

Oct. 23. 2018 9:16AM

No. 8760 P. 21411111

**IN THE DISTRICT COURT FOR OKLAHOMA COUNTY
STATE OF OKLAHOMA**

**FILED IN DISTRICT COURT
OKLAHOMA COUNTY**

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

Plaintiff,)

vs.)

PARK AVENUE PROPERTY AND)
CASUALTY INSURANCE COMPANY f/k/a)
PROVIDENCE PROPERTY AND CASUALTY)
INSURANCE COMPANY, a domestic)
insurance company,)

Defendant.)

OCT 22 2018

RICK WARREN
COURT CLERK

59 _____

Case No. CJ-2009-11178
The Honorable Trevor Pemberton

RECEIVER'S RECOMMENDATION
FOR ADJUDICATION OF CLASS 2 CLAIMS
AND APPLICATION FOR APPROVAL OF FINAL CLASS 2 PAYMENTS
AND NOTICE OF HEARING

John Doak, Insurance Commissioner for the State of Oklahoma acting through the Assistant Receiver, Mark D. Tharp ("Receiver"), as Receiver for Park Avenue Property and Casualty Insurance Company, in liquidation ("Park Avenue"), respectfully: (a) presents his recommendation for adjudication of the Class 2 claims pending against the receivership estate of Park Avenue ("Park Avenue Estate") pursuant to 36 O.S. § 1918; and (b) applies to the Court for approval of final Class 2 payments in the aggregate amount of \$796,318 as detailed in the attached Exhibit 1 ("Application"). In support of this Application, the Receiver states as follows:

BACKGROUND

On November 18, 2009, this Court placed Park Avenue in liquidation through its Consent Order of Liquidation With a Finding Insolvency and Permanent Injunction (“**Liquidation Order**”).

1. Under a provision of the Oklahoma Uniform Insurers Liquidation Act, 36 O.S. § 1930, the Receiver must notify all persons holding claims against Park Avenue to file proofs of claims.

2. On September 23, 2010, the Receiver filed the Receiver’s Application for Order Approving Forms of Proof of Claim and Setting Deadline for Filing.

3. On October 14, 2010, the Court entered an order that approved (a) the Receiver’s proposed Proof of Claim Form and accompanying instructions; and (b) the Receiver’s requested claims deadline of **February 15, 2011**.

4. The Receiver took all reasonable efforts to determine the identity of all persons who may have claims against Park Avenue and to provide them with notice to allow them the opportunity to file a claim before the February 15, 2011 claims bar date.

5. Among the claims presented to the Receiver are claims of state guaranty associations seeking reimbursement for their administrative expenses. There are 20 such claims now pending against the Park Avenue Estate. Those claims are listed on the table attached hereto as Exhibit 1.

RECOMMENDATION

6. The Receiver recommends that each of the claims listed on Exhibit 1 be classified as a Class 2 claim to the extent it seeks reimbursement of administrative expenses as contemplated under 36 O.S. § 1927.1(B)(2).

7. The Receiver further recommends that the Court allow each of the claims on Exhibit 1, to the extent it seeks reimbursement of Class 2 expenses as contemplated under 36 O.S. § 1927.1(B)(2), in the amount listed for that claim under the column labeled “Class 2 Recommended Allowance.”

8. The Class 2 Recommended Allowance for a given state guaranty association is equal to the administrative expenses paid by that state guaranty association as of June 30, 2018, plus an amount reserved for administrative expenses for that state guaranty association after June 30, 2018. The Class 2 Recommended Allowance listed on Exhibit 1 for a given state guaranty association is reasonable and otherwise properly payable as a Class 2 claim pursuant to 36 O.S. § 1927.1(B)(2).

9. The Receiver further requests that the Court order that the disposition of the Class 2 claims listed on Exhibit 1 be treated as final based on amounts paid plus reserves as of June 30, 2018, and that no modification of the Class 2 Recommended Allowance shall be made based on Class 2 paid after June 30, 2018.

10. To the extent any of the claims listed on Exhibit 1 seek amounts that come within the scope of a Class 3 claim, they are reserved for the Receiver’s Class 3 recommendations to be presented to the Court in a later submission.

PROPOSED FINAL DISTRIBUTION

11. The Receiver also seeks approval for a final distribution of Class 2 payments to state guaranty associations.

12. The Court has previously approved and the Receiver has disbursed early access payments to the state guaranty associations that have pending claims for reimbursement of administrative expenses. Those payments and other appropriate credits

against the claims of those state guaranty associations for reimbursement expenses are referred to herein as the “Credits.”

13. The Receiver recommends that a final distribution equal to the Class 2 Recommended Allowance for a given claim less the Credits for that claim be approved. The amount of the recommended final Class 2 distribution for a given claim is listed in the “Class 2 Recommended Final Distribution” column for that claim on Exhibit 1.

14. If no amount is listed in the Class 2 Recommended Final Distribution column for a claim, the Credits exceed the Class 2 Recommended Allowance for the claim and therefore the Receiver recommends that no further payment be made to that claimant as to Class 2.

15. The Receiver further requests that the Court order that the payment of the Class 2 claims listed on Exhibit 1 in the amount stated in the Class 2 Recommended Final Distribution column for that claim be treated as final as to Class 2.

16. The disbursement of final Class 2 payments to the state guaranty associations for which this Application seeks approval are in the best interest of the Park Avenue receivership estate.

REQUEST FOR RELIEF

Accordingly, the Receiver requests that the Court:

- a. set this Application for hearing and order the Receiver to provide notice of the hearing to each of the claimants directly or through their counsel;
- b. adopt the Receiver’s recommendations and (i) classify each of the claims listed on Exhibit 1 as a Class 2 claim to the extent it seeks reimbursement of administrative expenses; and (ii) allow each claim, as to Class 2, in the amount listed in the Class 2 Recommended Allowance column on Exhibit 1 for that claim;

- c. approve a final Class 2 distribution to each state guaranty association in an amount equal to the amount listed in the Class 2 Recommended Final Distribution column on Exhibit 1 for that state guaranty association;
- d. order that the disposition of the Class 2 claims listed on Exhibit 1 be treated as final based on paid and reserves as of June 30, 2018 and that no modification of the Class 2 Recommended Allowance shall be made based on paid after June 30, 2018;
- e. order that payment of the Class 2 claims listed on Exhibit 1 in the amount stated in the Class 2 Recommended Final Distribution column for that claim be treated as final as to Class 2; and
- f. grant the Receiver such other and further relief to which the Receiver may show himself to be entitled.

Respectfully submitted,



John M. O'Connor, OBA No. 6741
William W. O'Connor, OBA No. 13200
Jon M. Payne, OBA No. 17910
HALL, ESTILL, HARDWICK, GABLE, GOLDEN
& NELSON, P.C.
320 S. Boston Avenue, Suite 200
Tulsa, OK 74103-3706
Phone: (918) 594-0400/Fax: (918) 594-0505
joconnor@hallestill.com

AND

Barron B. Brown, OBA #31346
Sara A. Worten, OBA #21532
3613 NW 56th Street, Ste. 330
Oklahoma City, OK 73112
Phone: (405) 947-0022/Fax: (405) 947-0046

**ATTORNEYS FOR PLAINTIFF,
STATE OF OKLAHOMA, ex rel., JOHN
DOAK, Insurance Commissioner for the
State of Oklahoma, as Receiver for Park
Avenue Property and Casualty Insurance
Company.**

NOTICE OF HEARING

Please take notice that the Court will conduct a hearing on the 16th day of November, 2018 at 1:30 p.m. in the Courtroom for Judge Trevor Pemberton at the Oklahoma County Courthouse, 321 Park Avenue, Room 201 on the foregoing instrument.

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of October, 2018, a true and correct copy of the above and foregoing instrument was sent via U.S. Mail, postage paid, to:

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

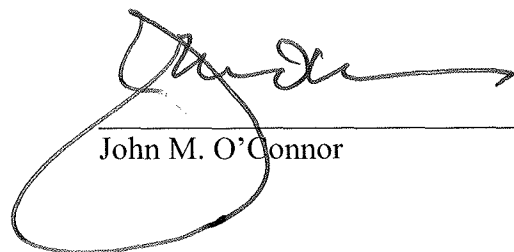
James Mills
Oklahoma Insurance Department
3625 NW 56th Street, Ste. 100
Oklahoma City, OK 73112

Mark Tharp
Tharp & Associates
4802 East Ray Road, Suite 23-282
Phoenix, AZ 85044-6417

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

Park Avenue Insurance, LLC
c/o Charles Antonucci, Sr.
460 Park Avenue, 13th Floor
New York, NY 10022

Charles Antonucci, Sr.
c/o Charles A. Stillman
Stillman, Friedman & Shecktman, PC
425 Park Avenue
New York, NY 100



John M. O'Connor

**Park Avenue Property & Casualty Insurance Company
Recommendations - Class 2**

No.	POC No.	Claimant	Class 2 Recommended Allowance	Credits	Class 2 Recommended Final Distribution
1	PAPC-00063	Alabama Insurance Guaranty Association	\$ 937,025	\$ 844,541	\$ 92,485
2	PAPC-00307	Arkansas Property & Casualty Guaranty Fund	112,418	112,418	-
3		Arizona Property & Casualty Guaranty Insurance Fund	180,913	180,913	-
4	PAPC-00053	Colorado Insurance Guaranty Association	94,160	94,160	-
5	PAPC-00026	Florida Workers' Comp Insurance Guaranty Association	3,830,868	3,830,868	-
6	PAPC-000902	Georgia Insurers Insolvency Pool	1,708,577	1,708,577	-
7	PAPC-00167	Hawaii Insurance Guaranty Association	116,091	115,163	928
8	PAPC-00181	Indiana Insurance Guaranty Association	328,253	325,630	2,623
9	PAPC-00270	Louisiana Insurance Guaranty Association	97,310	97,310	-
10	PAPC-00184	Maryland Property & Casualty Insurance Guaranty Corporation	100,198	92,518	7,680
11	PAPC-00091	Michigan Property & Casualty Guaranty Association	3,089,692	2,763,719	325,973
12	PAPC-00293	Missouri Property & Casualty Insurance Guaranty Association	13,073	13,073	-
13	PAPC-00175	Mississippi Insurance Guaranty Association	261,214	182,495	78,719
14	PAPC-00253	North Carolina Insurance Guaranty Association	916,851	916,851	-
15	PAPC-00062	Nevada Insurance Guaranty Association	36,349	36,349	-
16	PAPC-00104	Oklahoma Property & Casualty Insurance Guaranty Association	670,894	392,701	278,193
17	PAPC-00080	Pennsylvania Workers' Compensation Security Fund	14,842	14,842	-
18	PAPC-00188	South Carolina Property & Casualty Insurance Guaranty Association	1,336,296	1,336,296	-
19	PAPC-00214	Texas Property & Casualty Insurance Guaranty Association	1,987,471	1,987,471	-
20	PAPC-00054	West Virginia Insurance Guaranty Association	9,719	-	9,719
Totals			\$ 15,842,212	\$ 15,045,894	\$ 796,318

