

## Report for Special Master's Status Conference

April 25, 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: John Walker

#### 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: \$134,403,678

#### Statement of Assets and Liabilities as of March 31, 2023

Total Assets:	\$262,437,423
Cash & Invested Assets:	\$ 53,529,540
Non-Cash Assets:	\$208,907,883
Total Liabilities:	\$485,218,094
Negative Equity:	(\$222,780,671)

#### Asset Recovery through March 31, 2023

Premium Collected:	\$ 10,792,951
Subrogation/Salvage:	\$ 920,277
Reinsurance Collected:	\$103,878,018
CDs Sold/Matured:	\$ 25,499,715
IOLTA Funds Recovered:	\$ 592,965
Litigation/Settlement Recovery:	\$ 16,600,000

#### Status and Activity since Last Status Conference

##### Claims Activity

**Proofs of Claim (“POCs”):** The SDR has received a total of 8,362 POCs as of March 31, 2023. 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 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 March 31, 2023, the SDR has approved 176 Class 1 claims for \$23,850 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; 5,591 Class 5 subrogation claims for \$32,585,769; 568 Class 5 Access defense counsel claims for pre-receivership fees and expenses for \$687,571; 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 1,142 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. The SDR anticipates that the guaranty association claims will be paid in full.

**Deemed Deductible POC Project:** The Receivership Court’s order granting the SDR’s application on the filing of POCs authorized the SDR “to deem statutory deductible claims, consisting of claims arising from the application of deductibles or co-insurance payments under some guaranty association statutes, as duly filed claims against the estate.” If only deemed deductible claims valued at more than \$25 were paid, the SDR estimates that the estate would pay 10,854 claims for a total value of \$862,563.47.

## **Guaranty Associations**

**Early Access:** To date, the SDR has made early access distributions in the amount of \$134,403,678 to the guaranty associations. All Class 1 and Class 2 claims for the associations, including UEP claims, have been paid through May 31, 2022. The Arkansas association, which retains its statutory deposit, has not been included in any distribution.

Claims data is provided to all affected guaranty associations via transfer of UDS records. As of March 31, 2023, UDS-A records have been sent to the associations for 51,330 open/reopened claims. Six new or reopened claims were reported in the quarter.

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 March 31, 2023, California, with 40,399 claims, reports paid losses of \$56.8 million, loss reserves of \$993,532, and UEP of

\$16 million. Total guaranty association loss reserves decreased in March 2023 by over \$200,000 to \$1.98 million.

As of March 31, 2023, the guaranty associations reported the following totals:

<b>Loss Payments</b>	<b>Expense Payments</b>	<b>Loss Reserves</b>	<b>Expense Reserves</b>	<b>Return of Premium</b>
\$72,926,962	\$16,959,925	\$1,981,978	\$1,006,496	\$18,795,674

In comparison, the guaranty associations reported the following totals as of December 31, 2022:

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

### **Asset Recovery Activity**

**Reinsurance:** Reinsurance collections were reduced in the quarter as a number of reinsurers offset amounts owed against certain earlier payments. Collections total \$103,878,018 from inception through March 31, 2023. The SDR is working with reinsurer Partner Re to commute its (minimal) remaining obligations.

**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 has not received any early access distributions). 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**

**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 2,068 subpoenas and records requests from inception of the estate through March 31, 2023, including forty-six new requests in the quarter.

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:**

- Continued processing POCs.
- Worked on project to deem POCs for certain statutory deductibles or minimums.
- Agreed to commute Partner Re obligations.

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

- Begin deeming certain statutory deductibles or minimums.
- 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