

Cause No. D-1-GV-13-000204

THE STATE OF TEXAS,	§	IN THE DISTRICT COURT OF
<i>Plaintiff</i>	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
SANTA FE AUTO INSURANCE COMPANY	§	
<i>Defendant</i>	§	419 TH JUDICIAL DISTRICT

SPECIAL DEPUTY RECEIVER’S APPLICATION FOR ORDER OF LIQUIDATION

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company, (the “SDR” and “SFAIC” respectively) files its *Application for Order of Liquidation* (the “Application”).

I. AUTHORITY

1.1 The SDR is authorized to file this application under TEX. INS. CODE §443.104(a), which provides that: “When the rehabilitator believes further attempts to rehabilitate an insurer would substantially increase the risk of loss to creditors, policyholders, or the public or would be futile, the rehabilitator may move for an order of liquidation.”

1.2 This Court has jurisdiction over the parties and the subject matter of this Application under TEX. INS. CODE § 443.005(c). The exercise of jurisdiction over any non-resident party in interest and/or claimant comports to customary standards of fair play and substantial justice and complies with the protections of the Constitutions of the United States of America and the State of Texas.

II. BACKGROUND

2.1 SFAIC is a nonstandard auto insurance company based in Dallas. It has approximately 31,000 policyholders. It was placed into receivership under the provisions of

Chapter 443 of the Texas Insurance Code (the “Code”) on March 8, 2013, when this Court entered an *Order Appointing Rehabilitator and Permanent Injunction* appointing the Texas Commissioner of Insurance (the “Commissioner”) as Rehabilitator (the “Rehabilitator). Effective March 8, 2013, the Rehabilitator appointed CANTILO & BENNETT, L.L.P. as Special Deputy Receiver of SFAIC.

III. RELIEF REQUESTED

3.1 Pursuant to TEX. INS. CODE §443.104(a), if the SDR believes that further attempts to rehabilitate an insurer would be futile, or would substantially increase the risk of loss to creditors, policyholders, or the public, the SDR may move for an order of liquidation.

3.2 SFAIC cannot continue as an insurer. The company lacks reinsurance for any policies issued after December 31, 2012. Its 2012 Annual Statement reflects that it has negative policyholder surplus (“PHS”) of \$2,316,204. See Exhibit 1, an excerpt from the Annual Statement. SFAIC’s Certificate of Authority (“COA”) to engage in the business of insurance in Texas requires it to maintain \$6 million in PHS in order to do business in Texas. See Exhibit 2, the COA. Therefore, it is out of compliance with its COA by over \$8 million.

3.3 The SDR has determined that a run-off of all of the company’s liabilities cannot be achieved due the lack of assets and the present and projected expenses of litigation. As the company will not be able to pay all policy claims as they become due, continuing rehabilitation efforts would substantially increase the risk of loss to policyholders and claimants. A liquidation order is required so that covered claims may be paid by state guaranty associations.

3.4 Grounds exist to place SFAIC into liquidation pursuant to TEX. INS. CODE § 443.057(2), as it is insolvent as defined in TEX. INS. CODE § 443.004(a) (13), and pursuant to

TEX. INS. CODE § 443.057(9), in that further transaction of its business would be hazardous to its creditors and the public.

3.5 The SDR moves the Court to enter an order of liquidation pursuant to TEX. INS. CODE § 443.151. In accordance with TEX. INS. CODE §443.151, the order shall appoint the Commissioner as Liquidator of SFAIC, and the Liquidator shall be vested with the title to all of SFAIC's property.

3.6 As of the date of filing the Application, SFAIC had outstanding claim payment checks that have not yet been cashed or cleared the bank. The SDR requests authority to keep the SFAIC claims account, located at Frost Bank, N. A., bearing Account No. XX-XXXX8970¹, open for sixty (60) days after the issuance of the liquidation order to minimize the impact on consumers and further authorize the SDR to close the account before the sixty day deadline at its discretion.

IV. NOTICE AND HEARING

4.1 TEX. INS. CODE § 443.007(d) provides that the SDR shall provide notice of an application to all persons on the service list, and any other parties as determined by the SDR. The SDR has determined that notice should be provided to the insurance regulators where SFAIC did business, and the property and casualty insurance guaranty associations that may become liable for claims upon the entry of a liquidation order. Notice of this application will be provided by electronic mail, where possible, as permitted by TEX. INS. CODE § 443.007(d) and the Rehabilitation Order. Pursuant to TEX. INS. CODE § 443.007(d), inclusion on the service list does not confer standing on any party.

4.2 On March 18, 2013, the Court entered its *Order of Reference to Master*. At the request of the SDR, the Special Master withdrew the reference of the subject matter of this

¹ The account number is redacted.

Application so that it may be heard directly before the Receivership Court.

V. OFFER OF PROOF AND VERIFICATION

5.1 This Application is verified by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Susan E. Salch, designated representative of CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of SFAIC.

VI. STAY OF PROCEEDINGS AND PERMANENT INJUNCTION

6.1 Pursuant to TEX. INS. CODE § 443.008 (c), an automatic stay is in effect with respect to actions against Defendant or its property. The automatic stay will remain in effect after the entry of the order of liquidation.

6.2 This Court has entered a Permanent Injunction in accordance with TEX. INS. CODE § 443.008 (a). The SDR requests that the Permanent Injunction continue in full force and effect after the entry of the order of liquidation.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the SDR prays

1. that the Court grant the Application;
2. that the Court immediately appoint the Commissioner as Liquidator pursuant to TEX. INS. CODE §443.151 *et seq.*, and that the Liquidator be given all equitable powers under TEX. INS. CODE Chapter 443 and the common law of the State of Texas that authorize the appointment of a receiver;
3. that the Court vest the Liquidator with title to the Defendant's property;
4. that no bond be required of the Commissioner or the Liquidator;
5. that the Permanent Injunction continue in effect;
6. authorize the SDR to keep SFAIC claims account, located at Frost Bank, N. A., bearing

Account No. XX-XXXX8970, open for up to sixty (60) days and to close the account at its discretion before the sixty day period runs, and

7. for any and further relief, both general and specific, in law and in equity, to which the SDR may be entitled.

Respectfully submitted,

FULLER LAW GROUP

By: /s/Christopher Fuller
Christopher Fuller
Texas Bar No. 07515500
4612 Ridge Oak Drive
Austin, Texas 78731
Telephone: (512) 470-9544
Fax: (512) 374-0957
Email: cfuller@fullerlaw.org

**ATTORNEY FOR CANTILO & BENNETT,
LLP, SPECIAL DEPUTY RECEIVER OF
SANTA FE AUTO INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I certify that on April 1, 2013, a true and correct copy of this APPLICATION FOR ORDER OF LIQUIDATION was served pursuant to the Texas Rules of Civil Procedure and TEX. INS. CODE ANN. SEC. 443.007(d) on the following by email, except as specifically otherwise noted.

Via Email: todd.ridley@santafeinsurance.net
Todd Ridley
13702 Gamma Road
Dallas, Texas 75244

Via Email: agonzales@winstead.com
Via Email: pnolan@winstead.com
Alex Gonzales
Peter Nolan
Winstead, PC
401 Congress Avenue, Suite 2100
Austin, Texas 78701

Via Email: douglas.hartz@tdi.texas.gov
Douglas Hartz
Director
Rehabilitation & Liquidation Oversight
Texas Department of Insurance
PO Box 149104
Austin, Texas 78714-9104

Via Email: dwight.ward@tdi.texas.gov
Dwight Ward
Receivership Analyst
Rehabilitation & Liquidation Oversight
Texas Department of Insurance
PO Box 149104
Austin, Texas 78714-9104

Via Email: lmeltzer@tpciga.org
Linda R. Meltzer
Texas Property Casualty Insurance Guaranty
Association
9120 Burnet Road
Austin, Texas 78758

Via Email: gmarks@azinsurance.gov
Germaine L. Marks
Director
Arizona Department of Insurance
2910 North 44th Street, Suite 210
Phoenix, Arizona 85018-7256

Via Email: jay.bradford@arkansas.gov
Jay Bradford
Commissioner
Arkansas Insurance Department
1200 West Third Street
Little Rock, Arkansas 72201-1904

Via Email: mmarchman@gaiga.org
Michael C. Marchman
Executive Director
Georgia Insurers Insolvency Pool
2177 Flintstone Drive, Suite R
Tucker, Georgia 30084

Via Email: kimberly.hammer@tdi.texas.gov
Kimberly Hammer
Texas Department of Insurance
PO Box 149104
Austin, Texas 78714-9104

Via Email: jean.sustaita@tdi.state.tx.us
Jean Sustaita
Docket Clerk
Texas Department of Insurance
582 Liquidation Oversight
PO Box 149104
Austin, Texas 78714-9104

Via Email: joshua.godbey@oag.state.tx.us
Joshua R. Godbey
Assistant Attorney General
Financial Litigation, Tax and Charitable Trusts
Division
PO Box 12548
Austin, Texas 78711-2548

Via Email: msurguine@azinsurance.gov
Michael E. Surguine
Executive Director
Arizona Insurance Guaranty Funds
1110 West Washington, Suite 270
Phoenix, Arizona 85007

Via Email: steve.uhrynowycz@arkansas.gov
Steve Uhrynowycz
Liquidation Division
Arkansas Property & Casualty Guaranty Fund
1023 W. Capitol Avenue, Suite 2
Little Rock, Arkansas 72201

Via Email: rhudgens@oci.ga.gov
Ralph T. Hudgens
Commissioner
Georgia Office of Insurance and Safety Fire
Commissioner
2 Martin Luther King, Jr. Drive
West Tower, Suite 704
Atlanta, Georgia 30334

Via Email: jwells@laiga.org
John Wells
Director of Operations
Louisiana Insurance Guaranty Association
2142 Quail Run Drive
Baton Rouge, Louisiana 70808-4126

Via Email: icommish@doi.nv.gov
Scott J. Kipper
Commissioner
Division of Insurance
Nevada Department of Business & Industry
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Via Email: bgilbert@niga-pc.org
Bruce W. Gilbert
Executive Director
Nevada Insurance Guaranty Association
3821 West Charleston Boulevard, Suite 100
Las Vegas, Nevada 89102-1859

Via Email: john.franchini@state.nm.us
John G. Franchini
Superintendent
New Mexico Public Regulation Commission
Division of Insurance
P.O. Box 1269
Santa Fe, New Mexico 87501

Via Fascimile: (212) 709-3520
Benjamin M. Lawsky
New York State Department of Financial
Services
One State Street
New York, New York 10004

Via Fascimile: (918) 994-7916
John D. Doak
Commissioner
Oklahoma Insurance Department
7645 E. 63rd St., Suite 102
Tulsa, Oklahoma 74133

Via Facsimile: (225) 342-3078
James J. Donelon
Commissioner
Louisiana Department of Insurance
PO Box 94214
Baton Rouge, Louisiana 70804-9214

Via Email: pwillard@doi.state.nv.us
Peggy Willard-Ross
Assistant Chief Examiner
Nevada Division of Insurance
788 Fairview Drive, Suite 300
Carson City, Nevada 89701

Via Email: craig.dunbar@state.nm.us
Craig Dunbar
Deputy Superintendent
New Mexico Insurance Division
P.O. Box 1269
Santa Fe, New Mexico 87504-1269

Via Email: gkeenan@keenan-assoc.com
Via Email: vramirez@keenan-assoc.com
Gary M. Keenan
Fund Administrator
Vanessa Ramirez
New Mexico Insurance Guaranty Association
Keenan & Associates, Inc.
P.O. Box 14590
Albuquerque, New Mexico 87191-4590

Via Fascimile: (212) 964-7963
New York Liquidation Bureau
110 William Street
New York, New York 10038

Via Email: kelly.callahan@oid.ok.gov
Kelley Callahan
Assistant General Counsel
Oklahoma Department of Insurance
2401 N.W. 23rd, Suite 28
Oklahoma City, Oklahoma 73152-3408

Via Email: lwfitch@opciga.org

Larry W. Fitch
General Manager
Oklahoma Property & Casualty Insurance
Guaranty Assoc.
2601 Northwest Expressway, Suite 330E
Oklahoma City, Oklahoma 73112

Via Email: allenm@utgf.org

Allen Muhlestein
Executive Director
Utah Property & Casualty Insurance Guaranty
Assoc.
P.O. Box 1608
Sandy, Utah 84091-1626

Via Email: toddkiser@utah.gov

Todd Kiser
Deputy Commissioner
Utah Insurance Department
3110 State Office Building
Salt Lake City, Utah 84114-6901

Via First Class Mail

Internal Revenue Service
Special Procedures Branch
P.O. Box 250
300 East 8th Street, Suite 352
Mail Stop 5022AUS
Austin, Texas 78701

/s/Christopher Fuller
Christopher Fuller

**SPECIAL DEPUTY RECEIVER'S CERTIFICATION PURSUANT TO
TEX. INS. CODE ANN. § 443.017(b)
AFFIDAVIT OF SUSAN E. SALCH**

State of Texas

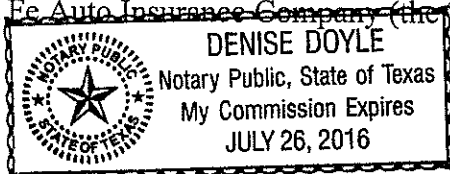
County of Travis

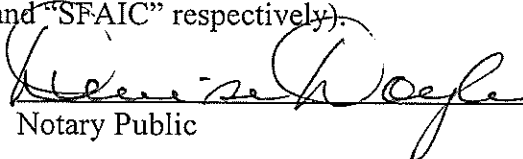
BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

1. My name is Susan E. Salch. I am competent to make this affidavit. The statements of fact set forth herein are true and correct, and are within my personal knowledge.
2. I am a partner in CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company (the "SDR" and "SFAIC" respectively) I am duly authorized to make this Certification and Affidavit on behalf of the SDR.
3. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached hereto were produced pursuant to TEX. INS. CODE ANN. § 443.017, are either true and correct copies of records of the insurer and were received from the custody of the insurer or found among its effects or were created by and filed with the Receiver's office in connection with the receivership of this delinquent insurer, and are held by the Special Deputy Receiver in its official capacity.
4. I have read the foregoing Application and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with my staff and sub-contractors.

By: 
Susan E. Salch

SUBSCRIBED AND SWORN TO BEFORE ME on April 1, 2013, by Susan E. Salch, on behalf of CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company (the "SDR" and "SFAIC" respectively).




Notary Public

ANNUAL STATEMENT

OF THE

SANTA FE AUTO INSURANCE COMPANY

of **DALLAS**

in the state of **TEXAS**

TO THE

Insurance Department

OF THE

STATE OF TEXAS

FOR THE YEAR ENDED

December 31, 2012

PROPERTY AND CASUALTY

2012

LIABILITIES, SURPLUS AND OTHER FUNDS

	1 Current Year	2 Prior Year
1. Losses (Part 2A, Line 35, Column 8)	11,136,692	20,766,092
2. Reinsurance payable on paid losses and loss adjustment expenses (Schedule F, Part 1, Column 5)		
3. Loss adjustment expenses (Part 2A, Line 35, Column 9)	2,756,400	4,716,519
4. Commissions payable, contingent commissions and other similar charges	5,527	890,321
5. Other expenses (excluding taxes, licenses and fees)	311,732	463,291
6. Taxes, licenses and fees (excluding federal and foreign income taxes)		150,998
7.1 Current federal and foreign income taxes (including \$ 0 on realized capital gains (losses))		
7.2 Net deferred tax liability		
8. Borrowed money \$ 0 and interest thereon \$ 0		
9. Unearned premiums (Part 1A, Line 38, Column 5) (after deducting unearned premiums for ceded reinsurance of \$ 3,679,020 and including warranty reserves of \$ 0 and accrued accident and health experience rating refunds including \$ 0 for medical loss ratio rebate per the Public Health Service Act)	3,220,132	8,971,328
10. Advance premium		
11. Dividends declared and unpaid:		
11.1 Stockholders		
11.2 Policyholders		
12. Ceded reinsurance premiums payable (net of ceding commissions)	7,482,615	1,084,668
13. Funds held by company under reinsurance treaties (Schedule F, Part 3, Column 19)		16,093,055
14. Amounts withheld or retained by company for account of others	6,906	
15. Remittances and items not allocated		
16. Provision for reinsurance (including \$ 0 certified) (Schedule F, Part 8)		
17. Net adjustments in assets and liabilities due to foreign exchange rates		
18. Drafts outstanding		
19. Payable to parent, subsidiaries and affiliates		
20. Derivatives		
21. Payable for securities		
22. Payable for securities lending		
23. Liability for amounts held under uninsured plans		
24. Capital notes \$ 0 and interest thereon \$ 0		
25. Aggregate write-ins for liabilities	289,636	267,879
26. Total liabilities excluding protected cell liabilities (Lines 1 through 25)	25,209,640	53,406,151
27. Protected cell liabilities		
28. Total liabilities (Lines 26 and 27)	25,209,640	53,406,151
29. Aggregate write-ins for special surplus funds		
30. Common capital stock	1,800,000	1,800,000
31. Preferred capital stock		
32. Aggregate write-ins for other than special surplus funds		
33. Surplus notes	18,343,429	18,700,571
34. Gross paid in and contributed surplus	610,000	610,000
35. Unassigned funds (surplus)	(23,069,633)	(14,385,556)
36. Less treasury stock, at cost:		
36.1 0 shares common (value included in Line 30 \$ 0)		
36.2 0 shares preferred (value included in Line 31 \$ 0)		
37. Surplus as regards policyholders (Lines 29 to 35, less 36) (Page 4, Line 39)	(2,316,204)	6,725,015
38. Totals (Page 2, Line 28, Col. 3)	22,893,436	60,131,166

DETAILS OF WRITE-IN LINES		
2501. Unclaimed Funds	289,636	267,879
2502.		
2503.		
2598. Summary of remaining write-ins for Line 25 from overflow page		
2599. Totals (Lines 2501 through 2503 plus 2598) (Line 25 above)	289,636	267,879
2901.		
2902.		
2903.		
2998. Summary of remaining write-ins for Line 29 from overflow page	NONE	
2999. Totals (Lines 2901 through 2903 plus 2998) (Line 29 above)		
3201.		
3202.		
3203.		
3298. Summary of remaining write-ins for Line 32 from overflow page	NONE	
3299. Totals (Lines 3201 through 3203 plus 3298) (Line 32 above)		

Texas Department of Insurance



Certificate No. 14440

Company No. 09-096192

Certificate of Authority

THIS IS TO CERTIFY THAT

SANTA FE AUTO INSURANCE COMPANY

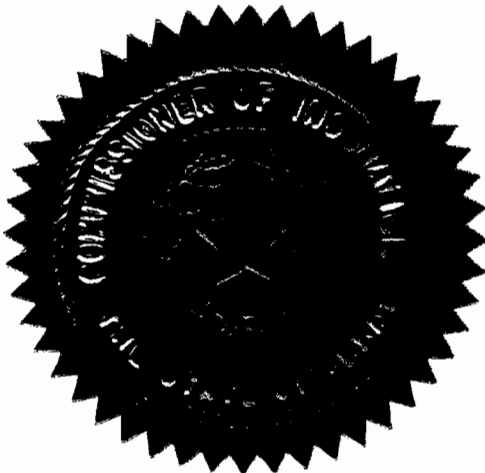
DALLAS, TEXAS

has complied with the laws of the State of Texas applicable thereto and is hereby authorized to transact the business of

Automobile--Liability & Physical Damage insurance
and Reinsurance on all lines authorized to be written on
a direct basis within the State of Texas

subject to the following conditions: maintain PHS at a level of at least \$6,000,000; limit GWP to 600% of PHS; limit NWP to 250% of PHS; maintain deposit of \$2,000,000 for the protection of Texas policyholders; conduct business in compliance with the Business Plan filed on May 23, 2006 and revised on February 23, 2007; and obtain prior approval from the Commissioner of Insurance before acquiring reinsurance.

This Certificate of Authority shall be in full force and effect until it is revoked, canceled or suspended according to law.



IN TESTIMONY WHEREOF, witness my hand and seal of office at Austin, Texas, this

2nd day of October A.D. 2007

MIKE GEESLIN
COMMISSIONER OF INSURANCE

BY

Godwin Ohaechesi, Director
Company Licensing & Registration