

Report for Special Master's Status Conference

February 2, 2024

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 December 31, 2023

Total Assets:	\$264,649,623
Cash & Invested Assets:	\$ 55,489,648
Non-Cash Assets:	\$209,159,975
Total Liabilities:	\$487,676,343
Negative Equity:	(\$223,026,720)

Asset Recovery through December 31, 2023

Premium Collected:	\$ 10,792,951
Subrogation/Salvage:	\$ 924,831
Reinsurance Collected:	\$104,338,270
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 9,313 POCs as of December 31, 2023. By comparison, the POC count was 7,902 as of December 31, 2022. As reported previously, the increase in new claims is a direct result of claims staff contacting carriers over the summer and fall of 2023 to identify potential subrogation claims.

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 December 31, 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; 6,005 Class 5 subrogation claims for \$34,873,209; 842 Class 5 AIC defense counsel claims for pre-receivership fees and expenses for \$906,971; 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 1,326 have been denied (disallowed).

In total, the SDR has approved claims for \$36,254,308 as of December 31, 2023. In comparison, the figure was \$33,035,885 at year-end 2022.

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 second 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.

The SDR expects to file an application to make a fourth early access distribution in February 2024 to pay all association claims up to December 31, 2023.

Claims data is provided to all affected guaranty associations via transfer of UDS records. As of December 31, 2023, UDS-A records have been sent to the associations for 51,335 open/reopened claims. Three 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 December 31, 2023, California, with 40,404 claims (unchanged from last report), reported paid losses of \$57.15 million, loss reserves of \$430,188, and UEP of \$16 million. For comparison, as of September 2023, California, (with the same 40,404 claims) reported paid losses of \$57.1 million, loss reserves of \$606,000, and UEP of \$16 million. Total guaranty association loss reserves decreased in the last quarter by over \$200,000 to \$1.08 million.

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

Loss Payments	Expense Payments	Loss Reserves	Expense Reserves	Return of Premium
\$73,522,393	\$17,472,087	\$1,078,396	\$543,100	\$18,540,389

In comparison, the guaranty associations reported the following totals as of September 30, 2023:

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

Asset Recovery Activity

Reinsurance: Collections total \$104,338,270 from inception through December 31, 2023. Estate actuary, Merlinos, has circulated to the SDR and counsel a draft reserve report, as of September 30, 2023. The draft reflects a significant reduction in reserves, specifically IBNR. The SDR completed a commutation with Partner Re in the last quarter resulting in the recovery of the full amount owed, \$1,794, and the return of the remaining trust funds to the reinsurer.

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). The SDR is working with the Arkansas Department of Insurance on the release of the deposit.

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 hired California collections counsel, who is pursuing recovery on the judgment against Mr. Fuchs in California. Fuchs' counsel made a low settlement offer. SDR's counsel responded requesting sworn financial statements before consideration of the offer. The debtor has not responded. Mr. Fuchs was served with a notice of Application for Judgment on Sister State Judgment on January 1, 2024. If no response is forthcoming, California counsel is going to obtain a Writ of Execution to levy on any bank account we identify or garnish the debtor's wages. California counsel will also obtain an abstract of judgment which will be recorded in Los Angeles County and encumber the debtor's residence (California has more limited homestead protection than Texas).

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 2,197 subpoenas and records requests from inception of the estate through December 31, 2023, including forty-three new requests in the quarter. The year-end counts for prior years are as follows: 2,022 in 2022, 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:

- Continued processing new subrogation claims.
- Commuted Partner Re treaty obligations.
- Pursued collection of Fuchs judgment.
- Obtained updated draft reserve report from Merlinos.

Estate Goals to Achieve Prior to Next Status Conference:

- Obtain approval for Fourth Early Access Application.
- Begin deeming certain statutory deductibles or minimums.
- Complete adjudication of new subrogation POCs.
- Continue collection of judgment against Mr. Fuchs.
- Continue reporting to reinsurers.
- 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 second quarter of 2024.

Factors Affecting Closing Date and Final Distribution: TBD