

COPY - not verified against original

FILED

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

CASE NO.: 04-2353

IN RE: The Receivership of  
AMERICAN SUPERIOR INSURANCE  
COMPANY, a Florida corporation.

2009 SEP 13 PM 3:39  
ROBINZNER  
Clerk  
CIRCUIT COURT  
LEON COUNTY, FLORIDA

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

The Florida Department of Financial Services, in its capacity as Receiver for American Superior Insurance Company ("ASIC"), hereby files this Motion for Approval of First Interim Claims Report and Recommendation on Claims, and states as follows:

1. Effective December 15, 2004, the Florida Department of Financial Services was appointed as Receiver in liquidation for American Superior Insurance Company ("Receiver").
2. American Superior Insurance Company ("ASIC") was a property and casualty insurance company located in the State of Florida.
3. This Court has jurisdiction over the ASIC 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.
4. In accordance with Section 631.182, Florida Statutes, the Receiver has completed its evaluation and recommendations on all classes of claims in the ASIC receivership estate. At this time, the Receiver does not anticipate the available assets of the receivership will allow for a distribution beyond the Class 2 claims, and therefore has not evaluated the claims beyond Class 2.
5. The Receiver's First Interim Claims Report and Recommendation, dated September 1, 2010, (hereinafter the "Report") is lengthy and, in the interest of protecting the

environment and conserving estate resources, the Receiver has not attached a copy of this document at this time. However, the Receiver would certainly be willing to make the Report immediately available to the Court upon the Court's request.

6. The Claims Report is broken down into two sections: Part A of the Report consists of all claims by non-guaranty association claimants, while Part B consists of all claims of guaranty association claimants. Part A contains 5035 filed claims by non-guaranty association claimants totaling \$21,209,814.08 of which the total amount recommended by the Receiver to be paid is \$347,121.06. Part B contains five claims filed by the guaranty association in an amount totaling \$171,729,485.61, of which the Receiver expects to pay \$159,569,375.53.

7. The guaranty association identified in the report is the Florida Insurance Guaranty Association ("FIGA"). This Court has previously ordered the Receiver to make early access payments to FIGA in the total amount of \$12,650,000.00, and there is a pending request to the Court for an additional \$3 million, which would bring the total to \$15,650,000.00.

8. The gross number of filed claims is 5,040, for a total amount claimed of \$192,939,299.69. The total amount expected to be paid to the claimants by the Receiver is \$159,916,496.59. For the Court's convenience, paper copies of the summary totals of the Reports are attached and incorporated herein as Exhibit "A."

9. Pursuant to Section 631.182, Florida Statutes, claimants are entitled to notice of the Receiver's recommendation on their claims and the deadline for filing an objection. The deadline to be established for filing objections will not be less than forty-five (45) days from the date of this Court's Order granting approval of the Reports. A sample copy of the "Notice to Claimants" is attached and incorporated herein as Exhibit "B."

10. 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 his/her/its objection was not filed in compliance with the 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.

11. The Receiver requests that its recommendation set forth in the Reports be approved unless an objection is filed thereto within the deadline approved by the Court.

WHEREFORE the Receiver respectfully requests this Court enter an Order:

- A. Authorizing and directing the Receiver to provide notice to each claimant, as herewith reported to the Court, of the Receiver's recommendation regarding his/her/its claim, by United States Mail to the last known address of such person or entity, as shown in the Receiver's files.
- B. Authorizing the Receiver to establish an objection filing deadline that is not less than forty-five (45) days from the date of this Court's Order granting approval of the Receiver's Report.
- C. Directing all persons or entities who have filed claims or had them deemed filed, as herewith reported to the Court, to file in writing any objection to the Receiver's Report they might have with the Clerk of this Court by the objection filing deadline, at:

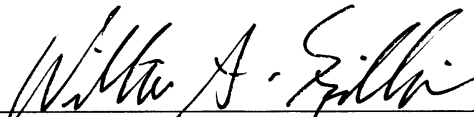
Clerk of the Leon County Circuit Court  
Second Judicial Circuit  
Leon County Courthouse  
301 S. Monroe Street  
Tallahassee, FL 32301

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

Florida Department of Financial Services, as  
Receiver for ASIC  
PO Box 110  
Tallahassee, FL 32302-0110

- D. Requiring any person filing an objection to clearly state the name and claim identification number of the person filing the objection and to clearly state the factual and legal reason(s) supporting the objection and claim.
- E. Requiring any person filing an objection to submit documentation to support his/her/its claim and declaring that the Court will not consider any information or documentation submitted after the objection is filed.
- F. Approving the Receiver's First Interim Claims Report and Recommendations on Claims for which no objections are filed.
- G. Approving the Receiver's procedure for addressing late filed objections.

**SUBMITTED** this 13<sup>th</sup> day of September, 2010.

  
\_\_\_\_\_  
William A. Spillias, Chief Attorney  
Florida Bar No. 909769  
Robert V. Elias, Deputy Chief Attorney  
Florida Bar No. 530107  
Jody E. Collins, Senior Attorney  
Florida Bar No. 500445  
Florida Department of Financial Services  
Division of Rehabilitation and Liquidation  
Post Office Box 110  
Tallahassee, Florida 32302-0110  
(786) 336-1371 – Telephone  
(850) 921-6115 – Facsimile

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

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY NON GUARANTY ASSOCIATION CLAIMANTS	\$21,209,814.08
TOTAL AMOUNT RECOMMENDED TO NON GUARANTY ASSOCIATION CLAIMANTS	\$347,121.06
TOTAL NUMBER	5,035

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 :	69
AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY NON GUARANTY ASSOCIATION	\$0.00	AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY NON GUARANTY ASSOCIATION	\$584,984.95
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 :	775	COUNT OF CLASS 7 CLAIMS :	1
AMOUNT CLAIMED FOR CLASS 2 CLAIMS BY NON GUARANTY ASSOCIATION CLAIMANTS	\$14,790,474.26	AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY NON GUARANTY ASSOCIATION	\$6,370.51
AMOUNT RECMD FOR CLASS 2 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	\$347,121.06	AMOUNT RECMD FOR CLASS 7 CLAIMS TO NON GUARANTY ASSOCIATION CLAIMANTS:	

COUNT OF CLASS 3 CLAIMS :	4,007	COUNT OF CLASS 8 CLAIMS :	182
AMOUNT CLAIMED FOR CLASS 3 CLAIMS BY NON GUARANTY ASSOCIATION	\$3,064,344.70	AMOUNT CLAIMED FOR CLASS 8 CLAIMS BY NON GUARANTY ASSOCIATION	\$2,744,939.66
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 :	1	COUNT OF CLASS 9 CLAIMS :	0
AMOUNT CLAIMED FOR CLASS 4 CLAIMS BY NON GUARANTY ASSOCIATION	\$18,700.00	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 :	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:		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  
 AMERICAN SUPERIOR INSURANCE COMPANY  
 FIRST INTERIM CLAIMS REPORT  
 PART B - FOR GUARANTY ASSOCIATION

SUMMARY TOTALS

TOTAL AMOUNT CLAIMED BY GUARANTY ASSOCIATION 171,729,485.61  
 TOTAL AMOUNT RECOMMENDED TO GUARANTY ASSOCIATION 159,569,375.53  
 TOTAL NUMBER 5

COUNT OF CLASS 1 CLAIMS : 3 COUNT OF CLASS 6 CLAIMS : 0  
 AMOUNT CLAIMED FOR CLASS 1 CLAIMS BY GUARANTY ASSOCIATION : \$14,577,852.57 AMOUNT CLAIMED FOR CLASS 6 CLAIMS BY GUARANTY ASSOCIATION : \$0.00  
 AMOUNT RECMD FOR CLASS 1 CLAIMS TO GUARANTY ASSOCIATION : \$14,577,825.02 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 : \$144,991,550.51 AMOUNT CLAIMED FOR CLASS 7 CLAIMS BY GUARANTY ASSOCIATION : \$0.00  
 AMOUNT RECMD FOR CLASS 2 CLAIMS TO GUARANTY ASSOCIATION : \$144,991,550.51 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 : \$12,160,082.53 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



«company»

September 13, 2010

## NOTICE of DETERMINATION

«DELIVERYPOINTBARCODE»

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

IDENTIFICATION NUMBER:

INSURED: «cd\_company» «id\_no»-«suffix»  
POLICY NUMBER: «policyhold»  
CLAIM NUMBER: «policy\_no»  
AMOUNT CLAIMED: «claim\_no»  
AMOUNT RECOMMENDED CLAIMANT: «amt\_claimd»  
CLASS: «AMT\_DUE\_CL»  
«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: ?filing deadline?

**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 or on your behalf 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 2 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 3 through Class 10 were evaluated. Therefore, if your class has been identified as Class 3 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 ?filing deadline?. 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: 850-921-6115

**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> Telephone: 850-413-3081, Toll Free: 800-882-3054, Facsimile: 850-921-6115</p>
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