

Bob Inzer



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

Clerk of Circuit Court  
Leon County, Florida

*[Signature]*  
D.C.

In Re: The Receivership of ARIES  
INSURANCE COMPANY, a Florida  
corporation.

CASE NO.: 02—CA-1128

**AMENDED ORDER APPOINTING THE FLORIDA DEPARTMENT OF INSURANCE  
AS RECEIVER FOR PURPOSES OF REHABILITATION, INJUNCTION  
AND NOTICE OF AUTOMATIC STAY**

THIS CAUSE was considered on the Petition of the Florida Department of Insurance for entry of a consent order of rehabilitation of Aries Insurance Company (hereafter "Respondent"). The Court having reviewed the pleadings of record, having heard presentation of counsel, and otherwise being fully informed in the premises, finds:

1. Aries Insurance Company is a Florida corporation with its principal place of business at 500 N.W. 165<sup>th</sup> Street Road, Miami, Florida 33169, and is a domestic insurer authorized to transact an insurance business in this state. This address was incorrectly shown on original order.
2. Section 631.051, Florida Statutes (2001), authorizes the Department to apply to this Court for an order directing it to rehabilitate a domestic insurer upon the existence of any of the grounds specified therein.
3. Sections 631.061 and 631.051(11), Florida Statutes (2001), authorize the Department to apply to this Court for an order directing it to rehabilitate a domestic insurer upon the ground that the insurer has consented to such an order through a majority of its directors, stockholders, members, or subscribers.
4. Respondent has consented to the appointment of the Department as Receiver for purposes of rehabilitation.
5. The Department is appointed Receiver without further delay to protect the assets of respondent for the benefit of its policyholders, creditors and the public.
6. Section 631.041(1), Florida Statutes (2001), provides that the filing of a petition for order to show cause or a petition for a consent order of conservation, rehabilitation or liquidation operates as an automatic stay of certain actions.

7. Sections 631.041(3) and (4), Florida Statutes (2001), authorize this Court to enter such injunctions, as it deems appropriate to protect the remaining assets of the Respondent and prevent interference with the conduct of these proceedings.

**THEREFORE, IT IS ORDERED AND ADJUDGED:**

8. For all purposes set out herein the phrase "its officers, directors, trustees, employees, managers, adjusters, consultants, attorneys, agents or affiliates" includes, but is not limited to:
  - a. The Firemark Global Insurance Fund, L.P.
  - b. The Fenix Group, Inc.
  - c. Onyx Insurance Group, Inc.
  - d. Green Tree Insurance Group, Inc.
  - e. Onyx Underwriters, Inc.
  - f. Gamma Adjusters, Inc.
  - g. Insurance Collections Services, Inc.
  - h. Omega Finance Corporation
  - i. Octagon Computer Solutions
  - j. Continental Premium Finance Co. Inc.
  - k. Southern Inspections Group, Inc.
  - l. Golden Glades Offices, Inc.
  - m. Segurous Carabobo, C.A.
  - n. Paul Fraynd, President and Director
  - o. Saul Fraynd, Secretary and Director
  - p. Fanny Fraynd, Treasurer, Vice-President and Director
  - q. Gladys Fraynd, Vice-President and Director
  - r. Marcos Fraynd, Director
  - s. Tamara Fraynd, Director
  - t. Salomon Singer, Director
9. The Department of Insurance of the State of Florida is appointed Receiver of Respondent for purposes of rehabilitation and as Receiver is authorized and directed to:
10. Conduct the business of Respondent and take all steps, as the Court may direct, toward the removal of the causes and conditions, which have made the order of rehabilitation

necessary and to take such further action, as the Receiver deems necessary or appropriate, to reform and revitalize the Respondent.

11. Take immediate possession of all the property, assets and estate, and all other property of every kind whatsoever and wherever located belonging to, or in the possession of, Respondent, pursuant to Sections 631.101 and 631.141, Florida Statutes, including but not limited to: all offices maintained by Respondent, rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of the Respondent, wherever situate, whether in the possession of Respondent or its officers, directors, employees, managers, consultants, trustees, adjusters, attorneys, agents, or affiliates.
12. Appoint one or more special agents and employ and authorize the compensation of legal counsel, actuaries, accountants, clerks, consultants and such assistants as it deems necessary, purchase or lease personal or real property as it deems necessary, and authorize the payment of the expenses of these proceedings and the necessary incidents thereof, as approved by the Court, to be paid out of the funds or assets of the Respondent in the possession of the Receiver or coming into its possession.
13. Reimburse such employees, from the funds of this receivership, for their actual necessary and reasonable expenses incurred while traveling on the business of this receivership.
14. Not defend or accept service of process on legal actions wherein the Respondent, the Receiver, or the insured is a party defendant, commenced either prior to or subsequent to this order, without authorization of this Court; except, however, in actions where Respondent is a nominal party, as in certain foreclosure actions, and the action does not affect a claim against, or adversely affect the assets of Respondent, the Receiver may file appropriate pleadings in its discretion.
15. That process servers shall not serve any paper on the Respondent or the Receiver, except as set out in paragraph 14, absent permission of this Court or waiver by the Receiver.
16. Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding.

17. Collect any and all debts which are economically feasible to collect which are due and owing to the Respondent, including but not limited to, funds or premiums held by agents of Respondent under agency contracts or otherwise.
18. Deposit funds and maintain bank accounts in accordance with Section 631.221, Florida Statutes (2001).
19. Take possession of all Respondent's securities and certificates of deposit on deposit with the Treasurer of Florida, if any, and convert to cash or reinvest as much as may be necessary, in its judgment, to pay the expenses of administration of this receivership, or otherwise best benefit the estate.
20. Apply to this Court for further instructions in the discharge of its duties as may be necessary.

**IT IS FURTHER ORDERED AND DIRECTED:**

21. Any officer, director, manager, trustee, attorney, agent, actuary, broker, employee, adjuster, independent contractor, or affiliate of Respondent and any other person who possesses or possessed any executive authority over, or who exercises, or exercised, any control over any segment of Respondent's affairs, or the affairs of its affiliates, shall fully to cooperate with the Receiver, pursuant to Section 631.391, Florida Statutes (2001).
22. Title to all property, real or personal, all contracts, rights of action and all books and records of Respondent, wherever located, shall be vested in the Receiver, pursuant to Sections 631.101 and 631.141, Florida Statutes (2001).
23. The Receiver is granted all of the powers of the Respondent's directors, officers and managers, whose authority is suspended, except as such powers are re-delegated by the Receiver. The Receiver has full power to direct and manage the affairs of Respondent, to hire and discharge employees, and to deal with the property and business of the Respondent.
24. All attorneys employed by Respondent as of the date of this Order, within 10 days notice of the Order, shall report to the Receiver on the name, company claim number and status of each file they are handling on behalf of the Respondent. Said report should also include an accounting of any funds received from or on behalf of the Respondent. All attorneys employed by Respondent are advised that pursuant to Section 631.011(17), Florida Statutes, a claim based on mere possession does not

create a secured claim and all attorneys employed by Respondent, pursuant to In Re the Receivership of Syndicate Two, Inc., 538 So.2d 945 (Fla. 1<sup>st</sup> DCA 2001), who are in possession of litigation files or other material, documents or records belonging to or relating to work performed by the attorney on behalf of Respondent should be required to deliver such litigation files, material, documents or records intact and without purging to the Receiver, on request, notwithstanding any claim of a retaining lien which, if otherwise valid, should not be extinguished by the delivery of these documents.

25. All agents, brokers or other persons having sold policies of insurance and/or collected premiums on behalf of the Respondent shall account for and pay all premiums and commissions owed to the Respondent directly to the Receiver within 30 days of demand by the Receiver or appear before this Court to show cause, if any they may have, as to why they should not be required to account to the Receiver or be held in contempt of Court for violation of the provisions of the Order. No agent, broker, premium finance company or other person may use premium monies owed to the Respondent for any purpose other than payment to the Receiver.
26. Any premium finance company, which has entered into a contract to finance a premium for a policy, which has been issued by the Respondent, shall pay any premium owed to the Respondent directly to the Receiver.
27. Reinsurance premiums due to or payable by the Respondent will be remitted to, or disbursed by, the Receiver. The Receiver will handle reinsurance losses recoverable or payable by the Respondent. All correspondence concerning reinsurance should be between the Receiver and the reinsuring company or intermediary.
28. Upon request by the Receiver, any company providing telephonic services to the Respondent will provide a reference of calls from the number presently assigned to the Respondent to any such number designated by the Receiver or perform any other services or changes necessary to the conduct of the receivership.
29. Any bank, savings and loan association, financial institution or any other entity or person, which has on deposit or in its possession, custody or control any funds, accounts and any other assets of the Respondent shall immediately transfer title, custody and control of all such funds, accounts or assets to the Receiver. The Receiver is authorized to change the name of such accounts and other assets, withdraw them

from such bank, savings and loan association or other financial institution, or take any lesser action necessary for the proper conduct of this receivership. No bank, savings and loan association, other financial institution, is permitted to exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court.

30. Any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to Respondent shall maintain such service and transfer any such accounts to the Receiver as of the date of this order, unless instructed to the contrary by the Receiver.
31. Any data processing service which has custody or control of any data processing information and records including but not limited to source documents, data processing cards, input tapes, all types of storage information, master tapes or any other recorded information relating to the Respondent shall transfer custody and control of such records to the Receiver. The Receiver is authorized to compensate any such entity for the actual use of hardware and software, which the Receiver finds to be necessary to this proceeding. Compensation should be based upon the monthly rate provided for in contracts or leases with Respondent which were in effect when this proceeding was instituted, or based upon such contract as may be negotiated by the Receiver, for the actual time such equipment and software is used by the Receiver.
32. The United States Postal Service is directed to provide any information requested by the Receiver regarding the Respondent and to handle future deliveries of Respondent's mail as directed by the Receiver.
33. All insurance policies, bonds or similar contracts of coverage issued by the Respondent shall remain in full force and effect until further Order of this Court, except where cancelled in the normal course of business or upon the normal expiration date thereof. Any policy cancellations initiated by insureds shall be prospective only.
34. All affiliated companies and associations shall make their books and records available to the Receiver, to include all records located in any premises occupied by said affiliate, whether corporate records or not, and to provide copies of any records requested by the Receiver whether or not such records are related to Respondent.

- The Receiver has title to all policy files and other records of, and relating to Respondent, whether such documents are kept in offices occupied by an affiliate company or any other person, corporation, or association. The Receiver is authorized to take possession of any such records, files, and documents, and to remove them to any location in the Receiver's discretion. Any disputed records shall not be withheld from the Receiver's review, but should be safeguarded and presented to this Court for review prior to copying by the Receiver.
35. The Receiver shall have complete access to all computer records of the Respondent and its affiliates at all times including but not limited to Respondent's computer records. The Receiver is authorized to backup the computer records of Respondent and its affiliates and safeguard that backup in a secure location.
  36. Any person, firm, corporation or other entity having notice of this Order that fails to abide by its terms may be directed to appear before this Court to show good cause, if any they may have, as to why they should not be held in contempt of Court for violation of the provisions of this Order.
  37. Pursuant to Sections 631.041(3) and (4), Florida Statutes, all persons, firms, corporations and associations within the jurisdiction of this Court, including, but not limited to, Respondent and its officers, directors, stockholders, members, subscribers, agents, employees and affiliates, is enjoined and restrained from doing, doing through omission, or permitting to be done any action which might waste or dispose of the books, records and assets of the Respondent; from in any means interfering with the Receiver or these proceedings; from the transfer of property and assets of Respondent without the consent of the Receiver; from the removal, concealment, or other disposition of Respondent's property, books, records, and accounts; from the commencement or prosecution of any actions against the Respondent or the Receiver together with its agents or employees, the service of process and subpoenas, or the obtaining of preferences, judgments, writs of attachment or garnishment or other liens; and from the making of any levy or execution against Respondent or any of its property or assets. Notwithstanding the provisions of this paragraph, the Receiver is permitted to accept and be subpoenaed for non-party production of claims files in its possession, including medical records, which may be contained therein. In such cases, the requesting party must submit an affidavit to the Receiver stating that notice

of the non-party production was appropriately issued and provided to the patient and that the patient was given the opportunity to object and either did not object to the non-party production, or objected and the Court overruled the objection, in which case a copy of the Court's ruling must be attached to the affidavit. The Receiver is authorized to impose a charge for copies of such claim files pursuant to the provisions of Section 119.07(1)(a), Florida Statutes.

38. The Receiver is authorized to conduct an investigation as authorized by Section 631.391, Florida Statutes, of Respondent and its affiliates, as defined above, to make fully available to the Court the state of Respondent's financial affairs. In furtherance of this investigation, Respondent and any parent corporations, subsidiaries, and affiliates shall make all books, documents, accounts, records, and affairs, which either belong to or pertain to the Respondent, available for full, free and unhindered inspection and examination by the Receiver during normal business hours (9:00 a.m. to 5:00 p.m.) Monday through Friday, from the date of the Order. The Respondent and the above specified shall cooperate with the Receiver to the fullest extent required by Section 631.391, Florida Statutes. Such cooperation shall include, but not be limited to, the taking of oral testimony under oath of Respondent's officers, directors, managers, trustees, agents, adjusters, employees, or independent contractors of Respondent, its affiliates and any other person who possesses any executive authority over, or who exercises any control over, any segment of the affairs of Respondent in both their official, representative and individual capacities and the production of all documents that are calculated to disclose the state of Respondent's affairs.
39. Any officer, director, manager, trustee, administrator, attorney, agent, accountant, actuary, broker, employee, adjuster, independent contractor, or affiliate of Respondent and any other person who possesses or possessed any executive authority over, or who exercises or exercised any control over, any segment of the affairs of Respondent or its affiliates shall fully cooperate with the Receiver as required by Section 631.391, Florida Statutes, and as set out in the preceding paragraph. Upon receipt of a certified copy of the Order, any bank or financial institution shall immediately disclose to the Receiver the existence of any accounts of Respondent and any funds contained therein and any and all documents in its




possession relating to Respondent for the Receiver's inspection and copying, including but not limited to all records, statements, and information regarding all Respondent's accounts.

**NOTICE OF AUTOMATIC STAY**

40. Notice is hereby given that, pursuant to Section 631.041(1), Florida Statutes (2001), the filing of the Department's initial petition herein operates as an automatic stay applicable to all persons and entities, other than the Receiver, which shall be permanent and survive the entry of the order, and which prohibits:
- A. The commencement or continuation of judicial, administrative or other action or proceeding against the insurer or against its assets or any part thereof;
  - B. The enforcement of a judgment against the insurer or an affiliate, provided that such affiliate is owned by or constitutes an asset of Respondent, obtained either before or after the commencement of the delinquency proceeding;
  - C. Any act to obtain possession of property of the insurer;
  - D. Any act to create, perfect or enforce a lien against property of the insurer, except a secured claim as defined in Section 631.011(17), Florida Statutes;
  - E. Any action to collect, assess or recover a claim against the insurer, except claims as provided for under Chapter 631;
  - F. The set-off or offset of any debt owing to the insurer except offsets as provided in Section 631.281, Florida Statutes.
41. All Sheriffs and all law enforcement officials of this state shall cooperate with and assist the Receiver in the implementation of this Order.
42. In the event the Receiver determines that reorganization, consolidation, conversion, reinsurance, merger, or other transformation of the Respondent is appropriate, the Receiver will prepare a plan to effect such changes and submit the plan to this Court for consideration.
43. This Court retains jurisdiction of this cause for the purpose of granting such other and further relief as from time to time shall be deemed appropriate.

**DONE AND ORDERED** in Chambers in Leon County, Tallahassee, Florida this 10 day  
of ~~April~~ <sup>May</sup>, 2002.

  
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Circuit Judge