

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

In Re: Receivership of
VANGUARD FIRE AND CASUALTY
COMPANY, A Florida Corporation.

Case No.: 2007-CA-0186

**DEPARTMENT'S MOTION FOR ORDER APPROVING DISCHARGE ACCOUNTING
STATEMENT, DIRECTING FINAL DISCHARGE, AND AUTHORIZING
DESTRUCTION OF OBSOLETE RECORDS**

COMES NOW, the Florida Department of Financial Services, as Receiver of Vanguard Fire & Casualty Company (hereinafter "Department"), by and through the undersigned counsel, and hereby files this *Motion for Order Approving Discharge Accounting Statement, Directing Final Discharge, and Authorizing Destruction of Obsolete Records*, and as good grounds therefor states as follows:

1. Vanguard Fire & Casualty Company (hereinafter "Vanguard") was a corporation authorized pursuant to the Florida Insurance Code to transact business in the State of Florida.
2. On January 19, 2007, this Court entered an *Order Appointing the Florida Department of Financial Services as the Receiver of Vanguard for Purposes of Rehabilitation, Injunction, and Notice of Automatic Stay* ("Rehabilitation Order"). By subsequent order of this Court, Vanguard was placed in receivership for purposes of liquidation on March 26, 2007 ("Liquidation Order").
3. Pursuant to section 631.021(1), Florida Statutes, this Court has jurisdiction over the Receivership and is authorized to enter all necessary and/or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, sections 631.001 et seq., Florida Statutes.

4. On July 12, 2012, this Court entered an *Order Approving Receiver's First Interim Claims Report and Recommendation on Claims*. The First Interim Claims Report reflects the Receiver's evaluation and recommendations on claims filed in Classes 1 through 3. Because the limitation of assets in the estate will not allow for a distribution beyond Class 3 claims, claims in Classes 4 through 10 were evaluated for class only.

5. On May 31, 2015, this Court entered an *Order Approving Receiver's Second Interim Claims Report and Recommendation on Claims*. The Second Interim Claims Report reflects the Receiver's evaluation and recommendation of one Class 2 claim and the evaluation as to class only of one Class 8 claim. The two claims were filed after the First Interim Claims Report was presented to this Court for approval.

6. On August 24, 2016, this Court entered an *Order Approving Receiver's Final Claims Report, Claims Distribution Report, and Distribution Accounting and Authorizing Distribution* ("Distribution Order"). The Distribution Order authorized a distribution of estate assets in the amount of \$3,269,322.76 to all claimants in Classes 1-3, which constitutes 100% of the amount recommended in Classes 1 and 2 and 35.2060% of the amount recommended in Class 3.

7. A certain number of the final distribution checks were not mailed due either to a bad address or a W-9 issue or were not cashed prior to the check's expiration date and remain unclaimed. After a diligent search to locate the claimants due these funds, the Department will compile an unclaimed property report pursuant to section 717.117, Florida Statutes. The Department plans to transfer said unclaimed funds to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

8. The Department's Discharge Accounting Statement—Projected as of March 31 2017, (the "*Discharge Accounting*") is attached hereto and incorporated herein by reference as **"Exhibit A."**

9. As shown in the *Discharge Accounting*, the estimated value of all assets of the Vanguard receivership estate is projected to be \$1,603,510.20. Of that \$1,603,510.20, approximately \$1,591,304.38 will be forwarded by the Department to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

10. As shown in the *Discharge Accounting*, the estimated value of the assets available for "wind up" expenses is \$12,205.82. The Department requests authority to retain \$11,100.00 as a reserve for "wind up" expenses of the receivership.

11. The Department funds the majority of its budget from the assets of the open receiverships it supervises. Additionally, the Department receives an annual budget appropriation from the State of Florida's Insurance Regulatory Trust Fund ("IRTF"), which funds a portion of the Department's costs and expenses of administration. Each receivership is charged a portion of these state funded costs and expenses. Over the course of the Vanguard receivership, certain services and resources funded by the IRTF have been used by Vanguard. It is the Department's policy to record these state funded expenditures as Contributed Equity on each receivership financial statement. As shown in the *Discharge Accounting* as of March 2017, the projected Contributed Equity balance for the Vanguard receivership is \$365,477.51. It is the policy of the Department to reimburse the IRTF for Contributed Equity if the Department determines that there are sufficient assets available at the end of the receivership. The Department requests an order authorizing the Department to remit to the IRTF any surplus expense funds remaining after discharge.

12. Upon approval of the Department's request for final discharge, the records of the Vanguard receivership estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. Prior to the actual destruction of these records, the Department will seek approval to destroy the records by submitting an *In-House Records Disposition Document* to the Department's Records Management Liaison Officer ("RMLO") for review and approval.

13. Although such recovery is unlikely, the Department requests an order authorizing it to remit to the IRTF any assets which may be recovered following the discharge of this receivership if, in the Department's sole discretion, the value of the recovered assets does not justify the re-opening of this receivership estate.

14. The Department requests an Order that it shall be fully and finally discharged of its responsibilities in this receivership as of 11:59 P.M. on March 31, 2017.

15. The Department requests that the March 8, 2017, Case Management Conference currently scheduled for 9:30 a.m., be cancelled if an Order Directing Final Discharge is entered before the date of the hearing.

WHEREFORE, the Department respectfully requests this Court enter an Order:

- A. Approving and adopting the Department's Discharge Accounting Statement;
- B. Authorizing and directing the Department to transfer any unclaimed funds to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.
- C. Authorizing and directing the Department to retain \$11,100.00 as a reserve for "wind up" expenses of the Department;
- D. Authorizing the Department to remit any surplus expense funds remaining after discharge to the IRTF;

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

F. Directing, without further order of this Court, the final discharge of the Department of its responsibilities in this receivership estate as of 11:59 p.m. on March 31, 2017; and

G. Authorizing the Department to remit to the IRTF any assets which may be recovered following the discharge of this receivership if, in the Department's sole discretion, the value of the recovered assets does not justify the re-opening of this receivership estate.

H. Cancelling the Case Management Conference set for March 8, 2017 at 9:30 a.m.

Respectfully Submitted on this the 28th day of February 2017.

/s/ Jamila G. Gooden

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Vanguard Fire and Casualty Company
Discharge Accounting Statement
Projected for March 2017

ASSETS

	<u>Amount</u>	
Cash	\$ 1,603,510.20	Schedule A
Total Assets	<u>\$ 1,603,510.20</u>	

LIABILITIES

	<u>Recommended Disbursement</u>
Outstanding Amounts from Distributions to Unclaimed Property	1,591,304.38
Estimated Contributed Equity Reimbursement	
Total Liabilities	<u>\$ 1,591,304.38</u>

WINDUP SUMMARY

Funds Available for Windup Expenses	12,205.82	
Projected Windup Expenses	<u>(11,100.00)</u>	Schedule D
Balance (Any Remaining Windup Funds to the FL Insurance Regulatory Trust Fund)	<u>1,105.82</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

Vanguard Fire and Casualty Company
Available Cash Projection
Projected for March 2017

	Cash Bal. as of January 31, 2017	Feb-17	Mar-17
Beginning Pooled Cash Balance	\$ 1,642,595.01	\$ 1,622,410.20	
Direct Receiver Expenses (Actual or Estimated)			
Rent-Storage, Postage, Scanning UCP records		1,100.00	1,100.00
Sub-total		1,100.00	1,100.00
Allocated Receiver Expenses (Estimated)			
Labor & Benefits		20,000.00	20,000.00
Indirect Expenses		500.00	500.00
Sub-total		20,500.00	20,500.00
Cash Balance Before Interest Earnings		1,620,995.01	1,600,810.20
Interest Earnings			
Pooled Cash:			
Actual SPIA Earnings for December to be credited on 1/31/2017.		1,415.19	
Estimate based on assume SPIA APR on the previous month's average Pooled Cash balance (Sch. D)			2,700.00
Ending Pooled Cash Balance	\$ 1,642,595.01	\$ 1,622,410.20	\$ 1,603,510.20

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: The \$20,000 projection is based on the last two months average which are more representative of the level of activity for this estate.

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

Estimated Total Asset %	0.20%
Estimated Total for the Receiver	\$ 125,000.00
Estimated Expense (doubled)	\$ 500.00

Vanguard Fire and Casualty Company

Allocated State Funds Expensed

Estimated from February 2017 through the Projected Discharge Date of March 2017

THIS STATEMENT INCLUDED FOR INFORMATION PURPOSES ONLY - AMOUNTS NOT PART OF DISTRIBUTION CALCULATION

	February	March	Totals
Accrued Allocated State of Florida Expenses (Estimated)			
Labor & Benefits	\$ -	\$ -	\$ - ¹
Indirect Expenses	180.00	180.00	\$ 360.00 ²
Total	\$ 180.00	\$ 180.00	\$ 360.00 ³

Assumptions for Allocated State of Florida Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average doubled for increased labor activity during the distribution period.

October Actual	-
November Actual	-
December Actual	-
January Actual	-
Sub-total	-
4 mth. actual average (rounded)	\$ -

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

Before Distribution

Estimated Total Asset %	0.20%
Estimated Total for the State	\$ 45,000.00
Estimated Expense (doubled)	\$ 180.00

³ Per current Receiver policies and procedures, these accumulated amounts are recorded contributed equity to the estate.

Vanguard Fire and Casualty Company
Interest Earnings Projection - Pooled Cash
Projected for March 2017

Interest accrued for February 2017

Beginning cash balance	1,642,595.01
Ending cash balance	1,622,410.20
Average cash balance	1,632,502.61
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	32,650.05

Accrual for February 2017 **\$ 2,700.00**

Interest accrued for March 2017

Beginning cash balance	1,622,410.20
Ending cash balance	1,603,510.20
Average cash balance	1,612,960.20
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	32,259.20

Accrual for March 2017 **\$ 2,700.00**

Vanguard Fire and Casualty Company
Receiver Discharge Expenses
Projected for March 2017

Discharge Expenses (Projected for Post 3/31/2017)

Records Storage, Records Destruction, Labor	11,100.00
2016 & 2017 Final Tax Return Preparation	
Total	<u>\$ 11,100.00</u>

Vanguard Fire and Casualty Company
Statement of Contributed Equity from Regulatory Trust Fund Estimated Balances
Projected for Discharge by 3/31/2017

I. Contributed Equity Balance as of 1/31/2017		\$ 365,117.51
	Accrual for February - March (Estimate from Schedule B)	<u>\$ 360.00</u>
Total		<u>\$ 360.00</u>
Projected Contributed Equity Balance as of 3/31/2017		<u><u>\$ 365,477.51</u></u>