

OCT 14 2011

BY: M. PORTER

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
OCT 21 2011
ALAN CARLSON, Clerk of the Court
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER – UNLIMITED CIVIL

**INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,**

Applicant,

v.

**AMERICAN STERLING INSURANCE
COMPANY, A CALIFORNIA CORPORATION,**

Respondent.

Case No. 30-2011-00510773

[proposed]
**ORDER APPOINTING INSURANCE
COMMISSIONER AS LIQUIDATOR,
AND RESTRAINING ORDERS**

The Honorable Steven L. Perk
Department C-32

10/21/11
11:00 am
C32

On October 21, 2011, the California Insurance Commissioner's Verified Application
for Order of Liquidation was heard on shortened time by the Honorable Steven L. Perk, Superior
Court Judge, in Department C-32 of the Orange County Superior Court. Present on behalf of the
applicant, THE INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA, was Elisa B. Wolfe-
Donato, Deputy Attorney General. ^{ALSO} Appearing on behalf of American Sterling AMERICAN
STERLING INSURANCE COMPANY, was LAWRENCE K. DODGE, CEO
of AMERICAN STERLING

~~Other appearances were as noted in the record.~~

1 FROM THE CALIFORNIA INSURANCE COMMISSIONER'S VERIFIED
2 APPLICATION FOR ORDER OF LIQUIDATION, IT APPEARS TO THIS COURT THAT:

3 A. American Sterling Insurance Company is insolvent, and has no foreseeable or
4 reasonable prospect of rehabilitation.

5 B. It would be futile for the Insurance Commissioner to proceed as Conservator with
6 the conduct of the business of American Sterling Insurance Company.

7 C. There exist sufficient factual and legal grounds for the Insurance Commissioner to
8 liquidate and wind up the business of American Sterling Insurance Company, as contemplated by
9 Insurance Code section 1016.

10 D. The Insurance Commissioner is prepared to commence the liquidation of
11 American Sterling Insurance Company, with (i) David E. Wilson serving as the Special Deputy
12 Insurance Commissioner and Chief Executive Officer of the Conservation and Liquidation Office
13 ("CLO") of the California Department of Insurance, and specifically as the Liquidator of
14 American Sterling Insurance Company, and (ii) Scott Pearce of the CLO, serving as the
15 Liquidation Manager for American Sterling Insurance Company.

16
17 THEREFORE, THIS COURT MAKES THE FOLLOWING ORDERS:

18 1. The Insurance Commissioner's status as Conservator is terminated. The Insurance
19 Commissioner is hereby appointed as the Liquidator of American Sterling Insurance Company
20 ("**American Sterling**"), as contemplated by Insurance Code section 1016. The Commissioner, as
21 Liquidator, is directed to liquidate and wind up the affairs of American Sterling; to conduct the
22 business of American Sterling, or so much thereof as may seem appropriate; to pay or defer
23 payment of all proper claims and obligations against American Sterling, which claims and
24 obligations accrued prior or subsequent to his appointment as Liquidator; and to act in all ways
25 and exercise all powers necessary for the purpose of carrying out such order.

26 2. The Commissioner as Liquidator is authorized to take possession of all the assets
27 of American Sterling, including its books, records, and property, both real and personal,
28 wheresoever situated.

1 3. The Commissioner as Liquidator, or his successor in office, in his official capacity
2 as Liquidator, is vested with title to all property and assets of American Sterling, whether
3 presently in American Sterling's possession, or discovered hereafter, wheresoever situated,
4 including American Sterling's five subsidiaries, to wit: (i) American Sterling Productions, Ltd.;
5 (ii) Gold Fish LLC; (iii) American Sterling Communications, LLC; (iv) American Sterling
6 Capital Corporation; and (v) American Sterling Productions One, LLC. All persons are enjoined
7 from interfering with the Commissioner's possession of all property and assets, and title thereto.

8 4. The Commissioner as Liquidator is authorized to pay his costs in bringing and
9 maintaining this action, and such other actions as are necessary to carry out his functions as
10 Liquidator, out of the funds and assets of American Sterling. If American Sterling has
11 insufficient funds, the Commissioner is authorized to pay these costs out of the Insurance Fund,
12 pursuant to Insurance Code section 1035.

13 5. The Commissioner as Liquidator is authorized to initiate such equitable or legal
14 actions or proceedings in this or other states as may appear to him necessary to carry out his
15 functions as Liquidator.

16 6. The Commissioner as Liquidator is authorized to appoint and employ special
17 deputies, estate managers, other professionals, clerks, and assistants, and to give each of them such
18 power and authority as he may deem necessary. The Commissioner as Liquidator is authorized to
19 compensate these persons from the assets of American Sterling as he may deem appropriate.

20 7. The Commissioner as Liquidator is authorized to divert, take possession of, and
21 secure all mail of American Sterling, in order to screen such mail, and to effect a change in the
22 rights to access or use any and all post office boxes and other mail collection facilities used by
23 American Sterling.

24 8. The Commissioner as Liquidator is authorized to pay all reasonable costs of
25 operating American Sterling (including direct and allocated direct costs, direct and allocated
26 general and administrative costs and overhead, and other allocated costs) out of funds and assets
27 of American Sterling. If American Sterling has insufficient funds, the Commissioner is
28 authorized to pay his costs out of the Insurance Fund, pursuant to Insurance Code section 1035.

1 9. The Commissioner as Liquidator is authorized to invest American Sterling's assets
2 in such a manner as to him may seem suitable for the best interest of American Sterling's
3 creditors. No investment or reinvestment exceeding the sum of \$100,000 shall be made without
4 first obtaining permission of this Court, except the Commissioner may invest or reinvest funds in
5 excess of \$100,000, but no more than the sum of \$2,000,000, without prior Court approval, if
6 such investments are made pursuant to the attached investment guidelines, a true and correct copy
7 of which is attached hereto as **Exhibit "A."** If the Commissioner makes any such investments,
8 then the Commissioner shall file quarterly reports regarding same with the Court (with notice to
9 all interested parties); such reports shall be filed within 45 days of the end of each quarter. The
10 first such report, if required, shall be filed no later than January 15, 2012. Subsequent initial
11 reports shall be filed no later than 45 days after the end of each fiscal quarter in which
12 investments are made, pursuant to the authority granted hereunder.

13 10. The Commissioner as Liquidator is authorized, pursuant to Insurance Code section
14 1037, subdivison (g), and notwithstanding the provisions of paragraph 9 above, to invest and
15 reinvest all assets in a manner he deems to be in the best interest of the creditors of the estate,
16 including investing and reinvesting assets through an investment pool consisting exclusively of
17 assets from conserved estates. To the extent the Commissioner as Liquidator invests or reinvests
18 through such an investment pool, such investments and re-investments may exceed \$100,000.

19 11. The Commissioner as Liquidator is authorized to pay, as expenses of
20 administration, all expenses heretofore incurred by the Commissioner as Conservator, which
21 expenses are presently unpaid. The Commissioner as Liquidator is authorized to pay, upon
22 presentation, the full amount of any checks or drafts which have been issued by him in his
23 capacity as Conservator, and which are outstanding.

24 12. The Commissioner as Liquidator is authorized, pursuant to Insurance Code section
25 1037, subdivision (d), to dispose of any excess property of American Sterling by any
26 commercially reasonable method, including, but not limited to, sales at public auctions or sales in
27 bulk to the high bidder (provided at least three (3) independent dealers in the kind of property
28 sold are given notice of the opportunity to bid).

1 13. The Commissioner as Liquidator is authorized to assume or reject, or to modify,
2 any executory contracts, including without limitation, any lease, rental, or utilization contract or
3 agreement (including any schedule to any such contract or agreement), and any license or other
4 arrangement for the use of computer software or business information systems, to which contract
5 American Sterling is a party or as to which American Sterling agrees to accept an assignment of
6 such contract. The Commissioner as Liquidator is directed to effect any such assumption or
7 rejection or modification of any executory contract not later than within 120 days after the entry
8 of this order, unless such date is extended by application to and further order of this Court. All
9 executory contracts not expressly assumed by the Commissioner as Liquidator shall be deemed
10 rejected. Any party to a contract rejected by the Commissioner as Liquidator pursuant to this
11 order shall be permitted to file a proof of claim against the liquidation estate, which claim shall be
12 treated in accordance with Insurance Code section 1010, et seq.

13 14. American Sterling, and all former and present officers, directors, agents, and
14 employees of American Sterling, are directed to deliver to the Commissioner as Liquidator all
15 assets, books, records, equipment, and other property of the American Sterling, wheresoever
16 situated.

17 15. All American Sterling's funds and assets, including certificates of deposit, bank
18 deposits, and mutual fund shares, in various financial depository institutions, including banks,
19 savings and loan associations, industrial loan companies, mutual funds, or stock brokerages,
20 wheresoever situated, are directed to be vested in the Commissioner as Liquidator and subject to
21 withdrawal upon his order only.

22 16. All persons who maintain records for American Sterling, pursuant to written
23 contract or any other agreement, are directed to continue to maintain such records and to deliver
24 them to the Commissioner as Liquidator upon his request.

25 17. All agents of American Sterling, and all brokers who have done business with
26 American Sterling, are directed to make remittances of all funds collected by them or in their
27 hands directly to the Commissioner as Liquidator. This obligation to remit collected funds is
28 continuing in nature.

1 18. All persons having possession of any lists of policyholders or escrow holders of
2 American Sterling are directed to deliver all such lists to the Commissioner as Liquidator. All
3 persons are enjoined from using any such lists or any information contained therein without the
4 consent of the Commissioner as Liquidator.

5 19. American Sterling and its respective officers, directors, agents, servants,
6 employees, successors, assigns, affiliates, and other persons or entities under their control, and all
7 persons or entities in active concert or participation with them, and each of them, are directed to
8 turn over to the Commissioner as Liquidator any and all records, documentation, charts, and/or
9 descriptive material of all funds, assets, property (owned beneficially or otherwise), and all other
10 assets of American Sterling, wherever situated, and all books and records of accounts, title
11 documents, and other documents in their possession or under their control, which relate, directly
12 or indirectly, to assets or property owned by or held by American Sterling or to the business or
13 operations of American Sterling.

14 20. All insurance policies issued by American Sterling shall be terminated and
15 canceled effective thirty (30) days following the issuance of this order. The Commissioner as
16 Liquidator shall notify promptly all policyholders of such policy termination and cancellation by
17 First Class Mail at the last known address of such policyholders. In addition, the Commissioner
18 as Liquidator, in his sole discretion, is authorized to terminate and cancel any policies issued by
19 American Sterling that are not covered by the preceding sentence or that were issued by a
20 fronting insurer and reinsured, in whole or in part, by American Sterling.

21 21. All prior injunctions and other orders of this Court, except to the extent expressly
22 modified herein, are reaffirmed and remain in full force and effect. All powers and authority
23 granted to the Commissioner as Liquidator under this order are in addition to and not in limitation
24 of the powers of the Commissioner as Liquidator under the Insurance Code and any other
25 statutory or applicable law.

26 22. The rights and liabilities of claimants, creditors, shareholders, policyholders,
27 escrow holders, and all other persons interested in the assets of American Sterling, including the
28 State of California, are fixed as of the date of the entry of this order.

1 23. All funds and accounts in the name of American Sterling, or the Commissioner as
2 Conservator, in various banks or any other institutions, wheresoever situated, are vested in the
3 Commissioner as Liquidator and are subject to withdrawal at his direction only. This order does
4 not convert funds held in a fiduciary capacity to general assets of the Liquidator.

5 24. All persons are enjoined, except with leave of this Court issued after a hearing in
6 which the Commissioner as Liquidator has received reasonable notice, from obtaining
7 preferences, judgments, attachments, or other liens, or making any levy against American Sterling
8 or its assets or property, and from executing or issuing or causing the execution or issuance of any
9 court attachment, subpoena, replevin, levy, execution, or other process for the purpose of
10 impounding or taking possession of or interfering with or creating or enforcing a lien upon any
11 property or assets owned or in the possession of American Sterling or its affiliates, or the
12 Liquidator appointed herein, wheresoever situated, and from doing any act interfering with the
13 conduct of said business by the Commissioner as Liquidator.

14 25. All persons are enjoined, except by leave of this Court obtained after reasonable
15 notice to the Commissioner as Liquidator, from accelerating the due date of any obligation or
16 claimed obligation; exercising any right of set-off; taking, retaining, retaking, or attempting to
17 retake possession of any real or personal property; withholding or diverting any rent or other
18 obligation; or doing any act or other thing whatsoever to interfere with the possession of or
19 management by the Commissioner as Liquidator of the property and assets owned or controlled
20 by American Sterling or in the possession of American Sterling, or to in any way interfere with
21 said Commissioner as Liquidator or to interfere in any manner during the pendency of this
22 proceeding with the exclusive jurisdiction of this Court over American Sterling.

23 26. American Sterling, its officers, directors, governors, agents, and employees are
24 enjoined from transacting any of the business of American Sterling, whether in the State of
25 California or elsewhere, or from disposing of, or assisting any person in the transfer or alienation
26 of, the property or assets of American Sterling, until further order of this Court.

27 27. All persons are enjoined from instituting, prosecuting, or maintaining any action at
28 law or suit in equity, including but not limited to actions or proceedings to compel discovery or

1 production of documents or testimony and matters in arbitration, except for matters before the
2 Workers' Compensation Appeals Board, against American Sterling or against the Commissioner
3 as Liquidator of American Sterling, and from attaching, executing foreclosure upon, redeeming
4 of, or taking any other legal proceedings against, any of the property or assets of American
5 Sterling, and from doing any act interfering with the conduct of said business by the
6 Commissioner as Liquidator, except upon order from this Court obtained after reasonable notice
7 to the Commissioner as Liquidator.

8 28. Any and all provisions of any agreement entered into by and between any third
9 party and American Sterling including, by way of illustration, but not limited to, the following
10 types of agreements (as well as any amendments, assignments, or modifications thereto), shall be
11 stayed, and the assertion of any and all rights or remedies relating thereto shall also be stayed and
12 barred, except as otherwise ordered by this Court, and this Court shall retain jurisdiction over any
13 cause of action that has arisen or may otherwise arise under any such provision: financial
14 guarantee bonds, promissory notes, loan agreements, security agreements, deeds of trust,
15 mortgages, indemnification agreements, subrogation agreements, subordination agreements,
16 pledge agreements, assignments of rents or other collateral, financial statements, letters of credit,
17 leases, insurance policies, guaranties, escrow agreements, management agreements, real estate
18 brokerage and rental agreements, servicing agreements, attorney agreements, consulting
19 agreements, easement agreements, license agreements, franchise agreements, or employment
20 contracts that provide in any manner that selection, appointment, or retention of a conservator,
21 liquidator, or trustee by any court, or entry of an order such as hereby made, shall be deemed to
22 be or otherwise operate as a breach, violation, event of default, termination, event of dissolution,
23 event of acceleration, insolvency, bankruptcy, or liquidation.

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1 29. All persons are enjoined from interfering with the possession, title, and rights of
2 the Commissioner as Liquidator, in and to the property and assets of American Sterling, and from
3 interfering with the conduct of the Commissioner as Liquidator in the handling and disposition of
4 assets of American Sterling, and from interfering with the conduct of the liquidation and the
5 winding up of the business of American Sterling, except upon order of this Court obtained after
6 reasonable notice to the Commissioner as Liquidator.

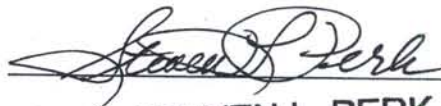
7 30. All persons are enjoined from wasting assets of American Sterling.

8 31. Any and all claims against American Sterling (except those policyholder claims
9 already pending against American Sterling, which are hereby deemed filed with the Liquidator,
10 who shall maintain a list of such claims), including those which in any way affect or seek to affect
11 any of the assets of American Sterling, wherever or however such assets may be owned or held,
12 must be filed by no later than July 31, 2012, (the "Claims Bar Date"), together with proper proof
13 thereof, in accordance with the provisions of Insurance Code section 1010, et seq., including, but
14 not limited to section 1023. Any claim not filed by the Claims Bar Date is conclusively deemed
15 forever waived.

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17 IT IS SO ORDERED, EFFECTIVE OCTOBER 26, 2011 AT.
18 4:30 P.M.

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21 Dated:

10 / 21 / 2011



STEVEN L. PERK

Judge of the Superior Court

EXHIBIT

A

EXHIBIT A

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EXHIBIT "A"

The Investment Guidelines
of the Conservation & Liquidation Office
of the California Department of Insurance

INSURANCE COMMISSIONER of the
STATE of CALIFORNIA
CONSERVATION & LIQUIDATION OFFICE
INVESTMENT GUIDELINES

Objectives

To maintain safety of principal and to maximize available yield while assuming a minimum of risk through a balance of quality and diversification within the investment portfolio.

A. Safety

Quality

None of the Portfolio will be invested in fixed income securities rated below investment grade quality by Standard & Poor's, Moody's or by another nationally recognized statistical rating organization. Unrated securities may not be held. The minimum average market value weighted credit quality of securities in the Portfolio will be AA- by Standard & Poor's and Aa3 by Moody's or their equivalent.

Commercial Paper will be rated no less than A1 by Standard & Poor's or P1 by Moody's.

Sectors

Permitted investments for the Portfolio shall include:

1. Fixed income securities and other fixed income obligations of any type which may be issued or guaranteed by (i) the U.S. and the agencies, instrumentalities, and political sub-divisions of the U.S., and (ii) U.S. corporations, trusts and special purpose entities. Such securities must be traded on exchanges or in over the counter markets in the U.S. No emerging markets' securities are allowed.
2. Repurchase agreements.

Restrictions on permitted investments

None of the Portfolio may be invested in foreign securities and in securities not denominated in U.S. dollars. Manager may not elect to hedge currency and/or interest rate exposure. No speculative currency positions are permitted.

All repurchase agreements will be transacted with counterparties approved by the Manager in accordance with its policies and procedures and terms and conditions set forth in the applicable Investment Management Agreement and any applicable Master Repurchase Agreement(s).

No investment in interest only ("IO"), principal only ("PO"), or inverse floater CMOs are permitted. The manager should only accept reasonable prepayment risk, consistent with the stated objectives of their respective funds.

Derivatives, or financial investments containing derivatives, are not permitted, defined as options, forwards, futures and swaps.

Investment transactions (i) which result in leverage or short sales and/or (ii) with affiliates of the Manager, are not permitted.

Diversification

No more than 5 % of the Portfolio will be invested in the securities of any one issuer, other than those securities issued or guaranteed by the U.S. government, its agencies, and instrumentalities and refunded municipal issues (all of which may be held without limit). For the purposes of this guideline, asset backed and mortgage-related securities (not issued by the U.S. Government, its agencies or instrumentalities), issued by trusts and other special purpose entities, will be limited to no more than 5 percent per issue, in addition to a common originator limit of no more than 20 percent.

B. Maturity

Portfolio duration will be maintained within a range of (+/-) twelve months of Barclays Capital US Government/Credit 1-3 Yr ex Baa (the Index) under normal market conditions. There will be no restriction on the duration of any single security. Duration will be calculated adjusting for any optionality in

securities as well as adjusting for the expected prepayment level of mortgage-backed security pools.

C. Calculation of Returns

Returns will be calculated in compliance with the Association for Investment Management and Research standards.

D. General

All percentage restrictions on Portfolio holdings will initially be evaluated at the time of purchase. At any time thereafter, concentrations in eligible portfolio investments will not exceed the prescribed limit by more than one percent.

Notwithstanding any provision to the contrary, Manager will not be required to sell any particular holding because a rating of a security is downgraded subsequent to purchase. However, Manager is required to notify the client in the event of a downgrade below investment grade. In the event a security is split rated, the lower rating will apply with respect to all portfolio percentage and quality restrictions.

Investment personnel who will have input into or control over any investment decision on behalf of the Commissioner are required, if they have a beneficial interest in that security, to disclose in writing their beneficial interest and receive written authority from the Commissioner before an investment decision is made.

E. Benchmark

The benchmark for the Portfolio will be the Barclays Capital US Government/Credit 1-3 Yr ex Baa or better, (the "Index"). The objective of the Portfolio will be to maintain safety of principal and maximize available yield while assuming a minimum of risk through a balance of quality and diversification within the portfolio.

DECLARATION OF SERVICE VIA E-MAIL

Re: INSURANCE COMMISSIONER v. AMERICAN STERLING INSURANCE CO.
Orange County Superior Court Case No. 30-2011-00510773

I declare that:

I am over 18 years of age, and not a party to the above-entitled action.

My business address is California Department of Justice, 300 S. Spring Street, Suite 1702, Los Angeles, California 90013.

On October 13, 2011, at 3:08 p.m., I served the attached

[proposed] ORDER APPOINTING INSURANCE COMMISSIONER AS LIQUIDATOR, AND
RESTRAINING ORDERS

by transmitting same, in a "pdf" format, from my office e-mail address (elisa.wolfe@doj.ca.gov) to e-mail addresses I have previously used successfully for these individuals, to wit:

Larry Dodge: LDodge@AmericanSterling.com

Kenneth Schnoll: Kenneth.Schnoll@SNRDenton.com

These email transmissions did not "bounce back" as undeliverable.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 13th day of October, 2011, at Los Angeles, California.

x



Elisa B. Wolfe-Donato
Declarant



I hereby certify the foregoing instrument consisting of 15 page(s)
is a true and correct copy of the original on file in this court.



ATTEST (DATE) OCT 21 2011
ALAN CARLSON EXECUTIVE OFFICER AND CLERK OF THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY Patricia M. Conde DEPUTY
Patricia M. Conde