

COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

J. LEE COVINGTON, II,
Superintendent of Insurance
Ohio Department of Insurance,

Plaintiff,

vs.

ACCELERATION NATIONAL
INSURANCE CO., et al.,

Defendants.

Case No. 00CVH11-10534

The Hon. Patrick McGrath

FILED
COMMON PLEAS COURT
FRANKLIN COUNTY, OHIO
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CLERK OF COURTS-CV

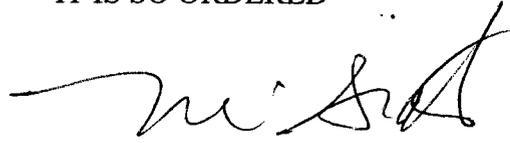
**ORDER APPROVING THE PLAN FOR
DISBURSEMENT OF THE ASSETS OF ACCELERATION NATIONAL
INSURANCE COMPANY TO GUARANTY ASSOCIATIONS
PURSUANT TO OHIO REVISED CODE SECTION 3903.34**

This matter has come before the Court on the application of Plaintiff, J. Lee Covington, II, in his capacity as the Court-appointed liquidator (“Liquidator”) of Acceleration National Insurance Company (“ANIC”), originally filed with this Court on June 28, 2001 and amended on July 3, 2001. The Liquidator subsequently filed with this Court his Request for an Order Approving the Plan for Disbursement of the Assets of ANIC to Guaranty Associations Pursuant to Ohio Revised Code Section 3903.34 (the “Plan”) on March 19, 2002.

This Court has considered the Application of the Liquidator and law as presented to it, and hereby finds that the Liquidator’s Application is well taken. As such, this Court Orders that the Plan attached to this Order as **Exhibit A** hereto is Approved in accordance with Section 3903.34 of the Ohio Revised Code. Furthermore, this Court Orders that the Liquidator shall

follow the terms of the Plan in his disbursement of assets from the estate of ANIC to the guaranty associations of the applicable states involved in this liquidation.

IT IS SO ORDERED

A handwritten signature in black ink, appearing to read "McGrath", written over a horizontal line.

Patrick M. McGrath, Judge

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LIQUIDATION OF ACCELERATION NATIONAL INSURANCE COMPANY

**PLAN FOR DISBURSEMENT OF ASSETS
TO GUARANTY ASSOCIATIONS
PURSUANT TO OHIO REVISED CODE SECTION 3903.34**

J. Lee Covington, II, Superintendent of Insurance of the State of Ohio, as Liquidator (the "Liquidator") of Acceleration National Insurance Company ("ANIC") hereby submits the following Plan for Disbursement of Assets to Guaranty Associations pursuant Ohio Revised Code § 3903.34 (the "Plan"):

- 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. In no event shall the Liquidator be required to make the first review of this calculation before February 28, 2002.

- 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 that are subject to potential claims of other persons.

 - B. The amount of reserves necessary pursuant to Ohio Revised Code § 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 ANIC liquidation;

4. Necessary filing fees and mileage and fees payable to witnesses.
- C. To the extent that assets subject to secured claims are included in the total liquid assets available under Paragraph A, the amount of reserves necessary for the payment of claims of secured creditors, to the extent of the value of the security held.
- D. The amount of reserves necessary for the payment of claims entitled to priority under Ohio Revised Code § 3903.42(D).
- E. The amount of liquid assets available for disbursement to all claimants entitled to priority under Ohio Revised Code § 3903.42(B). This amount shall be determined by subtracting the amounts determined in Paragraphs B, C, and D from the amount determined in Paragraph A.
- F. The estimated total amount to which the Associations are entitled to a distribution under Ohio Revised Code §§ 3903.42(A) & (B) based on the amounts that have been paid or reserved as covered by state guaranty association statutes (the "Association's Claim"). The Liquidator may require the Associations to submit their estimates of the Association's Claim, in the form of responses to interrogatories or otherwise.
- G. The estimated total amount of claims that are entitled to priority under Ohio Revised Code § 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 ANIC that are not covered by the insurance guaranty associations, and amounts which exceed the guaranty association coverage provided under their respective statutes.
- H. The estimated total amount of claims that are entitled to priority under Ohio Revised Code § 3903.42(B) plus the estimated total amount for which the Associations are entitled to priority under Ohio Revised Code § 3903.42(A) (the sum of Paragraph F and Paragraph G).
- I. The percentage that the total amount of the Association's Claims comprises of the estimated total amount of claims that are entitled to priority under Ohio Revised Code § 3903.42(B) plus the estimated total amount for which the Associations are entitled to priority under Ohio Revised Code § 3903.42(A) (Paragraph F divided by Paragraph H).
- J. The amount paid to the Associations by the Liquidator on prior disbursements under this Plan.

- K. 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 the Associations and all other claimants entitled to priority under Ohio Revised Code § 3903.42(B) (Paragraph E) and the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph J); and 2) multiplying this sum by the percentage calculated under Paragraph I.
 - L. The total amount to be distributed to the Associations shall be the amount calculated under Paragraph K minus the amount paid to the Associations by the Liquidator on prior disbursements under this Plan (Paragraph K minus Paragraph J).
- 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 amount of each Association's Claim. The allocation made at the time of each distribution, following the initial distribution, shall be cumulative and shall be based on the total amount of each Association's Claim. The amounts that the Liquidator is obligated to pay for any early access distribution hereunder shall not be reduced by the amount of any statutory/special deposit maintained in the state of a particular Association unless such deposit is actually received by the Association or unless the Liquidator obtains approval from the Liquidation Court to reduce an early access distribution to a specific Association or Associations by the amount of any statutory/special deposit yet to be released to the Association. To the extent that an Association directly collects or receives any subrogation, deductible or other recoveries in connection with claims paid by the Association, the amounts that the Liquidator shall distribute to each Association shall be reduced by the amount of such subrogation, deductible or other recoveries if and when it is determined that such subrogation, deductible or other recoveries are assets of the liquidation estate. Should an early access distribution to a particular Association be reduced because the Association has received a statutory/special deposit, subrogation recovery, deductible recovery or other recovery, or because the Liquidation Court has approved the reduction of an early access distribution to a specific Association or Associations by the amount of any statutory/special deposit yet to be released to the Association, then the amount that, but for the statutory/special deposit or recovery, would have been released to such Association shall be distributed in accordance with this Paragraph III to the Associations eligible for such distribution.
- 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
ACCELERATION NATIONAL INSURANCE COMPANY**

AGREEMENT

This agreement entered into between J. Lee Covington, II, Superintendent of Insurance, State of Ohio, as Liquidator of Acceleration National Insurance Company (hereinafter referred to as "Liquidator") and _____ (hereinafter referred to as the "Association") pursuant to the provisions of Ohio Revised Code § 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 for Disbursement of Assets to Guaranty Associations Pursuant to Ohio Revised Code § 3903.34 (the "Plan") approved by the Liquidation Court, the Association agrees as follows to:

- A. Submit to the jurisdiction of the Court of Common Pleas, Franklin County, Ohio (hereinafter referred to as the "Liquidation Court") with respect to any claim, issue or dispute involving, arising out of or relating to this Agreement, or to the Plan, provided, however, that nothing in this Agreement or the Plan is intended to affect the proper venue or forum for any action arising out of or relating to any other matter or controversy, nor shall the fact that the Association agreed to the Plan or executed this Agreement be used for purposes of arguing the proper venue of any such action;
- B. Timely respond in good faith to all requests for information submitted to it by the Liquidator;
- C. Acknowledge the receipt of notice and a copy of the Order of Liquidation and Appointment of Liquidator, entered by the Liquidation Court in this matter on February 28, 2001, Civil Action 00CVH11-10534, and acknowledge the Association's obligation to abide by the terms and conditions of such Order that are applicable to the Association;
- D. Establish and maintain a separate ledger account for the receipt of any payment herein;
- E. Permit the Liquidator to examine its books and records relevant to the Acceleration National Insurance Company, upon reasonable notice and at reasonable times not to exceed quarterly, before final distribution;
- F. At least once each quarter, the Association will provided the Liquidator with report(s) in accordance with the NAIC Uniform Data Standards Reporting Format, and such other information as may reasonably be required by the Liquidator;

- G. Return to the Liquidator, upon his request, any assets together with income earned on the assets previously disbursed or received, which may be required to pay claims of secured creditors and/or claims that are of an equal or higher priority of distribution established in Ohio Revised Code § 3903.42, which return of assets and income shall be made within thirty (30) days after request is made by the Liquidator in accordance with paragraph N, or within sixty (60) days after such request is made if it is necessary for the Association to make an assessment;
- H. Reimburse the Liquidator for any amount paid or received in excess of an amount it is ultimately determined the Association is entitled to receive upon final account having been filed by the Liquidator and approved by the Liquidation Court, which reimbursement shall be made within thirty (30) days after request is made by the Liquidator in accordance with paragraph O, or within sixty (60) days after such request is made if it is necessary for the Association to make an assessment;
- I. 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 reasonably required by the Liquidator or the Liquidation Court;
- J. As soon as practicable, return all closed case/claim files to the Liquidator, which closed files the Liquidator agrees to return to the Association upon its reasonable request;
- K. 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.
- L. Any notice or service required or permitted under the terms of this Agreement to be given to the parties shall be deemed given (i) if actually received by the intended recipient by any means of manual delivery or electronic transmission or (ii) if posted by prepaid certified mail, return receipt requested, or (iii) if consigned to and received by a commercial delivery service and addressed as follows:

If to the Liquidator:

Acceleration National Insurance Company, In Liquidation
Attn: Douglas L. Hertlein
1366 Dublin Road
Columbus, Ohio 43215
Telephone: (614) 487-9200
FAX: (614) 487-9418

With a copy to:

Jerry Tinianow
Dinsmore & Shohl
175 South Third Street, Suite 1000
Columbus, OH 43215-5134
Telephone: (614) 628-6905
FAX: (614) 628-6890

If to the Association:

Telephone: / -
FAX: / -

With a copy to:

Telephone: / -
FAX: / -

With a copy to:

The National Conference of Insurance
Guaranty Funds
10 West Market Street, Suite 1190
Indianapolis, Indiana 46204
Telephone: (317) 464-8199
FAX: (317) 464-8180

The execution of this Agreement by the Association, and the acceptance by the Association of any amount distributed pursuant to the Plan, shall be without prejudice to the Association's rights with respect to final or other distributions from the estate of Acceleration National Insurance Company. Without limiting the generality of the foregoing, the Association reserves its rights to assert whatever claim the Association deems appropriate with respect to the composition of and priority to be afforded to the Association's claim for its payment of losses and expenses, and its rights with respect to any issues relating to what assets constitute assets of the estate.

J. LEE COVINGTON, II, LIQUIDATOR

ASSOCIATION:

By: _____
DOUGLAS L. HERTLEIN
Chief Deputy Liquidator

Dated: _____

By: _____

Its: _____

Dated: _____