Not Reported in A.3d, 2012 WL 1314181 (N.J.Super.A.D.)
(Cite as: 2012 WL 1314181 (N.J.Super.A.D.))

Superior Court of New Jersey,
Appellate Division.
In the Matter of the LIQUIDATION OF INTEGRITY INSURANCE COMPANY/The Defendant Class/Robert A. Keasbey Company.

Argued Dec. 20, 2011.
Decided April 18, 2012.

On appeal from Superior Court of New Jersey, Chancery Division, Bergen County, Docket No. C–0063–03.
Richard Shore (Gilbert L.L.P.) of the D.C. Bar, admitted pro hac vice, argued the cause for appellant The Defendant Class/ Robert A. Keasbey Company (The Killian Firm, P.C., and Mr. Shore, attorneys; Eugene Killian, Jr. and Ryan Milun, on the brief).

David M. Freeman argued the cause for respondent Thomas B. Considine, The Commissioner of Banking and Insurance of the State of New Jersey in his capacity as Liquidator of Integrity Insurance Company (Mazie Slater Katz & Freeman, L.L.C., attorneys; Mr. Freeman, of counsel; Mr. Freeman and John D. Gagnon, on the brief).

Before Judges PAYNE and SIMONELLI.

PER CURIAM.

***1** This appeal, one of a series arising as the result of the insolvency and subsequent liquidation of Integrity Insurance Company, raises the issue of whether Integrity's Liquidator properly exercised his discretion, pursuant to *N.J.S.A.* 17:30C–28b, in denying recovery to third-party claimants who had asserted contingent claims against Integrity's estate arising from alleged asbestos-related injuries. Concluding, as did the Special Master and the liquidation court, which both considered the issue, that there was no abuse of discretion, we affirm.

I.

We first provide some background with respect to Integrity in order to place the present issue in perspective. Prior to its insolvency, Integrity, a company domiciled in New Jersey, was authorized to write policies of property and casualty insurance in all fifty states. In an order of liquidation, dated March 27, 1987, Integrity was declared insolvent and placed in liquidation, with the New Jersey Commissioner of Insurance appointed as Liquidator pursuant to *N.J.S.A.* 17:30C–9. Although all claims against Integrity's estate were initially to have been filed by a claim bar date of March 25, 1988, closure of the estate was complicated by the nature of the risks covered by Integrity's policies, many of which did not result in manifested injuries until many years after initial exposure to the injury-causing substance. In order to close the estate, the Liquidator proposed a Final Dividend Plan, dated June 17, 1996, that required the Deputy Liquidator to estimate and allow the present value of all contingent claims, including claims for incurred but not reported (IBNR) losses, collect from reinsurers the present value of any reinsurance due on such claims, arrive at a final determination of Integrity's assets and liabilities, calculate the percentage to be paid on policyholder claims, and pay a final dividend on all claims accorded fourth priority or higher status. *In re Liquidation of Integrity Ins. Co.*, 165 *N.J.* 75, 80 (2000).

In the course of approving a final plan for distribution of Integrity's assets, the liquidation court overseeing the matter considered whether contingent claims should be recognized as proposed by the Liquidator in the Final Dividend Plan. The court concluded that they should, and therefore approved the plan, thereby obligating Integrity's reinsurers to pay an estimated $876 million on contingent claims and greatly enhancing the assets in Integrity's es-

tate. *In re Liquidation of Integrity Ins. Co.*, 299 *N.J.Super.* 677, 680, 690–92 (Ch. Div.1996).

However, on appeal to the Supreme Court, a three-person majority reversed. [FN1] *In re Liquidation of Integrity Ins. Co.*, 193 *N .J.* 86 (2007). In doing so, the Court focused on the proper construction of *N.J.S.A.* 17:30C–28a(1), which provides in relevant part:

> FN1. Five justices considered the matter. Justice Long, joined by Justice Albin, dissented.

> a. No contingent claim shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to [*N.J.S.A.* 17:30C–30a], except that such claims shall be considered, if properly presented, and may be allowed to share where
>
> ***2** (1) Such claim becomes absolute against the insurer on or before the last day fixed for filing of proofs of claim against the assets of such insurer[.]

Holding this statutory language to be "unambiguous," *id.* at 95, the Court determined that because IBNR claims would not be "absolute" as of the claim bar date, they could not participate in Integrity's Fourth Amended Final Dividend Plan. The Court stated: "At the outset, the Legislature determined that *'[n]o contingent claim* shall share in a distribution of the assets of an insurer which has been adjudicated to be insolvent[.]' *N.J.S.A.* 17:30C–28 (a) (emphasis supplied). Thus, the overarching legislative intent plainly is to bar *any* contingent claim." *Ibid.* (alterations in original).

The Court noted in a footnote that, in contrast to *N.J.S.A.* 17:30C–28a, governing first-party claims, subsection b of the statute, governing third-party claims, permitted a claim to be filed in a liquidation proceeding, "regardless of the fact that such claim may be contingent," and such claim "may be allowed" upon satisfaction of certain conditions. The contrast between the two provisions, the Court held, provided further insight into the Legislature's intent with respect to *N.J.S.A.* 17:30C–28a. *Id.* at 95 n. 2.

In barring first-party contingent claims, the Court stated:

> Because the process by which the Liquidator proposes to estimate IBNR claims of necessity entails looking outside of each claim to other similar claims in respect of their very existence, nature, extent and cost, IBNR claims fail to satisfy that most basic of requirements in order to be "absolute": that in order for a claim to participate in the liquidation of an insolvent insurer's estate, the claim, in each of its fundamental respects, must stand on its own, and not by reference to any other claim.

[*Id.* at 96 (footnote omitted).]

Although the Court invited the Legislature to amend *N.J.S.A.* 17:30C–28a to recognize first-party contingent claims so as to reduce administrative costs and shorten the period for liquidation, *id.* at 97, the Legislature has declined to do so.

Following the Court's decision, Integrity's Deputy Liquidator promulgated an Amended Liquidation Closing Plan, dated June 12, 2008, that did not distinguish between first- and third-party contingent claims, but instead, provided that "[n]o Claim will be considered for allowance unless it became Absolute on or before June 30, 2009" and further provided that "all supporting claim documentation must be filed by September 30, 2008, for claims that became absolute on or before June 30, 2009." An "Absolute Claim" was defined as: "All or that part of any covered Claim for which the liability and value has been fixed by actual payment by the Claimant or by judgment of a court of law, including claim resolution procedures approved by a federal bankruptcy court, and has not been previously allowed by the Liquidator[.]" The Amended Plan was approved by the liquidation court in an or-

der dated June 20, 2008. The record does not reflect any objection by the claimants in this matter to the Amended Plan or an appeal from the order confirming it.

*3 The dispute on appeal arises as the result of the issuance of a policy of excess liability insurance by Integrity to Robert A. Keasbey Company for the period from March 16, 1984 to March 16, 1985. At the time, Keasbey was a contracting company, the business of which included the installation, repair, and removal of asbestos insulation in the New York metropolitan area. The company was dissolved on March 28, 2001 by the New York Secretary of State as the result of its failure to pay franchise taxes.

From 1970 to 1989, Keasbey purchased primary level comprehensive general liability insurance policies from Continental Casualty Company and American Casualty Company of Reading, PA (collectively, CNA), as well as excess liability policies from it for the period 1971 to 1978. Coverage claims arising from exposure to the asbestos utilized by Keasbey were filed against CNA. In a series of actions following the dissolution of Keasbey that were instituted in the courts of New York against individual claimants and certain of Keasbey's other insurers, CNA sought a declaration that it owed no additional coverage to Keasbey and that it was not obligated to indemnify any of the Keasbey claimants' claims. During the course of that litigation, CNA requested that all of the Keasbey claimants be treated as a defendant class, and on January 16, 2004, the class was certified. It is that class, comprising over 30,000 claimants, that presently seeks recovery from the estate of Integrity. As a consequence, claimants are known in this litigation as "the defendant class."

The insurance issued by Integrity to Keasbey covered asbestos-related bodily injury claims in excess of $500,000 in primary coverage issued by CNA. According to the defendant class, the policy covered products/completed operations claims up to an aggregate limit of $5,000,000 and "non-products" claims arising from the installation, repair, removal, and handling of asbestos-containing materials up to per-occurrence limits of $5,000,000. The defendant class has asserted a total contingent claim of $35,000,000, consisting of $5,000,000 in contingent products claims and six per-occurrence contingent non-products claims of $5,000,000 each. Experts retained by the class have valued claims of individual members of the class at an average of $243,400 each.

The insuring agreement of Integrity's policy obligates it, subject to the terms and conditions of the policy, to pay on behalf of the insured "all sums, as more fully defined by the term **ultimate net loss,** for which the **insured** shall become obligated to pay by reason of liability." "Ultimate net loss" is defined as:

> the amount of the principal sum, award or verdict, actually paid or payable in cash in the settlement or satisfaction of claims for which the **insured** is liable, either by adjudication or compromise with the written consent of the company, after making proper deduction for all recoveries and salvages.

The policy's "Conditions" also state:

*4 7. PAYMENT OF ULTIMATE NET LOSS

> Coverage under this policy shall not apply unless and until the **insured,** or the **insured's** underlying insurer, shall be obligated to pay the amount of the **underlying limit** or **retained limit** on account of **personal injury, property damage or advertising liability.** When the amount of **ultimate net loss** has finally been determined, the Company shall promptly pay on behalf of the **insured** the amount of **ultimate net loss** falling within the terms of the policy.

In addition, the policy contains, as Endorsement No. 3, a "no action" provision that stated:

> No action shall lie against the Company unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the Insured's ob-

> ligation to pay shall have been finally determined either by judgment against the Insured or by written agreement of the Insured, the claimant and the Company. Any person or organization o[r] the legal representative thereof who has secured such judgment or written agreement shall thereafter b[e] entitled to recover under this policy to the exten[t] of the insurance afforded by this policy. No person or organization shall have any right under this policy to join the Company as a party to any action against the Insured to determine the Insured's liability, nor shall the Company be impleaded by the Insured or his legal representative....

On January 28, 2005, the defendant class submitted a proof of claim to the Liquidator seeking recovery for its contingent claim of asbestos-related injuries. On September 29, 2009, one day before the final deadline, the class submitted a final proof of claim. On December 22, 2009, the Deputy Liquidator issued a Notice of Determination (NOD) disallowing the claim on the following bases:

> Insufficient supporting documentation.
>
> Failure to document the exhaustion of limits of coverage of the underlying policy to the Integrity policy.
>
> Allowance of contingent claims is prohibited by New Jersey statute.
>
> The Defendant Class has submitted a claim for its pending asbestos bodily injury claims with an estimated claim settlement of $243,000 per claimant. The Defendant Class claims a total of $35 million against the Integrity policy which is comprised of a $5 million products aggregate limit in addition to $30 million for their non-products occurrence claims. This $30 million is attributed to six different locations ($5 million for each location), which were among the most significant in terms of the number of workers employed. No paid loss support was provided nor any evidence that the Defendant Class claims had been adjudicated or that the insurer's payment obligation was determined by a judgment. Referring to the Integrity policy specifically Endorsement # 3, "No action shall lie against the Company, unless, as a condition precedent thereto, there shall have been full compliance with all of the terms of this policy, nor until the amount of the Insurer's obligation to pay shall have been finally determined either by judgment against the Insured or by written agreement of the Insured, the claimant and the Company." Due to the fact that none of the Defendant Class claims were adjudicated, and no judgments were entered against the insured or underlying carriers, no absolute claim values were established as of the 6/30/09 bar date. Therefore, Integrity has no coverage obligation and must disallow the claim in its entirety.

***5** The defendant class objected to the denial of its claim on February 18, 2010. In response, the Deputy Liquidator declined to amend the NOD, and referred the dispute for resolution by the Special Master. Following extensive briefing and hearings in the matter, the Special Master upheld the Deputy Liquidator's decision in a written opinion dated March 7, 2011. The Special Master determined that the claims of the defendant class were contingent in nature, and that *N.J.S.A.* 17:30C–28b granted the Liquidator with "the discretion to allow or disallow third-party contingent claims." The Special Master found additionally that the Liquidator's decision to allow only claims that were absolute by the date set in the Amended Liquidation Closing Plan was not arbitrary and capricious. He observed:

> It is clear that asbestos litigation is a unique breed of litigation. Integrity's liquidation has been ongoing for 24 years with approximately 26,000 claims received. There are insufficient assets to pay all of Integrity's creditors in full. The Liquidator's determination that it would be inequitable to allow contingent claims filed by third-parties which have no direct relationship with Integrity, when Integrity must deny the same type of claims filed by Integrity insureds, is in no

way arbitrary, capricious or unreasonable.... I find that there is a rational basis on which the Liquidator based his application of the facts surrounding this matter with the plain meaning of the statute.

Addressing the "no action" clause found in Endorsement No. 3 of the Integrity policy, the Special Master held: "I do not find that this clause applies in this situation where Integrity is insolvent."

In an order filed on April 15, 2011, the court declined to set aside the Special Master's decision, and it affirmed the Special Master's finding that the Liquidator's disallowance of the contingent claim of the defendant class was not arbitrary, capricious or unreasonable. This appeal followed.

II.

N.J.S.A. 17:30C–28b provides:

b. Where an insurer has been so adjudicated to be insolvent, any person who has a cause of action against an insured of such insurer, shall have the right to file a claim in the liquidation proceeding, regardless of the fact that such claim may be contingent, and such claim may be allowed

(1) If it may be reasonably inferred from the proof presented upon such claim that such person would be able to obtain a judgment upon such cause of action against such insured; and

(2) If such person shall furnish suitable proof, unless the court, for good cause shown, shall otherwise direct, that no further valid claims against such insurer arising out of his cause of action, other than those already presented, can be made; and

(3) If the total liability of such insurer to all claimants arising out of the same act of its insured shall be no greater than its maximum liability would be, were it not in liquidation.

***6** On appeal, the defendant class asserts that *N.J.S.A.* 17:30C–28b provides that "contingent claims 'may' rather than 'shall' be allowed because the three statutory conditions are necessary but not sufficient [for recovery]—as with any claim against Integrity, the claim also must fall within the coverage of the policy at issue (as the claim of the Defendant Class does here)." We disagree with the position that the claim of the class falls within the coverage of Integrity's policy. The insuring clause of that policy, as we previously noted, limited the agreement to pay on behalf of the insured to "all sums, as more fully defined by the term **ultimate net loss,** for which the **insured** shall become obligated to pay by reason of liability," and its definition of ultimate net loss limited that term to the amounts "for which the **insured** is liable, either by adjudication or compromise with the written consent of the company." Since the contingent claim of the defendant class does not meet the policy's definition of ultimate net loss, the class failed to demonstrate that its claim was covered under Integrity's policy.

In essence, that was what the Deputy Liquidator held when invoking the "no action" clause of Endorsement No. 3 to the policy. Although the Special Master determined that a "no action" clause is ineffective in a liquidation proceeding, a decision that the Liquidator did not challenge on appeal, the Special Master did not address the conditions for recovery contained in that clause, which mirror those of the policy itself. As stated, those conditions preclude the coverage that the defendant class invokes. Accordingly, its claim was properly disallowed.

Moreover, we are in agreement with the liquidation court and the Special Master that the Legislature, in enacting *N.J.S.A.* 17:30C–28b, permitted the Liquidator to exercise his discretion in determining whether to allow or disallow contingent third-party claims in an insurance liquidation proceeding, and that the Liquidator did not abuse that discretion in this case. We review the issue, which turns on statutory construction, de novo. *In re Liquidation of Integrity Ins. Co., supra,* 193 *N.J.* at 93–94.

In analyzing the liquidation statute, as any oth-

er, " ' "words and phrases shall be read and construed with their context, and shall, unless inconsistent with the manifest intent of the legislature or unless another or different meaning is expressly indicated, be given their generally accepted meaning, according to the approved usage of the language." ' " *Id.* at 94 (quoting *Soto v. Scaringelli,* 189 *N.J.* 558, 570–71 (2007) (quoting *N.J.S.A.* 1:1–1)). The critical phrase in *N.J.S.A.* 17:30C–28b is "may be allowed." The "[u]se of the word 'may' in a statute generally signifies that the power conferred is permissive rather than mandatory." *Advance Elec. Co., Inc. v. Montgomery Twp. Bd. of Educ.,* 351 *N.J.Super.* 160, 172 (App.Div.2002) (citing *Aponte–Correa v. Allstate Ins. Co.,* 162 *N.J.* 318, 325 (2000)), *certif. denied,* 174 *N.J.* 364 (2002). This principle is all the more applicable when the Legislature includes the terms "may" and "shall" within the same provision.

***7** Where a statutory provision contains both the words "may" and "shall," it is presumed that the lawmaker intended to distinguish between them, "shall" being construed as mandatory and "may" as permissive.

[*Aponte–Correa, supra,* 162 *N.J.* at 325 (citing *Bell v. W. Emp'rs Ins. Co.,* 173 *N.J.Super.* 60, 65 (App.Div.1980); *Sutherland Statutory Construction,* § 57.11 (1992)).]

The statute at issue contains both "shall" and "may," providing that a third party "*shall* have the right to file a claim," which "*may* be allowed." The defendant class offers no evidence to suggest that the Legislature intended these two words to be identically interpreted to mandate the payment of benefits if the three statutory conditions were met and the claim met policy requirements. "The Legislature is presumed to be familiar with judicial construction of statutes." *State v. Burford,* 163 *N.J.* 16, 20 (2000); *see also McNary v. Haitian Refugee Ctr., Inc.,* 498 *U.S.* 479, 496, 111 *S.Ct.* 888, 898, 112 *L. Ed.*2d 1005, 1020 (1991) ("It is presumable that Congress legislates with knowledge of our basic rules of statutory construction"). We have been offered no evidence that would overcome the presumption here.

We derive further support for the proposition that *N.J.S.A.* 17:30C–28b permits the Liquidator to exercise his discretion as to whether to allow contingent third-party claims from the fact that the Legislature chose not to adopt the Model Insurers Supervision, Rehabilitation and Liquidation Act, promulgated by the National Association of Insurance Commissioners (NAIC), which provides, in Section 38, "The claim of a third party which is contingent only on his first obtaining a judgment against the insured shall be considered and allowed as if there were no such contingency." Rather, the Legislature adopted The Uniform Insurers Liquidation Act (UILA), approved by the National Conference of Commissioners on Uniform State Laws and the American Bar Association, which does not contain a provision regarding third-party contingent claims, incorporating the model act's provisions within the New Jersey Rehabilitation and Liquidation Act. *See* 9B *Uniform Laws Annotated—Miscellaneous Acts* 284 (1966); *N.J.S.A.* 17:30C–23 (specifying those statutory sections that constitute the UILA). Addressing contingent claims, the Legislature declined to follow the language set forth in the NAIC's model act, and instead adopted the permissive language that is the focus of this appeal. While the statute's legislative history casts no light on the Legislature's reasons for adopting the language that it did, the fact that an alternative had been widely promulgated through the NAIC suggests that New Jersey's Legislature consciously adopted a divergent course in granting the Liquidator the discretion to disallow contingent third-party claims, as it required him to do in connection with first-party claims.

***8** Having determined that the Liquidator had the discretion to allow or disallow third-party contingent claims, we next address whether he properly exercised his discretion in determining that such claims should be disallowed. We note in this regard that the Deputy Liquidator's decision to disallow third-party contingent claims preceded the issuance

of the NOD in this case, having been incorporated in the Amended Closing Plan issued following the Supreme Court's 2007 decision in *In re Liquidation of Integrity Ins. Co., supra,* through the requirement that a claim be "Absolute" prior to the Final Claims Filing Date in order to be considered for payment.

At that time, the Liquidator could have adopted a different standard for contingent third-party claims, as the Court recognized in note 2 to its opinion. *In re Liquidation of Integrity Ins. Co., supra,* 193 *N.J.* at 95 n. 2. In an exercise of his discretion, the Liquidator chose not to do so. As we noted previously, the defendant class did not object to this requirement at the time that the Amended Liquidation Closing Plan was promulgated. The Liquidator's rationale for allowing only absolute claims, set forth in the October 28, 2010 certification submitted to the Special Master, took into account the Supreme Court's decision and the length of time that the insolvent estate had remained open, and was based on the equitable principle that first- and third-party contingent claims should be treated alike. As stated by the Deputy Liquidator: "Clearly, it would be inequitable to allow contingent claims filed by third-parties which have no direct relationship with Integrity when Integrity must deny the same type of claims filed by Integrity insureds."

In reaching that decision, the Liquidator was fulfilling his mandate to carry out the UILA—an Act designed to provide for "a uniform, orderly and equitable method of making and processing claims against defunct insurers and provide [ ] for a fair procedure to distribute the assets of defunct insurers." *Ballesteros v. N.J. Prop. Liab. Ins. Gar. Ass'n,* 530 *F.Supp.* 1367, 1370 (D.N .J.), *aff'd* 696 *F.*2d 980 (3d Cir.1982); *see also In re Liquidation of Integrity Ins. Co., supra,* 165 *N.J.* at 83 ("Under the [UILA], in crafting a [Final Dividend Plan], the Commissioner is required to weigh all interests and to perform a fair and efficient liquidation of the insolvent company."); *In re Liquidation of Integrity Ins. Co.,* 231 *N.J.Super.* 152, 157 (Ch. Div.1988) (noting that "the statutory function of the Commissioner and/or the deputy liquidator is to weigh all the interests and to perform an efficient and fair liquidation of Integrity.").

We accord the Liquidator's exercise of his statutorily-conferred discretion in this matter a strong presumption of reasonableness. *IFA Ins. Co. v. N.J. Dept. of Ins.,* 195 *N.J.Super.* 200, 207 (App.Div.) (citing *In re Application of Ins. Rating Bd.,* 63 *N.J.* 413 (1973); *In re Comm'r of Banking v. Parkwood Co.,* 98 *N.J.Super.* 263 (App.Div.1967)), *certif. denied,* 99 *N.J.* 218 (1984). And we will disturb a decision reached in that fashion only if it manifests an abuse of discretion. *Fortunato v. N.J. Life Ins. Co.,* 254 *N.J.Super.* 420, 425–26 (App.Div.) (applying an abuse of discretion standard in upholding a determination by the Commissioner that the defendant insurer's continuance in business would be "hazardous" and directing that the insurer be rehabilitated), *certif. denied,* 126 *N.J.* 386 (1991).

***9** Here, we find no such abuse, and we reject the argument of the defendant class that the Liquidator's decision to allow only absolute claims failed to promote the goal of equity. In that regard, the defendant class argues that the Liquidator's decision was arbitrary because it was contrary to the language of *N.J.S.A.* 17:30C–28b, which the class claims mandates allowance of its contingent claim. However, we have rejected the premise of that argument by interpreting the governing statute, as well as governing policy language, in a different fashion. The class argues additionally that disallowance of its contingent claim pursuant to *N.J.S.A.* 17:30C–28b precludes any recovery by it, as the result of the insolvency of Keasbey. However, the circumstance of the class is no different from that of a holder of a contingent claim against an insolvent insured under *N.J.S.A.* 17:30C–28a that is similarly disallowed. Further, the argument ignores the likelihood of recovery, if policy provisions permit, by either type of claimant from the insured's remaining solvent carriers.

We accept the Liquidator's representation that, as of December 31, 2010, the estate had already ap-

proved claims with a total value of $1.217 billion, whereas the was only $914 million available for distribution, leaving a deficit of approximately $303 million. We see no reasoned basis for further increasing that deficit by $35 million through recognition of a claim whose value is merely a matter of estimation, thereby reducing the recoveries of claimants whose claims have become absolute, or for preferring the contingent claims of this class over the first-party contingent claims that the Court ruled were legally required to be denied pursuant to *N.J.S.A* . 17:30C–28a.

The risks against which Integrity principally offered its insurance, including injury from exposure to asbestos, are not quick to manifest, but instead, may remain unrecognized for substantial periods of time, thereby rendering uncertain the ultimate liability that will accrue to an insured. That fact has recognized consequences in cases of insurance insolvency. *See, e.g.,* Mary Cannon Veed, *Cutting the Gordian Knot: Long–Tail Claims in Insurance Insolvencies,* 34 *Tort & Ins. L.J.* 167 (1998). In the present case, the effect has been to hold open the liquidation of Integrity for the period from 1987 to 2009 to permit the further accrual and resolution of claims—an extraordinary length of time. While some, and indeed many such claims may remain unknown or unresolved, we do not find it unreasonable for the Liquidator to have made a determination to maximize recovery for known claimants with absolute claims, rather than to delay payments and to dissipate the estate's assets through the accrual of further administrative costs, in order to provide a lesser recovery to a greater number of claimants at some time in the future. Nor do we find it arbitrary or capricious for the Liquidator, in light of the Court's construction of *N.J.S.A.* 17:30C–28a, to have made a blanket determination to disallow contingent claims, whether asserted by first- or third-parties. As a consequence, the order of the liquidation court, accepting the Liquidator's reasoning and decision, is affirmed.

***10** As the result of the foregoing, we decline to address arguments concerning the sufficiency of the proofs submitted by the defendant class.

Affirmed.

N.J.Super.A.D.,2012.
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