

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.	:	

PLAINTIFF'S MOTION TO APPROVE THE THIRD PARTIAL DISTRIBUTION TO GUARANTY ASSOCIATIONS FOR CLASS 1 ADMINISTRATIVE EXPENSES

Plaintiff, Mary Taylor, Superintendent of Insurance, in her capacity as Liquidator ("Liquidator") of Credit General Insurance Company ("CGIC") and Credit General Indemnity Company ("CGIND") (collectively "Credit General"), requests an Order approving the Liquidator's third partial distribution to guaranty associations on their allowed Class 1 claims, as reflected in the *Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims* as of June 30, 2012 and Third Pro-Rata Distribution to Class 1 attached and incorporated herein by reference as Exhibit A.

Respectfully submitted,

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Attorney General of Ohio
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MEMORANDUM IN SUPPORT

By statute, insurance guaranty associations (“IGAs”) provide a safety net and means to compensate insureds and third-party claimants when insurance companies, such as Credit General in this case, are liquidated and therefore unable to meet claims obligations. See *PIE Mutual Insurance Co. v. Ohio Insurance Guaranty Assoc.*, 66 Ohio St. 3d. 209, 212, 611 N.E.2d 313 (1993); see also R.C. 3955.03. Generally speaking, when a liquidation order is entered declaring an insurance company insolvent, applicable IGAs assume the insolvent insurer’s obligations and rights with respect to insureds and third-party claimants for liability purposes only up to the IGAs’ coverage and payment caps. *Id.* (citing current R.C. 3955.08). The IGAs provide insurance coverage (administer, defend and/or timely pay policyholder claims) to eligible claimants when no other coverage is available to pay valid claims in order to reduce the hardship of liquidation on innocent policyholders. *Id.*; see also R.C. 3955.13(A). Consequently, IGAs expend monies to pay policyholder claims long before resolution of the ultimate financial condition of the liquidating insurer’s estate. In return, the liquidation statutes confer Class 1 and Class 2 priority claim status in the Liquidation Case. See R.C. 3903.42. R.C. 3903.46(A)(6) defines Class 1 claims as including “[t]he reasonable expenses of an insurance guaranty association or foreign insurance guaranty association in handling claims.” The IGAs’ Class 2 claims include all insured loss claims paid by the IGAs. See R.C. 3903.42(B).

On June 17, 2010, this Court approved the Liquidator’s first partial pro-rata distribution of \$11,174,619.74 from the CGIC Estate and \$1,028,990.01 from the CGIND Estate to IGAs on their allowed Class 1 claims submitted to the Liquidator in both Estates as of December 31, 2009. On December 15, 2010, this Court approved the Liquidator’s second pro-rata distribution of \$13,657,868.52 from the CGIC Estate and \$3,086,970.03 from the CGIND Estate to IGAs on the remainder of their allowed Class 1 claims in both Estates as of December 31, 2009. These combined payments of

\$28,948,448.35 paid in full the IGAs' Class 1 administrative expenses reported as of December 31, 2009 in both Estates.

Since then, the Liquidator recovered additional sums, primarily from commutations with reinsurers, and the IGAs have reported additional Class 2 claims payments and associated Class 1 expenses to resolve over 97% of all policyholder loss claims in this liquidation. See Report on Status of Liquidation filed on May 7, 2012. Indeed, a number of the IGAs have now concluded all claims activity in this case. The IGAs reported additional Class 1 claims as of June 30, 2012 totaling \$4,004,988.65 in CGIC¹ and \$2,415,393.41 in CGIND,² as reflected on Exhibit A, *Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of June 30, 2012 and Third Pro-Rata Distribution to Class 1*. As a group, the IGAs remain the largest creditor in the Credit General liquidation.

The Liquidator requests approval to make a third payment on the IGAs' Class 1 collective administrative expense claims reflected on Exhibit A. There are no disputes regarding the amount of each IGAs' Class 1 claim as of June 30, 2012. The Liquidator established internal procedures for the ongoing review of the guaranty associations' administrative expense claims and has determined that these claims are reasonable. R.C. 3903.42(A)(6). Therefore, payment in full of the amount claimed by each IGA on their Class 1 administrative expenses as of June 30, 2012, as listed on Exhibit A, is an appropriate use of the Credit General estate assets pursuant to R.C. 3903.42(A)(6).

This third partial distribution to guaranty associations is payment in full of the additional Class 1 claims reported as of June 30, 2012 in both Estates as listed on Exhibit A. This distribution will bring the Liquidator's cumulative payments on the IGAs' Class 1 claims to \$35,496,553.46.

¹ This balance is comprised of 37 states with 6/30/2012 FIQ reports, and 15 states with FIQ reports dated prior to 6/30/2012.

² This balance is based on two 6/30/2012 FIQ reports.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing *Plaintiff's Motion to Approve the Third Partial Distribution to Guaranty Associations for Class 1 Administrative Expenses* was posted on the Liquidator's website (www.ohliq.com) substantially contemporaneous with the filing of this Motion and was emailed to the persons on the attached CGIC Courtesy Copy E-Mail List and served upon the following via Regular Mail, postage prepaid, on this 20th day of December, 2012:

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CGIC COURTESY COPY E-MAIL LIST

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