

IN THE DISTRICT COURT OF OKLAHOMA COUNTY  
STATE OF OKLAHOMA

MAR 18 2021

RICK WARREN  
COURT CLERK

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STATE OF OKLAHOMA, ex rel.	)
GLEN MULREADY, Insurance Commissioner,	)
	)
	)
Petitioner,	)
	)
v.	)
	)
HOSPITAL CASUALTY COMPANY,	)
	)
Defendant.	)

Case No. CJ-2004-6260  
Judge Susan Stallings

**RECEIVER’S FINAL RECOMMENDATION ON CLAIMS,  
MOTION TO DISTRIBUTE ASSETS, CLOSE ESTATE, AND  
REQUEST FOR DISCHARGE**

Glen Mulready, Insurance Commissioner, as Receiver (the “Receiver”) for Hospital Casualty Company hereby submits his Final Recommendation on Claims, Motion to Distribute Assets, Close Estate and Request for Discharge. In support of this Application, the Receiver states as follows:

**BACKGROUND**

1. On August 6, 2004, the Insurance Commissioner of the State of Oklahoma was appointed as Receiver of Hospital Casualty Company (hereinafter “HCC”). Glen Mulready is the Insurance Commissioner and submits this motion acting in his capacity as Receiver of HCC.

2. On October 1, 2004, an Agreed Order of Liquidation with a Determination of Insolvency (“Liquidation Order”) was entered placing HCC in liquidation. The Receiver is charged with liquidating the receivership estate, marshalling the assets, and collecting all monies due HCC for the benefit of HCC and its creditors.

3. On November 12, 2004, this Court entered its Order Approving Receiver’s

Combined Application; therein approving the Receiver's proposed: (a) Notice of Liquidation of Insurer & Deadline to File Proof of Claim; (b) Supplemental Notice for Certain Claims made Policy Holders; and (c) Form of Proof of Claim and Instructions and directing the Receiver to provide notice to potential claimants of record and publish the Notice.

4. On January 14, 2005, the Receiver filed Proof of Publication with the Court. On October 31, 2005, the Receiver advised the court that Notice of Liquidation of Insurer & Deadline to File Proof of Claim had been mailed to 15,564 current or potential claimants and 4,819 Proof of Claims had been timely filed.

5. On March 1, 2006, the Assistant Receiver filed Report on Claims Ready to be Adjudicated and Recommendations to the District Court for the Allowance or Disallowance of Such Claims. Since that time, thirty-three supplemental reports have been filed and all claims adjudicated except for one filed by the Oklahoma Property & Casualty Insurance Guaranty Association.

5. Pursuant to 36 O.S. §1927.1, the court has approved the Class 1: Administrative expenses of the receivership through September 30, 2020.

6. Pursuant to 36 O.S. §1927.1, the court has previously approved the Assistant Receiver's recommendation for allowance of claims by class as follows:

Class 2: Administrative expenses of guaranty associations ("GA")	\$0.00
Class 3: Policy claims including GA for payment of covered claims <sup>1</sup>	\$1,290,935.58
Class 4: Claims of Federal Government not included in Class 3	\$0.00
Class 5: Debts due employees for work prior to liquidation order date	\$0.00

<sup>1</sup> Assistant Receiver's Seventeenth Report on Claims Ready to be Adjudicated and Recommendation to the District Court for the Approval and Denial of Such Claims recommending approval of Proof of Claim 15524 be allowed in the amount of \$99,365.80 was approved by this Court on October 31, 2008 and ordered any pro-rata distribution by HCC be paid to Oklahoma Property & Casualty Insurance Guaranty Association.

Assistant Receiver's Twenty-First Report on Claims Ready to be Adjudicated and Recommendation to the District Court for the Approval of Such Claims recommending four Proof of Claims filed by Jane Phillips Memorial Medical Center be allowed in the amount of \$302,828.10 and six proof of claims filed by Muskogee Regional Medical Center be allowed in the amount of \$888,751.68 was approved by this Court on January 16, 2009.

Class 6: Claims not specified elsewhere in the priority classes	\$95,796.19
Class 7: Claims for commissions and service fees	\$0.00
Class 8: Claims for surplus or contribution notes	\$0.00
Class 9: Claims of shareholders	\$0.00

7. Pursuant to 36 O.S. §1927.1, beginning with Class 1, the members of each class must be paid in full or adequate funds retained for such payment, before any member of the next class may receive payment.

8. On March 25, 2005, the Court approved an Early Access Distribution Plan. As of March 12, 2021, the Receiver has made Class 2 early access distributions of \$15,164,845.83 and Class 3 early access distributions of \$9,622,052.42 to the Oklahoma Property & Casualty Insurance Guaranty Association.

9. The Receiver has entered into a release agreement with the United States Department of Justice releasing the Receiver from liability under the Federal Priority Statute, 31 U.S.C. § 3713. The release was approved by the Court on June 11, 2020.

10. On June 11, 2020, the Court approved the Receiver's Application for Authority to Destroy Documents filed on May 6, 2020. The Receiver has destroyed the subject documents.

11. The Assistant Receiver has marshalled and liquidated all assets and concluded all litigation.

12. The Receiver has faithfully and diligently completed the liquidation and performed the duties assigned to him by the Court's Orders and pursuant to the Oklahoma Uniform Insurers Liquidation Act, 36 O.S. §§ 1901, et. seq., with the exception of certain ministerial tasks described below.

**FINAL RECOMMENDATION ON CLAIMS**

13. The Receiver requests the Court's approval of the Class 1 expenditures that have been incurred after September 30, 2020 for Direct Administrative fees and expenses in the amount

ORO for the administration of post-closing tasks as shown in Exhibit 3.

21. The Receiver request the Court approve a final distribution of all remaining assets of HCC, net of any early access distributions, as shown on Exhibit 4 and Exhibit 5.

22. In addition, HCC holds a judgment entered against William R. Evans and Hensley-Evans Insurance Company in 1996 in the amount of \$427,870.50 that the Receiver has been unable to collect. The Receiver request the Court enter an order assigning the Evans judgment to the Oklahoma Property and Casualty Insurance Guaranty Association.

#### **APPLICATION TO CLOSE ESTATE AND DISCHARGE RECEIVER**

23. Having performed and completed his responsibilities as Receiver, the Receiver further requests that the Court's closing order discharge and release the Receiver, Assistant Receiver, and all other agents of the Receiver from any responsibilities and liabilities in relation to HCC effective upon the filing of a Post-Closing Report certifying that the Post-Closing Tasks have been completed without further notice, hearing, or order of this Court.

24. The Receiver further requests that the Court enter an Order that confirms all injunctions and stays entered by the Court, including those in the Liquidation Order, permanently remain in full force and effect and that this Court retains exclusive jurisdiction of the enforcement thereof.

25. The Receiver further requests that the Court enter an Order that bars all claims against HCC, the Receiver, Assistant Receiver, retained counsel, and any other employee or personnel of the Receiver or Assistant Receiver.

#### **REQUEST FOR RELIEF**

Accordingly, the Receiver requests that the Court enter an Order:

a. approving the Class 1 expenses incurred after September 30, 2020 as shown in Exhibit

- 1 and Exhibit 2;
- b. approving distribution to ORO for Class 1 administration of post-closing tasks as shown in Exhibit 3; and
  - c. approving the claim of Oklahoma Property and Casualty Insurance Guaranty Association in the amount of \$15,182,539.58 as Class 2 and \$30,500,178.30 as Class 3; and
  - d. expressly authorizing and approving the performance of the ORO of Post-Closing Tasks; and
  - e. approving a final distribution of remaining assets of HCC, net of any early access distributions as shown in Exhibit 4 and Exhibit 5; and
  - f. approving assignment of judgment entered against William R. Evans and Hensley-Evans Insurance Company to Oklahoma Property and Casualty Insurance Guaranty Association; and
  - g. confirming that all injunctions and stays entered by the Court, including those in the Liquidation Order; permanently remain in full force and effect and that this Court retain exclusive jurisdiction of the enforcement thereof; and
  - h. barring all claims against Hospital Casualty Company, the HCC Estate, the Receiver, Assistant Receiver, and all other agents of the Receiver or Assistant Receiver; and
  - i. discharging and releasing the Receiver, Assistant Receiver and all other agents of the Receiver from any responsibilities and liabilities in relation to Hospital Casualty Company and the HCC Estate effective upon the filing of a Post-Closing Report certifying that the appropriate post-closing ministerial tasks related to the HCC Estate have been completed without further notice, hearing or order of this Court; and

- j. dissolving Hospital Casualty Company; and
- k. closing the HCC Estate and terminating this proceeding; and
- l. granting the Receiver such other and further relief, at law or in equity, to which the Receiver is entitled.

### NOTICE OF HEARING

Notice is hereby given that the above application shall be heard before the Honorable Susan Stallings at 10:30 a m. on the 6 day of May 2021. At the hearing you may have the following rights pursuant to OKLA. STAT. tit. 36, § 1938 (c):

1. To appear in person at the hearing or to be represented by counsel; and
2. To testify under oath, call witnesses to testify, and furnish documentary evidence, relevant to the determination of the compensation; and
3. To cross-examine witnesses and have a reasonable opportunity to inspect all documentary evidence; and
4. To subpoena witnesses and compel the production of testimony and documents, relevant to the determination of the compensation.

### CERTIFICATE OF MAILING

This is to certify that a true and correct copy of the foregoing was served via United States mail, postage prepaid and properly addressed and/or electronic mail with written consent, on the 18 day of March 2021 upon the following:

Oklahoma Insurance Department  
sherry.standerfer@oid.ok.gov

Oklahoma Hospital Association  
sfaust@okoha.com

Oklahoma Receivership Office, Inc.  
dcrowe@okaro.org

Oklahoma Property & Casualty Insurance  
Guaranty Association  
OKRecevier@opciga.org

Derryberry & Naifeh  
4800 N. Lincoln Blvd.  
Oklahoma City, OK 73105

Diana Cole Cherry  
5042 Wilshire Boulevard #33783  
Los Angeles, CA 90036



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Antuanya "Bo" DeBose  
Kayla Rochelle

HOSPITAL CASUALTY COMPANY  
 CLASS 1 EXPENSES SUBMITTED FOR COURT APPROVAL  
 ORTOBER 1, 2020 THROUGH FEBRUARY 28, 2021

**(Exhibit 1, ORO Direct Administrative Fees & Expenses)**

DATE	CHECK NO	CHECK AMOUNT	TOTAL	EXPLANATION OF EXPENSES
<b>VENDOR: OKLAHOMA RECEIVERSHIP INVESTMENT FUND (ORIF)</b>				
10/31/20	DR	3,133.46		SERVICE FEES
12/31/20	DR	1,481.78		SERVICE FEES
			4,615.24	SERVICE FEES
<b>VENDOR: MIDCON DATA SERVICES, LLC</b>				
10/14/20	30024	19.60		RECORD STORAGE FEE
11/17/20	30032	19.60		RECORD STORAGE FEE
12/15/20	30034	19.60		RECORD STORAGE FEE
02/17/21	10008	39.20		RECORD STORAGE FEE
03/11/21	10012	908.60		RECORD DESTRUCTION FEE
			1,006.60	RECORD STORAGE FEE
TOTAL		5,621.84	5,621.84	TOTAL EXPENDITURES



OKLAHOMA RECEIVERSHIP OFFICE, INC.  
 Summary of Management Fee Allocations for Hospital Casualty Company

**(Exhibit 2, ORO Administrative Fees & Expenses)**

<b>UNALLOCATED RESERVE FUND BEGINNING OF PERIOD</b>	\$ (1,244.60)
<b>FUNDING APPROVED</b>	
OCTOBER 2020	\$ 503.68
NOVEMBER 2020	3,428.66
<b>TOTAL FUNDING APPROVED</b>	<u>\$ 3,932.34</u>
<b>SEPARATE EXPENSES:</b>	
POSTAGE/SHIPPING	\$ 13.42
TRAVEL EXPENSE	29.76
OFFICE EXPENSE	24.70
FURNITURE & EQUIPMENT	-
CONTRACT LABOR	-
<b>TOTAL SEPARATE EXPENSES</b>	<u>\$ 67.88</u>
	<u>4th Qtr 2020 &amp; January 2021</u>
<b>COMMON EXPENSES:</b>	
EMPLOYEE/LABOR COSTS	\$ 3,231.99
OFFICE SUPPLIES	85.93
TRAVEL EXPENSE	5.66
TELEPHONE EXPENSE	84.38
POSTAGE	1.16
FACILITY USAGE	1,856.54
ASST RECEIVER FEES	428.66
CONSULTANT FEES	-
LEGAL EXPENSE	352.00
LEGAL EDUCATION	-
W/C INSURANCE	-
STORAGE	-
MOVING EXPENSE	-
RECORD DESTRUCTION	-
CORPORATE INSURANCE	827.79
OFFICE AUDIT	-
ACCOUNTANT FEES	11.15
BOOKS & PUBLICATIONS	-
CONTRACT LABOR	-
BANK ANALYSIS FEES	-
<b>TOTAL MANAGEMENT FEE ALLOCATED</b>	<u>\$ 6,885.26</u>
INTEREST EARNED	-
<b>UNALLOCATED RESERVE FUND AT END OF PERIOD</b>	<u>\$ (4,265.40)</u>

## Exhibit 3

**OKLAHOMA RECEIVERSHIP OFFICE INC**  
**Estate: Hospital Casualty Company**

<b><u>Projected Expenses February-April 2021</u></b>	
ORO Allocation	4,500.00
Assistant Receiver Fees	2,000.00
Special Deputy	5,000.00
Legal Services	200.00
Document Storage	10.00
	11,710.00
<b><u>Wind-down Budget</u></b>	
ORO Allocation	8,000.00
Legal Services	100.00
Tax Preparation (2020 and 2021)	5,100.00
Travel Expense	25.00
Document Storage	150.00
Document Destruction	150.00
Corporate Dissolution	50.00
Other Services	5,000.00
	18,575.00
ORO Advance Remaining, January 31, 2021	(4,265.40)
Funds Received after January 31, 2021	15,000.00
Projected Expenses February - April, 2021	11,710.00
Wind-down Budget	18,575.00
Funding Required	(19,550.40)
<b>Funding Requested</b>	<b>20,000.00</b>

# Exhibit 4

## Hospital Casualty Company in Receivership FINAL DISTRIBUTION - CLASS 2

### -- CLASS 2 DISTRIBUTION PERCENTAGE --

LINE

**Estate Funds Available for Distribution**

2a	Estate Assets available for distribution		
	Early Access Distributions	\$ 24,786,898.25	
	Assets Held by Estate	\$ 3,610,304.17	\$ 28,397,202.42
2b	Less reserve for Class 1 Claims		
	Pending Court Approval	\$ 3,113.00	
	Closing Budget (Exhibit 3)	\$ 20,000.00	
2c	Equals funds available for distribution to Class 2 and lower		\$ 28,374,089.42

**Class 2 Liability**

2d	Guaranty Fund Class 2 - Paid expenses inception-to-date	\$ 15,169,739.58	
2e	Guaranty Fund Class 2 - Reserve for future costs	12,500.00	
2f	Total Class 2 Liability		\$ 15,182,239.58

**Class 2 Distribution Percentage**

2g	Distribution Percentage for Class 2		
	= line 2c divided by line 2f	186.89%	
2h	Maximum Allowable Distribution Percentage	100.00%	
2i	Final Distribution Percentage		
	= lesser of line 2g or line 2h, limited to zero if negative		100.00%

### -- DISTRIBUTION AMOUNT ON CLASS 2 --

LINE

2j	Class 2 - inception-to-date	\$ 15,182,239.58	
	= amount per line 2d		
2k	Final Distribution Percentage	100.00%	
	= amount per line 2i		
2l	Total Class 2 Distribution		\$ 15,182,239.58

### -- CLASS 2 CLAIMS FINAL DISTRIBUTION --

LINE

2m	Total Class 2 Distribution	\$ 15,182,239.58	
	= amount per line 2l		
2n	Less Class 2 Early Access Distributions	\$ 15,164,845.83	
2o	Final Class 2 Distribution		\$ 17,393.75

# Exhibit 5

## Hospital Casualty Company in Receivership FINAL DISTRIBUTION - CLASS 3

### -- CLASS 3 DISTRIBUTION PERCENTAGE --

LINE		
<b>Estate Funds Available for Distribution</b>		
3a	Estate Assets available for distribution = amount per line 2a	\$ 28,397,202.42
3b	Less reserve for Class 1 = amount per line 2b	23,113.00
3c	Less Total Class 2 Distribution = amount per line 2l	15,182,239.58
3d	Equals funds available for distribution to Class 3 and lower	<u>\$ 13,191,849.84</u>
<b>Class 3 Liability</b>		
3e	Guaranty Fund Class 3 - Paid Unearned Premiums	\$ 8,937.40
3f	Guaranty Fund Class 3 - Paid Loss Claims	30,391,875.10
3g	Guaranty Fund Class 3 - Assigned by Court	99,365.80
3h	Total Guaranty Fund Class 3 Liability	<u>\$ 30,500,178.30</u>
3i	Other Class 3 Liability	1,191,569.78
3i	Total Class 3 Claims Liability	<u>\$ 31,691,748.08</u>
<b>Class 3 Distribution Percentage</b>		
3j	Distribution Percentage for Class 3 = line 3d divided by line 3i	41.63%
3k	Maximum Allowable Distribution Percentage	100.00%
3l	Final Distribution Percentage = lesser of line 3j or line 3k, limited to zero if negative	<u>41.63%</u>

### -- DISTRIBUTION AMOUNT ON CLASS 3 --

LINE		
3m	Total Class 3 Liability = amount per 3i	\$ 31,691,748.08
3n	Final Distribution Percentage = amount per line 3l	41.63%
3o	Total Class 3 Distribution	<u>\$ 13,191,849.84</u>

### -- CLASS 3 FINAL DISTRIBUTION --

LINE		
<b>Guaranty Fund Class 3 Distribution</b>		
3p	Total Guaranty Fund Class 3 Liability = amount per line 3h	\$ 30,500,178.30
3q	Final Distribution Percentage = amount per line 3l	41.63%
3r	Total Guaranty Fund Class 3 Distribution	<u>\$ 12,695,852.91</u>
3s	Less Class 3 Early Access Distributions	\$ 9,622,052.42
3t	Final Guaranty Fund Class 3 Distribution	<u>\$ 3,073,800.49</u>
<b>Other Class 3 Distribution</b>		
3u	Total Other Class 3 Liability	\$ 1,191,569.78
3v	Final Distribution Percentage	41.63%
3w	Final Other Class 3 Distribution	<u>\$ 495,996.93</u>
	Total Final Class 3 Distribution	<u>\$ 3,569,797.42</u>