

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

FILED

APR 01 2019

INSURANCE COMMISSIONER  
OKLAHOMA

STATE OF OKLAHOMA ex rel. )  
GLEN MULREADY, Insurance Commissioner, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
SPIRIT COMMERCIAL AUTO RISK )  
RETENTION GROUP, INC, )  
 )  
Respondent. )

Case No. 18-788-DIS

CONSENT ORDER

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, and the Respondent, Spirit Commercial Auto Risk Retention Group, Inc. and stipulate to the following facts and applicable laws. The parties consent to entry of this Order

JURISDICTION

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq. and the Oklahoma Risk Retention Act, 36 O.S. §§ 6451 et seq.
2. Spirit Commercial Auto Risk Retention Group, Inc. (the "Company") is a risk retention group authorized to do business in Oklahoma as casualty risk retention group pursuant to Certificate of Authority Number 0418 (NAIC Number 14207).
3. Informal disposition of this matter may be made by consent order pursuant to 75 O.S. § 309(E).

## STIPULATIONS OF FACT

1. The Company is a captive risk retention group domiciled in Nevada. The Company's Nevada certificate of authority was voluntarily suspended by the Nevada Commissioner of Insurance on October 19, 2018, due to its hazardous financial condition. See Exhibit A, Voluntary Suspension of Certificate of Authority.

2. 36 O.S. § 6453 provides that a RRG is in hazardous financial condition if it is unlikely to be able to meet obligations to policyholders with respect to known claims and reasonably anticipated claims, or to pay other obligations in the normal course of business based on its present or reasonably anticipated financial condition.

3. The Nevada Commissioner of Insurance petitioned for the Company to be placed into receivership. On February 27, 2019, the Company was placed into Permanent Receivership by agreement as the Company is in a hazardous financial condition and unlikely to meet the obligations to policyholders. See Exhibit B, Permanent Injunction and Order Appointing Commissioner as Permanent Receiver of Spirit Commercial Auto Risk Retention Group, Inc.

4. Oklahoma law allows the revocation or suspension of an insurer's certificate of authority if the insurer is found to be in unsound condition or in such condition as to render its further transaction of insurance in this state hazardous to its policyholders or to the people of this state. 36 O.S. § 619.

## CONCLUSIONS OF LAW

1. Pursuant to 36 O.S. § 619 of the Oklahoma Insurance Code, the Insurance Commissioner has the authority to suspend conduct of this Company's insurance business in Oklahoma.

2. Based on the above findings of fact, the Insurance Commissioner concludes the Company is in unsound condition or in such condition as to render any further transaction of insurance in this state hazardous to its policyholders or to the people of the state and be suspended from conducting business in Oklahoma. 36 O.S. § 619

**ORDER**


**IT IS THEREFORE ORDERED**, by the Insurance Commissioner that the Company's certificate of authority is suspended effective immediately.

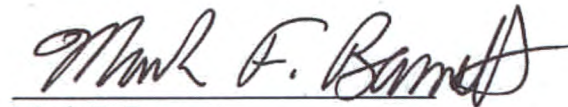
WITNESS My Hand and Official Seal this 29 day of March 2019.



  
\_\_\_\_\_  
TYLER LAUGHLIN  
FIRST DEPUTY COMMISSIONER

AGREED:

  
\_\_\_\_\_  
Sara A. Worten  
Assistant General Counsel  
Oklahoma Insurance Department

  
\_\_\_\_\_  
Mark F. Bennett  
Cantilo & Bennett, LLP  
11401 Century Oaks Terrace  
Suite, 300  
Austin, TX 7858

*Special Deputy Receiver for  
Spirit Commercial Auto Risk Retention  
Group, Inc.*

**CERTIFICATE OF MAILING**


I, Sara A. Worten, hereby certify that a true and correct copy of the above and foregoing Notice of Hearing and Order to Show Cause was mailed by first class U.S. Mail and by certified mail with postage prepaid and return receipt requested on this 15<sup>th</sup> day of April, 2019 to:

Mark F. Bennett  
Cantilo & Bennett, LLP  
11401 Century Oaks Terrace  
Suite, 300  
Austin, TX 78758

**CERTIFIED MAIL NO:**  
**9214 8902 0982 7500 0190 86**

and a copy was delivered to:

Financial Division  
Oklahoma Insurance Department

  
Sara A. Worten



## Pieces •

Search for:   Advanced

Between  And



Tracking Number	Recipient	Status	Custom	User / Profile	Location / Department	Job ID	
9214890209827500019086 Class: First Class Services: CM RR	MARK F BENNETT CANTILO & BENNETT LLP 11401 CENTURY OAKS TER STE 300 AUSTIN TX 78758- 8702	In- Transit	Ref#: C1302162.7380729 RetRef#: Case Number: 18- 0788-DIS SAW Department : Legal Sender: Maria	maria.torres@oid.ok.gov Oklahoma Insurance Dept. 4x4 label Cert RR		1302162	  ▼  ▼

items per page

1 - 1 of 1 items





STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
DIVISION OF INSURANCE

IN THE MATTER OF

CAUSE NO. 18.0400

**SPIRIT COMMERCIAL AUTO RISK  
RETENTION GROUP, INC.**

**ORDER RE: VOLUNTARY  
SUSPENSION OF CERTIFICATE OF  
AUTHORITY**

WHEREAS, Spirit Commercial Auto Risk Retention Group, Inc. ("SCARRG" or "Company"), an association captive risk retention group domiciled in the state of Nevada, received a certificate of authority from the State of Nevada, Department of Business and Industry, Division of Insurance ("Division") on February 24, 2012, pursuant to Chapter 694C of the Nevada Revised Statutes ("NRS"), Company ID No. 117423 and NAIC No. 14207. See Exhibit 1; and

WHEREAS, on August 1, 2018, the Commissioner issued a confidential Order requiring the Company take certain action to resolve issues of hazardous financial condition, impairment of capital, and risk-based capital (collectively, the "Division Concerns"); and

WHEREAS, in early August 2018, the Company informed the Division that, as of July 1, 2018, it had stopped writing direct business; and

WHEREAS, the Commissioner may suspend a certificate of authority pursuant to Nevada Revised Statute ("NRS") 694C.270(a)(1) and (a)(2)<sup>1</sup>, NRS 695E.140(1)(a)<sup>2</sup>, and NRS 680A.190(1)(c)<sup>3</sup>; and

<sup>1</sup> NRS 694C.270 Suspension or revocation of license; hearings.

1. The Commissioner may suspend or revoke the license of a captive insurer if, after an examination and hearing, the Commissioner determines that:

(a) The captive insurer:

(1) Is insolvent or has impaired its required capital or surplus;

(2) Has failed to meet a requirement of NRS 694C.250, 694C.320 or 694C.330;

<sup>2</sup> NRS 695E.140 Requirements.



1 WHEREAS, the Company agrees to the suspension of its certificate of authority; and  
2 WHEREAS, it is the policy of the Commissioner that the certificate of authority is not  
3 transferable and, pursuant to NAC 680A.160<sup>4</sup>, remains at all times the property of the State of  
4 Nevada; and

5 WHEREAS, NRS 680A.160(3) requires that the insurer shall promptly deliver the  
6 certificate of authority to the Commissioner upon its suspension, termination or expiration.

7 NOW, THEREFORE, IT IS HEREBY ORDERED that:

8 1. The certificate of authority of Spirit Commercial Auto Risk Retention Group,  
9 Inc., Company ID No. 117423 and NAIC No. 14207, is hereby suspended as of the date of this  
10 Order, pursuant to NRS 694C.270(a)(1) and (a)(2), NRS 695E.140(1)(a), and NRS  
11 680A.190(1)(c).

12  
13  
14

15  
16 1. A risk retention group seeking to be chartered in this State must obtain a certificate of authority pursuant to  
chapter 694C of NRS to transact liability insurance and, except as otherwise provided in this chapter, must comply  
with:

17 (a) All of the laws, regulations and requirements applicable to liability insurers in this State, unless otherwise  
approved by the Commissioner;

18 ...

19 <sup>3</sup> NRS 680A.190 Suspension or revocation of certificate of authority: Mandatory grounds.

20 1. The Commissioner shall refuse to continue or shall suspend or revoke an insurer's certificate of authority:

21 ...

(c) If it is a domestic insurer and it has failed to cure an impairment of capital or surplus within the time allowed  
therefor by the Commissioner under this Code or is otherwise no longer qualified for the certificate of authority;

22 ...

23 <sup>4</sup> NRS 680A.160 Issuance or refusal of certificate; contents and ownership of certificate.

24 1. If upon completion of its application the Commissioner finds that the insurer has met the requirements  
therefor under this Code, the Commissioner may issue to the insurer a proper certificate of authority; if the  
Commissioner does not so find, the Commissioner shall issue an order refusing such certificate.

25 2. The certificate, if issued, shall state the insurer's name, home office address, state or country of  
organization, and the kinds of insurance the insurer is authorized to transact throughout Nevada. At the insurer's  
26 request, the Commissioner may issue a certificate of authority limited to particular types of insurance or coverages  
within a kind of insurance as defined in NRS 681A.010 to 681A.080, inclusive (kinds of insurance).

27 3. Although issued and delivered to the insurer, the certificate of authority at all times shall be the property of  
the State of Nevada. Upon any expiration, suspension or termination thereof the insurer shall promptly deliver the  
28 certificate to the Commissioner.



1           2.       SCARRG shall not enter into any new business or renew any existing business  
2 effective as of the date of this Order. SCARRG has represented that it already ceased writing  
3 direct business effective July 1, 2018.

4           3.       Within twenty (20) business days of the date of this Order SCARRG is to  
5 formally notify in writing each State in which it is registered that SCARRG is no longer  
6 writing any new business in that State.

7           4.       This suspension does not relieve SCARRG of its obligation to continue to pay  
8 to the Division any required fees and taxes.

9           5.       SCARRG shall continue to service existing business while its certificate of  
10 authority is suspended.

11          6.       SCARRG's directors, officers, affiliates, and service providers shall not  
12 remove any funds from the Company at any time without the Commissioner's prior written  
13 approval.

14          7.       SCARRG shall promptly submit to the Division its 2017 audit report upon  
15 completion by SCARRG's external auditor.

16          8.       SCARRG shall not do any of the following acts without the prior written  
17 approval of the Commissioner, except that SCARRG may spend funds for the prompt payment  
18 of claims and legitimate and reasonable expenses specifically related to the adjustment of  
19 claims:

- 20           a.       Dispose of, convey, or encumber any of SCARRG's assets, property, or its  
21                business in force.
- 22           b.       Withdraw any funds from SCARRG's bank accounts or other depositories.
- 23           c.       Lend any of SCARRG's funds or assets.
- 24           d.       Invest any of SCARRG's funds or assets.
- 25           e.       Transfer any of SCARRG's property.
- 26           f.       Incur any debt, obligation or liability, either directly or contingently, other than  
27                liabilities related to claims arising from the insurance policies previously issued  
28                by SCARRG.




1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- g. Merge or consolidate any or all of SCARRG's operations with any other company.
- h. Enter into any new reinsurance contract or treaty.
- i. Terminate, surrender, forfeit, convert, or lapse any policy or contract of insurance, except for nonpayment of premiums due, or release, pay, or refund premium deposits, loan values, or unearned premiums on any insurance policy or contract.
- j. Enter into any new contract or service agreement.
- k. Enter into any transaction with an affiliated party.

9. The Commissioner may rescind or shorten this suspension by further order.

10. This suspension does not prevent the Commissioner from taking other actions pursuant to, but not limited to, NRS 694C.270, 680A.190, 694C.410, 679B.230-287, and NRS chapter 696B, if she determines appropriate.

IT IS SO ORDERED this 19<sup>th</sup> day of October, 2018.

  
\_\_\_\_\_  
BARBARA D. RICHARDSON  
Commissioner of Insurance

# **EXHIBIT 1**

# Certificate of Authority

STATE OF NEVADA  
DEPARTMENT OF BUSINESS & INDUSTRY  
DIVISION OF INSURANCE  
Carson City, Nevada

Nevada ID #: 117423

THE SPIRIT COMMERCIAL AUTO RISK RETENTION GROUP, INC.

Incorporated in the State of Nevada

Home office at Las Vegas, Nevada

having duly qualified, is hereby licensed to transact:

**\*\*ASSOCIATION CAPTIVE - RRG \*\***

*insurance business within the State of Nevada until terminated at the request of the insurer or suspended or  
revoked by the Commissioner of Insurance.*



Dated at Carson City, Nevada this 24<sup>TH</sup>

day of February, 2012

  
Commissioner of Insurance



1 **CERTIFICATE OF MAILING**

2 I hereby certify that I have this day served the **ORDER RE: VOLUNTARY**  
3 **SUSPENSION OF CERTIFICATE OF AUTHORITY, CAUSE NO. 18.0400**, by mailing a  
4 true and correct copy thereof, properly addressed with postage prepaid, via certified mail return  
5 receipt requested, and by e-mail, to:

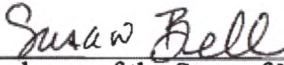
6 Elliott Kroll, Esq.  
7 Arent Fox LLP  
8 1301 Avenue of the Americas, Floor 42  
9 New York, NY 1009  
10 CERTIFIED MAIL NO. 7017 3380 0000 0598 0201  
11 9590 9402 3767 8032 2918 44  
12 E-MAIL: [Elliott.Kroll@arentfox.com](mailto:Elliott.Kroll@arentfox.com)  
13 *Attorney for SCARRG*

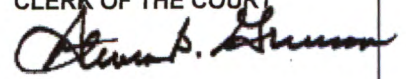
14 James L. Wadhams, Esq.  
15 Fennemore Craig, P.C.  
16 300 S. Fourth Street, Suite 1400  
17 Las Vegas, NV 89101  
18 CERTIFIED MAIL NO. 7017 3380 0000 0598 0195  
19 9590 9402 3767 8032 2918 37  
20 E-MAIL: [jwadhams@fclaw.com](mailto:jwadhams@fclaw.com)  
21 *Attorney for SCARRG*

22 Richard Yien, Deputy Attorney General  
23 State of Nevada Office of the Attorney General  
24 100 N. Carson Street  
25 Carson City, NV 89701  
26 E-MAIL: [ryien@ag.nv.gov](mailto:ryien@ag.nv.gov)  
27 *Attorney for Nevada Division of Insurance*

28 Joel Bengo, Chief Examiner  
State of Nevada Division of Insurance  
1818 E. College Parkway, Suite 103  
Carson City, NV 89706  
E-MAIL: [jbengo@doi.nv.gov](mailto:jbengo@doi.nv.gov)

DATED this 19<sup>th</sup> day of October 2018.

  
\_\_\_\_\_  
Employee of the State of Nevada  
Department of Business and Industry  
Division of Insurance



1 **ORD**  
2 AARON D. FORD  
3 Attorney General  
4 RICHARD PAILI YIEN, Bar No. 13035  
5 Deputy Attorney General  
6 State of Nevada  
7 Business and Taxation Division  
8 100 N. Carson Street  
9 Carson City, NV 89701  
10 Telephone: (775) 684-1129  
11 Facsimile: (775) 684-1156  
12 Email: [ryien@ag.nv.gov](mailto:ryien@ag.nv.gov)

13 MARK E. FERRARIO, Bar No. 1625  
14 KARA B. HENDRICKS, Bar No. 7743  
15 TAMI D. COWDEN, Bar No. 8994  
16 GREENBERG TRAUIG, LLP  
17 10845 Griffith Peak Drive, Suite 600  
18 Las Vegas, NV 89135  
19 Telephone: (702) 792-3773  
20 Facsimile: (702) 792-9002  
21 Email: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)  
22 [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
23 [cowdent@gtlaw.com](mailto:cowdent@gtlaw.com)

24 *Attorneys for the Plaintiff*

25 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
26 **CLARK COUNTY, NEVADA**

27 STATE OF NEVADA, EX REL. COMMISSIONER  
28 OF INSURANCE, IN HER OFFICIAL CAPACITY  
AS STATUTORY RECEIVER FOR DELINQUENT  
DOMESTIC INSURER,

Plaintiff,

vs.

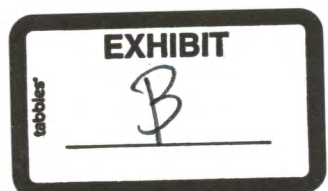
SPirit COMMERCIAL AUTO RISK RETENTION  
GROUP, INC., a Nevada Domiciled Association  
Captive Insurance Company,

Defendant.

Case No. A-19-787325-B

Dept. No. 27

**PERMANENT INJUNCTION AND ORDER  
APPOINTING COMMISSIONER AS  
PERMANENT RECEIVER OF SPIRIT  
COMMERCIAL  
AUTO RISK RETENTION GROUP, INC.**





1                   **PERMANENT INJUNCTION AND ORDER APPOINTING COMMISSIONER AS**  
2                   **PERMANENT RECEIVER OF SPIRIT COMMERCIAL**  
3                   **AUTO RISK RETENTION GROUP, INC.**

4                   On January 11, 2019, Barbara D. Richardson, Commissioner of Insurance (“Commissioner”),  
5 filed her Petition for Appointment Of Commissioner as Receiver and Other Permanent Relief; Request  
6 for Temporary Injunction Pursuant to NRS 696B.270(1), against Defendant SPIRIT COMMERCIAL  
7 AUTO RISK RETENTION GROUP, INC. (“SCARRG”); on January 15, 2019, the Commissioner filed  
8 an Errata to the Petition For Appointment Of Commissioner as Receiver and Other Permanent Relief;  
9 Request for Temporary Injunction Pursuant to NRS 696B.270(1); on January 18, 2019, this Court entered  
10 its Order Appointing Insurance Commissioner, Barbara D. Richardson, as Temporary Receiver Pending  
11 Further Orders of the Court and Granting Temporary Injunctive Relief Pursuant to NRS 696B.270(1),  
12 and authorizing the Temporary Receiver to appoint a special deputy receiver.

13                   On January 23, 2019, SCARRG filed its Motion for Relief From January 18, 2019 Order or,  
14 Alternatively, Motion for Reconsideration, as well as an Ex Parte Application for Order Shortening Time  
15 for Hearing on Motion for Relief from January 18, 2019 Order or, Alternatively, Motion for  
16 Reconsideration; on January 29, 2019, the Temporary Receiver filed her Opposition to Motion for Relief  
17 / Motion for Reconsideration; and Request to Set Hearing for Order to Show Cause; on January 30, 2019,  
18 the Temporary Receiver filed an Errata to Opposition to Motion for Relief / Motion for Reconsideration;  
19 and Request to Set Hearing for Order to Show Cause, and on that same date SCARRIG filed its Reply in  
20 Support of Motion for Relief from January 18, 2019 Order or, Alternatively, Motion for Reconsideration.

21                   On January 30, 2019, this Court held a hearing on the Motion for Relief from January 18, 2019  
22 Order or, Alternatively, Motion for Reconsideration, at which the Court: (a) granted in part SCARRG’s  
23 alternate motion for reconsideration, consolidating it with the hearing to Show Cause to be held on  
24 February 28 and March 1, 2019 (“Consolidated Hearing”); and (b) stayed the appointment of a receiver;  
25 and (c) limited the injunctive relief in the January 18, 2019 Order, pending the Consolidated Hearing, by  
26 requiring SCARRG to notify the State and the Court immediately if Accredited Surety and Casualty  
27 Company, Inc. (“Accredited”), the counterparty to a certain Loss Portfolio Transfer (“LPT”) with  
28



1 SCARRG, were to act on its assertion of SCARRG's default under the LPT, enjoining all payments by  
2 SCARRG to any affiliate or related party, authorizing the State to have a person on the premises of  
3 SCARRG's operations to observe the transaction of business, and prohibiting SCARRG from paying any  
4 claims. On February 11, 2019, Accredited gave notice it was terminating the LPT pursuant to the Special  
5 Termination provision of the LPT for failure to pay premium owed under the LPT which includes a 15  
6 day notice provision making the termination effective on February 27, 2019.

7 On February 12, 2019, the Temporary Receiver filed a Notice of Accredited's Decision to Act  
8 on Default and Request for Immediate Hearing and Application for Order Shortening Time for  
9 Hearing Regarding Notice of Accredited's Decision to Act on Default and Request for Immediate  
10 Hearing. On February 19, 2019, Spirit filed its Opposition to Notice of Accredited's Decision to Act  
11 on Default and Request for Immediate Hearing.

12 On February 20, 2019, the Court held a hearing on the Notice of Accredited's Decision to Act  
13 on Default, at which the Court: (a) decided to take no further action on Spirit's status and to maintain  
14 the status quo of its Order rendered from the January 30, 2019, hearing on the Motion for Relief filed  
15 by Spirit; and (b) set a hearing on February 27, 2019, at 10:30 a.m. to further consider and address the  
16 issues raised in the Notice of Accredited's Decision to Act on Default and related filings.

17 SCARRG having been unable to cure the default identified by Accredited and set forth in the  
18 Notice of Accredited's Decision to Act on Default, the parties hereby stipulate and agree that the  
19 Consolidated Hearing should and is vacated and further agree to a Permanent Receivership of SCARRG  
20 without the need for and waiving all rights to a Show Cause Hearing.

21 The Court having reviewed the points and authorities submitted by counsel and exhibits in  
22 support thereof, and the parties having proffered this Order to the Court by agreement, for good cause,  
23 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

24 (1) The Consolidated Hearing scheduled for February 28 and March 1, 2019 is hereby  
25 vacated, the parties having stipulated and agreed to the appointment of a Permanent  
26  
27  
28

1 Receiver of SCARRG without the need for and waiving all rights to a Show Cause  
2 Hearing.

3 (2) SCARRG is in a hazardous financial condition in that, based on its present or reasonably  
4 anticipated financial condition, it is unlikely to be able to meet obligations to policyholders  
5 with respect to known claims and reasonably anticipated claims, or to pay other  
6 obligations in the normal course of business and, moreover, is insolvent for purposes of  
7 Sections 696B.110(1), 696B.220(2), and 696B.210(1).

8 (3) Pursuant to NRS 696B.220, the Commissioner is hereby appointed Permanent Receiver  
9 for conservation, rehabilitation or liquidation ("Receiver"), and is authorized to employ  
10 and to fix the compensation of a Special Deputy Receiver ("SDR") and such other  
11 deputies, counsel, employees, accountants, actuaries, investment counselors, asset  
12 managers, consultants, assistants, and other personnel as she considers necessary, and to  
13 enter the business and immediately oversee the operation and conservation, rehabilitation,  
14 or liquidation of the business. All compensation and expenses of such persons and of  
15 taking possession of SCARRG and conducting this proceeding shall be paid out of the  
16 funds and assets of SCARRG in accordance with NRS 696B.290.

17 (4) The SDR shall have all the responsibilities, rights, powers, and authority of the Receiver  
18 subject to supervision and removal by the Receiver and the further Orders of this Court.  
19 Whenever this Order refers to the Receiver, it will equally apply to the SDR.

20 (5) The Receiver is hereby directed to conserve and preserve the affairs of SCARRG and is  
21 vested, in addition to the powers set forth herein, with all the powers and authority  
22 expressed or implied under the provisions of chapter 696B of the Nevada Revised Statute  
23 ("NRS"), and any other applicable law. The Receiver is hereby authorized to rehabilitate  
24 or liquidate SCARRG's business and affairs as and when deemed appropriate under the  
25 circumstances and for that purpose may do all acts necessary or appropriate for the  
26  
27  
28



1 conservation, rehabilitation, or liquidation of SCARRG. Whenever this Order refers to the  
2 Receiver, it will equally apply to the SDR.

3 (6) Pursuant to NRS 696B.290, the Receiver is hereby vested with exclusive title both legal  
4 and equitable to all of SCARRG's property wherever located, to administer under the  
5 general supervisions of the Court, and whether in the possession of SCARRG or its  
6 officers, directors, employees, consultants, attorneys, agents, subsidiaries, affiliated  
7 corporations, or those acting in concert with any of these persons, and any other persons  
8 (referred to hereafter as the "Property"), including but not limited to:

- 9 a. Assets, books, records, property, real and personal, including all property or  
10 ownership rights, choate or inchoate, whether legal or equitable of any kind or  
11 nature;
- 12 b. Offices maintained or utilized by SCARRG, furniture, fixtures, office supplies,  
13 safe deposit boxes, legal/litigation files, accounts, books, paper and electronic  
14 documents and records of every kind, computers, internal and external  
15 computer memory devices, and software;
- 16 c. Causes of action, defenses, and rights to participate in legal proceedings other  
17 than the right to participate in arbitration proceedings, and the Receiver's rights  
18 will include the right to initiate or maintain suit in the name of SCARRG or in  
19 the Receiver's name, in any state or federal court in any state in which the  
20 Receiver deems such action necessary or appropriate to protect the interests of  
21 the receivership estate, and any such filings outside of this Court by the  
22 Receiver will be without prejudice to the exclusive jurisdiction of this Court  
23 over SCARRG's affairs;
- 24 d. Letters of credit, contingent rights, stocks, debt, bonds, debentures, cash, cash  
25 equivalents, contract rights, reinsurance contracts and reinsurance  
26 recoverables, in force insurance contracts, loss portfolio transfers, and  
27



1 business, deeds, mortgages, leases, book entry deposits, bank deposits,  
2 certificates of deposit, evidences of indebtedness, bank accounts, securities of  
3 any kind or nature, both tangible and intangible, including but without being  
4 limited to any special, statutory or other deposits or accounts made by or for  
5 SCARRG with any officer or agency of any state government or the federal  
6 government or with any banks, savings and loan associations, or other  
7 depositories;

8 e. All such rights and property of SCARRG described herein now known or  
9 which may be discovered hereafter, wherever the same may be located and in  
10 whatever name or capacity they may be held; and

11 f. Pursuant to NRS 696B.290 and 696B.270, the Receiver is hereby directed to  
12 take immediate and exclusive possession and control of the Property except as  
13 she may deem in the best interest of the receivership estate. In addition to  
14 vesting title to all of the Property in the Receiver or her successors, the said  
15 Property is hereby placed in the *custodia legis* of this Court and the Receiver,  
16 and the Court hereby assumes and exercises sole and exclusive jurisdiction  
17 over all the Property and any claims or rights respecting the Property to the  
18 exclusion of any other court or tribunal, such exercise of sole and exclusive  
19 jurisdiction being hereby found to be essential to the safety of the public and  
20 of the claimants against SCARRG.

21 (7) Pursuant to NRS 696B.270, SCARRG, its officers, directors, stockholders, members,  
22 subscribers, agents, employees, and all other persons, corporations, partnerships,  
23 associations and all other entities wherever located, are hereby permanently enjoined and  
24 restrained from interfering in any manner with the Receiver's possession of the Property  
25 or her title to or right therein and from interfering in any manner with the conduct of the  
26 receivership of SCARRG. Said officers, directors, stockholders, members, subscribers,  
27

1 agents, employees, and all other persons, corporations, partnerships, associations and all  
2 other entities are hereby permanently enjoined and restrained from wasting, transferring,  
3 selling, disbursing, disposing of, withdrawing, removing or assigning the Property or any  
4 portion thereof, and from attempting to do so except as provided herein.

5 (8) All landlords, vendors and parties to executory contracts with SCARRG are hereby  
6 enjoined and restrained from discontinuing services to, or disturbing the possession of  
7 premises and leaseholds, including of equipment and other personal property, by  
8 SCARRG or the Receiver on account of amounts owed prior to January 18, 2019, or as a  
9 result of the institution of this proceeding and the causes therefor, provided that SCARRG  
10 or the Receiver pays within a reasonable time for premises, goods, or services delivered  
11 or provided by such persons on and after January 18, 2019, at the request of the Receiver  
12 and provided further that all such persons shall have claims against the estate of SCARRG  
13 for all amounts owed by SCARRG prior to January 18, 2019.

14 (9) Pursuant to NRS 696B.340, during the pendency of delinquency proceedings in this or  
15 any reciprocal state, no action or proceeding in the nature of an attachment, garnishment  
16 or execution shall be commenced or maintained in the courts of this state against SCARRG  
17 or the Property, and any lien obtained by any such action or proceeding within 4 months  
18 prior to the commencement of any such delinquency proceedings or at any time thereafter  
19 is void as against any rights arising in such delinquency proceedings.

20 (10) Pursuant to this Court's exclusive jurisdiction over the Property as the first court to assert  
21 *in rem* jurisdiction over the Property, all claims against the Property must be submitted to  
22 the Receiver as specified herein to the exclusion of any other method of submitting or  
23 adjudicating such claims in any forum, court, arbitration proceeding, or tribunal subject to  
24 the further Order of this Court. The Receiver is hereby authorized to establish a  
25 receivership claims and appeal procedure, for all receivership claims. The receivership  
26  
27  
28



1 claims and appeal procedures shall be used to facilitate the orderly disposition or  
2 resolution of claims or controversies involving the receivership or the receivership estate.

3 (11) The Receiver may change to her own name the name of any of SCARRG's accounts, funds  
4 or other property or assets, held with any bank, savings and loan association, other  
5 financial institution, or any other person, wherever located, and may withdraw such funds,  
6 accounts and other assets from such institutions or take any lesser action necessary for the  
7 proper conduct of the receivership.

8 (12) All secured creditors or parties, pledge holders, lien holders, collateral holders or other  
9 persons claiming secured, priority or preferred interest in any property or assets of  
10 SCARRG, including any governmental entity, are hereby enjoined from taking any steps  
11 whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or  
12 against the Property.

13 (13) The officers, directors, trustees, partners, affiliates, brokers, agents, creditors, insureds,  
14 employees, members, and enrollees of SCARRG, and all other persons or entities of any  
15 nature including, but not limited to, claimants, plaintiffs, petitioners, and any  
16 governmental agencies who have claims of any nature against SCARRG, including cross-  
17 claims, counterclaims and third party claims, are hereby permanently enjoined and  
18 restrained from doing or attempting to do any of the following, except in accordance with  
19 the express instructions of the Receiver or by Order of this Court:

20 a. Conducting any portion or phase of the business of SCARRG;

21 b. Commencing, bringing, maintaining or further prosecuting any action at law, suit in  
22 equity, arbitration, or special or other proceeding against SCARRG or its estate, or  
23 the Receiver and her successors in office, or any person appointed pursuant to  
24 Paragraph (2) hereinabove;



- 1 c. Making or executing any levy upon, selling, hypothecating, mortgaging, wasting,  
2 conveying, dissipating, or asserting control or dominion over the Property or the  
3 estate of SCARRG;
- 4 d. Seeking or obtaining any preferences, judgments, foreclosures, attachments, levies,  
5 or liens of any kind against the Property;
- 6 e. Interfering in any way with these proceedings or with the Receiver, any successor in  
7 office, or any person appointed pursuant to Paragraph (2) hereinabove in their  
8 acquisition of possession of, the exercise of dominion or control over, or their title to  
9 the Property, or in the discharge of their duties as Receiver thereof; or
- 10 f. Commencing, maintaining or further prosecuting any direct or indirect actions,  
11 arbitrations, or other proceedings against any insurer of SCARRG for proceeds of any  
12 policy issued to SCARRG.

13 (14) No bank, savings and loan association or other financial institution shall, without first  
14 obtaining permission of the Receiver, exercise any form of set-off, alleged set-off, lien, or  
15 other form of self-help whatsoever or refuse to transfer the Property to the Receiver's  
16 control.

17 (15) The Receiver shall have the power and is hereby authorized to:

- 18 a. Collect all debts and monies due and claims belonging to SCARRG, wherever  
19 located, and for this purpose: (i) to institute and maintain actions in other jurisdictions,  
20 in order to forestall garnishment and attachment proceedings against such debts; (ii)  
21 to do such other acts as are necessary or expedient to marshal, collect, conserve or  
22 protect its assets or property, including the power to sell, compound, compromise or  
23 assign debts for purposes of collection upon such terms and conditions as she deems  
24 appropriate, and the power to initiate and maintain actions at law or equity, in this  
25 and other jurisdictions; (iii) to pursue any creditor's remedies available to enforce her  
26 claims;

- 1 b. Conduct public and private sales of the assets and property of SCARRG, including  
2 any real property;
- 3 c. Acquire, invest, deposit, hypothecate, encumber, lease, improve, sell, transfer,  
4 abandon, or otherwise dispose of or deal with any asset or property of SCARRG, and  
5 to sell, reinvest, trade or otherwise dispose of any securities or bonds presently held  
6 by, or belonging to, SCARRG upon such terms and conditions as she deems to be fair  
7 and reasonable, irrespective of the value at which such property was last carried on  
8 the books of SCARRG. She shall also have the power to execute, acknowledge and  
9 deliver any and all deeds, assignments, releases and other instruments necessary or  
10 proper to effectuate any sale of property or other transaction in connection with the  
11 receivership;
- 12 d. Borrow money on the security of SCARRG's assets, with or without security, and to  
13 execute and deliver all documents necessary to that transaction for the purpose of  
14 facilitating the receivership;
- 15 e. Enter into such contracts as are necessary to carry out this Order, and to affirm or  
16 disavow as more fully provided in subparagraph p., below, any contracts to which  
17 SCARRG is a party;
- 18 f. Designate, from time to time, individuals to act as her representatives with respect to  
19 affairs of SCARRG for all purposes, including, but not limited to, signing checks and  
20 other documents required to effectuate the performance of the powers of the Receiver;
- 21 g. Establish employment policies for SCARRG employees, including retention,  
22 severance and termination policies as she deems necessary to effectuate the  
23 provisions of this Order;
- 24 h. Institute and prosecute, in the name of SCARRG or in her own name, any and all  
25 suits, to defend suits in which SCARRG or the Receiver is a party in this state or  
26 elsewhere, whether or not such suits are pending as of the date of this Order, to  
27  
28



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- abandon the prosecution or defense of such suits, legal proceedings and claims which she deems inappropriate, to pursue further and to compromise suits, legal proceedings or claims on such terms and conditions as she deems appropriate;
- i. Prosecute any action for common (*i.e.*, not personal) claims that may exist on behalf of the members, enrollees, insureds or creditors, of SCARRG as a group against any officer or director of SCARRG, or any other person, for such common claims as are derivative of injury or damages to SCARRG;
  - j. Remove any or all records and other property of SCARRG to the offices of the Receiver or to such other place as may be convenient for the purposes of the efficient and orderly execution of the receivership, and to dispose of or destroy, in the usual and ordinary course, such of those records and property as the Receiver may deem or determine to be unnecessary for the receivership;
  - k. File any necessary documents for recording in the office of any recorder of deeds or record office in this County or wherever the Property of SCARRG is located;
  - l. Intervene in any proceeding wherever instituted that might lead to the appointment of a conservator, receiver or trustee of SCARRG or its subsidiaries, and to act as the receiver or trustee whenever the appointment is offered;
  - m. Enter into agreements with any ancillary receiver of any other state as she may deem to be necessary or appropriate, if such ancillary receivership is proper;
  - n. Perform such further and additional acts as she may deem necessary or appropriate for the accomplishment of or in aid of the purpose of the receivership, it being the intention of this Order that the aforestated enumeration of powers shall not be construed as a limitation upon the Receiver;
  - o. Terminate and disavow the authority previously granted SCARRG's agents, brokers, or marketing representatives to represent SCARRG in any respect, including the underlying agreements, and any continuing payment obligations created therein, as

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

of the receivership date, with reasonable notice to be provided and agent compensation accrued prior to any such termination or disavowal to be deemed a general creditor expense of the receivership; and

p. Affirm, reject, or disavow part or all of any leases or executory contracts to which SCARRG is a party. The Receiver is authorized to reject, or disavow any leases or executory contracts at such times as she deems appropriate under the circumstances, provided that payment due for any goods or services received after appointment of the Receiver, with her consent, will be deemed to be an administrative expense of the receivership, and provided further that other unsecured amounts properly due under the disavowed contract, and unpaid solely because of such disavowal, will give rise to a general unsecured creditor claim in the Receivership proceeding.

(16) SCARRG, its officers, directors, partners, agents, brokers and employees, any person acting in concert with them, and all other persons, having any property or records belonging to SCARRG, including data processing information and records of any kind such as, by way of example only, source documents and electronically stored information, are hereby ordered and directed to surrender custody and to assign, transfer and deliver to the Receiver all of such property in whatever name the same may be held, and any persons, firms or corporations having any books, papers or records relating to the business of SCARRG shall preserve the same and submit these to the Receiver for transfer and/or examination at all reasonable times. Any property, books, or records asserted to be simultaneously the property of SCARRG and other parties, or alleged to be necessary to the conduct of the business of other parties though belonging in part or entirely to SCARRG, shall nonetheless be delivered immediately to the Receiver who shall make reasonable arrangements for copies or access for such other parties without compromising the interests of the Receiver or SCARRG.



1 (17) In addition to that provided by statute or by SCARRG's policies or contracts of insurance,  
2 and to the extent not in conflict with the other provisions of this Paragraph (17), the  
3 Receiver may, at such time she deems appropriate, without prior notice, subject to the  
4 following provisions, impose such full or partial moratoria or suspension upon  
5 disbursements owed by SCARRG, provided that

6 a. Any such suspension or moratorium shall apply in the same manner or to the same  
7 extent to all persons similarly situated. However, the Receiver may, in her sole  
8 discretion, impose the same upon only certain types, but not all, of the payments due  
9 under any particular type of contract;

10 b. Under no circumstances shall the Receiver be liable to any person or entity for her  
11 good faith decision to impose, or to refrain from imposing, such moratorium or  
12 suspension; and

13 c. Notice of such moratorium or suspension, which may be by publication, shall be  
14 provided to the holders of all policies or contracts affected thereby.

15 (18) It is hereby ordered that all evidences of coverage, insurance policies and contracts of  
16 insurance of SCARRG are hereby terminated effective on April 15, 2019, unless the  
17 Receiver determines that any such contracts should be cancelled as of an earlier date.

18 (19) No judgment, order, attachment, garnishment sale, assignment, transfer, hypothecation,  
19 lien, security interest or other legal process of any kind with respect to or affecting  
20 SCARRG or the Property shall be effective or enforceable or form the basis for a claim  
21 against SCARRG or the Property unless entered by the Court, or unless the Court has  
22 issued its specific order, upon good cause shown and after due notice and hearing,  
23 permitting same.

24 (20) All reasonable costs, expenses, fees or any other charges of the Receivership, including  
25 but not limited to reasonable fees and expenses of accountants, peace officers, actuaries,  
26 investment counselors, asset managers, attorneys, special deputies, and other assistants  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

employed by the Receiver, the giving of the Notice required herein, and other expenses incurred in connection herewith shall be paid from the assets of SCARRG. Provided, further, that the Receiver may, in her sole discretion, require third parties, if any, who propose rehabilitation plans with respect to SCARRG to reimburse the estate of SCARRG for the expenses, consulting or attorney's fees and other costs of evaluating and/or implementing any such plan.

(21) The Commissioner is part of the government of the State of Nevada, acting in her official capacity, and as such, should be exempt from any bond requirements that might otherwise be required when seeking the relief sought in this proceeding. Accordingly, it is Ordered that no bond shall be required from the Commissioner as Receiver.

(22) If any provision of this Order or the application thereof is for any reason held to be invalid, the remainder of this Order and the application thereof to other persons or circumstances shall not be affected thereby.

(23) The Receiver may at any time make further application for such further and different relief as she sees fit.

(24) The Court shall retain jurisdiction for all purposes necessary to effectuate and enforce this Order.

//  
//  
//  
//  
//  
//  
//  
//  
//  
//



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(25) The Receiver is authorized to deliver to any person or entity a copy or certified copy of this Order, or of any subsequent order of the Court, such copy, when so delivered, being deemed sufficient notice to such person or entity of the terms of such Order. But nothing herein shall relieve from liability, nor exempt from punishment by contempt, any person or entity that, having actual notice of the terms of any such Order, shall be found to have violated the same.

**IT IS SO ORDERED**

DATED this 27 day of February, 2019. *10:53 am*

*Nancy L Aile*  
DISTRICT COURT JUDGE

Case No. A-19-787325-B  
Dept. No. 27

**Submitted by:**

GREENBERG TRAURIG, LLP

*Kara B Hendricks*

MARK E. FERRARIO, Bar No. 1625

ferrariom@gtlaw.com

KARA B. HENDRICKS, Bar No. 7743

hendricksk@gtlaw.com

TAMI D. COWDEN, Bar No. 8994

cowdent@gtlaw.com

AARON D. FORD

Attorney General

RICHARD PAILI YIEN, Bar No. 13035

Deputy Attorney General

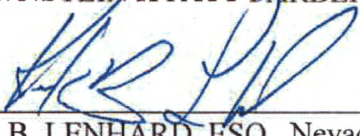
State of Nevada

Business and Taxation Division

ryien@ag.nv.gov

1 **Approved as to form and content by:**

2 BROWNSTEIN HYATT FARBER SCHRECK, LLP

3 

4 KIRK B. LENHARD, ESQ., Nevada Bar No. 1437  
5 [abult@bhfs.com](mailto:abult@bhfs.com)

6 TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800  
7 [tchance@bhfs.com](mailto:tchance@bhfs.com)

8 *Attorneys for Defendant Spirit Commercial Auto Risk  
9 Retention Group, Inc.*

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28