

STATE OF RHODE ISLAND
KENT, SC.

KENT SUPERIOR COURT
FILED

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SUPERIOR COURT

NANCY STRIULI, CLERK

Girard Bouchard, in his capacity as
President of the Board of Directors
of the Central Coventry Fire District
Plaintiff

vs.

Central Coventry Fire District
Defendant

K.B. No. 12-1150

ORDER OF LIQUIDATION

This matter came before the Court on February 12, 2014 for bench decision on whether the liquidation of the District under Rhode Island law should be authorized as well as the extent of this Court's authority to permit or not permit future operations by the District if liquidation was ordered by the Court. After considering the pleadings, objections, testimony and arguments of all interested parties, the Court makes the findings detailed in the Court's February 12, 2014 bench decision, attached hereto as Exhibit 1 and incorporated herein as if fully stated herein, for the reasons set forth therein.

Accordingly, it is hereby

ORDERED, ADJUDGED AND DECREED:

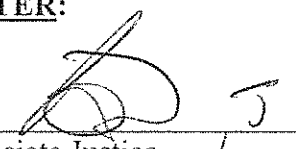
1. That Richard Land is appointed Liquidating Receiver of the District.
2. That the Liquidating Receiver shall file with the Court a plan of liquidation for the District on or before May 16, 2014.
3. That this Court's May 21, 2013 Order delegating specific powers to the Board of Directors is hereby vacated with respect to the delegation of such powers. The remainder of the May 21, 2013 Order shall remain in full force and effect.

4. That the Liquidating Receiver shall provide notice of the Court's Order of Liquidation by February 13, 2014 to;

- a. Town of Coventry,
- b. Town of Coventry Emergency Management,
- c. Governor of the State of Rhode Island,
- d. Rhode Island Emergency Management Agency,
- e. Rhode Island Fire Marshall,
- f. Rhode Island Department of Health,
- g. President of the Rhode Island Senate, and
- h. Speaker of the House of Representatives.

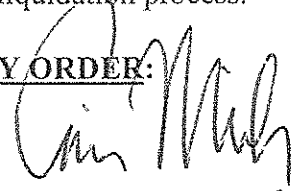
5. That the Board will remain constituted and is charged with representing the interests of the District and its constituents during the liquidation process.

ENTER:


Associate Justice

Dated: 2/24/14

BY ORDER:


Clerk, Superior Court Deputy

2/24/14

Exhibit 1

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
KENT, SC. SUPERIOR COURT

GIRARD BOUCHARD, in his capacity)
as President of the Board of)
Directors of the Central)
Coventry Fire District)

VS.

CASE NO: KB-2012-1150

CENTRAL COVENTRY FIRE DISTRICT

HEARD BEFORE

THE HONORABLE BRIAN P. STERN

ON FEBRUARY 12, 2014

APPEARANCES:

RICHARD LAND, ESQUIRE.....SPECIAL MASTER
DAVID M. D'AGOSTINO, ESQUIRE.....FOR THE BOARD
NICHOLAS GORHAM, ESQUIRE.....FOR THE BOARD
ELIZABETH WIENS, ESQUIRE.....FOR THE UNION
FREDERICK TOBIN, ESQUIRE.....FOR THE TOWN
MICHAEL ROBINSON, ESQUIRE.....FOR M.E.R.S.

GINA GIANFRANCESCO GOMES
COURT REPORTER

C E R T I F I C A T I O N

I, Gina Gianfrancesco Gomes, hereby certify that the succeeding pages 1 through 31, inclusive, are a true and accurate transcript of my stenographic notes.



GINA GIANFRANCESCO GOMES
COURT REPORTER

WEDNESDAY, FEBRUARY 12, 2014

MORNING SESSION

THE COURT: Madam clerk, if you would please call the case.

THE CLERK: The matter before the Court is KB-2012-1150, Girard Bouchard vs. Central Coventry Fire District. This on for a decision and also a motion. Would counsel please identify themselves for the record.

MR. LAND: Good afternoon, your Honor. Richard Land, Special Master for the Central Coventry Fire District.

MR. D'AGOSTINO: David M. D'Agostino, attorney for the Board of Directors of the Central Coventry Fire District.

MR. GORMAN: Nicholas Gorham, attorney for the Board of Directors.

MS. WIENS: Elizabeth Wiens for the firefighters.

MR. TOBIN: Frederick Tobin for the Town of Coventry.

MR. ROBINSON: Mike Robinson, counsel for the Municipal Employee's Retirement System.

THE COURT: Thank you, counsel. The last time we had session on this case the Court had invited parties to file memos or briefs on the issue of next steps liquidation reorganization. I'm not going to go through

1 the entire order at this point. The Court did receive
2 papers from the union, from the Municipal Employee
3 Retirement System, from the Board of Directors, and from
4 the Special Master. The Court has reviewed those papers
5 but would any of the parties like to be heard at this
6 time?

7 Okay. Thank you. The Court is prepared to rule on
8 the issue at this point. The ruling is to a certain
9 extent extensive as we're about a year and a half into
10 this at this point.

11 The decision this Court is required to make today is
12 very significant and important to the people who live,
13 work, and visit the Central Coventry Fire District. This
14 decision is important to the other fire districts in the
15 Town of Coventry that the fire districts provide mutual
16 aid, and this decision is important to the entire state
17 as this fire district is an integral part of the State's
18 Emergency Management Plan. The decision is also
19 important to the employees of the fire district and their
20 families as well as the other people and businesses the
21 fire district has made commitments to over the years.
22 The decision of this Court may directly affect the time
23 it takes for an ambulance to get to your home, for a fire
24 truck to get to your house. This is a very significant
25 decision that the Court takes extremely seriously and has

1 wrestled with. In some small way the snow last Wednesday
2 that resulted in the cancelling of all court calenders
3 throughout the state and delaying this decision gave this
4 Court the ability to further contemplate its decision.

5 On January 29, 2014, this Court directed any parties
6 who wished to file a written position regarding the
7 liquidation of the Central Coventry Fire District's
8 assets to do so with the Superior Court clerk by February
9 3, 2014. Having received and considered the position
10 statements of the firefighters' union, the Board of
11 Directors, the Rhode Island Municipal Employee Retirement
12 System, and the Special Master, this Court hereby renders
13 the following decision:

14 Background: The Central Coventry Fire District was
15 originally created by legislative charter by our General
16 Assembly many decades ago. The voters of the Central
17 Coventry Fire District were given the authority to create
18 a fire district to provide fire protection, emergency
19 medical services, and other services to the district's
20 residents. The charter of the fire district was amended
21 over the years, but significant amendments were made in
22 2006 by the General Assembly. These amendments allowed
23 the voters of the Central Coventry Fire District and
24 three other fire districts in the Town of Coventry to
25 merge. This merger required the approval of the voters

1 of all the districts, including the current Central
2 Coventry Fire District. This merger was approved by the
3 voters, which led to the current configuration, board,
4 and structure of the fire district.

5 Importantly, while the fire district provides
6 valuable services to the Town of Coventry it is not
7 controlled in any way by the Town. The Central Coventry
8 Fire District has its own annual taxpayer meeting at
9 which a tax levy is authorized to fund the district for
10 the fiscal year. The voting taxpayers in attendance also
11 vote for their representatives on the Board of Directors.
12 The voting taxpayers, through the dually elected Board of
13 Directors retained a chief of the fire district and are
14 responsible for all aspects of the district's operations.

15 The legislative history does not provide much
16 guidance as to the reasons for the merger of the four
17 fire districts into the surviving Central Coventry Fire
18 District, but based on anecdotal evidence it appears that
19 there were numerous issues having at that time seven
20 independent fire districts within the Town of Coventry
21 each with its own independent taxing authority, command
22 structure, and employees, some paid and some volunteer.
23 It seems evident that increased effectiveness and
24 efficiency along with cost savings was a driving force
25 behind the decision that in its early iterations would

1 have combined all seven fire districts into one fire
2 district for the Town of Coventry. Certainly the state
3 legislature did not take this action in a vacuum. As
4 mentioned earlier, this merger also required a vote of
5 the taxpayers in each district.

6 The difficulties at the source of the present
7 special mastership emerged and came to a head during the
8 Central Coventry Fire District's October 1, 2012,
9 meeting. At this meeting, the board proposed a budget
10 to the taxpayers for the upcoming fiscal year. After
11 much public comment and debate, including requests for
12 financial information, which was not provided, a motion
13 was made from the floor to table the budget and recess
14 the meeting for a period of sixty days to allow the board
15 time to prepare some basic information so the voters
16 could make a determination about whether or not to vote
17 for or against the proposed levy/budget. The motion was
18 seconded from the floor and the motion was passed by the
19 taxpayers in attendance. Because this motion was passed,
20 the board was unable to levy taxes for the upcoming
21 fiscal year. This action, a short delay in the
22 authorization of tax levies, should have been able to be
23 absorbed by a district like the Central Coventry Fire
24 District as the board would have had a contingency plan
25 in place, including a rainy day fund, to protect against

1 the contingency that a budget would not pass. This did
2 not happen. Although the voters at the annual meeting
3 were asking for information, no one outside of that
4 current Board of Directors at that time had knowledge
5 that this small hole in the dike would cause the entire
6 dam to rupture.

7 The board then voted to file an application with the
8 Superior Court on October 16, 2012, to place the fire
9 district into receivership. The board represented to the
10 Court that:

11 1. There was less than \$1,000 cash in the bank.

12 2. That the employees had not been paid in more
13 than three weeks.

14 3. That Centerville Bank, one of the fire
15 district's main creditors, had closed their credit line
16 and,

17 4. That the district's debts were far in excess of
18 its assets.

19 Based on these representations, this Court appointed
20 Richard Land as temporary Special Master and subsequently
21 on November 13, 2012, named Mr. Land permanent Special
22 Master. The Court authorized the Special Master to take
23 possession and charge of all assets, effects, property,
24 and business of the fire district. This Court also
25 ordered a stay to prevent new lawsuits and the

1 continuation of existing lawsuits and collection
2 activities brought against the fire district by creditors
3 and others.

4 Over the next two months, the Special Master and his
5 staff undertook to reconstruct the fire district's
6 financial records, which were in disarray at the time the
7 district filed its petition for receivership. During
8 this process, the Special Master unveiled serious
9 discrepancies between the fire taxes that were
10 purportedly owed to the fire district and what the
11 district actually collected. These discrepancies
12 resulted from the fire district's failure to pursue and
13 collect unpaid taxes as well as a myriad of errors in the
14 fire tax bills that the fire district issued. The most
15 egregious tax bill error was an \$800,000 mistake
16 contained in a tax bill issued to a large commercial
17 taxpayer, a mistake that represented more than fifteen
18 percent of the annual budget.

19 The Special Master discovered that the fire district
20 had spent the entire tax levy for the 2000-2011 fiscal
21 year, more than \$5.2 million, on operating and capital
22 expenses even though there was a shortfall of more than
23 \$800,000 in receipts. The Special Master further
24 discovered that the board had never investigated the
25 reason for this massive shortfall in tax receipts.

1 Instead, that board buried its head in the sand, perhaps
2 hoping that the error would go away if they ignored it,
3 but in effect doubling down on the magnitude of their
4 mistake by making the same revenue assumption for the
5 following fiscal year. The board sent out the exact same
6 tax bills for 2011-2012 as it did the previous year
7 resulting in a structural deficit of more than \$1.6
8 million by the end of fiscal year 2011-12. There is no
9 evidence in the board's minutes that the fire district
10 disclosed this structural deficit to the taxpayers.

11 The board's conduct at this point became reckless.
12 Despite the massive structural deficit that had been
13 running for two years, the board increased the fire
14 district's expenditures. The board hired additional
15 firefighters, leased a new ladder truck, and entered into
16 a new collective bargaining agreement increasing
17 firefighters' rate of pay as well as accruing other
18 benefits. Still, the taxpayers were not informed of the
19 structural deficit. Having no revenue or tax proceeds to
20 pay the bills, the board resorted to what has been
21 quintessentially the 21st-century American thing to do.
22 It took out a loan from a credit line with Centerville
23 Bank to pay operating expenses and it cut corners on its
24 obligations to its employees. Specifically, the board
25 failed to remit employee contributions withheld from

1 their pay to the Municipal Employee Retirement System,
2 and it failed to pay bills as they became due, including
3 health insurance premiums for the employees. These
4 actions, taking trust funds paid out of employees'
5 paychecks and not paying those funds over to the pension
6 fund, could be considered even more than reckless and
7 those issues have been referred by this Court to the
8 Rhode Island State Police and the Attorney General.

9 By February, 2013, the Special Master had prepared a
10 new budget for taxpayer approval at the special meeting,
11 which was held on February 13th. After negotiating with
12 the Union and making other adjustments to operations, the
13 Special Master realized annualized savings of
14 approximately a half of a million dollars in his budget.
15 The total levy to the taxpayers at the special meeting
16 was \$5.4 million represented by a single tier tax rate of
17 \$3.15 per \$1,000 assessed value. Significantly, the
18 Special Master also had to charge a single tax rate to
19 all property holders, commercial and residential, because
20 the board had also charged a two-tier tax rate in
21 violation of the charter and applicable law. As a result
22 of the single tier rate and putting forward a budget that
23 did not contain the mistakes in the tax assessment, the
24 rates significantly increased. The budget and levy was
25 presented to the voters and the measure failed by a vote

1 of 228 to 204.

2 Following the rejection of the levy, the Special
3 Master reported to this Court that the fire district
4 would run out of money within two weeks and recommended
5 that the fire district be liquidated. This Court heard
6 extensive comment and testimony on February 14, 2013, and
7 adjourned to allow the parties the opportunity to present
8 the Court with the public safety consequences of an
9 immediate liquidation, as well as comment on the extent
10 of the Court's equitable powers to take such a drastic
11 step and give interested parties the opportunity to
12 continue discussions and perhaps come up with an
13 alternate solution.

14 The next date, the President of the Town of
15 Coventry's Town Council, the Chief of the Central
16 Coventry Fire District, the President of the Union, Mr.
17 John Assalone, a taxpayer in Central Coventry, and the
18 Special Master reported to this Court that there had been
19 meetings over the interim and they had agreed to a
20 potential pathway whereby a lower tax levy could be
21 proposed to the fire district's taxpayers, plus a
22 significant decrease in that levy in subsequent years.
23 The parties represented to this Court that their plan
24 would require a smaller budget than had been proposed at
25 the prior special meeting.

1 These parties, with the Special Master's support,
2 requested this Court to allow another special meeting and
3 another vote. The Court granted this request. The
4 Court's authorization was contingent on the finalization
5 of a budget that included a reduced tax levy which
6 incorporated operation and personnel changes proposed by
7 the parties and the agreement of the Town of Coventry
8 Board of Canvassers' that it supervise the vote. The
9 Court also requested that the current board members
10 resign.

11 Importantly, to hold over the fire district until
12 this special meeting could take place, the Court ordered
13 that the tax bills for the first, second, and third
14 quarters of the fiscal year be paid when due at the same
15 rate and amount as had been authorized by the taxpayers
16 in the 2009-2010 fiscal years. The Court further ordered
17 the Special Master formulate a plan in case the taxpayers
18 rejected this levy.

19 Between the time of the hearing and the second vote,
20 the taxpayers of the Central Coventry Fire District began
21 to understand the true extent of the problems and the
22 information that had been withheld from them by the board
23 for several years. The yearly operating expenses of the
24 fire district were far in excess of the amount of funds
25 that was being generated by taxes and other fees. The

1 board had created what can only be described as an
2 elaborate Ponzi scheme to hide this from the taxpayers,
3 which resulted in a multimillion dollar structural
4 deficit. A twenty, thirty, or even a fifty percent
5 increase in taxes would not even resolve the entire
6 structural deficit the board had created at that time.

7 On March 26, 2013, the district taxpayers
8 overwhelmingly rejected the proposed tax levy by nearly a
9 three to one margin, 484 votes in favor; 1,337 votes
10 opposed. On March 29, 2013, after receiving a report
11 from the Special Master, this Court found that the fire
12 district did not have sufficient funds to operate for
13 more than a week, and this Court did not have the
14 equitable or legal authority to order additional taxes.
15 Accordingly, this Court authorized liquidation of the
16 fire district to take place the following week.

17 This was not the end, however. Following the
18 hearing and the Court's order, the Town of Coventry's
19 Town Council authorized a \$300,000 loan to keep the
20 Central Coventry Fire District running, an amount that
21 would allow it to operate for approximately three weeks.
22 This Court approved the acceptance of this loan, over the
23 strenuous objections by certain interested parties, which
24 allowed the fire district to continue limited operations
25 and allowed the parties to develop a contingency plan or,

1 alternatively, the General Assembly to pass legislation
2 to address this crisis.

3 The General Assembly did address this issue passing
4 a bill, which amended the fire district's annual
5 appropriation under its charter, and permitted the fire
6 district to operate under the tax levy that had last been
7 authorized by the voters, in the event that the voters
8 failed to authorize the assessment and collection of a
9 new levy. This law extended the fire district's lifeline
10 allowing it to continue to operate until September 1,
11 2013, when the bill's sunset provision called for its
12 repeal or until tax receipts were exhausted, whichever
13 came first. This bill became effective on May 10, 2013,
14 after the Governor allowed the bill to become law without
15 his signature.

16 One of the issues that became apparent to this Court
17 during the special mastership proceeding is that there
18 was no representative that could speak solely for the
19 taxpayers of the Central Coventry Fire District and that
20 it was critical that through this process the taxpayers
21 have a representative voice in the process. This Court
22 on May 17, 2013, issued a written decision calling for
23 the election by eligible fire district taxpayers of a new
24 board and ordering this election to take place on June
25 29, 2013. This Court especially emphasized that the

1 taxpayers of the fire district, "Through their dually
2 elected representatives, are in the best position to
3 decide the future of their fire district going forward,"
4 and so this Court shifted, through its order, the
5 delegation of certain specific powers of the Special
6 Master on to the newly constituted board. This Court was
7 adamant that the newly constituted board, as the direct
8 representatives of the taxpayers, would be in the best
9 position to make the decisions about the future of the
10 fire district.

11 A new board was elected by the taxpayers pursuant to
12 the voting procedures submitted to the Court by the
13 Special Master. New board members appeared before this
14 Court and were sworn in by this Court. The new board,
15 led by their elected chairperson, Fred Gralinski, began
16 working immediately on the future of the fire district,
17 including understanding the income and expenses,
18 formulating a budget, and at the Court's urging,
19 negotiating with the firefighter's Union. The board
20 retained its own legal counsel, accountant, and worked
21 with the Special Master on a number of issues.

22 The Court, the Special Master, and the newly-elected
23 board continued their work on the receivership. The
24 Court approved the Special Master's petition to authorize
25 tax sales for the delinquent taxes. The Court granted the

1 Special Master's petition to return the ladder truck
2 finding that the board's vote to return the ladder truck
3 was a legitimate exercise of the board's business
4 judgment. The Court also denied a petition from certain
5 taxpayers in the Central Coventry Fire District
6 commercial taxpayers for the payment and priority of
7 claims against the fire district and denied and dismissed
8 with prejudice these taxpayers' petition based on the
9 expiration of the various statute of limitations. The
10 Court also significantly ruled that any deficiency owed
11 to the Municipal Employees' Retirement System would be
12 paid by the taxpayers of the district by levy if
13 required.

14 In the interim, the General Assembly once again
15 passed legislation impacting the fire district's
16 financial crisis. At the end of the legislative session
17 a bill was passed amending Section 44-5.2-3 of the
18 general laws providing that if a fire district in the
19 Town of Coventry failed to approve an annual
20 appropriation measure, the same amounts appropriated in
21 the previous fiscal year shall be available.
22 Effectively, this bill did away with the previous bill's
23 September 1, 2013, sunset clause, permitting the fire
24 district to operate on the last authorized tax levy in
25 perpetuity. Once again, the Governor's office allowed

1 this bill to become law without his signature and it
2 became effective on July 19, 2013.

3 Meanwhile, work on a new budget continued. This
4 Court ordered the board to file with the Court
5 alternatives following consultation with a court
6 appointed consultant. The board, through counsel,
7 represented to this Court that a budget of over \$7
8 million would be needed to satisfy all of the contracted
9 costs of operations, personnel, and repayment of the
10 entire fire district's accrued debt. The Court approved
11 on October 16, 2013, the board's vote on the budget
12 alternatives, which would present two options to the
13 taxpayers for approval at the special meeting. The
14 special meeting was to take place October 21, 2013. As
15 the alternatives recommended to the board to be submitted
16 to the taxpayers were both less than the amount required
17 to operate the fire district under its current
18 obligations, the Court ordered that the board consider
19 the following question should the budget pass and
20 agreements were not entered into to bring the budget into
21 balance, "Whether or not the voter's approve or reject
22 the board's tax levy and assessment at the special
23 meeting on October 21st, if the resulting budget is not
24 balanced, expenses greater than revenue, does the board
25 recommend that this Court authorize the Special Master to

1 close and liquidate the Central Coventry Fire District?"

2 On October 17, 2013, the board through a local vote
3 answered this question unanimously in the affirmative.

4 The voters approved the levy and assessment on
5 October 21, 2013, special meeting, but the levy and
6 assessment they approved was less than what the fire
7 district required to operate and meet all of its
8 obligations, taking into account accrued liabilities and
9 current operations. Based on the board's local vote, the
10 voters knew what would happen if they did not pass a
11 budget and there was no agreement by the creditors that
12 the board would pursue liquidation and closure of the
13 fire district. Despite this knowledge, the voters passed
14 a much smaller levy. In fact, the people had spoken.

15 On January 29, 2014, in an order denying three
16 petitions by the fire district's board, this Court stated
17 its belief that it was critical to decide the issue of
18 whether or not the liquidation of the fire district under
19 Rhode Island law should be authorized. The Court also
20 found it imperative to determine the extent of its
21 authority to permit or not permit future operations of
22 the fire district if liquidation was ordered by the
23 Court. The Court directed all parties wishing to file a
24 written position regarding liquidation to do so by
25 February 3rd.

1 First, the Central Coventry Fire District is a
2 quasi-municipal corporation that is subject to
3 liquidation. Fire districts like the Central Coventry
4 Fire District have long been regarded, under Rhode Island
5 law, to be quasi-municipal corporations. This goes back
6 to an 1878 case, Cole vs. East Greenwich Fire District,
7 by our Rhode Island Supreme Court. In that case our
8 Supreme Court held that a fire engine company's power to
9 tax creates an enforceable duty to levy a tax in order to
10 pay off a judgement. The Supreme Court rejected the
11 defendant fire engine company's contention that it was a
12 private corporation, finding that its charter, "created a
13 close corporation, resembling the old English borough
14 corporations rather than an ordinary municipal or
15 quasi-municipal corporation," but nonetheless, because
16 the fire district had a public object and because the
17 General Assembly had vested in it an important public
18 franchise of assessing and levying taxes, the fire engine
19 company must be regarded as a public or quasi-municipal
20 corporation.

21 The Court further reemphasized this holding both
22 again later in the 1800s and 1898, and then again in 1952
23 in the case of Kennelly vs. Kent County Water Authority.
24 In addition, the Rhode Island General Laws contemplate
25 the liquidation of the assets of a fire district. Rhode

1 Island General Law 7-5-19 prescribe a dissolution process
2 for when a quasi-municipal corporation, banks, saving
3 banks, trust company, loan, or investment company has
4 been liquidated in voluntary liquidation or in
5 receivership or otherwise. However, although
6 quasi-municipal corporations, such as the one here, can
7 be dissolved after they are liquidated under the law, the
8 general laws do not specify a way for courts to liquidate
9 quasi-municipal corporations in the first place. Lacking
10 specific statutory authority and solution for this
11 problem, this Court must turn to its equitable
12 jurisdiction for direction.

13 This Court has the inherent power in equity to look
14 to substance rather than form of a right asserted. In
15 Rhode Island it has been held that the office of equity
16 is to supplement, not supplant the law, so when there is
17 a remedy at law, that must be followed.

18 The Court looks to part 13 of the Rhode Island
19 Business Corporation Act called Dissolution and
20 Revocation. This part of the Business Corporation Act
21 confers on the Superior Court jurisdiction to liquidate
22 the assets and business of a corporation. It does not
23 provide for the Superior Court's jurisdiction to
24 liquidate the assets and business of a quasi-municipal
25 corporation like the Central Coventry Fire District.

1 However, this Section 7-1.2-1314 is the closest analog in
2 the Rhode Island General laws available to the Court to
3 deal with the issue of liquidating the fire district's
4 assets. Our General Assembly left a gap in the law with
5 respect to the liquidation of a quasi-municipal
6 corporation. Although, on the one hand, a
7 quasi-municipal corporation, such as this, can be
8 dissolved after being liquidated. On the other hand, the
9 law is silent about how to go about liquidating a
10 quasi-municipal corporation in the first place. In other
11 words, the remedy at law is inadequate to allow this
12 Court to deal with the extant circumstances.

13 The Business Corporation Act is a liquidation
14 template. Section 7-1.2-1314(a) (1) of the Business
15 Corporation Act provides for the liquidation of assets
16 and business of a corporation in an action by a
17 shareholder. This section gives the Court jurisdiction
18 to liquidate when it is established that dissolution
19 would be beneficial to the shareholders under one of six
20 scenarios. Two of the scenarios are pertinent in this
21 case.

22 Section IV, which is the corporate assets are being
23 misapplied or in danger of being wasted or lost, or

24 Section VI, the holders of one half or more of all
25 outstanding shares have voted to dissolve the

1 corporation.

2 This case, including the instant matter respecting
3 the liquidation of the Central Coventry Fire District's
4 assets, has been brought before this Court as an action
5 by the chairman and president of the then Central
6 Coventry's Board of Directors, who originally sought, on
7 behalf of the taxpayers, placement of the fire district
8 into receivership. Thus, if the fire district was a
9 corporation, the statute would apply and in equity this
10 Court does apply this section for guidance. Scenarios in
11 Subsection IV and VI of the Business Corporation Act are
12 most congruous, and, therefore, the most applicable.

13 So the first section, the fire district's assets are
14 in danger of being wasted or lost. This Court will
15 exercise its equitable jurisdiction to liquidate the fire
16 district's assets according to the remedy provided under
17 this law, corporate assets are being misapplied or in
18 danger of being wasted or lost. There is no question
19 here that the fire district's assets are in danger of
20 being wasted or lost.

21 Before this Court is evidence from the Special
22 Master and testimony from the Central Coventry Fire
23 District Chief revealing a vehicle fleet, physical plant,
24 and firefighting communication equipment that are
25 vulnerable to decay and deterioration without adequate

1 funds and manpower for maintenance. Fire trucks break
2 down, radio equipment needs maintenance, stationhouse
3 roofs leak, firehoses and others must be inspected and
4 man hours are needed to provide services to the residents
5 and visitors of the fire district. Without sufficient
6 funding and with insufficient staffing the assets of the
7 fire district are in danger of being seriously and
8 irreversibly depleted and the potential liability to the
9 individual taxpayers in the district will continue to
10 increase.

11 Furthermore, the extent of the fire district's
12 structural deficit is itself a vortex of waste and loss.
13 In purely economic terms, the evidence before this Court
14 indicates that the marginal cost of operating the fire
15 district is greater than the marginal economic benefit
16 derived from the expenditure. The taxpayers' refusal to
17 pass a budget that at least balanced the fire district's
18 books means that every dollar that is spent on the future
19 of the fire district operation yields more than a dollar
20 of future liability. This is the very definition of
21 waste. Since the corporate assets of the fire district
22 are in danger of being wasted or lost, and, in fact, are
23 being misapplied or were misapplied, this Court finds it
24 has equitable jurisdiction to liquidate the assets.

25 In addition, the fire district voters have

1 effectively voted to liquidate and dissolve the fire
2 district. An additional basis exists for the Court to
3 exercise its equitable jurisdiction to liquidate the fire
4 district's assets. The Court will exercise jurisdiction
5 according to the remedy provided in the Business
6 Corporation Act, "If the holders of one half or more of
7 the outstanding shares of the corporation have voted to
8 dissolve the corporation."

9 On October 21, 2013, the Central Coventry Fire
10 District taxpayers were presented with a budget that was
11 less than needed to satisfy the costs of operations,
12 personnel, and repayment of the fire district's accrued
13 debt. The money that the fire district's board needed to
14 meet all of these obligations was as much as slightly
15 over \$7 million. Four days before this meeting on
16 October 17, 2013, the board explicitly found unanimously
17 through a roll call vote that if the voters rejected the
18 board's tax levy and assessment, the board would
19 recommend to the Court to liquidate the fire district's
20 assets and close the fire district.

21 This Court finds the voters knew full well what was
22 at stake for the future of their fire district at this
23 crucial vote, and yet they passed a budget that was less
24 than what was required to balance the books, if a
25 suitable agreement could not be reached. The fire

1 district voters, by failing to vote for a balanced budget
2 or at least a budget equal to that in the legislation,
3 effectively voted for liquidation and dissolution.

4 Accordingly, this Court finds that it has the
5 equitable jurisdiction to liquidate the fire district's
6 assets pursuant to the language in the Business
7 Corporation Act. As a result of the above, this Court
8 will take the unprecedented step of authorizing the
9 Special Master to move forward with the liquidation of
10 the fire district.

11 Reorganization: Having exercised its jurisdiction
12 to order the liquidation of the fire district's assets,
13 the question becomes: What now? There is an important
14 distinction between liquidation and dissolution.

15 Liquidation is the process of marshaling the assets,
16 selling them, and distributing those assets to creditors
17 and others. Dissolution is the act that terminates the
18 existence of the entity and may be accomplished either
19 voluntarily or involuntarily by decree of this court.

20 Liquidation then is merely one step in the process that
21 may terminate with the dissolution of the entity. The
22 question then becomes can the Central Coventry Fire
23 District during the liquidation process through this
24 Court enter into contracts agreements to provide fire,
25 emergency medical, and other services. While this Court

1 need not address the terminal issue of dissolution today,
2 the pressing issue is this question.

3 This Court determines that the answer is clear.
4 Unless and until all debts of the fire district have been
5 satisfied or discharged at the end of the liquidation,
6 the Central Coventry Fire District cannot continue to
7 provide these services as the Central Coventry Fire
8 District. This is due to the fact that nowhere in our
9 general laws is the fire district or this Court given the
10 authority to reorganize. This Court only has the power
11 to liquidate, unless there is an agreement among all
12 parties to do otherwise.

13 In fact, our General Assembly could have and
14 recently did provide a mechanism for other government
15 entities to seek reorganization with the passage of the
16 Fiscal Stability Act based in large part on the issues
17 emanating from the receivership which began in state
18 court of the City of Central Falls. The process under
19 the Fiscal Stability Act provides that the executive
20 branch of state government after proceeding through a
21 series of explicit steps to ultimately file for a type of
22 reorganization under Chapter 9 of the Federal Bankruptcy
23 Code. The General Assembly chose not to include fire
24 districts under the umbrella of the Fiscal Stability Act
25 and this Court will not infer such an intent.

1 In fact, without express statutory authority it is
2 doubtful that the Federal Bankruptcy Court would allow a
3 Chapter 9 bankruptcy filing by the fire district to be
4 maintained. With the exception of a negotiated agreement
5 between all of the creditors and parties, this Court
6 finds that its legal and equitable powers extend only to
7 liquidation and not the power to alter or, as known in
8 the bankruptcy context, to cram down on parties a
9 different contract or agreement than the one that was
10 bargained for.

11 This Court, however is also keenly cognizant of the
12 special public policy and public protection
13 considerations that relate to the fire district's
14 incorporation under Rhode Island law. The Rhode Island
15 Supreme Court has considered the political nature of a
16 fire district, and this Court relies on that case law to
17 reach a determination about the future of the district.

18 The question turns to who is the appropriate party
19 or in this case the appropriate branch of government to
20 determine the future provision of fire, emergency
21 medical, and other services in the Central Coventry Fire
22 District. As stated above, this Court does not have the
23 authority and it is not the appropriate branch of
24 government to exercise this authority without specific
25 authorization by statute.

1 In the end the taxpayers of Central Coventry have
2 sent a clear message to the Town of Coventry, the
3 legislative and executive branches of state government
4 that it will no longer provide these services to the
5 residents of the district. Branches of government,
6 outside of the judicial branch, must determine how to
7 proceed forward. The judicial branch is certainly not
8 the appropriate place to make these public safety and, as
9 stated by our Supreme Court, political decisions. With
10 respect to public safety, this Court is not ultimately
11 charged with public safety. It does not have the
12 authority to create and fund a fire department. It does
13 not have the expertise to determine what the most
14 appropriate number of stations, firefighters, or
15 equipment should be in place. It does not have under its
16 authority an emergency management agency, department of
17 health, or fire marshal to help inform these decisions.
18 Ultimately, if a fire truck or ambulance does not
19 respond, the public does not cry out, Why didn't the
20 judiciary send an ambulance. They demand their town
21 council and the executive branch of the state to provide
22 for the public safety needs.

23 Again, this Court is also not the best branch of
24 government suited to make the policy and political
25 decisions going forward. That is best accomplished by

1 the town council or the legislative branch of state
2 government. These are the representatives directly
3 elected by the people to publicly debate and decide these
4 important issues. It is far more appropriate for the
5 town council and/or the General Assembly to be making
6 these important decisions as opposed to an unelected
7 judiciary. The policymakers and politicians created this
8 district and must, now that it has failed, determine the
9 next steps.

10 When we think about the concept of separation of
11 powers, a dynamic that has changed in Rhode Island very
12 recently, the question is when there is more than one
13 branch of government that can assert authority to deal
14 with certain issues, what is the most appropriate branch
15 of government to do so. In this case the future
16 provision of fire and emergency services in Central
17 Coventry it is the branch that makes the law, the
18 legislature, and the branch that has the responsibility
19 for public safety that are the best branches of
20 government to deal with future issues.

21 What we are left with is liquidation going forward
22 that will result in this fire district no longer
23 providing services under current law. This Court must
24 remember that for public safety reasons the fire district
25 cannot close their doors tomorrow. However, the funds to

1 continue to run the district are quickly being depleted.
2 After reviewing the financials of the fire district, it
3 appears that the fire district can remain open for
4 approximately three months until May 16, 2014. This will
5 allow time for the Town and the state to determine how
6 fire, emergency medical, lighting, and other services
7 will be provided for the district.

8 As a result the Central Coventry Fire District will
9 move forward as follows:

10 1. The Special Master is hereby appointed the
11 liquidating receiver of the Central Coventry Fire
12 District.

13 2. The liquidating receiver shall immediately
14 commence liquidation and shall file with this Court a
15 plan of liquidation closing the district on or before
16 May 16, 2014.

17 3. This Court's order delegating certain specific
18 powers to the Board of Directors is hereby vacated.

19 4. The Board of Directors will remain constituted
20 and is charged with representing the interest of the
21 Central Coventry Fire District and its taxpayers during
22 the liquidation process.

23 5. The liquidation receiver will provide notice of
24 liquidation within the next 24 hours to the Town of
25 Coventry, the Town of Coventry Emergency Management

1 Agency, the Governor of the State of Rhode Island, the
2 State Emergency Management Agency, the State Fire
3 Marshall, the Department of Health, the President of the
4 Rhode Island Senate, and the Speaker of the House of
5 Representatives.

6 Finally, the liquidating receiver shall order an
7 expedited transcript of this decision and make it part of
8 the final court order.

9 This is a very difficult decision and I want to
10 sincerely thank all the people who tirelessly tried to
11 work through this horrible situation. Unfortunately, the
12 hole in the dike left by the old board was just too large
13 and the water was coming in too fast to be repaired. It
14 is not the Special Master, the Union, or the new board
15 that prior to the special mastership had a fiduciary
16 obligation to their fellow residents and taxpayers to
17 properly manage this fire district when the problems
18 occurred. What brought down this fire district was not
19 being open, honest, and confronting a problem head on by
20 sweeping it under the rug hoping it would go away.

21 If these problems were disclosed at the time of the
22 merger in 2006, it may have been solved. If these
23 problems were disclosed after the first mistake in tax
24 bills, it may have been resolved. If the mistake was not
25 repeated the next year, it may have been solved. It the

1 credit line had not been used to cover this up, it may
2 have been solved. If the trust and confidence of the
3 taxpayers of the Central Coventry Fire District was not
4 violated over and over again, this may have been solved.

5 In the end the taxpayers of the fire district have
6 lost complete faith in one of the most important
7 institutions that a government can provide to its
8 citizens. After seeing this case through and after the
9 actions of the board prior to the special mastership, and
10 very clearly I am not including the members of the board
11 that were elected at that last meeting just days and
12 weeks before the filing, I can't necessarily blame them.

13 The Special Master who is now the liquidating
14 receiver shall prepare the appropriate order for this
15 Court. And with that, this Court will be in recess.

16 (A D J O U R N E D.)
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