

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

MARY TAYLOR	:	
Ohio Superintendent of Insurance,	:	
in her Capacity as Liquidator of	:	Case No. 00CVH03-2206
American Chambers Life Insurance Co.,	:	
	:	
Plaintiff,	:	Judge Sheward
	:	
vs.	:	
	:	
American Chambers Life Insurance Co.,	:	
	:	
Defendant.	:	

FILED COURT
COMMON PLEAS CO. OHIO
FRANKLIN CO. OHIO
2011 JUN 13 PM 12:10
CLERK OF COURTS-CV

REPORT ON STATUS OF LIQUIDATION

I. INTRODUCTION

The following report is filed in order to apprise the Court and claimants in the American Chambers Life Insurance Company (“ACLIC”) liquidation case of the developments since the last status report dated September 2, 2010 and the status of the matters in this case. On May 8, 2000, the Court entered a Final Order of Liquidation against ACLIC, one of four health insurers or HMOs liquidated in Ohio in the late 1990s-early 2000. At that time, the Liquidator issued notices of liquidation pursuant to R.C. 3903.22 and the Liquidation Order that notified all potential claimants that May 8, 2001 was the deadline for filing proofs of claims against ACLIC (the “bar date”).

II. CLAIMS

ACLIC wrote business in multiple states that provide guaranty fund coverage in the event of the insolvency and liquidation of a health insurance company. As a result, the ACLIC liquidation involves thirty-eight (38) life and health insurance guaranty associations (“IGAs”)

throughout the United States, each of which became statutorily obligated to administer/process and pay ACLIC's Class 2 (policyholder) claims after its liquidation up to each IGA's applicable statutory limits. The minimum guaranty association limit is \$100,000 per policyholder, with some states having higher limits. To date, the guaranty funds have collectively paid approximately \$44 million in Class 2 claims. Policyholders whose claims exceed guaranty association limits received additional notice that they may file a proof of claim with the Liquidator on or before the bar date for the excess loss.

In total, The Liquidator's Claims Department records show that the Liquidator received 752 proofs of claims as of the bar date and that, to date, the Liquidator has determined all of those claims pursuant to Ohio R.C. 3903.35, *et seq.* This Court has finally resolved all timely-filed, unresolved objections to the Liquidator's claims determinations on the adjudicated claims.

In this case, as in others where there is guaranty fund protection, the largest proof of claim is the omnibus proof of claim filed by the National Organization of Life and Health Insurance Guaranty Associations ("NOLGHA") on behalf of the 38 IGAs paying covered policyholder claims. IGAs expend monies to pay policyholder claims long before resolution of the ultimate financial condition of the liquidating insurer's estate. In turn, IGAs are granted Class 1 and Class 2 priority claim status in the liquidation estate. *See* R.C. 3903.42. Class 1 claims include the IGAs' reasonable expenses in handling claims. *See* R.C. 3903.42(A). The IGAs' Class 2 claims include all insured loss claims paid by the IGAs. *See* R.C. 3903.42(B).

As of the time of this Report, all of the IGAs are finished paying claims. Through NOLHGA, the 38 IGAs have submitted a combined (omnibus) claim against the ACLIC estate in excess of \$58 million, which sum includes Class 1 claims totaling \$14,292,348.30 and Class 2 claims totaling \$44,231,476.46 after applying premium released to the IGAs in 2008 and before

offsets of credits due ACLIC and special deposits. After such additional offsets, NOLHGA's Class 2 claim is adjusted to \$43,821,291.50. To date, the ACLIC Liquidator has paid \$12,822,841.00 to NOLHGA on the IGA's Class 1 claims as early access payment in accordance with R.C. 3903.34. The Liquidator filed a Motion contemporaneously with this Status Report requesting authority to pay through cash payments and special deposit offsets an additional \$9,800,092.78 to NOLHGA representing payment of 100% of its remaining Class 1 claim totaling \$696,262.18 and representing payment of 20.72% of its Class 2 claim in the amount of \$43,821,291.50 as a Second Early Access Payment. The Liquidator's Motion also request authority to make a first interim distribution of \$1,879.13 (representing 20.72% of the amount of the combined total of allowed Class 2 Non-IGA claims) to Class 2 Claimants whose Class 2 claims are not covered by IGAs, so that all Class 2 claimants receive the same percentage distribution.

There has been no adjustment in the proof of claim filing deadline in the ACLIC liquidation proceeding. The deadline was May 8, 2001. While people may still file claims if they choose, all claims filed after May 8, 2001 are late filed, Class 7 claims that are unlikely to receive any distribution. See R.C. 3903.42. In any event, the Liquidator has not received any new proofs of claim in the liquidation in the past several years.

III. ASSET RECOVERY

Although the Liquidator has collected substantial assets reflected in the Liquidator's periodic accountings filed with this Court, the Liquidator has not completed asset recovery. ACLIC's liquidation case is additionally complicated by the necessity to litigate significant asset recoveries. The largest assets collected to date include \$17.5 million recovered from the sale of real estate, \$8.5 million in premium payments, \$3 million in avoided transfers, and \$800,000 in

reinsurance recoveries. In addition, the Liquidator has earned over \$7.5 million from conservative investments of ACLIC funds. The ACLIC Liquidator is still engaged in two significant and lengthy asset recovery actions against ACLIC's former auditors and attorneys, both of which must be completed before any final distribution of assets to claimants in the ACLIC liquidation may occur. The Liquidator anticipates the litigation will conclude no sooner than the end of 2013, and more likely stretch into 2014 due to appeals, depending upon the outcome of the litigation.

IV. CLOSING

The liquidation process often takes more than 15 years when the liabilities include long tail claims and when there is significant asset recovery litigation. Although the Liquidator cannot precisely determine the Estate's exact claims liability and corresponding exact distribution percentage until all remaining claims and other active matters in the liquidation are finally resolved years from now, the Liquidator is making an effort to try to provide claimants with good faith estimates of the time in which the Liquidator hopes to close the estate and make a final distribution to claimants other than IGAs and, when possible, a preliminary distribution percentage estimate based on current projections of assets and liabilities. This new practice of posting good faith estimates in mature estates when appropriate is part of this Liquidator's commitment to the creditors of the estates the Liquidator manages. This information is provided because it might be useful to consumers or lead to more informed consumer decisions, such as for example, in the event consumers are approached by claims buyers. In all circumstances, however, all persons receiving this information must be aware that the good faith estimates are estimates, and that they are based upon information and the circumstances known at the precise time they were made which is subject to change. The underlying facts and circumstances upon

which the good faith estimates are based, and therefore the good faith estimates and the actual distribution percentages that will be made years from now, are subject to change.

As of and effective June 1, 2011, the Liquidator estimates in good faith that she will file a motion for authority to make a final distribution to claimants in or after 2014. The Liquidator further presently estimates in good faith that she will pay 100% of allowed claims in Class 1 and that she will pay some percentage in excess of 20.72% of Class 2 claims. At this particular time, the Liquidator does not expect to make any distributions to claimants in classes 3 through 9. These good faith estimates are expected to change prior to the actual distribution and closing of the ACLIC estate. The actual pro-rata distributions will be reflected in the Liquidator's Motion for order Approving Final Report of Claims to be filed at or near the time if the final distribution of assets of the ACLIC estimated at this time to occur in or around 2014.

Respectfully submitted,

MIKE DEWINE
Attorney General State of Ohio

By Special Counsel:
KEGLER, BROWN, HILL & RITTER, CO. L.P.A.



Richard W. Schuermann, Jr. (0032546)
John P. Brody (0012215)
65 East State Street, Suite 1800
Columbus, Ohio 43215
Telephone: (614) 462-5400
(614) 464-2634 (fax)
rschuermann@keglerbrown.com
jbrody@keglerbrown.com

*Attorneys for the Liquidator of American Chambers Life
Insurance Company*