

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

CASE NO. 97-1219

In Re The Receivership of
ASSOCIATED BUSINESS OWNERS
SELF INSURERS FUND, INC.,
a Florida corporation.

**ORDER APPOINTING THE FLORIDA DEPARTMENT OF
INSURANCE AS RECEIVER FOR PURPOSES OF LIQUIDATION,
INJUNCTION, AND NOTICE OF AUTOMATIC STAY**

THIS CAUSE was considered on the Petition of the Florida Department of Insurance for an order of liquidation, injunction, and notice of automatic stay of the ASSOCIATED BUSINESS OWNERS SELF INSURERS FUND, INC., a Florida corporation. The Court having reviewed the pleadings and other papers of record, having heard presentation of counsel, and otherwise being fully advised in the premises, finds:

1. This Court has jurisdiction over this delinquency proceeding in accordance with Sections 631.021 and 631.031, Florida Statutes.
2. The ASSOCIATED BUSINESS OWNERS SELF INSURERS FUND, INC., a Florida corporation (hereafter "ABO") is a Florida self-insurance fund authorized to transact business as a group self-insurance fund in the state of Florida pursuant to Sections 624.460 - 624.489, Florida Statutes.
3. This Court has jurisdiction over ABO pursuant to Section 624.476(3), Florida Statutes, which provides that any rehabilitation, liquidation, conservation, or dissolution of a self-insurance fund shall be conducted under the supervision of the Department pursuant to Chapter

631, Florida Statutes.

4. ABO consented, contested and has newly consented to the entry of an Order of Liquidation in accordance with the Consent Order dated January 21, 1997, attached as Exhibit A to the Florida Department of Insurance's Petition for Order Appointing the Florida Department of Insurance Receiver for Purposes of Liquidation, Injunction, and Notice of Automatic Stay. This latest consent is set out in the Notice of Filing Consent to Liquidation served on the Department on March 24, 1997.

5. ABO is insolvent as defined by Section 631.011, Florida Statutes.

6. It is in the best interests of ABO and its creditors, insureds, and claimants that the relief requested in the Department's petition be granted.

IT IS THEREFORE ORDERED and ADJUDGED that:

The Department of Insurance of the State of Florida is hereby appointed Receiver of ABO for purposes of liquidation and the Receiver is hereby authorized and directed to:

7. Take immediate possession of all the property, assets, and estate, and all other property of every kind whatsoever and wherever located belonging to or in the possession of ABO pursuant to Sections 631.111 and 631.141, Florida Statutes, including but not limited to: rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, of ABO, wherever situate, whether in the possession of ABO or its officers, directors, trustees, employees, consultants, attorneys, or agents.

8. Liquidate the assets of ABO including but not limited to funds held by ABO's agents, subagents, producing agents, brokers, solicitors, service representatives or others under

agency contracts or otherwise which are due and unpaid to ABO, including premiums, unearned commissions, agents' balances, agents' reserve funds, and subrogation recoveries.

9. Employ and authorize the compensation of legal counsel, actuaries, accountants, clerks, consultants, and such assistants as it deems necessary, purchase or lease personal or real property as it deems necessary, and authorize the payment of the actual, necessary, and reasonable expenses of these proceedings and the necessary incidents thereof, as approved by the Court, to be paid out of the funds or assets of the ABO in the possession of the Receiver or coming into its possession.

10. Reimburse such employees or agents, from the funds of this receivership, for their actual necessary and reasonable expenses incurred while traveling on the business of this receivership.

11. Not defend or accept service of process on legal actions wherein the ABO, the Receiver, or the insured is a party defendant, commenced either prior to or subsequent to the order, without authorization of this Court; except, however, in actions where ABO is a nominal party, as in certain foreclosure actions, and the action does not affect a claim against or adversely affect the assets of ABO, the Receiver may file appropriate pleadings in its discretion.

12. Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding.

13. Collect all debts which are economically feasible to collect which are due and owing to the ABO.

14. Deposit funds and maintain bank accounts in accordance with Section 631.221, Florida Statutes.

15. Take possession of all of ABO's securities and certificates of deposit on deposit with the Treasurer of Florida, if any, and convert to cash as much as may be necessary, in its judgment, to pay the claims expenses of administration of this receivership.

16. Publish notice specifying the time and place fixed for the filing of claims with the Receiver once each week for three consecutive weeks in the Florida Administrative Weekly published by the Secretary of State, and at least once in the Florida Bar News.

17. Negotiate and settle subrogation claims and Final Judgments up to and including the sum of Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

18. Sell any salvage recovered having value of not more than Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

19. Coordinate the operation of the receivership with the Florida Self-Insurance Fund Guaranty Association pursuant to Part V of Chapter 631, Florida Statutes. The Receiver may, in its discretion, contract with the guaranty association to provide services as are necessary to carry out the purposes of Chapter 631.

20. Give notice of this proceeding to ABO's agents pursuant to Section 631.341, Florida Statutes, and to its insureds, if any.

21. Calculate any necessary assessments pursuant to Sections 624.474, 624.476, Florida Statutes, and utilize the assessment collection procedure set forth in Sections 631.311, 631.321, and 631.331, Florida Statutes, or such other procedure as may be subsequently ordered by this Court.

22. All officers, directors, trustees, administrators, agents and employees and all other persons representing ABO or currently employed or utilized by ABO in connection with the

conduct of its business are hereby discharged forthwith.

23. Title to all property real or personal, all contracts, rights of action and all books and records of ABO, wherever located, is hereby vested in the Receiver pursuant to Sections 631.111 and 631.141, Florida Statutes.

24. Any officer, director, manager, trustee, attorney, agent, accountant, actuary, broker, employee or adjuster of ABO and any other person who possesses or possessed any executive authority over, or who exercises or exercised any control over any segment of ABO's affairs shall fully cooperate with the Receiver, pursuant to Section 631.391, Florida Statutes.

25. All attorneys employed by ABO as of the date of the Order shall, within 10 days notice, report to the Receiver on the name, company claim number and status of each file they are handling on behalf of the ABO. Said report shall also include an accounting of any funds received from or on behalf of the ABO. All attorneys employed by ABO are hereby discharged as of the date of the Order unless their services are specifically retained by the Receiver. All attorneys employed by ABO are hereby advised that pursuant to Section 631.011 (17), Florida Statutes, a claim based on mere possession does not create a secured claim and all attorneys employed by ABO, pursuant to In Re the Receivership of Syndicate Two, Inc., 538 So.2d 945 (Fla. 1st DCA 1989), who are in possession of litigation files or other material, documents or records belonging to or relating to work performed by the attorney on behalf of ABO shall deliver such litigation files, material, documents or records intact and without purging to the Receiver, on request, notwithstanding any claim of a retaining lien which, if otherwise valid, shall not be extinguished by the delivery of these documents.

26. All agents, brokers or other persons having sold policies of insurance and/or

collected premiums on behalf of the ABO shall account for and pay all premiums and commissions unearned due to cancellation of policies by the Order or in the normal course of business owed to the ABO directly to the Receiver within 30 days of demand by the Receiver or appear before this Court to show cause, if any they may have, as to why they should not be required to account to the Receiver or be held in contempt of Court for violation of the provisions of the Order. No agent, broker, premium finance company or other person shall use premium monies owed to the ABO for refund of unearned premium or for any purpose other than payment to the Receiver.

27. Any premium finance company which has entered into a contract to finance a premium for a policy which has been issued by the ABO shall pay any premium owed to the ABO directly to the Receiver.

28. Reinsurance premiums due to or payable by the ABO shall be remitted to, or disbursed by, the Receiver. Reinsurance losses recoverable or payable by the ABO shall be handled by the Receiver. All correspondence concerning reinsurance shall be between the Receiver and the reinsuring company or intermediary.

29. Upon request by the Receiver, any company providing telephonic services to the ABO shall provide a reference of calls from the number presently assigned to the ABO to any such number designated by the Receiver or perform any other services or changes necessary to the conduct of the receivership.

30. Any bank, savings and loan association, financial institution which has on deposit, in its possession, custody or control any funds, accounts and any other assets of the ABO, shall immediately transfer title, custody and control of all such funds, accounts, or assets to the

Receiver, and are hereby instructed that the Receiver has absolute control over such funds, accounts and other assets such financial institutions and accounts include, but are not limited to the following:

FIRST UNION BANK

Payroll Account: 2090001774961

Claims Account: 2090000583894

Operating Account: 2146100103662

MERRILL LYNCH

Account: 764-04438

The Receiver may change the name of such accounts and other assets, withdraw them from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association or other financial institution shall exercise any form of set-off, alleged set-off, lien, any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.

31. Any data processing service which has custody or control of any data processing information and records including but not limited to source documents, data processing cards, input tapes, all types of storage information, master tapes or any other recorded information relating to the ABO shall transfer custody and control of such records to the Receiver.

32. The United States Postal Service is directed to provide any information requested by the Receiver regarding the ABO and to handle future deliveries of ABO's mail as directed by the Receiver.

33. All claims shall be filed with the Receiver on or before 12:01 a.m. on January 2, 1998, or be forever barred, and all such claims should be filed on proof of claim forms prepared

by the Receiver.

34. Pursuant to the provisions of Section 631.252, Florida Statutes, all insurance policies, bonds or similar contracts of coverage of the ABO issued in Florida and now in force shall continue in force until 30 days from the date of the entry of this Order of Liquidation and shall be determined canceled as of 12:01 a.m. on April 25, 1997; except that those policies or contracts of coverage with normal expiration dates prior thereto and policies terminated by insureds or lawfully canceled by the insurer before such date, shall stand canceled as of such earlier date.

35. Except for contracts of insurance, all executory contracts to which the ABO was a party are hereby canceled and will stand canceled within 30 days of the date of the Order unless specifically adopted, in writing, by the Receiver and approved by this Court. The rights of the parties to any such contracts are fixed as of the date of the Order and any cancellation under this provision shall not be treated as an anticipatory breach of such contracts.

36. The Receiver has title to all policy files and other records of, and relating to ABO, wherever located and by whomever held. The Receiver is authorized to take possession of any such records, files, and documents, and to remove them to any location in the Receiver's discretion.

37. The Receiver shall have complete access to all computer records of the ABO and its affiliates at all times.

38. Any person, firm, corporation or other entity having notice of this order that 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 the Order.

39. The Florida Department of Insurance is hereby authorized to cancel and render null and void any certificate of authority issued by the Department of Insurance and required by the Florida Insurance Code in order for ABO to do business in the State of Florida.

40. Pursuant to Sections 631.041(3) and (4), Florida Statutes, all persons, firms, corporations and associations within the jurisdiction of this Court, including, but not limited to, ABO and its officers, directors, trustees, stockholders, members, subscribers, agents, and employees, are enjoined and restrained from the further transaction of the insurance business of the ABO; from doing, doing through omission, or permitting to be done any action which might waste or dispose of the books, records and assets of the ABO; from in any means interfering with the Receiver or these proceedings; from the transfer of property and assets of ABO without the consent of the Receiver; from the removal, concealment, or other disposition of ABO's property, books, records, and accounts; from the commencement or prosecution of any actions against the ABO or the Receiver, the service of process and subpoenas, or the obtaining of preferences, judgments, writs of attachment or garnishment or other liens; and from the making of any levy or execution against ABO or any of its property or assets.

41. Notwithstanding the provisions of paragraph 40 hereinabove, the Receiver can accept and be subpoenaed for non-party production of worker's compensation claim files, including medical records which may be contained therein. In such cases, the requesting party must submit an affidavit to the Receiver stating that notice of the non-party production was issued and provided to the patient/employee and the patient/employee was given the opportunity to object and either did not object to the non-party production, or objected and the Court

overruled the objection, in which case a copy of the Court's ruling shall be attached. The charge for copies of such claim files shall be imposed as is more fully set forth in Section 119.07(1)(a), Florida Statutes.

42. The Receiver may conduct an investigation as authorized by Section 631.391, Florida Statutes, of ABO to uncover and make fully available to this Court the true state of ABO's financial affairs. Any officer, director, manager, trustee, agent, adjuster, employee, or independent contractor of ABO or any affiliate and any other person who possesses any executive authority over, or who exercises any control over, any segment of the affairs of the ABO or affiliate shall fully cooperate with the Department in accordance with section 631.391, Florida Statutes.

43. Upon receipt of a certified copy of the Order, any bank or financial institution shall immediately disclose to the Receiver the existence of any accounts of ABO and any funds contained therein and any and all documents in its possession relating to ABO for the Receiver's inspection and copying.

44. All Sheriffs and all law enforcement officials of this state shall cooperate with and assist the Receiver in the implementation of the Order.

45. Pursuant to Section 631.111(3), Florida Statutes, the corporate existence of ABO is hereby dissolved. The Secretary of State shall upon the filing of a certified copy of this order reflect such dissolution in its records.

46. This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time shall be deemed appropriate.

NOTICE OF AUTOMATIC STAY

Notice is hereby given that, pursuant to Section 631.041(1), Florida Statutes, the filing of the Department's initial petition herein operates as an automatic stay applicable to all persons and entities, other than the Receiver, which shall be permanent and survive the entry of the order, and which prohibits:

47. The commencement or continuation of judicial, administrative or other action or proceeding against the insurer or against its assets or any part thereof;

48. The enforcement of a judgment against the insurer or an affiliate obtained either before or after the commencement of the delinquency proceeding;

49. Any act to obtain possession of property of the insurer;

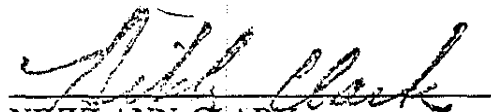
50. Any act to create, perfect or enforce a lien against property of the insurer, except a secured claim as defined in Section 631.011(17), Florida Statutes;

51. Any action to collect, assess or recover a claim against the insurer, except claims as provided for under Chapter 631;

52. The set-off or offset of any debt owing to the insurer except offsets as provided in Section 631.281, Florida Statutes.

DONE and ORDERED in Chambers at the Leon County Courthouse in Tallahassee, Leon County, Florida this 25th day of March, 1997.

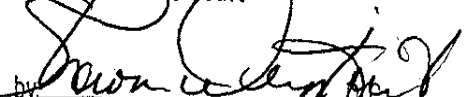
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All Counsel of Record
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NIKKI ANN CLARK
STATE OF FLORIDA, COUNTY OF LEON
CIRCUIT COURT JUDGE

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of an instrument recorded in the official records of Leon County, Florida. WITNESS my hand and seal of office this 25 day of March, 1997.



DAVE LANG
Serk of Circuit Court


by [Signature]