

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
00 SEP 20 AM 10:13
CLERK OF COURTS - CV

J. Lee Covington, II,

Plaintiff,

v.

Case No. 00CVH03-2431

LMI Insurance Company

Judge David Johnson

Defendant.

APPLICATION FOR APPROVAL OF THE PLAN FOR DISBURSEMENT OF LMI ASSETS
TO GUARANTY ASSOCIATIONS PURSUANT TO
OHIO REVISED CODE 3903.34

J. Lee Covington, II, in his capacity as the Court appointed liquidator ("Liquidator") of the LMI Insurance company ("LMI"), hereby applies to the Court for approval of the attached Plan For Disbursement of Assets to Guaranty Associations Pursuant to Ohio Rev. Code 3903.34, and in support thereof states as follows:

1. On May 22, 2000, this Court entered its Final Order of Liquidation and Appointment of a Liquidator, which contained a finding in paragraph 3 at page 2 thereof that LMI was insolvent, as defined in Ohio Rev. Code 3903.01(K).

2. Pursuant to Ohio Rev. Code 3903.34(A), the Liquidator is required to make application to the Court within one hundred twenty days of the final determination of insolvency for approval of a proposal to disburse assets out of marshaled assets, from time to time as such assets become available, to any guaranty associations which have obligations because of such insolvency.

3. Pursuant to Ohio Rev. Code 3903.34(E), notice of this Application must be served upon the guaranty associations and the superintendent or commissioner of insurance of each applicable state, at least 30 days prior to the hearing on the Application.

4. Attached hereto as Exhibit A is the proposed Plan for Disbursement of LMI Assets to Guarantee Associations Pursuant to R.C. Section 3903.34 (the "Plan").

5. The Plan complies with Ohio Rev. Code 3903.34.

6. The notice given of this Application complies with Ohio Rev. Code 3903.34(E).

7. Therefore, the Court should approve the Application and the Plan in accordance with Ohio Rev. Code 3903.34.

Respectfully submitted,

CARLILE PATCHEN & MURPHY LLP

By: _____

Michael H. Igoe
Supreme Court No. 0012866
366 East Broad Street
Columbus, Ohio 43215
Tele: (614) 228-6135
Fax: (614) 221-0216
Special Counsel to Betty D. Montgomery,
Attorney General of the State of Ohio,
Attorneys for the Plaintiff in his capacity
As Liquidator for LMI Insurance Company

LIQUIDATION OF LMI INSURANCE COMPANY

PLAN FOR DISBURSEMENT OF ASSETS TO GUARANTY ASSOCIATIONS PURSUANT TO R.C. SECTION 3903.34

J. Lee Covington, II, Superintendent of Insurance of the State of Ohio, as Liquidator (the "Liquidator") of LMI Insurance Company ("LMI") hereby submits the following Plan for Disbursement of Assets to Guaranty Associations pursuant R.C. § 3903.34:

- I. The Liquidator shall make cash disbursements out of marshaled assets, from time to time as such assets become available, to appropriate state insurance guaranty associations (hereinafter referred to as "Associations") in amounts calculated according to this Plan. After the Liquidator has ample and sufficient time to evaluate, ascertain and determine the amount of assets, required reserves, potential claims and liabilities under this Plan, he shall make a calculation under this Plan, and shall continue to make such calculations under this Plan at least annually thereafter; it being understood that in no event will the Liquidator's first review of this calculation be made sooner than May 23, 2002.
- II. The Liquidator shall make the following calculations and determinations based upon the best information available to him:
 - A. The total amount of liquid assets available. The Liquidator shall not be required to increase liquid assets for purposes of this plan by making forced or quick sales that result in obtaining less than market value for assets. Liquid assets shall not include real estate, book value of a subsidiary, deposits held by other states, any assets over which the Liquidator does not have complete control, or any assets which are subject to potential claims of other persons.
 - B. The amount or reserves necessary pursuant to R.C. § 3903.42(A) for the payment of expenses of administration of the liquidation, including, but not limited to, the following:
 1. The actual and necessary costs of preserving or recovering the assets of the insurer;
 2. Compensation for all services rendered and to be rendered in the liquidation including reasonable attorneys, consulting, tax, auditing, and other fees for services rendered and expected to be rendered;
 3. Compensation of Liquidation Office employees and all other general operating expenses attributable to the LMI liquidation;
 4. Necessary filing fees and mileage and fees payable to witnesses.

- C. The amount of reserves necessary to pay the Associations their estimated reasonable future administrative expenses associated with the handling of claims. The Liquidator may require the Associations to submit their estimates of future administrative expenses under oath, in the form of responses to interrogatories or otherwise.
- D. The total amount of reasonable administrative expenses associated with the handling of claims paid by the Associations as of the distribution calculation date. The Liquidator may require the Associations to submit their total paid administrative expenses under oath, in the form of responses to interrogatories or otherwise.
- E. To the extent that assets subject to secured claims are included in the total liquid assets available under Paragraph 1 above, the amount of reserves necessary for the payment of claims of secured creditors, to the extent of the value of the security held.
- F. The amount of reserves necessary for the payment of claims entitled to priority under R.C. § 3903.42(D).
- G. The amount of liquid assets available for disbursement to all claimants entitled to priority under R.C. § 3903.42(B). This amount shall be determined by subtracting the amounts determined in Paragraphs B, C, D, E and F above from the amount determined in Paragraph A above.
- H. The estimated total amount of claims and claims handling expenses (allocated loss adjustment expense) which have been paid or reserved as covered by state guaranty association acts. The Liquidator may require the Associations to submit their estimates of total covered claims and allocated loss adjustment expenses under oath, in the form of responses to interrogatories or otherwise.
- I. The estimated total amount of claims that are entitled to priority under R.C. § 3903.42(B), but are not covered by state insurance guaranty associations' statutes. This amount shall include valid claims under policies of insurance issued or assumed by LMI that are not covered by the insurance guaranty associations, and amounts which exceed the guaranty association coverage provided under their respective statutes.
- J. The estimated total amount of claims that are entitled to priority under R.C. § 3903.42(B) (the sum of Paragraph H and Paragraph I above).
- K. The total amount of claims and claims handling expenses (allocated loss adjustment expense) paid by the Associations as of the distribution calculation date. The Liquidator may require the Associations to submit their total paid claims and allocated loss adjustment expenses under oath, in the form of responses to interrogatories or otherwise.

- L. The percentage that the total amount of claims and claims handling expenses (allocated loss adjustment expense) paid by the Associations as of the distribution calculation date comprises of the estimated total amount of claims that are entitled to priority under R.C. § 3903.42(B) (Paragraph K above divided by Paragraph J above).
- M. The amount paid to the Associations by the Liquidator on prior disbursements under this Plan.
- N. The cumulative amount to be distributed to the Associations to date. This amount shall be determined by: 1) adding the amount of liquid assets available for disbursement to all claimants entitled to priority under R.C. § 3903.42(B) (Paragraph G above) and the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph M above); and 2) multiplying this sum by the percentage calculated under Paragraph L above.
- O. The total amount to be distributed to the Associations shall be the amount calculated under Paragraph N above minus the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph N above minus Paragraph M above).
- III. The total amount of each distribution made pursuant to this Plan, shall be allocated and paid to each Association pro-rata based on the total amount of claims and claims handling expenses (allocated loss adjustment expense) paid by the Association as of the distribution calculation date. The allocation made at the time of each distribution, following the initial distribution, shall be cumulative and shall be based on the total claims and claims handling expenses (allocated loss adjustment expense) paid by each Association as of the distribution calculation date. The amount that the Liquidator shall distribute to each Association shall be reduced by the amount of any statutory/special deposit previously received by or yet to be released to the Association.
- IV. Any payment to be made under the provisions of this Plan shall be conditioned upon the Association agreeing, executing and returning to the Liquidator, the Agreement attached hereto as Exhibit "1" (the "Agreement").

HPK.11.2001 8:53AM CHARLENE PATCHEN

EXHIBIT 1

**LIQUIDATION OF
LMI INSURANCE COMPANY**

AGREEMENT

This agreement entered into between J. Lee Covington, II, Superintendent of Insurance, State of Ohio, as Liquidator of LMI Insurance Company (hereinafter referred to as "Liquidator") and _____ (hereinafter referred to as "Association") pursuant to the provisions of R.C. § 3903.34. It is hereby agreed between the parties that in order for the Association to receive and the Liquidator to release the distribution of assets pursuant to the Plan adopted under R.C. § 3903.34, the Association agrees as follows to:

- A. Submit to the exclusive jurisdiction of the Court of Common Pleas, Franklin County, Ohio (hereinafter referred to as the "Liquidation Court") solely with respect to any claim, issue or dispute involving, arising out of or relating to this Agreement, or to the Plan for Disbursement of Assets to Guaranty Associations pursuant to R.C. § 3903.34 ("Plan"), and to irrevocably appoint the Superintendent of Insurance of the State of Ohio as its agent for service of process in any such matter, service of process being deemed complete upon the service of process upon the Superintendent of Insurance of the State of Ohio and the mailing, by ordinary United States mail, of a copy of such process to the Association;
- B. Timely respond in good faith to all requests for information submitted to it by the Liquidator;
- C. Abide by the terms and conditions of the Order of Liquidation and Appointment of Liquidator, entered by the Liquidation Court in this matter on May 23, 2000, Civil Action 00CVH03-2431;
- D. Establish and maintain a separate ledger account for the receipt of any payment herein;
- E. Utilize any payment received under this Plan only for the payment of claims in connection with the liquidation of LMI Insurance Company;
- F. Permit the Liquidator to examine its books and records before final distribution;
- G. Update on a periodic basis any information previously submitted to the Liquidator or filed with the Liquidation Court;
- H. Promptly return to the Liquidator, upon his request, any assets together with income earned on the assets previously disbursed, which may be required to pay claims of secured creditors and claims which are of an equal or higher priority of distribution established in R.C. § 3903.42;

- I. Promptly reimburse the Liquidator for any amount paid in excess of an amount it is ultimately determined the payee is entitled to receive upon final account having been filed by the Liquidator and approved by the Liquidation Court;
- J. Make a full report to the Liquidator accounting for all assets disbursed to the Association, all disbursements made therefrom, any interest earned by the Association on such assets and any other matter as the Liquidator or the Liquidation Court may require;
- K. Make such other reports as may be required by the Liquidator or the Liquidation Court;
- L. Provide the Liquidator with a Closing Report on each case/claim and an estimate of the LMI estate's residual liability (if applicable) from the Association's assigned counsel to assist the Liquidator in preserving the assets of the estate;
- M. Promptly return all closed case/claim files to the Liquidator, and
- N. Any action at law, suit in equity or judicial proceeding for the enforcement of this Agreement shall be instituted or resolved in the Liquidation Court, and that this Agreement shall be governed by the laws of the State of Ohio.

J. LEE COVINGTON, II, LIQUIDATOR

ASSOCIATION:

By: _____
DOUGLAS L. HERTLEIN
 Chief Deputy Liquidator

By: _____
 Its: _____

Dated: _____

Dated: _____

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v.

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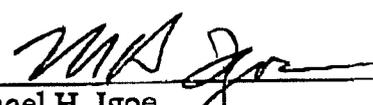
Judge David Johnson

NOTICE OF FILING OF LIST OF ASSETS OF THE LMI INSURANCE COMPANY

J. Lee Covington, in his capacity as the Court appointed Liquidator ("Liquidator") of the LMI Insurance company ("LMI), hereby files the attached Schedule of Assets of the LMI Insurance Company in Liquidation, as of May 23, 2000, in accordance with the requirement of Ohio Revised Code Section 3903.25(A).

Respectfully submitted,

CARLILE PATCHEN & MURPHY LLP

By: 

Michael H. Igoe
Supreme Court No. 0012866
366 East Broad Street
Columbus, Ohio 43215
Tele: (614) 228-6135
Fax: (614) 221-0216
Special Counsel to Betty D. Montgomery,
Attorney General of the State of Ohio,
Attorneys for the Plaintiff in his capacity
As Liquidator for LMI Insurance Company

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The LMI Insurance Company in Liquidation
 Schedule of Assets
 May 23, 2000

<u>Description of Assets</u>	<u>Amounts</u>	
Investments in:		
Bonds	\$ 4,251,114.88	Note 1
Subsidiary and Affiliates:		
Preferred Stock-Highlands Insurance Corp.	4,711,046.83	
Common Stocks-Lumbermans Financial Corp.	<u>384,404.44</u>	Note 3
Total Investments	8,386,566.35	
Short Term Investments	1,644,652.09	
Special Deposits	13,619,636.23	Notes 1 & 2
Cash	490,767.57	
Interest Due and Accrued	257,639.14	
Reinsurance Recoverable on Loss and LAE	2,387,721.27	
Equities and Deposits in Pools and Assoc.	<u>34,734.00</u>	
 Total	 <u>\$ 27,691,716.65</u>	

Notes:

- (1) Investments in Bonds and Special Deposits are reported at the 5/31/2000 amortized value.
- (2) These assets are held by various state insurance departments as statutory deposits. It is uncertain whether all or a portion of such assets will be available to the Liquidator in satisfying the obligations of the liquidation proceedings.
- (3) Common Stock (Lumberman's) reported at the 4/30/2000 balance per the bank statement.

CARLEIL PATCHEN & MURPHY LLP

ATTORNEYS AT LAW

366 EAST BROAD STREET
COLUMBUS, OHIO 43215

cc: Julie Snyder
Doug Hestlein
JLL

35
16

Melissa,
Please set up
Court order files
for these LMI
orders & motions.
Thanks. Julie



To: Julie
Firm Name: Offl
Fax No: 487
cc:

Date: April 11, 2001

Client No: 065253.001

Time: 9:50 AM

No. Pages (including t)

From: Richard V. Patchen

Return To: Richard V. Patchen

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