

## Report for Special Master's Status Conference

January 28, 2019

### 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 2019)

#### Statement of Assets and Liabilities as of December 31, 2018

Total Assets:	\$107,392,542
Cash & Invested Assets:	\$ 96,044,610
Non-Cash Assets:	\$ 11,347,932
Total Liabilities:	\$277,351,648
Negative Equity:	(\$169,959,106)

#### Asset Recovery through December 31, 2018

Premium Collected:	\$ 10,795,664
Subrogation/Salvage:	\$ 666,549
Reinsurance Collected:	\$ 24,827,012
FF&E Sold:	\$ 0
CDs Sold/Matured:	\$ 8,946,044
IOLTA Funds Recovered:	\$ 580,465

## Status and Activity Since Last Status Conference

### General Matters

**AHM/Holdco Status:** As previously reported, in August 2018, 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 Delaware state court has set February 19, 2019, as the deadline to assert claims against these entities.

**Phones/Mails/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 has begun to decline and the SDR has reduced its third-party vendor expenses proportionately.

**Early Access:** The SDR expects to seek authority to make a distribution in 2019.

**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.

**Supplemental Fee Application:** The order granting the SDR's supplemental fee application (adjusting certain rates and recognizing the addition of contractors) was entered on January 8, 2019.

### Claims Activity

**Proof of Claim Application:** The SDR has submitted a revised draft of the POC application to RLO. The SDR anticipates filing it in February 2019. The SDR will seek a September 13, 2019, claims filing deadline.

**Claim Litigation:** Many lawsuits, mostly *pro se*, have been filed against AIC and/or the SDR in various Superior Courts in California. One particularly litigious claimant has separately sued AIC, CIGA, and the SDR in connection with a rejected pre-receivership claim. He has filed more than seventy-seven lawsuits in the last two years (and has filed more than ten already in 2019). The majority of the cases have been dismissed for want of prosecution. The SDR is reviewing its options.

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

The volume of new and re-opened claims has slowed. As of December 31, 2018, UDS-A records have been sent to the associations for 47,093 open/reopened claims. This represents an increase of 2,536 claims since the last report. UDS-A records have also been transferred for related closed claims, to allow the guaranty associations to evaluate policy limits. Additionally, a total of 191,495 UEP claims totaling \$21,325,460 have been sent to the guaranty associations.

The guaranty associations' collective reporting has become more complete as additional data has been transferred and assimilated. As of December 31, 2018, California reported paid losses of \$11.9 million, loss reserves of \$62.4 million, and UEP of \$15.8 million. Pennsylvania reported paid losses of \$2.8 million, loss reserves of \$15.3 million, and UEP of \$1.8 million.

As of December 31, 2018, the associations made the following reports:

State	Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
AL	\$1,900,169.63	\$172,439.98	\$1,313,398.21	\$123,257.87	\$138,138.00
AR	\$2,628.59	\$528.00	\$71.41	\$472.00	\$0.00
AZ	\$50,897.85	\$22,555.70	\$37,696.57	\$10,643.30	\$8,601.00
CA	\$11,933,193.38	\$1,636,136.20	\$62,351,067.49	\$2,742,459.38	\$15,810,871.13
GA	\$164,696.11	\$18,761.75	\$1,128,628.35	\$22,132.75	\$186,765.00
IN	\$0.00	\$0.00	\$7,600.00	\$0.00	\$0.00
LA	\$117,833.09	\$5,015.86	\$73,119.00	\$2,259.32	\$30,287.86
MS	\$8,407.01	\$14,498.35	\$41,744.55	\$41,026.65	\$1,855.00
NV	\$0.00	\$0.00	\$1,300.00	\$0.00	\$0.00
OK	\$79,297.24	\$6,510.94	\$69,760.10	\$4,834.10	\$16,084.00
PA	\$2,828,239.31	\$483,574.70	\$15,322,733.10	\$1,658,243.66	\$1,802,229.75
SC	\$571,928.66	\$52,492.45	\$1,577,667.98	\$36,820.18	\$488,853.43
TN	\$0.00	\$0.00	\$3,900.00	\$0.00	\$455.00
TX	\$0.00	\$2,801.00	\$1,601.00	\$2.00	\$452.50

By comparison, 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

**Subrogation:** The SDR is compiling subrogation claims against the company to report them to reinsurers. The draft POC application seeks authority to deem as timely filed all subrogation claims against AIC.

### Asset Recovery Activity

**Cash/Securities:** The SDR is liquidating AIC's portfolio of CDs as they mature. All proceeds are deposited with the Texas Treasury.

**Salvage:** The estate's subcontractor continues to work with the primary salvage vendor, IV Auto, to liquidate the remaining salvage vehicles belonging to the estate.

**Reinsurance:** At year end, Hamilton Re replaced an expiring LOC and Partner Re provided a cash deposit to be held in lieu of an LOC.

**Statutory Deposits:** As noted in the last report, the SDR recovered the Texas statutory deposit, which was by far the largest deposit. Florida advised the SDR that it would release AIC's statutory deposit of \$225,000. New Mexico has drawn on its statutory deposit bond, in part, to fund its ancillary estate. Louisiana is expected to draw on its \$20,000 statutory deposit bond and transfer the proceeds to its guaranty association. 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 or 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 still receives a substantial number of records subpoenas, primarily from California and Pennsylvania. A total of 489 subpoenas were received and processed from May 1 to December 31, 2018. Many of the subpoenas seek the production of voluminous records, which take additional time to retrieve and review. Accordingly, as of January 1, 2019, the SDR increased the \$500 non-refundable fee to \$1,000 for subpoenas that require additional work (such as the production of an entire litigation claim file), while leaving the standard \$500 fee in place for subpoenas that seek a smaller number of records (such as requests for policy-related documents). Documents are produced in the order that the money and appropriate releases are received.

**New Mexico Ancillary Proceeding:** There has been no activity since the last report. 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:**

- Began review of estate books and records for preferential transfers.
- Worked with regulators regarding statutory deposits.
- Continued open/re-opening claims and working with guaranty associations.
- Obtained Order approving first supplemental fee application.

### **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.
- Continue reporting to reinsurers.
- Complete review estate books and records for preferential transfers.

**Estate Closing Date of Receivership:** TBD

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