

## Report for Special Master's Status Conference

November 5, 2018

### R-559 Access Insurance Company

SDR: CANTILO & BENNETT, L.L.P.  
Primary Responsible Person: Susan E. Salch  
Estate Counsel: Christopher Fuller  
Receiver's Counsel: David Wheelus  
RLO Analyst: Vicente Aguillon

#### Background on Receivership

- Date of Permanent Injunction (Liquidation): March 13, 2018
- Date of Appointment of SDR: March 14, 2018
- Claims Filing Deadline: TBD (Anticipated deadline: September 13, 2019)
- States Where Licensed: TX, AL, AZ, AR, CA, DE, TN, FL, GA, IN, KY, LA, MS, MO, MT, NV, NM, NC, OK, OR, PA, SC
- Lines of Business: Non-standard Auto
- Texas Guaranty Association Triggered: Texas Property and Casualty Insurance Guaranty Association ("TPCIGA")
- Date of Impairment: March 14, 2018
- Early Access Distributions: TBD (Anticipated Distribution in Spring 2019)

#### Statement of Assets and Liabilities as of September 30, 2018

Total Assets:	\$110,029,123
Cash & Invested Assets:	\$ 86,897,239
Non-Cash Assets:	\$ 23,131,884
Total Liabilities:	\$263,534,282
Negative Equity:	(\$153,505,159)

#### Asset Recovery through September 30, 2018

Premium Collected:	\$ 10,795,664
Subrogation/Salvage:	\$ 634,627
Reinsurance Collected:	\$ 15,813,027
FF&E Sold:	\$ 0
CDs Sold/Matured:	\$ 6,446,044
IOLTA Funds Recovered:	\$ 550,465

## Status and Activity Since Last Status Conference

### General Matters

**AHM/Holdco Status:** The SDR terminated the Second Transition Services Agreement as of October 5, 2018. Under that agreement, Access Holdco Management, LLC (“AHM”) provided access to its personnel and offices, as well as services related to accounting, IT/data, reinsurance, and turnover of records in exchange for a weekly fee of \$130,000. The SDR used AHM’s services under the agreement throughout the last quarter, and the first week of October. As previously reported, AHM and its affiliates (collectively, “Holdco”) provided virtually all services to AIC under the Service Agreement and Managing General Agency agreements.

In August, Holdco’s owners carried out a corporate restructuring to protect their investments. In summary, all of Holdco’s assets were assigned to a new entity called ACPAHM (Assignment for the Benefit of Creditors), LLC (“ACPAHM”), which then filed a Delaware state court proceeding under a Delaware statute providing for the liquidation of insolvent business entities. Next, ACPAHM assigned all the Holdco assets, without liabilities, to Embark Holdco Management, LLC and Embark Corporate Services, LLC (collectively, “Embark”). The SDR is reviewing whether any of the transactions violated the automatic stay and any possible impact on future matters.

On September 27, 2018, Embark moved into substantially smaller office space (with many fewer employees than Holdco had) in suburban Atlanta.

**Phones/Mail/Faxes/E-mails:** The SDR continues to use third-party vendors to handle telephone calls and voice messages, scanning and indexing paper mail, e-mails, and faxes. Volume remains high.

**Early Access:** The SDR filed an Early Access Report stating that there is not sufficient financial information available at this time to accurately determine “distributable assets.” The SDR expects to seek authority to make a distribution in early 2019.

### Financial Institutions

The AIC operating account is the one account at SunTrust which still has a small balance to pay analysis fees and ACH returns. Rather than incur significant charges to download historical data from the remaining accounts, the SDR transferred all the money from the premium trust, salvage, and claims accounts while leaving them technically “open” so that the history would be saved. The fees are being reviewed carefully each month to make sure they are as low as possible.

In the last quarter, the SDR recovered the remaining funds held under the pledged \$750,000 CD as collateral for ACH withdrawals. None of the funds were used. There were very few ACH refund demands, and they were funded from the operating account at SunTrust.

**IT Matters:** The estate is now fully independent from the former AHM systems. The estate's IT subcontractor developed web-based applications that allow the SDR's team to use the claims and policies databases via the virtual server. The SDR and guaranty associations continued to use AHM systems through the first week of October. The SDR conferred with the associations before the transition.

**Records:** The SDR has recovered the e-mails from AIC officers and Holdco employees who primarily worked on company business. Prior to terminating the transition services agreement, the SDR's subcontractors recovered additional business records. The estate has current financial/accounting, claims, and reinsurance materials. Certain data and records remain commingled with AHM's materials.

There are several thousand boxes of paper records in an off-site storage facility in Atlanta held in AHM's name. The SDR's subcontractor conducted an on-site review of the records in the last quarter, and certain AIC records have been transferred to Austin. The remainder, primarily aged records, remain in storage in Atlanta.

## Claims Activity

**Proof of Claim Application:** The SDR and RLO have conferred regarding this application and expect to file it in the near future. The SDR will seek a September 13, 2019, claims filing deadline.

**Claim Litigation:** The SDR and team respond daily to e-mails and calls regarding service of process on claims litigation. Most inquiries and documents are forwarded to the appropriate guaranty association, although sometimes, it is necessary for the SDR or counsel to communicate with plaintiff's counsel.

**Guaranty Associations:** The SDR's subcontractors are now responding to claims calls and providing the guaranty associations with UDS records as new or re-opened claims are reported.

Claims data is being provided to all affected guaranty associations via transfer of UDS records. As of September 30, 2018, UDS-A records have been sent to the associations for 44,557 open/reopened claims. UDS-A records have also been transferred for related closed claims, to allow the guaranty associations to evaluate policy limits. Additionally, a total of 191,156 UEP claims totaling \$21,265,516 have been sent to the affected guaranty associations.

The guaranty associations' collective reporting has become more complete as additional data has been transferred and assimilated. As of September 30, California reported paid losses of \$6.5 million, loss reserves of \$65.3 million, and UEP of \$16.9 million. Pennsylvania has not updated its reports since June 30, when it reported paid losses of \$877,961, loss reserves of \$13.7 million, and UEP of \$1.28 million. Reports have still not been received from Nevada or Arkansas.

As of September 30, 2018, the associations made the following reports:

State	Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
AL	\$1,180,982.40	\$53,856.61	\$2,241,031.01	\$182,984.67	\$127,146.00
CA	\$6,458,472.11	\$831,358.90	\$65,275,227.07	\$1,593,430.56	\$16,855,582.15
GA	\$68,078.60	\$3,845.25	\$1,431,144.14	\$16,346.00	\$186,528.00
IN	\$0.00	\$0.00	\$7,600.00	\$0.00	\$0.00
LA	\$85,635.88	\$2,699.40	\$110,723.60	\$746.00	\$30,123.86
MS	\$0.00	\$6,322.00	\$48,600.00	\$49,028.00	\$1,855.00
OK	\$66,697.24	\$4,711.94	\$116,665.00	\$10,468.15	\$16,084.00
PA	\$877,960.92	\$88,824.08	\$13,751,111.81	\$591,634.00	\$1,277,499.68
SC	\$22,523.74	\$3,325.63	\$3,363,911.37	\$0.00	\$488,853.43
TN	\$0.00	\$0.00	\$4,000.00	\$0.00	\$455.00
TX	\$0.00	\$1,969.40	\$2,602.00	\$5.00	\$0.00

In contrast, as of June 30, 2018, the associations had reported:

	Reporting Date	Paid Loss	Paid ALAE	Loss Reserve	ALAE Reserve
AL	5/31/2018	\$309,165.02	\$7,124.50	\$2,807,621.56	\$94,820.75
IN	5/31/2018	0.00	0.00	7,600.00	0.00
LA	6/30/2018	40,142.48	146.60	130,450.00	89.00
MS	5/31/2018	0.00	0.00	15,900.00	0.00
OK	5/31/2018	7,092.36	0.00	176,697.64	8,700.00
TX	6/30/2018	0.00	1,239.70	6,401.00	4.00

The SDR's claims subcontractors estimate that the current volume of work relating to claims and responding to communications (calls/e-mails/faxes) will continue through the fall.

**Subrogation:** The SDR is compiling subrogation claims against the company to report them to reinsurers.

### Asset Recovery Activity

**Cash/Securities:** As noted above, at the end of September, the SDR liquidated the remainder of the \$750,000 CD that had been pledged to SunTrust to secure ACH payments

and transferred the funds to the Treasury account. There were no charges assessed against the instrument.

**Salvage:** In September, RLO approved a CBA authorizing the abandonment of specific vehicles due to issues with title, age, value, and/or fees. An estate subcontractor is working with the vendor, IV Auto, to identify the vehicles that should be abandoned while maximizing the recovery from the remaining salvaged cars.

**Reinsurance:** Reinsurance reporting is catching up with the increased guaranty association reporting in the last quarter. Allianz Re is the only reinsurer not current in its payments. The SDR expects to meet with its representatives in November to resolve any collection issues.

**Statutory Deposits:** The SDR recovered the Texas statutory deposit. The SDR expects to transfer some of the remaining deposits to the guaranty associations as advances towards early access.

## **General Legal Activities**

**Litigation:** All first-party lawsuits involving AIC are stayed. There does not appear to be any non-claim related litigation against AIC, and there are no known lawsuits against the SDR. There are many claims-related lawsuits that name AIC as a party. These are typically stayed or dismissed once the SDR notifies plaintiff's counsel and the appropriate guaranty association. At least one case has been filed to prevent the statute of limitations from running while the guaranty association considers the claim. The SDR will not take any action in this case (or any similar cases), provided the plaintiffs do not attempt to move forward with the lawsuit.

**Regulatory Action:** AIC's license has been, or will be, restricted, revoked, or suspended in Alabama, North Carolina, Oregon, Mississippi, Montana, Florida, Louisiana, Tennessee, and Arkansas.

**Subpoenas:** The SDR continues to receive numerous records subpoenas, primarily from California. As in other estates, the SDR requires a non-refundable \$500 fee, in addition to any statutory subpoena fee, before undertaking the work to produce documents.

**New Mexico Ancillary Proceeding:** On September 20, 2018, the New Mexico state court granted the New Mexico Department of Insurance's motion for an ancillary receivership. The order provides that the ancillary receiver will pay costs and claims out of \$75,000 it will draw from the New Mexico bond, and at closing, it will distribute any remaining money to the SDR. The ancillary receiver has the legal right to make further draws from the surety bond in the unlikely event that there are other claims. The bond will be effectively canceled when the New Mexico ancillary closes, and the SDR does not have any independent right to the bond or its proceeds.

## **Conclusion**

### **Summary of Major Achievements:**

- Terminated transition services agreement with AHM.
- Established independent estate IT system.
- Completed recovery of pledged \$750,000 CD.
- Resolved dispute with salvage company regarding non-salvageable vehicles.
- Filed Disposition of Assets Schedule.
- Continued reinsurance reporting/collections.

### **Estate Goals to Achieve Prior to Next Status Conference:**

- File application to establish Proof of Claim filing deadline.
- Prepare Application to make First Early Access Distribution.
- Review Holdco corporate restructuring.
- Continue reporting to reinsurers.
- Review estate books and records for preferential transfers.

**Estate Closing Date of Receivership:** TBD

**Identification of Factors Affecting Closing Date and Final Distribution:** TBD