

FILED
11-27-2024
CIRCUIT COURT
DANE COUNTY, WI
2023CV001310

STATE OF WISCONSIN : CIRCUIT COURT : DANE COUNTY
BRANCH 15

In the Matter of the Liquidation of:

Wisconsin Reinsurance Corporation and 1st Auto &
Casualty Insurance Company

Case No. 2023CV1310

Case Code: 30703

MOTION TO APPROVE CERTAIN DISBURSEMENTS

TO: All Interested Parties

NOTICE

PLEASE TAKE NOTICE that the Commissioner of Insurance of the State of Wisconsin, Nathan Houdek, as Liquidator of Wisconsin Reinsurance Corporation and 1st Auto & Casualty Insurance Company (the “Commissioner” or the “Liquidator”), brings this Motion to Approve Certain Disbursements (the “Motion”) for hearing, if necessary, before the Circuit Court for Dane County, in the Dane County Courthouse, 215 S. Hamilton Street, Madison, WI 53703-3285, on a date and at a time to be determined by the Court. Objections to the Motion, along with supporting documentation, shall be filed with the Court and served on the Liquidator, by his attorneys, James A. Friedman, Zachary P. Bemis, and Anthony S. Baish of Godfrey & Kahn, S.C., and any other party who has filed an appearance in this action, within 14 days of the filing of the Motion.

MOTION

The Commissioner, as Liquidator of Wisconsin Reinsurance Corporation (“WRC”) and 1st Auto & Casualty Insurance Company (“1st Auto” and collectively, the “Companies”), hereby moves the Court, pursuant to Wis. Stat. § 645.72, and chapter 645 generally, to enter an Order

approving certain distributions to class one and class three claimants, as set forth below. As grounds for this Motion, the Commissioner states as follows:

1. Wis. Stat. § 645.72(1) requires the Liquidator, under the Court's direction, to "pay dividends as promptly as possible to security funds under sub. (2) and to other creditors in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including 3rd-party claims."

2. In accordance with that statutory directive, the Liquidator seeks the Court's approval to pay (i) class one expenses submitted in the liquidation of WRC; (ii) portions of class three claims submitted in the liquidation of WRC; and (iii) class one expenses submitted in the liquidation of 1st Auto.

Availability of Claims-Paying Resources

3. As set forth in the Companies' financial statements filed November 12, 2024, WRC had total assets of \$32,360,542 at the close of the third quarter of 2024. As of November 8, 2024, \$25,987,982.30 of these total assets are comprised of cash or cash equivalents or are otherwise immediately available for the payment of claims.

4. As set forth in the Companies' financial statements filed November 12, 2024, 1st Auto had total assets of \$10,726,963 at the close of the third quarter of 2024. As of November 8, 2024, \$7,730,253.61 of these total assets are comprised of cash or cash equivalents or are otherwise immediately available for the payment of claims.

Class One Expenses and Class Three Claims as to WRC

5. WRC incurs class one administrative expenses on an ongoing basis, including guaranty fund expenses. The Liquidator pays many class one administrative expenses – for

example, for legal services, the Special Deputy's services, accounting services, and tax preparation services – as they are incurred and invoiced. The Liquidator has not yet paid administrative expenses incurred by guaranty funds.

6. Pursuant to this Court's Order Approving Early Access Agreements (Dkt. No. 33), the Liquidator has entered into an early access agreement with the Wisconsin Insurance Security Fund, the only guaranty fund to submit claims in the WRC liquidation.

7. As of September 30, 2024, outstanding and unpaid guaranty fund expenses total \$271,390.

8. The Liquidator expects WRC to incur future administrative expenses, including guaranty fund expenses. The Liquidator expects guaranty fund expenses to decrease in 2025 and thereafter, however.

9. Class three claims submitted in the WRC liquidation and recommended by the Liquidator as allowable total \$13,260,777.35, comprised of \$6,723,933.33 in paid claims ("Paid Claims") and \$6,536,844.02 in amounts reserved to pay loss claims whose actual amounts are not yet determined ("Reserve Claims").

10. The Liquidator hereby moves the Court for permission to pay all or portions of the above claims in the following manner:

- a. The Liquidator may pay immediately all currently outstanding class one administrative expenses, including guaranty fund expenses in accordance with the terms of the early access agreement between the Liquidator and the Wisconsin Insurance Security Fund.
- b. The Liquidator is authorized to pay all future class one administrative expenses as they are incurred, including guaranty fund expenses in accordance

with the terms of the early access agreement between the Liquidator and the Wisconsin Insurance Security Fund.

- c. The Liquidator may pay immediately fifty percent (50%) of each Paid Claim, such payments totaling no more than \$3,361,966.66.
- d. The Liquidator is authorized to segregate available funds in an amount equal to fifty percent (50%) of the total Reserve Claims, or \$3,268,422.01.
- e. As loss claims underlying the Reserve Claims are paid and become actual, the Liquidator is authorized to pay the claimant fifty percent (50%) of the actual loss.
- f. In the event the Liquidator makes a payment under Paragraph 9(e), and the amount of the actual loss is less than the amount of the particular Reserve Claim associated with the actual loss, the Liquidator shall reduce the amount of segregated funds under Paragraph 9(d) by fifty percent (50%) of the amount of the Reserve Claim.
- g. In the event the Liquidator makes a payment under Paragraph 9(e) and the amount of the actual loss is greater than the amount of the particular Reserve Claim associated with the actual loss, the Liquidator shall increase the amount of segregated funds under Paragraph 9(d) to an amount equal to fifty percent (50%) of the total remaining Reserve Claims whose underlying loss claims have not yet been paid and become actual.

Class One Expenses as to 1st Auto

11. 1st Auto incurs class one administrative expenses on an ongoing basis, including guaranty fund expenses. The Liquidator pays many class one administrative expenses – for

example, for legal services, the Special Deputy's services, accounting services, and tax preparation services – as they are incurred and invoiced. The Liquidator has not yet paid administrative expenses incurred by guaranty funds.

12. Pursuant to this Court's Order Approving Early Access Agreements (Dkt. No. 33), the Liquidator has entered into early access agreements with each guaranty fund that submitted claims in the 1st Auto liquidation.

13. As of September 30, 2024, outstanding and unpaid guaranty fund expenses total \$820,882.

14. The Liquidator expects 1st Auto to incur future administrative expenses, including guaranty fund expenses, and that those expenses will continue for the foreseeable future at approximately the same rate as it has incurred such expenses to date.

15. The Liquidator hereby moves the Court for permission to pay immediately all currently outstanding class one administrative expenses, including guaranty fund expenses in accordance with the terms of the early access agreement between the Liquidator and each respective guaranty fund.

16. The Liquidator hereby moves the Court for permission to pay all future administrative expenses as they are incurred, including guaranty fund expenses in accordance with the terms of the early access agreement between the Liquidator and each respective guaranty fund.

Liquidator's Assessment and Recommendations

17. The guaranty fund expenses and claims discussed above have been filed by the respective guaranty funds pursuant to the rules established in Wis. Stat. § 645.61(4).

18. In the Liquidator's judgment, the current and future payments requested above comply with Wis. Stat. §§ 645.72(1) and (2).

19. Specifically, the current and future payments requested above comport with the priorities and classifications set forth in Wis. Stat. § 645.68 and will help ensure the expeditious and orderly completion of the liquidation without compromising the ability of the liquidation estates of WRC or 1st Auto to pay unliquidated and undetermined claims, including third-party claims.

For the above reasons, the Liquidator asks the Court to grant this motion, allowing the Liquidator to pay current and future claims on the terms set forth herein.

Dated this 27th day of November, 2024.

Respectfully submitted,

GODFREY & KAHN, S.C.

By: Electronically signed by James A. Friedman

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