

3. Pursuant to Mo. Rev. Stat. § 375.1220, the Liquidator has commenced her review of claims duly filed in the liquidation.

4. Mo. Rev. Stat. § 375.1218, sets forth the priority of distribution of claims from the Estate and requires that “[e]very claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority class through the use of equitable remedies.”

5. Class 1 claims are “[t]he costs and expenses of administration during rehabilitation and liquidation . . .” *Id.* § 375.1218.1. The Liquidator has reserved an amount sufficient to ensure all Class 1 claims are paid in full.

6. Class 2 claims are “[a]ll claims under policies . . . including all claims of a life and health insurance guaranty association or foreign guaranty association which covers claims of life and health insurance policies, relating to the handling of such claims.” *Id.* § 375.1218.2.

7. The Liquidator proposed the First Interim Distribution only for Class 2 claims because, at this point, it does not appear that sufficient assets will be available to make any distribution on claims with priority below Class 2.

8. The First Interim Distribution does not include a distribution to state Guaranty Associations (“GAs”) because, to date, the GAs have received a total of \$40,952,231 through early access payments pursuant to Mo. Rev. Stat. § 375.1205 (\$17,438,332.32), and payments made to certain GAs pursuant to the Joint Collection Agreement (“JCA”) (\$23,513,898.71).

9. The Liquidator proposes to make the First Interim Distribution to Non-GA Class 2 claimants whose Proof of Claim (“POC”) has been approved in full or in part by the Liquidator, and who have received a Notice of Determination (“NOD”) from the Liquidator.

10. The Liquidator files semi-annual reports with this Court, which provide detailed information regarding, among other things, the financial condition of LUA and the claims process. The Liquidator filed the most recent semi-annual report as of December 31, 2020, on April 2, 2021.

11. Subject to caveats regarding financial information in the semi-annual reports and in the Notes to the financial statements, total unrestricted estimated assets for LUA as of December 31, 2020 were \$137,132,848. Total estimated liabilities were \$386,716,884, leaving an estimated net deficit of \$131,466,065. As of December 31, 2020, the estimated reserve for Class 1 claims was \$20,004,624.

12. The deadline for filing POCs was set at May 24, 2017. As of April 1, 2021, the Liquidator had received 1,392 POCs.

13. The Liquidator has preliminarily classified 1,258 POCs as Class 2 claims. As of May 28, 2021, LUA had issued Class 2 NODs for 892 of the 1,258 Class 2 claims.

14. Of the 892 NODs issued, the Liquidator has allowed 65 POCs – in full or in part and/or as contingent – as Class 2 claims; 60 of which are eligible for the First Interim Distribution (“Distribution Claimants”). A listing of the Distribution Claimants, including the amount allowed, was attached as Exhibit A to the Liquidator’s Motion for Approval of First Interim Distribution of Estate Assets.

15. Following LUA’s liquidation, LUA transferred all workers’ compensation claims to the appropriate state GA, which assumed the obligations to administer and pay workers’

compensation claims filed against LUA insureds. Certain GAs denied responsibility for the claims for statutory reasons. The GAs that denied claims for statutory reasons either transferred those claims to the insured, who then assumed the obligations to administer and pay those workers' compensation claims, or has been administering the claims and billing the insured for those claims.

16. Several of the insureds whose claims were denied by GAs for statutory reasons filed POCs after the May 24, 2017 deadline for submitting POCs; however, the Liquidator determined that, pursuant to Mo. Rev. Stat. § 375.1206.3, she would consider these POCs contingent Class 2 claims under Mo. Rev. Stat. § 375.1218 because the insureds have been either administering and paying the claims, or reimbursing the GA that is administering and paying the claims, since the date of liquidation.

17. LUA's staff and consultants completed an asset distribution analysis that projected inflow and outflow in future years for the purpose of estimating ultimate distribution rates to determine the appropriate level for the First Interim Distribution. Cash coming into the estate consists largely of deductible recoveries, reinsurance collections, second injury fund recoveries and investment income. The cash going out of the Estate is and will be attributable to operating expenses, potential early access distributions to GAs (including JCA payments) and interim asset distributions to Distribution Claimants.

18. The Liquidator identified two categories of Non-GA Class 2 approved claims: (a) contingent claims: insureds who are paying claims under their workers' compensation policy directly or reimbursing a GA for claim payments, because the claims were rejected for statutory reasons by the GA, and (b) fixed claims: claims allowed in full or in part for a sum certain.

19. The Liquidator's analysis employs a conservative scenario in order to adequately protect all Class 2 claimants, including those who have and those who have not received a NOD from the risk of disproportionate payouts due to interim distribution overpayments, as well as payments made or that may be made to the GAs through the JCA and/or early access payments. The analysis also utilized the best estimate of ultimate losses of known and unknown losses and ALAE exposures, based on claims data reported to the Liquidator through December 31, 2020.

20. Although the conservative scenario produced by the analysis is considered reasonable, the actual financial results for the Estate could deviate from specific projections due to the uncertainty inherent in numerous assumptions for various factors.

21. Based on the scenarios produced by the asset distribution analysis and considering various factors, the Liquidator proposes an initial distribution percentage of 40% for the NOD allowed amounts as follows:

- a. Non-GA Class 2 POCs allowed in full or in part for a fixed amount: 40% of the allowed amount of the POC; and
- b. Contingent Non-GA Class 2 POCs allowed in full or in part: 40% of the allowed amount that the claimant has actually paid as of December 31, 2020.

22. Based on this distribution calculation, a 40% distribution would result in an initial interim distribution to these Non-GA Class 2 claimants totaling approximately \$6.8 million.

23. The Liquidator believes that the amount of the proposed First Interim Distribution fulfills her duty to "pay distributions in a manner that will assure the proper recognition of the priorities and a reasonable balance between the expeditious completion of the

liquidation and the protection of unliquidated and undetermined claims . . .” as required by Mo. Rev. Stat. § 375.1222.

24. The Liquidator proposes that checks not be issued for a *de minimus* amount of less than \$10.00 per claimant. Claimant who have received more than one NOD will receive only one check for their multiple NODs and thus will not be affected by this *de minimus* threshold, if their multiple NODs equal or exceed \$10.00. At the time of this filing, no eligible Distribution Claimants listed on Exhibit A would be affected by this proposal. In the event the *de minimus* threshold applies to a claimant in the future, a check will be issued to the claimant if their distribution amount is increased beyond the threshold *de minimus* amount in the future because they receive additional NODs or an amended NOD, or because the distribution percentage is increased. In any event, this *de minimus* threshold will not apply to the final distribution of LUA assets and all claimants will receive the ultimate distribution percentage, even if the distribution amount is less than \$10.00.

25. This First Interim Distribution is fair and reasonable to LUA and its creditors.

26. The First Interim Distribution fulfills the Liquidator’s duty to “pay distributions in a manner that will assure the proper recognition of the priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims . . .” as required by Mo. Rev. Stat. § 375.1222.

IT IS HEREBY ORDERED, ADJUDGED DECREED that:

1. A First Interim Distribution percentage of 40% for NOD allowed amounts is approved, as follows: (1) Non-GA Class 2 POCs allowed in full or in part for a fixed amount: 40% of the allowed amount; and (2) Contingent Non-GA Class 2 POCs allowed in full or in part: 40% of the allowed amount that the claimant has actually paid as of December 31, 2020;

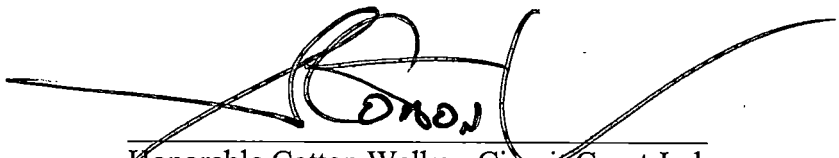
2. The Liquidator is directed to issue checks based on the First Interim Distribution to Non-GA Class 2 claimants whose POCs are allowed subsequent to this First Interim Distribution;

3. For this First Interim Distribution and all future distributions except the final distribution, the Liquidator need not issue a check for less than \$10.00 per claimant. The Liquidator shall issue a check if a claimant's distribution amount is increased beyond the threshold *de minimus* amount in the future. This *de minimus* distribution threshold will not apply to the final distribution of LUA assets and all claimants will receive the ultimate distribution percentage in the final distribution, even if the amount is less than \$10.00;

4. In all respects, the conduct and actions of the Liquidator, her employees, agents and counsel in connection with the First Interim Distribution, is affirmed and approved in all respects;

5. The Liquidator is authorized to enter such other agreements and take such other actions as may be necessary to effectuate the First Interim Distribution without further approval of the Court; and

6. There is no just reason for delay and this Order constitutes a final judgment fully resolving all issues relating to the First Interim Distribution.



Honorable Cotton Walker, Circuit Court Judge
19th Judicial Circuit, Division III