

CAUSE NO. D-1-GN-19-000723

THE STATE OF TEXAS	§	IN THE DISTRICT COURT OF
<i>Plaintiff,</i>	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
CAPSON PHYSICIANS INSURANCE	§	
COMPANY,	§	
<i>Defendant.</i>	§	250 TH JUDICIAL DISTRICT

**SPECIAL DEPUTY RECEIVER’S REPORT
PURSUANT TO TEX. INS. CODE §443.303(C)**

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILLO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company (the “SDR” and “CPIC” respectively), files its Report Pursuant to TEX. INS. CODE §443.303(c) (the “Report”).

I. INTRODUCTION

1.1 Pursuant to TEX. INS. CODE § 443.303(c), the SDR reports that, based on financial reporting required by Section 443.016, at this time there are no distributable assets for early access payments to the affected guaranty associations.

II. BACKGROUND

2.1 On February 11, 2019, the Court entered its Agreed Order Appointing Rehabilitator, Permanent Injunction and Notice of Automatic Stay, appointing the Texas Commissioner of Insurance as Rehabilitator of CPIC. On that same day, the Rehabilitator appointed CANTILO & BENNETT, L.L.P., as Special Deputy Receiver of CPIC. On June 28, 2019, the Court entered its Order Appointing Liquidator and Permanent Injunction (the “Liquidation Order”), placing CPIC in liquidation and appointing the Commissioner as Liquidator of CPIC.

III. JURISDICTION AND STATUTORY AUTHORITY

3.2 This Court has exclusive jurisdiction over the subject matter of this Report pursuant to TEX. INS. CODE § 443.005.

3.3 This Report has been referred to the Special Master appointed in this proceeding in accordance with the Supplemental Order of Reference to Master entered on September 18, 2019.

IV. REPORT OF NO DISTRIBUTABLE ASSETS AT THIS TIME

4.1 TEX. INS. CODE § 443.303(c) provides for the SDR to provide a report after the entry of an order of liquidation by the receivership court, and at least annually thereafter, regarding whether distributable assets are available for early access distributions based on financial reporting as required in Section 443.016.

4.2 CPIC was a property and casualty insurance company that wrote only medical malpractice insurance. It was licensed to and issued policies in twenty-five jurisdictions: Alabama, Alaska, Arizona, Arkansas, Washington D.C., Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Washington, West Virginia, and Wisconsin. Following entry of the Liquidation Order, the Commissioner designated CPIC an “impaired insurer” under TEX. INS. CODE Chapter 462, effective June 28, 2019. The Texas Property and Casualty Insurance Guaranty Association (“TPCIGA”) and guaranty associations in Alabama, Alaska, Arizona, Arkansas, Washington D.C., Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Washington, West Virginia, and Wisconsin (collectively, the “Affected Associations”) are now responsible for “covered claims” in accordance with their states’ governing statutes. To date, sixteen (16) of the Affected Associations (Alaska, Alabama, Arkansas, Arizona,

Illinois, Indiana, Kentucky, Louisiana, Maryland, Missouri, New Mexico, Nevada, Oklahoma, Tennessee, Texas, and West Virginia) have submitted loss and reserve information to the SDR. At the present time, however, the information received from the Affected Associations is very preliminary and incomplete.

4.3 TEX. INS. CODE § 443.303(a) defines “distributable assets” as all general assets of the receivership estate, less the necessary and appropriate amounts reserved for expenses of liquidation through and after closure and distributions on claims other than those of the guaranty associations. As of December 15, 2019, the date of the SDR’s most recent financial report filed with the Receivership Court, the cash assets of the CPIC receivership estate were \$7.9 million.

4.4 The SDR is unable to estimate “distributable assets” at this time due to uncertainty regarding the status of the statutory deposits, uncertainty regarding amounts that may be owed to guaranty associations due to the preliminary and incomplete nature of information received from Affected Associations to date, and due to continuing efforts to recover sums owed to the estate in connection with the SDR’s claims against its parent company and affiliates, claims to certain disputed life insurance proceeds, and claims involving Granite State Insurance Company (“GSIC”).

4.5 The SDR projects that it will be able to begin making early access distributions after obtaining reporting from all of the Affected Associations, accounting for any statutory deposits and clarifying the entitlement to them, and after resolution of the disputes CPIC’s parent/affiliates and GSIC. Timing for completion of these requirements is not certain, but the SDR believes that the estate will be in a position to seek approval of an early access application in early 2020.

4.6 In conclusion, the SDR reports that there are no distributable assets at this time to make an early access distribution to the Affected Associations.

V. NOTICE

5.1 The SDR has served this Report to all known parties in interest and all individuals and entities identified by the SDR in the Certificate of Service by e-mail and, as noted, by mail or overnight delivery to certain state and federal agencies. All Affected Associations have been served in accordance with TEX. INS. CODE § 443.007.

VI. OFFER OF PROOF AND VERIFICATION

6.1 This Report is verified by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) of Joseph N. West, designated representative of CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company.

VII. NOTICE OF ELECTRONIC SERVICE REQUIREMENT

7.1 All pleadings filed in response to this Report shall be served by e-mail on the undersigned counsel and all parties shown in the attached Certificate of Service.

PRAYER

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., Special Deputy Receiver of Capson Physicians Insurance Company, prays that the Court and all parties in interest take notice of this Report and that the SDR obtain such other and further relief to which it may be justly entitled

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 10, 2020, a true and correct copy of the foregoing *Special Deputy Receiver's Report Pursuant to Tex. Ins. Code. 443.303(c)* was served pursuant to the Supplemental Order of Reference to Master, the Texas Rules of Civil Procedure and TEX. INS. CODE 443.007(d) on the following by email, except as specifically otherwise noted.

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