

FILED IN DISTRICT COURT
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY AUG - 8 2017
STATE OF OKLAHOMA

RICK WARREN
COURT CLERK
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STATE OF OKLAHOMA, ex rel.)
 JOHN DOAK, Insurance Commissioner,)
)
 Plaintiff,)
)
 v.)
)
 PEGASUS INSURANCE COMPANY,)
 In Receivership,)
)
 Defendant.)

Case No. CJ-2010-5131
Judge Don Andrews

RECEIVER'S TWELFTH REPORT ON CLAIMS EVALUATION AND REQUEST FOR CONFIRMATION OF RECEIVER'S RECOMMENDATIONS

The State of Oklahoma, ex rel., John Doak, Insurance Commissioner, as statutory receiver of and for Pegasus Insurance Company, Inc., in liquidation, ("Pegasus") pursuant to the Order entered on September 24, 2010, files this Twelfth Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendations ("Receiver's Twelfth Report") and shows the Court as follows:

BACKGROUND

1. On June 22, 2010, Pegasus consented to Rehabilitation, with a finding of Insolvency, and was placed into Receivership. On August 12, 2010, the Court issued an Order of Liquidation with a Finding of Insolvency ("Liquidation Order").
2. The Liquidation Order required the Receiver to notify all persons holding claims against Pegasus to file proofs of claims within 180 days of the date of that Order. Such notice is also mandated under 36 O.S. § 1930.
3. On September 8, 2010, the Receiver filed his Combined Application for Approval of (A) Notices to Potential Claimants & Deadline to File Proof of Claim, (B)

Form of Proof of Claim & Instructions, (C) Unconditional Assignment and Application for Approval of Receiver's Claims Reporting and Evaluation Plan ("**Combined Application**").

4. On September 24, 2010, the Court entered an Order Approving Receiver's Combined Application ("**September 24, 2010 Order**"). By the September 24, 2010 Order, the Court approved the Receiver's proposed (a) Notice of Liquidation of Insurer & Deadline to File Proof of Claim, (b) Proof of Claim form and Instructions; (c) Unconditional Assignment form; (d) Notice of Action by Oklahoma Department of Insurance to All Certificate Holders of Insureds form; and (e) and Notice of Action by Oklahoma Department of Insurance to All Clients of Insureds form.

5. In the September 24, 2010 Order, the Court set the following deadlines:

<u>Deadline</u>	<u>Activity to Occur on Before Deadline</u>
2/8/11	Claims Filing Bar Date
4/8/11	Receiver's Report on Timely-Filed Claims Due
2/8/12	Receiver's First Claims Evaluation and Request for Confirmation due (on claims due to be adjudicated).
8/8/12	Receiver's Supplemental Claims Evaluations and Requests for Confirmation (on subsequently evaluated claims ready to [be] adjudicated) will be submitted within every six months thereafter, beginning with 8/8/12.

6. The Receiver took all reasonable efforts to determine the identity of all persons who may have claims against Pegasus and to provide them with notice to allow them the opportunity to file a claim before the February 8, 2011 claims bar date.

7. On April 8, 2011, the Receiver filed the Receiver's Report on Timely Filed Claims ("**Receiver's Report**"). In the Receiver's Report, the Receiver noted that he

mailed 6,425 Notices. The Receiver received 147 timely filed claims on or before the Bar Date. An additional 10 untimely claims have been presented to the Receiver.

8. The majority of claims filed against the Pegasus Estate consist of Class 3 Claims. Pursuant to 36 O.S. § 1927.1, Class 3 includes:

All claims under policies including claims of the federal or any state or local, government for losses incurred (“loss claims”) including third party claims, claims for unearned premium, all claims of a guaranty association for payment of covered claims or covered obligations of the insurer and all claims of a guaranty association for reasonable expenses other than those included in Class 2. All claims under life and health insurance and annuity policies, whether for death proceeds, health benefits, annuity proceeds, or investment values shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities.

9. Class 6 Claims have also been filed against the Estate. Pursuant to 36 O.S. § 1927.1, Class 6 includes “[c]laims of any person, including claims of state or local governments, except those specifically classified elsewhere in [section 1927.1].”

10. On February 8, 2012, the Receiver filed the First Report on Claims Evaluation and Request for Confirmation of Receiver’s Recommendations (“**Receiver’s First Report**”). The Receiver’s First Report presented 79 claims for adjudication, including 51 Class 3 Claims and 28 Class 6 Claims. Following a hearing, the Court, by Order dated July 26, 2012, adjudicated the 79 claims presented in the Receiver’s First Report.

11. On August 8, 2012, the Receiver filed the Second Report on Claims Evaluation and Request for Confirmation of Receiver’s Recommendations and on October 10, 2012, the Receiver filed the First Amendment to Second Report on Claims

and Recommendations as to Proofs of Claim Nos. 7 and 82 (collectively,, “Receiver’s Second Report”). The Receiver’s Second Report presented 17 claims for adjudication, including 2 Class 3 claims and 15 Class 6 claims. Following a hearing, the Court, by Order dated November 8, 2012, adjudicated the 17 claims presented in the Receiver’s Second Report.

12. On February 5, 2013, the Receiver filed the Third Report on Claims Evaluation and Request for Confirmation of Receiver’s Recommendations (“Third Report”). The Third Report presented additional claims for adjudication. The Court, by Order dated May 16, 2013, adjudicated claims presented in the Receiver’s Third Report.

13. Since filing the Third Report, the Court has filed periodic reports on the status of the Receiver’s evaluation of the remaining claims against the estate. As of the most recent report filed on February 8, 2017, the claims remaining for adjudication included the following:

<u>Type</u>	<u>Number</u>
State Guaranty Association Claims Class 2 and Class 3	28
General Creditor Claims Class 6	10
PEO Claims Seeking Return of Deposits Class 6	4
Untimely Claims	2
<u>TOTAL</u>	44

14. The Receiver is now ready to present an additional 15 claims for adjudication. Those claims consist of claims from 15 of the 28 state guaranty associations. This Report also identifies three additional claims from state guaranty associations that have been expressly withdrawn.

15. The Receiver has not completed marshaling all assets of Pegasus. Therefore, this Report does not address the actual distribution of assets that may ultimately be made to creditors and beneficiaries of Pegasus. Neither the Receiver's recommendation that a claim be allowed in a certain amount, or the Court's Order allowing a claim, ensures that the claim will be paid in whole or in part. Payment of an allowed claim is contingent upon: (a) the assets available to the estate for payment of claims; (b) the class of the claim allowed; and (c) whether the assets of the estate are sufficient to pay in full all allowed claims and all classes of claims.

EXPLANATION OF RECEIVER'S RECOMMENDATION

16. Attached hereto as Exhibit 1 is a report detailing the Receiver's recommendations on the 15 claims that are ready for adjudication. The amount shown in the "Amount Allowed" column on each of the exhibits is the amount the Receiver recommends be allowed for the particular claim. The Receiver recommends all of the claims reflected on Exhibit 1 be disallowed. Each of these claims is from a state guaranty association that has not reported any losses or expenses as of March 17, 2017, nor otherwise presented any basis for recovery against the Pegasus receivership estate.

17. Attached as Exhibit 2 is a report reflecting claims from three additional state guaranty associations that have expressly withdrawn their claims against the

Pegasus receivership estate. The Receiver recommends the Court enter an order finding these claims to be withdrawn and no longer before the estate for adjudication.

18. The Proof of Claim form filed by each claimant contains the following language in bold type: "If you have a change of address, you are required to inform the receiver of the new address in order to receive any payment that might be due."

19. Pursuant to 36 O.S. § 1918, the Receiver requests that the Court set a hearing on the claims presented through this report and establish a date certain for filing an objection to the Receiver's recommendations. Attached hereto as Exhibit 3 is the Receiver's proposed form of notice of hearing to be provided to claimants made the subject of this Report.

20. The denial of any timely filed proof of claim included in the Receiver's Report does not alter the statutory obligation, if any, of the Oklahoma Property and Casualty Insurance Guaranty Association or other applicable state guaranty association, to provide indemnity and defense of a "covered claim" as defined by the Oklahoma Property & Casualty Insurance Guaranty Association Act, 36 O.S. § 2004 (7), or other applicable state statute.

21. The Receiver's characterization of a claim or payment does not constitute an admission of liability by Pegasus for purposes of any litigation.

WHEREFORE, 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 Exhibits 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: (i) approves the Receiver's Twelfth Report; and (ii) confirms the Receiver's recommendations as to each of the claims described herein 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
Jon M. Payne, OBA No. 17910
NEWTON, O'CONNOR, TURNER & KETCHUM, P.C.
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Facsimile: (918) 587-0102
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-AND-

Barron B. Brown, OBA No. 31346
Sara A. Worten, OBA No. 21532
Lisa M. Torneten, OBA No. 32883
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Oklahoma City, OK 73112
(405) 947-0022 – telephone
(405) 947-0046 – facsimile
barron.brown@oid.ok.gov

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

CERTIFICATE OF SERVICE

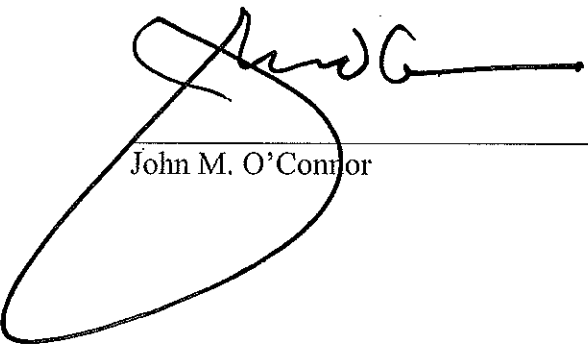
This is to certify that a true and correct copy of the foregoing was served via United States mail, postage prepaid and properly addressed, on the 8th day of August, 2017, upon the following:

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

James Mills
Oklahoma Insurance Department
3625 NW 56th, Suite 100
Oklahoma City, OK 73112

Terry K. Smith, Assistant Receiver
4120 E. 51st Street, Suite 100
Tulsa, OK 74135

PIC Holding Company, Inc.
P. O. Box 729
Alexander City, AL 35011



John M. O'Connor

Exhibit 1

No.	POC #	Amount Claimed	Amount Allowed	Timely Filed
1	1	Unspecified	\$0.00	Yes
2	5	Unspecified	\$0.00	Yes
3	9	Unspecified	\$0.00	Yes
4	12	Unspecified	\$0.00	Yes
5	13	Unspecified	\$0.00	Yes
6	14	Unspecified	\$0.00	Yes
7	15	Unspecified	\$0.00	Yes
8	16	Unspecified	\$0.00	Yes
9	17	Unspecified	\$0.00	Yes
10	19	Unspecified	\$0.00	Yes
11	44	Unspecified	\$0.00	Yes
12	51	Unspecified	\$0.00	Yes
13	52	Unspecified	\$0.00	Yes
14	53	Unspecified	\$0.00	Yes
15	150	\$100,000.00	\$0.00	Yes

Exhibit 2 –Withdrawn Claims

No.	POC #	Amount Claimed	Amount Allowed	Timely Filed
1	70	Unspecified	\$0.00	Yes
2	88	Unspecified	\$0.00	Yes
3	94	Unspecified	\$0.00	Yes

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, et rel.)
JOHN DOAK, Insurance Commissioner,)
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Plaintiff,)
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v.)
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PEGASUS INSURANCE COMPANY, INC.)
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)
Defendant.)

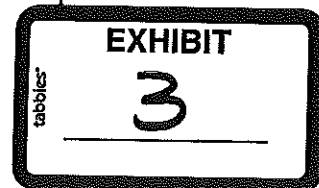
Case No. CJ-2010-5131
Judge Don Andrews

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

You are hereby notified that on [date], a hearing will be held before the Honorable Don Andrews, District Court Judge of Oklahoma County, Oklahoma, at which time the Receiver's Twelfth Report on Claims Evaluation and Receiver's Request for Confirmation of Receiver's Recommendations ("the Receiver's Report") shall be heard. **The hearing will be conducted at the Oklahoma County Courthouse, 321 Park Avenue, Room # 315, 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 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

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 August 8, 2017. A copy of the Receiver's Report is available on the website for the Oklahoma Receivership Office at www.okaro.org.



any, and the Receiver's recommendation regarding the classification of your claim, which classification reflects the nature of your claim and the priority the Receiver recommends be given to your claim under Oklahoma law, 36 O.S. § 1927.1.

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. Pegasus Insurance Company, Inc., Case No. CJ-2010-5131, Judge Don Andrews);**
- (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
Newton O'Connor Turner & Ketchum
15 West Sixth Street, Suite 2700
Tulsa, OK 74119
(918) 587-0101 (telephone)
(918) 587-0102 (facsimile).