

CAUSE NO. D-1-GN-18-001285

THE TEXAS DEPARTMENT OF INSURANCE, <i>Plaintiff,</i>	§	IN THE DISTRICT COURT OF
	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ACCESS INSURANCE COMPANY, <i>Defendant.</i>	§	261 ST JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S FIRST EARLY ACCESS REPORT
PURSUANT TO TEX. INS. CODE § 443.303 (c)**

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Access Insurance Company (the “SDR” and “AIC,” respectively), files its *First Early Access Report Pursuant to TEX. INS. CODE §443.303(c)* (the “Report”).

I. INTRODUCTION

1. The SDR files this Report pursuant to TEX. INS. CODE §443.303(c). The SDR reports that, while there are assets available to distribute to the guaranty associations affected by the liquidation of AIC (the “Affected Guaranty Associations”), there has not been sufficient time to calculate “distributable assets” as defined in the statute. Accordingly, it would be premature to make early access distributions at this time. The SDR will seek authority to make an early access distribution once the amounts needed to be reserved for the expenses of liquidation have been determined, and all of the Affected Guaranty Associations have had time to begin paying claims and establishing reserves.

II. BACKGROUND

2. On March 13, 2018, the Court entered an *Agreed Order Appointing Liquidator, Permanent Injunction, and Notice of Automatic Stay* (the “Liquidation Order”) appointing the

Texas Commissioner of Insurance as Liquidator of AIC. Effective March 13, 2018, the Texas Commissioner of Insurance, as Liquidator, appointed CANTILO & BENNETT, L.L.P. as Special Deputy Receiver of AIC.

3. The SDR is authorized to file this Application pursuant to § 443.151 of the Code, which provides that the SDR is to conduct the business of the estate. The filing of this Report is not a matter that has been referred to the Special Master appointed in this proceeding in the *Order of Reference to Master* entered on March 21, 2018.

III. REPORT ON DISTRIBUTABLE ASSETS

TEX. INS. CODE §443.303 (c) provides:

Within 120 days after the entry of an order of liquidation by the receivership court, and at least annually after the entry of the order, the liquidator shall apply to the receivership court for approval to make early access payments out of the general assets of the insurer to any guaranty associations having obligations arising in connection with the liquidation or shall report that there are no distributable assets at that time based on financial reporting as required in Section 443.016.

4. The SDR's Statements of Assets and Liabilities as of May 31, 2018, were filed with the court, posted to the estate web site and served to all parties on the service list, including the Affected Guaranty Associations, on June 15, 2018. See Exhibits 1-A and 1-B, respectively. As of the date of this Report, the SDR has not yet been able to determine the amount needed to be reserved from general assets for the "entire Section 443.301(a) expenses of the liquidation through and after its closure." TEX. INS. CODE §443.303 (a) (1).

IV. GUARANTY ASSOCIATION CLAIMS

5. Once their obligations are triggered by a finding of insolvency and an order of liquidation, the Affected Guaranty Associations report their expense and loss payments and reserves on a regular basis through the Uniform Data Standards ("UDS") protocol of the National Conference of Insurance Guaranty Funds. The UDS is an electronic communication protocol that

uses a series of defined computer file formats to permit guaranty associations to report insolvency-related claims to receivers electronically. The SDR downloads the UDS reporting to prepare monthly and quarterly financial statements.

6. As of July 13, 2018, 120 days after the entry of the order of liquidation only six of the thirteen Affected Guaranty Associations have filed UDS reporting. The SDR has uploaded all open claim information and related images to the Affected Guaranty Associations. However, given the speed at which AIC went into liquidation, the substantial number of open claims, and the need to re-open previously closed claims, the Affected Guaranty Associations are only now beginning to be able to report paid losses and reserves. In addition, many of the Affected Guaranty Associations have deductibles and/or minimum claim limits. Such claims that are not paid by an association are, nevertheless, Class 2 claims against the assets of the estate that need to be determined under TEX. INS. CODE §443.303 (a) (2) (“reserves for distributions on claims other than those of the guaranty associations falling within the priority classes of claims established in Section 443.301(c)”). The SDR does not have the data required to make that calculation at this time.

V. CONCLUSION

7. Pursuant to TEX. INS. CODE § 443.303(f), to file an application to make an early access distribution the SDR must provide the following information:

- (1) the amount reserved for the entire expenses of the liquidation through and after its closure and for distributions on claims, to the extent necessary and appropriate;
- (2) the computation of distributable assets and the amount and method of equitable allocation of early access payments to each of the guaranty associations; and
- (3) the most recent financial information filed with the National Association of Insurance Commissioners.

8. The SDR submits that it is premature to make an early access distribution at this time. The financial reporting currently available to the SDR is not sufficient to file an application

that complies with the statute. The SDR submits that it will file an early access application before the first anniversary of the inception of the estate.

VI. NOTICE

9. The SDR has served this Report to all other known parties at interest by regular mail, e-mail, fax, hand delivery and/or overnight delivery. Further, this Report has been served in accordance with the provisions of TEX. INS. CODE § 443.303 (e), which states:

Notice of each application for early access payments, or of any report required pursuant to this section, must be given in accordance with Section 443.007 to the guaranty associations that may have obligations arising from the liquidation. Notwithstanding the provisions of Section 443.007, the liquidator shall provide these guaranty associations with at least 30 days' actual notice of the filing of the application and with a complete copy of the application prior to any action by the receivership court. Any guaranty association that may have obligations arising in connection with the liquidation has:

- (1) the right to request additional information from the liquidator, who may not unreasonably deny such request; and
- (2) the right to object as provided by Section 443.007 to any part of each application or to any report filed by the liquidator pursuant to this section.

The statute does not provide for any action by the receivership court following the filing of the SDR's Report under TEX. INS. CODE § 443.303 (e). Absent an objection, there will not be any action by the receivership court in response to the filing of this Report. The SDR will provide any Affected Guaranty Association with additional information upon request. If any action by the receivership court is required regarding this Report, the SDR will seek to have the matter set no fewer than 30 days from the date of service.

VII. OFFER OF PROOF AND VERIFICATION

10. This Report is verified as required by the Texas Rules of Civil Procedure by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) by Susan E. Salch, Partner in CANTILO & BENNETT, L.L.P., SDR of AIC.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the SDR respectfully requests that this Court, the Affected Guaranty Associations, and all other parties in interest take notice of this Report and that the SDR be awarded all such other and further relief to which it may be justly entitled.

Respectfully submitted,

FULLER LAW GROUP

By: /s/Christopher Fuller

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Attorney for CANTILO & BENNETT, LLP,
Special Deputy Receiver of Access Insurance Co.

CERTIFICATE OF SERVICE

I certify that on August 3, 2018, a true and correct copy of this Report was served pursuant to the Texas Rules of Civil Procedure and TEX. INS. CODE ANN. SEC. 443.007(d) on the following by email, except as specifically otherwise noted.

Via Email: specialmasterclerk@tdi.texas.gov

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Via First Class Mail
INTERNAL REVENUE SERVICE
Special Procedures Branch
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300 East 8th Street, Suite 352
Mail Stop 5022AUS
Austin, Texas 78701

/s/Christopher Fuller
Christopher Fuller

**SPECIAL DEPUTY RECEIVER'S VERIFICATION AND CERTIFICATION
PURSUANT TO TEX. INS.CODE ANN. §443.017(b)**

AFFIDAVIT OF SUSAN E. SALCH

State of Texas

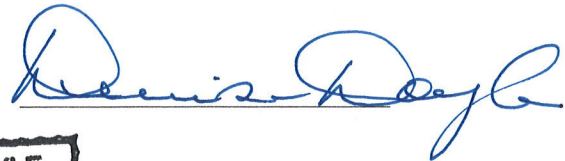
County of Travis

BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

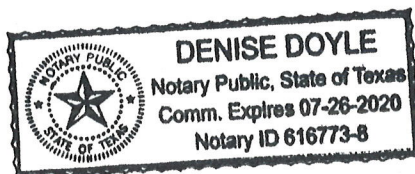
1. "My name is Susan E. Salch. I am of sound mind, capable of making this affidavit, and am competent to testify to the matters contained in this affidavit.
2. I am a partner in CANTILO & BENNETT, L.L.P., the Special Deputy Receiver of Access Insurance Company (the "SDR" and "AIC" respectively), I am duly authorized to make this Affidavit on behalf of the SDR.
3. I have reviewed the *First Early Access Report Pursuant to TEX. INS. CODE §443.303(c)* (the "Report"), and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with the staff and subcontractors.
4. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached hereto were produced pursuant to TEX. INS. CODE § 443.017, are either true and correct copies of records of AIC and were received from the custody of AIC or found among its effects, or were created by and filed with the Receiver's office in connection with the receivership of this delinquent agency, and are held by the Special Deputy Receiver in its official capacity."

By: 
Susan E. Salch

SUBSCRIBED AND SWORN TO BEFORE ME on August 3, 2018, by Susan E. Salch, partner in CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Access Insurance Company



Notary Public



R-559

**Access Insurance Co
Statement of Net Assets**

**For the Period Ending
05/31/18**

Line		05/31/18
Cash		
1	Cash	
	Cash - Unrestricted	59,265,714
	APF Funds (Loan proceeds)	
Investments		
2	Short-Tem Investments	19,900,000
3	Bonds	248,597
4	Stocks - Preferred & Common	
5	Investments in Subsidiaries, Controlled or Affiliated Entities	
6	Mortgage Loans	
7	Real Estate	
8	Policy Loans	
9	Other Invested Assets	
Restricted Assets		
10	Statutory Deposits	2,367,778
11	Funds held by or deposited with Reinsured Companies	
12	Restricted - Other	
	Collateral Assignment - Suntrust Bank Certificate of Deposit	750,000
Reinsurance Receivable		
13	Reinsurance Recoverables on Paid Losses & LAE (net of allowance)	30,106,283
14	Reinsurance Recoverables on Unpaid Losses & LAE (net of allowance)	
15	Reinsurance Recoverables on UEP & Contingent Commissions	
Other Receivables		
16	Salvage & Subrogation Recoveries	83,136
17	Premiums Due from Agents & Policyholders	
18	Receivable from Parents, Subsidiaries & Affiliates	
19	Receivable from Guaranty Associations - Early Access Payments	
20	Other Receivables	
	Income and Premium Tax Receivable	120,657
	Interest Income Receivable	0
Other Assets		
21	FF&E	
22	Other Assets	
	Total Assets	112,842,165

NOTES

Ref No.

**Exhibit
1-B**

R-559

**Access Insurance Co
Statement of Net Liabilities**

**For Period Ending
05/31/18**

Line		05/31/18
1	Secured Claims	
2	APF Loan	
3	Special Deposit Claims	
Administrative Claims - Class 1		
4	Administrative Claims - State/Receiver	
	Special Deputy Receiver, Subcontractors Fees & Expenses	264,320
	Liquidation Oversight	25,414
	Special Master's Fees	
5	Administrative Claims - Guaranty Assns	
	Administrative Expense Paid	
	Administrative Expense Reserves	
6	LAE - Guaranty Assns	
	LAE Paid	
	LAE Reserves	
Policy Claims - Class 2		
7	Loss Claims - Guaranty Assns	
	Loss Claims Paid	
	Loss Claims Reserves	
8	Loss Claims - Other	
	Other Loss Claims Paid	
	Other Loss Claims Reserves	54,246,900
9	LAE - Other	2,142,518
10	Unearned & Advance Premium Claims - GA	
11	Unearned & Advance Premium Claims - Other	19,664,050
Other Liabilities		
12	Class 3 Claims	
13	Class 4 Claims	
14	Class 5 General Unsecured Creditor Claims	15,180,902
15	Class 5 Reinsurance Related Unsecured Claims	128,412,291
16	Class 6 Claims	
17	Class 7 Claims	
18	Class 8 Claims	
19	Class 9 Claims	
20	Class 10 Interest	
21	Class 11 Claims	
22	Other Liabilities	
	Total Liabilities	219,936,395
23	Total Equity/(Deficit) Excess (Deficiency) of Assets over Liabilities	(107,094,230)
	Total Liabilities & Equity	112,842,165

NOTES

Ref. No.