

IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY, PART III

LESLIE NEWMAN, Commissioner of
the Tennessee Department of
Commerce and Insurance,

Petitioner,

VS.

NO. 10-507-III

SMART DATA SOLUTIONS, LLC, a
Tennessee limited liability company,
AMERICAN TRADE ASSOCIATION,
INC., an Indiana nonprofit corporation
with its principal place of business in
Tennessee, AMERICAN TRADE
ASSOCIATION, LLC, an Arkansas
limited liability company, SERVE
AMERICA ASSURANCE, a corporation
with an unknown location, BART S.
POSEY, SR., ANGIE POSEY, OBED W.
KIRKPATRICK, SR., LINDA
KIRKPATRICK, RICHARD H.
BACHMAN, KRISTY WRIGHT,
WILLIAM M. WORTHY, II, and
COLIN YOEUELL,


Respondents.

2010 MAY 24 PM 3:42
FILED
CLERK OF CHANCERY
DAVIDSON COUNTY
P. O. BOX

ORDER

There are typographical errors on page 5A of the May 20, 2010 Liquidation Order. The citations to Tennessee Code Annotated sections "56-9-208" and "56-9-210(a)(10)" on the 13th and 18th lines respectively should be "56-9-308" and "56-9-310(a)(10)." The Court appreciates notice from counsel concerning these citations.

It is therefore ORDERED that the citations identified above are altered and amended to "56-9-308" and "56-9-310(a)(10)." For counsel's ease of reference, a copy of a corrected page 5A of the May 20, 2010 Liquidation Order is attached as Exhibit A with the corrections in bold.



ELLEN HOBBS LYLE
CHANCELLOR

cc: Sarah Hiestand
Lyndsay Sanders
Attorneys for the Petitioner

William Hendricks
Russell Hensley
Nader Baydoun
Stephen Knight

Attorney for American Trade Association, Inc., Smart Data Solutions, LLC
American Trade Association, LLC, Bart S. Posey, and Angie S. Posey

David Raybin
Attorney for Linda Kirkpatrick and Obed Kirkpatrick, Sr.

American Assurance, Ltd.
Richard Bachman

John Norris
Attorney for William Worthy II

Exhibit A

5. The facts and legal questions before the Court in the April 14 and 27 Memoranda and Orders pertained and were confined to whether the Commissioner had the authority to liquidate the receivership entities. The Court was able to conclude that that authority existed without reaching or deciding the issue of whether the policyholders have insurance coverage through the receivership entities. Additionally, the issue of the remedies of the State, the policyholders and all others protected by the Liquidation Act, and the legal theories that inform those remedies have not yet come before the Court. In that regard, because the receivership entities have been ruled by the Court to be *de facto* insurers, the State or the policyholders may assert remedies derived from insurance coverage based on a quasi-contract and/or contract implied by law. Accordingly, to preserve all remedies of the State, policyholders and all others protected by the Liquidation Act, the Court provides herein that to the extent the effective date of policies, including bonds and other noncancellable business, becomes relevant or is necessary, pursuant to Tenn. Code Ann. § 56-9-308, all policies, including bonds and other noncancellable business, shall continue in force only for the lesser of: (1) a period of thirty (30) days after the date of entry of the Order of Liquidation, (2) the expiration of the policy coverage, (3) the date when the insured has replaced the insurance coverage with equivalent insurance in another insurer or otherwise terminated the policy, (4) the liquidator has effected a transfer of the policy obligation pursuant to Tenn. Code Ann. § 56-9-310(a)(10), or (5) the date proposed by the liquidator and approved by the Court to cancel coverage, which date has been proposed and approved as **May 31, 2010 at 11:59 p.m. Central Time;**