

Report for Special Master's Status Conference

January 24, 2023

R-559 Access Insurance Company

SDR: CANTILO & BENNETT, L.L.P.
Primary Responsible Person: Susan E. Salch
Estate Counsel: Christopher Fuller
Receiver's Counsel: Kimberly Hammer
RLO Analyst: Lori Talley

Background on Receivership

- Date of Permanent Injunction (Liquidation): March 13, 2018
- Date of Appointment of SDR: March 14, 2018
- Claims Filing 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: \$135,203,887
 - January 2020: \$ 55,321,427
 - April 2021: \$ 64,648,174
 - November 2022: \$ 15,234,286

Statement of Assets and Liabilities as of December 31, 2022

Total Assets:	\$262,427,039
Cash & Invested Assets:	\$ 52,050,206
Non-Cash Assets:	\$210,376,833
Total Liabilities:	\$483,567,212
Negative Equity:	(\$221,140,173)

Asset Recovery through December 31, 2022

Premium Collected:	\$ 10,792,951
Subrogation/Salvage:	\$ 919,926
Reinsurance Collected:	\$103,522,483
CDs Sold/Matured:	\$ 25,499,715
IOLTA Funds Recovered:	\$ 592,965
Litigation/Settlement Recovery:	\$ 16,600,000

Status and Activity since Last Status Conference

Asset Recovery Litigation

Claims Activity

Proofs of Claim (“POCs”): The SDR has received a total of 7,902 POCs as of December 31, 2022. Most of the new claims opened in the quarter arose because some POCs included multiple claims so each was given its own POC number. The POC count was 6,640 at year end 2021. The vast majority of the POCs (including the POCs filed after the September 13, 2019, deadline) are subrogation claims from other insurers. Pursuant to the Receivership Court’s POC Order, there is no deadline for the timely filing of subrogation claims.

As of December 31, 2022, the SDR has approved 93 Class 1 claims for \$13,305 arising from POCs filed by AIC defense counsel for post-receivership work expressly authorized by the SDR (some of the defense counsel POCs include both pre-receivership Class 5 claims and post-receivership Class 1 claims). In addition, the SDR has approved 35 non-guaranty association Class 2 claims for \$30,248, largely consisting of uncovered unearned premium (“UEP”) and three non-covered loss claims; 5,586 Class 5 subrogation claims for \$32,566,528; 214 Class 5 Access defense counsel claims for pre-receivership fees and expenses for \$244,242; one Class 5 vendor claim for \$9,910; and 6 Class 6 claims for \$57,284, which are subrogation claims submitted by state or municipal governments. One POC has been withdrawn and 1,049 have been denied (disallowed).

The SDR has not processed the POCs filed by the guaranty associations, which consist of Class 1 and Class 2 claims. These will be adjudicated after they have largely completed the processing of covered claims.

Second Report of Claims: The SDR’s Application for Approval of Second Report of Claims was filed on December 2, 2022, and set for submission on December 19, 2022. There were no objections. The order granting the application was entered on December 30, 2022.

Guaranty Associations

Early Access: In November 2022, the SDR made a third early access distribution of approximately \$15.2 million to cover unpaid guaranty association loss and expense payments reported through May 31, 2022.

Claims data is provided to all affected guaranty associations via transfer of UDS records. As of December 31, 2022, UDS-A records have been sent to the associations for 51,324 open/reopened claims. No new or reopened claims were reported in the quarter. As of December 31, 2021, UDS-A records had been sent to the associations for 51,299 open/reopened claims.

Although there are fourteen guaranty associations that report their activity to the UDS system, the California Insurance Guarantee Association (“CIGA”) has by far the largest number of claims, payouts, and reserves. Therefore, the SDR typically discusses only CIGA’s claims activity in this Report. As of December 31, 2022, California, with 40,396 claims, reports paid losses of \$56.4 million, loss reserves of \$1.3 million, and UEP of \$16 million.

As of December 31, 2022, the guaranty associations reported the following totals:

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$72,605,986	\$16,829,644	\$2,294,663	\$1,080,836	\$18,795,831

In comparison, the guaranty associations reported the following totals as of September 30, 2022:

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$72,244,387	\$17,138,259	\$3,089,230	\$1,483,577	\$19,654,499

As of December 31, 2021, the guaranty associations reported the following totals:

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$70,300,273	\$16,104,140	\$5,593,646	\$2,400,787	\$19,752,859

Asset Recovery Activity

Reinsurance: Reinsurance collections totaled \$1,665,430 in the quarter. Collections total \$103,522,483 from inception through December 31, 2022. The SDR collected \$7.9 million in reinsurance in calendar year 2022, and \$22.3 million in 2021.

Cash/Securities: As AIC’s portfolio of CDs mature, proceeds are deposited in the estate’s Texas Treasury Safekeeping Trust account. The total investments matured from inception of the estate is \$25,499,715. One CD in the amount of \$250,000 remains and will mature in June 2023.

Statutory Deposits: The Arkansas statutory deposit of \$122,375 remains outstanding. All other deposits have been collected by the SDR or credited to that state’s guaranty association. Arkansas’ guaranty association reports only a total of \$4,700 in paid and reserved losses and expenses (and will not receive an early access distribution). Nevertheless, the Arkansas Department of Insurance insists that AIC cancel its certificate of authority before agreeing to the release of the deposit. The issue is under review.

General Administrative Matters

Subcontractor Retirement: Long time IT subcontractor, Carolyn Barnard, the owner of Abaci, Inc., has decided to retire. Her colleague, Monica Astete, will continue to provide services to the estate. Ms. Barnard was responsible for UDS reporting from the beginning of the estate in March 2018. Her duties in that regard have been assumed by Brandon Murray, another long-time subcontractor at EMKAY.

Financial Statements: The SDR has continued to update the financial reporting to include current information on the amounts approved on POCs and their classification, along with the amounts potentially available for distribution. The financial statements are intended to provide approved creditors of the estate with sufficient information for them to accurately estimate their potential distribution while at the same time securing the historic financial reporting for NOL calculations and tax filings.

General Legal Activities

Subpoenas: The SDR continues to receive a number of records subpoenas, primarily from California and Pennsylvania. The SDR has received 2,022 subpoenas and records requests from inception of the estate through December 31, 2022, including fifty-three new requests in the quarter. There were 206 new requests in 2022. The year-end counts for prior years are as follows: 1,816 in 2021; 1,568 in 2020; and 1,093 in 2019.

Many of the subpoenas seek the production of voluminous records, which take additional time to retrieve and review, at receivership expense. A non-refundable fee of \$1,000 must be paid for subpoenas that require additional work (such as the production of an entire litigation claim file). The standard \$500 fee remains in place for subpoenas that seek a smaller number of records (such as requests for policy-related documents). Very few parties pay the fees.

Normally, the SDR will not waive service of process for any subpoena because a party responding to a subpoena, as compared to a simple document request, has certain legal protections. The SDR does not want to expose the estate to potential litigation in other states. However, the SDR will produce records for regulators at no cost provided a subpoena is served or when the regulator has authority to obtain the records without a subpoena.

Conclusion

Summary of Major Achievements:

- Obtained court Application for Approval of Second Report of Claims.
- Completed Third Early Access distribution.
- Processed the majority of defense counsel POCs.
- Collected \$1,665,430 in reinsurance remittances.

Estate Goals to Achieve Prior to Next Status Conference:

- Continue adjudicating remaining POCs.
- Pursue collection of judgment against Mr. Fuchs.
- Continue reporting to reinsurers.
- Resolve Arkansas statutory deposit issue.

Estate Closing Date of Receivership: TBD

Factors Affecting Closing Date and Final Distribution: TBD