

IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA, *ex rel.*)
WALTER A. BELL , as Commissioner)
of Insurance, and)
DENISE B. AZAR, as Chief of the)
Receivership Division of the Alabama)
Department of Insurance,)
)
Plaintiffs,)
)
v.)
)
PINNACLE CASUALTY ASSURANCE)
CORPORATION)
Defendant.)

CIVIL ACTION NO. CV04-278-^RDMH

**CONSENT ORDER OF REHABILITATION,
PERMANENT INJUNCTION,
APPOINTMENT OF RECEIVER, AND OTHER RELIEF**

This cause was submitted to the Court upon the duly verified application of the Plaintiffs for a temporary restraining order or a preliminary injunction, appointment of a Receiver and other appropriate relief as prayed for in the sworn Complaint filed in this matter.

On February 2, 2004, the parties appeared before this court whereupon Defendant Pinnacle Casualty Assurance Corporation (Pinnacle), an Alabama domestic insurer consented to entry of a Consent Order of Rehabilitation, Permanent Injunction, and Other Relief without further delay and waived its right to a formal hearing on this issue.

Defendant Pinnacle having conceded and consented to the entry of a final order in this matter granting Plaintiffs' full and complete relief as requested in their sworn petition, and the State having elected to not give bond, this Court finds and orders that:

1. The petition for injunctive and other relief is filed in conformity with the applicable provisions of Title 27, *Code of Alabama 1975*, and the Alabama Rules of Civil Procedure. A show cause order, as requested by the Plaintiffs, is hereby granted. Defendant Pinnacle consented to the entry of a consent order of receivership without further delay and waived a formal hearing on this issue; therefore, a show cause hearing is not necessary, and a final order of rehabilitation is due to be immediately rendered. Any statutory references as to the date of the issuance of a show cause order shall mean the date of this final order.

2. Defendant Pinnacle is an Alabama domiciled Insurer with its principal place of business in Montgomery, Montgomery County, Alabama. This Court has jurisdiction over the parties and of the subject matter of this proceeding and finds that Defendant Pinnacle is insolvent in the approximate amount of \$580,226.00. An exact insolvency amount shall be determined at a later date.

3. Plaintiffs Walter A. Bell and Denise B. Azar have demonstrated to the Court's satisfaction that a permanent injunction and other relief requested in Plaintiff's Bill of Complaint (as given below) should be granted immediately because there is a real and present danger Defendant Pinnacle will suffer immediate and irreparable harm as described in Plaintiffs' Complaint should such relief not be granted.

4. In accordance with Sections 27-32-5, *et seq.*, 27-21A-18, and other pertinent sections of Title 27, *Code of Alabama 1975*, Defendant Pinnacle, its officers, directors, stockholders, enrollees (subscribers), agents, and employees, all health care providers under contract with Defendant Pinnacle, all other persons in active concert or participation with Defendant Pinnacle, and all persons and other legal entities, are hereby restrained and enjoined until further order of the Court from:

A. Transacting any further business of Defendant Pinnacle of whatever kind and nature except as hereinafter provided in further orders of this Court.

B. Exercising any direction, control or influence whatsoever over said business of Defendant Pinnacle or its assets pending further order of this Court.

C. Interfering in any shape, form or fashion, either directly or indirectly with the Receiver's operation of this receivership or in her possession or control of or in her title, right and interest to the property, books, records and all other assets of Defendant Pinnacle as authorized by this or further order of this Court

D. Commencing or further prosecuting any action in law or equity or administrative proceedings except in this Court; obtaining any preferences, judgments, attachments, or other liens against any of the property, personal or real, of Defendant Pinnacle; commencing or continuing any action in the nature of an attachment, garnishment or execution against any of the property, personal or real, of Defendant Pinnacle, making any levy, garnishment or execution of any of the property, personal or real, of Defendant Pinnacle or its assets or any part thereof except in this Court.

E. Disposing of the property or assets of Defendant Pinnacle or doing or permitting to be done any action which might waste the assets of Defendant Pinnacle.

F. Returning any unearned premiums or any money in their possession collected as premiums for policyholders. Further, all persons are directed to turn over all funds of Defendant Pinnacle in their possession, now or hereinafter acquired, to Denise B. Azar, as Receiver of Defendant Pinnacle, who shall keep and maintain accurate reports of the receipt of any such funds and report same to the Court.

G. Asserting any claim against the Alabama Commissioner of Insurance, the Receiver of Defendant Pinnacle, or their agents and employees, except insofar as such claims arise in the receivership proceedings of Defendant Pinnacle presently before this Court.

5. Denise B. Azar, as Chief of the Receivership Division of the Alabama Department of Insurance, and her successors in office, under the provisions of Section 27-2-53 and Chapter 32 of Title 27, *Code of Alabama 1975*, is hereby appointed Receiver of all property, business, assets (general or other), affairs and estate of said Defendant Pinnacle, and is directed to take immediate possession, custody and control of said property, both real and personal, wherever subsequently found or located, including but not limited to the home office and other business premises and all rights of action, as well as the books, papers, documents of any kind and nature, evidence of debt and all other property and assets of every kind whatsoever belonging to Defendant Pinnacle, including but not limited to, all real estate, stocks, bonds, checking and bank accounts, debentures, mortgages, fixtures, furniture, certificates of deposit, receivables, office supplies and rights of action of any kind.

6. Denise B. Azar, as Receiver of Defendant Pinnacle, in accordance with Section 27-32-11, *et al.*, *Code of Alabama 1975*, shall continue to operate the business of Defendant Pinnacle with the purpose of rehabilitating, conserving and preserving said company under the present and further order and direction of the Court; that Denise B. Azar, as Receiver of Defendant Pinnacle, shall proceed to collect any and all debts due said company and she shall recommend to the Court such action which would remove the causes and conditions which have made receivership necessary, if such course of action is feasible.

7. Denise B. Azar, as Receiver of Defendant Pinnacle, shall have authority to negotiate sales of property, blocks of Defendant Pinnacle business, or other assets of Defendant Pinnacle

when necessary or desirable, but if she shall receive an offer for same, before making a private or public sale, Denise B. Azar, as Receiver, shall report the terms of such offer to the Court for such action or approval as the Court may deem proper.

8. Denise B. Azar, as Receiver of Defendant Pinnacle, is authorized and directed to hire legal, clerical, managerial and other employees necessary to carry on the business of Defendant Pinnacle and the Receiver is also authorized to rent or lease office facilities and to pay reasonable and necessary expenses and salaries incidental thereto.

9. Denise B. Azar, as Receiver of Defendant Pinnacle, is hereby vested with all of the duties, rights, powers, obligations, immunities and authority placed upon the Commissioner of Insurance by Section 27-32-15 and other pertinent sections of the Alabama Insurance Code, now or hereinafter amended, as provided in Section 27-2-55, *Code of Alabama 1975*.

10. In accordance with Sections 27-2-51, 27-32-5(c) and 27-32-15(d), *Code of Alabama 1975*, neither the Commissioner of Insurance nor the Receiver is required at this time to post a bond in connection with these receivership proceedings.

11. Denise B. Azar, as Receiver of Defendant Pinnacle, is hereby authorized to apply to the Court for further instructions in the discharge of her duties as Receiver.

12. The Court reserves jurisdiction of this cause for such other orders on the premises and matters pertaining to this particular order or this cause in general as it may find necessary, appropriate or desirable to make from time to time and reserves jurisdiction generally of this cause.

DONE and ORDERED at Montgomery, Alabama, on this 2 day of February 2, 2004, at 2:15 A.M./P.M.



CIRCUIT JUDGE

COUNSEL OF RECORD FOR PLAINTIFFS:

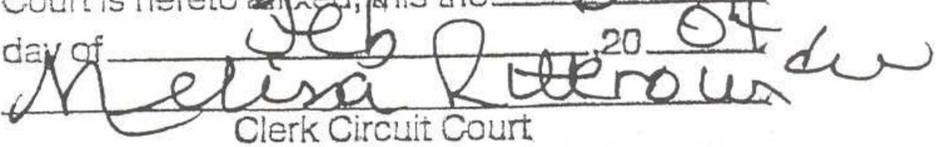
Michael A. Bownes, Esquire, BOW-014
John J. Davis, Esquire, DAV-115
Alabama Department of Insurance
Post Office Box 303351
Montgomery, Alabama 36130-3351
Telephone: (334) 241-4116
Facsimile: (334) 240-7581

STATE OF ALABAMA
MONTGOMERY COUNTY

I, Melissa Rittenour, Clerk of the Circuit Court of Montgomery County, hereby certify that the within is a true and correct copy of the Court Document on file in said office.

DEFENDANT:

John W. Goff, President
Pinnacle Casualty Assurance Corporation
80 TechnaCenter drive
Montgomery, Alabama 36117

Witness my hand and the seal of said Court is hereto affixed, this the 3rd day of Feb, 2004

Clerk Circuit Court

COUNSEL OF RECORD FOR DEFENDANT:

Thomas T. Gallion, Esquire,
~~Gorham & Washburn~~
~~210 1/2th Avenue North~~
~~Birmingham, Alabama 35203~~

HASKELL SLAUGHTER Young & GALLION
305 South LAWRENCE ST
Montgomery, AL 36104