTO RECEIVERSHIP AND LIQUIDATION,
APPOINTING RECEIVER, AND FOR PERMANENT INJUNCTION**

NOW on this 21st day of August, 2014, there comes for hearing the verified Application of John D. Doak, Insurance Commissioner of the State of Oklahoma for an Order Directing Insurer to Show Cause and Request for Injunctive Relief filed July 31, 2014 and the Court's August 1, 2014 Order Directing Insurer to Show Cause and Allowing Injunctive Relief. Petitioner, John D. Doak, Insurance Commissioner, appears by and through Julie Meaders, Deputy General Counsel for the Oklahoma Insurance Department. Defendant Red Rock Insurance Company f/k/a BancInsure, Inc. (hereinafter Red Rock or the Company), having been duly and properly served, appears not. In consideration for an Amended Application for Order Directing Insurer to Show Cause and Request for Injunctive Relief and an Amended Order Directing Insurer to Show Cause and Allowing Injunctive Relief, Red Rock Holdings Group, LLC and Scott W. Hartman do not object to issuance of this Order.

The Court, having examined the Petitioner's Verified Application for Order Directing Insurer to Show Cause and For Injunctive Relief filed August 1, 2014; having viewed the

evidence presented thus far; having reviewed the representations and statement of the parties; and being well advised in the premises, finds as follows:

1. John D. Doak is the duly qualified and acting Insurance Commissioner of the State of Oklahoma, and as such is charged with the duty of administering and regulating the state's insurance industry. Pursuant to 36 O.S. § 1903, the Insurance Commissioner may appear in the District Court to make application for an order directing the insurer to show cause why an Order of Liquidation should not be entered and a Receiver appointed.

2. This Court has jurisdiction of this action pursuant to 36 O.S. § 1902(A).

3. Venue in this Court is appropriate pursuant to 36 O.S. § 1902(F).

4. Red Rock is an Oklahoma domestic insurance company, whose business practices qualify it as an "insurer" pursuant to Oklahoma law, and subject it to the insurance supervisory authority of, or to liquidation, rehabilitation, reorganization or conservation by the Oklahoma Insurance Commissioner. 36 O.S. § 1901(2).

5. 36 O.S. § 1906 provides that the Insurance Commissioner may apply to the Court for an order appointing the Insurance Commissioner as receiver of and directing the Insurance Commissioner to liquidate the business of a domestic insurer regardless of whether or not there has been a prior order directing the Commissioner to rehabilitate such insurer upon any grounds specified in 36 O.S. § 1906.

6. Pursuant to 36 O.S. § 1901(13), a Receiver includes the function of liquidator.

7. Pursuant to 36 O.S. § 1911(A), an order to liquidate the business of a domestic insurer shall direct the Insurance Commissioner forthwith to take possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as Insurance Commissioner or in the name of the insurer, as the court may direct, and to

give notice to all creditors who may have claims against the insurer to present such claims.

8. John D. Doak, Insurance Commissioner, has attempted the remedies of Supervision and Conservatorship pursuant to Article 18 of the Oklahoma Insurance Code, 36 O.S. §§ 1801 et seq. He has given the Company numerous opportunities and time to address the conditions that lead to the necessity of first supervision and then conservatorship, but those attempts have failed.

9. Red Rock admitted it was insolvent when it filed its 2014 amended first quarter financial statement showing Red Rock's surplus as to policyholders being negative Eleven Million, Seven-Hundred and Forty Thousand, Six Hundred and Twenty-Four Dollars (-\$11,740,624). The Company met the definition of "impairment" or "insolvency" pursuant to 36 O.S. §1901 and was placed in Supervision pursuant to 36 O.S. §§ 1801 et seq. on May 19, 2014.

10. Since the Application For Order Directing Insurer to Show Cause and Request for Injunctive Relief was filed on July 31, 2014, Red Rock filed its June 30, 2014 Quarterly Financial Statement filed with the Oklahoma Insurance Department on or about August 14, 2014, reflecting the Company's surplus as to policyholder's being negative Nine Million, Four-Hundred and Four-Thousand, Two-Hundred and Seventy-One Dollars (-\$9,404,271).

11. Red Rock is in violation of 36 O.S. §§ 311A.1 et seq. because two independent auditing firms have resigned and declined to issue the required independent annual audit of the Company's financial statements to be filed with the Department on or before June 1, 2014.

12. Red Rock is currently insolvent and in a condition such that the continued operation would be hazardous to the policyholders, the creditors of the insurer or the general public; therefore, it is appropriate: (1) to place Red Rock in Receivership; (2) to appoint John D. Doak, Insurance Commissioner, as Receiver; (3) for the Court to direct the Insurance Commissioner to liquidate the

business of Red Rock; and (4) that statutory protections be afforded to policyholders, creditors and claimants of Red Rock as set forth in 36 O.S. §§ 1901 et seq.

13. Red Rock has on deposit with the State of Oklahoma through the Insurance Commissioner a security deposit in the amount of approximately \$2,796,768 that is required for authority to transact insurance in Oklahoma. Said deposit should be released to the Receiver of Red Rock pursuant to 36 O.S. §§ 1707.

IT IS THEREFORE ORDERED AND DECREED THAT:

1. Red Rock is hereby placed into receivership pursuant to the provisions of 36 O.S. §§ 1901 et seq. This Order of Liquidation is hereby entered to and against Red Rock Insurance Company. This Order is a Final Order.

2. John D. Doak, Insurance Commissioner of the State of Oklahoma, is hereby appointed Receiver of Red Rock, and is directed to liquidate Red Rock pursuant to the laws of the State of Oklahoma.

3. The Receiver is vested with all powers and authority, express or implied, under the provisions of 36 O.S. §§ 1901 et seq., in order to liquidate Red Rock.

4. The Receiver shall forthwith take possession of the property of Red Rock, liquidate its business, deal with its property and business in the Receiver's name or in Red Rock's name, as the Court may direct, and give notice to all creditors who may have claims against Red Rock to present such claims.

5. The Receiver is hereby vested by operation of law with the title to all of the property, accounts, assets, contracts, rights of action and all of the books and records of Red Rock wherever located, now or hereafter discovered, as of the date of this Order.

6. As Receiver, the Insurance Commissioner may appoint one or more assistant commissioners or receivers to act for him and may employ such counsel, clerks, and assistants as

he deems necessary. The Insurance Commissioner's appointment of Nestor Romero as Assistant Receiver is hereby approved. The Insurance Commissioner's selection of the law firm of Riggs, Abney, Neal, Turpen, Orbison & Lewis as counsel for the Receiver is hereby approved. The compensation of the assistant commissioners or receivers, counsel, clerks, or deputies, and all expenses of taking possession of Red Rock, and of conducting the proceedings, including the compensation from July 31, 2014 forward, shall be fixed by the Insurance Commissioner, as Receiver, subject to approval of this Court, and shall be paid out of the funds or assets of Red Rock as appropriate and approved by the Court. Within the limits of duties imposed upon them, any assistant commissioner or assistant receiver shall possess all of the powers given to the Receiver and, in the exercise of those powers, shall be subject to all of the duties, powers and limitations imposed upon the receiver with respect to these proceedings. 36 O.S. § 1914(F).

7. If any legal action is commenced against the Insurance Commissioner, Receiver, assistant commissioners or receivers, retained counsel, deputies, and/or any of their employees or personnel, whether personally or in an official capacity, alleging property damage, property loss, personal injury, or other civil liability caused by or resulting from any alleged act, error, or omissions of any such person, the Insurance Commissioner, Receiver, assistant commissioners or receivers, deputies, retained counsel, and/or any of their employees or personnel shall be immune from liability and indemnified as defined and set forth under 36 O.S. § 1937.

8. Until further order of the Court, no obligation, claim or debt of Red Rock shall be paid except those which the Receiver deems to be necessary or appropriate to facilitate the taking of possession or furtherance of liquidation. Except as provided for herein, no distribution of the property of Red Rock, will be made without approval of the Court.

9. Red Rock and each of its respective officers, employees, directors, trustees, owners, subscribers, agents, representatives, and all other persons are hereby permanently enjoined and prohibited from transacting any further business of Red Rock, and are further permanently enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing of, or assigning any assets, contracts, causes of action, funds, records, correspondence, memoranda, or any other documents or other property of Red Rock, or any of their respective affiliates.

10. Red Rock, its respective officers, employees, directors, affiliates, trustees, owners, insurers, agents, representatives, contractors, subcontractors and all other persons are hereby directed to assign, transfer and deliver any/all amounts owed to and/or property of Red Rock to the Insurance Commissioner, as Receiver.

11. Any and all authority of Red Rock's officers and directors is hereby terminated.

12. Until further order from this Court, all persons and entities (including secured creditors, unsecured creditors, claimants and/or litigants) are hereby enjoined and prohibited from wasting, transferring, selling, concealing, destroying, disbursing, disposing and assigning, in any manner, the assets and/or property of Red Rock; and are further enjoined and prohibited from prosecuting any pending action or litigation involving Red Rock (whether as a plaintiff or defendant) or against its insureds; obtaining any preferences, judgments, attachments, or other liens against Red Rock or its insureds; or making any levy against Red Rock or against its assets or any part thereof. Notwithstanding anything to the contrary herein, this stay order shall not apply to co-Defendants of Red Rock, nor to co-Defendants of Red Rock's insureds.

13. Red Rock is insolvent. This Order shall constitute a final order of liquidation for purposes of triggering the property and casualty guaranty associations in the respective states in which Red Rock previously did business.

14. In accordance with 36 O.S. § 2007, all policies of insurance with Red Rock shall be terminated upon the following terms: The termination of policies set forth herein supersedes any contractual or statutory provisions pertaining to the renewal or cancellation of policies:

a. All direct policies and/or certificates of insurance which may give rise to “covered claims” as defined and set forth in the Oklahoma Property and Casualty Guaranty Association Act. 36 O.S. §§ 2001 et seq. or which may rise to “covered claims” of a similar organization in any other state, as defined by the provisions of such similar statute in any other state, shall be cancelled on the earliest of:

(i) At 12:01 a.m., local time of the insured or policyholder of any such direct policy and /or certificate of insurance, on the thirty-first (31) day following the date of entry of this Order of Liquidation ; or

(ii) Upon the expiration of any such direct policy and /or certificate of insurance, if the expiration date is within thirty (30) days from the date of entry of this Order of Liquidation; or

(iii) Upon the date requested by the insured or policyholder of any such direct policy and /or certificate of insurance pursuant to policy provisions, if the requested cancellation date is within thirty (30) days following the date of entry of this Order of Liquidation.

b. All other direct policies and/or certificates of insurance issued by Red Rock shall be cancelled effective as of the date of entry of this Order of Liquidation.

c. Further, the continuation of the policies until the dates specified above is contingent upon premium payments continuing to be paid when due during the post-liquidation cancellation period, without regard to any pre-liquidation offsets (if allowable by law) for deposits claimed to be held by Red Rock or its parent holding company or agent(s);

d. In the event a policy is deemed to have lapsed as of the entry of the Order of Liquidation, such policy will not be reinstated.

15. All proceedings, litigation or claims in which Red Rock, its policyholders, its insureds or a property and casualty guaranty association triggered by Red Rock liquidation is a party and shall be stayed 120 days from the date of this Order to permit proper legal action by the Receiver and the respective guaranty associations on any matters germane to its powers and duties. As to judgment under any decision, order, verdict or other finding based on default, the Receiver or guaranty association impacted may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits. This injunction shall be afforded full faith and credit by sister states. U.S. Const. art IV, § 1.

16. Pursuant to 36 O.S § 1925, the rights and liabilities of Red Rock and of its creditors, policyholders, stockholders, owners, subscribers and all other persons interested in its estate shall be fixed as of the date of entry of this Order of Liquidation, subject to the provisions

otherwise set forth herein and/or within the OUILA with respect to the rights of claimants holding contingent claims.

17. With respect to claimants holding contingent claims, including causes of action against Red Rock or its insureds, the provisions of 36 O.S. § 1929 shall govern said claimants' rights in this liquidation proceeding.

18. Any and all banks, brokerage houses, financial institutions and any and all other companies, persons or entities having knowledge of this Order and having in its possession accounts or any other assets which are, or may be, the property of Red Rock are restrained from disbursing or disposing of said accounts or assets, and are further restrained from disposing of or destroying any records, pertaining to any business transaction between Red Rock; and such banks, brokerage houses, financial institutions, companies, persons or entities having done business or doing business with Red Rock or having in its possession assets which are, or may be, the property of Red Rock are ordered to immediately deliver any and all such assets and/or records to the Receiver.

19. All agents, brokers and fronting companies of Red Rock and their respective agents, servants, representatives and employees, and all other persons having knowledge of this Order are restrained from returning any unearned premiums or any money in their possession, or under their control, collected from premiums upon policies, contracts or certificates of insurance or reinsurance previously issued by Red Rock to policyholders or others; and all such agents, servants, representatives and employees are directed to turn over all such funds in their possession or under their control, including any premium or money to which they may hereafter acquire possession or control, to the Receiver in gross and not net of any commissions which may be due thereon.

20. All expenses of these proceedings, including those incurred July 31, 2014 and thereafter but prior to the Entry of this order, shall be taxed and assessed against Red Rock, as approved by the Court.

21. The Court, being duly informed, authorizes the Receiver to pay any and all remaining supervision and conservator expenses, including examiners and attorney fees, which were incurred during the supervision and conservatorship of Red Rock, but which may not have been fully invoiced and paid during the supervision and conservatorship of Red Rock prior to the inception of Red Rock's receivership.

22. Pending the Receiver's first application to the Court for approval of administrative fees and expenses, the Receiver is authorized to advance funds not to exceed \$50,000 to cover the initial expenses of Oklahoma Receivership Office, Inc.'s common and direct expenses of this receivership. These expenses shall be itemized and presented to the Court for approval in the Receiver's first application for approval of administrative fees and expenses.

23. Red Rock's statutory security deposit with the State of Oklahoma in the amount of approximately \$2,796,768 is hereby ordered released to the Receiver of Red Rock pursuant to 36 O.S. § 1707 (3).

24. Pursuant to 36 O.S. § 1923, the Insurance Commissioner shall not be required to pay any fee to any public officer in this state for filing, recording, issuing a transcript or certificate or authenticating any paper or instrument pertaining to the exercise by the Insurance Commissioner, as Receiver, of any of the powers or duties conferred upon him, whether or not such paper or instrument be executed by the Insurance Commissioner or his assistants, deputies, employees or attorneys of record and whether or not it is connected with the commencement of any action or proceeding by or against the Insurance Commissioner, or with the subsequent

conduct of such action or proceeding.

25. Unless otherwise ordered by this Court, any violation of this Order or the injunctive relief set forth herein shall be deemed a contempt of Court and shall subject the violating party to such penalties as allowed by law

Signed and entered this 21st day of August 2014.

THOMAS E. PRINCE

Thomas E. Prince
JUDGE OF THE DISTRICT COURT

TIM RHODES Court Clerk for Oklahoma County,
Oklahoma County, that the foregoing is a true correct
and complete copy of the instrument as appears of
record in the District Court Clerk's Office of
Oklahoma County Oklahoma this 21st day
of Aug 2014
TIM RHODES Court Clerk
By [Signature] Deputy

Julie Meaders
ATTORNEY FOR PLAINTIFF
STATE OF OKLAHOMA, ex rel.
JOHN D. DOAK, INSURANCE COMMISSIONER
Susan Dobbins, OBA #17337
Julie Meaders, OBA #14410
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

CERTIFICATE OF MAILING

I, Julie Meaders, hereby certify that a true and correct copy of the attached Order Placing Insurer into Receivership and Liquidation, Appointing Receiver and For Permanent Injunction was mailed regular mail and e-mail on August 21, 2014 to:

J. Angela Ables, OBA #0122
201 Robert S. Kerr Ave., Suite 600
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