

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Re: Liquidator's Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50

MEMORANDUM AND ORDER

Presently before the Court for consideration is the Liquidator's Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 (Application).¹ In his Application, the Liquidator represents that: (1) he has provided notice (Notice) of his Application to all known claimants; (2) he has not received any objection to the Notice and more than 30 days have passed since he mailed the Notice on January 3, 2023; and (3) he has responded to all claimant

¹ On December 20, 2022, in connection with this final step in the liquidation process, the Liquidator filed his Final Accounting, Proposal for Final Distribution and Application for Approval of Notice (Application for Approval of Notice). Therein, the Liquidator attached Lincoln General Insurance Company's Statement of Net Assets Available for Distribution as of September 30, 2022, which reflects assets available for distribution in the amount of \$46,754,680.57 and, after withholding a reserve of \$190,000 for future administrative expenses, total net assets available for distribution in the amount of \$46,564,680.57. Application for Approval of Notice, ¶¶ 2-3; Exhibit (Ex.) A, at 3. According to the Liquidator, he "has collected all the assets deemed worthy of pursuit." Application for Approval of Notice, ¶ 7. In addition, the Liquidator averred that all claims have been evaluated and there are no unresolved objections. *Id.*, ¶ 4. The Liquidator further provided an exhibit, which identified all claimants with approved claims and the amount allowed for each claim. *Id.*, Ex. B. The Liquidator set forth his proposed distribution of assets by priority classification and amount. *Id.*, ¶ 6.

Finally, the Liquidator requested this Court's approval of a form Notice to be sent to all claimants regarding the Liquidator's final accounting and proposed final distribution. Application for Approval of Notice, Ex. C. The Court approved the form Notice on January 3, 2023. There were no objections to the Application for Approval of Notice.

inquiries regarding the Application and has made all address and information corrections required in order to make a proper payment of claims. The Liquidator seeks authorization to make a distribution of assets in accordance with the distribution set forth in his December 20, 2022 Final Accounting, Proposal for Final Distribution and Application for Approval of Notice (Application for Approval of Notice), which provides that priority class “a” and “b”² claims will be paid at 100%, that the Liquidator has already received \$13,078,283.89 in administrative expenses, that priority class “c” claims will be paid at least 8.78%, and that priority class “e”, “f”, “g”, “h” and “i” claims will not be paid. Further, the Application for Approval of Notice provides that there are no priority class “d” claims.

In addition, the Liquidator has submitted a recommendation regarding the retention and disposition of Lincoln General Insurance Company’s records, pre- and post-liquidation, pursuant to Section 550 of Article V, 40 P.S. § 221.50. *See* Application, Ex. C. The Liquidator recommends that most pre-liquidation records, except pre-liquidation accounting files that contain tax records, be destroyed, as they no longer serve any purpose and will not be required in the future to respond to any post-discharge inquiries. The Liquidator proposes to retain all post-liquidation files until such time that he believes they are no longer needed to respond to post-discharge inquiries. He requests that the Court grant him the discretion to determine the appropriate time to destroy the post-liquidation files.

The Liquidator states that following completion of the final distribution of assets, he will file an application seeking discharge of the Liquidator. *See* Section 548(a) of Article V, 40 P.S. § 221.48(a). At that time, the Liquidator will also seek

² The classes of claims entitled to distribution of assets from an insurer’s estate are described in Section 544 of Article V of The Insurance Department Act of 1921 (Article V), Act of May 17, 1921, P.L. 789, added by the Act of December 14, 1977, P.L. 280, *as amended*, 40 P.S. § 221.44.

approval of the final disposition of any assets remaining in the Liquidator's possession at the time of discharge, or that may be unexpectedly received by the Liquidator post-discharge.

In considering the Liquidator's request for approval of the final accounting and final distribution, the Court notes that Section 546 of Article V directs as follows:

Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims. Distribution of assets in kind may be made at valuations set by agreement between the liquidator and the creditor and approved by the court.

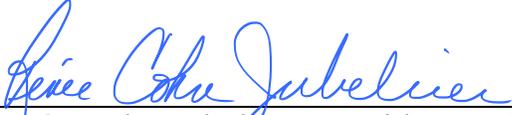
40 P.S. § 221.46. Moreover, “[w]hen all assets justifying the expense of collection and distribution have been collected and distributed under this article, the liquidator shall apply to the court for discharge.” Section 548(a) of Article V, 40 P.S. § 221.48(a).

After review of both the December 20, 2022 Application for Approval of Notice, the present Application, and the exhibits attached to each, the Court accepts the Liquidator's representations and recommendation that a final accounting and distribution is now appropriate. Accordingly, the Court enters the following Order:

NOW, March 17, 2023, the Liquidator's Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, is GRANTED as set forth below.

1. The Liquidator's final accounting, as set forth in the exhibits attached to the December 20, 2022 Final Accounting, Proposal for Final Distribution and Application for Approval of Notice (Application for Approval of Notice), which includes the Statement of Net Assets Available for Distribution as of September 30, 2022, and the Final Court Report (identifying the claimants by name and address, Proof of Claim number, class code, total amount claimed, and total amount allowed), is approved.
2. The Liquidator is authorized to make distribution of the assets of Lincoln General Insurance Company in accordance with paragraph 6 of the Application for Approval of Notice, to wit:
 - a. Priority class "a" claims will be paid at 100%. The Liquidator has already received \$13,078,283.89 in administrative expenses.
 - b. Priority class "b" claims will be paid 100%.
 - c. Priority class "c" claims will be paid at least 8.78%.
 - d. There are no priority class "d" claims.
 - e. Priority class "e" claims will not be paid.
 - f. Priority class "f" claims will not be paid.
 - g. Priority class "g" claims will not be paid.
 - h. Priority class "h" claims will not be paid.
 - i. Priority class "i" claims will not be paid.
3. The Liquidator is authorized to destroy the records of Lincoln General Insurance Company in accordance with the recommendation attached to the present Application as Exhibit C.
4. Following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator in accordance

with Section 548(a) of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, added by the Act of December 14, 1977, P.L. 280, *as amended*, 40 P.S. § 221.48(a). In his application, the Liquidator shall notify the Court whether any administrative expenses remain unpaid and, if so, the amount. The Liquidator shall also notify the Court whether any funds remain undistributed and in the possession and control of the Liquidator; if any funds remain, the Liquidator shall advise the Court of the amount so remaining.



Renée Cohn Jubelirer, President Judge