

Report for Special Master's Status Conference

January 29, 2018

R-554 Santa Fe Auto Insurance Company

SDR: CANTILO & BENNETT, L.L.P.
Primary Responsible Person: Susan E. Salch
Estate Counsel: Christopher Fuller
Receiver's Counsel: Kimberly M. Hammer
RLO Analyst: Moses Chao

Background on Receivership

- Date of Permanent Injunction (Rehabilitation): March 8, 2013
- Date of Permanent Injunction (Liquidation): April 5, 2013
- Date of Appointment of SDR: March 8, 2013
- Claims Filing Deadline: October 5, 2014 (November 4, 2014, for certain SDR filed claims)
- States where Licensed: Arkansas, Arizona, Georgia, Nevada, New Mexico, Oklahoma, Texas, and Utah
- Lines of Business: Nonstandard Auto Insurance
- Texas Property & Casualty Insurance Guaranty Association
- Date of Impairment: April 11, 2013
- Early Access Distributions: Total: \$10,227,574.82. First: \$2,777,574.82 distributed on September 23, 2014; Second: \$7,500,000 distributed in June 2016

Statement of Assets and Liabilities as of December 31, 2017

Total Assets:	\$15,834,107
Cash Assets:	\$ 5,117,134
Non-Cash Assets:	\$10,716,973
Total Liabilities:	\$23,341,313
Negative Equity:	(\$ 7,507,206)

Asset Recovery through December 31, 2017

Premium Collected:	\$ 2,444,077
Subrogation/Salvage:	\$ 126,799
Reinsurance Collected:	\$11,307,959
FF&E Sold:	\$ 99,372
Gamma Road Building Sale:	\$ 614,902

Status and Activity since Last Status Conference

Claims Matters

- **POC Processing:** A total of 3,204 POCs were filed in this estate, including 23 filed after the October 10, 2014, claims filing deadline. The deadline to appeal the SDR's determination has run for 3,177 POCs.

To date, there have been eight appeals of POC determinations issued by the SDR. Five involved disputes over small amounts of alleged unearned premium ("UEP"). Four of the five UEP claims were resolved (although the SDR is waiting for TPCIGA to make payment on two of them).

The SDR's claims staff has requested current/updated information from the guaranty associations to complete approval of the associations' POCs. The SDR expects to have the updated data within four to six weeks.

- **Extra-Contractual/Bad Faith Claims**

There are five POCs for bad faith and/or extra-contractual damages, including the *Fabriguze* matter (discussed below).

Fabriguze v. Nelson: The SDR is working on a resolution that could offer the claimants an opportunity to seek recovery against Santa Fe's insurance coverage. In early September, Ms. Fabriguze (the plaintiff in an underlying car wreck case against a Santa Fe insured) filed an intervention and lift stay motion in the Santa Fe receivership proceeding. Estate counsel has conferred with her attorneys. In exchange for a withdrawal of the intervention, the parties have tentatively agreed to stipulate that her direct claim against the carrier does not violate the stay or permanent injunction. The agreement is being drafted and is subject to the receivership court's approval of the SDR's Report of Claims. The Special Master's clerk has been informed that the parties are discussing settlement; there is no setting or briefing schedule for the motion.

- **Guaranty Association Reporting:** As of January 7, 2017, a total of \$19,170,125 in expense and loss payments and reserves were reported by the guaranty associations (as of October 10, 2017, the last report, the total was \$19,281,501). Loss payments and reserves total \$11,122,599 (\$11,240,531 at last report), and guaranty association administrative expense payments and reserves total \$8,047,526 (\$8,040,971 at last report). No new or re-opened claims were reported in the last quarter.

General Legal Activities

- **Asset Recovery Litigation:** The SDR has successfully concluded this litigation. The SDR settled with several parties, dismissed certain judgment

proof parties and had judgment entered against two defunct corporate defendants. With the entry of these final judgments, the lawsuit is completed.

- **Litigation Report:** No new lawsuits were received in the last quarter. In October 2017, Santa Fe was named in a lawsuit pending in New York City styled *Acupuncture Healthcare Plaza I, P.C. a/a/o Rose Aquila v. MVAIC and Santa Fe Auto Insurance Co.* On October 6, 2017, the SDR's counsel sent a letter demanding that the plaintiff abate the lawsuit. The SDR does not expect the plaintiff to dismiss or abate the case. However, the SDR does not anticipate taking any further action since the plaintiff has no means to collect anything from the estate, and the expense of attempting to enforce the stay and injunction outweighs any merits. Santa Fe has not been dismissed, and the lawsuit remains pending.
- **Regulatory Matters:** In the last quarter, the New Mexico ancillary proceeding was re-opened after having been administratively closed in October 2017.
- **Subpoenas:** The estate receives one to two subpoenas per month. While the subpoenas are legally objectionable because of the stay, it would be more expensive to the estate to contest the subpoenas than to comply. Only non-privileged, non-confidential records are produced and they are authenticated with a Receiver's certificate under section 443.017. Medical records are not produced even if the fee is paid, unless a proper release is provided. The SDR will begin to refuse subpoenas after the next quarter to begin the process of closing the estate.
- **Valenzuela:** The SDR's proposed settlement with the plaintiffs in this New Mexico bad faith case was not completed, and the lawsuit remains on the federal court's docket. In early January 2018, the parties filed a joint status report in response to a docket order from the court. There are two plaintiffs in the lawsuit, Mr. Valenzuela and Mr. Gutierrez. The New Mexico guaranty association closed without payment, the Gutierrez claim and the Valenzuela claim remains pending. The SDR notified the court and the parties that the estate will most likely close in 2018.

Conclusion

Summary of Major Achievements since Last Status Conference:

- Successfully resolved asset recovery lawsuit.
- Filed Disputed Claims applications on pending appeals.

Estate Team Goals to Achieve Prior to Next Status Conference:

- Finish POC adjudication and appeal process.

- File, as needed, any remaining application(s) to resolve POC appeals.
- Process and approve guaranty association POCs.
- File Report of Claims.
- Prepare and file tax returns.

Estimated Closing Date of Receivership: Mid-2018

Factors Affecting Closing Date and Final Distribution:

- POC adjudication and appeals.
- Federal waiver of claims.