

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

STATE OF FLORIDA, ex rel.,
THE DEPARTMENT OF FINANCIAL
SERVICES OF THE STATE OF FLORIDA,

Relator,

v.

CASE NO.: 2006-CA-001198

FLORIDA PREFERRED PROPERTY
INSURANCE COMPANY,

A Florida Corporation,

Respondent.

**ORDER APPOINTING THE FLORIDA DEPARTMENT OF
FINANCIAL SERVICES AS RECEIVER OF FLORIDA PREFERRED
PROPERTY INSURANCE COMPANY FOR PURPOSES OF LIQUIDATION,
POLICY TRANSITION, AND NOTICE OF AUTOMATIC STAY**

THIS CAUSE was considered on the Court's Order to Show Cause as to why the Department of Financial Services (hereinafter the "Department") should not be appointed as Receiver of Florida Preferred Property Insurance Company (hereinafter the "Respondent") for purposes of Liquidation. The Court having reviewed the pleadings of record, having heard presentation of counsel, and otherwise being fully informed in the premises finds that:

1. Respondent is a Florida corporation with its principal place of business at 302 Knights Run Avenue, Suite 700, Tampa, Florida 33602. Respondent is authorized to conduct business as a property and casualty insurer in the state.

2. Section 631.061, Florida Statutes, authorizes the Department to apply to this Court for an Order directing it to liquidate a domestic insurer upon the existence of

any grounds specified in Section 631.051, including, but not limited to, a finding that the insurer is “in such condition or is using or has been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, creditors, stockholders, or the public.”

3. By letter dated May 9, 2006, to the Honorable Tom Gallagher, Chief Financial Officer of the State of Florida, Kevin McCarty, Commissioner of the Florida Office of Insurance Regulation, recommended that delinquency proceedings, pursuant to Chapter 631, Florida Statutes, be initiated against Florida Preferred Property Insurance Company. This letter also details a recommended plan for placing the company into liquidation receivership, payment of claims by the Florida Insurance Guaranty Association (hereinafter “FIGA”) and that Citizens Property Insurance Corporation (hereinafter “Citizens”) would orderly transition policyholders with coverage from Respondent into Citizens provided the policyholders were not offered alternative coverage in the admitted market.

4. This Court entered an Order to Show Cause, based on the Department’s prima facie case showing that the Respondent is violating Sections 631.051(1) and (3), and Section 631.061(1), Florida Statutes. Respondent is insolvent within the meaning of Sections 631.061(1), 631.051(1) and 631.011(14), Florida Statutes. Further, the Respondent lacks sufficient catastrophic reinsurance coverage to mitigate its exposure to possible hurricane losses rendering its further transaction of insurance presently and prospectively hazardous to its policyholders, creditors and the public.

5. Section 631.021(3), Florida Statutes, provides that a delinquency proceeding pursuant to Chapter 631, Florida Statutes, constitutes the sole and exclusive

method of liquidating, rehabilitating, reorganizing, or conserving an insurer. Further, Section 631.025(2), Florida Statutes authorizes the Department to initiate delinquency proceedings against any “insurer” if the statutory grounds are present as to that insurer.

6. On May 25, 2006, the Respondent consented to the entry of an Order of Liquidation effective June 1, 2006.

7. The Respondent is insolvent in that it is unable to pay its debts as they become due in the usual course of business and accordingly, Respondent is insolvent within the meaning of Sections 631.011(12), (14), and 631.051(1), Florida Statutes. If all Respondent’s statutorily admitted assets were made immediately available, the Respondent’s liabilities exceed its statutorily admitted assets.

8. The Respondent sustained significant losses as a result of the eight hurricanes which made landfall in Florida during the 2004 and 2005 hurricane seasons. These losses were, to a large degree, mitigated by Respondent’s program of reinsurance, which transferred the exposure to other insurers. Coverage under the Respondent’s reinsurance contract, which expires June 30, 2006, has been virtually exhausted. Thus, if a hurricane makes landfall in Florida before June 30, 2006, Florida Preferred Property Insurance Company will likely sustain losses for which there will not be adequate reinsurance coverage under the contract. This would further exacerbate the Respondent’s insolvency. The Respondent has no reinsurance coverage for the next contract year (July 1, 2006 – June 30, 2007).

9. Therefore, the Respondent is in violation of Section 631.051(3), Florida Statutes, in that it is in “such condition or is using or has been subject to such methods or practices in the conduct of its business, as to render its further transaction of insurance

presently or prospectively hazardous to its policyholders, creditors, stockholders, or the public.”

10. The Respondent has approximately 139,000 policyholders who must be transitioned to a solvent insurer prior to the beginning of hurricane season.

11. The Respondent must be liquidated immediately to protect the remaining assets of Respondent for the benefit of its policyholders, creditors and the public, as well as assuring for the orderly transition of these policyholders to one or more solvent insurers.

12. In light of the Respondent’s consent to liquidation and by virtue of the Respondent’s failure to have adequate catastrophe reinsurance, and its insolvency, the Court finds that it is in the best interests of Respondent and its creditors and insureds that the relief requested be granted.

THEREFORE, IT IS ORDERED AND ADJUDGED as follows:

13. The Department of Financial Services of the State of Florida shall be appointed Receiver of Respondent for purposes of liquidation.

14. The Receiver shall be authorized and directed to:

A. Take immediate possession of all the property, assets, and estate, and all other property of every kind whatsoever and wherever located belonging to Respondent pursuant to Sections 631.111 and 631.141, Florida Statutes, including but not limited to: offices maintained by the Respondent, rights of action, books, papers, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, wherever situate and however

titled, whether in the possession of Respondent or its officers, directors, trustees, employees, consultants, attorneys, agents or affiliates and all real property of Respondent, wherever situate, whether in the possession of Respondent or its officers, directors, trustees, employees, consultants, attorneys, agents or affiliates.

B. Liquidate the assets of Respondent, including but not limited to, funds held by Respondent's agents, subagents, producing agents, brokers, solicitors, service representatives or others under agency contracts or otherwise which are due and unpaid to Respondent, including premiums, unearned commissions, agents' balances, agents' reserve funds, and subrogation recoveries.

C. 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.

D. 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.

E. 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 the 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.

F. Commence and maintain all legal actions necessary, wherever necessary, for the proper administration of this receivership proceeding.

G. Collect all debts which are economically feasible to collect which are due and owing to the Respondent.

H. Deposit funds and maintain bank accounts in accordance with Section 631.221, Florida Statutes.

I. Take possession of all Respondent's securities and certificates of deposit on deposit with the Treasurer of Florida or any similar official of any other state, if any, and convert to cash as much as may be necessary, in its judgment, to pay the expenses of administration of this receivership.

J. Publish notice specifying the time and place fixed for the filing of claims with the Receiver once each week for three consecutive weeks in the Florida Administrative Weekly published by the Secretary of State, and at least once in the Florida Bar News and to publish notice by similar methods in all states where Respondents may have issued insurance policies.

K. Negotiate and settle subrogation claims and Final Judgments up to and including the sum of Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

L. Sell any salvage recovered property having value of not more than Twenty Thousand Dollars (\$20,000.00) without further order of this Court.

M. Give notice of this proceeding to Respondent's agents pursuant to Section 631.341, Florida Statutes, and to its insureds, if any.

N. All officers, directors, trustees, administrators, agents and employees and all other persons representing Respondent or currently employed or utilized by Respondent in connection with the conduct of its business are discharged forthwith.

O. 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 Respondent's affairs or the affairs of its affiliates be required to fully cooperate with the Receiver, pursuant to Section 631.391, Florida Statutes, notwithstanding the provisions of the above paragraph.

P. Title to all property, real or personal, all contracts, rights of action and all books and records of Respondent, wherever located, is vested in the Receiver pursuant to Sections 631.111 and 631.141, Florida Statutes.

Q. All attorneys employed by Respondent as of the date of the Order, within 10 days notice of the Order, are required to report to FIGA on the name, company claim number and status of each file they are handling on behalf of the Respondent. Said report shall also include an accounting of any funds received from or on behalf of the Respondent. All attorneys employed by Respondent shall be discharged as of the date of the Order unless their services are retained by FIGA. All attorneys employed by Respondent shall be 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. 1st DCA 1989), 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 shall be required to deliver such litigation files, material, documents or records intact and without purging to FIGA, on request, notwithstanding any claim of a retaining lien which, if otherwise valid, shall not be extinguished by the delivery of these documents.

R. All agents, brokers or other persons having sold policies of insurance and/or collected premiums on behalf of the Respondent shall be required to account for and pay all premiums and commissions unearned due to cancellation of policies by the Order or in the normal course of business owed to the Respondent directly to 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 shall 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 shall use premium monies owed to the Respondent for refund of unearned premium or for any purpose other than payment to the Receiver.

S. 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 be required to pay any premium owed to the Respondent directly to the Receiver.

T. Reinsurance premiums due to or payable by the Respondent shall be remitted to, or disbursed by, the Receiver. Reinsurance losses recoverable or payable by the Respondent shall be handled by the Receiver. All correspondence concerning reinsurance shall be between the Receiver and the reinsuring company or intermediary.

U. Upon request by the Receiver, any company providing telephonic services to the Respondent shall be required to 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.

V. Any bank, savings and loan association, or other financial institution which has on deposit, in its possession, custody or control any funds, accounts and any other assets of the Respondent, shall be required to immediately transfer title, custody and control of all such funds, accounts and other assets to the Receiver. The Receiver shall be 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 or other financial institution shall be permitted to exercise any form of set-off, alleged set-off, lien, 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.

W. Any entity furnishing telephone, water, electric, sewage, garbage or trash removal services to the Respondent shall be required to maintain such

service and transfer any such accounts to the Receiver as of the date of the Order, unless instructed to the contrary by the Receiver.

X. 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 be required to transfer custody and control of such records to the Receiver. The Receiver shall be 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 shall 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.

Y. The United States Postal Service shall be 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.

Z. All claims shall be filed with the Receiver on or before 11:59 p.m. on June 1, 2007 or be forever barred, and all such claims shall be filed on proof of claim forms prepared by the Receiver.

AA. Except for contracts of insurance, all executory contracts to which the Respondent was a party shall be cancelled and stand cancelled unless specifically adopted by the Receiver within ninety (90) days of the date of this Order or from the date of the Receiver's actual knowledge of the existence of

such contract, whichever is later. "Actual Knowledge" means the Receiver has in its possession the original of a written contract to which the Respondent is a party, and the Receiver has notified the vendor in writing acknowledging the existence of the contract. Any vendor, including but not limited to, any and all employees / contractors of insurer, claiming the existence of a contractual relationship with the insurer shall provide notice to the Receiver of such relationship. This notice shall include any and all documents and information regarding the terms and conditions of the contract, including a copy of the written contract between the vendor and the insurer, if any, what services or goods were provided pursuant to the contract, any current, future and/or past due amounts owing under the contract, and any supporting documentation for third party services or goods provided. Failure to provide the required information may result in vendors' contractual rights not being recognized by the Receiver. The rights of the parties to any such contracts are fixed as of the date of the Order and any cancellation under this provision shall not be treated as an anticipatory breach of such contracts.

BB. All affiliated companies and associations, specifically but not limited to Poe Financial Group, Inc., Poe Investments, Inc., Poe Insurance Holdings, LLC, Poe Insurance Managers, LLC, Mariah Claims Services, LLC, and Poe and Associates Insurance Agency, LLC, shall be directed to 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 would have 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 shall be 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 shall be safeguarded and presented to this Court for review prior to copying by the Receiver.

CC. The Receiver shall have complete access to all computer records of the Respondent and its affiliates.

DD. Any person, firm, corporation or other entity having notice of the Order that fails to abide by its terms shall be directed to appear before this Court to show good cause, if any they may have, as to why they shall not be held in contempt of Court for violation of the provisions of this Order.

15. Pursuant to Part II of Chapter 631, Florida Statutes, FIGA will assume the obligations with regard to the payment of claims and unearned premium. In order to reduce the administrative costs associated with this receivership, the unearned premium associated with those policyholders transitioned to Citizens, shall be paid by FIGA directly to Citizens in accordance with relevant state statutes, and the Receiver's proposed Plan of Liquidation and Transition (the "Liquidation Plan") as approved by this Court. Any unearned premium shall be processed in accordance with the provisions of Section 631.50, et.seq., Florida Statutes.

16. All insurance policies issued by Respondent which have not been canceled as a result of action by the policyholder or for non-payment of premium prior to 12:01

a.m., July 1, 2006 are canceled as of that time or such earlier date and time as determined necessary by the Receiver to facilitate policyholders' obtaining coverage in the admitted market.

17. Effective 12:02 a.m., July 1, 2006, eligible policyholders not obtaining offers of coverage in the admitted market and whose policies are canceled as of 12:01, a.m., July 1, 2006 pursuant to this order will be provided coverage by Citizens Property Insurance Corporation, provided the Court approves the Receiver's proposed Liquidation Plan. In the event the parties are unable to agree to a Liquidation Plan, the Court intends to enter, effective 12:02a.m. July 1, 2006, an Order providing that Citizens assume policies or otherwise provide coverage for the policyholders, pursuant to Section 627.351(6)(v)6, Florida Statutes (2006). The coverage provided by Citizens for this group of policyholders shall be for the remaining term of the policy originally issued by Respondent. Citizens shall provide proof of coverage and pertinent information to policyholders as soon as practicable beginning July 1, 2006.

18. Subject to Court approval of the Liquidation Plan, the coverage provided by Citizens will be at the terms, rates and conditions in the policy issued by Florida Preferred Property Insurance Company, including any endorsements made prior to 12:01a.m., July 1, 2006. The coverage provided by Citizens will be for the same term as the policy issued by Florida Preferred Property Insurance Company, including any endorsements made prior to 12:01a.m., July 1, 2006. Any policy which expires after 12:01a.m., July 1, 2006 and is subsequently renewed by Citizens shall be renewed at Citizen's rates as filed with and approved by the Florida Office of Insurance Regulation.

19. A policyholder is ineligible for transition coverage to replace a policy cancelled by this order if: (a) it is a personal lines policyholder that has received an offer of coverage from an admitted carrier; (b) it is a commercial lines policyholder that has received an offer of coverage from an admitted or surplus lines carrier; (c) it is a policyholder with coverage written on a form that is not a personal residential policy, a commercial residential policy, or commercial nonresidential policy, of the type that Citizens is authorized to issue under Section 627.351(6); (d) the policyholder has obtained replacement coverage for the cancelled policy; or (e) it is a commercial lines policyholder and, instead of providing Transition Coverage, Citizens offers to provide coverage using its own forms, rates, rules, and systems.

CONTINUATION OF INVESTIGATION

20. The Receiver shall be authorized to conduct an investigation as authorized by Section 631.391, Florida Statutes, of Respondent and its affiliates, as defined above, to uncover and make fully available to the Court the true state of Respondent's financial affairs. In furtherance of this investigation, Respondent and its parent corporations, its subsidiaries, and affiliates shall be required to 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 entities shall be required to 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 true state of Respondent's affairs.

21. 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 be required to 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 be required to 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.

NOTICE OF AUTOMATIC STAY

22. Notice is hereby given that, pursuant to Section 631.041(1), Florida Statutes, 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 this 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 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.

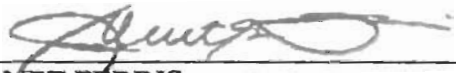
23. Notice is further given that, pursuant to Section 631.67, Florida Statutes, all proceedings in which the Respondent is a party or is obligated to defend a party in any court or before any quasi-judicial body or administrative board in this state shall be stayed for (6) months, or for a period of time greater than six (6) months from the date of this Order, granted by a court of competent jurisdiction.

24. All Sheriffs and all law enforcement officials of the state shall cooperate with and assist the Receiver in the implementation of this Order.

25. 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.

26. The Respondent is ordered into liquidation receivership effective 12:01a.m., June 1, 2006.

DONE and ORDERED in Chambers at the Leon County Courthouse in
Tallahassee, Leon County, Florida this 31 day of May, 2006.



JANET FERRIS
CIRCUIT JUDGE

COPIES FURNISHED TO:

William A. Spillias, Chief Attorney
Robert V. Elias, Deputy Chief Attorney
Steven G. Brangaccio, Senior Attorney
Florida Department of Financial Services
Division of Rehabilitation and Liquidation
P.O. Box 110
Tallahassee, Florida 32302

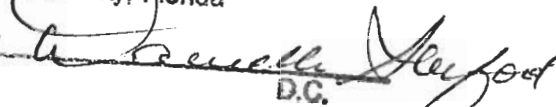
Robert J. Grammig, Esq.
Richard B. Hadlow, Esq.
Michael L. Chapman, Esq.
Holland & Knight
P.O. Box 1288
Tampa, Florida 33601-1288

A Certified Copy
Attest:

Bob Inzer

Clerk of Circuit Court
Leon County, Florida



By 
D.C.