

FILED IN DISTRICT COURT

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

DEC 28 2016

RICK WARREN
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STATE OF OKLAHOMA, ex rel. JOHN D.)
DOAK, Insurance Commissioner)
)
Plaintiff,)
)
v.)
)
RED ROCK INSURANCE COMPANY,)
a licensed insurer in the State of Oklahoma,)
)
Defendant.)

Case No. CJ-2014-4353

**RECEIVER'S FOURTH 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 for Red Rock Insurance, Company f/k/a BancInsure, in liquidation ("Red Rock") and Nestor Romero, Assistant Receiver (collectively "Receiver"), file this Fourth Report on Claims Evaluation and Request for Confirmation of Receiver's Recommendations:

BACKGROUND

1. On August 21, 2014, this Court placed Red Rock in liquidation through its Order Placing Insurer into Receivership and Liquidation, Appointing Receiver, and for Permanent Injunction.
2. On October 24, 2014, the Court entered an order that approved the Receiver's proposed Proof of Claim Form and accompanying instructions and established the claims filing deadline of February 20, 2015.
3. The October 24, 2014, Order further established that the Receiver's First Claims Evaluation and Request for Confirmation would be due on June 22, 2015, and that Supplemental

Claims Evaluations and Requests for Confirmation must be submitted within every six months thereafter.

4. The Receiver continues to marshal all assets of Red Rock.

5. Court review and approval of the Receiver's recommendations regarding Class 1 claims occurs on a regular basis and therefore is not included in this Report. The Receiver will, as soon as possible, submit the Receiver's recommendations regarding Class 2 claims in this estate.

6. Seventeen timely Class 3 claims are ready for adjudication at this time. Pursuant to 36 O.S. § 1927.1, Class 3 claims include:

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 premiums, 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 obligation of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No Payment by an employer to his employee shall be treated as a gratuity.

7. The Class 3 claims included in this Report are only a portion of the Class 3 claims to be adjudicated. As other Class 3 claims are ready for adjudication, the Receiver will file additional reports.

8. Seventeen timely Class 6 claims are ready for adjudication at this time. 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]." The Class 6 claims included in this Report are only a portion of the Class 6 claims to be adjudicated. As other Class 6 claims become ready for adjudication, the Receiver will file additional reports.

9. One untimely filed claim is ready for adjudication at this time. Pursuant to 36 O.S. § 1930, untimely filed claims shall not “share in the distribution of the assets until all allowed claims, proofs of which have been filed before that date, have been paid in full with interest.”

10. This Report does not address the actual distribution of assets that ultimately may be made to creditors and beneficiaries of Red Rock. Neither the Receiver’s recommendation that a claim be allowed in a certain amount, nor the Court’s Order allowing a claim, ensure 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 a claim; (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

11. The table below is a summary of the Receiver’s recommendations with respect to the claims, by class, that are ready for adjudication:

Class	Claimed	Recommended Allowance	Recommended Denial
3	\$6,594,909.59	\$0.00	\$6,594,909.59
6	\$634,147.30	\$59,382.02	\$547,765.28
U	undetermined	\$0.00	N/A

12. The attached **Exhibit 1** refers to the Receiver’s recommendations as to the Class 3 claims that are ready for adjudication. The Receiver has analyzed the claims reflected on **Exhibit 1** and recommends that each of the claims be classified as a Class 3 claim for purposes of 36 O.S. § 1927.1.

13. The attached **Exhibit 2** refers to the Receiver’s recommendations as to the Class 6 claims that are ready for adjudication. The Receiver has analyzed the claims reflected on **Exhibit 2** and recommends that each claim be classified as a Class 6 claim for purposes of 36 O.S. § 1927.1.

14. The attached **Exhibit 3** refers to the Receiver's recommendation as to the untimely filed claim that is ready for adjudication. The Receiver has analyzed the claim reflected in **Exhibit 3** and recommends that the claim be classified as untimely for purposes of 36 O.S. § 1930.

15. The "Amount Claimed" columns on **Exhibits 1, 2, and 3** reflect the amount that the claimant has sought through an individual claim. The "Amount Allowed" columns set forth the amount the Receiver recommends that the Court allow as to an individual claim. The "Remark Code" column provides a code indicating the basis or bases for the Receiver's recommendation as to an individual claim.

16. A definition for each of the codes used is set forth in the attached **Exhibit 4**.

17. 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."** To the extent any Notice of this proceeding is returned as undeliverable, the Receiver asks the Court to find that the due process rights of the claimant have not been impaired and to order the denial of their claim without further attempts to give actual notice.

18. Pursuant to 36 O.S. § 1918, the Receiver requests the Court to set a hearing on the claims and establish a date certain for filing an objection to the Receiver's recommendation. Attached hereto as **Exhibit 5** is the Receiver's proposed form of notice of hearing to be provided to claimants whose claims are included in this Report.

19. 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 fund, 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 statute.

20. The Receiver's characterization of a claim or payment does not constitute an admission of liability by Red Rock for purposes of litigation.

WHEREFORE, the Receiver requests that this Court:

- a. order that the Receiver provide notice or opportunity to object and be heard to each of the claimants making a claim reflected on the Exhibits attached to this Report and find that the proposed form of notice attached hereto as Exhibit 5 is proper;
- b. establish a date for filing an objection to the recommendations of the Receiver;
- c. establishes date(s) for hearing the Receiver's recommendations to the Court;
- d. directs the Receiver, upon the filing of any objections, to file with the Court a briefing and hearing schedule for each objection which may include a consolidated schedule to adjudicate multiple objections, where appropriate in the interest of judicial efficiency, and;
- e. grant the Receiver such other and further relief as the Court deems proper.

Respectfully Submitted,



Ryan Leonard, OBA #19155
Robert Edinger, OBA #2619
Jason A. Reese, OBA #20813
Meyer, Leonard & Edinger PLLC
100 Park Avenue Building, Suite 500
Oklahoma City, OK 73102
Telephone: (405) 702-9900
Facsimile: (405) 605-8381

**ATTORNEYS FOR THE STATE OF
OKLAHOMA, EX. REL.
JOHN DOAK, INSURANCE
COMMISSIONER FOR THE
STATE OF OKLAHOMA**

CERTIFICATE OF SERVICE

This is to certify that on December 22, 2016, a true and correct copy of this pleading was mailed first class, U.S. Mail, to:

Julie Meaders
Oklahoma Insurance Department
3625 N.W. 56th Street, Suite 101
Oklahoma City, OK 73112

David L. Bryant
Thomas W. Gruber
GABLEGOTWALS
211 North Robinson, 15th Floor
Oklahoma City, OK 73102

Robert Nance
George Emerson
Rights Abney Neal Turpen Orbison & Lewis
528 NW 12th St.
Oklahoma City, OK 73103

Warren F. Bickford / Terry W. Tippens
Fellers Snider Blankenship Bailey & Tippens
100 N. Broadway, Suite 1700
Oklahoma City, OK 73102

Nestor Romero
Assistant Receiver
Regulatory Consultants, Inc.
10433 Montgomery Parkway Loop, NE
Albuquerque, NM 87111

Debra Crowe/Sara Worten/Barron Brown
Oklahoma Receivership Office, Inc.
Three Corporate Plaza
3613 N.W. 56th Street, Suite 330
Oklahoma City, OK 73112

John T. Palter
Palter Stokley Sims PLLC
8115 Preston Road, Suite 600
Dallas, TX 75225

Andrew M. Reidy / Catherine Serafin
Michael McGaughey / Courtney Alvarez
LOWENSTEIN SANDLER LLP
2200 Pennsylvania Avenue NW
Washington, D.C. 20037

Evan B. Gatewood
Hayes Magrini & Gatewood
1220 N. Walker
P. O. Box 60140
Okla. City, OK 73146-0140

Oklahoma Property & Casualty
Insurance Guaranty Association
2601 NW Expressway, Suite 330E
Oklahoma City, OK 73112

J. Angela Ables
KERR, IRVINE, RHODES & ABLES, P.C.
201 Robert S. Kerr Ave., Suite 600
Oklahoma City, OK 73102

Rachel Lawrence Mor
Dan M. Peters
3037 NW 63rd St. Suite 205
Oklahoma City, OK 73116



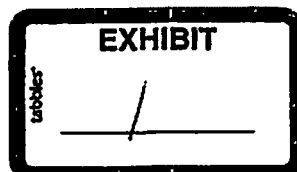
Jason A. Reese

Red Rock Insurance Company

Claims Allowed by Class

Exhibit 1
Class 3

POC No	Amount claimed	Amount Allowed	Timely	Remark Code
1097	\$20,000.00	\$0.00	Y	GFA
1146	\$87,660.84	\$0.00	Y	GFA
1226	\$380,000.00	\$0.00	Y	GFA
1227	\$215,000.00	\$0.00	Y	GFA
1228	\$215,000.00	\$0.00	Y	GFA
1229	\$380,000.00	\$0.00	Y	GFA
1230	\$215,000.00	\$0.00	Y	GFA
1231	\$350,000.00	\$0.00	Y	GFA
1232	\$545,000.00	\$0.00	Y	GFA
1233	\$215,000.00	\$0.00	Y	GFA
1234	\$950,000.00	\$0.00	Y	GFA
1235	\$215,000.00	\$0.00	Y	GFA
1404	\$1,056,949.75	\$0.00	Y	NCUP
1405	\$462,349.75	\$0.00	Y	NCUP
1406	\$660,549.75	\$0.00	Y	NCUP
1407	\$561,449.75	\$0.00	Y	NCUP
1408	\$65,949.75	\$0.00	Y	NCUP
	\$6,594,909.59	\$0.00		

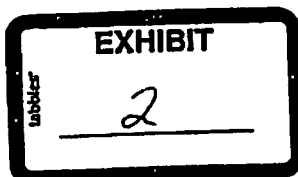


Red Rock Insurance Company

Claims Allowed by Class

Exhibit 2
Class 6

POC No	Amount claimed	Amount Allowed	Timely	Remark Code
1032	\$288.69	\$288.69	Y	AP
1056	\$1,089.57	\$1,089.57	Y	AP
1123	\$714.00	\$714.00	Y	AP
1140	\$300.00	\$0.00	Y	DO
1141	\$1,406.69	\$1,026.00	Y	AP
1194	\$276.21	\$276.21	Y	AP
1206	\$1,978.00	\$1,978.00	Y	AP
1207	\$243.50	\$243.50	Y	AP
1208	\$2,881.00	\$2,881.00	Y	AP
1254	\$44,632.05	\$44,632.05	Y	AP
1283	\$20,543.75	\$543.75	Y	AP
1348	\$746.00	\$39.00	Y	AP
1440	\$7,776.84	\$4,399.25	Y	RPAD
1470	\$305.28	\$305.28	Y	AP
1472	\$624.00	\$624.00	Y	AP
1476	\$341.72	\$341.72	Y	AP
1502	\$550,000.00	\$0.00	Y	DO
	\$634,147.30	\$59,382.02		



Red Rock Insurance Company

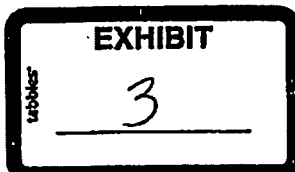
Claims Allowed by Class

Exhibit
Class

3

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POC No	Amount claimed	Amount Allowed	Timely	Remark Code
1513	Undetermined	\$0.00	N	GFA
	\$0.00	\$0.00		



Red Rock Insurance Company
Remark Codes

Exhibit **4**

Code	Description
AP	Approved
DO	Denied No Obligation Due Claimant
GFA	Guaranty Fund Accepted
NCUP	No Coverage Under Policy
RPAD	Receiver Paid Additional Due

EXHIBIT
4

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

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner)	
)	
Plaintiff,)	
)	
v.)	Case No. CJ-2014-4353
)	
RED ROCK INSURANCE COMPANY, a licensed insurer in the State of Oklahoma,)	
)	
Defendant.)	

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

You are hereby notified that on _____ at _____.m., a hearing will be held before the Honorable Thomas E. Prince, District Court Judge of Oklahoma County, Oklahoma, at which time the Receiver's Fourth Report on Claim Evaluation and Request for Confirmation of Receiver's Recommendations ("Receiver's Fourth 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 Exhibit attached to this Notice sets forth the Receiver's recommendations to the Court in relation to your claim. The Receiver's recommendations to the Court regarding your claim and other claims set for hearing on the cited hearing date are set forth in the Receivers Fourth Report, which was filed on December 22, 2016. A copy of the Receiver's Fourth Report is available on the website of the Oklahoma Receivership Office at www.okaro.org. Your claim has been assigned the Proof of Claim number ("POC#") indicated on the attached

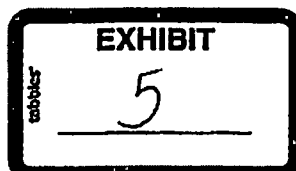


Exhibit. The attached Exhibit also provides information specific to your claim including the amount of your claim, the Receiver's recommendation as to the amount of your claim to be allowed, if any, and the Receiver's recommendation regarding the classification of your claim, which classification reflects the nature of your claim and the priority the Receiver recommends be given to your claim under 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 January 27, 2017. 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. Red Rock Insurance Company Case No. CJ-2014-4353, 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 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 8.5 x 11 inches, provide the name, current address and telephone number of the claimant making the objection, and provide the name and title 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 statement that contains (a) a written statement of material facts contained in the proof of claim 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 oral argument to the Court on your objection at the hearing, the objection must indicate your intention to appear at the hearing and present 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 that the Court assigns to your claim based upon Oklahoma law, and the assets in the estate available for payment. 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 Assistant Receiver's Office. Contact information for the Assistant Receiver's Office is set forth below:

Assistant Receiver's Office

Nestor Romero, Assistant Receiver
Albuquerque, NM
10433 Montgomery Parkway Loop, NE
Albuquerque, NM 87111
Telephone: (505) 944-0058
Facsimile: (505) 944-0059

Receiver's Counsel Address:

Ryan Leonard
Jason Reese
Robert Edinger
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100 Park Avenue, Suite 500
Oklahoma City, OK 73104
Telephone: (405) 702-9900
Facsimile: (405) 605-8381

Respectfully,

Ryan Leonard, OBA #19155
Jason A. Reese, OBA #20813
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