

FILED

10 JAN 20 PM 3: 39

IN THE CIRCUIT COURT OF THE  
SECOND JUDICIAL CIRCUIT,  
IN AND FOR LEON COUNTY, FLORIDA

C-06  
BOB INZER  
CLERK CIRCUIT COURT  
LEON COUNTY, FLORIDA  
IN RECEIVERSHIP OF  
FORTUNE INSURANCE COMPANY,  
In Liquidation, a Florida corporation

CASE NO.: 01-1254

**RECEIVER'S MOTION FOR APPROVAL OF SECOND INTERIM CLAIMS REPORT  
AND RECOMMENDATION ON CLAIMS**

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, as Receiver of Fortune Insurance Company ("Receiver"), hereby files its Second Interim Claims Report and moves this court for an Order approving the Second Interim Claims Report. In support of its Motion, the Receiver says:

1. Fortune Insurance Company ("Fortune") was a Florida corporation previously authorized to transact the business of insurance in the State of Florida. On July 6, 2001, this Court adjudicated Fortune insolvent and entered the Order Appointing the Florida Department of Insurance as Receiver [of Fortune] for Purposes of Liquidation, Injunction, and Notice of Automatic Stay (the "Order"). On January 7, 2003, the Florida Department of Insurance became a part of the Florida Department of Financial Services.

2. This Court has jurisdiction over the Fortune Receivership and is "authorized to make all necessary or proper orders to carry out the purposes of the Florida Insurers Rehabilitation and Liquidation Act. Section 631.021(1), Florida Statutes.

3. On May 22, 2008, the Receiver reported all Class 1 and 2 claims to the Court. After the objection process was complete, the Court approved the Receiver's recommendations and ordered the Receiver to make a distribution to the Class 1 and 2 claimants. That distribution is complete.

4. The Receiver is now ready to report on the remaining claims in the Fortune estate. In accord with the Court's Order and Section 631.182, Florida Statutes, the Receiver has compiled a Second Interim Claims Report (the "Report") consisting of the Receiver's recommendations on the Class 3 claims in the Fortune receivership estate. Class 4-10 claims in the Fortune estate remain unevaluated because there are insufficient funds in the Fortune estate to pay claims below Class 3.

5. The Report is attached hereto in electronic form as a compact disc as Composite Exhibit "A." The Report is broken down into two sections. Part A of the Report consists of claims of non-guaranty association claimants and Part B consists of all claims of guaranty association claimants. For the Court's convenience, paper copies of the summary totals from each section of the Report are attached as Composite Exhibit "B."

6. Part A of the Report contains 27,941 filed claims by non-guaranty association claimants for a total amount claimed of \$62,577,916.68. The total amount recommended by the Receiver is \$4,144,556.07.

7. Part B of the Report contains one filed claim by a guaranty association claimant for a total amount claimed of \$15,019,819.71. The total amount recommended by the Receiver for the payment of guaranty association claims is \$15,019,819.71. The guaranty association identified within the report is the Florida Insurance Guaranty Association ("FIGA").

8. Under Section 631.181(2), Florida Statutes, claimants are entitled to notice of the Receiver's recommendations on their claim and the deadline for filing objections. A sample of the "Notice to Claimants" is attached hereto as Exhibit "C."

9. The Receiver proposes establishing a deadline of March 31, 2010 for claimants to file an objection with the Court. The Receiver has a procedure for processing late-filed objections. For any objection filed after the deadline, the Receiver will send a letter to the

claimant advising that the objection was not filed in compliance with Florida Statutes and this Court's order and, therefore, does not qualify as a filed objection. A copy of the letter will be filed with the Court.

10. The Receiver recommends that its recommendations be approved unless an objection is filed within the deadline set by the Court.

**WHEREFORE**, the Receiver respectfully moves this Court for an Order:

A. Authorizing and directing the Receiver to provide notice to each claimant of the Receiver's reported recommendations regarding their claim, by U.S. mail to the claimant's last known address as shown in the Receiver's files.

B. Directing all persons who have filed claims, as reported to the Court, to file any objection that they may have to the Receiver's Report with the Clerk of this Court on or before 11.59 p.m. on March 31, 2010 at:

Clerk of the Leon County Circuit Court  
Leon County Courthouse  
301 S. Monroe Street  
Tallahassee, Florida 32301

And requiring that a copy of said objection be served on the Receiver at:

The State of Florida Department of Financial Services  
As Receiver of Fortune Insurance Company  
Division of Rehabilitation and Liquidation  
P.O. Box 110  
Tallahassee, Florida 32302-0110

C. Requiring any persons filing objections to submit documentation to support their claim and declaring that the Court will not consider any information or documentation submitted after the objection is filed.

D. Approving the Receiver's procedure for addressing late-filed objections.

E. Finally, approving the Receiver's recommendations contained in the Receiver's Second Interim Claims Report for which no objections are filed.

**DATED** this 20<sup>th</sup> day of January, 2010.

A handwritten signature in black ink, appearing to read 'Eric S. Scott', written over a horizontal line.

ERIC S. SCOTT, Senior Attorney  
Florida Bar No. 0911496  
Florida Department of Financial Services  
Division of Rehabilitation and Liquidation  
Post Office Box 110  
Tallahassee, Florida 32302-0110  
(850) 413-4513 – Telephone  
(850) 488-1510 – Facsimile

FLORIDA DEPARTMENT OF FINANCIAL SERVICES -DIVISION OF REHABILITATION AND LIQUIDATION  
 FORTUNE INSURANCE COMPANY  
 SECOND INTERIM CLAIMS REPORT  
 PART A - FOR NON GUARANTY ASSOCIATION CLAIMANTS

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY NON GUARANTY ASSOCIATION CLAIMANTS \$62,577,916.68  
 TOTAL AMOUNT RECOMMENDED TO NON GUARANTY ASSOCIATION CLAIMANTS \$4,144,556.07  
 TOTAL NUMBER 27,941

Secured Claims

COUNT OF SECURED CLAIMS : 0  
 AMOUNT CLAIMED FOR SECURED CLAIMS BY NON GUARANTY ASSOCIATION \$0.00  
 AMOUNT RECMD FOR SECURED CLAIMS TO NON GUARANTY ASSOCIATION

Unsecured Claims

COUNT OF CLASS 1 CLAIMS : 0 COUNT OF CLASS 6 CLAIMS : 653  
 AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY NON GUARANTY ASSOCIATION \$0.00 AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY NON GUARANTY ASSOCIATION \$30,371,710.40  
 AMOUNT RECMD FOR CLASS 1 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS : AMOUNT RECMD FOR CLASS 6 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :  
 COUNT OF CLASS 2 CLAIMS : 0 COUNT OF CLASS 7 CLAIMS : 1  
 AMOUNT CLAIMED FOR CLASS 2 CLAIMS BY NON GUARANTY ASSOCIATION CLAIMANTS \$0.00 AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY NON GUARANTY ASSOCIATION \$7,614.38  
 AMOUNT RECMD FOR CLASS 2 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS : AMOUNT RECMD FOR CLASS 7 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :  
 COUNT OF CLASS 3 CLAIMS : 27,092 COUNT OF CLASS 8 CLAIMS : 99  
 AMOUNT CLAIMED FOR CLASS 3 CLAIMS BY NON GUARANTY ASSOCIATION \$25,126,599.14 AMOUNT CLAIMED FOR CLASS 8 CLAIMS BY NON GUARANTY ASSOCIATION \$524,037.70  
 AMOUNT RECMD FOR CLASS 3 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS : AMOUNT RECMD FOR CLASS 8 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :

COUNT OF CLASS 4 CLAIMS : 4 COUNT OF CLASS 9 CLAIMS : 0  
 AMOUNT CLAIMED FOR CLASS 4 CLAIMS BY NON GUARANTY ASSOCIATION \$46,507.09 AMOUNT CLAIMED FOR CLASS 9 CLAIMS BY NON GUARANTY ASSOCIATION \$0.00  
 AMOUNT RECMD FOR CLASS 4 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS : AMOUNT RECMD FOR CLASS 9 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :  
 COUNT OF CLASS 5 CLAIMS : 90 COUNT OF CLASS 10 CLAIMS : 2  
 AMOUNT CLAIMED FOR CLASS 5 CLAIMS BY NON GUARANTY ASSOCIATION \$1,504,224.89 AMOUNT CLAIMED FOR CLASS 10 CLAIMS BY NON GUARANTY ASSOCIATION CLAIMANTS : \$4,997,223.08  
 AMOUNT RECMD FOR CLASS 5 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS : AMOUNT RECMD FOR CLASS 10 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :

Note: If status is unevaluated, then dollar amounts have been suppressed

FLORIDA DEPARTMENT OF FINANCIAL SERVICES - DIVISION OF REHABILITATION AND LIQUIDATION  
 FORTUNE INSURANCE COMPANY  
 SECOND INTERIM CLAIMS REPORT  
 PART B - FOR GUARANTY ASSOCIATION

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY GUARANTY ASSOCIATION	\$15,019,819.71
TOTAL AMOUNT RECOMMENDED TO GUARANTY ASSOCIATION	\$15,019,819.71
TOTAL NUMBER	1

COUNT OF CLASS 1 CLAIMS :	0	COUNT OF CLASS 6 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00	AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 1 CLAIMS TO GUARANTY ASSOCIATION :		AMOUNT RECMD FOR CLASS 6 CLAIMS TO GUARANTY ASSOCIATION :	
COUNT OF CLASS 2 CLAIMS :	0	COUNT OF CLASS 7 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 2 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00	AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 2 CLAIMS TO GUARANTY ASSOCIATION :		AMOUNT RECMD FOR CLASS 7 CLAIMS TO GUARANTY ASSOCIATION :	
COUNT OF CLASS 3 CLAIMS :	1	COUNT OF CLASS 8 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 3 CLAIMS BY GUARANTY ASSOCIATION :	\$15,019,819.71	AMOUNT CLAIMED FOR CLASS 8 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 3 CLAIMS TO GUARANTY ASSOCIATION :	\$15,019,819.71	AMOUNT RECMD FOR CLASS 8 CLAIMS TO GUARANTY ASSOCIATION :	
COUNT OF CLASS 4 CLAIMS :	0	COUNT OF CLASS 9 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 4 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00	AMOUNT CLAIMED FOR CLASS 9 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 4 CLAIMS TO GUARANTY ASSOCIATION :		AMOUNT RECMD FOR CLASS 9 CLAIMS TO GUARANTY ASSOCIATION :	
COUNT OF CLASS 5 CLAIMS :	0	COUNT OF CLASS 10 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 5 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00	AMOUNT CLAIMED FOR CLASS 10 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 5 CLAIMS TO GUARANTY ASSOCIATION :		AMOUNT RECMD FOR CLASS 10 CLAIMS TO GUARANTY ASSOCIATION :	

Note: If status is unevaluated, then dollar amounts have been suppressed

FLORIDA DEPARTMENT OF FINANCIAL SERVICES  
RECEIVER



«company»

January 12, 2010

**NOTICE of DETERMINATION**

«DELIVERYPOINTBARCODE»  
«CD\_COMPANY» «ID\_NO»-«SUFFIX»  
«FULLNAME»  
«ADDRESSLINE2»  
«ADDRESSLINE1»  
«city» «state» «ZIPCODE»

IDENTIFICATION NUMBER: «cd\_company» «id\_no»-«suffix»  
INSURED: «policyhold»  
POLICY NUMBER: «policy\_no»  
CLAIM NUMBER: «claim\_no»  
AMOUNT CLAIMED: «amt\_claimd»  
AMOUNT RECOMMENDED CLAIMANT:  
CLASS: «class»

**THIS IS NOT A BILL**

RE: «COMPANY»

**THIS IS NOT A BILL**

Civil Action: «CASE\_NO»  
2<sup>nd</sup> Judicial Circuit Court  
Leon County, Florida

**OBJECTION FILING DEADLINE: March 31, 2010**

**THIS IS NOT A BILL.** The purpose of this Notice of Determination is to inform you of the Receiver's report of its final recommendations to the Circuit Court concerning the classification and amount on a claim filed by you against the Receivership Estate of «COMPANY». A copy of the court order reflecting approval of these recommendations can be obtained at [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org).

The Receiver has evaluated Class 1 through Class 3 claims submitted in the estate of «COMPANY» and is recommending the amount on the line reading "Amount Recommended Claimant." The Receiver's "Class" or "Priority" of your claim will affect the amount you may receive. Florida Statute 631.271, "Priority of claims", defines the classification of claims. (See F.S. 631.271 on reverse side of this form.) **Please be advised that the assets in the Receivership estate of «COMPANY» are not sufficient to fund a distribution payment to all claimants. In fact, the Receiver does not anticipate a distribution to any claimants beyond Class 3.** No claims in Class 4 through Class 10 were evaluated. Therefore, if your class has been identified as Class 4 through Class 10, you will not see any amount on the line reading "Amount Recommended Claimant". Florida Statute 631.271, "Priority of claims", defines the classification of claims. (See F.S. 631.271 on reverse side of this form.)

Below is a brief description of the class of claims being reported to the Court:

- Class 1 Costs & expenses of the Receiver and state guaranty funds
- Class 2 Loss claims covered by the policy
- Class 3 Refund of unearned premium on non-assessable policies
- Class 4 Claims of the Federal Government
- Class 5 Claims of employees
- Class 6 Claims of general creditors
- Class 7 Claims of any state or local government
- Class 8 Claims filed late
- Class 9 Surplus or contribution notes & premium refunds on assessable policies
- Class 10 Claims of shareholders or other owners

**If you agree with the amount recommended and the class/priority, no further action on your part is necessary.** If you object to the recommended amount or to the assigned class of your claim, YOU MUST FILE YOUR WRITTEN OBJECTION WITH BOTH THE RECEIVER AND THE CLERK OF COURT, SECOND JUDICIAL CIRCUIT, LEON COUNTY COURT HOUSE, 301 S. MONROE STREET, TALLAHASSEE, FLORIDA 32301.

YOUR OBJECTION MUST BE POSTMARKED BY **March 31, 2010**. IT IS SUGGESTED THAT YOU SEND YOUR OBJECTION BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

The objection procedure is:

1. At the top of your statement, include the following information: The Civil Action Number noted above, your identification number noted above, and your correct address and telephone number. State in detail all legal and factual reasons for your objection.
2. Attach a copy of this notice and any documentation to support your objection. By order of the Court, all documentation must be filed with your objection.
3. Mail original to the Clerk of Court, a copy to the Receiver, and keep a copy for yourself.
4. If your objection cannot be resolved, a hearing will be scheduled before the Circuit Court, Leon County, Florida.

**FLORIDA DEPARTMENT OF FINANCIAL SERVICES, RECEIVER**  
«company», P.O. BOX 110  
TALLAHASSEE, FLORIDA 32302-0110  
Website: [www.MyFloridaCFO.com/Receiver](http://www.MyFloridaCFO.com/Receiver)  
Telephone: 850-413-3081, Toll Free: 800-882-3054, Facsimile: 850-922-9115

**FLORIDA DEPARTMENT OF FINANCIAL SERVICES  
RECEIVER  
«company»**

**NOTE:** Any distribution will be made on a pro-rata basis. If a distribution is made, you may not receive the full amount recommended for your claim. Depending on the assets available for distribution; you and other claimants in your classification may only receive a percentage of the amount recommended on your claim. (i.e. 25% equals 25 cents on the dollar.)

**IF a distribution is made, the payee(s) name(s) on the claim check will be the same as the name(s) appearing on the front of this form. If the information on this form is incorrect, or becomes incorrect in the future, it is your responsibility to notify the Receiver and document any changes. Further instructions can be found on our website listed below.**

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**FLORIDA STATUTE 631.271 Priority of Claims**

631.271 Priority of claims.—

(1) The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this subsection. Every claim in each class shall be paid in full or adequate funds shall be retained for such payment before the members of the next class may receive any payment. No subclasses may be established within any class. The order of distribution of claims shall be:

(a) Class 1.—

1. All of the receiver's costs and expenses of administration.

2. All of the expenses of a guaranty association or foreign guaranty association in handling claims.

(b) Class 2.— All claims under policies for losses incurred, including third-party claims, all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which claims are not under policies, and all claims of a guaranty association or foreign guaranty association. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, may not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment by an employer to her or his employee may be treated as a gratuity.

(c) Class 3.—Claims under nonassessable policies for unearned premiums or premium refunds.

(d) Class 4.—Claims of the Federal Government.

(e) Class 5.—Debts due to employees for services performed, to the extent that the debts do not exceed \$2,000 for each employee and represent payment for services performed within 6 months before the filing of the petition for liquidation. Officers and directors are not entitled to the benefit of this priority. This priority is in lieu of any other similar priority that is authorized by law as to wages or compensation of employees.

(f) Class 6.—Claims of general creditors.

(g) Class 7.—Claims of any state or local government. Claims, including those of any state or local government for a penalty or forfeiture, shall be allowed in this class, but only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph (j).

(h) Class 8.—Claims filed after the time specified in F.S. 631.181(3), except when ordered otherwise by the court to prevent manifest injustice, or any claims other than claims under paragraph (i) or under paragraph (j).

(i) Class 9.—Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.

(j) Class 10.—The claims of shareholders or other owners.

(2) In a liquidation proceeding involving one or more reciprocal states, the order of distribution of the domiciliary state shall control as to all claims of residents of this and reciprocal states. All claims of residents of reciprocal states shall be given equal priority of payment from the insurer's assets regardless of where such assets are located.

<p><b>FLORIDA DEPARTMENT OF FINANCIAL SERVICES, RECEIVER</b> «company», P.O. BOX 110 TALLAHASSEE, FLORIDA 32302-0110 Website: <a href="http://www.MyFloridaCFO.com/Receiver">www.MyFloridaCFO.com/Receiver</a> <b>Telephone: 850-413-3081, Toll Free: 800-882-3054, Facsimile: 850-922-9115</b></p>
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