

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

FILED  
09 MAY 22 PM 3:28  
CIRCUIT COURT  
CLERK COUNTY, FLORIDA  
LEON COUNTY, FLORIDA

IN RE: THE RECEIVERSHIP OF  
FORTUNE INSURANCE COMPANY,  
In Liquidation, a Florida corporation.

---

CASE NO.: 01-1354

**RECEIVER'S MOTION FOR APPROVAL OF FIRST INTERIM CLAIMS REPORT AND  
RECOMMENDATIONS ON CLAIMS**

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, as Receiver of Fortune Insurance Company in Liquidation, ("Fortune") ("Receiver"), files herewith the Receiver's First Interim Claims Report and says:

1. Fortune Insurance Company ("Fortune") was a Florida corporation previously authorized to transact the business of a domestic property and casualty insurance company in the State of Florida. On July 6, 2001, the Second Judicial Circuit Court in and for Leon County, Florida ("Court"), entered its Order Appointing the Florida Department of Insurance as Receiver for Purposes of Liquidation, Injunction and Notice of Automatic Stay ("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 estate 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. In accord with the Court's Order and Section 631.182, Florida Statutes, the Receiver has compiled a First Interim Claims Report (the "Report") consisting of the Receiver's recommendations on the Class one and Class two claims in the Fortune receivership estate. The Receiver will report its recommendations on the remaining claims at a later date. The Report is attached hereto in electronic form as a compact disc as Exhibit "A" and is broken down into two

parts. Part A of the Report consists of claims of non-guaranty association claimants and Part B consists of claims of guaranty association claimants.

4. Part A of the Report shows that the gross number of filed claims for non-guaranty association claimants is 2,034 for a total amount claimed of \$18,743,108.16. The total amount recommended by the Receiver is \$680,822.54. For the Court's convenience, a paper copy of the summary totals from Part A of the Report is attached as Exhibit "B".

5. Part B of the Report shows that the gross number of filed claims for guaranty association claimants is four (4) for a total amount claimed of \$15,961,319.75. The total amount recommended by the Receiver is \$15,961,319.75. For the Court's convenience, a paper copy of the summary totals from Part B of the Report is attached as Exhibit "C". The guaranty association identified within the report is the Florida Insurance Guaranty Association ("FIGA").

6. 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 copy of the "Notice to Claimants" is attached hereto as Exhibit "D."

7. The Receiver has a procedure for dealing with late-filed objections. For any objection filed after the deadline, the Receiver will send a letter to the claimant advising the claimant that their objection was not filed in compliance with Florida Statutes and this Court's Order and, therefore will not be handled as a filed objection. A copy of this letter will be filed with the Court.

8. The Receiver requests that its recommendations be approved unless an objection is filed thereto within the deadline set by the Court.

WHEREFORE, the Receiver moves this Court for entry for an Order:

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

B. Directing all persons who have filed claims, as herewith 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 July 11, 2008 at:

Clerk of the Leon County Circuit Court  
Leon County Courthouse  
301 S. Monroe Street  
Tallahassee, FL 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 & Liquidation  
P.O. Box 110  
Tallahassee, FL 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 Receiver's First Interim Claims Report for which no objections are filed.

DATED this 22<sup>nd</sup> day of May, 2008.



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  
 FIRST INTERIM CLAIMS REPORT  
 PART A - FOR NON GUARANTY ASSOCIATION CLAIMANTS

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY NON GUARANTY ASSOCIATION CLAIMANTS	\$18,743,108.16
TOTAL AMOUNT RECOMMENDED TO NON GUARANTY ASSOCIATION CLAIMANTS	\$680,822.54
TOTAL NUMBER	2,034

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	\$0.00

Unsecured Claims

COUNT OF CLASS 1 CLAIMS :	0	COUNT OF CLASS 6 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00	AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00
AMOUNT RECMD FOR CLASS 1 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :	\$0.00	AMOUNT RECMD FOR CLASS 6 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :	\$0.00
COUNT OF CLASS 2 CLAIMS :	2,034	COUNT OF CLASS 7 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 2 CLAIMS BY NON GUARANTY ASSOCIATION CLAIMANTS	\$18,743,108.16	AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00
AMOUNT RECMD FOR CLASS 2 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$680,822.54	AMOUNT RECMD FOR CLASS 7 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00
COUNT OF CLASS 3 CLAIMS :	0	COUNT OF CLASS 8 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 3 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00	AMOUNT CLAIMED FOR CLASS 8 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00
AMOUNT RECMD FOR CLASS 3 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00	AMOUNT RECMD FOR CLASS 8 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00
COUNT OF CLASS 4 CLAIMS :	0	COUNT OF CLASS 9 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 4 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00	AMOUNT CLAIMED FOR CLASS 9 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00
AMOUNT RECMD FOR CLASS 4 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00	AMOUNT RECMD FOR CLASS 9 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00
COUNT OF CLASS 5 CLAIMS :	0	COUNT OF CLASS 10 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 5 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00	AMOUNT CLAIMED FOR CLASS 10 CLAIMS BY NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00
AMOUNT RECMD FOR CLASS 5 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$0.00	AMOUNT RECMD FOR CLASS 10 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS :	\$0.00

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

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

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY GUARANTY ASSOCIATION	\$15,961,319.75
TOTAL AMOUNT RECOMMENDED TO GUARANTY ASSOCIATION	\$15,961,319.75
TOTAL NUMBER	4

COUNT OF CLASS 1 CLAIMS :	3	COUNT OF CLASS 6 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY GUARANTY ASSOCIATION :	\$2,839,192.75	AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 1 CLAIMS TO GUARANTY ASSOCIATION :	\$2,839,192.75	AMOUNT RECMD FOR CLASS 6 CLAIMS TO GUARANTY ASSOCIATION :	

COUNT OF CLASS 2 CLAIMS :	1	COUNT OF CLASS 7 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 2 CLAIMS BY GUARANTY ASSOCIATION :	\$13,122,127.00	AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 2 CLAIMS TO GUARANTY ASSOCIATION :	\$13,122,127.00	AMOUNT RECMD FOR CLASS 7 CLAIMS TO GUARANTY ASSOCIATION :	

COUNT OF CLASS 3 CLAIMS :	0	COUNT OF CLASS 8 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 3 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00	AMOUNT CLAIMED FOR CLASS 8 CLAIMS BY GUARANTY ASSOCIATION :	\$0.00
AMOUNT RECMD FOR CLASS 3 CLAIMS TO GUARANTY ASSOCIATION :		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  
FORTUNE INSURANCE COMPANY  
MAY XX, 2008  
NOTICE TO CLAIMANTS**

«full\_name»  
«unit»  
«street»  
«city» «state» «zip»«zip4»

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: FORTUNE INSURANCE COMPANY**

***THIS IS NOT A BILL***  
**Civil Action: 01-1254**  
**2<sup>nd</sup> Judicial Circuit Court**  
**Leon County, Florida**

**OBJECTION FILING DEADLINE: JULY 11, 2008**

**THIS IS NOT A BILL.** The purpose of this Notice to Claimants 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 **Fortune Insurance Company**. A copy of the court order reflecting approval of these recommendations is enclosed.

The Receiver has evaluated Class 1 and Class 2 claims submitted in the estate of **Fortune Insurance 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.) 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 at this time:

- Class 1 Costs & expenses of the Receiver and state guaranty funds
- Class 2 Loss claims covered by the policy

**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 THE DEADLINE GIVEN ABOVE. 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  
FORTUNE INSURANCE COMPANY  
P.O. BOX 110  
TALLAHASSEE, FLORIDA 32302-0110  
Website: [www.myfloridacfo.com/Receiver](http://www.myfloridacfo.com/Receiver)  
Telephone: (800) 882-3054, (850) 413-3179, Facsimile: (850) 922-9115**

**FLORIDA DEPARTMENT OF FINANCIAL SERVICES  
RECEIVER  
FORTUNE INSURANCE 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.**

\*\*\*\*\*  
**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 FORTUNE INSURANCE COMPANY P.O. BOX 110 TALLAHASSEE, FLORIDA 32302-0110 Website: <a href="http://www.myfloridacfo.com/Receiver">www.myfloridacfo.com/Receiver</a> Telephone: (800) 882-3054, (850) 413-3179, Facsimile: (850) 922-911</b></p>
---