

IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

HAROLD T. DURYEE,
SUPERINTENDENT OF INSURANCE,
OHIO DEPARTMENT OF INSURANCE,
IN HIS CAPACITY AS LIQUIDATOR OF
THE PIE MUTUAL INSURANCE
COMPANY,

Plaintiff,

v.

THE PIE MUTUAL INSURANCE
COMPANY,

Defendant.

) CASE NO. 97CVH12-10867
)
) JUDGE MICHAEL WATSON
)
) **APPLICATION FOR APPROVAL OF**
) **THE PLAN FOR DISBURSEMENT OF**
) **PIE ASSETS TO GUARANTY**
) **ASSOCIATIONS PURSUANT TO R.C.**
) **SECTION 3903.34**

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
98 AUG 19 AM 10:49
CLERK OF COURT

Harold T. Duryee, in his capacity as the Court appointed Liquidator
("Liquidator") of The P.I.E. Mutual Insurance Company ("PIE"), hereby applies to the Court for
approval of the attached Plan for Disbursement of PIE Assets to Guaranty Associations Pursuant
to R.C. Section 3903.34, and in support thereof states as follows:

1. On March 23, 1998, this Court entered its Order of Liquidation and
Appointment of Liquidator, which contained a finding in paragraph 3 at page 3 thereof that PIE
was insolvent, as defined in Ohio Revised Code ("R.C.") § 3903.16(A).

2. Under Ohio Revised 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. By order of the Court entered July 20, 1998, the Court extended the time for filing the Application to August 20, 1998.

4. Under R.C. § 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 thirty days prior to the hearing on the Application.

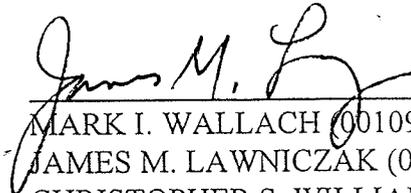
5. Attached hereto as Exhibit A is the proposed Plan for Disbursement of PIE Assets to Guaranty Associations Pursuant to R.C. Section 3903.34 (the "Plan").

6. The Plan complies with R.C. § 3903.34.

7. The notice given of this Application complies with R.C. § 3903.34(E).

8. Therefore, the Court should approve the Application and the Plan in accordance with R.C. § 3903.34.

Respectfully Submitted,



MARK I. WALLACH (0010948)
JAMES M. LAWNICZAK (0041836)
CHRISTOPHER S. WILLIAMS (0043911)
CALFEE, HALTER & GRISWOLD LLP
McDonald Investment Center, Suite 1400
800 Superior Avenue
Cleveland, Ohio 44114
(216) 622-8200

**Special Counsel to Betty D. Montgomery,
Attorney General of the State of Ohio,
Attorneys for the Plaintiff, in his capacity
as Liquidator for the P.I.E. Mutual
Insurance Company**

LIQUIDATION OF THE P.I.E. MUTUAL INSURANCE COMPANY

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

Harold T. Duryee, Superintendent of Insurance of the State of Ohio, as Liquidator (the "Liquidator") of The P.I.E. Mutual Insurance Company hereby submits the following Plan for Disbursement of Assets to Guaranty Associations pursuant to 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 at such times as the amount calculated in Paragraph II-L below exceeds Fifteen Million Dollars (\$15,000,000) or such other amount as determined by the Liquidator, which is sufficient to produce a reasonable and appropriate distribution. 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 June 30, 2000, and quite possibly later.

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 P.I.E. 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 administrative expenses associated with the handling of claims. The Liquidator may require the Associations to submit their estimates of expenses under oath, in the form of responses to interrogatories or otherwise.
- D. The amount of reserves necessary for the payment of claims of secured creditors, to the extent of the value of the security held.
- E. The estimated total amount claimed as due by the Internal Revenue Service for taxes for the years 1989 through 1997, until such time as such tax issues are fully and finally resolved.
- F. 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, and E above from the amount determined in Paragraph A above.
- G. The estimated value of non-liquid assets which the Liquidator reasonably expects will be converted to cash during the liquidation.
- H. The estimated total amount of claims and claims handling expenses (allocated loss adjustment expense) which are 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 paid under oath, in the form of responses to interrogatories or otherwise.
- I. The estimated total amount of claims which are entitled to priority under R.C. § 3903.42(B) but are not covered by state insurance guaranty association statutes. This amount shall include valid claims under policies of insurance issued by P.I.E. 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 amount of payments which will probably be made on non-covered claims determined in Paragraph I above. This amount shall be determined by:
1. adding the amount of liquid assets available for disbursement on all priority R.C. § 3903.42(B) disbursements under this Plan plus the estimated value of non-liquid assets which will be converted to cash during the liquidation (Paragraph G above), and then;
 2. multiplying such sum by the ratio of the amount determined in Paragraph I above to the sum of the amounts determined in Paragraphs H and I above.

- K. The amount of liquid assets which must be placed in reserve for payments on insurance guaranty association non-covered claims determined in Paragraph I above. This amount shall be determined by subtracting the estimated value of non-liquid assets (Paragraph G above) from the amount determined in Paragraph J above.
- L. The amount of liquid assets available for disbursement to all Associations. This amount shall be determined by subtracting the amount determined in Paragraph K above from the amount determined in Paragraph F above.
- M. The amount of liquid assets to be paid to each Association. This amount shall be determined by:
 - 1. adding the amount determined in Paragraph L above to the cumulative amount previously disbursed to all Associations pursuant to this Plan.
 - 2. multiplying such sum by the ratio of the estimated claims of such Association (for payment of covered claims) to the estimated claims of all Associations (for payment of covered claims) based upon estimates from Paragraph H above, and
 - 3. subtracting the amounts previously paid to such Association pursuant to this plan from the amount determined in (2).

III. 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" which includes the following provisions as to the Associations:

- 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, 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 applicable guaranty 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 March 23, 1998, Civil Action 97CVH12-10867;

- 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 The P.I.E. Mutual 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. Timely provide 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 P.I.E. Estate 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. Agree that 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.

IV. Disbursements made to the Association shall be in amounts estimated by the Liquidator to at least be equal to the claim payments made or to be made by the Association for which such Association could assert a claim against the Liquidator, provided, however, that if the assets available from time to time do not equal or exceed the amount of such claim payments made or to be made by the Association, then disbursements shall be in the amount of available assets pursuant to the provisions of this Plan.

EXHIBIT 1
LIQUIDATION OF
THE P.I.E. MUTUAL INSURANCE COMPANY
AGREEMENT

This agreement entered into between Harold T. Duryee, Superintendent of Insurance, State of Ohio, as Liquidator of The P.I.E. Mutual 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. Section 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 March 23, 1998, Civil Action 97CVH12-10867;
- 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 The P.I.E. Mutual 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 P.I.E. Estate 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. Agree that 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.

HAROLD T. DURYEE, LIQUIDATOR

ASSOCIATION:

By: _____
LYNNE C. HENGLE
Chief Deputy Liquidator

By: _____
Its: _____

Dated: _____

Dated: _____