

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

IN RE: Liquidator's Application for Approval of Final GA Omnibus Notices of Determination as of November 1, 2017

MEMORANDUM and ORDER

Before the Court is the Liquidator's unopposed Application for Approval of Final GA Omnibus Notices of Determination as of November 1, 2017 (Application). The Liquidator's Application is submitted pursuant to this Court's prior orders addressing the administration of Guaranty Association (GA) claims (Order of November 19, 2007) and GA omnibus Proof of Claims (POCs) (Order of December 11, 2003), as well as Pa. R.A.P. 3784(a) and Section 545(a) of the Insurance Department Act of 1921 (Act),¹ 40 P.S. § 221.45(a), which require the Liquidator to present to the Court a report of the claims against the Reliance estate along with her recommendations. In her Application, the Liquidator seeks approval of the final omnibus class (a) and (b) Notices of Determination (NODs) that have been issued to the respective GAs included in the attached reports;² no objections were filed to

¹ Act of May 17, 1921, P.L. 789. Section 545, a part of Article V, was added by the Act of December 14, 1977, P.L. 280.

² In general, class (a) claims include the GA administrative expense claims incurred in handling loss claims; class (b) claims include loss claims paid by the GAs as well as the allocated loss adjustment expenses.

the NODs.³ The final omnibus NODs at issue include: (1) allowed amounts for class (a) or (b) claims previously approved by the Court for each GA; (2) allowed amounts for class (a) or (b) claims which are being submitted to the Court for approval for the first time in the present Application; (3) disallowed amounts for class (a) claims previously approved by the Court for each GA; and (4) disallowed amounts for class (a) claims which are being submitted to the Court for approval for the first time in the present Application.

In her Application, the Liquidator notes that the “final omnibus settlement of administrative expenses for each GA will obviate the need for future undisputed GA administrative expense reports which will no longer be submitted to the Court.” Application, ¶ 7. Further, in order to issue a final omnibus NOD for GA class (a) claims, “it was necessary to determine an allowed amount for estimated administrative expenses that would be incurred in connection with all remaining open claims, even after the Reliance liquidation is concluded.” *Id.*, ¶ 9. After research, analysis and consultation from the “GA community,” the Liquidator has determined that GA administrative expenses after September 30, 2016, would be based on a flat amount of \$3,300 for each remaining open claim. Exhibit B details the information regarding calculation of the total allowed amount for eight GA class (a) omnibus NODs. Importantly, the Liquidator avers that:

All of the amounts listed in the Total Class (a) Omnibus Allowed Amount column of Exhibit B have been determined by the Liquidator to be reasonable and necessary class (a) “expenses of a guaranty association in handling claims”, appropriately reimbursable, and otherwise consistent with the relevant provisions of the

³ The Liquidator notes that the Application encompasses only claims submitted by property and casualty GAs that have recently agreed to a final omnibus settlement of class (a) and class (b) claims in addition to the calculation and conversion of early access advances to distribution payments.

Act. The Liquidator further believes that the approval of these undisputed final omnibus class (a) NODs is in the best interests of the Reliance Estate, its policyholders, claimants and other creditors.

Id., ¶ 11.

To date, the Court has approved final omnibus class (b) GA NODs for 13 GAs. The remaining GAs, whose final omnibus class (b) NODs have not yet been issued or approved, are administering 4,565 open claim files (as of June 30, 2017). As with the issuance of a final omnibus NOD for class (a) claims, the Liquidator has determined an Allowed Amount (AA) for any open claims that will require continued GA payments beyond the closure of the Reliance Estate and liquidation. According to the Liquidator, these claims include primarily workers' compensation claims and the associated indemnity payments, medical costs and allocated loss adjustment expenses (ALAE). Exhibit C to the Application details, for each of the 15 GAs included, the individual class (b) undisputed claims, which have not been previously submitted to and approved by the Court. Exhibit E, in turn, lists the final omnibus NODs that have been issued to each GA for its class (b) claims. The Total Allowed Amount for each GA's class (b) claims consists of all class (b) allowed amounts previously approved by the Court and the class (b) allowed amounts currently recommended for approval and listed in Exhibit C.

According to the Liquidator, she "believes that the Class and the Valuation Amount for the claims listed on Exhibit C are appropriate, fair, equitable, and consistent with the relevant provisions of the Act and this Court's orders. The Liquidator further believes that the approval of the claims listed on Exhibit C is in the best interests of the Reliance Estate, its policyholders, claimants and other creditors." *Id.*, ¶ 20. The Liquidator also avers that: "[T]he Total AA for Claims for each class (b) final omnibus NOD listed on Exhibit E is appropriate, fair,

equitable, and consistent with the relevant provisions of the Act and this Court's orders. . . . [and] the approval of the NODs listed on Exhibit E at priority class (b) is in the best interests of the Reliance Estate, its policyholders, claimants and other creditors." *Id.*, ¶ 21.

Next, because the Liquidator has settled all the class (b) claims for the GAs included in the Application, the Liquidator seeks to convert early access payments received by the GAs pursuant to Section 536 of the Act, added by the Act of December 14, 1977, P.L. 280, 40 P.S. § 221.36 (pertaining to Liquidator's proposal to distribute assets to GAs) into distribution payments so that the GAs with an approved final omnibus class (b) NOD will share in the same distributions as all other claimants with an approved class (b) NOD. In Exhibit F to the Application, the Liquidator sets forth the numerical values included in the conversion calculation, including offset amounts, if any, GA net distribution amounts, early access advances to GAs, early access amounts to be converted to distribution payments and early access amounts to be retained by GAs, as well as the conversion calculation itself. No objection has been raised to this request or the Liquidator's calculations.

Finally, in addition to seeking approval of the final omnibus GA NODs, the Liquidator seeks approval of the following: (1) the Allowed and Disallowed Expenses Recommended in Exhibit B; (2) the Recommended AA for Claims on Exhibits C and E; and (3) the conversion of early access payments to distribution payments, including the Offset Amount, as indicated on Exhibit F.

Considering the Liquidator's representations, the lack of any objection to the Application, and the Liquidator's broad authority to administer the Estate in a manner which protects the interest of the insureds, public and creditors, *see* Sections

501 through 563 of the Act, 40 P.S. §§ 221.1 – 221.63, the Court approves the Application pursuant to the following Order.

AND NOW, this **11th day of December, 2017**, upon consideration of the Liquidator's Application for Approval of Final GA Omnibus Notices of Determination as of November 1, 2017, the Application is GRANTED as follows:

1. The Disallowed Expenses Recommended and the Allowed Expenses Recommended detailed on Exhibit B of the Application are approved as to amount and class;

2. The Total Class (a) Omnibus Allowed Amounts shown on Exhibit B for the omnibus class (a) Notices of Determination (NODs) are approved both as to class and amount as a full and final settlement of all class (a) claims;

3. The Liquidator is authorized to make a final payment on class (a) claims in the amount of the Allowed Expenses Recommended, as shown on Exhibit B, in the next regular quarterly distribution cycle;

4. The GA individual class (b) undisputed claims listed in Exhibit C of the Application are approved as to Class, Valuation Amount, GA Level Adjustments, and Recommended Allowed Amount for Claims;

5. The final undisputed GA omnibus class (b) NODs listed in Exhibit E of the Application are approved both as to Class and Total Allowed Amount for Claims as a full and final settlement of all class (b) claims;

6. The Offset Amounts, if any, netted against the GA Total Distribution Amount, as shown on Exhibit F, are approved;

7. The conversion of the early access advances to distributions for class (b) claims is approved as set forth in Exhibit F of the Application;

8. The Liquidator is authorized to make a Distribution Payment to any GA for class (b) claims, as shown on Exhibit F, in the next regular quarterly distribution cycle; and

9. The GAs included in the Application will receive further distributions on class (b) claims first through the conversion of any early access advances retained by the GAs as set forth in Exhibit F, and then through the payment of distributions whenever the Court approves an increase in the interim distribution percentage or approves a final distribution.



BONNIE BRIGANCE LEADBETTER,
Senior Judge

Certified from the Record

DEC 11 2017

And Order Extt