

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

CASE NO: 2019 CA 002328

IN RE: The Receivership of
Florida Specialty Insurance Company,

a Florida corporation.

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TRANSCRIPT OF HEARING PROCEEDINGS

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DATE TAKEN: Wednesday, October 23, 2019

TIME: 10:04 a.m. - 10:36 a.m.

PLACE: Leon County Courthouse
301 S. Monroe Street, 365-B
Tallahassee, FL 32301

BEFORE: HONORABLE RONALD FLURY, CIRCUIT JUDGE

This cause came on to be heard at the time and place
aforesaid, when and where the following proceedings were
stenographically reported by: Stephanie Nargiz, FPR

APPEARANCES:

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ALSO PRESENT:

KEN LAVIN

BELINDA MILLER - CITIZENS

KEN TINKHAM - CITIZENS

TOM STREUKENS, FIGA

I N D E X

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1 Thereupon, the following proceedings began at 10:04 a.m.:

2 **THE COURT:** Good morning. We're here on 2019 CA
3 2328, In Re: of Receivership of Florida Specialty
4 Insurance Company. I know we have a bunch of people
5 on the phone. Rather than, I think everybody did a
6 notice of appearance for you, right, Madam Court
7 Reporter?

8 **THE STENOGRAPHER:** I've got all of the
9 appearances, thank you.

10 **THE COURT:** Let me just see if there's anybody on
11 the phone that's actually going to participate in this
12 hearing? Don't all speak at once. Can everyone hear
13 me okay?

14 **MS. BENITEZ-TORVISO:** Yes. Good morning, your
15 Honor. I may participate. My name is Yamile Benitez-
16 Torviso, and I'm the attorney for the Florida
17 Department of Financial Services. I'm currently on
18 site at a conference.

19 **THE COURT:** Good morning. Very good. Anybody
20 else who may want to participate? All right. Hearing
21 nothing, I suppose not.

22 All right. I reviewed several motions that were
23 filed. It looks like the notice of hearing for this
24 morning was on a motion for reconsideration. Are we
25 hearing anything else this morning?

1 MR. CRISCUOLO: No, Judge.

2 MS. VICTORIAN: No, your Honor.

3 THE COURT: Mr. Criscuolo?

4 MR. CRISCUOLO: Criscuolo.

5 THE COURT: I might have to be corrected.

6 MR. CRISCUOLO: No.

7 THE COURT: Are you ready to proceed on your
8 motion?

9 MR. CRISCUOLO: I am, your Honor.

10 THE COURT: Ms. Victorian, are you ready to
11 proceed?

12 MS. VICTORIAN: Yes, your Honor.

13 THE COURT: Go ahead.

14 MR. CRISCUOLO: Good morning, your Honor.
15 Today's motion and the dispute before the Court is
16 about the proper process to be used and to be followed
17 to institute a delinquency proceeding for an insurer.
18 The focus of the papers are on the consent that was
19 procured from Florida Specialty Insurance Company
20 signed on September 12th, 2019. We are not here today
21 to challenge that consent. We are not here to
22 challenge the validity of that consent. The consent
23 on its face simply allows for the initiation of a
24 delinquency proceeding and for the appointment of a
25 receiver for the purposes of either rehab -- for

1 rehabilitation or liquidation. It's important to note
2 there are no facts in the consent. No facts were
3 consented to by operation of the consent.

4 We are not challenging the initiation of the
5 delinquency proceedings that DFS filed on September
6 30th. The petition, which the response describes as a
7 consent petition, is by no means a consent petition.
8 None of the facts were shared with us prior to its
9 finding. None of the facts were shared from the OIR's
10 affidavit that support the, quote, unquote, consent
11 petition. Nothing about the petition was consented to
12 other than to allow it to be a vehicle to come into
13 this court, initiate the process and have the receiver
14 appointed.

15 Within hours after the petition was filed, 46
16 hours, my understanding we found about this after the
17 fact. There was certainly no hearing before your
18 Honor, there was certainly no evidence considered
19 beyond what was just filed. There was no testimony
20 taken, again, beyond what was filed. 46 hours later
21 a, quote, unquote, consent order was entered by your
22 Honor on October 2nd, 2019. That order made specific
23 factual findings based on again, the quote, unquote
24 consent petition in the OIR's affidavit that underlie
25 it without any due process afforded to my client.

1 Those determination have very wide ranging
2 implications, including criminal implications. Part
3 of those findings relate to alleged willful violations
4 of the Florida Insurance Code by the Board of
5 Directors for the company. Again, none of the facts
6 were revealed, provided today, allowed to be responded
7 to prior to your Honor's entry.

8 Second, also in the order your Honor made
9 findings relating to insolvency. None of the facts
10 again in the petition or in the OIR's affidavit
11 relating to insolvency were shared with my client. My
12 client did not have an opportunity to respond -- or
13 the company, rather, did not have an opportunity to
14 respond to those allegations. None of the facts in
15 the petition, the OIR affidavit, or liquidation order
16 were consented to.

17 THE COURT: Let me interrupt you just for a
18 second. I'm going to kind of treat this like an
19 appellate argument, fire some questions at you and
20 give you both an opportunity to respond. And I have
21 reviewed everything that's been filed in this case,
22 all of the exhibits, all of the motions.

23 At any time -- and I didn't see anything that I
24 reviewed -- is it Ms. Patschak, is that the correct
25 pronunciation?

1 MR. CRISCUOLO: Yes, Judge.

2 THE COURT: -- consent in writing any of the
3 consent orders or any of the agreements that there was
4 a willful law violation as best I can see.

5 MR. CRISCUOLO: No, Judge.

6 THE COURT: Did anywhere, did Ms. Patschak at any
7 time acknowledge the insolvency?

8 MR. CRISCUOLO: No, Judge.

9 THE COURT: Go ahead.

10 MR. CRISCUOLO: And that's a great segue into my
11 next point, which was the consent that was given and
12 that was provided to the department, or rather to the
13 OIR was, again, no facts, it was just to start the
14 process. The consent cannot be used, essentially, as
15 a blank check by DFS to then back fill in facts in
16 their petition or in the Court's order that was
17 entered pursuant to that petition. We're not saying
18 that we somehow controlled their pleadings or that we
19 somehow can be a roadblock to them initiating the
20 process or to putting in whatever they want in their
21 petition or whatever facts they want to allege. By
22 all means, we understand that's their prerogative and
23 if the DFS and the OIR want to allege certain facts
24 beyond the consent, all we're asking for is due
25 process. All we're asking for is the evidentiary

1 process that's provided for under 631.

2 An order to show cause should be entered by this
3 Court, due process should be afforded to the company
4 to respond to those specific allegations, and then the
5 Court can hold an evidentiary hearing to actually make
6 the factual findings as to whether or not there were
7 willful violations, as to whether or not the company
8 is insolvent, as to whether or not cancellation, a
9 very drastic remedy of last resort, cancellation --
10 immediate cancellation of all of the policies for the
11 company within 30 days in the middle of hurricane
12 season is the best course of action. None of that
13 process was followed here. The Court was given the
14 petition, given the OIR's affidavit, asked to sign off
15 on a, again, quote, unquote consent order that was
16 never reviewed by the company, certainly not consented
17 to by the company.

18 The notion that that consent that was given on
19 September 12th can somehow be a blank check to allow
20 for those facts to be made, findings and
21 determinations, again, criminal implications for the
22 board members, cannot be allowed to stand. The remedy
23 being sought and the response makes, in two places,
24 incorrectly argues that we're somehow objecting to now
25 the consent that was given in September after entry of

1 the liquidation order. No, your Honor. I want to be
2 clear, we're not objecting to that consent. And
3 that's at paragraph 18 of the response.

4 Paragraph 19 of the response goes on to
5 incorrectly argue that we are somehow circumventing
6 evidentiary process provided for in Chapter 631.
7 Again, no, your Honor, we are asking for that exact
8 process to be implemented. We're asking for due
9 process, asking for the order to show cause,
10 evidentiary hearing, full opportunity to actually
11 adjudicate these facts instead of having them being
12 perceived as consent facts.

13 THE COURT: I'm going to interrupt you again.

14 MR. CRISCUOLO: Yes, your Honor.

15 THE COURT: Would your position be any different
16 if they had not alleged or I had not signed a consent
17 order of findings of fact that alleged FSIC was
18 insolvent, and that FSIC willfully violated the law?

19 MR. CRISCUOLO: I want to make sure I understand
20 your question.

21 THE COURT: If that wasn't in there, would we be
22 here right now?

23 MR. CRISCUOLO: I don't think so. No.

24 It was correct for the process to be followed on
25 the bare bones consent for the petition to be filed,

1 to have the process initiated. Again, without any
2 process to us, because that's what the consent
3 provides for, and having an order entered appointing
4 DFS as a receiver, again without any notice or process
5 afforded to us. But with the specific facts that are
6 made findings by your Honor, and then have criminal
7 implications and implication beyond with the
8 insolvency finding, having FIGA brought in, having the
9 policies being cancelled immediately, those facts
10 cannot stand without due process.

11 Today we would ask that your Honor reconsider
12 those facts, reconsider the liquidation order, the
13 quote, unquote, consent order as drafted. Candidly, I
14 would think that the easiest way to go forward would
15 be to vacate that order, allow for the process to
16 proceed as contemplated by the statutory scheme. To
17 the extent there needs to be an order entered just on
18 the consent, as your Honor, I think contemplates, just
19 on the consent again starting the process, getting DFS
20 appointed as a receiver, giving the powers that
21 they're entitled to as a receiver, but no facts, no
22 factual determinations by the Court as to insolvency,
23 as to willful findings -- or willful violations under
24 the statute, or as to cancellations of the policies,
25 immediate cancellations of the policies in the middle

1 of hurricane season when there's absolutely no need or
2 predicate for that.

3 THE COURT: All right. Thank you.

4 MR. CRISCUOLO: Thank you, Judge.

5 THE COURT: Ms. Victorian?

6 MS. VICTORIAN: Thank you, your Honor. As we've
7 stated in our response, the department takes the
8 referral package in the consent as it is given to it
9 by OIR. And we've noted to you in our response that
10 the insurance company signed multiple consents while
11 they were in administrative supervision. Two, in
12 fact. And they're a sophisticated entity. And in the
13 supervision consents, they knew OIR could refer them
14 to DFS at any time, and DFS at its sole discretion
15 could have determined which course of action to take.

16 Exhibit 10, which they're referring to, which was
17 the consent of the company sent to OIR by Mr. Lavin
18 was unequivocal and not limited to rehabilitation.
19 They agreed not to contest, they agreed no hearing was
20 necessary, and to this day it's not been revoked.
21 Basically, I think there's a misapprehension of how
22 the process works generally with the department in
23 that once consent is given the department files a
24 consent petition and order based on referral package
25 from OIR. Our statute doesn't require us to negotiate

1 consent petitions in orders, and it's only if there's
2 no consent if the department files a show cause
3 application under that statute and there's an
4 evidentiary hearing.

5 Our argument here today is that the holding
6 company is attempting to impermissibly collapse the
7 show cause hearing in the consent petition into the
8 same type of process. Now, one of the things that I
9 believe the holding company has argued here today is
10 that they believe the basic requested relief should be
11 for this company to be in rehabilitation and runoff.
12 The OIR affidavit does indicate that they tried on
13 multiple occasions to sell the book of business
14 without success during the six months of
15 administrative supervision.

16 The department has asked the Court to take
17 judicial notice of certain statutes, and I'm going to
18 refer to those statutes now. Chapter 631, part one,
19 requires the department to give the Court periodic
20 status reports on any company in receivership. As it
21 stands now, you have appointed us as receiver of this
22 company. As of last night, the department has
23 information to report to the Court that may be
24 relevant to its decision on this motion today. Due to
25 time constraints we could not file a written status

1 report and share it with the opposing side, but I'd
2 like to give the Court this information, because we're
3 required by the statute to do that.

4 THE COURT: I'll be happy to hear from you.

5 MR. CRISCUOLO: I was going to say, Judge --

6 THE COURT: I'm happy to hear -- I may be
7 prejudiced, but go ahead and tell me what the report
8 is.

9 MS. VICTORIAN: Basically, we've been on site
10 since October 3rd, internal and forensic accountants
11 have been reviewing the company's books. Other
12 personnel have been handling other functions. The
13 accounting personnel have preliminarily determined
14 that the insurance company lost 5 million dollars from
15 July 1st to September 30th of 2019 when we filed the
16 consent petition. This means that the insurance
17 company's surplus has been depleted by that amount
18 during the time frame, and the downward trend
19 continues. As we've stated in our response, Florida
20 law requires that is the insurance company have 10
21 million dollars in surplus. So what we know now is,
22 and what was alleged in the consent petition, the
23 company does not now have and did not have the
24 required statutory surplus on September 30th, 2019,
25 when we filed the consent petition.

1 Now, the department looks to a different
2 definition to determine insolvency as compared to the
3 Office of Insurance Regulation. And Section 14 is
4 particularly pertinent here, and that definition says
5 insolvency means that all assets of the insurer if
6 made immediately available would not be sufficient to
7 discharge all of its liabilities, or that the insurer
8 is unable to pay its debts as they become due in the
9 usual course of business. When the context of any
10 provision of this code so indicates, insolvency also
11 means and includes an impairment of surplus or an
12 impairment of capital. And subsections (12) and (13)
13 of our statute refer to Florida Statute 624.408, which
14 requires them to have 10 million dollars in surplus.
15 So as of September 30th, when the consent petition was
16 filed, the insurance company was insolvent by our
17 definition.

18 As a side note, I would also mention to the Court
19 that the FIGA Statute 631.55 would require the
20 insurance company to reimburse the Insurance Guaranty
21 Association for any monies it pays out on its behalf
22 should it successfully exit out of rehabilitation.
23 Bottom line, we do not -- the department does not
24 believe that rehabilitation is appropriate here and
25 that liquidation is the only option. So I'd also like

1 to report to the Court that prior to receivership
2 there were 2,394. As of yesterday, there are 321 new
3 or reopened claims. 72 of them have been classified
4 as hardships. 70 claims have come in at least from
5 Tropical Storm Nestor. And we have also been informed
6 that over 8,800 policyholders have already obtained
7 coverage with other insurance companies. So at this
8 point in time, the department would argue that trying
9 to turn back the clock in some way and say that needs
10 go to rehabilitation, and that this company is not
11 insolvent, and let's have an evidentiary hearing is
12 just going to result in a finding that the company
13 needs to be liquidated because it is insolvent. And
14 we basically -- we being the department, basically
15 take what is provided to us by the office, and based
16 on what was provided to us we believe that the company
17 had consented to the initiation of these proceedings,
18 and so we went forth on that basis.

19 THE COURT: Well, since I've peppered him with
20 questions, I'll pepper you with questions.

21 MS. VICTORIAN: Certainly.

22 THE COURT: Was it required in the order that was
23 presented to me any findings of fact regarding
24 insolvency or willful violation of the law?

25 MS. VICTORIAN: The finding of insolvency would

1 be required for liquidation order. And that is so,
2 your Honor, that the Florida Insurance Guaranty
3 Association can be triggered, and that they can take
4 care of the policyholders.

5 THE COURT: All right.

6 MR. CRISCUOLO: Judge, we disagree on that point.

7 THE COURT: I'm going to give you an opportunity.
8 It's your motion. Go ahead and rebut.

9 MR. CRISCUOLO: Oh, sorry. So the prejudice is
10 obvious to which has happened, Judge. I had no notice
11 of any of which was just discussed.

12 THE COURT: I agree with you.

13 MR. CRISCUOLO: I don't understand why it was
14 done. It's essentially the same wrong again.

15 THE COURT: There's nothing wrong with her giving
16 me a heads up. I can consider it or not consider it.

17 MR. CRISCUOLO: I agree.

18 My primary gripe with that is, among other
19 things, it's essentially the same behavior of results
20 first, fill in the facts second. And it's the same
21 way the petition was brokered, it's the same way the
22 Court's order on October 2nd was brokered, quite
23 frankly. I mean, you're justifying something that
24 happened September 30th, or findings on September 30th
25 by facts that developed, admittedly, after September

1 30th. I mean, how can that be the way to operate?
2 How can that be the way to go through proper process?
3 Again, over a delinquency proceeding. We continue to
4 look to the consent and focus on the very narrow
5 consent that was given, because it has no facts, it
6 has no findings. We completely agree and acknowledge
7 that we should be here, that we should be in this
8 court at a delinquency proceeding, that DFS should be
9 a receiver and that the process should be followed.

10 Your Honor asked a great question at the end of
11 counsel's argument with respect to whether or not
12 findings were needed. They were not. The statute
13 provides for 15 bases for how a DFS position can be
14 filed, one of them is through consent. It's
15 disjunctive. It's an order -- nothing else is needed
16 other than the consent. If the consent is filed, you
17 can get into court and have a receiver appointed.

18 THE COURT: Then why do we need the jump to the
19 show cause?

20 MR. CRISCUOLO: Because they injected facts.

21 THE COURT: I'm going to fix that.

22 MR. CRISCUOLO: Very good. If the DFS decides to
23 go beyond the consent, which they are free to do, we
24 acknowledge -- if DFS as the government agency
25 chooses, based on the OIR's recommendations, to go

1 beyond the consent that was given, we just ask for due
2 process.

3 THE COURT: And that's exactly what my issue is
4 here. I'm not disputing anything about the statutes,
5 I'm not doing anything outside what the statutes
6 dictate, but my problem is the manner and modem in
7 which we got here. I'm going to start with this
8 premise. I signed this consent order with the
9 understanding it was an agreed order obviating a need
10 for a show cause order. Parts of the order I signed
11 were obviously not agreed to. Most importantly,
12 findings of fact.

13 MR. CRISCUOLO: Yes, Judge.

14 THE COURT: A consent order is just that. I'm
15 being asked to sign off of findings of fact that
16 weren't agreed to.

17 MR. CRISCUOLO: Yes, Judge.

18 THE COURT: That's not appropriate under any
19 circumstance. So I believe the proper remedy here is
20 not to start all over again, but to simply either --
21 probably the cleanest way to do it is to do an amended
22 order removing the findings of fact with respect to
23 insolvency and willful violation of the law and let it
24 run its course. I don't think it was needed to be in
25 there for me to sign it. It's tantamount to -- not

1 that it was intentional, but it's tantamount to a bait
2 and switch. You're asked to be bound by something
3 that you had no knowledge of.

4 MR. CRISCUOLO: Absolutely.

5 THE COURT: What's right is right. And I think
6 this is the way to fix it. I think it's the way to
7 fairly fix it. Let it run its course. Because you've
8 already told me had that language not been in there,
9 those findings, we wouldn't be here right now.

10 MR. CRISCUOLO: Yes, Judge.

11 THE COURT: All right.

12 MR. CRISCUOLO: And I think Ms. Patschak makes it
13 clear too, to the extent you need findings or you need
14 facts, if you will.

15 The only thing I could add, Judge, is no
16 insolvency findings, no willfulness findings. Related
17 to certainly the insolvency findings that were in the
18 October 2nd order is this notion that all of the
19 policies were immediately cancelled or that the
20 cancellation notices were out. Now, I understand
21 DFS's position as well, it's too difficult to undo
22 that, that's not the case. Those notices went out --

23 THE COURT: But whatever they have the authority
24 to do, they can do. What I'm trying to do is put us
25 back on fair ground with respect to those findings of

1 fact. If they believe liquidation is the proper
2 course, they have that prerogative.

3 MR. CRISCUOLO: If they petition for it, and we
4 can have an order to show cause, and we can figure out
5 what those factual determinations will be after due
6 process and evidence. What I propose is that the
7 cancellation notices that went out were essentially
8 rescinded. That's why we're here today, that's why we
9 worked so diligently to get to court before November
10 1st. Just as those notices went out very quickly on
11 October 3rd, and they were certainly given to agents
12 that underlie the policy orders in the policy orders
13 themselves, so too can this rescission notice go back.

14 And as counsel for DFS just pointed out, 85,000
15 policyholders, apparently, or approximately --

16 MS. VICTORIAN: No, 8,800.

17 MR. CRISCUOLO: Right. Less 92,000, which is
18 where we started.

19 MS. VICTORIAN: No.

20 MR. CRISCUOLO: So 85,000 still remain with the
21 company. That means that the agency's --

22 MS. VICTORIAN: No.

23 MR. CRISCUOLO: Forgive me.

24 MS. VICTORIAN: No, go ahead.

25 MR. CRISCUOLO: What I understood counsel to say,

1 and regardless, what my client confirmed for me
2 yesterday was that 85,000 policyholders remain with
3 the company, remain under the company's risk. The
4 agents can't remove the risk, the risk remains. On
5 November 1st, if that's still the case, all of those
6 policies will then be cancelled. Where are they going
7 to go? To the insurer of last resort. Citizens is
8 going to be saddled with all of that risk for no
9 reason. They can stay with the company, they can stay
10 just as they are now. Clearly the agents, even with
11 the improper vehicle of the liquidation order giving
12 that cancellation notice, haven't been able to remove
13 any of that risk, or materially been able to remove
14 any of that risk.

15 So again, we would argue that certainly as part
16 of this amended order those cancellation notices,
17 which clearly the department has the ability to do,
18 which your Honor pointed out, be rescinded -- I mean,
19 be put back on fair footing as your Honor pointed out.

20 MS. VICTORIAN: Your Honor, if I may. The over
21 8,800 policies happened to be policies that went to
22 Citizens. We have no idea how many policyholders have
23 gone elsewhere. And secondarily, if there's no
24 finding of insolvency, then the company will have to
25 pay out claims, and the department does not believe

1 that the company has the money to do that. So if the
2 Court were to enter an order which said that there's
3 no finding of insolvency, the department would have to
4 immediately file an application for show cause and
5 have an evidentiary hearing on the insolvency issue.

6 THE COURT: And that should have happened,
7 because you asked me to sign a consent order that said
8 they consent they were insolvent. I don't care which
9 area of the law is, when a judge gets a consent order,
10 that judge believes it's an agreed order. Under any
11 area of the law. I would never have signed it. It's
12 that simple.

13 MR. CRISCUOLO: To be clear, if I understood what
14 the department's counsel just said, if there's no
15 insolvency finding, there's no need to cancel the
16 policies, so the policy cancellation should be
17 rescinded. So as part of the amended order, I want to
18 make it clear for the record and for whatever order
19 we're contemplating, that tomorrow rescission notices
20 go out to policyholders and agents so that we don't
21 have this problem in the market.

22 THE COURT: If the only basis to rescind those
23 policies was based on the order that I signed --

24 MR. CRISCUOLO: It was, Judge. Absolutely.

25 THE COURT: -- I wouldn't have signed it.

1 MR. CRISCUOLO: Very good.

2 THE COURT: It's that simple. Let's not make it
3 more complicated than it needs to be. Do you want to
4 get me a proposed order?

5 MR. CRISCUOLO: Yes. We will work together on
6 what the transcript provides. And I just want to for
7 the record, just three points: No insolvency finding,
8 no willfulness findings, and the rescission of the
9 cancellation notices.

10 THE COURT: And that's only because you had me
11 make a finding on something that wasn't agreed to.

12 MR. CRISCUOLO: Very good. Thank you, your
13 Honor.

14 MS. VICTORIAN: Your Honor?

15 THE COURT: Go ahead.

16 MS. VICTORIAN: I would just like to note for the
17 record that the rescission will be an extremely
18 difficult thing to do. I understand why the Court
19 wants to enter the order as it wants to do, but --

20 THE COURT: It's not that it wants to, it's the
21 right thing to do.

22 MS. VICTORIAN: I understand. I understand, your
23 Honor.

24 Also, we'll work with opposing counsel on the
25 order, and I think that if the department is still

1 going to be appointed as the receiver, we can get with
2 opposing counsel and file the appropriate motion.

3 THE COURT: This is what makes a struggle. You
4 can't back out of what you consented to.

5 MR. CRISCUOLO: Absolutely.

6 THE COURT: Just like they can't add something on
7 after the fact.

8 MR. CRISCUOLO: Absolutely, Judge. I wish I
9 thought of that before, because I would have led with
10 that.

11 THE COURT: I mean, that's problem here -- just
12 going ahead and saying you agreed to some criminal
13 act.

14 MS. VICTORIAN: Your Honor, I know the Court has
15 made its ruling, I just want to point out in the
16 consent they did consent to liquidation as well as
17 rehabilitation. And I just want to make sure.

18 THE COURT: That's why I just said, is it going
19 to make any difference if we amend the consent order
20 to take out whether or not they were solvent, or the
21 willful violation of the law. They can't back out of
22 what they agreed to, and if liquidation was part of
23 that, the bottom is they don't want to be defamed all
24 over the world by saying they committed some criminal
25 act.

1 MS. VICTORIAN: And your Honor, I understand
2 that, but he's asking you to make a finding that
3 there's no insolvency, and we cannot liquidate the
4 company without that finding.

5 MR. CRISCUOLO: I'm not.

6 THE COURT: Go ahead.

7 MR. CRISCUOLO: She's quoting me --

8 MS. VICTORIAN: I'm sorry if I misunderstood.

9 MR. CRISCUOLO: To be clear, I am not asking for
10 your Honor to make any findings, because your Honor
11 hasn't gone through the process. All I want is the
12 order to be sanitized there were no findings.

13 THE COURT: All I was going to do, maybe I'm not
14 being very clear here. All I was going to do is take
15 out willful violation --

16 MS. VICTORIAN: That's fine, your Honor.

17 THE COURT: -- and insolvent. That's all I was
18 taking out, because you're asking me to make a finding
19 on a consent finding they're insolvent. We haven't
20 had any evidence. If they're not agreeing to it, I
21 haven't heard the evidence. I don't know why this is
22 so complicated.

23 MR. CRISCUOLO: I completely agree, Judge.

24 And by extension again, the rescission notices
25 will go out. We can do that immediately. We don't

1 need to know about what the order says.

2 THE COURT: They can still, just like I said
3 before, you didn't object to being liquidated.

4 MR. CRISCUOLO: Correct. Correct. But that's
5 different from immediate notices of cancellation going
6 out for the policies.

7 MS. VICTORIAN: Your Honor, I have the deputy
8 receiver here. She can give you testimony today -- I
9 know that we haven't set it up for an evidentiary
10 hearing -- if the Court would like, to explain the
11 difficulty with the cancellation. If you want to have
12 it for another day, you can do it another day.

13 THE COURT: That's not the point of this. If it
14 was done right to begin with, we wouldn't be in this
15 situation. You can't give me a consent order adding
16 facts that they didn't agree to saying they're
17 criminals. Okay. You all work on proposed orders.

18 MR. CRISCUOLO: Thank you, Judge.

19 THE COURT: Anything further from anybody on the
20 phone before we hang up?

21 MS. MILLER: This is Belinda Miller from
22 Citizens. I know I said I wouldn't say anything, but
23 I just want to make sure you know we will then close
24 the process we have for policyholders to be
25 transferred to Citizens.

1 THE COURT: Anybody want to be heard on that?

2 MR. CRISCUOLO: I candidly didn't understand what
3 she said.

4 THE COURT: Can you repeat it a little bit
5 louder? I think we have kind of a bad --

6 MS. MILLER: Yes, your Honor. Based on the
7 finding of insolvency, FIGA was triggered, and Citizen
8 is taking in policies where the agent applies to
9 Citizens. If the agent applies somewhere else, it
10 goes somewhere else. But if it comes here, we're
11 taking in the policies with the understanding that
12 FIGA will pay us the under premiums for the unexpired
13 portion of the policy. The policyholders are going to
14 have to come out of pocket for a premium if they're
15 going to come to Citizens without that payment. So we
16 probably should disclose that process if we're going
17 to have a redo.

18 THE COURT: All right.

19 MR. CRISCUOLO: It's a false premise, if I
20 understand correctly, that the reason for why they
21 went to Citizens is because FIGA was triggered, all
22 because of the insolvency findings. Like poison from
23 the tree, right? That's the idea I can think of.

24 THE COURT: Yeah. Okay. Do you want me to
25 comment on that?

1 MR. CRISCUOLO: I don't need a comment on it, but
2 I don't know what -- there's no relief being asked
3 for, just a notation for the record.

4 THE COURT: Just making a point. Yeah. Anything
5 further from anybody?

6 MS. BENITEZ-TORVISO: No, your Honor. Thank you
7 for allowing us to appear by phone.

8 THE COURT: All right. Thank you all.
9 Anything further from anybody here?

10 MR. CRISCUOLO: No. Thank you, your Honor.

11 MS. VICTORIAN: No, your Honor.

12 (The proceedings were concluded at 10:36 a.m.)
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COURT CERTIFICATE

STATE OF FLORIDA)

COUNTY OF LEON)

I, STEPHANIE JORDAN NARGIZ, FPR, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 24th day of October, 2019.

STEPH JORDAN NARGIZ
Court Reporter, FPR