

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT IN AND  
FOR LEON COUNTY, FLORIDA

CASE NO.: 03 - 777

STATE OF FLORIDA, ex. rel., the  
DEPARTMENT OF FINANCIAL SERVICES OF  
THE STATE OF FLORIDA,

Relator,

vs.

NATIONWIDE PUBLIC EMPLOYEES TRUST,  
An entity not authorized to transact  
an insurance business in Florida,

Respondent.

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**ORDER TO SHOW CAUSE, TEMPORARY  
INJUNCTION AND NOTICE OF AUTOMATIC STAY**

**THIS CAUSE** was considered on the Petition of the Department of Financial Services for an Order to Show Cause on the appointment of a Receiver of NATIONWIDE PUBLIC EMPLOYEES TRUST (hereafter Respondent) for purposes of rehabilitation. The Court having considered the matters set forth in said Petition, having heard the presentation of counsel, and being otherwise fully informed in the premises, the Court finds:

- 1) The Department of Financial Services has made a prima facie showing that Respondent, NATIONWIDE PUBLIC EMPLOYEES TRUST, meets one or more of the following statutory grounds for the appointment of the Department of Financial Services as Receiver by this Court:
  - a) That Respondent is insolvent and is therefore in such a condition as to render its further transaction of insurance prospectively hazardous to its policyholders, creditors,

stockholders, or the public pursuant to section 631.051(3), Florida Statutes;

- b) Respondent is in such a condition as to render its further transaction of insurance prospectively hazardous to its policyholders, creditors, stockholders, or the public pursuant to section 631.051(3), Florida Statutes.
- 2) It is necessary for this Court to issue injunctions pursuant to Sections 631.041(3) and (4), Florida Statutes, to protect the interests of policyholders, creditors, and the public generally, pending the adjudication of this matter.

It is therefore, **ORDERED** and **ADJUDGED** as follows:

- 3) NATIONWIDE PUBLIC EMPLOYEES TRUST (herein "Respondent"), shall appear before the Honorable NIKKI ANN CLARK, Circuit Court Judge, in Chambers, 313, Leon County Courthouse, Tallahassee, Florida, at 9:30AM, on MAY 15, 2003, to show good cause, if any, why the Department of Financial Services of the State of Florida should not be appointed Receiver of Respondent for the purpose of rehabilitation in accordance with Chapter 631, Part I, Florida Statutes. Respondent shall file its written response along with any defenses it may have to the Department's allegations no later than 20 days after the service of this ORDER. Should the hearing date fall within 35 days after the service of this ORDER, then Respondent's defenses are due 15 days prior to the hearing date set by this ORDER. Said response shall include: a list of all witnesses; a summary of the testimony of each witness and dates when those witnesses will be available for deposition by the Department; any and all evidence and copies of all documents to be presented on behalf of Respondent at hearing. The failure of Respondent to comply with this provision will result in the immediate entry of an order of rehabilitation.

### TEMPORARY INJUNCTION

- 4) To protect the interests of policyholders, creditors, and the public generally, pending the adjudication of this matter and to protect and preserve the assets, books, and records of Respondent pending hearing on the Department's petition pursuant to Sections 631.041(3) and (4), Florida Statutes, all persons, firms, corporations, associations and Respondent's affiliates as defined by Section 631.011, Florida Statutes, and all other persons or entities within the jurisdiction of this Court, including, but not limited to, Respondent and its officers, directors, stockholders, trustees, members, agents, employees, and its sponsoring organizations shall immediately disclose the location of Respondent's documents, books, records, and assets and are further enjoined and restrained from removing, destroying, or otherwise disposing of any documents, books, records, or assets of Respondent (or pertaining to Respondent), from doing, through acts of commission or omission, or permitting to be done any action which might waste or otherwise dispose of the books, records, and assets of, or directly or indirectly relating to, the Respondent; from denying the Department access to the books, records, and assets of, or directly or indirectly relating to, the Respondent; from in any manner interfering with the Department or the conduct of these proceedings; from the removal, concealment or other disposition of the property, books, records, and accounts of, or directly or indirectly relating to, the Respondent; from the commencement or prosecution of any actions against the Respondent, or the obtaining of preferences, judgments, writs of attachment or execution against Respondent or its property or assets. However regulatory actions against Respondent by any regulatory body shall not be stayed or enjoined.

### INVESTIGATION AUTHORIZED

- 5) The Department, by itself or together with the Office of Insurance Regulation, may conduct either an investigation authorized by Sections 631.391, and 631.156, Florida Statutes, or an examination pursuant to section 624.316, Florida Statutes of Respondent, its sponsoring organizations, and its affiliates to uncover and make fully available to the Court the true state of Respondent's financial affairs. In furtherance of this investigation Respondent and its parent corporations, its subsidiaries, and affiliates shall disclose the location of and make all books, documents, accounts, records, and affairs, which either belong to or pertain to the Respondent, available for full, free and unhindered inspection and examination by the Department during normal business hours (8:00 a.m. to 5:00 p.m.) Monday through Friday, from the date of this Order. This investigation shall include a full and complete examination of any and all reviews, compilations, audits or any other work of whatever nature performed by any public accounting firm to include all work papers, on behalf of, related to or in any way connected with Respondent. The Respondent shall cooperate with the Department to the fullest extent required by Section 631.391, Florida Statutes. Such cooperation shall include, but is not limited to, the taking of oral testimony under oath of Respondent's officers, directors, managers, trustees, agents, adjusters, employees, or independent contractor of Respondent, its sponsoring organizations, its affiliates and any other person who possesses any executive authority over, or who exercises any control over, any segment of the affairs of Respondent in both their official, representative and individual capacities and the production of all documents that are calculated

to disclose the true state of Respondent's affairs.

6 ) Any officer, director, manager, trustee, agent, accountants, adjuster, employee, or independent contractor of Respondent, and any other person, including its sponsoring organizations, who possesses any executive authority over, or who exercises any control over, any segment of the affairs of Respondent shall fully cooperate with the Department as required by Section 631.391, Florida Statutes, and as set out in the proceeding paragraph. Upon receipt of a certified copy of this ORDER, any and all financial institution shall immediately disclose to the Department the existence of any accounts, funds, assets, investments or any other property of Respondent and any and all documents in its possession relating or pertaining to Respondent, in any way, for the Department's inspection and copying. Such financial institution shall disclose whether such accounts, funds, assets, investments or any other property of Respondent are encumbered in any way whatsoever.

7) Failure of Respondent and its affiliates and all other persons or entities within the jurisdiction of this Court, including, but not limited to, Respondent and its officers, directors, stockholders, trustees, members, agents, employees, outside accountants, its sponsoring organizations, and financial institutions to cooperate with the Department's investigations as required by Section 631.391, Florida Statutes, and this ORDER shall result in the immediate entry of an order of conservation against Respondent.

#### **NOTICE OF AUTOMATIC STAY**

8) Notice is hereby given that, pursuant to Section 631.041(1), Florida Statutes, the filing of the Department's Petition for Order to Show Cause herein operates as an automatic stay applicable to all persons and entities, other than the Department, which shall be permanent and survive the

entry of this Order, and which prohibits:

- a) The commencement or continuation of judicial, administrative, or other action or proceeding against the insurer or against its assets or any part thereof;
  - b) The enforcement of a judgment against the insurer or an affiliate obtained either before or after the commencement of the delinquency proceeding;
  - c) Any act to obtain possession of property of the insurer;
  - d) Any act to create, perfect, or enforce a lien against property of the insurer; except that a secured claim as defined in Section 631.011, Florida Statutes, may proceed under Section 631.191 after the order of rehabilitation is entered;
  - e) Any act to collect, assess, or recover a claim against the insurer, except claims as provided for under Chapter 631;
  - f) The setoff or offset of any debt owing to the insurer except offsets as provided in Section 631.281, Florida Statutes.
- 9) Pursuant to Section 631.001(2), Florida Statutes, nothing in this Order shall be interpreted to limit any powers granted the Department of Financial Services by other provisions of law.
- 10) This Order shall remain in effect until a further order in the formal delinquency proceeding is entered, until the hearing scheduled above, or until otherwise modified by the Court.

**ORDERED** in Chambers at the Leon County Courthouse, Tallahassee, Leon County, Florida, this 3 day of April, 2003, at 1:30 o'clock P.m.

  
CIRCUIT JUDGE