

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

CASE NO. 2005-CA-1069

IN RE:
The Receivership of SENIOR CITIZENS
MUTUAL INSURANCE COMPANY,
A Florida Corporation,

Respondent

**RECEIVER'S MOTION TO DEEM SHAREHOLDER
AND MEMBER CLAIMS FILED**

The Florida Department of Financial Services as Receiver of Senior Citizens Mutual Insurance Company (hereinafter "SCMIC" or "Receiver"), by and through its undersigned counsel, moves this Honorable Court for entry of an Order authorizing it to deem the Class 10 shareholder and member claims, both known and unknown, deemed filed for the purpose of an ultimate distribution of assets remaining in the SCMIC estate, and in support of its Motion states as follows:

1. Senior Citizens Mutual Insurance Company was originally organized as a stock insurer writing General Liability and Directors and Officers Liability insurance on December 18, 1986. It was converted to a mutual insurer on March 29, 2001. It has always been located in the State of Florida.

2. On May 9, 2005, this Court entered an Order Appointing the Florida Department of Financial Services as Receiver for Purposes of Rehabilitation, Injunction, and Notice of Automatic Stay. Subsequently, on June 1, 2005, this Court entered an Order

Appointing the Florida Department of Financial Services as Receiver for Purposes of Liquidation, Injunction, and Notice of Automatic Stay.

3. This Court has jurisdiction over the SCMIC 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. The Receiver’s First Interim Claims Report and Recommendation, dated September 2, 2010, (hereinafter the “Report”) was approved by Court Order entered on September 21, 2010. Distribution to Classes 1 through 3 was made following that date.

5. An Order Approving the Updated Final Claims Report, Claims Distribution Report, and Distribution Accounting, and Authorizing Distribution, was entered on September 11, 2013, once the Receiver had obtained the release from the federal government and cleared the way to distribute past Class 4. Distribution was then made to Classes 4 through 7 in the amount of \$1,059,284.90.

5. As of the June 30, 2015 quarterly financial statement, just over \$2.2 million remains in the SCMIC estate. The Receiver now seeks to distribute that surplus in accordance with the requirements of Florida law.

6. The Receiver has received two Proofs of Claim. One was received on September 27, 2013, from the Elderly Housing Development and Operations Company (“EHDOC”). EHDOC is a policyholder/member of SCMIC.

7. The other Proof of Claim was received from Joel S. Mutnick, CPA, as “de facto attorney” for Region Nine Housing Corporation, on May 14, 2014

8. Pursuant to Florida Statutes Section 628.501, the distribution of assets remaining in a mutual insurer is to be accomplished as follows:

628.501 Mutual member's share of assets on liquidation.—

(1) Upon any liquidation of a domestic mutual insurer, its assets remaining after discharge of its indebtedness, policy obligations, repayment of contributed or borrowed surplus, if any, and expenses of administration, shall be distributed to existing persons who were its members at any time within 5 years next preceding the date such liquidation was authorized or ordered, or date of last termination of the insurer's certificate of authority, whichever date is the earlier; except, that if the office has reason to believe that those in charge of the management of the insurer have caused or encouraged the reduction of the number of members of the insurer in anticipation of liquidation and for the purpose of reducing thereby the number of persons who may be entitled to share in distribution of the insurer's assets, it may enlarge the 5 years' qualification period above provided for by such additional period as it may deem to be reasonable.

(2) The distributive share of each such member shall be in the proportion that the aggregate premiums earned by the insurer on the policies of the member during the combined periods of his or her membership bear to the aggregate of all premiums so earned on the policies of all such members. The insurer may, and if a life insurer shall, make a reasonable classification of its policies so held by such members, and a formula based upon such classification, for determining the equitable distributive share of each such member. Such classification and formula shall be subject to the approval of the office. (emphasis added)

This statute sets out the roadmap that the Receiver seeks to follow as it prepares to distribute the surplus in the SCMIC estate.

9. Upon knowledge and belief, the Receiver is aware of and can identify approximately 30 known members of this mutual company that may be entitled to make a claim in the SCMIC estate, due to their status as shareholders or policyholders ("members"). Based on the Receiver's calculations, the premiums paid by these members totaled 46.71% of the total aggregate premiums collected by SCMIC during the almost five years in which the mutual company operated, or \$1,440,343.69. The total aggregate premiums collected by SCMIC during that period was \$3,083,868.00.

10. The remaining premiums earned total \$1,643,524.31, which accounts for 53.29% of that total aggregate premium reported over the almost five years in which SCMIC operated as a mutual company. These premiums were paid by policyholders/members who cannot be identified, and who have not filed claims in the SCMIC estate but who would be entitled to do so if they could be located.

11. The records obtained from SCMIC when the Receiver was appointed were incomplete and very limited. Historical policyholder information is lacking. Receivership personnel have been able to reconstruct a partial historical member listing, but it is incomplete. The list that was created through painstaking review of dozens of boxes of records is attached as Exhibit "A."

12. The Receiver therefore seeks the authorization of the Court to deem file the claims of these known and unknown members in the amounts as stated in Exhibit "A", so that it can begin the process of ultimately distributing the funds in the SCMIC estate.


13. The next step in the process, following the entry of such an Order, will be the evaluation by the Receiver of all claims received and/or deemed filed, in accordance with the requirements of Chapter 631. Once the evaluation and objection process is concluded, distribution can be made and the estate can be closed. If funds are to be distributed to claimants that cannot be located, their funds will be sent to the Florida Bureau of Unclaimed Property.

14. In an ongoing effort to maintain accuracy and efficiency, the Receiver proactively works to update its records to reflect change of address information for interested parties (e.g. agents, claimants, creditors, policyholders, subscribers) before mailing notifications and distribution checks. The Receiver has access to databases and

other publicly available information which provide updated address information. The Receiver requests the authority to search for change of address information when applicable and to use the change of address information for future mailings without further direction of this Court.

WHEREFORE the Receiver respectfully requests this Court grant this Motion and enter an Order authorizing the Receiver to deem file all known and unknown shareholder and member owner claims as more fully set forth above.

IT IS HEREBY CERTIFIED that a true and correct copy of this Motion to Deem File Shareholder and Member Claims was sent this 26th day of August, 2015 to: Thomas Julin, Esq., Hunton & Williams LLP, 1111 Brickell Avenue, Suite 2500, Miami, FL 33131, tjulin@hunton.com; and Dan Brown, Esq., Carlton Fields Jordan Burt, P.A., PO Drawer 190, Tallahassee, FL 32302-0190, dbrown@cfjlaw.com.



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ClaimantLName	ClaimantCity	ClaimantStateShort
ALLIED SERVICES DIVISION SEVERANCE FUND	ARLINGTON HEIGHTS	FL
ALLIED SERVICES DIVISION WELFARE FUND	ARLINGTON HEIGHTS	IL
BEACHES ELDERLY HOUSING CORP	JACKSONVILLE BCH	FL
CATHEDRAL FOUNDATION OF JACKSONVILLE INC	JACKSONVILLE	FL
CLARA B KNIGHT DEV CENTER & URBAN LEAGUE	MIAMI	FL
DRUM HILL ASSOCIATES LP DBA DRUM HILL SENIOR	PEEKSKILL	NY
EDHOC & HUNTON & WILLIAMS	MIAMI	FL
EDWARD WATERS COLLEGE SENIOR HOME INC	JACKSONVILLE	FL
EPISCOPAL DIOCESE OF SOUTH CAROLINA	CHARLESTON	SC
EPISCOPAL HOUSING OF LEHIGH VALLEY	ALLENTOWN	PA
FLAGSHIP PROPERTIES MANAGEMENT	JACKSONVILLE	FL
FRANCISCAN VILLAGE	CLEVELAND	OH
LYCEM SENIOR CITIZENS MUTUAL	CONSHOHOCKEN	PA
METHODIST RETIREMENT COMMUNITY	RONKONKAMA	NY
NATIONAL ASIAN PACIFIC CENTER	SEATTLE	WA
NATIONAL COUNCIL OF SENIOR	SILVER SPRINGS	MD
PENINSULA HOUSING DBA AMARILYS POND	MIAMI	FL
PENINSULA HOUSING DBA BUENAVISTA APTS	MIAMI	FL
PENINSULA HOUSING DBA ST AUGUSTIN	MIAMI	FL
PENINSULA HOUSING DBA TWIN LAKES APARTMENTS	MIAMI	FL
PENINSULA HOUSING DBA VICTORIA GARDEN	MIAMI	FL
REGION NINE HOUSING CORP	PLANTATION	FL
TAMPA NAPPE ELDERLY HOUSING DEVELOPMENT	WASHINGTON	DC
ULGM INC HOUSING MANAGEMENT CORP	MIAMI	FL
URBAN LEAGUE HSNB CORP OF GREATER MIA	MIAMI	FL
VISTA ALEGRE APARTMENTS	MIAMI	FL
WINTER PARK RETIREMENT CENTER INC	WINTER PARK	FL

EXHIBIT A