

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

Mary Taylor, Ohio Superintendent of Insurance, in her Capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company,	:	
	:	
Plaintiff,	:	Case No. 00 CVH 11-9867
	:	
v.	:	Judge Mark Serrott
	:	
Credit General Insurance Company, et al.,	:	
	:	
Defendants.	:	
	:	
	:	

**MOTION TO APPROVE (1) THE LIQUIDATOR’S DISALLOWANCE AND DETERMINATION OF UNDELIVERABLE CLAIMS AND (2) FILING OF THE UNREDACTED REPORTS OF UNDELIVERABLE CLAIMS UNDER SEAL**

Mary Taylor, Ohio Superintendent of Insurance, in her capacity as Liquidator (the "Liquidator") of Credit General Indemnity Company ("Indemnity"), respectfully requests that this Court enter an Order approving the Liquidator’s determination and treatment of certain claims submitted in the Indemnity liquidation as follows:

1. Approve the Liquidator’s determinations and disallowances of claims identified on Exhibit A, attached. The Liquidator could not successfully deliver notice to these claimants of her determinations (hereafter referred to as the “Undeliverable Claims”) because these claimants failed to notify the Liquidator of address changes as required under Ohio Revised Code (R.C.) § 3903.22 and the Liquidator could not otherwise locate these claimants.
2. Disallow and forever bar all of the Undeliverable Claims.

3. Require that the unredacted Reports of Undeliverable Claims listed on Exhibit A be filed with the Franklin County Clerk of Court under seal due to the confidential nature of the claimant information contained in the Reports.

4. Discharge and fully release the Indemnity Liquidation Estate; the Liquidator; the Liquidator's predecessors, successors, assigns and any and all deputy liquidators, agents, attorneys and employees of the *Office of the Ohio Insurance Liquidator* and the Ohio Department of Insurance, from any and all liability and responsibility related to the Undeliverable Claims, as more fully discussed in the accompanying Memorandum in Support.

Respectfully submitted,

MIKE DEWINE  
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*Attorneys for Mary Taylor, in her capacity as  
Liquidator of Credit General Indemnity Company*

**MEMORANDUM IN SUPPORT**

**I. Introduction**

The Undeliverable Claims identified on Exhibit A, attached, were filed with the Liquidator as proofs of claims. The Liquidator mailed notices of the Liquidator's determination and valuation, if any, of these proofs of claims to the claimants using the address provided by the various claimants on the proof of claim forms. The Liquidator's notices were returned by the U.S. Post Office as undeliverable because the claimants apparently no longer occupy or reside at the mailing address provided on the proof of claim forms. None of these claimants provided the Liquidator with a new address as required by Ohio statutes. Additional efforts to locate new addresses for these claimants failed. As explained in more detail below, R.C. §§ 3903.39, 3903.22, 3903.45 and this Court's Orders in the Indemnity Liquidation Case authorize the Liquidator in these circumstances to disallow all Undeliverable Claims.

**II. Facts**

On December 12, 2000, this Court issued an order placing Indemnity in liquidation pursuant to R.C. Chapter 3903 and appointing the Ohio Superintendent of Insurance as Liquidator. Paragraph 27 of the Liquidation Order directed the Liquidator to give notice of the Liquidation Order pursuant to R.C. § 3903.22. Beginning on or about December 12, 2000, the Liquidator issued to all known policyholders, claimants and creditors of Indemnity a "Notice of Liquidation Order and Time For Filing Proofs of Claim" and a "Claim Notice and Claim Filing Procedures." The latter notice included claim filing procedures that provided in relevant part, consistent with R.C. § 3903.22(B):

4. If you move after receiving this Notice, it is your responsibility to provide us with your new address. Failure to do so may result in your claim being barred from participating in any distribution of assets. Be sure to include the Liquidator No. from your Proof of Claim and Claim No. with any change of address correspondence.<sup>1</sup>

In December 2000, the Liquidator began to mail the standard proof of claim form utilized by the Liquidator to all known agents, employees and other creditors of Indemnity. This proof of claim form also set forth specific instructions regarding the proof of claim process and the related requirements, including that the deadline (“Bar Date”) to file proofs of claims was January 31, 2002, and that anyone filing a proof of claim is to notify the Liquidator of any change in address after a proof of claim form was submitted. As a result, anyone filing a proof of claim had ample notice of their obligation and need to provide the Liquidator with any change in their mailing address.

Since issuing the proof of claim forms and other notices, the Liquidator received over 2,500 proofs of claims. The Liquidator has reviewed, determined (allowed the claim or disallowed/denied the claim in full or in part) and classified all but one (1)<sup>2</sup> of these claims pursuant to R.C. § 3903.42. This Court finally resolved all timely-filed, unresolved objections to the Liquidator’s claims determinations on the proofs of claim.

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<sup>1</sup> R.C. 3903.22 (B) states:

Notice to potential claimants under division (A) of this section shall require claimants to file with the liquidator their claims together with proper proof thereof under section 3903.36 of the Revised Code, on or before a date the liquidator shall specify in the notice. The liquidator need not require persons claiming cash surrender values or other investment values in life insurance and annuities to file a claim. All claimants shall keep the liquidator informed of any changes of address. (Emphasis added).

<sup>2</sup> The Liquidator is in the process of finalizing the remaining proof of claim and issuing her notice of determination of claim to the claimant before September 30, 2013.

Among the universe of proofs of claims filed in the Indemnity liquidation are claims identified on Exhibit A.<sup>3</sup> Pursuant to R.C. § 3903.39<sup>4</sup> the Liquidator sent determination letters relating to all of these claims to the claimants at the addresses originally provided to the Liquidator on the proof of claim forms. These determination letters notified the claimants of (i) the Liquidator's claim determination and the reasons therefore; (ii) the Liquidator's claim valuation, if any; and (iii) the Liquidator's proposed classification of the claim. *Id.* These letters also informed each claimant that he or she had sixty (60) days to object and respond to the Liquidator's determination of their respective claim. *Id.* All of the determination letters relating to the claims on Exhibit A were returned to the Liquidator's office as undeliverable because the claimants with claims on Exhibit A failed to notify the Liquidator of address changes as required under R.C. § 3903.22 and as set forth in the above-quoted Instructions. For the reasons set forth below, and consistent with Orders entered in prior Liquidation Cases, all of the Undeliverable Claims should be treated as disallowed.

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<sup>3</sup> The claims that were denied in whole, or the Zero Valued Undeliverable Claims, are listed as having a zero value in Exhibit A. The claims that were allowed or denied in part, the Valued Undeliverable Claims, are listed as having a positive value in Exhibit A.

<sup>4</sup> R.C. § 3903.43, entitled "Review and investigation of claims," provides:

(A) The liquidator shall review all claims duly filed in the liquidation and shall make such further investigation as he considers necessary. He may compound, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court except where the liquidator is required by law to accept claims as settled by any person or organization, including any guaranty association or foreign guaranty association. Unresolved disputes shall be determined under section 3903.39 of the Revised Code. As soon as practicable, he shall present to the court a report of the claims against the insurer with his recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended, if any. If the insurer has issued annuities or life insurance policies, the liquidator shall report the persons to whom, according to the records of the insurer, amounts are owed as cash surrender values or other investment value and the amounts owed.

(B) The court may approve, disapprove, or modify the report on claims by the liquidator. Such reports as are not modified by the court within a period of sixty days following submission by the liquidator shall be treated by the liquidator as allowed claims, subject thereafter to later modification or to rulings made by the court pursuant to section 3903.39 of the Revised Code. No claim under a policy of insurance shall be allowed for an amount in excess of the applicable policy limits.

**III. Basis for Relief Requested**

**A. THE COURT SHOULD APPROVE THE LIQUIDATOR'S  
DISALLOWANCE OF THE UNDELIVERABLE CLAIMS**

R.C. § 3903.39(A), entitled "Written notice of denial of claim," in part governs proof of claim determinations and denials. The statute provides:

(A) When a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant or his attorney by first class mail at the address shown in the proof of claim. Within sixty days from the mailing of the notice, the claimant may file objections with the liquidator. If no such filing is made, the claimant may not further object to the determination.

The Liquidator complied with the determination procedure set forth in R.C. § 3903.39(A). The Liquidator appropriately sent her determinations of all Undeliverable Claims to the claimants at the addresses the claimants provided on their proof of claim forms in accordance with R.C. § 3903.39. No objections were timely filed because each of these determination letters was returned as undeliverable. Even though the Liquidator is not obligated to do so, the Liquidator thereafter attempted unsuccessfully to locate good and proper addresses for these claimants.

All of the Undelivered Claims are properly entirely disallowed now, even though these claimants did not receive actual notice of the Liquidator's determinations and even though the Liquidator assigned value to one of the Undeliverable Claims. That is because the claimants' failure to comply with their own statutory obligations resulted in the undeliverable status of the determination letters and expiration of the 60-day objection period. Indeed, R.C. § 3903.22(B) requires, in pertinent part provides: "*All claimants shall keep the liquidator informed of any changes of address.*" See footnote 1, *supra*. In addition, R. C. 3903.36 sets forth certain minimum requirements for a proof of claim including that the claim should include "[t]he name and address of the claimant and the attorney who represents him, if any." R.C. §

3903.36(A)(7). That statute also provides, in subsection B, that “[n]o claim need be considered or allowed if it does not contain the information in division (A) of this section which may be applicable.” The claimants with Undeliverable Claims received notice of these obligations, but they did not apprise the Liquidator of any changes in their address. Having failed to do so provides an additional basis for the Liquidator to deny their claims, without the necessity of mailing additional determination letters which would certainly only be returned again as undeliverable. Accordingly, the Liquidator is reporting her determination of the denial in full of all Undeliverable Claims on Exhibit A under R.C. § 3903.43, and the Liquidator is entitled to have these claims disallowed in their entirety.

R.C. § 3903.45(A)<sup>5</sup> requires the Liquidator to treat any funds that would have been distributed on the Undeliverable Claims as “unclaimed funds” that “shall be distributed in accordance with section 3903.42 of the Revised Code among those claimants to whom it is possible to make immediate payment.” As set forth in Exhibit A, there are five (5) Class 2 claims that were undeliverable and are therefore to be denied and valued at zero dollars. In this case, there are no distributions that would have been made to any of the claimants with Undeliverable Claims in Classes 5 and 7 because those claims were valued at zero dollars. In any event, the Liquidator and this Court have already determined that the assets of the Indemnity Liquidation Estate are insufficient to make any distribution beyond Class 2, as that Class is defined in the distribution priority statute, R.C. §3903.42. There were no Undeliverable Claims in Classes 3, 4, 8 and 9.

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<sup>5</sup> R.C. § 3903.45(A) provides in full:

All unclaimed funds subject to distribution remaining in the liquidator’s hands when he is ready to apply to the court for discharge, including the amount distributable to any creditor, shareholder, member, or other person who is unknown and cannot be found, shall be distributed in accordance with section 3903.42 of the Revised Code among those claimants to whom it is possible to make immediate payment.

**B. UNREDACTED REPORTS OF UNDELIVERABLE CLAIMS SHOULD BE FILED UNDER SEAL AS ARE ALL OTHER REPORTS OF CLAIMS**

The names and address of the claimants are redacted in all of the Reports of Claims that are publicly filed with this Motion pursuant to applicable law and at the request of several claimants in other liquidations who reported that they had been contacted and questioned by claims buyers, neighbors, and others in connection with their claims against liquidated insurers. The Liquidator is indeed attempting to respond to and protect claimants by redacting their contact and other private information in the Reports of Claims. The Liquidator is hereby requesting in this case, as in others, that the claimants' names and addresses be filed under seal with the Court.

The Liquidator in this case, as in others, will post this Motion and Redacted Reports on the Liquidator's website at [www.ohliq.com](http://www.ohliq.com) under Insurance Companies → Open → Credit General Indemnity Company, under Public Documents, in the form of searchable PDFs so that claimants can search for information about their claims using their Proof of Claim (Liquidator) Number and have meaningful review of the information related to their claims. The website also explains that claimants may call the Liquidation Office if they have questions about the Reports.

**C. CONCLUSION**

For the reasons set forth above, this Court should approve this Report on Undelivered Claims and enter an Order:

(1) Approving the Liquidator's determinations and disallowance of all claims identified on Exhibit A, attached;

(2) Finding that there are no “unclaimed funds” as provided under R.C. § 3903.45(A) as a result of the disallowance of all Claims identified on Exhibit A;

(3) Requiring that the unredacted Reports of Undeliverable Claims of Exhibit A be filed with the Franklin County Clerk of Court under seal due to the confidential nature of the claimant information contained in the Reports; and

(4) Discharging and fully releasing Indemnity, the Indemnity Liquidation Estate, the Liquidator, the Liquidator’s predecessors, successors, assigns and any and all deputy liquidators, agents, attorneys and employees of the *Office of the Ohio Insurance Liquidator* and the Ohio Department of Insurance, from any and all liability and responsibility related to the Undeliverable Claims.

Respectfully submitted,

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*Attorneys for Mary Taylor, in her capacity as  
Liquidator of Credit General Indemnity Company*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion to Approve the Liquidator's Disallowance and Determination of Undeliverable Claims* was posted on the Liquidator's website ([www.ohliq.com](http://www.ohliq.com)) substantially contemporaneous with the filing of this *Motion*. The undersigned hereby certifies that a true and accurate copy of the foregoing Motion was emailed to the persons on the attached Credit General Indemnity Company Courtesy Copy E-Mail List and served upon the following via Regular Mail, postage prepaid, on this 20<sup>th</sup> day of September, 2013:

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Dallas, TX 75381-9045

Sean C. Logan, Esq.  
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CA Insurance Guarantee Assn.  
P.O. Box 29066  
Glendale, CA 91209-9066

/s/ Valoria C. Hoover  
Valoria C. Hoover (0059596)

**COURTESY COPY E-MAIL LIST**

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Matthew M. Daiker	<a href="mailto:mmdaiker@vorys.com"><u>mmdaiker@vorys.com</u></a>

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
02005008 01			.00
04000302 01	700659		.00
04000345 01	115561		.00
04000438 01	701335		780.24
04001347 01			.00
04002124 01	CGIND10993		.00
04002356 01			.00
04003939 01			.00
04003997 01			.00
04004077 01			.00
04004092 01			.00
04004154 01			.00
04004162 01			.00
04004526 01			.00
04004611 01			.00
04004788 01			.00
04004789 01			.00
04004856 01			.00
04004924 01			.00
04004932 01			.00
04004946 01			.00
04004950 01			.00
04005026 01			.00
04005026 02			.00
04005036 01			.00
04005061 01			.00
04005096 01			.00
04005103 01			.00
04005175 01			.00
04005260 01			.00
04005290 01			.00
04005304 01			.00
04005314 01			.00
04005321 01			.00
04005356 01			.00
04005409 01			.00

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04005503	01		.00
04005510	01		.00
04005542	01		.00
04005554	01		.00
04005589	01		.00
04005740	01		.00
04005781	01		.00
04005874	01		.00
04005875	01		.00
04006356	01	581000813	.00
04006456	01		.00
04006582	01		.00
04006648	01	581000554	.00
04006897	01		.00
04006998	01		.00
04007226	01		.00
04007227	01		.00
04007228	01		.00
04007276	01		.00
04007404	01		.00
04007411	01		.00
04007510	01		.00
04007559	01		.00
04007570	01		.00
04007576	01		.00
04007596	01		.00
04007600	01		.00
04007623	01		.00
04007631	01		.00
04007715	01		.00
04007721	01		.00
04007722	01		.00
04007834	01		.00
04008173	01	CGIND11042	228.00
04008357	01	CGIND11045	289.05
04008369	01	CGIND11046	509.64

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04008564 01	CGIND0080		.00
04008565 01	CGIND0079		.00
04009638 01	CGIND0152		.00
04009735 01	701925		.00
04010173 01	581000520		.00
04010216 01	581000773		.00
04010265 01	18587000161		.00
04011403 01	CGIND12105		.00
04011596 01	99007391		.00
04011677 01	581000520		.00
04012057 01	11974		.00
04012146 01	18587000128		.00
04012565 01	99010848		.00
04012583 01	4990686		.00
04012688 01	4991995		.00
04012796 01	99008342		.00
04012877 01	99010580		.00
04012939 01	15735		.00
04013123 01	99008958		.00
04013239 01	13821		.00
04013262 01	4992144		.00
04013265 01	4992094		.00
04013282 01	CGIND12010		.00
04013325 01	13344		.00
04013459 01	CGIND11355		.00
04013601 01	99011443		.00
04013640 01	CGIND0152		.00
04013650 01	13500		.00
04013664 01	18587000779		.00
04013747 01	18587000705		.00
04013760 01	13WC1		.00
04013794 01	15795		.00
04013826 01	15615		.00
04013854 01	15272		.00
04013890 01	1016205		.00
04014020 01	15819		.00

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04014077	01	15084	.00
04014079	01	15868	.00
04014110	01	99011235	.00
04014149	01	CGIND11289	.00
04014154	01	CGIND11289	.00
04014204	01	14161	.00
04014368	01	15664	.00
04014460	01	12893	.00
04014497	01	15891	.00
04014596	01	13928	.00
04014861	01		.00
04014866	01		.00
04014906	01		.00
04014908	01		.00
04014916	01		.00
04014920	01		.00
04014923	01		.00
04014925	01		.00
04014926	01		.00
04014928	01		.00
04014929	01		.00
04014932	01		.00
04014933	01		.00
04014934	01		.00
04014939	01		.00
04014941	01		.00
04014943	01		.00
04014946	01		.00
04014949	01		.00
04014950	01		.00
04014954	01		.00
04014959	01		.00
04014961	01		.00
04014965	01		.00
04014969	01		.00
04014974	01		.00

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04014976	01		.00
04014985	01		.00
04014992	01		.00
04014995	01		.00
04014996	01		.00
04014999	01		.00
04015001	01		.00
04015002	01		.00
04015003	01		.00
04015128	01		.00
04015131	01		.00
04015132	01		.00
04015138	01		.00
04015142	01		.00
04015143	01		.00
04015144	01		.00
04015155	01		.00
04015158	01		.00
04015161	01		.00
04015165	01		.00
04015168	01		.00
04015171	01		.00
04015172	01		.00
04015173	01		.00
04015174	01		.00
04015175	01		.00
04015181	01		.00
04015184	01		.00
04015186	01		.00
04015187	01		.00
04015188	01		.00
04015191	01		.00
04015291	01		.00
04015307	01	CGIND0088	.00
04015308	01	15510	.00
04015319	01		.00

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
34009107	01		.00
34009117	01		.00
41005994	01		556.00
42002756	02		.00
42002812	01		.00
42003041	01	TX00007990	.00
42003308	01		.00
42003459	01		.00
42007555	03	1481000801	.00
42009717	02		.00
42009996	01	TX00007044	.00
42010046	01	TX99005960	.00
42015020	01	808BB629	.00
Count:	193	Grand Totals:	\$2,362.93

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04008301	01		.00
04008302	01		.00
Count:	2	Grand Totals:	\$ .00

**EXHIBIT A**

Liq#/Seq#	Claim#	Payee/Address	Determined Value
04012093 01	CGIND10998		.00
04016091 01	581000197		.00
42014851 01	6106496075		.00
Count: 3		Grand Totals:	\$ .00