

IN THE DISTRICT COURT FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

OCT 16 2017

RICK WARREN
COURT CLERK

42 _____

STATE OF OKLAHOMA, ex rel,
JOHN DOAK, Insurance Commissioner for
the State of Oklahoma,)

Plaintiff,)

vs.)

IMPERIAL CASUALTY AND INDEMNITY
COMPANY, a domestic insurance company,)

Defendant.)

Case No. CJ-2010-2340
The Honorable Thomas E. Prince



**RECEIVER'S REPORT ON CLAIMS EVALUATION AND REQUEST FOR
CONFIRMATION OF RECEIVER'S RECOMMENDATION**

The State of Oklahoma, ex rel., John Doak, Insurance Commissioner, as statutory receiver of Imperial Casualty and Indemnity Company, in liquidation, ("Imperial") presents this Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendation.

PROCEDURAL HISTORY AND PRIOR REPORTS TO THE COURT

1. On May 12, 2010, this Court placed Imperial in liquidation through its Consent Order of Liquidation with a Finding Insolvency and Permanent Injunction (the "Liquidation Order").

2. On October 14, 2010, the Court entered an Order by which the Court (a) approved the Receiver's proposed Proof of Claim Form and accompanying instructions; and (b) established a deadline of February 15, 2011 for all claims to be filed.

3. The Receiver thereafter (a) distributed in excess of 16,000 proofs of claim packets to potential claimants; (b) received 373 timely proofs of claims, seeking a total of

\$35,082,225.57; and (c) reported to this Court that 118 of those claims did not claim a specific sum of money.

4. Through subsequent Orders, the Court approved the following schedule for the Receiver's Claims Evaluation Plan:

<u>Activity</u>	<u>Date</u>
Receiver's Report on Timely-Filed Claims	April 29, 2011
Receiver's First Claims Evaluation and Request for Confirmation due (on claims due to be adjudicated);	April 15, 2012
Receiver's Supplemental Claims Evaluations and Requests for Confirmation (on subsequently evaluated claims ready to [be] adjudicated)	October 15, 2012 and every six months thereafter

5. In the Receiver's prior report to the Court filed on April 17, 2017, the Receiver reported that there were 64 claims under review by the Receiver that fell within the following categories:

Claims Not Yet Adjudicated

<u>Type</u>	<u>Number</u>
State Guaranty Association Claims	48
Non-Covered Orphan or Orphan Related Claims	1
Professional Employer Organization Claims	9
General Creditor Claims	4
State or City Governmental Department Claims	2
<u>TOTAL</u>	64

State Guaranty Association Claims

Through this Report, the Receiver presents recommendations as to 10 claims of state guaranty associations to which Imperial owes no obligation. These are associations that filed a preliminary claim against the receivership estate but that have never administered, paid or otherwise incurred liabilities for a claim under a Imperial policy. The Receiver's recommendations as to these claims are set forth in the table attached hereto as Exhibit 1. Exhibit 2 provides a description of the remark code(s) used in Exhibit 1 to identify the bases for the Receiver's recommendations.

As to the remaining state guaranty associations that have administered or paid claims under an Imperial policy, the claims of those guaranty associations are not certain in amount. The claims adjustment process of the state guaranty associations is ongoing and generally not completed until near the time of the closure of the estate. These state guaranty associations continue to incur expenses and pay policy benefits for which they will seek reimbursement from the Imperial estate. Accordingly, the claims of these state guaranty associations are not yet ready for adjudication at this time.

Non-Covered "Orphan" or "Orphan-Related" Claims

One non-covered orphan or orphan-related claim remains for adjudication. An **"orphan"** claim is a claim of the insured against a policy issued by the insolvent insurance company for which no state guaranty association has statutory responsibility. An **"orphan-related claim"** is a claim of a third-party provider for services provided to an orphan insured.

Without a state guaranty association assuming responsibility for such claims, the Receiver investigates orphan claims to determine whether they are properly payable

under an Imperial policy and under which priority classification the claim would be considered.

Professional Employer Organization Claims

Nine claims of Professional Employer Organizations (“PEOs”) remain for adjudication. The Receiver’s recommendation as to one of those nine claims has been presented to the Court. The Receiver continues to be involved in litigation against each of the other PEOs that has a claim pending against the Imperial receivership estate. Such litigation may affect the Receiver's evaluation of some or all of those claims. In the interest of efficiency, the Receiver intends to reserve evaluation of those PEO claims pending further development of the litigation against those PEOs.

Other Claims

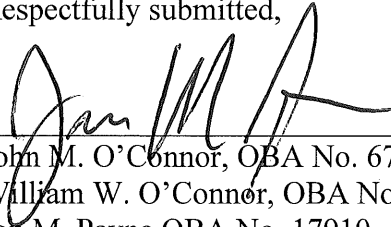
The six remaining claims consist of four general creditor claims, and two claims from a state or city governmental department. The Receiver hereby presents his recommendations to the Court concerning the two claims from state or city governmental departments in Exhibit 1. Exhibit 2 provides a description of the remark code(s) used in Exhibit 1 to describe the bases for the Receiver’s recommendations.

Based on the foregoing, the Receiver requests that this Court:

- a. order that the Receiver provide notice of opportunity to object and be heard to each of the claimants making a claim reflected on the Exhibit 1 attached to this Report;
- b. find that the proposed form of notice attached hereto as Exhibit 3 is proper in all respects;
- c. establish a date for filing an objection to the recommendation of the Receiver;
- d. schedule a hearing of the Receiver’s recommendation to the Court and any objections thereto;

- e. upon hearing any objections thereto, enter an order that confirms the Receiver's recommendations as to each of the claims presented for adjudication and provides relief consistent therewith; and
- f. grant the Receiver such other and further relief as the Court deems appropriate.

Respectfully submitted,



John M. O'Connor, OBA No. 6741

William W. O'Connor, OBA No. 13200

John M. Payne OBA No. 17910

NEWTON, O'CONNOR, TURNER & KETCHUM

15 West Sixth Street, Suite 2700

Tulsa, OK 74119

Phone: (918) 587-0101

Facsimile: (918) 587-0102

joconnor@newtonoconnor.com

-AND-

Barron B. Brown, OBA # 31346

3613 NW 56th Street, Ste. 330

Oklahoma City, OK 73112

(405) 947-0022 – telephone

(405) 947-0046 – facsimile

**ATTORNEYS FOR PLAINTIFF, STATE OF
OKLAHOMA, ex rel., JOHN DOAK, Insurance
Commissioner for the State of Oklahoma, as
Receiver for Imperial Casualty and Indemnity
Company, in Liquidation**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was served via United States mail, postage prepaid and properly addressed, on the ~~17th~~ ^{16th} day of ~~April~~ ^{October}, 2017 upon the following:

Oklahoma Receivership Office
Donna Wilson / Debra Crowe
3613 NW 56th Street, Suite 330
Oklahoma City, OK 73112

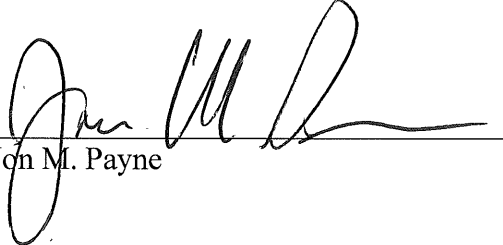
James Mills
Oklahoma Insurance Department
3625 NW 56th Street, Ste. 100
Oklahoma City, OK 73112

Mark Tharp
Tharp & Associates
300 West Osborn Road, Ste. 500
Phoenix, AZ 85013

Providence Holdings Inc.
P.O. Box 396
Addison, TX 75001

Stephen Jones
Jones, Otjen & Davis
P.O. Box 472
Enid, Oklahoma 73702-0472

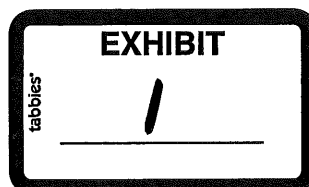
John Blatt
National Conference of Insurance
Guaranty Funds
300 North Meridian Street
Suite 1020
Indianapolis, In 46204-1754



Jon M. Payne

**Imperial Casualty/Park Avenue
Submitted Proofs of Claims**

POC Number	Type of POC	Amount Claimed	Recommended Amount	Remark Code
ICIC-00005	Guaranty Assoc	Unstated	\$ -	DO
ICIC-00033	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00164	Guaranty Assoc	Unknown	\$ -	DO
ICIC-00034	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00055	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00021	STATE	Unstated	\$ -	DO
ICIC-00057	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00259	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00058	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00036	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00037	Guaranty Assoc	Undetermined	\$ -	DO
ICIC-00389	STATE	1,471.90	\$ -	FL, DP



Remark Codes

CODE	DEFINITION
AA	POC IS APPROVED AT POLICY ALLOWABLE BENEFIT
AD	APPROVED AS POC GUARANTY ASSOCIATION PAID LESS DEDUCTIBLE
AE	POC IS APPROVED AT EXCEPTION AMOUNT
AL	POC IS APPROVED AT AMOUNT SUPPORTED BY DOCUMENTATION PRESENTED
AP	POC IS APPROVED AT SUBMITTED AMOUNT
AR	APPROVED AS POC FOR RETROSPECTIVE POLICY
AS	APPROVED AS POC FOR W/C SECURITY DEPOSIT AND DEDUCTIBLES
AT	APPROVED AS POC SUBJECTIVE TIMELY FILED POC
AX	APPROVED AS POC GUARANTY ASSOCIATION PAID THRESHOLD EXCESS DUE
CA	CLAIM IS/HAS BEEN CONSIDERED ON ANOTHER POC FORM
CM	EXCEEDS MAXIMUM VISITS PER CALENDAR YEAR
CP	CLAIM WAS PARTIALLY PAID BY GUARANTY ASSOCIATION
CX	CLAIM RECOMMENDATION EXCLUDES INTEREST AND/OR PENALTIES
DD	DENIED AS POC DUPLICATE, WHOLLY OR PARTIALLY, OF ANOTHER POC ON FILE
DE	DENIED AS POC APPLIED TO ERISA DEDUCTIBLE
DG	DENIED AS POC/CLAIM IS GUARANTY ASSOCIATION OBLIGATION
DI	DENIED DUE TO NET WORTH DETERMINATION BY GA OR EXCLUSION FOR HIGH DEDUCTIBLE POLICIES; CLAIM REFERRED TO INSURED
DN	DENIED NOT ICIC OR PAPC OBLIGATION
DO	DENIED NO OBLIGATION DUE CLAIMANT
DP	DENIED AS POC CLAIMED AMOUNT WAS INCURRED/ASSESSED POST RECEIVERSHIP
DS	DENIED AS POC NO DOCUMENTS OR INSUFFICIENT DOCUMENTS RECEIVED
DU	DUPLICATE OF CHARGE(S) PREVIOUSLY CONSIDERED
DX	POC IS DENIED AS PART OF A SETTLEMENT
DZ	POC IS DENIED PREVIOUSLY PAID
EE	THIS CLAIM HAS BEEN ALLOWED ON THE PARTICIPANT'S PROOF OF CLAIM FORM
ES	THIS CLAIM HAS BEEN PAID AS PART OF A SETTLEMENT
FL	THIS CLAIM WAS NOT TIMELY FILED
FN	POC NOT COMPLETE
NC	NOT A COVERED BENEFIT
NP	DENIED NO UNEARNED PREMIUM DUE
PE	DATE OF SERVICE IS PRIOR TO THE EFFECTIVE DATE
PF	PAID OR CALCULATED PURSUANT TO FEE SCHEDULE OR COURT ORDER
PP	THIS CLAIM WAS PAID/DENIED (PARTIALLY OR FULLY) PRIOR TO RECEIVERSHIP
PR	THIS CLAIM HAS BEEN ALLOWED ON THE PROVIDER'S PROOF OF CLAIM FORM
PX	THIS CLAIM WAS DENIED DUE TO A PRE-EXISTING CONDITION
RI	REQUESTED INFORMATION NOT RECEIVED
SS	FULL TIME STUDENT STATUS WAS NEVER ESTABLISHED
TE	THIS CLAIM HAS BEEN ALLOWED ON THE TRUSTEE'S PROOF OF CLAIM FORM
TR	THIS CLAIM HAS BEEN ALLOWED ON THE TRUST'S PROOF OF CLAIM FORM
TX	DATE OF SERVICE IS AFTER THE TERMINATION DATE
UN	UNABLE TO IDENTIFY THE PATIENT AS A PARTICIPANT
WE	POC IS WITHDRAWN



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STATE OF OKLAHOMA**

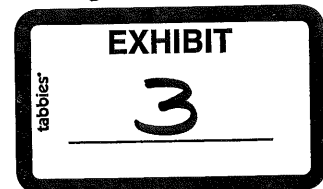
STATE OF OKLAHOMA, ex rel,)	
JOHN DOAK, Insurance Commissioner for)	
the State of Oklahoma,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CJ-2010-2340
)	<i>The Honorable Thomas E. Prince</i>
IMPERIAL CASUALTY AND INDEMNITY)	
COMPANY, a domestic insurance company,)	
)	
Defendant.)	

**NOTICE OF OBJECTION DEADLINE AND HEARING ON THE
RECEIVER'S REPORT ON CLAIMS EVALUATION AND REQUEST FOR
CONFIRMATION OF RECEIVER'S RECOMMENDATION**

You are hereby notified that on [date] a hearing will be held before the Honorable Thomas E. Prince, District Court Judge of Oklahoma County, Oklahoma, at which time the Receiver's Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendation ("the Receiver's Report") shall be heard. **The hearing will be conducted at the Oklahoma County Courthouse, 321 Park Avenue, Room # 304, Oklahoma City, Oklahoma.**

You are receiving this Notice because the Receiver has evaluated your claim and such claim is ready for adjudication. The document accompanying this Notice sets forth the Receiver's recommendations to the Court in relation to your claim.¹ Your claim has been assigned the Proof of Claim number ("POC #") indicated on the accompanying document. The

¹ The Receiver's recommendations to the Court regarding your claim and other claims set for hearing on the referenced hearing date are set forth in the Receiver's Report, which was filed in the above-entitled matter on October 16, 2017. A copy of the Receiver's Report is available on the website for the Oklahoma Receivership Office at www.okaro.org.



accompanying document also provides information specific to your claim, including the amount of your claim, the Receiver's recommendation as to the amount of your claim to be allowed, if any.

IF YOU DO NOT WISH TO OBJECT TO THE RECEIVER'S RECOMMENDATION, YOU ARE NOT REQUIRED TO TAKE ANY ACTION AT THIS TIME. **IF YOU WISH TO OBJECT TO THE RECEIVER'S RECOMMENDATION, YOU MUST FILE A PROPER, WRITTEN OBJECTION WITH THE COURT NO LATER THAN [DATE].** To be a proper, written objection:

- (1) **the objection must contain the case information located at the top of this Notice** (State of Oklahoma, ex. rel. John Doak, Insurance Commissioner v. Imperial Casualty and Indemnity Company, Case No. CJ-2010-2340, Judge Thomas E. Prince);
- (2) **the objection must be filed with the Clerk of the Oklahoma County District Court**, 320 Robert S. Kerr Avenue, Oklahoma City, Oklahoma 73102, and a copy mailed to the Receiver's legal counsel at the address shown below;
- (3) **the objection must be signed by the claimant or the claimant's representative;**
- (4) **the objection must be typewritten on a good grade of white paper size 8 ½ by 11 inches, give the name, current address and telephone number of the claimant** making the objection, including the name and position of the person signing the objection, if the claimant is a business; and
- (5) **the objection must state the exact grounds** on which the objection is based and be accompanied by a concise brief that contains (a) a written statement of material facts as to which the objecting party contends no genuine issue exists verified by a person with knowledge of the facts; (b) references to supporting documentation submitted with the proof of claim; and (c) citation to applicable authority supporting the objection;
- (6) if you wish to present the Court with oral argument on your objection at the hearing, **the objection must indicate your intention to appear at the hearing and make such oral argument. Failure to expressly state an intention to make oral argument in your objection may be deemed by the Court to be a waiver of the right to oral argument.**

Failure to file a timely and proper written objection as described above may result in your objection being denied. If the Court approves your claim in whole or in part, it does not mean that you will actually receive the allowed amount as ordered by the Court. The amount of payment on your claim, if any, is dependent upon the class or priority the Court assigns your claim based on Oklahoma law, and the assets in the estate available for distribution. If your claim is allowed but was filed untimely (i.e. after February 8, 2011), it is given a lower priority in any distribution of the estate in accordance with Oklahoma law. Certain legal matters still pending before the Court may prevent the payment of claims for some time. Any questions regarding this Notice, the Receiver's Recommendations as to your claim or any of the other claims to be heard during the hearing on the date referenced above should be directed to the Oklahoma Receivership Office. Contact information for the Oklahoma Receivership Office is set forth below.

Oklahoma Receivership Office

3613 NW 56th, Suite 330
Oklahoma City, OK 73112
Phone: (405) 947-0022
Fax: (405) 947-0046;

Receiver's Legal Counsel Address:

John M. O'Connor
William W. O'Connor
Jon M. Payne
Newton O'Connor Turner & Ketchum
15 West Sixth Street, Suite 2700
Tulsa, OK 74119
(918) 587-0101 (telephone)
(918) 587-0102 (facsimile).