

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Bedivere Insurance Company : No. 1 BIC 2021
(In Liquidation) :

**LIQUIDATOR’S APPLICATION TO ISSUE CLASS ONLY
NOTICES OF DETERMINATION FOR
CLAIMS BELOW CLASS (B) PRIORITY**

Michael Humphreys, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator of Bedivere Insurance Company (In Liquidation) (“Bedivere”), seeks an Order authorizing issuance of Notices of Determination assigning priority class only, without allowed amounts (“class only NODs”), for Proofs of Claim (“POCs”) that are below class (b) priority. In support, he asserts:

1. This Court placed Bedivere into liquidation and appointed the Acting Insurance Commissioner as Statutory Liquidator (the “Liquidator”) by Order dated March 11, 2021 (“Liquidation Order”).¹

¹ The Liquidation Order appointed then Insurance Commissioner Jessica K. Altman and her successors in office as Statutory Liquidator of Bedivere. Ms. Altman resigned as Insurance Commissioner in February 2022 and Michael Humphreys was appointed as the Acting Insurance Commissioner. He has since been named Insurance Commissioner by Governor Shapiro, subject to confirmation.

2. That Order directed the Liquidator to take possession of Bedivere's property, business, and affairs and liquidate it under Article V of the Insurance Department Act of 1921, 40 P.S. §§221.1 to 221.63 ("Act").

3. In compliance with the Liquidation Order and Act, the Liquidator mailed approximately 7,800 notices of the Bedivere Order of Liquidation along with POCs packets to potential creditors including policyholders, claimants, reinsurers, brokers, vendors and law firms, among others.

4. Of the 2,925 POCs filed against the Bedivere Estate (sometimes hereinafter referred to as "Estate") to date, 1,300 Proofs of Claim are either class (a) or (b) claims. The remaining 1,625 claims are assigned priorities below class (b). The Liquidator seeks the Court's permission to issue "class only NODs" for claims that are assigned priority classes below class (b) claims in the Bedivere Estate.²

5. As reported in the Liquidator's First Report Regarding the Status of the Liquidation of the Bedivere Estate filed with the Court on March 30, 2023 ("First Status Report"), as of December 31, 2022, Total Assets are estimated at \$798.9 million and Total Liabilities are estimated at \$2.256 billion, of which \$1.602 billion are estimated liabilities due to class (b) claims. Therefore, it is substantially certain that there will not be sufficient assets to make any distribution to claimants with claims below class (b) priority. *See* First Status Report at page 6, Paragraph E (1).

² See 40 P.S. §221.44 for the list of priority classes in a liquidation proceeding.

6. Valuation of the allowed amounts of the over 1,600 POCs assigned priority classes below class (b) would involve significant expenditure of Estate resources, potentially including costly expert analysis and complex legal and factual determinations. Moreover, claimants would have to expend resources to gather and submit documentation that could be both voluminous and not readily accessible. Resolution of disputed valuation issues as to the amounts of these claims could require litigation in the liquidation proceedings with its concomitant expense and expenditure of the resources of the Liquidator, claimants, and the Court. All of this would be a futile exercise because, based on current estimates, there will be no distribution to claimants with claims below class (b) priority.³

7. To conserve the resources of the Estate for all claimants by not engaging in unnecessary valuation analysis, the Liquidator seeks relief from the requirement that each Notice of Determination must include “the allowed amount of the claim” under Pa. R. A. P. 3871(b)(2)(i). The Liquidator seeks to issue “class only NODs” for claims below class (b) priority until and unless it appears that there will

³ Claims below class (b) priority include, for example, unearned premium claims, taxes or assessments, vendor claims, and assumed reinsurance. The resources necessary to evaluate POCs, issue NODS and address any objections would be significant, particularly for assumed reinsurance claims where Bedivere has recorded an estimated \$625.4 million in potential liabilities. See First Status Report, Exhibit A. Attempts to obtain the information would be a futile expenditure of assets because the claimant has little or no motivation to provide documentation when there is little or no likelihood of any distribution.

be sufficient assets to make a distribution to claimants with claims below class (b) priority – which almost certainly will not occur based on current estimates.

8. The relief requested by the Liquidator is supported by prior precedent. During the liquidation of Lincoln General Insurance Company, then Judge, now President Judge, Cohn Jubelirer, granted the Liquidator's Application to issue class only NODs to certain claims below class (b) priority to avoid a potentially unnecessary, protracted, and expensive valuation process. *See* Order Granting Liquidator's Application (attached as Exhibit "A"). Moreover, during the Reliance Insurance Company liquidation, then Judge, now Senior Judge, Leadbetter, granted the Liquidator's Application to, *inter alia*, issue class only NODs for claims below class (b) priority unless and until it was determined that sufficient assets were available for a distribution to a class below (b). *See* Order Granting Liquidator's Application (attached as Exhibit "B").⁴

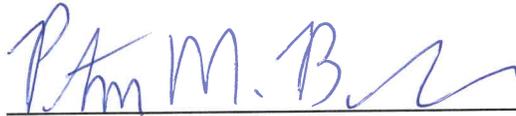
9. No parties would be prejudiced by such relief. To the contrary, incurring the costs and expending limited Estate resources to assign allowed amounts where no recovery is likely would prejudice all claimants.

⁴ Several years after Judge Leadbetter's October 2012 Order approving the issuance of class only NODs for claims below class (b) priority, it was determined that there were sufficient assets to make a small distribution to class (e) creditors. Consistent with the Court's Order, those claims were evaluated, allowed amounts were assigned, and distributions made, as appropriate, prior to closure of the Reliance liquidation proceeding in January 2022.

10. For these reasons, the Liquidator seeks an Order authorizing issuance of “class only NODs” without allowed amounts for NODs assigned priority classes below class (b) priority unless and until it is determined that sufficient assets will be available for distribution to a class below (b).

WHEREFORE, the Liquidator requests that the Court grant this Application and issue an Order in the attached form, authorizing issuance of “class only NODs” without allowed amounts for NODs assigned priority classes below class (b) priority unless and until it is determined that sufficient assets will be available for distribution to a class below (b).

Respectfully Submitted,



PRESTON M. BUCKMAN (I.D. #57570)
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Office of Liquidations, Rehabilitations and
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Governor’s Office of General Counsel
Capital Associates Building
901 N. Seventh Street
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(717) 886-2080

*Attorney for Michael Humphreys, Acting
Insurance Commissioner of the
Commonwealth of Pennsylvania, in his
capacity as Statutory Liquidator of Bedivere
Insurance Company, In Liquidation.*

Dated: April 19, 2023

EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Lincoln General Insurance Company :
in Liquidation :
: No. 1 LIN 2015
:

In Re: Liquidator's Application for Relief from Pa.R.A.P. 3781(b)(2)(i)

ORDER

AND NOW, December 7, 2021, upon consideration of the Liquidator's Application for Relief from Requirement of Pa.R.A.P. 3781(b)(2)(i), which is unopposed, it is hereby ORDERED that the Application is GRANTED. The Liquidator is relieved of the requirement of Pa.R.A.P. 3781(b)(2)(i) to include the allowed amount of the claim in all Notices of Determination for claims by the United States in the estate of Lincoln General Insurance Company regarding customs surety bonds.



RENÉE COHN JUBELIRER, Judge

EXHIBIT B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Reliance Insurance Company :
in Liquidation : No. 1 REL 2001

In Re: Liquidator's Application Regarding Implementation of Pa. R.A.P. 3781(b)(1) and (b)(2)(i) and Pa. R.A.P. 3784(a)

ORDER

AND NOW, this 2nd day of October, 2012, upon consideration of the Liquidator's Application for Relief from the Implementation of Pa. R.A.P. 3781(b)(1), (b)(2)(i) and 3784(a), which is unopposed, the Application is hereby **GRANTED**.

It is hereby **ORDERED** that the Liquidator shall issue a written Notice of Determination ("NOD") within one hundred and eighty (180) days from the receipt of information sufficient to adjudicate a Proof of Claim and the NOD need not include an allowed amount for any claims below class (b) priority unless and until it is determined that sufficient assets will be available for a distribution to a class below class (b).

Further, implementation of Pa. R.A.P. 3784(a) shall be delayed and will apply to Reliance Insurance Company in Liquidation effective July 30, 2013. Claims reports filed prior to July 30, 2013 shall include the following: Claimant's name, address, priority class, allowed amount, and the particulars of the claim, including whether the NOD was issued without objection or after the settlement of an objection.

Certified from the Record

OCT 03 2012

And Order Exit

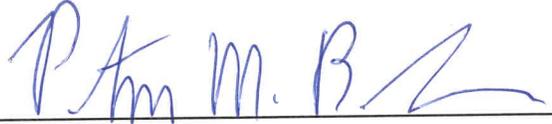
Bonnie B. Leadbetter

BONNIE BRIGANCE LEADBETTER,
Judge

**CERTIFICATION OF COMPLIANCE
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully Submitted,



PRESTON M. BUCKMAN (I.D. #57570)
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Special Funds
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*Attorney for Michael Humphreys, Acting
Insurance Commissioner of the
Commonwealth of Pennsylvania, in his
capacity as Statutory Liquidator of Bedivere
Insurance Company, In Liquidation.*

Dated: April 19, 2023

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Bedivere Insurance Company : No. 1 BIC 2021
(In Liquidation) :

Re: *Liquidator's Application to Issue Class Only Notices of Determination for Claims Below Class (B) Priority*

ORDER

AND NOW, this _____ day of _____, 2023, upon consideration of the Liquidator's Application to Issue Class Only Notices of Determination for Claims Below Class (B) Priority, it is hereby **ORDERED** that the Application is **GRANTED**. The Liquidator is authorized to issue "class only" Notices of Determination ("NODs") without allowed amounts for NODs assigned priority classes below class (b) priority, unless and until it is determined that sufficient assets will be available for a distribution to a class below (b).

, Judge



GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 19, 2023

Michael F. Krimmel, Prothonotary
Commonwealth Court of Pennsylvania
601 Commonwealth Avenue
P.O. Box 69185
Harrisburg, PA 17120-9185

*Re: Bedivere Insurance Company (In Liquidation)
Docket No. 1 BIC 2021*

Dear Mr. Krimmel:

Attached for filing please find the Liquidator's Application to Issue Class Only Notices of Determination for Claims Below Class (B) Priority.

Sincerely,

A handwritten signature in blue ink, appearing to read "P.M. Buckman".

Preston M. Buckman
Insurance Department Counsel

Enclosures