

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

In Re: The Receivership of the
FIRST SOUTHERN
INSURANCE COMPANY

CASE NO.: 1992-CA-004127

**RECEIVER'S MOTION FOR ORDER APPROVING DISCHARGE ACCOUNTING,
AUTHORITY TO RESERVE FOR DISCHARGE EXPENSES, AUTHORITY TO
TRANSFER UNCLAIMED PROPERTY, AUTHORITY TO REIMBURSE FLORIDA
INSURANCE REGULATORY TRUST FUND, AUTHORITY TO COLLECT
REINSURANCE POST-DISCHARGE, AUTHORIZING DESTRUCTION OF
OBSOLETE RECORDS AND DIRECTING FINAL DISCHARGE**

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, as Receiver of First Southern Insurance Company ("Receiver"), by and through its undersigned Attorney, moves this Court for entry of an Order Approving the Receiver's Discharge Accounting, Authority to Reserve for Discharge Expenses, Authority to Transfer Unclaimed Property, Authorization for the Destruction of Obsolete Records, Authority to Collect Reinsurance Post-Discharge and Directing Final Discharge. In support of its Motion, the Receiver states as follows:

1. First Southern Insurance Company ("FSIC") was a Florida corporation previously authorized to transact insurance business in the State of Florida. On October 31, 1992, this Court adjudicated FSIC insolvent and entered the Order Appointing the Florida Department of Insurance as Receiver (of FSIC) for the 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 FSIC Receivership and is "authorized to make all necessary or proper orders to carry out the purposes of the Florida Insurers Rehabilitation and Liquidation Act. §631.021(1), Florida Statutes.

3. On August 9, 2012, this Court entered an Order Approving Receiver's Motion for Approval of Final Claims Report, Claims Distribution Report, Claims Distribution Accounting, and Authorizing Distribution (see Exhibit A).

4. The Receiver has previously made advance payments totaling \$16,751,465.54 to guaranty associations. The Receiver made those payments pursuant to early access agreements approved by this Court. These distributions, along with the distribution pursuant to the June 17, 2011 Order, have resulted in a 100% pro-rata distribution on Class 1 and a 52.9194% pro-rata distribution on allowed Class 2 claims.

5. Despite the Receiver's best efforts, some approved claims may have inadequate current address information and/or may have not provided the Receiver with a form W-9, required by the Internal Revenue Service. The total unclaimed (or abandoned) property in the estate is \$7,594.02 and the Receiver recommends that it be transferred to the appropriate Bureau of Unclaimed Property.

6. The Receiver's Discharge Accounting Statement – Projected for Discharge on December 31, 2012 (the "Discharge Accounting") is attached as Exhibit B.

7. As shown in the Discharge Accounting, the estimated value of all assets of the FSIC estate is projected to be \$13,664.52 as of December 2012.

8. Due to an exhaustion of funds in the FSIC estate, the Receiver has found it necessary to fund the discharge of this estate by obtaining an additional \$20,000.00 from the Florida Insurance Regulatory Trust Fund ("Regulatory Trust Fund"). This additional available cash is reflected in the Discharge Accounting (see Exhibit B, Schedule A). This recent funding would be a liability of the insurance company going forward, but for the proposed discharge. The Receiver recommends that any residual funds post-discharge and any recoveries made by

the Division in the future first be applied to repay this \$20,000.00, before any other payments are made to the Regulatory Trust Fund as recommended below.

9. The Receiver receives an annual budget from the State of Florida's Insurance Regulatory Trust Fund ("Regulatory Trust Fund"), which funds a portion of the Receiver's costs and expenses of administration. The Receiver funds the majority and remainder of its budget from the assets of the insurers it supervises. The portion funded by the Regulatory Trust Fund supports several state funded positions within the Division of Rehabilitation and Liquidation and includes their direct labor and a portion of the Receiver's overhead. Each receivership is allocated a portion of these state funded costs and expenses based on certain allocation formulas. It is the Receiver's policy to record these state funded expenditures as "Contributed Equity" on each receivership financial statement. If the Receiver determines that there are sufficient assets available at the end of the receivership, it is the policy of the Receiver to reimburse the Regulatory Trust Fund for Contributed Equity as the Receiver's costs and expenses of administration, as well as the claims of state and local governments pursuant to Florida Statute §631.271. The Contributed Equity for FSIC as of December 31, 2012 was calculated at \$668,321.70 (see Exhibit B, Schedule E). Additionally, the Receiver's policy authorizes the utilization of alternative plans for reimbursing the Regulatory Trust Fund when it is in the best interest of the estate.

10. The FSIC estate has outstanding reinsurance billings of approximately \$65,000.00. Rather than keeping the FSIC estate open and incurring additional expenses while these billing are recovered, the Receiver recommends discharging the FSIC estate and granting the Division of Rehabilitation and Liquidation the authority to continue efforts to recover these reinsurance amounts. The Division proposes to forward any recovered funds, minus its

expenses of recovery, to the Regulatory Trust Fund pursuant to the Receiver's policy for reimbursing contributed equity and Florida Statute §631.271.

11. FSIC was a workers' compensation insurance company. It wrote insurance in multiple states. Workers' compensation claims stay open for long periods of time. They have what is known in the industry as a "long tail." Five states have open worker's compensation claims in the FSIC estate. The various state guaranty associations are continuing to pay these claims. As the guaranty associations pay these claims, the Receiver bills and collects reinsurance related to those open claims. Depending on how these worker's compensation claims develop, there may be significant additional reinsurance owed to the FSIC estate.

12. The Receiver requests that the Division of Rehabilitation and Liquidation be given authority, post-discharge, to continue to bill and collect reinsurance due the FSIC estate. Any amounts collected would be remitted to the Regulatory Trust Fund, up to the amount of the contributed equity detailed in Paragraph 9, above. While not likely, if any material amount above the contributed equity is collected, the Division will seek further direction from the Court.

13. The Receiver requests authority to retain \$2,000.00 as a reserve for "wind up" expenses of the Receivership (see Exhibit B, Schedule D). The de minimus amounts of any leftover reserve "wind up" expenses and the remaining balance of funds would make it impractical to make an additional distribution. The Receiver requests an Order authorizing it to transfer any surplus expense funds remaining after discharge and the balance of the estate's assets to the Regulatory Trust Fund.

14. The Receiver requests an Order authorizing the Division of Rehabilitation and Liquidation to remit to the Regulatory Trust Fund any assets which may be recovered following

the discharge of this receivership if, in the Receiver's sole discretion, the value of the recovered assets does not justify the reopening of this receivership estate.

15. All mortgages, notes, or other liens in favor of FSIC recorded with the Clerks of the Circuit Courts in the State of Florida, upon property located in the State of Florida, not sold, transferred, or assigned, by the Receiver are hereby assigned to the Regulatory Trust Fund.

16. Upon approval of the Receiver's request for final discharge, the records of the FSIC estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. This request is in compliance with Article 1, Section 24, Florida Constitution, Chapters 119 and 257, Florida Statutes and Chapters 1B-24 and 1B-26.003, Florida Administrative Code.

17. The Receiver requests entry of an Order that it shall be fully and finally discharged of its responsibilities in this Receivership, but for the recovery of reinsurance as detailed above.

WHEREFORE, the Receiver respectfully requests this Court grant its Motion and enter an Order:

- A. Approving and adopting the Receiver's Discharge Accounting;
- B. Authorizing and directing the Receiver to retain \$2,000.00 as a reserve for "wind up" expenses of the Receiver. Any surplus remaining from the \$2,000.00 and the balance of the estate's assets shall be paid to the Florida Insurance Regulatory Trust Fund;
- C. Authorizing the transfer of \$7,594.02 to the appropriate Bureau of Unclaimed Property as unclaimed property;
- D. Authorizing the Receiver to reimburse the Florida Insurance Regulatory Trust Fund the amount of \$20,000.00, for its December 2012 advance, as the first priority for any and all funds recovered after discharge before any other payments are made to the Regulatory Trust Fund;

E. Authorizing the Division of Rehabilitation and Liquidation, after final discharge, to continue recovery efforts of reinsurance amounts owed to the FSIC estate and to forward the recovered amounts, minus the cost of recovery, to the Florida Insurance Regulatory Trust Fund up to the amount of contributed equity;

F. While not likely, if any material amount above the contributed equity is collected, the Division will seek further direction from the Court;

G. Authorizing the Receiver, after final discharge, to destroy any obsolete records in the Receiver's possession;

H. Authorizing the Division of Rehabilitation and Liquidation to remit to the Florida Insurance Regulatory Trust Fund any assets which may be recovered following the discharge of this receivership if, in the Division's sole discretion, the value of the recovered assets does not justify the reopening of this receivership;

I. Assigning all mortgages, notes, or other liens, on property located in Florida, in favor of FSIC to the Florida Insurance Regulatory Trust Fund; and

J. Directing, without further Order of this Court, the final discharge of the Receiver of its responsibilities in this receivership estate as of 12:01 a.m. on December 31, 2012 but for the authorized reinsurance recovery efforts of the Division.

DATED this 17th day of December, 2012.


STEVEN G. BRANGACCIO,
SENIOR ATTORNEY
Florida Bar No. 0071773
Florida Department of Financial Services
Division of Rehabilitation and Liquidation
2020 Capital Circle, S.E.
Tallahassee, Florida 32301
Steven.Brangaccio@MyFloridaCFO.com
(850) 413-4445

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

In Re: The Receivership of the
FIRST SOUTHERN
INSURANCE COMPANY

CASE NO.: 1992-CA-004127

**ORDER APPROVING RECEIVER'S FINAL CLAIMS REPORT,
CLAIMS DISTRIBUTION REPORT AND DISTRIBUTION ACCOUNTING
AND AUTHORIZING DISTRIBUTION**

THIS MATTER came on upon the Florida Department of Financial Services', as Receiver of First Southern Insurance Company (the "Receiver"), *Motion for Approval of the Final Claims Report, Claims Distribution Report and Distribution Accounting and For Order Authorizing Distribution*. The Court having reviewed the pleadings of record and being otherwise fully informed in the premises, finds as follows:

It is **ORDERED** and **ADJUDGED**:

1. The Receiver's Final Claims Report, Claim Distribution Report and Distribution Accounting are approved;
2. The Receiver is authorized and directed to make a distribution of estate assets in the amount of \$11,090,027.63 (the final pro-rata calculation and the amount distributed may have a slight variance due to rounding at the time of check processing) on Class 2 claims. This distribution together with prior early access distributions represents a pro-rata distribution of 100% of the recommended claim amount of Class 1 and 52.9194% of the recommended claim amount of Class 2 claims;
3. The Receiver is authorized and directed to reserve the sum of \$5,000.00, for the Receiver's cost of distribution, estate administration and wind-up costs; and

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EXHIBIT A

4. The Receiver is authorized and directed to transfer unclaimed distribution amounts to the Florida Bureau of Unclaimed Property.

5. The Receiver is authorized to incorporate any future claimant information updates resulting from the distribution process into its database.

DONE and ORDERED in Chambers at the Leon County Courthouse, Tallahassee, Leon County, Florida, this 9 day of AUGUST, 2012.



KEVIN J. CARROLL
Circuit Judge

First Southern Insurance Company
Discharge Accounting Statement
Projected for Discharge in December 2012

ASSETS

	<u>Amount</u>	
Cash	\$ 13,664.52	Schedule A
Total Assets	<u>\$ 13,664.52</u>	

LIABILITIES

	<u>Recommended Disbursement</u>	
Payable to Fla. Dept. Financial Services Bureau of Unclaimed Property	\$ 7,594.02	
Total Liabilities	<u>\$ 7,594.02</u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	6,070.50	
Projected Windup Expenses	<u>(2,000.00)</u>	Schedule D
Balance (Any Remaining Funds to the Florida Insurance Regulatory Trust Fund)	<u>4,070.50</u>	

Index to Attached Schedules:

Schedule A - Available Cash Projection
Schedule B - Allocated State Funds Expensed
Schedule C - Interest Earnings Projection
Schedule D - Receiver Windup Expenses
Schedule E - Contributed Equity and Advances from the Regulatory Trust Fund

First Southern Insurance Company
Available Cash Projection
Projected for Discharge in December 2012

	Cash Balance as of October 31, 2012	Nov-12	Dec-12
Beginning Cash Balance		\$ 5,220.52	\$ (557.48)
Advance from Regulatory Trust Fund (Note 1)			20,000.00
Sub-total		0.00	20,000.00
Direct Receiver Expenses			
Storage, Utilities, Postage, Misc.		150.00	150.00
Sub-total		150.00	150.00
Allocated Receiver Expenses			
Labor & Benefits		5,462.00 ¹	5,462.00 ¹
Indirect Expenses		166.00 ²	166.00 ²
Sub-total		5,628.00	5,628.00
Cash Balance Before Interest Earnings		(557.48)	13,664.52
Interest Earnings			
Actual interest earned on SPIA APR on the previous month's average Pooled Cash		-	-
Estimate based on assumed SPIA APR on the previous month's average Pooled Cash		-	-
Ending Cash Balance	\$ 5,220.52	\$ (557.48)	\$ 13,664.52

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

July actual	2,071.83
August actual	10,753.59
September actual	1,835.81
October actual	7,186.33
Sub-total	21,847.56
4 month actual average (rounded)	5,462.00

² Indirect Expenses: This estimate is First Southern's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on First Southern's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.05%
Estimated Total for the Receiver	\$ 165,000.00
Estimated Expense (doubled for increased activity)	\$ 166.00

Note (1): Per the Receiver's Policy R3-6.11, Advance from Regulatory Trust Fund, this amount will be recorded as a liability and will be reimbursed prior to making distribution for any other claimants.

First Southern Insurance Company
Allocated State Funds Expensed (Contributed Equity)
Projected for Discharge In December 2012

	<u>November-12</u>	<u>December-12</u>	<u>Totals</u>
Estimated Accrual of Allocated State of Florida Expenses			
Labor & Benefits	\$ 1,080.00 ¹	\$ 1,080.00 ¹	\$ 2,160.00
Indirect Expenses	10.00 ²	10.00 ²	20.00
Total	<u>\$ 1,090.00</u>	<u>\$ 1,090.00</u>	<u>2,180.00</u>
Total Estimated State of Florida Expenses			<u>\$ 2,180.00</u>

Assumptions for Allocated State of Florida Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

July actual	1,508.18
August actual	1,337.31
September actual	691.12
October actual	796.28
Sub-total	<u>4,332.87</u>
4 month actual average (rounded)	<u>1,080.00</u>

² Indirect Expenses: This estimate is First Southern's estimated pro rata share of the Receiver's estimated total indirect State expenses. The pro rata share calculation is based on First Southern's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.05%
Estimated Total for the State	<u>\$ 15,000.00</u>
Estimated Expense (rounded)	<u>\$ 10.00</u>

First Southern Insurance Company
Interest Earnings Projection
Projected for Discharge in December 2012

Interest accrued for November 2012

Beginning cash balance at 11/1/2012	\$ 5,220.52
Ending cash balance at 11/30/2012	(557.48)
Average cash balance for November	2,331.52
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	46.63
Accrual for November (Rounded)	\$ -

Interest accrued for December 2012

Beginning cash balance at 12/1/2012	\$ (557.48)
Ending cash balance at 12/31/2012	13,664.52
Average cash balance for December	6,553.52
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	131.07
Accrual for December (Rounded)	\$ -

First Southern Insurance Company
Receiver Windup Expenses
Projected for Discharge in December 2012

Windup Expenses (Projected)

Records storage, records destruction, bank fees	\$ 2,000.00
tax returns for 2012	
Total	<u>\$ 2,000.00</u>

First Southern Insurance Company
Statement of Contributed Equity and Advances from Regulatory Trust Fund Estimated Balances
Projected for Discharge in December 2012

I. Contributed Equity Balance as of 9/30/12		\$ 665,344.57
October Accrual (Actual)	\$ 797.13	
November - December Accrual	<u>\$ 2,180.00</u>	
(Estimate from Schedule B)		
Total		<u>\$ 2,977.13</u>
Projected Contributed Equity Balance as of 12/31/12		<u><u>\$ 668,321.70</u></u>
II. Advances from Regulatory Trust Fund (RTF) Balance as of 9/30/12		\$ -
Advance from RTF (December)	<u>\$ 20,000.00</u>	
Total		<u>\$ 20,000.00</u>
Projected Advances from RTF Balance as of 12/31/12		<u><u>\$ 20,000.00</u></u> Note (1)

Note (1): Per the Receiver's Policy R3-8.11, "Insurance Regulatory Trust Fund - Advance", this amount will be recorded as a liability and will be reimbursed from any future recoveries prior to making distribution to any other claimants.