

NORTH CAROLINA
WAKE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
17 CVS 11692

FILED

MIKE CAUSEY,
COMMISSIONER OF INSURANCE
OF NORTH CAROLINA,

Petitioner,

v.

CANNON SURETY, LLC,
A North Carolina Limited Liability
Company,

Respondent.

2021 NOV 23 P 3:16

WAKE COUNTY
BY)

REHABILITATOR'S
QUARTERLY COURT REPORT

REHABILITATOR'S
QUARTERLY COURT REPORT

NOW COMES the Commissioner of Insurance of North Carolina and Rehabilitator of Cannon Surety, LLC (Rehabilitator), and hereby makes this report pursuant to North Carolina General Statute § 58-30-80(b) and the Order of this Court dated January 2, 2018, which requires the Rehabilitator to make a quarterly report to the Court including a statement of receipts and disbursements to date and a statement of financial position (balance sheet). Attached hereto and incorporated herein by reference as Exhibit A is the quarterly report of activity of the Rehabilitator as of November 15, 2021, a statement of financial position as of September 30, 2021, and a statement of receipts and disbursements of Cannon Surety, LLC, for the period from September 27, 2017, the date of the execution of the Seizure Order, through September 30, 2021, as prepared by the Special Deputy Insurance Commissioner on behalf of the Rehabilitator.

This the 23 day of November 2021.

JOSH STEIN
ATTORNEY GENERAL
Attorney for Petitioner,



Heather H. Freeman
Assistant Attorney General
N. C. State Bar No. 28272
N. C. Department of Justice
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CERTIFICATE OF SERVICE

I, the undersigned attorney, do certify that a copy of the foregoing pleading or paper was served as follows:

Honorable A. Graham Shirley, II
Wake County Superior Court
Post Office Box 351
Raleigh, NC 27602-0351

Dallas R. McClain
P.O. Box 7961
Greensboro, NC 27417
duhkingfish@yahoo.com

Steven A. McCloskey
240 Natalie Drive
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C. Robert Brawley, Jr.
1030 Oak Ridge Farm Hwy
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in the following manner:

(xx) by United States mail, first class postage prepaid, as provided by Rule 5(b) of the North Carolina Rules of Civil Procedure, or

(xx) by electronic mail as set out above.

This the 23 day of November 2021.

JOSH STEIN
ATTORNEY GENERAL

By: 

Heather H. Freeman
Assistant Attorney General
N. C. State Bar No. 28272
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CANNON SURETY, LLC

NORTH CAROLINA COMMISSIONER OF INSURANCE AS REHABILITATOR

QUARTERLY REPORT OF ACTIVITY OF REHABILITATOR

AS OF NOVEMBER 15, 2021,

A STATEMENT OF FINANCIAL POSITION

AS OF SEPTEMBER 30, 2021

AND

A STATEMENT OF RECEIPTS AND DISBURSEMENTS

FOR THE PERIOD FROM SEPTEMBER 27, 2017

THROUGH SEPTEMBER 30, 2021

INTRODUCTION

BACKGROUND

Cannon Surety, LLC (hereinafter, “Cannon”) was licensed by the North Carolina Department of Insurance (hereinafter, the “NCDOI”) on December 22, 2014, as a special purpose captive insurance company under Part 9 of Article 10 of Chapter 58 of the North Carolina General Statutes. On September 27, 2017, the Wake County Superior Court (hereinafter, the “Court”) issued a Seizure Order against Cannon. On January 2, 2018, the Court entered an Order of Rehabilitation against Cannon and appointed the Commissioner of Insurance for the State of North Carolina as Rehabilitator (hereinafter, the “Rehabilitator”). On January 31, 2020, the court issued an Order Amending Order of Rehabilitation changing Rehabilitator’s reporting requirements to the Court from monthly to quarterly.

PURPOSE OF THIS REPORT

The purpose of this report is to provide a quarterly update to the Court, as required by the Order of Rehabilitation, on the work that the Rehabilitator and his staff have carried out since the issuance of the Seizure Order on September 27, 2017, to set out the present situation of Cannon, and to provide a statement of financial position (balance sheet) as of September 30, 2021, and a statement of receipts and disbursements for the period from September 27, 2017 through September 30, 2021.

LIMITATIONS

This report is based only on the knowledge that the Rehabilitator and his staff have gained from the work performed since the issuance of the Seizure Order. Facts may exist that the Rehabilitator is unaware of that may have a material effect on the information provided in this report. The Rehabilitator will update the information in future quarterly reports as additional facts are discovered.

SUMMARY

GREENSBORO OFFICE

Cannon Personal Property

- Financial statements previously filed with the NCDOJ do not contain any assets titled as personal property, however numerous items of personal property were located at Cannon's office. While reviewing records of Cannon, receipts for various items of personal property were found.
- On February 6, 2018, the Rehabilitator filed a motion to sell property seeking permission from the Court to sell through public auction the property located in the offices of Cannon.
- On February 28, 2018, all property located in Cannon's office was moved and placed into storage. On May 15, 2018, the Rehabilitator received a bill for \$5,500 from the company that moved and stored the contents of Cannon's office.
- The motion to sell property was heard on March 21, 2018. Affidavits of Dallas McClain and Lanier McClain, disputing ownership of certain items, were submitted to the Court. The Court granted the Rehabilitator's motion to sell all property not in dispute. The Order was issued on April 18, 2018. As directed by the Court, the parties negotiated a resolution regarding the ownership of disputed property and a Joint Report of Agreement on Rehabilitator's Motion to Sell Property was filed on May 18, 2018. The Rehabilitator worked with a licensed auctioneer to sell the property not in dispute. The auction was held on May 25, 2018, in High Point, North Carolina. All items, other than electronics, were either sold or disposed of on that date. Proceeds from the sale were applied to the moving and storage bill. The net proceeds from the sale were \$192 after deducting advertising expenses and the auctioneer's commission of \$211. Disposal fees for items not sold during the auction was \$250.

Lease

- On March 1, 2018, the Rehabilitator notified the landlord via e-mail that the office has been vacated.
- On April 4, 2018, counsel for the Rehabilitator sent a demand letter to All American Bail Bonds LLC ("AABB") for payment of rent due to Cannon. By letter dated May 2, 2018, Jeremy Valentine, on behalf of AABB, responded that AABB could not afford to pay Cannon for rent and had vacated the premises prior to the seizure. On December 14, 2018, the Rehabilitator, on behalf of Cannon, filed a complaint against AABB. The complaint sought reimbursement from AABB for monthly lease payments made by Cannon for AABB under the Office Rental Agreement entered into between Cannon and AABB. On May 21, 2019, the Rehabilitator, on behalf of Cannon, filed a Motion for Entry of Default against AABB. The Motion for Entry of Default was granted on October 28, 2019.

BAIL BOND NOTICES OF FORFEITURE

Following the entry and execution of the Seizure Order, the Rehabilitator utilized the information from the database used by Cannon for the inventory of bond powers. As of October 1, 2017, the Rehabilitator began receiving Bond Forfeiture Notices for Cannon from Clerks of Court throughout North Carolina. The Rehabilitator created a database (hereinafter "Forfeitures Database") which combined information from the bond powers inventory, information provided from the Administrative Offices of the Court (hereinafter "AOC"), forfeitures received, and bond powers written through the date of the Seizure Order and submitted by bail agents to the Rehabilitator.

The Forfeitures Database tracks pertinent information from notices of forfeiture received and/or bond powers sent to the Rehabilitator and is utilized to prevent forfeitures from going to final judgment. Each day notices are entered. Email notifications are generated that night and sent to the bail agent notifying the bail agent of notice(s) received and instructing the bail agent to act to set aside forfeitures in accordance with the procedures set forth in N.C. Gen. Stat. §15A-544.5, and to provide notification to the Rehabilitator that action has been taken.

The Forfeitures Database sends out a second notification from the NCDOT's General Counsel 75 days before the date the judgment will become final reminding the bail agent that action needs to be taken to prevent the forfeiture(s) from going to final judgment and from actions being taken against the agent's license if a final judgment does occur. If necessary, additional follow-up is taken 50 days before the date of final judgment by the NCDOT's General Counsel.

In total, the Rehabilitator has received 2,141 notices of forfeiture, with a total face value amount of \$16,329,882. Of these outstanding bonds, the NCDOT has confirmed, through November 5, 2021, that 1,925 cases have been disposed of with a total face value of \$14,230,911 (1,339 cases have been set aside by the courts, 169 cases have been satisfied by payment by the bail agent, and 417 cases have been otherwise discharged by the courts). There are two active forfeitures with a total face value of \$51,000. There are 214 active judgments, with a total face value of \$2,047,971.

In addition to communicating with bail agents regarding specific cases, NCDOT's General Counsel has access to the VCAP database administered by AOC and has been steadily going through and updating the database with actions that have occurred since it was established in early November 2017. Finally, NCDOT's General Counsel has been in regular contact with staff at AOC as well as with numerous school board attorneys across the state regarding outstanding bond forfeitures. Demand letters seeking payment of outstanding judgments have been sent to Cannon agents with Cannon agent agreements whose bail bondsman licenses have lapsed.

BAIL BOND JUDGMENTS

As of November 5, 2021, Cannon has 214 active judgments for a total face amount of \$2,047,971. In addition, \$14,250 of court costs, \$511,325 of interest and \$135 of sheriff's fees have been incurred as a result of these judgments. Interest continues to accrue until the judgments are satisfied. On December 14, 2018, the Rehabilitator, on behalf of Cannon, filed suit against AABB seeking payment, pursuant to the agent agreement between Cannon and AABB, of any and all sums necessary to fully satisfy all bond forfeiture judgments existing on bonds written by AABB's

sub-agents that were issued using Cannon Powers of Attorney. The Rehabilitator intended to pursue collection of the amounts from the bail agents and any other person who agreed to indemnify the Company from loss. However, due to the lack of agent agreements indemnifying the Company from loss, the Rehabilitator, on behalf of Cannon, has been unable to pursue collections. As such, collection of amounts due is doubtful and uncertain and as such, no receivable has been established.

The Rehabilitator previously notified the Bail Bond Regulatory Division of NCDOI that bail agents had unpaid or unresolved bail bond forfeiture judgments that were written on Cannon bond powers of attorney. This appeared to be a violation of certain provisions of Article 71 of Chapter 58 of the North Carolina General Statutes. The Bail Bond Regulatory Division has met with Cannon agents with active licenses who have outstanding bond forfeiture judgments to determine how those outstanding judgments can be paid or resolved. Those meetings resulted in payments on, or remittances and set asides of, bond forfeiture judgments totaling approximately \$110,000.00.

LAWSUITS

To the Rehabilitator's knowledge, at the time of the Seizure Order, Cannon was a plaintiff in the following lawsuits:

Premier Judicial Consultants, LLC, et al. v. Clyde Robert Brawley, Jr., 17 CVS 13352; Wake County Superior Court

On February 23, 2018, Mr. Bibbs filed a motion to withdraw as counsel for Cannon and Premier.

On February 28, 2018, Daniel S. Johnson, Special Deputy Attorney General, M. Denise Stanford, Special Deputy Attorney General, and Heather H. Freeman, Assistant Attorney General, filed a notice of appearance as counsel of record for Cannon.

The motion to withdraw was heard on March 21, 2018, and the Court granted and signed the Order allowing Mr. Bibbs to withdraw.

On May 7, 2018, attorneys Donald Vaughn and Richard Forrester were notified that their services as counsel for Cannon in this action have been terminated.

On May 23, 2018, a Consent Case Management Order was transmitted to the Trial Court Administrator for Wake County Superior Court.

Counsel for all parties discussed the status of the litigation, a request to the Wake County Senior Resident Superior Court Judge Ridgeway for a 2.2 designation, and the potential for resolving the matter by stipulations of voluntary dismissal.

On April 3, 2019, a Stipulation of Voluntary Dismissal Without Prejudice between Cannon and Brawley was filed in Wake County Superior Court.

On July 19, 2019, the Court granted Defendant Brawley's Motion for Summary Judgment and dismissed each of PJC's claims against him with prejudice.

Dallas McClain, et al. v. Mark Wayne Cartret, et al., 17 CVS 3831; Wake County Superior Court

On April 30, 2018, Daniel S. Johnson, Special Deputy Attorney General, M. Denise Stanford, Special Deputy Attorney General, and Heather H. Freeman, Assistant Attorney General, filed a notice of appearance as counsel of record for Cannon.

On May 7, 2018, attorney G. Grady Richardson, Jr. was notified that his services as counsel for Cannon in this action had been terminated.

This case was set for trial during the week of September 17, 2018. On August 13, 2018, Cannon filed a Motion to Continue, a Motion for Local Rule 2.2 Designation of Presiding Judge, and a Motion for Partial Summary Judgment. On August 17, 2018, Defendant Clyde Robert Brawley, Jr. filed a Motion for Partial Summary Judgment. On September 12, 2018, Cannon and Defendants Mark Cartret, North State Holdings Group, LLC, Agents Associates Insurance, LLC, and Clyde Robert Brawley filed a Stipulation of Voluntary Dismissal Without Prejudice for all claims between those parties. On September 12, 2018, Cannon filed a Voluntary Dismissal Without Prejudice of its claims against Defendants Ronald Pierce and Piedmont Disaster Services, LLC. The case was assigned to Judge Shirley and removed from the September 17, 2018 trial calendar. On December 12, 2018, Cannon filed its Motions to Dismiss, Motion to Strike Pleading and Reply to Defendants Ronald L. Pierce's and Piedmont Disaster Services, LLC's counterclaims. On March 19, 2019, Cannon filed a Stipulation of Voluntary Dismissal Without Prejudice as to Claims Between Cannon, Pierce, and Piedmont Disaster Services, LLC.

COLLECTIONS

On December 14, 2018, the Rehabilitator, on behalf of Cannon, filed suit against AABB seeking payment for rent owed under an office rental agreement and for payment, pursuant to the agent agreement between Cannon and AABB, of any and all sums necessary to fully satisfy all bond forfeiture judgments existing on bonds written by AABB's sub-agents that were issued using Cannon Powers of Attorney. On October 28, 2019, the court entered an entry of default against AABB as a result of their failure to answer or otherwise respond to the complaint. Counsel for Cannon in this matter has been reviewing documentation in an effort to identify bond forfeiture judgments for which AABB is liable to Cannon under its agent agreement. The lack of documentation between Cannon and AABB has made this difficult to determine. Counsel for Cannon in this matter intends to serve discovery on AABB in an effort to identify these sub agents and their AABB forfeiture judgments. This information, if known, will then be used to seek a default judgment against AABB.

Demand letters have been sent to a number of bail agents with Cannon agent agreements in which the bail agent agreed to indemnify Cannon from loss. These initial demand letters resulted in the payment of \$1,203.05 by a bail agent on their bond forfeiture judgment. Additional bail agents with Cannon agent agreements have been identified, and additional demand letters will be sent out once they have been finalized.

On April 4, 2018, counsel for the Rehabilitator sent a demand letter to AABB for payment of rent due to Cannon. By letter dated May 2, 2018, Jeremy Valentine, on behalf of AABB, responded

that AABB could not afford to pay Cannon for rent and had vacated the premises prior to the seizure. On December 14, 2018, the Rehabilitator, on behalf of Cannon, filed a complaint against AABB seeking reimbursement from AABB for monthly lease payments made by Cannon for AABB under the Office Rental Agreement entered into between Cannon and AABB and seeking payment under the Agent Agreement between Cannon and AABB of bond forfeiture judgments on numerous bail bonds written by AABB's sub-agents using Cannon Powers of Attorney for which Cannon has now become liable. Counsel for the Rehabilitator attempted service on AABB via certified mail of the summons, complaint, and cover sheet at the known address for the registered agent on file with the NC Secretary of State ("SOS") but was unsuccessful. Counsel subsequently forwarded the copies of the summons, complaint, and cover sheet to the SOS for service pursuant to N.C. Gen. Stat. § 55D-33 and received confirmation of receipt from the SOS on January 14, 2019. Pursuant to N.C. Gen. Stat. § 55D-33 service on AABB is effective on that date. An affidavit of service was filed in Wake County notifying the Court of the effective service. Copies of documents were sent to the registered agent of AABB, Jeremy Valentine, at his Floyd, VA address. AABB had 30 days from January 14, 2019, to answer or otherwise respond. Jeremy Valentine submitted a letter dated February 2, 2019, with a document attached, and requested that it be made part of the court file. On May 21, 2019, the Rehabilitator, on behalf of Cannon, filed a Motion to Strike the letter filed by Jeremy Valentine from the file and a Motion for Entry of Default. On June 12, 2019, Cannon requested a Court Order designating Judge A. Graham Shirley, II, to preside over all future matters of this case pursuant to Local Rule 2.2. On August 15, 2019, Judge A. Graham Shirley, II was designated to preside over all court proceedings in this action. On October 10, 2019, the Rehabilitator gave notice that his Motion to Strike and Motion for Entry of Default will be heard on October 28, 2019. The Motion to Strike and Motion for Entry of Default was granted by Judge A. Graham Shirley, II, on October 28, 2019.

CONTINUATION OF BUSINESS

A final decision as to the course of action to take with Cannon has not yet been determined.

OTHER

Tax Returns

The Rehabilitator engaged Batchelor, Tillery & Roberts, LLP to prepare and file tax returns for Cannon for the years 2016 through 2020. The tax returns for 2016 through 2018 were filed on September 30, 2020, and the tax returns for 2019 were filed in December 2020. The tax returns for 2020 were filed on March 11, 2021. No tax was owed.

Audit

It has been the practice for the Rehabilitator of other insurance company receiverships to have an audit performed by an outside certified public accountant, the cost of which is borne by the company upon whom the audit was performed. With Cannon, there is limited cash with which to perform an audit and to pay other administrative expenses expected to be incurred. It is the intent of the Rehabilitator to not have an independent audit performed unless otherwise instructed by the Court.

Disbursements

Since the execution of the Seizure Order, through September 30, 2021, the Rehabilitator has paid funds for various expenses totaling \$55,826 as follows:

- North Carolina Department of Revenue - \$616 for interest due for 2015 premium tax.
- North Carolina Department of Revenue - \$22,218 for 2016 premium tax.
- North Carolina Department of Revenue - \$657 for interest due for 2016 premium tax.
- North Carolina Department of Revenue - \$1,280 for franchise tax for tax years 2016 – 2020. The amount includes penalties and interest for late filing.
- Batchelor, Tillery & Roberts - \$16,248 for preparing and filing income and franchise taxes.
- City Transfer and Storage - \$5,750 for expenses associated with the removal and storage of the contents of Cannon's office prior to the auction of these items.
- QuickBooks - \$5,120 for software used by the Rehabilitator.
- North Carolina Secretary of State - \$1,000 for annual report filings for the years 2017-2021.
- US Bank and Capital Bank - \$1,149 for fees related to administering cash and deposits.
- North Carolina Court of Appeals - \$157 for services rendered during hearings.
- Gina Macchio - \$325 for transcript services rendered during hearings.
- Multnomah County Recorder - \$4 for lien documents.
- County Recorder in California - \$11 for lien documents.
- LA County Recorder in California - \$250 for lien documents.
- Rehabilitator's staff - \$1,040 for reimbursement of mileage, shipping and packing supplies related to administering the rehabilitation.

The Rehabilitator negotiated with the North Carolina Department of Revenue to have the late filing penalties for the 2015 and 2016 premium tax filings waived in the amount of \$18,752.

Confession of Judgment

On February 2, 2018, the Rehabilitator became aware of a purported confession of judgment that was executed on December 15, 2017, by Dallas McClain on behalf of Cannon for the benefit of Mark Bibbs in the amount of \$227,850.50 plus interest at the legal rate of eight percent (8%). On February 6, 2018, the Rehabilitator filed motions to strike purported confession of judgment against Cannon. On March 21, 2018, the Court heard the motion filed by the Commissioner of Insurance on February 6, 2018, to strike the Confession of Judgment against Cannon Surety, LLC filed with the Clerk of Superior Court of Wake County in Case No. 17 CVS 15505 on December 18, 2017. The Court declared the Confession of Judgment to be null and void and the Court ordered it stricken from the records of the Clerk of Superior Court of Wake County.

Motion to Intervene and Motion for Attorney Fees

On March 15, 2018, Mark Bibbs filed a Motion to Intervene in this Rehabilitation action and a Verified Motion for Payment of Attorney Fees to recover attorney fees from his former client, Cannon, in the amount of \$499,588.20. Both the Motion to Intervene and the Verified Motion for Payment of Attorney Fees were denied. The Verified Motion for Payment of Attorney Fees was denied on March 21, 2018, without prejudice to the right of Proposed Intervenor Bibbs to make a motion for payment of disputed attorney fees that complies with State Bar rules regarding the Fee Dispute Resolution Program. The Order was issued April 18, 2018.

Appeal by Bibbs to Court of Appeals

On April 20, 2018, Mark Bibbs filed a Notice of Appeal with the Wake County Superior Court and a Petition for Writ of Supersedeas and Motion for Stay with the North Carolina Court of Appeals, appealing the Court's Order striking the confession of judgment against Cannon in 17 CVS 11692 and 17 CVS 15505. The Petition for Writ of Supersedeas and Motion for Stay were denied by the Court of Appeals.

On May 14, 2018, Mark Bibbs filed a Motion for Extension of Time with the North Carolina Court of Appeals in order to contract with a court reporter/transcriptionist to produce the transcript of the court proceedings held on March 21, 2018. By Order dated May 14, 2018, the Court of Appeals granted the Motion allowing Mr. Bibbs an extension until May 31, 2018, to contract for the transcription of the proceedings. On May 30, 2018, Mr. Bibbs contracted for production of the transcript. By letter dated July 16, 2018, counsel for the Rehabilitator was contacted by an attorney representing Mr. Bibbs in connection with the recovery of Mr. Bibbs' attorney fees from Cannon. On July 31, 2018, counsel for the Rehabilitator requested additional information from Mr. Bibbs' attorney regarding the disputed attorney fees. On September 2, 2018, Mr. Bibbs filed a Motion for Extension of Time to Serve Proposed Record on Appeal with the North Carolina Court of Appeals. On September 4, 2018, the North Carolina Court of Appeals entered an Order dismissing without prejudice Mr. Bibb's Motion for Extension of Time to Serve Proposed Record on Appeal to refile with a showing that an initial thirty day extension to serve the proposed record on appeal had been obtained from the trial court. On September 4, 2018, Mr. Bibbs filed a Motion for Extension of Time to Serve the Record on Appeal with the Wake County Superior Court. The Court entered an Order for Extension of Time to Serve Proposed Record on Appeal on October 10, 2018. On October 16, 2018, Mr. Bibbs filed a second Motion for Extension of Time to Serve Proposed Record on Appeal with the North Carolina Court of Appeals. On October 17, 2018, the Court of Appeals entered an Order granting an extension to serve the proposed record on appeal through November 5, 2018. Mr. Bibb's served his proposed Record on Appeal on November 5, 2018. On December 5, 2018, the Commissioner served his Objections and Amendments to the proposed Record on Appeal in both File numbers 17 CVS 11692 and 17 CVS 15505. A Motion for Extension of Time filed by Mr. Bibbs on December 28, 2018 was dismissed by the Court. On December 31, 2018, Mr. Bibbs filed a second Motion for Extension of Time. The Court of Appeals allowed Mr. Bibb's second Motion for Extension of Time and ordered that the settled Record on Appeal be filed on or before January 7, 2019. The Record on Appeal was filed on January 7, 2019 and docketed on January 10, 2019. On January 31, 2019, the Court of Appeals entered an Order granting Mr. Bibbs' Motion for Extension of Time to File Appellant's Brief and ordered that the brief be filed on or before March 8, 2019. Mr. Bibbs filed his brief on March 8, 2019. On March 29, 2019, the Rehabilitator filed a Motion for Extension of Time to file its brief up to and including May 8, 2019. On April 1, 2019, the Court of Appeals granted the Rehabilitator's Motion for Extension of Time. On May 8, 2019, the Rehabilitator filed Appellee's Brief. On May 28, 2019, Mr. Bibbs filed a Motion for Extension of Time to file a reply brief. On May 30, 2019, the Court of Appeals denied the motion. On July 23, 2019, the Court of Appeals issued a court calendar setting the appeal to be heard without oral arguments on Thursday, August 22, 2019. On January 7, 2020, the Court of Appeals issued an opinion affirming the trial court's order striking the confession of judgement.

Amended Order of Rehabilitation

On January 30, 2018, the Rehabilitator filed a motion to clarify and amend the Order of Rehabilitation; Order Appointing Receiver; Order Granting Injunctive Relief entered on January 2, 2018. The motion was heard on March 21, 2018, and the Court agreed to amend the Order of Rehabilitation; Order Appointing Receiver; Order Granting Injunctive Relief. The Court enjoined and prohibited the Rehabilitator from making payment for final forfeiture judgments from the funds on deposit in Cannon's name at US Bank until further order from the Court.

INTRODUCTION TO CANNON SURETY, LLC

FINANCIAL STATEMENTS

AS OF SEPTEMBER 30, 2021

Introduction and Basis of Presentation: Cannon Surety, LLC (Company) is a North Carolina domiciled captive insurance company that was placed into rehabilitation by the Wake County Superior Court on January 2, 2018. The Company is under the control of the Commissioner of Insurance of the State of North Carolina, who is the Rehabilitator of the Company. It is the Rehabilitator's responsibility to take possession of the assets of the insurer and to administer them under the general supervision of the Court.

The accompanying statement of financial position reflects general ledger balances of the Company as of September 30, 2021, adjusted to reflect circumstances currently known to the Rehabilitator. Amounts may be further adjusted prospectively as deemed appropriate based on the Rehabilitator's continued investigation. Financial statements were not regularly prepared by the Company, so the amounts reflected on the statement of financial position represent the Rehabilitator's best estimate, as explained in the accompanying notes, of the Company's assets and liabilities as of September 30, 2021. The accompanying statement of receipts and disbursements presents all actual cash receipts and disbursements for the period from September 27, 2017, the date of the execution of the Seizure Order, through September 30, 2021.

CANNON SURETY, LLC, IN REHABILITATION
NORTH CAROLINA COMMISSIONER OF INSURANCE AS RECEIVER
Statement of Financial Position
As of September 30, 2021

Assets

| | | |
|--|---------------------|---------------------|
| Cash and Cash Equivalents | (Note A) | \$ 31,766 |
| Cash and Cash Equivalents - Restricted | (Note A) | 992,021 |
| Accounts Receivable | (Note B) | 49,050 |
| Other Restricted Assets: | (Note C) | |
| Build Up Fund | | 46,196 |
| Collateral Account | | 4,110 |
| | Total Assets | <u>\$ 1,123,143</u> |

Liabilities

| | | |
|---|--------------------------|------------------|
| Reserve for Loss and Loss Adjustment Expenses | (Note D) | \$ 200,000 |
| Payable to Clerks of Court | (Note E) | 2,558,214 |
| Expense Payable | (Note F) | 666,194 |
| Other Liabilities | (Note G) | 50,306 |
| | Total Liabilities | <u>3,474,714</u> |

Surplus

| | | |
|--|----------|-----------------------|
| Excess of Liabilities Over Assets (Unrestricted and Restricted) | (Note H) | <u>\$ (2,351,571)</u> |
| Deficiency of Assets (Unrestricted) Over Liabilities (Excluding Other Liabilities) | | <u>\$ (3,343,592)</u> |

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

CANNON SURETY, LLC, IN REHABILITATION
NORTH CAROLINA COMMISSIONER OF INSURANCE AS RECEIVER
Statement of Receipts and Disbursements

| | | For the Quarter Ended September 30, 2021 | Cumulative For the Period September 27, 2017- September 30, 2021 |
|--|------------------------------------|--|---|
| OPERATING ACTIVITIES | | | |
| <u>Receipts</u> | | | |
| Premium Receipts | (Note I) | 0 | 23,661 |
| Sale of Fixed Assets | | | 192 |
| Recovery of Bad Debt | | 0 | 0 |
| Clerk of Court Recovery | (Note K) | 0 | 1,142 |
| Tax Recovered | | 0 | 0 |
| Miscellaneous Receipts | | 0 | 132 |
| | Total Receipts | 0 | 25,127 |
| <u>Disbursements</u> | | | |
| <u>Policy Related Disbursements</u> | | | |
| Loss and Loss Adjustment Expenses | | 0 | 0 |
| Court Costs | | 0 | 0 |
| Interest Expense on Judgements | | 0 | 0 |
| | Total Policy Related Disbursements | 0 | 0 |
| <u>General Expenses and Other</u> (Note J) | | | |
| Personnel Expenses | | 0 | 0 |
| Rent and Occupancy | | 0 | 0 |
| Accounting Fees | | 0 | 16,248 |
| Actuarial Fees | | 0 | 0 |
| Legal Fees | | 0 | 0 |
| Consulting Fees | | 0 | 0 |
| Software | | 0 | 5,120 |
| Office Expenses | | 0 | 261 |
| Furniture, EDP & Equipment Expense | | 0 | 0 |
| Travel | | 0 | 752 |
| Claims and Underwriting Admin Fees | | 0 | 0 |
| Court Costs | | 0 | 157 |
| Moving & Storage | | 0 | 5,750 |

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

EXHIBIT A
PAGE 14

| | | |
|---|---------------------|------------------|
| Bank Fees | 0 | 483 |
| Custody Fees | 37 | 659 |
| Taxes, Licenses and Fees | 0 | 25,777 |
| Miscellaneous Expense | 250 | 619 |
| | <u>287</u> | <u>55,826</u> |
| Total Operating Disbursements | <u>287</u> | <u>55,826</u> |
| Net Cash Provided by Operating Activities | <u>(287)</u> | <u>(30,699)</u> |
| INVESTING ACTIVITIES | | |
| Net (Purchases) Sales of Invested Assets | 0 | 0 |
| Net Investment Income | 15 | 41,580 |
| Net Cash Provided by Investing Activities | <u>15</u> | <u>41,580</u> |
| OTHER | | |
| Misc Receipts | 0 | 0 |
| Change in Deposit | 0 | 0 |
| Escheat Liability | 0 | 0 |
| Net Cash Provided by Other | <u>0</u> | <u>0</u> |
| Net Increase/(Decrease) in Cash and Cash Equivalents | (272) | 10,881 |
| Cash and Cash Equivalents at Beginning of Period | 1,024,060 | 1,012,907 |
| Cash and Cash Equivalents at End of Period | <u>\$ 1,023,788</u> | <u>1,023,788</u> |

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

NOTES TO FINANCIAL STATEMENTS

Note A: All Cash and Cash Equivalents are comprised of the checking accounts originally established by the Company and now under the control of the Rehabilitator.

All Cash and Cash Equivalents – Restricted are comprised of cash and cash equivalents with a maturity of less than 1 year and are carried at cost which approximates market value. The amount of \$992,021 is currently on deposit with the North Carolina Department of Insurance (“Department”). These funds were required to be placed on deposit with the Department as part of the terms of licensure and can only be used for the payment of bail bond judgments.

Note B: The components of Accounts Receivable are as follows:

| | |
|-------------------------------|---------------|
| Premiums due from Agents | 25,110 |
| Receivable from AABB for Rent | <u>23,940</u> |
| Total | \$ 49,050 |

The receivable from AABB for rent consists of \$23,940 paid by the Company for the period October 2016 through September 2017. The receivable was adjusted to reduce the amount previously recorded as accrued, but unpaid totaling \$11,970 for the period October 2017 through February 2018 as AABB was unable to occupy the premises after seizure. The offset was an increase in rent expense due (see Note F).

Note C: Other Restricted assets are comprised of cash and cash equivalents with a maturity of less than 1 year and are carried at cost which approximates market value. The Build Up Fund (“BUF”) represents 15 individual accounts under the control of the Company to be used to indemnify the Company for losses and any other agreed-upon costs related to a bail bond executed by a bail bond agent. There is a corresponding liability account offsetting the asset (see Note G). The Collateral Account represents funds placed on deposit to secure specific bail bonds. There is a corresponding liability account as the funds may be returned upon resolution of the case for which the collateral was taken (see Note G). During the three-month period ending September 30, 2021, no payments were made from BUF accounts for satisfaction of specific bail bonds and related court cost and no funds were returned to agents upon verification of no outstanding forfeitures or judgments.

Note D: Reserves for Loss and Loss Adjustment Expenses represents an estimate of potential amounts for bonds which may go to judgment. This amount was not derived from an actuarial analysis. The Company failed to obtain a Statement of Actuarial Opinion for the year-ended December 31, 2016, as required by N.C. Gen. Stat. §58-10-415(e). The Rehabilitator has estimated this amount based on the major risks to the Company which are late reporting and payment on a bail bond that does not have adequate collateralization and underlying BUF or other protection. The Rehabilitator has observed, since the date of the Seizure Order, all the above risks.

NOTES TO FINANCIAL STATEMENTS

Note E: Payable to Clerks of Court represent bond forfeitures which a final judgment has been entered by the courts and for which the Company is liable for payment. As of June 30, 2021, the amount reported includes \$2,047,971 of the total face amount of the bonds, \$14,250 of court costs, \$456,331 of interest, and \$135 of sheriff's fees. Interest continues to accrue until the judgments are satisfied.

Note F: The components of Expenses Payable are as follows:

| | |
|---|--------------|
| Legal Fees | \$235,594 |
| Accrued Interest on Certificate of Contribution | 315,069 |
| Payroll Taxes Withheld and Unpaid | 47,560 |
| Rent | 43,776 |
| 2017 Accrued NC Premium Tax | 17,209 |
| Accrued Payroll & Payroll Taxes | 3,366 |
| NC Industrial Commission-Penalty Payable | <u>3,620</u> |
| Total | \$666,194 |

Accrued interest on the Certificate of Contribution is an approximate amount.

The liability for rent has not yet been determined since the Company occupied the office space but the lease was in the name of AABB. The amount is included to be conservative. A receivable has been set up for the amount due from AABB and was increased by adjustment as noted in Note B.

The amount recorded as a liability for legal fees includes an amount payable in the amount of \$227,850 to attorney Mark Bibbs. This amount is based on an e-mail that was provided to the Rehabilitator by Bibbs on December 20, 2017. On March 15, 2018, Bibbs filed a Motion to Intervene in this Rehabilitation action and a Verified Motion for Payment of Attorney Fees to recover attorney fees from his former client, Cannon, in the amount of \$499,588.20. The actual amount due Bibbs is unknown at this time.

Note G: The components of Other Liabilities are as follows:

| | |
|-----------------|--------------|
| Build Up Funds | \$46,196 |
| Collateral Held | <u>4,110</u> |
| Total | \$50,306 |

NOTES TO FINANCIAL STATEMENTS

- Note H:** On December 16, 2015, the Company entered into a Certificate of Contribution (“Certificate”) with a related party in the amount of \$700,000. According to the terms of the Certificate, the obligation evidenced by the Certificate is not a liability or claim against the Company except to the extent the principal sum is due in whole or in part in accordance with certain provisions of the Certificate. As of September 30, 2021, the principal amount is not due and as such, is classified as a part of surplus instead of a liability. As of September 30, 2021, the principal balance of the Certificate is \$630,419.
- Note I:** The amount of Premium Receipts represents funds received from bail agents following the date of the Seizure Order. During January 2018, the Rehabilitator discovered that \$183 had been deposited by the Company into its operating account and recorded as premium income rather than being deposited into a BUF account and held as collateral.
- Note J:** During the quarter, the Rehabilitator paid:
- \$37.50 to US Bank for custody fees.
 - \$250.00 to the LA County recorder to remove a lien.
- Note K:** During the second quarter of 2020, the Rehabilitator received \$1,142 from the Union County Clerk of Court in response to a Petition for Remission of Bond Forfeiture filed by the agent who wrote the bond. The Clerk of Court has been contacted to request documentation necessary to refund the payment and fees, however it remains outstanding. The money is due to the agent and will be paid by the Rehabilitator upon receipt of documentation from the Clerk of Court.

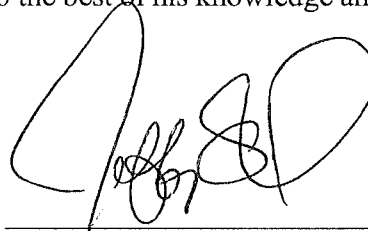
NORTH CAROLINA

WAKE COUNTY

VERIFICATION

JEFFREY A. TRENDEL, being first duly sworn, deposes and says that he is a Deputy Commissioner of Insurance for the North Carolina Department of Insurance and appointed as Special Deputy Insurance Commissioner of Cannon Surety, LLC by the Commissioner of Insurance and Rehabilitator, that he has read the foregoing monthly report of activity of Rehabilitator as of November 15, 2021, the Statement of Financial Position as of September 30, 2021, and the Statement of Receipts and Disbursements for the period ending September 30, 2021, and for the period from September 27, 2017, the date of the Seizure Order, through September 30, 2021, and that the contents of same are true and correct to the best of his knowledge and belief.

This the 23rd day of November 2021.



Deputy Commissioner of Insurance and
Special Deputy Insurance Commissioner for
Cannon Surety, LLC.

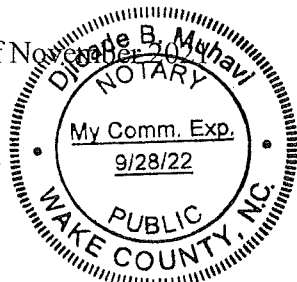
NORTH CAROLINA

WAKE COUNTY

Sworn to and subscribed before me this

the 23 day of November

(Official Seal)



Dixie B. Muhaw
Notary Public

My Commission Expires: 9/28/22