

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel.)	
GLEN MULREADY, Insurance)	
Commissioner,)	
)	
Plaintiff,)	
)	
v.)	Case No. CJ-2010-5131
)	Judge Don Andrews
PEGASUS INSURANCE COMPANY,)	
In Receivership,)	
)	
Defendant.)	

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

The State of Oklahoma, ex rel., Glen Mulready, 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 Sixteenth Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendations ("Receiver's Sixteenth 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.

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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. Class 9 Claims have also been filed against the Estate. Pursuant to 36 O.S. § 1927.1, Class 9 includes "surplus or contribution notes or similar obligations, premium refunds on assessable policies, interest on claims of Classes 1 through 8 and any other claims specifically subordinated to this class."

11. Following the Court's prior adjudications of claims in this matter, there remain 26 claims to be adjudicated. The Receiver is now prepared to present recommendations as to 10 additional claims. The 10 claims include one claim of a state

guaranty association that has reported no claim activity, seven Class 6 claims, and 2 Class 9 claims. Two of the Class 6 claims are untimely.

12. 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

13. Attached are four reports detailing the Receiver's recommendations as to the claims that are ready for adjudication. The amount shown in the "Amount Allowed" column on Exhibits 1 through 3 is the amount the Receiver recommends be allowed for the particular claim. If the amount in the "Amount Allowed" column is \$0.00, the Receiver's recommendation is that the claim be disallowed. As to the claims reflected on Exhibit 4, the Receiver recommends the claims be classified as Class 9 and does not include a recommendation as to whether any amount should be allowed.

14. The attached **Exhibit 1** includes the Receiver's recommendations as to the Class 3 Claim that the Receiver recommends be disallowed. POC #18 reflected on Exhibit 1 is from a state guaranty association that has not reported any losses or expenses nor otherwise presented any basis for recovery against the Pegasus receivership estate. Accordingly, the Receiver recommends that POC #18 reflected on Exhibit 1 be disallowed.

15. The attached **Exhibit 2** includes the Receiver's recommendations as to the Class 6 Claims for which the Receiver recommends an amount be allowed. Each of the claims listed on Exhibit 2 is from a professional employer organization (PEO) seeking return of a claim deposit that the PEO alleges it submitted in relation to workers compensation insurance they purchased through Pegasus. As to POC # 6, the Receiver recommends \$2,825.25 be allowed as a Class 6 claim. The recommended amount represents the amount of the claims deposit (\$5,000) less unpaid premiums owed by the claimant. As to POC # 57, the Receiver recommends the request for the return of the alleged claims deposit be allowed in the amount of \$65,829.84, which is the full principal amount sought.¹ As to POC # 124, the Receiver recommends the amount of \$54,165.47 be allowed as a Class 6 claim. The recommended amount represents the amount of the claims deposit less unpaid premiums owed by the claimant. Accordingly, the Receiver recommends that each of the claims listed on Exhibit 2 be classified as a Class 6 claim and allowed for the amount listed in the Amount Allowed column for that claim.

16. The attached **Exhibit 3** includes the Receiver's recommendations as to the Class 6 Claims the Receiver recommends not be allowed any payment. As to POC # 77, no records were presented nor has the Receiver found any records or evidence to support this claim. As to POC #s 125, 146 and 147, the claimants have each been requested to provide supporting documentation in support of their claims but have not done so. Accordingly, the Receiver recommends that the Court find each of these claims be classified as a Class 6 claim and disallowed in its entirety. The Receiver further

¹ POC # 57 also requests interest be paid in relation to the alleged claims deposit. As set forth below and in Exhibit 4, the Receiver requests the claimant's request for interest be classified as a Class 9 claim.

recommends that the Court find POC #s 146 and 147 were submitted after the February 8, 2011 bar date and that they therefore be further found to be untimely or late for purposes of 36 O.S. § 1930 (statute providing that claims filed after the claims bar date shall not share in the distribution of the assets of the estate “until all allowed claims, provided proofs of which have been filed before that date, have been paid in full with interest.”)

17. The attached **Exhibit 4** includes claims the Receiver recommends the Court classify as Class 9. Class 9 includes claims for “interest on claims of Classes 1 through 8.” 36 O.S. § 1927.1(B)(7). The portion of POC # 57 that seeks interest on the principal amount of the alleged premium deposit is a claim for interest on a Class 6 claim and therefore should be classified as Class 9.² As to POC #123, the claimant seeks “dividends” from Pegasus without documentation that supports the claim. As the claimant is neither a shareholder in Pegasus nor has any other basis for a claim for “dividends,” the Receiver understands the use of “dividends” to be an error and construes the claim to be one for interest. As a claim for interest, the Receiver recommends the Court classify the claim as a Class 9 claim under 36 O.S. § 1927.1. As to the claims reflected on Exhibit 4, the Receiver makes a classification recommendation only and does not make a recommendation as to amount.

18. The Receiver served a Notice of Determination on each of the claimants and advised them of the Receiver’s recommendations as to their claims. The Notices provided the claimant a period of 15 days from the date of the mailing of the Notice to

² As to POC #57, the request for the return of the alleged principal amount of the claims deposit should be classified as a Class 6 claim as set forth above and on Exhibit 3.

submit an objection to the Receiver regarding the recommendation. To date, the Receiver has received no objection to the Receiver's recommendations.

19. 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."** Despite having no obligation to locate the new address for a claimant, upon receipt of a returned Notice of Determination, the Receiver seeks to locate the claimant by among other things, searching the internet and local phone books or calling claimant's attorney, if represented. The addresses to which the Notices of Determination have been mailed represent the most current addresses located by the Receiver for any returned mail. To the extent any Notice of this proceeding is returned as undeliverable, the Receiver asks the Court to find the due process rights of the claimant have not been impaired and order the denial of their claim without actual notice.

20. Each of the claimants identified on the attached Exhibits has been allowed an opportunity to object to the treatment of their claim. However, considering the due process required by the 36 O.S. § 1918, the Receiver requests that the Court set a hearing on the claims and establish a date certain for filing an objection to the Receiver's recommendations. Attached hereto as Exhibit 5 is the Receiver's proposed form of notice of hearing to be provided to claimants made the subject of this Report.

21. The denial of any timely filed proof of claim included in the Receiver's Sixteenth 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.

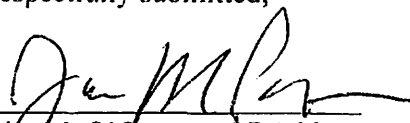
22. The Receiver's characterization of a claim or payment does not constitute an admission of liability by Pegasus for purposes of any litigation.

23. POC #s 2, 49, 83, 95, 96, 98, 118, and 119 have each been withdrawn by their respective claimants. The Receiver requests that the Court find that such claims have been withdrawn and no longer represent a claim against the Pegasus receivership estate.

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 5 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 approving the Receiver's Sixteenth Report and confirming the Receiver's recommendations as to each of the claims described herein;
- f. find and order that POC #s 2, 49, 83, 95, 96, 98, 118, and 119, have each been withdrawn by their respective claimants and no longer represent a claim against the Pegasus receivership estate; and
- g. grant the Receiver such other and further relief as the Court deems appropriate.

Respectfully submitted,



John M. O'Connor, OBA No. 6741

Jon M. Payne, OBA No. 17910

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GOLDEN & NELSON, P.C.

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-AND-

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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., GLEN MULREADY,
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 19th day of July, 2019, upon the following:

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

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

Terry K. Smith, Assistant Receiver
4026 S. Columbia
Tulsa, OK 74105

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


Jon M. Payne

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<u>Exhibit 1</u>			
<u>POC #</u>	<u>Amount Claimed</u>	<u>Amount Allowed</u>	<u>Timely Filed?</u>
18	\$0.00	\$0.00	Yes

Exhibit 2- Class 6 Allowed				
POC #	Classification	Amount Claimed	Amount Allowed	Timely Filed?
6	6	\$5,000	\$2,825.25	Yes
57 (principal sought)	6	\$65,829.84	\$65,829.84	Yes
124	6	\$0.00	\$54,165.47	Yes
TOTALS	N/A	\$70,829.84	\$122,820.56	N/A

Exhibit 3 – Class 6 Disallowed

POC #	Classification	Amount Claimed	Amount Allowed	Timely Filed?
77	6	\$0.00	\$0.00	Yes
125	6	\$641.67	\$0.00	Yes
146	6	\$4,094.63	\$0.00	No
147	6	\$4,269.18	\$0.00	No
TOTALS	N/A	\$9,005.48	\$0.00	N/A

Exhibit 4	
POC #	Classification
57 (interest sought)	9
123	9

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IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA, et rel.)	
JOHN DOAK, Insurance Commissioner,)	
)	
Plaintiff,)	
)	
v.)	Case No. CJ-2010-5131
)	Judge Don Andrews
PEGASUS INSURANCE COMPANY, INC.)	
)	
)	
Defendant.)	

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

You are hereby notified that on [DATE AND TIME], a hearing will be held before the Honorable Don Andrews, District Court Judge of Oklahoma County, Oklahoma, at which time the Receiver's Sixteenth 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 # 359, 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.

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 [DATE]. A copy of the Receiver's Report is available on the website for the Oklahoma Receivership Office at www.okaro.org.



To the extent the recommendation(s) regarding your claim contained in the accompanying document differ(s) from any prior notices, the recommendation(s) in the accompanying document supersede and govern over any prior inconsistent notices.

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
Jon M. Payne
HALL, ESTILL, HARDWICK, GABLE, GOLDEN
& NELSON, P.C.
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Tulsa, OK 74103
Phone: (918) 594-0400
Fax: (918) 594-0505\

**Sixteenth Report on Claims Evaluation and
Request for Confirmation of Receiver's Recommendations
(Claimant Specific Notice)**

To: [Name and Address]

In the Sixteenth Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendations filed in the above referenced matter, the Receiver for Pegasus Insurance Company has made the following recommendation regarding your claim having Proof of Claim number:

POC #:

Amount Claimed:

Timely Filed:

Recommended Amount Allowed:

Basis for Recommendation:

If you have any questions about your claim, the Receiver's recommendation regarding your claim, the attached Notice of Hearing, or the objection process, please contact the Oklahoma Receivership office at (405) 947-0022.

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