

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Reliance Insurance Company :
in Liquidation :
 : No. 1 REL 2001
 :

IN RE: Liquidator’s Report on POCs Received by the Claims Bar Date, Recommendations on Resolved Claims as of December 31, 2015, and Proposal Regarding Unresolved Claims

MEMORANDUM and ORDER

Presently before the Court is the Liquidator’s Application (Application) for Approval of Report and Recommendations on Resolved Claims as of December 31, 2015. In addition, the Liquidator avers that there are approximately 1,594 Proof of Claims (POCs) requiring a Notice of Determination (NOD), noting that almost all of these POCs involve Unresolved Claims.¹

¹ The Liquidator defines an “Unresolved Claim” as:

A specific claim by a known and identified Claimant for known and identified existing injuries or damages reported to the Liquidator under a Timely POC. The specific claim has accrued but it is not a Complete Claim because liability and/or damages have not been determined (A) in an active underlying Legal Proceeding filed before the Bar Date; (B) through settlement; or (C) by the Liquidator, including any disputed claim proceeding before the Court.

Application, ¶ 19. As the Liquidator notes, generally, in the normal process of liquidation, the Unresolved Claims would be allowed to resolve to a final determination of liability and/or damages prior to evaluation by the Liquidator.

No objections or responses were filed to this Application/Proposal.

According to the Liquidator, many of the Unresolved Claims derive from long-tail lines of business, such as workers' compensation, medical malpractice, construction defect and asbestos and environmental pollution, such that a final resolution may not occur for many years. Therefore, in order to expedite the closing of the liquidation proceedings and the final distribution of the Estate assets, the Liquidator "proposes to evaluate and determine these claims, prior to a final resolution, by evaluating liability, determining a damage amount, and then reducing that amount (primarily for workers^[1] compensation claims) to an approximate present value of payments that would otherwise be made by the insured or the GAs far into the future." Application, ¶ 20 (footnote omitted). As the Liquidator notes, if a claimant disagrees with the present value discount determined, the claimant may object to the NOD according to the procedures previously established by the Court.

In connection with the above approach, the Liquidator also seeks permission to, inter alia, "adjust the workers' compensation claim reserve amounts stated on the Reliance books and records to reduce indemnity reserves and eliminate medical escalation, so that those amounts may be discharged thereby establishing workers^[1] compensation indemnity and medical reserves on an approximate present value basis" to "more accurately reflect an estimated settlement or allowed amount for workers^[1] compensation claims to be resolved with insured and GAs under all POCs received prior to the Claims Bar Date."² Application, ¶ 22.

Recognizing that the Liquidator is statutorily authorized to: (1) "comport, compromise or in any other manner negotiate the amount for which claims will be

² The Court set a Claims Bar Date of March 31, 2016.

recommended to the court,” *see* Section 545(a) of the Insurance Department Act of 1921 (Act), added by the Act of December 14, 1977, 40 P.S. § 221.45(a); and (2) discount at the legal rate of interest “[c]laims that are due except for the passage of time,” *see* Section 539 of the Act, added by the Act of December 14, 1977, 40 P.S. § 221.39(d), the Court hereby Orders:

AND NOW, this 10th day of June, 2016, the Liquidator’s Application regarding Resolved Claims is **GRANTED**, and her proposal regarding the Unresolved Claims is **APPROVED IN PART**, as follows:

1. The claims listed in the Report and Recommendations on Resolved Claims (Report) as of December 31, 2015, are **APPROVED** and **ALLOWED** both as to classification and amount as listed;

2. The Report is incorporated herein by reference;

3. The Liquidator is authorized to withhold distributions to those claimants whom Reliance believes are Medicare recipients or potential Medicare recipients unless they have completed the Reliance questionnaire and returned it to Reliance;

4. The Liquidator is authorized to include Medicare as a payee on the distribution check if there is a current Medicare lien and/or issue a separate distribution to a Medicare trust for the claimant’s future medical expenses;

5. The Claimants listed in the Report or their lawful assignees shall receive a distribution in accordance with Section 544 of the Act, added by the Act of December 14, 1977, as amended, 40 P.S. § 221.44, at the time and in the manner as approved and previously directed by this Court;

6. The Liquidator is authorized to negotiate, settle, and resolve Unresolved Claims prior to those claims being finally determined by a legal proceeding or settlement;

7. Based on the Claims Bar Date, the Liquidator is authorized and directed to adjust the workers' compensation claim reserve amounts for indemnity payments and eliminate medical escalation in those claim reserve amounts to establish workers' compensation reserves on an approximate present value basis.



BONNIE BRIGANCE LEADBETTER,
Senior Judge

Certified from the Record

JUN 10 2016

and Order Exit