

STATE OF SOUTH DAKOTA )  
 )  
 )ss:  
 COUNTY OF HUGHES )  
 )  
 )  
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IN CIRCUIT COURT  
 SIXTH JUDICIAL CIRCUIT

STATE OF SOUTH DAKOTA, EX REL. )  
 LARRY DEITER, DIRECTOR OF )  
 INSURANCE OF THE STATE OF )  
 SOUTH DAKOTA )

32CIV18-125

Petitioner,

v.

RELIAMAX SURETY COMPANY )

Respondent. )

) FINDINGS OF FACT AND CONCLUSIONS  
 ) OF LAW FOR ORDER OF LIQUIDATION,  
 ) JUDICIAL DECLARATION OF  
 ) INSOLVENCY, AND INJUNCTIVE RELIEF

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**BACKGROUND**

This matter arose upon the Petition of the State of South Dakota, ex rel. Larry Deiter, Director of the South Dakota Division of Insurance, on behalf of the State of South Dakota, by and through its attorneys, Frank Marnell and Mallori Barnett, to this Court for an Order of Liquidation, a judicial declaration of insolvency, and other injunctive relief in the above-entitled action. Based upon the Petition and hearing conducted on June 27, 2018 with Respondent present, the court finds the following:

**FINDINGS OF FACT**

1. ReliaMax Surety Company is a South Dakota domestic corporation whose principal place of business is in Sioux Falls, South Dakota.
2. This matter is brought subject to SDCL Ch. 58-29B for liquidation of a domestic insurer based on allegations of hazardous financial condition and insolvency.
3. Petitioner has provided financial reports of ReliaMax Surety Company to the Court pursuant to SDCL § 58-29B-46.
4. Petitioner has provided a financial report of ReliaMax Surety Company's holding company and corporate parent.
5. Based upon the financial reports and exhibits submitted by the Petitioner, ReliaMax Surety Company is in hazardous financial condition.

6. Based upon the financial reports and exhibits submitted by the Petitioner pursuant to 58-29B-46, ReliaMax Surety Company is insolvent within the meaning of SDCL §§ 58-29B-3(11), 58-29B-41, and 58-29B-45.
7. To the extent any of the foregoing are improperly designated and are instead Conclusions of Law, they are hereby redesignated and incorporated herein as Conclusions of Law.

### CONCLUSIONS OF LAW

1. This Court has full and exclusive jurisdiction over the subject matter hereof pursuant to SDCL §§ 58-29B-7 and 58-29B-41.
2. ReliaMax Surety Company is a domestic insurer within the meaning of SDCL §§ 58-29B-3(12) and 58-29B-2.
3. The commencement of delinquency proceedings was properly noticed to ReliaMax Surety Company which appeared at the June 27, 2018 hearing. ReliaMax Surety Company has consented to the entry of an Order of Liquidation.
4. After providing such notice and hearing as it deems proper, this Court is authorized by SDCL § 58-29B-45 to issue a judicial declaration of insolvency concerning ReliaMax Surety Company at the time of Petitioner's Petition or any time thereafter.
5. This Court is authorized to issue an Order of Liquidation concerning ReliaMax Surety Company pursuant to SDCL §§ 58-29B-41 and 58-29B-42.
6. This Court is authorized to issue injunctive relief at the time of the appointment of the Liquidator of ReliaMax Surety Company pursuant to SDCL § 58-29B-8.
7. To the extent any of the foregoing are improperly designated and are instead Findings of Fact, they are hereby redesignated and incorporated herein as Findings of Fact.

### CONCLUSION

The allegations set forth in Petitioner's Petition are true and there exists proper and reasonable cause for an Order of Liquidation, judicial declaration of insolvency, and injunctive relief.

DATED this \_\_\_\_ day of June, 2018, in Pierre, South Dakota.

Attest:  
Deuter-Cross, TaraJo  
Clerk/Deputy



Signed: 6/27/2018 10:10:20 AM

BY THE COURT:

*Patricia DeVaney*

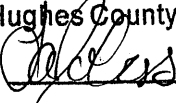
The Honorable Patricia DeVaney  
Sixth Circuit Court Judge

STATE OF SOUTH DAKOTA  
Sixth Judicial Circuit Court  
I hereby certify that the foregoing instrument  
is a true and correct copy of the original as the  
same appears on file in my office on this date:

JUN 27 2018

Kelli Sitzman  
Hughes County Clerk of Courts

By



STATE OF SOUTH DAKOTA )  
 )ss:  
COUNTY OF HUGHES )

IN CIRCUIT COURT

SIXTH JUDICIAL CIRCUIT

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LARRY DEITER, DIRECTOR OF )  
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32CIV18-125

Petitioner, )

**ORDER OF LIQUIDATION,  
JUDICIAL DECLARATION OF  
INSOLVENCY, AND  
INJUNCTIVE RELIEF**

v. )

RELIAMAX SURETY COMPANY )

Respondent. )

\*\*\*\*\*

This matter came for consideration on the petition of the State of South Dakota, ex rel. Larry Deiter, Director of Insurance ("Director") for South Dakota, pursuant to the Insurers Supervision, Rehabilitation and Liquidation Act ("Act"), SDCL § 58-29B-1 *et seq.*, for an Order of Liquidation, declaration of insolvency, injunctive relief, and for such other further relief as appropriate with respect to ReliaMax Surety Company. The court, upon reviewing the evidence presented at hearing on June 27, 2018, the applicable law, and the Findings of Fact and Conclusions of Law for this Order finds as follows:

1. ReliaMax Surety Company is a South Dakota domiciled surety company operating in many states, with its principal place of business located in Sioux Falls, South Dakota.
2. The court has jurisdiction over the subject matter and the parties.
3. As of March 31, 2018, according to its financial statements submitted to the Director, ReliaMax Surety Company's uncollectible holding company loan receivables accounted for an amount greater than its policyholder surplus. As such, ReliaMax Surety Company is insolvent as defined by the Act.
4. ReliaMax Surety Company was present at the hearing and consents to this Order of Liquidation as requested by the Petitioner.
5. Grounds exist under SDCL § 58-29B-41(1), (2), and (3) authorizing the Director to request an order to liquidate ReliaMax Surety Company and for the court to enter an Order of Liquidation pursuant to SDCL § 58-29B-42.
6. The immediate appointment of a liquidator is necessary to protect the creditors, claimants and policyholders of ReliaMax Surety Company and it is in their best interest and in the

best interests of the public that an Order of Liquidation be entered appointing the Director as Liquidator of ReliaMax Surety Company pursuant to SDCL § 58-29B-42.

7. Under SDCL § 58-29B-8, the court is authorized to grant injunctions and other orders which are necessary and proper to prevent any actions that might lessen the value of ReliaMax Surety Company's assets, prejudice the rights of its policyholders, creditors, and shareholders or prejudice the administration of any proceeding involving ReliaMax Surety under SDCL Ch. 58-29B.
8. In order to ensure that ReliaMax Surety Company's assets not lessen in value, that the rights of ReliaMax Surety Company's policyholders, creditors, and shareholders are not prejudiced, and that the administration of proceedings involving ReliaMax Surety Company under the Act are not prejudiced, it is necessary and proper for the court to grant injunctive relief and other orders as provided for under SDCL § 58-29B-8.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that;

1. ReliaMax Surety Company is declared insolvent, which is a criterion for liquidation under SDCL § 58-29B-41.
2. An Order of Liquidation is entered under SDCL § 58-29B-42 authorizing the liquidation of ReliaMax Surety Company.
3. Larry Deiter, Director of Insurance for the State of South Dakota, and any successor in office, is appointed Liquidator of ReliaMax Surety Company pursuant to SDCL § 58-29B-42.
4. The Liquidator is authorized and directed to forthwith take possession and control of the assets of ReliaMax Surety and administer them under the general supervision of this court. The Liquidator is directed to exercise any and all rights of ReliaMax Surety Company in connection with any collateral or other assets being held for the benefit of ReliaMax Surety Company by any person or entity. Pursuant to SDCL § 58-29B-42, the Liquidator shall be vested by operation of law with title to all of the property, contracts, and rights of action and all of the books and records, of ReliaMax Surety Company, wherever located, whether real, personal, or mixed, and whether held in ReliaMax Surety Company's name or for ReliaMax Surety's benefit as of the entry of this Order of Liquidation.
5. The Liquidator shall have, exercise and be subject to all of the rights, powers, and duties of a Liquidator under SDCL § 58-29B-1 *et seq.*
6. All officers, managers, directors, trustees, owners, employees, or agents of ReliaMax Surety shall cooperate with the Liquidator as required by SDCL § 58-29B-9.
7. The Liquidator shall file financial reports and accounting with this court pursuant to SDCL § 58-29B-46 for the period ending December 31, 2018, and at least annually

thereafter. Such reports shall include at a minimum the assets and liabilities of ReliaMax Surety Company and all funds received or disbursed by the Liquidator during the current period, and shall be submitted to this court for approval without necessity of a hearing.

8. ReliaMax Surety Company, its directors, officers, managers, agents, employees, and all other persons and legal entities, except the Liquidator of ReliaMax Surety Company, are hereby enjoined from:
  - a. Engaging in further transactions of ReliaMax Surety Company business;
  - b. Transferring ReliaMax Surety Company's property;
  - c. Interfering with the Liquidator, his employees and assistants or with proceedings involving ReliaMax Surety Company under the Liquidation Act;
  - d. Wasting of ReliaMax Surety Company 's assets;
  - e. Dissipating or transferring bank accounts of ReliaMax Surety Company;
  - f. The institution or further prosecution of any actions or proceedings;
  - g. Obtaining preferences, judgments, attachments, garnishments, or liens against ReliaMax Surety Company, its assets or its policyholders;
  - h. Levying execution against ReliaMax Surety Company, its assets or its policyholders;
  - i. Making any sale or deed for nonpayment of taxes or assessments which would lessen the value of the assets of ReliaMax Surety Company;
  - j. Withholding from the Liquidator any books, accounts, documents or other records relating to the business of ReliaMax Surety Company; and
  - k. Any other threatened or contemplated action that might lessen the value of ReliaMax Surety Company's assets or that might prejudice the rights of policyholders, creditors or shareholders or the administration of any proceeding involving ReliaMax Surety Company under the Act.
9. Unless the Liquidator consents thereto in writing, no legal action of any nature including, but not limited to arbitration or mediation, the filing of any judgment, attachment, garnishment, lien or levy against ReliaMax Surety Company or its assets, shall be brought against ReliaMax Surety Company or the Liquidator in this state or elsewhere, nor shall existing legal actions be maintained or further prosecuted. Relief sought in legal actions shall be pursued by filing a timely proof of claim against the estate of ReliaMax Surety Company in accordance with SDCL Ch. 58-29B.
10. Unless otherwise agreed to by the Liquidator, all actions in which ReliaMax Surety Company is or may be obligated to defend in any court of law are stayed to the extent provided by law, subject to further order of the Court. The Liquidator may cooperate with guaranty associations in seeking a stay of any action.
11. This court shall retain jurisdiction of this matter for the purpose of granting such other and further relief as shall be just and equitable and the Liquidator shall apply to this court for further instructions as necessary.

DATED this \_\_\_\_ day of June, 2018, in Pierre, South Dakota.

Signed: 6/27/2018 10:09:47 AM

BY THE COURT:

*Patricia DeVaney*

The Honorable Patricia DeVaney  
Sixth Circuit Court Judge

Attest:

Deuter-Cross, TaraJo

Clerk/Deputy

ts



STATE OF SOUTH DAKOTA  
Sixth Judicial Circuit Court  
I hereby certify that the foregoing instrument  
is a true and correct copy of the original as the  
same appears on file in my office on this date:

JUN 27 2018

Kelli Sitzman  
Hughes County Clerk of Courts

By *Kelli Sitzman*