

IN THE COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO

MARY TAYLOR, Ohio Superintendent of Insurance, in her capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 00CVH-11-9867
	:	
Credit General Insurance Company, et al	:	Judge Mark Serrott
	:	
Defendants.	:	

**MOTION FOR ORDER APPROVING LIQUIDATOR'S (1) FIRST SET OF FINAL
REPORTS OF CLAIMS IN CLASSES 2 AND 4 THROUGH 9, AND (2) FILING OF THE
UNREDACTED REPORTS OF CLAIMS UNDER SEAL**

Plaintiff, Mary Taylor, Ohio Superintendent of Insurance in her capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company ("Liquidator"), requests an Order pursuant to R.C. 3903.42 and 3903.43 approving the Liquidator's First Final Report of Claims in Class 2 and First Set of Final Reports of Claims in Classes 4 through 9, as those classes are defined in R.C. 3903.42 ("the Reports"). The Reports do not include all of the proofs of claims filed against the Credit General Insurance Company ("CGIC") and Credit General Indemnity ("CGIND") estates, or even all proofs of claims filed in Classes 2 and 4 through 9, as those classes are defined in R.C. 3903.42.

The Reports show that the reported claims will not be paid at any percentage for the reasons set forth in the attached Memorandum in Support.

The Liquidator further requests that the Court issue an order requiring that the unredacted Reports of Claims set forth in Exhibits A, B, C and D be filed with the Franklin County Clerk of Court under seal due to the confidential nature of the claimant information contained in the Reports.

Respectfully submitted,

MIKE DEWINE
Attorney General State of Ohio

By Special Counsel:
KOHMAN, JACKSON & KRANTZ, PLL

/s/ Valoria C. Hoover

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MEMORANDUM IN SUPPORT

I. Background

On December 12, 2000, this Court ordered Credit General Indemnity Company ("CGIND") liquidated. On January 5, 2001, this Court ordered Credit General Insurance Company ("CGIC") liquidated.

At that time, the Liquidator issued notices of liquidation in each estate pursuant to R.C. 3903.22 and the Liquidation Orders that notified all potential claimants that January 31, 2002 was the deadline for filing timely proofs of claims against either CGIND or CGIC (the "Bar Date"). In 2008, the Court established an Absolute Final Bar Date of March 31, 2009, after which the Liquidator will not receive any new proofs of claims (including late filed claims) or allow claimants to substantiate previously unspecified or "blanket" proofs of claims. The establishment of the Absolute Final Bar Date is one of the tools available to the Liquidator for closing the CGIC and CGIND liquidation estates.

Based on the Liquidator's ongoing review of proofs of claims and her analysis of the estates' Class 2 claims liability in relation to the estates' assets, the Liquidator determined and reported to this Court beginning in 2008 that the assets of both the CGIC and CGIND estates are and will remain insufficient to pay all allowed Class 2

claims, as that class is defined in R.C. 3903.42, in full (100%).¹ R.C. 3903.42 requires that every claim in each class "shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment." Because the Liquidator will not pay all Class 2 claims in full, the Liquidator will not make any distribution to claimants holding lower priority claims, including claimants in Classes 4 through 9.

R.C. 3903.43(A) requires the Liquidator to file reports of claims duly filed in the liquidation along with her recommendations of the amount of those claims. In this case, the Liquidator has already fully adjudicated the claims reported with this Motion under R.C. 3903.39.² Therefore, there are no unresolved disputes with regard to the claims in

¹ R.C. 3903.42 sets forth the priority of distribution of claims from a liquidated insurer's estate and provides, in relevant part:

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. The order of distribution of claims shall be:

(A) Class 1. The costs and expenses of administration, . . .

(B) Class 2. All claims under policies for losses incurred, including third party claims, all claims of contracted providers against a medicaid health insuring corporation for covered health care services provided to medicaid recipients, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, 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. No payment by an employer to an employee shall be treated as a gratuity. Claims under nonassessable policies for unearned premium or other premium refunds.

² The Liquidator issued letters to each claimant notifying them of the Liquidator's determination of the classification of and value of their claim, when applicable, during the course of the liquidation proceedings.

reports filed with this Motion. Under R.C. 3903.43(B), the Court may approve, disapprove, or modify the Reports on claims by the Liquidator.

II. Motion for an Order Requiring the Unredacted Reports of Claims to be Filed Under Seal

The names and address of the claimants are redacted in all of the Reports that are publicly filed with this Motion pursuant to applicable law and at the request of several claimants in other liquidations who reported that they had been contacted and questioned by claims buyers, neighbors, and others in connection with their claims against liquidated insurers. By redacting the claimant's contact and other private information in the Reports of Claims, the Liquidator is attempting to respond to and protect the claimants. The Liquidator requests in this case, as in others, that the claimants' names and addresses be filed under seal with the Court.

The Liquidator in this case, as in others, will have posted this Motion and Redacted Reports on her website at www.ohliq.com under Open Liquidations – Credit General Insurance Co., and at www.ohliq.com under Open Liquidations – Credit General Indemnity Co., in the form of searchable PDFs so that claimants can search for information about their claims using their Proof of Claim (Liquidator) Number. This permits the claimant to have meaningful review of the information related to their claims. The website also explains that claimants may call the Liquidation Office if they have questions about the Reports.

III. Liquidator's First Final Report of CGIC Claims in Class 2

The Liquidator is filing and does request approval of her First Final Report of finally adjudicated Class 2 Claims against the CGIC estate that have a zero value (\$0.00) (Exhibit A). This Report shows that the Liquidator's final determination of the

classification and value of the Class 2 claims identified on Exhibit A is zero dollars (\$0.00). The majority of these claims are valued at zero dollars (\$0.00) because insurance guaranty associations have already paid the claims in full.

Other Class 2 claims in the Report are valued at zero dollars (\$0.00) because the claimant did not object to the Liquidator's determination of the claim pursuant to R.C. 3903.39 or because this Court overruled the claimant's objections to the Liquidator's determination.

If the Report in Exhibit A is approved, the Liquidator will not make further reports on the particular claims identified in Exhibit A prior to closing the CGIC estate. The Liquidator will make further reports of other Class 2 claims that have not yet been fully adjudicated prior to closing the CGIC estate, including but not limited to the proofs of claims filed by insurance guaranty associations.

IV. Liquidator's First Final Report of CGIND Claims in Class 2

The Liquidator filing and does request approval of her First Final Report of finally adjudicated Class 2 Claims against the CGIND estate that have a zero value (\$0.00) (Exhibit B). This Report shows that the Liquidator's final determination of the classification and value of the Class 2 claims identified on the Report is zero dollars (\$0.00). The majority of these claims are valued at zero dollars (\$0.00) because insurance guaranty associations have already paid the claims in full. Other Class 2 claims in the report are valued at zero dollars (\$0.00) because the claimant did not object to the Liquidator's determination of the claim pursuant to R.C. 3903.39 or because this Court overruled the claimant's objections to the Liquidator's determination.

If the report in Exhibit B is approved, the Liquidator will not make further reports on the particular claims identified in Exhibit B prior to closing the CGIND estate. The Liquidator will make further reports of other Class 2 claims that have not yet been fully adjudicated prior to closing the CGIND estate, including but not limited to the proofs of claims filed by insurance guaranty associations.

V. Liquidator's First Final Reports of CGIC and CGIND Claims in Classes 4 through 9

On May 7, 2012, the Liquidator filed her most recent Report on the Status of Liquidation in this case reaffirming that assets in both the CGIC and CGIND estates will be insufficient to pay any portion of any claim in Classes 4 through 9, as those classes are defined in R.C. 3903.42.³ The Liquidator is filing her First Set of Final Reports of

³ Prior to March 22, 2012, R.C. 3903.42 defined Classes 4 through 9 as follows:

(D) Class 4. Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the complaint for liquidation. Officers and directors shall not be entitled to the benefit of this priority. Such priority shall be in lieu of any other similar priority that may be authorized by law as to wages or compensation of employees.

(E) Class 5. Claims of general creditors.

(F) Class 6. Claims of any state or local government. Claims, including those of any state or local governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under division (I) of this section.

(G) Class 7. Claims filed late or any other claims other than claims under divisions (H) and (I) of this section.

(H) Class 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(I) Class 9. The claims of shareholders or other owners.

R.C. 3903.42 was amended effective March 22, 2012, in response to *Hudson v. Petrosurance, Inc.* (2010), 127 Ohio St.3d 54, 2010-Ohio-4504, to authorize the Liquidator to pay interest to creditors in Classes 2-8 prior to paying the claims of shareholders and other owners in cases where a surplus exists. The amendment creates a new Class 9 (interest on claims in classes 1-8) followed by a new Class 10

CGIC Claims in Classes 4 through 9 (Exhibit C) and her First Set of Final Reports of CGIND Claims in Classes 4 through 9 (Exhibit D). The Reports in Exhibits C and D show the Liquidator's determinations of the classification of the claims identified therein and that there will not be any distribution on those claims under R.C. 3903.42 due to insufficient assets in the CGIC and CGIND estates. If the reports in Exhibits C and D are approved, the Liquidator will not make further reports on the particular claims identified therein prior to closing the CGIC and CGIND estates. The Liquidator will make further reports of other claims in Classes 4 through 9 prior to closing the CGIC and CGIND estates, all of which will also show that there will not be any distribution under R.C. 3903.42 due to insufficient assets in the CGIC and CGIND estates to pay claims in Classes 4 through 9.

Respectfully submitted,

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(claims of shareholders or other owners). The amendment does not affect this case because assets are insufficient to pay any claim in any class below Class 2.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion for Order Approving Liquidator's (1) First Set of Final Reports of Claims in Classes 2 and 4 through 9 and (2) Filing of the Unredacted Reports of Claims Under Seal* at www.ohliq.com under Open Liquidations – Credit General Insurance Co., and at www.ohliq.com under Open Liquidations – Credit General Indemnity Co. and was emailed to the persons on the attached CGIC Courtesy Copy E-Mail List and served upon the following via Regular Mail, postage prepaid, on this 2nd day of July, 2012:

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