

IN THE DISTRICT COURT OF OKLAHOMA COUNTY NOV - 6 2020
STATE OF OKLAHOMA

RICK WARREN
COURT CLERK

STATE OF OKLAHOMA, ex rel.)
GLEN MULREADY, Insurance Commissioner,)
)
Plaintiff,)
)
v.)
)
PEGASUS INSURANCE COMPANY, INC.)
)
Defendant.)

108 _____

Case No. CJ-2010-5131
Honorable Don Andrews

**RECEIVER'S RECOMMENDATION FOR FINAL ADJUDICATION
OF CLASS 2, CLASS 3 AND CLASS 6 CLAIMS
AND NOTICE OF HEARING**

Glen Mulready, Insurance Commissioner for the State of Oklahoma acting through the Assistant Receiver, Terry K. Smith ("**Receiver**"), as Receiver for Pegasus Insurance Company, in liquidation ("**Pegasus**"), respectfully presents, pursuant to 36 O.S. § 1918, his recommendation for final adjudication of Class 2, Class 3, and Class 6 claims pending against the receivership estate of Pegasus ("**Pegasus Estate**") ("**Recommendation**"). In support of this Recommendation, Receiver states 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 claim 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.

4. On September 24, 2010, the Court entered an order setting a number of deadlines including the Claims Filing Bar Date of February 8, 2011.

5. 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.

6. Among the claims presented to the Receiver are the proofs of claim of state guaranty associations. There are nine (9) such proofs of claim now pending against the Pegasus Estate. Each of those claims seeks reimbursement of: (a) expenses the state guaranty association incurred to administer the claims of Pegasus insureds in its jurisdiction; and (b) payments the state guaranty association made for covered claims or obligations under a Pegasus policy. Through this filing, the Receiver presents recommendations as to eight (8) of the nine (9) proofs of claim received from state guaranty associations.¹

7. The Receiver also presents recommendations through this filing as to proofs of claim from six (6) general creditors.

¹ The claim of the remaining state guaranty association is from the Tennessee Insurance Guaranty Association ("TIGA"), which remains unresolved at this time. Receiver expects to present recommendations regarding TIGA's claim through a separate filing.

RECOMMENDATION – CLASS 2

8. The Receiver recommends the claim of each of the eight (8) state guaranty associations presented through this filing be classified as a Class 2 claim as contemplated under 36 O.S. § 1927.1(B)(2) to the extent it seeks reimbursement of expenses the state guaranty association incurred to administer the claims of Pegasus insureds under a Pegasus policy. The attached **Exhibit 1** contains a table that sets forth the Class 2 claim of the subject eight (8) state guaranty associations with a proof of claim pending against the Pegasus Estate.

9. The Receiver further recommends the Court find that each of the eight (8) Class 2 claims contained in **Exhibit 1** be found timely.

10. The Receiver further recommends the Court allow each of the Class 2 claims on **Exhibit 1** in the amount listed for that claim under the column labeled “Amount Allowed.” The Class 2 recommended “Amount Allowed” for a given state guaranty association is equal to the administrative expenses paid by that state guaranty association as of September 30, 2020. The Class 2 recommended Amount Allowed 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).

11. The Receiver further requests that the Court order that the adjudication of the recommended Amount Allowed of the Class 2 claims listed on **Exhibit 1** be treated as a final adjudication and that no modification of that adjudication shall be made based on any actual expenses state guaranty associations may have incurred or may incur after September 30, 2020.

RECOMMENDATION – CLASS 3

12. The Receiver recommends the claim of each of the state guaranty associations presented through this filing be classified as a Class 3 claim as contemplated under 36 O.S. § 1927.1(B)(3) to the extent it seeks reimbursement of payments the state guaranty association made: (a) for covered claims or obligations under a Pegasus policy; and (b) for reasonable expenses incurred in connection with Pegasus policies other than those classified as Class 2 (collectively, “Class 3 Amounts”). The attached **Exhibit 2** contains a table that sets forth the Class 3 claim of the subject eight (8) state guaranty associations with a proof of claim pending against the Pegasus Estate.

13. The Receiver further recommends the Court find that each of the eight Class 3 claims contained in **Exhibit 2** be found timely.

14. The Receiver further recommends the Court allow each of the Class 3 claims on **Exhibit 2** in the amount listed for that claim under the column labeled “Amount Allowed.” The Class 3 recommended Amount Allowed for a given state guaranty association is equal to the Class 3 Amounts paid by that state guaranty association as of September 30, 2020. The Class 3 recommended “Amount Allowed” listed on **Exhibit 2** for a given state guaranty association is reasonable and otherwise properly payable as a Class 3 claim pursuant to 36 O.S. § 1927.1(B)(3).

15. The Receiver further requests that the Court order that the adjudication of the recommended Amount Allowed for the Class 3 claims listed on **Exhibit 2** be treated as a final adjudication and that no modification of the adjudication of the recommended Class 3 Amount Allowed shall be made based on any amounts a state guaranty association has paid or incurred or may pay or incur after September 30, 2020.

RECOMMENDATION – CLASS 6

16. The Receiver's recommendations as to the six (6) general creditors' claims are set forth in the attached **Exhibits 3** and **4**. The Receiver recommends each the claims identified on **Exhibits 3** and **4** be classified as a Class 6 claim as contemplated under 36 O.S. § 1927.1(B)(6).

17. The Receiver recommends that each of the claims identified on **Exhibit 3** be found timely. The Receiver further recommends that each of the claims identified on **Exhibit 3** be allowed in the amount reflected in the "Amount Allowed" column for that claim.

18. The Receiver recommends that each of the claims identified on **Exhibit 4** be found untimely. The Receiver further recommends that each of the claims identified on **Exhibit 4** be disallowed in their entirety.

DISTRIBUTION AMOUNT

19. The amount actually distributed to a claimant depends on the assets available for distribution upon the closing of the estate and may be less than the amount allowed to that claimant. The Receiver does not present recommendations regarding distribution amounts to claimants in this filing. Recommendations regarding distribution amounts will be presented through a separate filing.

REQUEST FOR RELIEF

Accordingly, the Receiver requests that the Court:

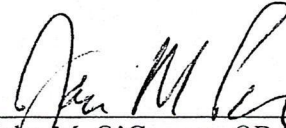
- a. set this Recommendation for hearing and order the Receiver to provide notice of the hearing to each of the claimants directly or through their counsel;
- b. adopt the Receiver's recommendations and (i) classify each of the claims listed on **Exhibit 1** as a timely Class 2 claim to the extent it

seeks reimbursement of expenses incurred to administer the claims of a Pegasus insured under a Pegasus policy; and (ii) allow each claim, as to Class 2, in the amount recommended in the "Amount Allowed" column on **Exhibit 1** for that claim;

- c. order that the adjudication of the Class 2 claims listed on **Exhibit 1** be treated as final based on expenses incurred, as of September 30, 2020, to administer the claims of a Pegasus insured under a Pegasus policy and that no modification of the adjudication of the Amount Allowed for Class 2 claims shall be made based on expenses incurred or paid after September 30, 2020;
- d. adopt the Receiver's recommendations and (i) classify each of the claims listed on **Exhibit 2** as a timely Class 3 claim to the extent it seeks reimbursement of Class 3 Amounts; and (ii) allow each claim, as to Class 3, in the amount recommended in the "Amount Allowed" column on **Exhibit 2** for that claim;
- e. order that the adjudication of the Class 3 claims listed on **Exhibit 2** be treated as final based on payments of Class 3 Amounts as of September 30, 2020 and that no modification of the adjudication of the Amount Allowed for Class 3 claims shall be made based on paid after September 30, 2020;
- f. adopt the Receiver's recommendations and (i) classify each of the claims listed on **Exhibit 3** as a timely Class 6 claim; and (ii) allow each claim, as to Class 6, in the amount recommended in the "Amount Allowed" column for that claim;
- g. adopt the Receiver's recommendations and (i) classify each of the claims listed on **Exhibit 4** as a untimely Class 6 claim; and (ii) disallow in its entirety each claim listed on **Exhibit 4**; and
- h. grant the Receiver such other and further relief to which the Receiver may show himself to be entitled.

Respectfully submitted,

By:



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**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**

NOTICE OF HEARING

Please take notice that the Court will conduct a hearing on the 4th day of December, 2020 at 9:00 a.m. in the Courtroom for Judge Don Andrews at the Oklahoma County Courthouse, 321 Park Avenue, Room # 359 on the foregoing instrument.

CERTIFICATE OF SERVICE

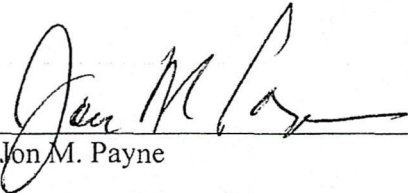
I hereby certify that on the 6th day of November, 2020, a true and correct copy of the above and foregoing instrument was sent via U.S. Mail, postage paid, to:

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

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

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

Terry K. Smith, Assistant Receiver
4020 S. Columbia Pl.
Tulsa, OK 74105



Jon M. Payne

4648012.1:003979.00001

Claim Class: 2

POC #	Amount Claimed	Amount Allowed	
10	\$0	\$533,513.50	Timely Filed? <u>Yes</u>
11	\$0	\$133,135.49	Timely Filed? <u>Yes</u>
21	\$0	\$1,027,424.08	Timely Filed? <u>Yes</u>
54	\$0	\$6,980.34	Timely Filed? <u>Yes</u>
56	\$0	\$31,071.74	Timely Filed? <u>Yes</u>
78	\$0	\$43,309.06	Timely Filed? <u>Yes</u>
103	\$0	\$78,739.51	Timely Filed? <u>Yes</u>
117	\$0	\$6,971.19	Timely Filed? <u>Yes</u>
Class 2 Totals:	\$0	\$1,861,144.91	

Total Claims: \$0 \$1,861,144.91

Claim Class: 3

POC #	Amount Claimed	Amount Allowed	
10	\$0	\$696,095.47	Timely Filed? <u>Yes</u>
11	\$0	\$241,124.59	Timely Filed? <u>Yes</u>
21	\$0	\$3,494,538.36	Timely Filed? <u>Yes</u>
54	\$0	\$4,070.08	Timely Filed? <u>Yes</u>
56	\$0	\$9,952.00	Timely Filed? <u>Yes</u>
78	\$0	\$8,756.32	Timely Filed? <u>Yes</u>
103	\$0	\$46,023.45	Timely Filed? <u>Yes</u>
117	\$0	\$2,500.00	Timely Filed? <u>Yes</u>
Class 3 Totals:	\$0	\$4,503,060.27	

Total Claims: \$0 \$4,503,060.27

Claim Class: 6

POC #	Amount Claimed	Amount Allowed	
29	\$6,287.63	\$6,238.00	Timely Filed? <u>Yes</u>
84	\$1,940.00	\$500.00	Timely Filed? <u>Yes</u>
151	\$26,317.72	\$53,725.65	Timely Filed? <u>Yes</u>
30	\$1,967.18	\$3,006.00	Timely Filed? <u>Yes</u>
Class 6 Totals:	\$36,512.53	\$63,469.65	

Total Claims: \$36,512.53 \$63,469.65

Claim Class: 6

POC #	Amount Claimed	Amount Allowed	
142	\$81,532.50	\$0.00	Timely Filed? <u>No</u>
122	\$434.56	\$0.00	Timely Filed? <u>No</u>
Class 6 Totals:	\$81,967.06	\$0.00	

Total Claims: \$81,967.06 \$0.00