

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 L&H GA Omnibus Notices of Determination

MEMORANDUM and ORDER

Before the Court is the Liquidator's Application for Approval of Final [Life and Health Guaranty Association (L&H GAs)] Omnibus Notices of Determination (Application).¹

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),² 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

¹ No responses or objections were filed to the Application.

² 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.

been issued to the respective L&H GAs included in the attached reports;³ the majority of the undisputed claims included in the final omnibus NODs have been previously approved by the Court.⁴ The final omnibus NODs at issue include: (1) allowed amounts for class (a) or (b) claims previously approved by the Court for each L&H 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; and (3) disallowed amounts for class (a) claims previously approved by the Court for each L&H GA. In her Application, the Liquidator notes that, “[a]fter these L&H final omnibus NODs are approved by the Court, no further reports will be filed with the Court regarding either loss or administrative expense claims for the L&H GAs.” Application, ¶5.

Specifically regarding the class (a) claims, Exhibit B to the Application provides the factors included in calculating the total allowed amount for the L&H GA class (a) omnibus NODS, to wit: (1) the administrative expenses disallowed by the Liquidator and previously approved by this Court; (2) the allowed administrative expenses previously approved by this Court; and (3) the allowed administrative expenses currently being recommended for approval for three L&H GAs. Adding the allowed administrative expenses approved by the Court with the allowed administrative expenses currently recommended for approval provides the total and final omnibus class (a) NOD for each L&H GA. According to the Liquidator, these amounts “have been determined . . . 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 Act.” Application, ¶14.

³ 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.

⁴ See Application at footnotes 2 and 3, pp. 3, 4, respectively.

The Liquidator further avers that, “[She] believes that the approval of these undisputed final omnibus class (a) NODs is in the best interest of the Reliance Estate, its policyholders, claimants and other creditors.” *Id.*

Regarding the class (b) claims, Exhibit C to the Application provides the amounts included in the Liquidator’s calculation of the final omnibus NODs that have been issued to the L&H GAs for their loss claims. The amounts include the approved allowed amounts for L&H GA loss claims previously approved by the Court, and the allowed amount of L&H loss claims currently being recommended for approval for four L&H GAs. Together, these sums represent the total and final omnibus allowed amount of class (b) claims stated on the NOD issued to each L&H GA. According to the Liquidator, the total allowed amount for claims for each class (b) final omnibus NOD is “appropriate, fair, equitable, and consistent with the relevant provisions of the Act and this Court’s Orders. . . . [and] that the approval of the NODs listed on Exhibit C . . . is in the best interests of the Reliance Estate, its policyholders, claimants and other creditors.” Application, ¶18.

Next, although the L&H GAs included in the Application have not yet received a distribution payment on their class (b) claims, they have received early access advances 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). Now that 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 into distribution payments so that the L&H 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 D to the Application, the Liquidator sets forth the numerical values included in the conversion calculation,

including the total allowed amount for all class (b) claims, the current Court approved distribution percentage of 80%, which is applied to the total allowed amount to calculate the total distribution amount, and the early access advances that have already been paid. The early access advances that have already been paid are netted against the net distribution amount to determine the distribution payment that will be made to each L&H GA (Column H).

Finally, the Liquidator notes that a small number of the L&H GAs are located in states where ancillary liquidation proceedings are pending, and where the ancillary receivers took possession of the special deposits posted by Reliance prior to liquidation. Any special deposit funds distributed to GAs as reimbursement must be offset against the distribution payments owed by the Liquidator. According to the Liquidator, “[U]ntil the special deposits are disbursed by the ancillary receiver and the ancillary proceedings are closed, the Liquidator will not be able to calculate a correct distribution payment for the L&H Deposit GAs.” Application, ¶22. Consequently, the Liquidator presently seeking approval of the class (b) final omnibus NODs issued to the L&H Deposit GAs. Thereafter, once an ancillary proceeding is closed and the Liquidator has received a final report regarding allocation of the special deposit proceeds, the Liquidator will calculate the distribution payment by subtracting any early access advances paid and any payments made by the ancillary receiver, followed by application of the approved distribution percentage.

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 17th day of January, 2018, upon consideration of the Liquidator's Application for Approval of Final L&H GA Omnibus Notices of Determination (NODs), the Application is GRANTED as follows:

1. The Allowed Expenses Recommended 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) NODs are approved both as to amount and class as a full and final settlement of all class (a) claims;

3. The Liquidator is authorized to make a final distribution payment on class (a) NODs to L&H GAs in the amount of the Allowed Expenses Recommended, as shown on Exhibit B, in the next distribution cycle;

4. The Recommended Allowed Amounts for Claims shown on Exhibit C for class (b) omnibus NODs are approved as to amount and class for the L&H GAs shown to have a Recommended Allowed Amount;

5. The Total Allowed Amounts for Claims shown on Exhibit C for omnibus class (b) NODs are approved as to amount and class as a full and final settlement of all class (b) claims;

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

7. The Liquidator is authorized to make a distribution payment to L&H GAs for class (b) NODs, as shown on Exhibit D, in the next distribution cycle;

8. The L&H GAs listed on Exhibit D shall receive further distributions on their final omnibus class (b) NODs whenever this Court approves an increase in the distribution percentage; and

9. The Liquidator is authorized to make a distribution payment to the L&H Deposit GAs when the pending ancillary proceeding in each state is closed and a final report is received by the Liquidator; the distribution payment shall be calculated by applying the Court approved distribution percentage to the allowed amount of the final omnibus class (b) NOD, less any early access advances paid by the Liquidator, and less any distributions paid to the L&H GA from the ancillary receiver. The L&H Deposit GAs will then receive further distributions whenever the Court approves an increase in the interim distribution percentage.



BONNIE BRIGANCE LEADBETTER,
Senior Judge

Certified from the Record

JAN 17 2018

And Order Exit