

Report for Special Master's Status Conference

November 3, 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: David Carbajal

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 September 30, 2023

Total Assets:	\$263,936,530
Cash & Invested Assets:	\$ 54,809,651
Non-Cash Assets:	\$209,126,879
Total Liabilities:	\$487,113,608
Negative Equity:	(\$223,177,078)

Asset Recovery through September 30, 2023

Premium Collected:	\$ 10,792,951
Subrogation/Salvage:	\$ 924,455
Reinsurance Collected:	\$104,209,514
CDs Sold/Matured:	\$ 25,749,715
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 9,190 POCs as of September 30, 2023. Most of the new POCs received in this quarter were filed by insurance carriers for subrogation. Indeed, the vast majority of the POCs (including all 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 September 30, 2023, the SDR has approved 322 Class 1 claims for \$37,740 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; 5,549 Class 5 subrogation claims for \$33,030,320; 841 Class 5 AIC defense counsel claims for pre-receivership fees and expenses for \$901,517; 55 Class 5 vendor claims for \$45,221; and 6 Class 6 claims for \$57,284, which are subrogation claims submitted by state or municipal governments. One POC has been withdrawn, and 1,286 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.” The SDR is conferring with claims subcontractors on the process of notifying claimants. The SDR estimates that the estate will deem 14,430 claims for a total value of \$908,228. All deemed deductible claims will have a Class 2 priority. The SDR expects to begin issuing determination letters in the first quarter of 2024.

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 September 30, 2023, UDS-A records have been sent to the associations for 51,332 open/reopened claims. Two 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 September 30, 2023, California, with 40,404 claims, reports paid losses of \$57.1 million, loss reserves of \$606,000, and UEP of \$16 million. For comparison, as of June 30, 2023, California, then with 40,401 claims, reported paid losses of \$56.8 million, loss reserves of \$.98 million, and UEP of \$16 million. Total guaranty association loss reserves decreased in the last quarter by over \$400,000 to \$1.3 million.

As of September 30, 2023, the guaranty associations reported the following totals:

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$73,402,890	\$17,354,985	\$1,298,809	\$628,467	\$18,540,389

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

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$73,065,646	\$17,188,083	\$1,768,756	\$750,671	\$18,578,998

Asset Recovery Activity

Reinsurance: Collections total \$104,209,514 from inception through September 30, 2023. The SDR is working with reinsurer Partner Re to commute its (minimal) remaining obligations. The SDR has requested that estate actuary, Merlinos, prepare a hopefully final reserve report, as of September 30, 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.

SDR v. John Paul Fuchs: The SDR’s judgment against attorney Fuchs totals \$52,213.73 and accrues simple interest at 5% per year. The award includes return of the missing \$30,000.00 in trust funds, \$16,744.00 in attorney fees, and \$5,469.73 in pre-judgment interest. The SDR has retained California counsel to pursue collection on the judgment.

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 2,154 subpoenas and records requests from inception of the estate through September 30, 2023, including thirty-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:

- Completed processing of non-subrogation claim POCs.
- Received approximately 550 new subrogation claims in response to notifying carriers of their potential claims.
- Retained California collections counsel.

Estate Goals to Achieve Prior to Next Status Conference:

- Prepare and file Fourth Early Access Application.
- Begin deeming certain statutory deductibles or minimums.
- Complete adjudication of new subrogation POCs.
- Pursue collection of judgment against Mr. Fuchs.
- Continue reporting to reinsurers.

- Obtain updated reserves report from Merlinos.
- Resolve Arkansas statutory deposit issue.

Estate Closing Date of Receivership: While the SDR is not able to estimate the closing date of the receivership at this time, it is working to be able to provide such an estimate in the first or second quarter of 2024.

Factors Affecting Closing Date and Final Distribution: TBD