

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

KEN ROSS, COMMISSIONER OF THE OFFICE
OF FINANCIAL AND INSURANCE
REGULATION,

Petitioner,

No. 10-397-CR

v

HON. WILLIAM E. COLLETTE

AMERICAN COMMUNITY MUTUAL
INSURANCE COMPANY,

Respondent.

**ORDER RESOLVING
AGENT COMMISSIONS DISPUTE**

At a session of said Court held in the
Circuit Courtrooms for the
County of Ingham, State of Michigan
on the 17 day of April, 2012.

PRESENT: HONORABLE WILLIAM E. COLLETTE, CIRCUIT COURT JUDGE

WHEREAS, on March 9, 2012, R. Kevin Clinton, the Commissioner of the Michigan Office of Financial and Insurance Regulation and duly appointed Rehabilitator of American Community Mutual Insurance Company (the "Rehabilitator"), filed a Petition for Court Determination Regarding Proper Payee of Agent Commissions (the "Petition"); and

WHEREAS, on March 9, 2012, this Court entered an Order Granting Petition for Court Determination and Setting Briefing Schedule Regarding Agent Commissions Dispute (the "Commissions Dispute Order"); and

MIKE BRYANTON
CLERK OF THE 30TH
JUDICIAL CIRCUIT COURT
INGHAM COUNTY, CLERK

2012 APR -9 A 11: 28

FILED

WHEREAS, as explained in the Petition, a good faith dispute exists between Brokers Insurance Corp. (“Brokers”) and Midland States Bank (“Midland”) regarding which entity is legally entitled to payment of \$9,155.78 in agent commissions that are being held by the Rehabilitator and were approved for payment by the Court on January 4, 2012; and

WHEREAS, the Commissions Dispute Order required Brokers, Midland, and any other party claiming legal entitlement to the \$9,155.78 in disputed agent commissions to submit a brief and any documentation supporting such entitlement; and

WHEREAS, in lieu of expending the time and costs to submit briefs, Brokers and Midland have entered into a stipulation that resolves the agent commissions dispute. The executed Stipulation By and Between Midland States Bank and Brokers Insurance Corporation and Approved By Rehabilitator (“Stipulation”) is attached to this Order and incorporated herein by reference; and

WHEREAS, pursuant to the Stipulation, Brokers and Midland agree that each party will accept and receive payment of fifty percent (50%) of the \$9,155.78 in agent commissions, or \$4,577.89; and

WHEREAS, pursuant to the Stipulation, upon the Rehabilitator’s payment of \$4,577.89 each to Brokers and Midland c/o their legal counsel, Brokers and Midland agree to release any and all claims that they may have against the Rehabilitator relating to the \$9,155.78 in disputed agent commissions; and

WHEREAS, the Rehabilitator believes that the Stipulation is fair and equitable and avoids the potential risk to the rehabilitation estate of multiple liability arising from the same agent commissions. Accordingly, the Rehabilitator approves and has executed the Stipulation through his legal counsel;

NOW, THEREFORE, IT IS HEREBY ORDERED that based upon the Stipulation by and between Brokers and Midland and approved by the Rehabilitator, the Rehabilitator shall divide the \$9,155.78 in disputed agent commissions equally between Brokers and Midland. Accordingly, the Rehabilitator shall make payment to Brokers c/o its attorney Larry Parres and to Midland c/o its attorney Loren Ettinger in the amount of \$4,577.89 each;

IT IS FURTHER ORDERED that upon receipt of the Rehabilitator's payment to Brokers and Midland as set forth above, Brokers and Midland release and forever discharge American Community, its directors, officers, shareholders, employees, attorneys, agents, predecessors, successors, heirs, and assigns, together with the Rehabilitator, the Special Deputy Rehabilitators, the State of Michigan, Office of Financial and Insurance Regulation and their agents, attorneys, employees, predecessors, successors, heirs, and assigns, from all causes of action, debts, choses in action, claims, damages, and demands, in law or in equity, whether known or unknown, that Brokers and Midland have or have ever had, relating to or arising out of the \$9,155.78 in disputed agent commissions;

IT IS FURTHER ORDERED that, upon entry, the Court authorizes, approves, and/or ratifies the Rehabilitator's service of this Order via regular mail on Brokers Insurance Corp. c/o its attorney, Larry Parres, and on Midland States Bank c/o its attorney, Loren Ettinger;

IT IS FURTHER ORDERED that due to the difficulty and prohibitive cost associated with providing personalized notice to all other parties having an interest in the American Community rehabilitation, upon entry, the Court authorizes, approves, and/or ratifies the Rehabilitator's service of this Order on other potentially interested parties by posting electronic copies on the OFIR website, www.michigan.gov/ofir, under the section "Who We Regulate",

and the subsection "American Community." The Court finds that service in this manner is reasonably calculated to give these other potentially interested parties actual notice of these proceedings and is otherwise reasonable under the circumstances.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "W. E. Collette", written over a horizontal line.

Honorable William E. Collette
Circuit Court Judge

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v.)

AMERICAN COMMUNITY MUTUAL)
INSURANCE COMPANY,)

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Case No. 10-397-CR

HON. WILLIAM E. COLLETE

**STIPULATION BY AND BETWEEN MIDLAND STATES BANK
AND BROKERS INSURANCE CORPORATION
AND APPROVED BY REHABILITATOR**

COMES NOW R. Kevin Clinton, Commissioner of the Michigan Office of Financial and Insurance Regulation, as Rehabilitator of American Community Mutual Insurance Company (the “Rehabilitator”), by and through his attorneys, Bill Schuette, Attorney General, and Christopher L. Kerr, Assistant Attorney General, and with the written consent and stipulation of Midland States Bank (“Bank”) and Brokers Insurance Corporation (“BIC”) presents to the Court a stipulation by the parties to resolve the Petition filed by the Rehabilitator for Determination Regarding Proper Payee of Agent Commissions filed with the Court on March 9, 2012; and states as follows:

1. The Rehabilitator filed the instant action to resolve a dispute between BIC and Bank claiming a security interest in the assets of BIC, including the insurance commissions, due BIC by American Community Mutual Insurance Company.

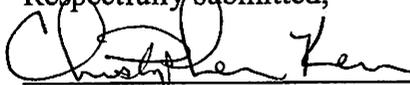
2. On January 4, 2012, this Court approved the Rehabilitator paying “agent commissions” to BIC in the amount of \$9,155.78.

3. Without admission of any kind, the parties have agreed to resolve the instant action filed by the Rehabilitator regarding the agent commissions of \$9,155.78 whereby each party will receive fifty percent (50%) or \$4,577.89.

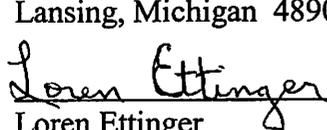
4. Upon receipt of a check from Rehabilitator made payable to BIC for \$4,577.89 and to Bank in the amount of \$4,577.89, the parties agree to release any and all claims they may have to those proceeds as set forth in the Rehabilitator's Petition filed with this Court. It being understood that service upon the parties' attorneys is proper service of the check to each of the parties.

5. BIC and Bank acknowledge service of the Petition of the Rehabilitator as set forth in the Court's Order Granting Petition for Court Determination and Setting Briefing Schedule Regarding Agent Commissions Dispute entered on March 9, 2012.

Respectfully submitted,

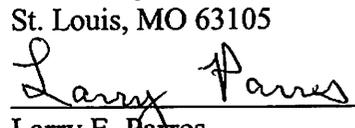


Christopher L. Kerr (P57131)
Assistant Attorney General
Michigan Department of Attorney General
Corporate Oversight Division
Attorneys for the Rehabilitator
P.O. Box 30755
Lansing, Michigan 48909



(CLK
by consent via electronic
signature - see attached)

Loren Ettinger
Attorney for Midland States Bank
Kodner, Watkins & Kloecker, LC
7800 Forsyth Blvd., 7th Floor
St. Louis, MO 63105



(CLK
by consent via electronic
signature - see attached)

Larry E. Pades
Attorney for Brokers Insurance Company
Lewis, Rice & Fingersh, LC
600 Washington Ave., Suite 2500
St. Louis, MO 63101

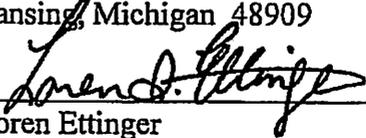
3. Without admission of any kind, the parties have agreed to resolve the instant action filed by the Rehabilitator regarding the agent commissions of \$9,155.78 whereby each party will receive fifty percent (50%) or \$4,577.89.

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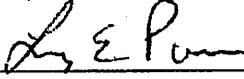
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