

Report for Special Master's Status Conference

April 30, 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 March 31, 2018

Total Assets:	\$15,715,980
Cash Assets:	\$ 5,009,827
Non-Cash Assets:	\$10,706,153
Total Liabilities:	\$23,436,230
Negative Equity:	(\$ 7,720,250)

Asset Recovery through March 31, 2018

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. There are 13 POCs awaiting a determination and 6 on appeal, as described below.

The SDR's claims staff has reviewed current/updated information from the eight guaranty associations to complete approval of their POCs. Staff will continue its review of the issues and attempt to reconcile them with the individual Guaranty Associations.

Five POCs for bad faith and/or extra contractual damages are pending. The SDR will send a coverage demand letter to the E&O carrier, which is modeled on the letter used to demand coverage for the Talbott POC appeal (see below). The other notices will go out in May. Assuming the carrier denies coverage, each claim will be classified as a Class 5 claim without adjudicating the amounts owed.

POC Appeals: There are six open appeals: Talbott, two pro se appeals, and three UEP appeals that await review and resolution by TPCIGA. The Talbott POC is a bad faith claim arising from a Nevada lawsuit against a Santa Fe insured. The jury awarded damages of \$985,000 above policy limits before receivership. Santa Fe's E&O carrier denied coverage claiming late notice. The Nevada guaranty association paid the \$15,000 policy limits. The insured assigned its rights against Santa Fe to the plaintiff Talbott.

The SDR denied Talbott's POC, and in early July, Talbott appealed the denial of the claim. Estate counsel tendered the claim to the E&O carrier in early March 2018. After the carrier's presumed denial, the SDR will agree to a Class 5 claim in the full amount of the unpaid judgment

Fabriguze v. Nelson: Last quarter, the SDR reported that it was working on a resolution that could offer the claimants an opportunity to seek recovery against Santa Fe's insurance coverage. In March, TDI approved the SDR's draft Stipulation to resolve the Fabriguze intervention, and it has been circulated to counsel.

In early February 2018, Fabriguze filed an amended petition in intervention in the receivership. AIG filed its answer to the Fabriguze intervention in March. The SDR could move to dismiss the intervention under the Receivership Act statute barring interventions. However, the plaintiff would then simply do something else that would require the estate to spend money to respond. Fabriguze has legal standing to pursue a claim against AIG, the Santa Fe E&O policy carrier. The most cost-effective manner to resolve the dispute is to enter into a Stipulation that recites the claim does not violate the stay, and either severs or dismisses the intervention.

The agreement 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.

Disputed Claims Submissions: The SDR submitted two unresolved pro se appeals of POC determinations (Cerra Insurance Agency and Kenneth Porter) to the Special Master at the disputed claims setting on January 29, 2018. As of the date of this report, there has been no recommendation by the Special Master.

Mr. Porter subsequently filed his response in opposition to the SDR's Disputed Claim application as a complaint to TDI. The SDR's response detailed the history of the claim and advised that it was a disputed claim pending before the Special Master.

- **Guaranty Association Reporting:** As of April 7, 2018, a total of \$19,288,755 in expense and loss payments and reserves were reported by the guaranty associations (as of the last status report, the total was \$19,170,125). Loss payments and reserves total \$11,108,355 (\$11,122,599 at last report), and guaranty association administrative expense payments and reserves total \$8,180,400 (\$8,047,526 at last report).

General Legal Activities

- **Litigation Report:** No new lawsuits were received in the last quarter.
- **Regulatory Matters:** The New Mexico ancillary proceeding remains open.
- **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:** There was no activity in this quarter.

Conclusion

Summary of Major Achievements since Last Status Conference:

- Reviewed guaranty association POCs.

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: Fall 2018

Factors Affecting Closing Date and Final Distribution:

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