

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

J. Lee Covington, II,

Plaintiff,

v.

LMI Insurance Company,

Defendant.

Case No. 00CVH03-2431

Judge David Johnson

FILED
COMMON PLEAS COURT
FRANKLIN CO., OHIO
2001 JAN 19 AM 8:35
CLERK OF COURTS

**ENTRY AND ORDER GRANTING LIQUIDATOR'S APPLICATION
FOR APPROVAL OF THE PLAN FOR DISBURSEMENT OF LMI ASSETS
TO GUARANTY ASSOCIATIONS PURSUANT TO OHIO REVISED CODE 3903.34**

This matter having come before the Court on the Application for Approval of the Plan for Disbursement of LMI Assets to Guaranty Associations Pursuant to Ohio Rev. Code 3903.34 (the "Application"), filed by the Liquidator, and heard by the Court pursuant to notice to all applicable guaranty associations at the regularly scheduled continuous hearing in this matter on December 15, 2000 (the "Hearing"), as noticed to all creditors, and it appearing to the Court, for the reasons stated at the Hearing, having considered the Application for Disbursement of LMI Assets to Guaranty Associations Pursuant to Ohio Rev. Code 3903.34, the arguments of counsel at the Hearing, and the applicable case law, that the Application is well taken and should be granted.

The Court hereby finds that the Plan for Disbursement of LMI Assets to Guaranty Associations Pursuant to Ohio Rev. Code 3903.34 (the "Plan for Disbursement") as revised and attached to this Entry as "Exhibit A" complies with Ohio Rev. Code 3903.34 and should be approved. The Court further finds that the notice given of the Application complies with Ohio Rev. Code 3903.34(E).

NOW, THEREFORE, IT IS HEREBY ORDERED that the Application be, and the same hereby is, GRANTED and the Plan for Disbursement be, and the same hereby is, APPROVED.

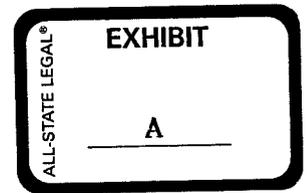
IT IS FURTHER ORDERED that any payment to be made to any guaranty association under the Plan for Disbursement is conditioned upon the guaranty association agreeing, executing and returning to the Liquidator the Agreement attached to the Plan for Disbursement as "Exhibit A".

Judge David A. Johnson

APPROVED:

BETTY D. MONTGOMERY
Attorney General

By: _____
Michael H. Igoe (0012866)
Special Counsel to the Attorney General,
State of Ohio, Representing
J. Lee Covington, II, Superintendent,
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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, 2001.

- 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. 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.
- E. The amount of reserves necessary for the payment of claims entitled to priority under R.C. § 3903.42(D).
- 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 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.
- H. 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.
- I. The estimated total amount of claims that are entitled to priority under R.C. § 3903.42(B) (the sum of Paragraph G and Paragraph H above).
- J. 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.
- K. 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 J above divided by Paragraph I above).

- L. The amount paid to the Associations by the Liquidator on prior disbursements under this Plan.
 - M. 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 F above) and the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph L above); and 2) multiplying this sum by the percentage calculated under Paragraph K above.
 - N. The total amount to be distributed to the Associations shall be the amount calculated under Paragraph M above minus the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph M above minus Paragraph L 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").

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: _____