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**FILED**  
San Francisco County Superior Court

MAY - 8 2001

GORDON PARK-LI, Clerk

BY: M. E. D. Deputy Clerk

THE ANNEXED INSTRUMENT IS A  
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FILED IN MY OFFICE.  
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MAY - 8 2001

CLERK DON PARK-LI  
San Francisco County Superior Court  
BY Manuelita Echeverria

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF SAN FRANCISCO-UNLIMITED JURISDICTION

12  
13 INSURANCE COMMISSIONER OF THE STATE OF  
14 CALIFORNIA,

15 Applicant,

16 v.

17 GREAT STATES INSURANCE COMPANY,

18 Respondent,

Case No.: 320047 UJE

[PROPOSED] ORDER  
APPOINTING LIQUIDATOR  
AND RESTRAINING ORDER  
[Insurance Code §1016]

Date: May 8, 2001  
Time: 9:30 a.m.  
Place: Dept. 301

19  
20  
21 On May 8, 2001, the Amended Verified Application for an Order Appointing  
22 Liquidator of Respondent Great States Insurance Company (hereinafter "Respondent"), and  
23 restraining order, came on regularly for hearing in Department 301 of the San Francisco County  
24 Superior Court, the Honorable William Cahill ~~David Garcia~~ presiding. Deputy Attorney General ~~David Lew~~  
25 ~~and~~ Anne Michelle Burr appeared on behalf of Applicant. No appearance was made on behalf of  
26 Respondent.

27 **GOOD CAUSE APPEARING FROM APPLICANT'S AMENDED**  
28 **VERIFIED APPLICATION, THIS COURT MAKES THE FOLLOWING**  
**FINDINGS:**

A. Applicant Commissioner has found Respondent to be insolvent within the

1.

ORDER APPOINTING LIQUIDATOR OF GREAT STATES AND RESTRAINING ORDER



1 meaning of Insurance Code section 985;

2 B. It would be futile for the Insurance Commissioner to proceed as  
3 Conservator of Respondent; and

4 C. There exists factual and legal grounds for the Insurance Commissioner to  
5 liquidate and wind up the business of this insurance company in a manner consistent with this  
6 Order.

7 **WHEREFORE, GOOD CAUSE APPEARING, THE COURT ORDERS**  
8 **THE FOLLOWING:**

9 **ADMINISTRATION AND OPERATION**

10 1. Applicant's status as Conservator is terminated, and he is appointed Liquidator  
11 of Respondent, as set forth in Insurance Code section 1016, and is directed as Liquidator to  
12 liquidate and wind up the business of Respondent and to act in all ways and exercise all powers  
13 necessary for the purpose of carrying out such order.

14 2. Applicant, as Liquidator of Respondent, is vested in title to all of the records,  
15 property (real and personal, whether owned, leased, rented or utilized by Respondents under any  
16 contract or assignment) and assets (including rights under any license or other arrangement for  
17 the use of computer software and/or business information systems) of Respondent, wheresoever  
18 situated and of whatever nature, then in the possession of Applicant as Conservator, as well as  
19 any records, property and assets of Respondent discovered or obtained hereafter wheresoever  
20 such assets may be situated.

21 3. Applicant, as Liquidator of Respondent, is directed to honor as expenses of  
22 administration all administrative expenses heretofore incurred and approved by the Conservator  
23 and presently unpaid.

24 4. All funds and accounts in the name of Respondent, or Applicant as  
25 Conservator, in various banks or any other institutions wheresoever situated shall be vested in  
26 Applicant as Liquidator and subject to withdrawal at his direction only, and this Order does not  
27 convert funds held in a fiduciary capacity to general assets of the Liquidator.

28 5. Applicant as Liquidator is authorized to appoint and employ estate managers,



1 special deputies, clerks and assistants and to give each of them such power and authority as he  
2 deems necessary, and is authorized to compensate them from the assets of Respondent, or from  
3 such other non-conservatorship funds as are lawfully available, which as to him shall be  
4 determined to be appropriate.

5           6. Applicant, as Liquidator, is authorized to invest Respondent's assets as he  
6 deems to be in the best interests of this liquidation estate, and to pay for his costs in bringing and  
7 maintaining this and other actions necessary to carry out his functions as Liquidator of  
8 Respondent from the assets of Respondent, and if there are insufficient funds, is authorized to  
9 pay for his costs out of the Insurance Fund, pursuant to Insurance Code section 1035.

10           7. The Liquidator is authorized to divert, take possession of and secure all mail of  
11 Respondent in order to screen such mail, and to effect a change in the rights to use any and all  
12 post office boxes and other mail collection facilities used by Respondent.

13           8. The Commissioner as Liquidator is authorized to pay for his costs in bringing  
14 and maintaining this action, and such other actions as are necessary to carry out his functions as  
15 Liquidator, out of the funds and assets of Respondent.

16           9. The Commissioner as Liquidator is authorized, pursuant to Insurance Code  
17 section 1037(g), to invest and reinvest all assets in a manner he deems to be in the best interest of  
18 the creditors of the estate, including investing and reinvesting assets through an investment pool  
19 consisting exclusively of assets from conserved estate. To the extent that the Commissioner  
20 invests and reinvests through such an investment pool, such investments and reinvestments may  
21 exceed \$100,000.

22           10. The Liquidator is authorized to assume or reject, or modify, any executory  
23 contract, including without limitation, any lease, rental or utilization contract or agreement  
24 (including any schedule to any such contract or agreement), and any license or other arrangement  
25 for the use of computer software or business information systems, to which Respondent is a party  
26 or as to which Respondent agrees to accept an assignment of such contract. Any such  
27 assumption or rejection or modification of any executory contract shall be effected by the  
28 Liquidator not later than within 120 days after the entry of the requested Order, unless such date



1 is extended by application to and further order of the Court. All executory contracts that are not  
2 expressly assumed by the Liquidator shall be deemed rejected. Any party to a contract that is  
3 rejected by the Liquidator pursuant to this Order, shall be permitted to file a proof of claim  
4 against the liquidation estate, which claim shall be treated in accordance with Insurance Code  
5 section 1010 *et seq.*

6 11. The Liquidator is authorized, pursuant to Insurance Code section 1037(d), to  
7 dispose, in his discretion, of any excess property of Respondent by any commercially reasonable  
8 method, including but not limited to, sales at public auctions, and sales in bulk to the high bidder  
9 (provided at least three (3) bids are obtained from independent dealers in the kind of property  
10 sold).

### 11 CLAIMANTS, CREDITORS AND POLICYHOLDERS

12 12. The rights and liabilities of claimants, creditors, and all other persons  
13 interested in the assets of Respondent, including the State of California, are fixed as of the date  
14 of entry of this Order.

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

22 14. All insurance agents working on behalf of Respondent, and all insurance  
23 brokers who have done or are doing business on behalf of or with Respondent, are directed to  
24 make all remittances of funds collected by them or in their hands directly to the Commissioner as  
25 Liquidator, forthwith. This obligation to remit collected funds is continuing in nature.

### 26 INJUNCTIONS AND OTHER ORDERS

27 15. All prior injunctions and orders of this Court, except to the extent expressly  
28 modified herein, are reaffirmed and remain in full force, and all powers and authority granted to



1 the Liquidator under this Order are in addition to and not in limitation of the powers of the  
2 Liquidator under the California Insurance Code and any statutory or applicable case law.

3 16. Respondent, its officers, directors, agents, and employees and all other  
4 persons are enjoined from transacting the business of Respondent, and from disposing of any of  
5 its California assets or property or any other assets or property of Respondent wheresoever  
6 situated.

7 17. All persons are enjoined from interfering with the possession, title and rights  
8 of Applicant, as Liquidator, in and to the property and assets of Respondent vested in the  
9 Liquidator by this Order, and from interfering with the conduct of the liquidation and the  
10 winding up of the business of Respondent.

11 18. All persons are enjoined from waste of assets of Respondent.

12 19. All persons are enjoined from instituting or prosecuting or maintaining any  
13 action or proceeding at law or suit in equity, including but not limited to matters in arbitration,  
14 against Respondent or Applicant as Liquidator of Respondent, and from attaching or executing  
15 upon, or taking any legal action against the real and personal property held by Respondent  
16 without the consent of this Court obtained after reasonable notice to said Liquidator.

17 20. All persons are enjoined from obtaining or attempting to obtain preferences,  
18 judgments, attachments or other licenses, or from making any levy against Respondent or its  
19 property and assets without the consent of this Court obtained after reasonable notice to said  
20 Liquidator.

21 21. All former or present officers, directors, agents, and employees of  
22 Respondent, and all other persons are ordered to deliver all books, records, real and personal  
23 property, equipment and other assets of Respondent wheresoever situated to Liquidator.

24 22. Respondent and its respective officers, directors, agents, servants, employees,  
25 successors, assigns, affiliates, and other persons or entities under their control and all persons or  
26 entities in active concert or participation with them, and each of them, are ordered to turn over to  
27 the Commissioner as Liquidator all records, documentation, charts and/or descriptive material of  
28 all funds, assets, real and personal property owned beneficially, leased, rented, utilized or



1 otherwise, and all other assets of Respondent wherever situated, and all books and records of  
2 accounts, title documents, leases, rental and utilization agreements, and other documents in their  
3 possession or under their control, which relate, directly or indirectly, to assets or property of  
4 Respondent belonging to or now held by Respondent or any of them or to the business or  
5 operations of Respondent.

### 6 LITIGATION AND LEGAL PROCESS

7 23. Applicant as Liquidator is authorized to initiate such equitable or legal actions  
8 or proceedings in this or other states as may appear to him necessary to carry out his functions as  
9 Liquidator.

10 24. Except with leave of court issued after a hearing in which the Liquidator has  
11 received reasonable notice, all persons are enjoined from executing or issuing or causing the  
12 execution or issuance of any court attachment, subpoena, replevin, execution or other process for  
13 the purpose of impounding or taking possession of or interfering with or creating or enforcing a  
14 lien upon any real or personal property owned or in the possession of Respondent, or its  
15 affiliates, or the Liquidator appointed herein, wheresoever situated.

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

25 26. Any and all provisions of any agreement<sup>1/</sup> entered into by and between any

26  
27 1. The term "agreement" includes, by way of illustration, but is not limited to, the  
28 following types of agreements (as well as any amendments, assignments, or modifications  
thereto): financial guarantee bonds, promissory notes, loan agreements, security agreements,  
deeds of trust, mortgages, indemnification agreements, subrogation agreements, subordination



1 third party and Respondent that provide in any manner that the selection, appointment or  
2 retention of a Liquidator, or trustee by any court, or entry of an order such as hereby made, shall  
3 be deemed to be, otherwise operate as a breach, violation, event of default, termination, event of  
4 dissolution, event of acceleration, insolvency, bankruptcy, or liquidation, shall be stayed, and the  
5 assertion of any and all rights, remedies relating thereto shall also be stayed and barred, except as  
6 otherwise ordered by the Court, and the Court shall retain jurisdiction over any cause of action  
7 that has arisen or may otherwise arise under any such provision.

### 8 CLAIMS BAR DATE

9 27. That any and all claims against Respondent (except those policyholder claims  
10 already pending against Respondent, which are deemed filed), including those in which in any  
11 way affect or seek to affect any of the assets of Respondent, whenever or however such assets  
12 may be owned or held, must be filed by no later than December 2, 2001 (the "Claims Bar Date"),  
13 together with proper proof thereof, in accordance with the provisions of Insurance Code sections  
14 1010 *et seq.*, including but not limited to section 1023, and that any claims not filed by the  
15 Claims Bar Date be conclusively deemed forever waived.

### 16 OTHER PROVISIONS

17 28. Nothing in this Order is intended to affect, modify or otherwise alter the  
18 jurisdiction of this Court.

19 29. Headings contained herein shall not be deemed to govern, limit, modify, or in  
20 any manner affect the scope, meaning or intent of the provisions of any part or section of this  
21 Order.

22 DATED: 5/8/2001

  
The Honorable ~~David Garcia~~ William  
Judge of the Superior Court Calif

23  
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25  
26 agreements, pledge agreements, assignments of rents or other collateral, financial statements,  
27 letters of credit, leases, rental or utilization agreements, insurance policies, guaranties, escrow  
28 agreements, management agreements, real estate brokerage and rental agreements, servicing  
agreements, allotment agreements, consulting agreements, easement agreements, license  
contracts, franchise agreements, bonus/incentive plans or agreements, or employment  
contracts.

