

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

In re the Receivership of
Windhaven Insurance Company

CASE NO.: 2019 CA 002861

**MOTION FOR ORDER TO LIQUIDATE WINDHAVEN INSURANCE COMPANY,
EFFECTIVE JANUARY 6, 2020**

The Florida Department of Financial Services, as Receiver of Windhaven Insurance Company (“Department”), by and through its undersigned counsel, files this *Motion for Order to Liquidate Windhaven Insurance Company, effective January 6, 2020*, and as good grounds therefor states as follows:

1. Pursuant to section 631.021(1), Florida Statutes, this Court has jurisdiction over these proceedings and is authorized to enter all necessary and/or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, sections 631.001 *et seq.*, Florida Statutes.

2. On December 9, 2019, the Department filed a *Petition for Consent Order Appointing the Department as Receiver of Windhaven Insurance Company (“WIC”) for Purposes of Rehabilitation, Injunction, and Notice of Automatic Stay (“Petition”)*.

3. On December 12, 2019, this Court entered an *Amended Consent Order Appointing the Florida Department of Financial Services as Receiver of Windhaven for Purposes of Rehabilitation, Injunction, and, Notice of Automatic Stay (“Rehabilitation Order”)*.

4. In the Rehabilitation Order, the Court found the existence of the following grounds sufficient to appoint the Department as Receiver of WIC for purposes of rehabilitation:

A. The Court found WIC to be impaired within the meaning of section 631.011(13), Florida Statutes. § 631.051(1), Fla. Stat.

B. The Court found Windhaven to be insolvent within the meaning of section 631.011(14), Florida Statutes. § 631.051(1), Fla. Stat.

C. The Office of Insurance Regulation (“OIR”) found that Windhaven’s further transaction of insurance is hazardous to policyholders, creditors, stockholders, or the public. § 631.051(3), Fla. Stat.

D. The Court found that Windhaven, through a majority of its directors, consented to the entry of an order placing Windhaven into receivership. § 631.051(11), Fla. Stat.

5. Paragraph 37 of the Rehabilitation Order provides that the Department may apply to the Court for an order of liquidation if the Department determines further efforts to rehabilitate Windhaven to be useless. § 631.101(2), Fla. Stat.

6. The Department has determined that any further efforts to rehabilitate Windhaven would be useless and that the financial condition of Windhaven makes liquidation necessary. The Department’s determination is based on the following:

A. Windhaven remains insolvent within the meaning of section 631.011(14), Florida Statutes. Windhaven filed its September 30, 2019 quarterly financial statement with Office of Insurance Regulation which reflects surplus as regards to policyholder of (\$1,742,146.00) which is \$6,837,181 below the surplus required by section 624.407, Florida Statutes to continue to transact business as a property and casualty insurer.

B. In addition, on December 19, 2019, at the direction of the Department, WIC staff provided the Department with a summary of the claims outstanding checks which indicates there is in excess of \$7.4 million worth of checks that have been issued and mailed in 2019 but have not yet been cashed by the recipients.

C. In Paragraph 16 of the Consent Order for Administrative Supervision, Windhaven consented to the Department obtaining a subsequent Order appointing the Department as Receiver for purposes of Liquidation, should the Department, at any time in its sole discretion, determine that Rehabilitation” is not feasible. Rehabilitation Order, DFS Exhibit B-1 at 5.

7. Accordingly, the Department requests, pursuant to section 631.061, Florida Statutes, the entry of an Order Appointing the Department as Receiver of Windhaven for purposes of liquidation, injunction, and notice of automatic stay to allow the Department the ability to marshal Windhaven’s assets in the best interest of Windhaven’s policyholders, creditors, other claimants, and the public.

WHEREFORE, the Florida Department of Financial Services, Division of Rehabilitation and Liquidation, respectfully requests that this Court enter a Consent Order appointing the Department of Financial Services as Receiver of Windhaven Insurance Company for the purposes of liquidation, injunction, and notice of automatic stay.

RESPECTFULLY SUBMITTED this the 23rd day of December, 2019.

/s/

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that Department counsel conferred with opposing counsel on the 23rd day of December 2019, and they have not responded if they are opposed or not opposed to this Motion.

/s/
Yamile Benitez-Torviso

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served all parties who have entered an appearance on the ECF system with a copy of this Motion.

/s/
Yamile Benitez-Torviso