

APR 20 2021

RICK WARREN
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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

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

Case No.: CJ-2004-6260

RECEIVER'S AMENDED 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 Amended Final Recommendation on Claims, Motion to Distribute Assets, Close Estate and Request for Discharge. In support of this Amended 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.

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

7. 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 ¹	\$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

¹ 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

8. 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.

9. 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.

10. 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.

11. 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.

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

13. 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

14. 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

of \$5,621.84 (Exhibit 1) and Expenses Allocated by Oklahoma Receivership Office, Inc. of \$67.88 for separate expenses and \$6,885.26 in common expenses through January 31, 2021 (Exhibit 2).

15. The Receiver recommends the Proof of Claim filed by the Oklahoma Property & Casualty Insurance Guaranty Association ("OPCIGA") be allowed as follows:

Class 2 — GA Administrative	\$15,182,239.58
Class 3 — Policyholder Creditors	\$30,400,812.50

APPROVAL OF POST-CLOSING TASKS

16. The Oklahoma Receivership Office, Inc. ("ORO") is a not-for-profit Oklahoma corporation. Its purpose is to assist the Oklahoma Insurance Commissioner, as Receiver of insurance companies subject to delinquency proceedings in Oklahoma. The ORO is a perpetual corporation whose existence is expected to continue after the closure and termination of this estate.

17. The ORO is designed for and is uniquely qualified to perform the post-closing ministerial tasks on behalf of HCC Estate, and it is in the best interest of the HCC Estate that ORO perform the post-closing tasks.

18. Attached as Exhibit 3 is a Closing Budget which details remaining administrative ministerial tasks necessary to conclude the HCC Estate and an estimate of fees and expenses to be incurred post-closing. Included in this request are funds to be reserved pursuant to 36 O.S. 1937 (B)(3) for future litigation, if any, of claims or lawsuits against the Receiver, Assistant Receiver, retained counsel or their employees. All reserved funds shall be held by ORO and should any funds not be expended, those unused funds shall be distributed to the allowed Class 3 claims.

19. The Receiver requests that the Court expressly authorizes and approves the performance of the ORO of Post-Closing Tasks.

APPLICATION FOR FINAL DISTRIBUTION

20. The HCC Estate as of March 15, 2021 has current cash and cash equivalent assets of \$3,610,304.17 and applications for approval and payment of fees and expenses totaling \$3,113.00 are to be heard by this court on May 6, 2021.

21. The Receiver request the Court approve a Class 1 distribution of \$60,000 to the ORO for the administration of post-closing tasks as shown in Exhibit 3.

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 including the reserve fund for future litigation expenses; 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
- 1. granting the Receiver such other and further relief, at law or in equity, to which the

Receiver is entitled.

Respectfully submitted,

RIGGS, ABNEY, NEAL, TURPEN,
ORBISON & LEWIS, P.C.



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Facsimile: (405) 842-2913
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ATTORNEYS FOR RECEIVER

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 6th 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 20th day of April, 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

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

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

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


George M. Emerson

HOSPITAL CASUALTY COMPANY
CLASS 1 EXPENSES SUBMITTED FOR COURT APPROVAL
OCTOBER 1, 2020 THROUGH MARCH 31, 2021

(Exhibit 1, ORO Direct Administrative Fees & Expenses)

DATE	CHECK NO	CHECK AMOUNT	TOTAL	EXPLANATION OF EXPENSES
VENDOR: OKLAHOMA RECEIVERSHIP INVESTMENT FUND (ORIF)				
10/31/20	DR	3,133.46		SERVICE FEES
12/31/20	DR	1,481.78		SERVICE FEES
			4,615.24	SERVICE FEES
VENDOR: MIDCON DATA SERVICES, LLC				
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)

UNALLOCATED RESERVE FUND BEGINNING OF PERIOD	\$ (1,244.60)
FUNDING APPROVED	
OCTOBER 2020	\$ 503.68
	3,428.66
JANUARY 2021	15,000.00
MARCH 2021	428.66
TOTAL FUND APPROVED	\$ 19,361.00
SEPARATE EXPENSES:	
POSTAGE/SHIPPING	\$ 17.52
TRAVEL EXPENSE	57.18
OFFICE EXPENSE	30.95
FURNITURE & EQUIPMENT	-
CONTRACT LABOR	-
TOTAL SEPARATE EXPENSES	\$ 105.65
	4th Qtr 2020 & 1st Qtr. 2021
COMMON EXPENSES:	
EMPLOYEE/LABOR COSTS	\$ 8,253.71
OFFICE SUPPLIES	151.44
TRAVEL EXPENSE	39.47
TELEPHONE EXPENSE	189.64
POSTAGE	1.33
FACILITY USAGE	3,310.04
ASST RECEIVER FEES	857.33
CONSULTANT FEES	-
LEGAL EXPENSE	352.00
LEGAL EDUCATION	-
W/C INSURANCE	-
STORAGE	-
MOVING EXPENSE	-
RECORD DESTRUCTION	-
CORPORATE INSURANCE	1,880.28
OFFICE AUDIT	-
ACCOUNTANT FEES	11.15
BOOKS & PUBLICATIONS	-
CONTRACT LABOR	-
BANK ANALYSIS FEES	-
TOTAL MANAGEMENT FEE ALLOCATED	\$ 15,048.39
INTEREST EARNED	0.03
UNALLOCATED RESERVE FUND AT END OF PERIOD	\$ 2,964.39

Exhibit 3

OKLAHOMA RECEIVERSHIP OFFICE INC
Estate: Hospital Casualty Company

<u>Projected Expenses February-April 2021</u>	
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
<u>Wind-down Budget</u>	
ORO Allocation	12,000.00
Legal Services	25,500.00
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	7,500.00
	50,475.00
ORO Advance Remaining, March 31, 2021	2,964.39
Projected Expenses April-May, 2021	11,710.00
Wind-down Budget	50,475.00
Funding Required	59,220.61
Funding Requested	60,000.00

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	\$ 3,606,260.47	\$ 28,393,158.72
2b	Less reserve for Class 1 Claims		
	Pending Court Approval	\$ 3,113.00	
	Closing Budget (Exhibit 3)	\$ 60,000.00	
2c	Equals funds available for distribution to Class 2 and lower		<u>\$ 28,330,045.72</u>

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		<u>\$ 15,182,239.58</u>

Class 2 Distribution Percentage

2g	Distribution Percentage for Class 2		
	= line 2c divided by line 2f	186.60%	
2h	Maximum Allowable Distribution Percentage	100.00%	
2i	Final Distribution Percentage		
	= lesser of line 2g or line 2h, limited to zero if negative		<u>100.00%</u>

-- 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		<u>\$ 15,182,239.58</u>

-- 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		<u>\$ 17,393.75</u>

Exhibit 5

Hospital Casualty Company in Receivership FINAL DISTRIBUTION - CLASS 3

-- CLASS 3 DISTRIBUTION PERCENTAGE --

LINE		
Estate Funds Available for Distribution		
3a	Estate Assets available for distribution = amount per line 2a	\$ 28,393,158.72
3b	Less reserve for Class 1 = amount per line 2b	63,113.00
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>\$ 13,147,806.14</u>
Class 3 Liability		
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>
Class 3 Distribution Percentage		
3j	Distribution Percentage for Class 3 = line 3d divided by line 3i	41.49%
3k	Maximum Allowable Distribution Percentage	100.00%
3l	Final Distribution Percentage = lesser of line 3j or line 3k, limited to zero if negative	<u>41.49%</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	41.49%
3o	Total Class 3 Distribution	<u>\$ 13,147,806.14</u>

-- CLASS 3 FINAL DISTRIBUTION --

LINE		
Guaranty Fund Class 3 Distribution		
3p	Total Guaranty Fund Class 3 Liability = amount per line 3h	\$ 30,500,178.30
3q	Final Distribution Percentage = amount per line 3l	41.49%
3r	Total Guaranty Fund Class 3 Distribution	<u>\$ 12,653,485.20</u>
3s	Less Class 3 Early Access Distributions	<u>\$ 9,622,052.42</u>
3t	Final Guaranty Fund Class 3 Distribution	<u>\$ 3,031,412.78</u>
Other Class 3 Distribution		
3u	Total Other Class 3 Liability	\$ 1,191,569.78
3v	Final Distribution Percentage	41.49%
3w	Final Other Class 3 Distribution	<u>\$ 494,340.94</u>
	Total Final Class 3 Distribution	<u>\$ 3,525,753.72</u>