

STATE OF SOUTH DAKOTA

IN CIRCUIT COURT

COUNTY OF HUGHES

SIXTH JUDICIAL CIRCUIT

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

32CIV18-125

Petitioner,

NOTICE OF ENTRY OF
PROTECTIVE ORDER FOR
CONFIDENTIALITY

v.

RELIAMAX SURETY COMPANY,

Respondent.

TO ALL INTERESTED PARTIES AND THEIR RESPECTIVE COUNSEL OF
RECORD:

Please take notice that a Protective Order for Confidentiality, a true copy of which is appended hereto, has been signed by the above-named Court on August 16, 2019 and entered by the Clerk of Courts, Sixth Judicial Circuit, Hughes County, on August 16, 2019.

Dated: August 20, 2019

CADWELL SANFORD DEIBERT
& GARRY LLP

By /s/ SW Sanford

Steven W. Sanford
200 E. 10th Street, Suite 200
Sioux Falls, South Dakota 57104
(605) 336-0828
Email: ssanford@cadlaw.com

Frank A. Marnell
124 South Euclid Avenue, 2nd Floor
Pierre, SD 57501
(605) 773-3563
Email: frank.marnell@state.sd.us

*Attorneys for Liquidator
of ReliaMax Surety Company*

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on August 20, 2019 a true and correct copy of the foregoing was served through Odyssey on those listed below:

Mallori Barnett [Email: mallori.barnett@state.sd.us]
Frank A. Marnell [Email: frank.marnell@state.sd.us]
Division of Insurance
124 South Euclid Avenue, 2nd Floor
Pierre, SD 57501

Additional Attorneys for Petitioner/Liquidator

Joshua Andersen
ReliaMax Insurance Company
2300 E 54th Street North
Sioux Falls, SD 57104
Email: jandersen@reliamax.com
Attorney for Respondent ReliaMax Surety Company

Jeana L. Goosman
Goosmann Law Firm
2101 West 69th Street, Suite 200
Sioux Falls, SD 57108-5621
Email: goosmannj@goosmannlaw.com
Attorneys for Key Corp. Trust – Claimant

Dennis L. Duncan
The Duncan Law Firm, LLP
120 N Main Street
Parker, SD 57053
Email: dduncan@ddlawsd.com

Thomas R. Welk [Email: tjwelk@boycelaw.com]
Jason R. Sutton [Email: jrsutton@boycelaw.com]
Boyce Law Firm, L.L.P.
300 S. Main Avenue
Sioux Falls, SD 57104
Attorneys for Wright-Patt Credit Union, Inc.

CADWELL SANFORD DEIBERT
& GARRY LLP

By /s/ *SW Sanford*

Steven W. Sanford
200 E. 10th Street, Suite 200
Sioux Falls, South Dakota 57104
(605) 336-0828
E-mail: ssanford@cadlaw.com
*Attorneys for Liquidator of ReliaMax
Surety Company*

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LARRY DEITER, DIRECTOR OF)	
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DAKOTA,)	
)	
Petitioner,)	PROTECTIVE ORDER FOR
)	CONFIDENTIALITY
v.)	
)	
RELIAMAX SURETY COMPANY,)	
)	
Respondent.)	

Upon Motion of the Liquidator, and for cause shown;

IT IS HEREBY ORDERED AS FOLLOWS:

1. **Definitions.** The term "document" shall have the full meaning ascribed to it in SDCL 15-6-34 and shall include, without limitation, all original written, recorded or graphic materials and all nonidentical copies thereof. The term "testimony" shall include oral depositions, depositions by written interrogatories, answers to interrogatories and affidavits. The term "party" shall mean any person or entity now or hereafter a plaintiff, defendant, third-party defendant, Claimant, intervenor or joined in this liquidation in any other capacity.

2. **Limitation on Scope.** This Order shall not apply to any document or testimony when introduced or used during trial or public hearing, unless the Court otherwise orders upon motion of a party or nonparty and for cause shown.

3. Designation and Filing of Confidential Documents and Testimony.

(a) Any party or nonparty producing or filing a document or giving testimony (i) constituting, describing or containing trade secrets or other confidential, non-public or proprietary information or (ii) whose disclosure is restricted or protected by state or federal law or regulations may designate all or any part thereof as "confidential." The costs or expenses attributable to such designation shall be borne exclusively by the party or nonparty making it.

(b) The parties and deponents may, within ten days after receiving a deposition transcript, designate pages of the transcript (and exhibits thereto) as confidential. Confidential information within the deposition transcript may be designated by underlining portions of the pages that are confidential and marking the pages with the following legend or other similar wording: "Confidential - subject to protection pursuant to Court Order." Until expiration of the ten-day period, the entire deposition will be treated as subject to protection against disclosure under this Order. If a timely designation is made, the confidential portions and exhibits shall be sealed and filed as described in ¶3 separate from the portions not so designated.

(c) All confidential documents and deposition testimony filed with the Court or the Clerk of Courts shall be sealed. The envelopes containing such material shall be endorsed with the following statement:

CONFIDENTIAL

This envelope contains materials that are subject to a Protective Order of Confidentiality. The envelope shall not be opened nor the contents thereof displayed or revealed except by Order of this Court. Violation thereof may be regarded as contempt of Court.

4. **Disclosure Restrictions.** Except by prior Court Order or with the prior written consent of the party or nonparty designating a document or testimony as confidential, no document or testimony so designated, no information contained therein or any summary thereof shall be disclosed to any person other than:

- (a) The Court, jury or referee hearing a particular claim dispute;
- (b) The Liquidator, Deputy Liquidator and their staff;
- (c) Counsel of record for the parties and their regular partners and employees;
- (d) Experts retained to assist counsel of record in the preparation of this litigation;
- (e) Experts expected by counsel of record to testify as such in this litigation;
- (f) Representatives of any corporate party who, as a part of the regular course of their employment duties, are involved in the administration or supervision of the activities of such party in this action or in connection with the underlying transactions which are the subject matter of this action.
- (g) Other persons scheduled for depositions or designated as trial or hearing witnesses to the extent necessary for their testimony or in preparing to testify; employees of parties or third-party contractors involved solely in one or more aspects of organizing, filing, coding, converting, storing or retrieving data or designing programs for handling data connected with these actions, including performance of such duties in

relation to a computerized litigation support system; and any other person designated by the Court in the interest of justice, upon notice and opportunity for hearing, and upon such terms as the Court may deem proper.

5. Additional Protections for Nonparties.

(a) As to all documents or testimony designated by a nonparty, each person specified in ¶4 shall sign, and if requested by the nonparty deliver to the nonparty, a form containing:

(i) a recital that the signatory has read and understands this

Order;

(ii) a recital that the signatory understands that unauthorized

disclosures of the stamped confidential documents constitute

contempt of court; and

(iii) a statement that the signatory consents to the exercise of

personal jurisdiction by this Court;

(b) Before disclosure of a designated document or testimony or any

summary thereof to any person covered by this subparagraph who is known to be a direct competitor (or an employee of a direct competitor) of the nonparty making the

designation, the nonparty shall be given at least ten days advance notice describing the

name and address of the person to whom disclosure will be made, and identifying with

particularity the documents or testimony or summaries to be disclosed and describing the

purpose of the disclosure. If within ten days after the date of the notice, the nonparty

files a motion objecting to the proposed disclosure, such disclosure shall not be made

unless the Court denies the motion. The Court will deny the motion unless the objecting party shows good cause why the proposed disclosure shall not be permitted.

(c) Any party seeking to introduce at trial any documents or testimony designated by a nonparty under this Order shall obtain the prior consent of the nonparty or give prior written notice to the nonparty and opportunity to be heard by the Court.

6. Use Restrictions.

(a) Any document or testimony designated as confidential shall be used solely for the purposes of preparation, prosecution or defense of this action and not for any other purpose whatsoever. No person receiving a document or testimony designated as confidential or possessing any information or summary concerning the same may disclose it or its contents to any person other than those described in ¶4.

(b) If in any other proceeding, any document, testimony or other information designated under this Order is subpoenaed or ordered to be produced, the party to whom the subpoena or order is directed shall promptly notify the designating party or nonparty of the pendency of such subpoena or order.

7. Disclosure Rights of Designating Party. Any party or nonparty producing or giving confidential documents or testimony is free to release such material to persons other than those designated in ¶4 without waiving confidentiality as to this action. This Order shall not preclude the right for cause shown and upon prior notice, to obtain further Order permitting additional disclosure.

8. Objections. Any party may object to treatment of a document or testimony as confidential and may apply to the Court for a ruling consistent with its objection upon ten

(10) days written notice. Unless and until this Court enters an order, if any, changing the designation of the document or testimony, it shall be protected by this Order. Sanctions under SDCL 15-6-37 may be imposed for designation under this Order or objection thereto if done without reasonable cause.

9. Return or Destruction. This Order shall continue to apply after this liquidation proceeding is ended or until otherwise ordered by this Court. At the conclusion of this litigation and all appeals, filed documents and testimony designated as confidential shall be returned to the party or nonparty furnishing the same. All unfiled copies, summaries, compilations or abstracts thereof possessed by any person or party designated in ¶4 shall be either destroyed or returned to the party or nonparty furnishing the same. If so requested by the designating party or nonparty, counsel of record receiving such documents, testimony or other information shall give a written certification of compliance with the requirements of this paragraph.

10. Other Orders. Nothing in this Order shall prevent a party or nonparty from seeking such further provisions regarding confidentiality as may become necessary.

BY THE COURT:

Signed: 8/16/2019 7:29:50 AM

By Bobbi J Rank
Circuit Court Judge

Attest:
Deuter-Cross, TaraJo
Clerk/Deputy

