

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE ex rel.)
THE HONORABLE DONNA LEE H.)
WILLIAMS, Insurance Commissioner)
for the State of Delaware,)

Plaintiff,)

v.)

NATIONAL HERITAGE LIFE)
INSURANCE COMPANY, a Delaware)
Domestic Insurance Company,)

Respondent.)

C.A. No. 13530

REHABILITATION AND INJUNCTION ORDER

WHEREAS, the Honorable Donna Lee H. Williams, the Insurance Commissioner of the State of Delaware (the "Commissioner"), has applied for a Rehabilitation and Injunction Order pursuant to Title 18 Del. C. § 5901, et seq., and

WHEREAS, the Board of Directors of National Heritage Life Insurance Company ("National Heritage" or the "Company") has unanimously consented to the issuance of this Order under Title 18 Del. C. § 5905(9), NOW

IT IS HEREBY ORDERED BY THE COURT as follows:

1. Pursuant to Title 18 Del. C. § 5910(a), the Commissioner shall forthwith conduct the business of National Heritage pursuant to the terms of this Order and take exclusive possession and control of and be vested with all right, title and

interest in, of or to the property of National Heritage including, without limitation, all of National Heritage's assets, contracts, rights of action, books, records, bank accounts, certificates of deposit, collateral securing obligations to, or for the benefit of, National Heritage or any trustee, bailee or any agent acting for, or on behalf of, National Heritage (collectively, the "Trustees"), securities or other funds, and all real or personal property of any nature of National Heritage including, without limitation, furniture, fixtures and office supplies, wherever located, and including such property of National Heritage or collateral securing obligations to, or for the benefit of, National Heritage or any Trustee thereof that may be discovered hereafter, and all proceeds of or accessions to any of the foregoing, wherever located, in the possession, custody or control of National Heritage or any Trustee therefor (collectively, the "Assets").

2. The Commissioner is hereby directed to continue in her examination of the Assets, business and affairs of National Heritage, and, based upon the results of that investigation, the Commissioner is further authorized to take such actions as the nature of this cause and the interest of the policyholders, creditors and stockholders of National Heritage and the public may require.

3. The Commissioner's right, title and interest in and to the Assets shall continue until further order of the Court and she is hereby authorized to deal with the Assets including, without limitation, the right to sue and defend for the Company, or for the benefit of the Company's policyholders, stockholder and creditors, in the courts and tribunals, agencies or arbitration panels for this State and other states in her

name as the Commissioner of Insurance of the State of Delaware, or in the name of National Heritage Life Insurance Company.

4. The filling or recording of this Order or a certified copy hereof with the Clerk of this Court and with the recorder of deeds of the jurisdiction in which National Heritage's corporate and administration offices are located, or, in the case of real estate, with the recorder of deeds of the jurisdictions where the property is located, shall impart the same notice as would be imparted by a deed, bill of sale or other evidence of title duly filed or recorded with that recorder of deeds. Without limiting the foregoing, the filing of this Order with the Clerk of this Court also constitutes notice to all sureties and fidelity bondholders of National Heritage of all potential claims against the Company under such policies and shall constitute the perfection of a lien in favor of National Heritage under the Uniform Commercial Code or any like Federal or state law, regulation or order dealing with the priority of claims.

5. Except as otherwise indicated elsewhere in this Order, and upon notice provided by the Commissioner, all agents and brokers and all other persons or entities holding Assets of, or on behalf of, National Heritage shall forthwith file an accounting of those Assets with the Commissioner and shall within ten (10) days of the entry of this Order, turn those Assets over to the Commissioner.

6. The Commissioner may, in her discretion, appoint a consultant or other person or persons to serve as Special Deputy Commissioner(s) to assist the Commissioner in accomplishing the directive of this Order. The Special Deputy Commissioners shall serve at the pleasure of the Commissioner and, subject to the

approval of the Commissioner, shall be entitled to exercise all of the powers and authorities vested in the Commissioner pursuant to this Order and applicable law.

7. The Commissioner may employ or continue to employ and fix the compensation of such deputies, counsel, clerks, employees, accountants, actuaries, consultants, assistants and other personnel (collectively, the "Designees") as considered necessary, and all compensation and expenses of the Special Deputy Commissioners and the Designees and of taking possession of National Heritage and conducting this proceeding shall be paid out of the funds and assets of National Heritage as administrative expenses under Title 18 Del. C. § 5913(f). The Commissioner may also retain those of National Heritage's current management personnel and other employees as Designees as she in her discretion determines would facilitate the rehabilitation of National Heritage.

8. The Special Deputy Commissioners, the Designees, and the Board of Directors of National Heritage by reason of their consent to this Order (collectively, the "Indemnitees") shall have no personal liability for their acts or omissions in connection with their duties or their consent to this Order, as the case may be, provided that such acts or omissions are or were undertaken in good faith and without willful misconduct, gross negligence or criminal intent. All expenses, costs and attorney's fees incurred by the Indemnitees in connection with any lawsuit brought against them in their representative capacities shall be subject to the approval of the Commissioner and shall be exclusively paid out of the funds and assets of National Heritage. The Indemnitees shall not be deemed to be employees of the State of Delaware.

9. The Commissioner's right, title and interest in and to all funds recoverable under treaties and agreements of reinsurance heretofore entered into by the Company as the ceding insurer shall continue, and all reinsurance companies involved with the Company are enjoined and restrained from making any settlements with any claimant or policyholder of National Heritage other than the Commissioner as Receiver. The amounts recoverable by the Commissioner from any reinsurer of National Heritage shall not be reduced as a result of this rehabilitation proceeding or by reason of any partial payment or distribution on a reinsured policy, contract or claim, and each such reinsurer of National Heritage is hereby enjoined and restrained from terminating, cancelling, failing to extend or renew, or reducing or changing coverage under any reinsurance policy or contract with National Heritage, except for non-payment of premium. The Commissioner may terminate or rescind any contract with a reinsurer or reinsurers that is contrary to the best interests of the estate rehabilitation.

10. The Commissioner is hereby authorized to transfer National Heritage's assets and liabilities to a separate affiliate or subsidiary for the overall benefit of National Heritage's creditors, stockholder and policyholders, subject to approval by this Court.

11. The Commissioner may change to her own name, the name of any of National Heritage's accounts, funds or other property or assets held with any bank, savings and loan association or other financial institution, and may withdraw such funds, accounts and other property or assets from such institutions or take any lesser action necessary for the proper conduct of this rehabilitation.

12. The Commissioner is hereby authorized to place a moratorium, in her sole discretion, on surrenders of existing policies. No such moratorium shall be imposed, without further order of this Court, on policies or annuities in payment status.

13. National Heritage and its officers, directors, agents, servants and employees are hereby enjoined and restrained from transacting any business of, or on behalf of, National Heritage, or selling, transferring, destroying, wasting, encumbering or disposing of any of the Assets, without the prior written permission of the Commissioner or until further Order of this Court.

14. All banks, brokerage houses, agents, reinsurers, or other companies or persons, either having in their possession Assets or possible Assets, or having notice of these proceedings or of this Order, are hereby enjoined and restrained from disposing of, selling, wasting, encumbering, transferring or destroying any such Assets or possible Assets. This prohibition includes, without limitation, Assets or possible Assets pertaining to any business transaction between National Heritage and any of said parties. No actions concerning, involving, or relating to such Assets or possible Assets may be taken by any of the aforesaid persons or entities enumerated herein, without the prior written permission of the Commissioner, or until further Order of this Court.

15. All officers, directors, agents, servants and employees of National Heritage, and all other persons and companies having notice of these proceedings or of this Order, are hereby enjoined and restrained from instituting or further prosecuting any action at law or in equity or in other proceedings against National Heritage, the Commissioner as Receiver, or the Special Deputy Commissioners or the Designees in

connection with their duties as such, or from obtaining preferences, judgments, attachments or other like liens or encumbrances, or foreclosing upon or making any levy against National Heritage or the Assets, or exercising any right adverse to the right of National Heritage to or in the Assets, or in any way interfering with the Commissioner, the Special Deputy Commissioners or the Designees either in their possession and control of the Assets or in the discharge of their duties hereunder.

16. (a) All persons and companies are hereby enjoined and restrained from asserting any claim against the Commissioner as Receiver of the Company, or against the Special Deputy Commissioners or the Designees in connection with their duties as such, or against the Assets, except insofar as such claims are brought in the rehabilitation proceedings of National Heritage.

(b) Within a reasonable time after receipt of a claim in the rehabilitation proceedings of National Heritage, the Commissioner shall give notice by mail to any and all persons interested in such claim of the Commissioner's proposed report and recommendation to the Court regarding the allowances or denial (in whole or in part) of such claim.

(c) Within sixty (60) days of the mailing of the proposed report and recommendation, the interested person being given notice of such proposed report and recommendation may file a written objection thereto with the New Castle County Register in Chancery, 1000 King Street, Wilmington, Delaware 19801, and the Commissioner.

(d) Within a reasonable time after such sixty (60) days, there being no objection to the proposed report and recommendation, the Commissioner shall file with the Court such report and recommendation.


(e) No hearing will be held regarding the proposed report and recommendation in the absence of a written objection thereto by a person interested therein.

17. Hereafter the caption of this cause and all pleadings in this matter shall read as:

"IN THE MATTER OF THE REHABILITATION OF
NATIONAL HERITAGE LIFE INSURANCE COMPANY"

18. This Court shall retain jurisdiction in this cause for the purpose of granting such other and further relief as this cause, the interests of the policyholders, creditors, stockholder of National Heritage and the public may require. The Commissioner, or any interested party upon notice to the Commissioner, may at any time make application for such other and further relief as either sees fit.

SO ORDERED this 25 day of May, 1994.


Chancellor