

**COPY**

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel. )  
 L. TIM WAGNER, )  
 DIRECTOR OF INSURANCE OF )  
 THE STATE OF NEBRASKA, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 AMWEST SURETY INSURANCE )  
 COMPANY, )  
 )  
 Respondent. )

Case No. CI 01 2102

**ORDER APPROVING LIQUIDATOR'S  
 APPLICATION TO APPROVE  
 AGREEMENTS UNDER NEB. REV.  
 STAT. §44-4821(1)(w) AND  
 PARTICIPATE IN GENERAL ASSET  
 DISTRIBUTIONS (PURSUANT TO  
 APPLICATION NO. 97)**

This matter came on for consideration on Application No. 97 of the Director of Insurance for the State of Nebraska, Ann M. Frohman, acting as Liquidator of Amwest Surety Insurance Company pursuant to the Insurers Supervision, Rehabilitation and Liquidation Act ("Act"), NEB. REV. STAT. § 44-4801 *et seq.*, particularly NEB. REV. STAT. §44-4821(1)(w), for an Order permitting the Liquidator to make agreements with the receivers, directors, commissioners, or equivalent insurance officials of states other than Nebraska in which Amwest did business whose claimants hold special deposit claims. The Act defines special deposit claims as claims secured by deposits made pursuant to statute for the security or benefit of a limited class or classes of persons in a single state. NEB. REV. STAT. §§44-4803(12), (20).

Hearing was held on September 17, 2009. Present on behalf of the Liquidator was Robert L. Nefsky. Also present was Robert F. Craig, who appeared on behalf of Skanska USA Building

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Inc., a claimant in these liquidation proceedings.

Under NEB. REV. STAT. §44-4821(1)(w), the Liquidator has the power to enter into agreements with any receiver or the director, commissioner, or equivalent insurance official of any other state relating to the liquidation of an insurer doing business in both states.

The Court finds that NEB. REV. STAT. §44-4821(1)(w) permits the Liquidator to make agreements with any receiver or the director, commissioner, or equivalent insurance official in states other than Nebraska where Amwest did business whereby such insurance officials will turn the special deposits over to the Liquidator to become part of Amwest's general assets, thereby terminating the status of the affected claimants as special deposit claimants and permitting them to share in distributions of Amwest's general assets to the same extent as claimants who are not holders of special deposit claims. The Court makes no finding whether the insurance officials of the other states are empowered under the laws of their states to turn over the special deposit to the Liquidator, but finds that the Liquidator may rely on the representations of such insurance officials that they are so empowered. The Court finds further that all notices required by law have been given. The Court finds further that Application No. 97 states that Judge John A. Colborn's daughter is employed with the Nebraska Department of Insurance as of August 2008 and that as of the date of this Order, neither the Liquidator nor the Court have received any objections relating thereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

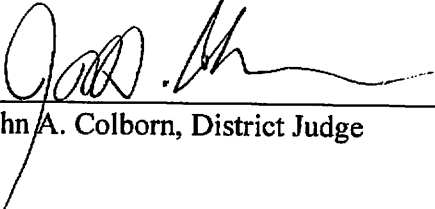
1. Pursuant to NEB. REV. STAT. §44-4821(1)(w), the Liquidator is AUTHORIZED, without further order of this Court, to enter into agreements with any receiver or the director, commissioner, or equivalent insurance official of any state other than Nebraska in which Amwest did business and in which Amwest prior to liquidation made a special deposit, whereby such

insurance official will turn over to the Liquidator the special deposit(s) held in such state, free and clear of any claims, to become part of Amwest's general assets, in exchange for which the claimants whose claims were formerly secured by such special deposits will lose their status as special deposit claimants thereby entitling such claimants to share in general asset distributions free of the restrictions of NEB. REV. STAT. §44-4858(2).

2. The Liquidator may rely on the interpretations of the laws of other states made by the insurance officials thereof to determine whether such insurance officials have the power and authority to make agreements with the Liquidator to turn over the special deposit(s) held in such states free and clear of any claims. Nothing in this Order interprets the statutes of any state other than Nebraska.

3. Nothing in this Order affects the priority of claims under NEB. REV. STAT. §44-4842 nor the claim process under the Act.

DATED: September 18, 2009.

  
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John A. Colborn, District Judge

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