

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

IN RE: The Receivership of SENSIBLE
HOME WARRANTY, LLC, a Nevada
corporation.

CASE NO.: 2015-CA-0273

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**ANCILLARY RECEIVER'S MOTION FOR ORDER APPROVING
DISCHARGE ACCOUNTING STATEMENT, DIRECTING FINAL DISCHARGE OF
RECEIVER, AUTHORIZING DESTRUCTION OF OBSOLETE RECORDS,
DIRECTING DISPOSITION OF REMAINING ASSETS AND CLOSING ESTATE**

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, as Ancillary Receiver of Sensible Home Warranty, LLC, (hereinafter "Ancillary Receiver" or "Department"), by and through the undersigned counsel, hereby files this Motion for Order Approving Discharge Accounting Statement, Directing Final Discharge of Receiver, Authorizing Destruction of Obsolete Records, Directing Disposition of Remaining Assets and Closing Estate, and as grounds therefore states the following:

1. Sensible Home Warranty, LLC ("Sensible") was a foreign insurer domiciled in Nevada to transact the business of insurance in the State of Florida.
2. On September 24, 2014, the State of Nevada Commissioner of Insurance issued an Order Setting Liquidation Procedures ("Nevada Order").
3. On February 19, 2015, this Court entered an Order Appointing the Florida Department of Financial Services as Ancillary Receiver and Notice of Automatic Stay ("Ancillary Order").

4. This Court has jurisdiction over the Sensible 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, Section 631.021(1), Florida Statutes.

5. The Court approved the Ancillary Receiver's First Interim Claims Report in the Order Approving Ancillary Receiver's First Interim Claims Report and Recommendation on Claims entered December 9, 2015.

6. On March 29, 2016, the Ancillary Receiver filed its Motion for Approval of Final Claims Report, Claims Distribution Report, Distribution Accounting, and for Order Authorizing Distribution.

7. On April 4, 2016, this Court entered its Order Approving Ancillary Receiver's Motion for Approval of Final Claims Report, Claims Distribution Report and Distribution Accounting, and Authorizing Distribution. The Ancillary Receiver subsequently made the appropriate distributions pursuant to said Order.

8. Despite the Ancillary Receiver's best efforts, some approved claims may have inadequate current address information and or may have not provided the Ancillary Receiver with a form W-9, required by the Internal Revenue Service. The total unclaimed property in the estate is \$3,126.51. The Ancillary Receiver plans to transfer said unclaimed funds to the Department of Financial Services as "unclaimed property" pursuant to Section 717.119, Florida Statutes.

9. The Ancillary Receiver's Discharge Accounting Statement – Projected as of March, 2014 ("Discharge Accounting") is attached hereto as Exhibit "A."

10. As shown in the Discharge Accounting, the estimated value of all assets of the Sensible Receivership estate is projected to be \$24,489.83.

11. Due to insufficient funds in the Sensible estate, the Receiver found it necessary to fund this estate by borrowing \$20,000.00 from the Regulatory Trust Fund ("RTF"). This funding is a

liability of the insurance company. The Ancillary Receiver recommends the money be repaid before any other distribution.

12. The Ancillary Receiver receives an annual budget from the State of Florida's Insurance Regulatory Trust Fund ("RTF"), which funds a portion of the Ancillary Receiver's costs and expensed of administration. The Ancillary Receiver funds the majority and remainder of its budget from the assets of the insurers it supervises. The portion funded by the RTF supports state funded positions within the Division of Rehabilitation and Liquidation and includes their direct labor and a portion of the Ancillary Receiver's overhead. Each receivership is allocated a portion of these state funded costs and expenses based on certain allocation formulas. It is the Ancillary 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 Ancillary Receiver to reimburse the RTF for Contributed Equity as the Ancillary 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 Sensible through April 30, 2016, was calculated at \$2,770.71 (see 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.

13. The Ancillary Receiver requests authority to retain \$1,000.00 as a reserve for "wind-up" expenses of the receivership.

14. After the Ancillary Receiver transfers the unclaimed funds to the Department of Financial Services as "unclaimed property" and pays all of the "wind up" expenses, it is estimated that there will be approximately \$91.16 remaining in the estate. The Ancillary Receiver requests the authority to transfer the actual remaining amount to the Regulatory Trust Fund pursuant to the Ancillary Receiver's policy for reimbursing Contributed Equity and Florida Statute Section 631.271.

15. Upon approval of the Ancillary Receiver's request for final discharge, the records of the Sensible receivership estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. This procedure is in direct 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. Before the destruction of the obsolete records the Ancillary Receiver will give notice of its intent to The United States Department of Justice as result of a prior agreement.

16. All mortgages, notes, judgments, or other liens in favor of Sensible recorded with the Clerk of Circuit Courts in the State of Florida, upon property located in the State of Florida, not sold, transferred or assigned by the Ancillary Receiver, are hereby assigned to RTF.

17. Although such recovery is unlikely, the Ancillary Receiver requests an order authorizing the Division of Rehabilitation and Liquidation to remit the 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 estate.

18. The Ancillary Receiver requests an Order that it shall be fully and finally discharged of its responsibilities in this Receivership and the receivership closed as of 11:59 p.m. on June 30, 2016.

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

A. Approving and adopting the Ancillary Receiver's Discharge Accounting Statement;

B. Authorizing and directing the Ancillary Receiver to retain \$1,000.00 as a reserve for "wind up" expenses of the Ancillary Receiver. Any surplus remaining in the estate shall be paid to the Regulatory Trust Fund.

- C. Authorizing and directing the Ancillary Receiver to repay to the Regulatory Trust Fund the original \$20,000.00 borrowed at the onset of the receivership, plus \$272.16 in interest.
- D. Authorizing and directing the Ancillary Receiver to transfer unclaimed funds to the Department of Financial Services as “unclaimed property” pursuant to Section 717.119, Florida Statutes;
- E. Authorizing and directing the Ancillary Receiver to transfer the funds remaining in the estate of approximately \$91.16 to the Regulatory Trust Fund;
- F. Authorizing and directing the Ancillary Receiver, after final discharge, to destroy any obsolete records in the Receiver’s possession after providing notice to The United States Department of Justice;
- G. Authorizing the Division of Rehabilitation and Liquidation to remit to the Regulatory Trust Fund any assets which may be recovered following the June 30, 2016, closure of this receivership estate if, in the Division’s sole discretion, the value of the recovered assets does not justify the reopening of this receivership;
- H. Authorizing and directing the Ancillary Receiver to assign all mortgages, notes, judgments, or other liens, in favor Florida Insurance Regulatory Trust Fund; and
- I. Directing, without further order of this Court, the final discharge of the Ancillary Receiver of its responsibilities in this receivership estate and the

receivership closes as of 11:59 p.m. on June 30, 2016.

RESPECTFULLY SUBMITTED on this 10th day of June, 2016.

/s/ Conor J. McLaughlin
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Sensible Home Warranty
Discharge Accounting Statement
Projected for Discharge in June 2016

ASSETS

	<u>Amount</u>	
Cash	\$ 24,489.83	Schedule A
Total Assets	<u>\$ 24,489.83</u>	

LIABILITIES

	<u>Recommended Disbursements</u>	
Unclaimed Property	\$ 3,126.51	
Insurance Regulatory Trust Fund	\$ 20,272.16	
Total Liabilities	<u>\$ 23,398.67</u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	1,091.16	
Projected Windup Expenses	<u>(1,000.00)</u>	Schedule D
Balance Due to Insurance Regulatory Trust Fund	<u>91.16</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 from the Regulatory Trust Fund

Sensible Home Warranty
Available Cash Projection
Projected for Discharge in June 2016

	Cash Balance as of April 30, 2016	May	June
Beginning Cash Balance		\$ 25,909.45	\$ 27,139.41
Distribution Account Closure Transfer		\$ 2,760.28	
Distribution Check Reissue from Operating Acct.			\$ 580.58
Storage, Utilities, Postage, Bank fees		61.00	60.00
Sub-total		61.00	60.00
Allocated Receiver Expenses			
Labor & Benefits		1,500.00 ¹	2,000.00 ¹
Indirect Expenses		9.00 ²	9.00 ²
Sub-total		1,509.00	2,009.00
Cash Balance Before Interest Earnings		27,099.73 #	24,489.83
Interest Earnings			
Actual May interest earned on SPIA APR on the previous month's average Pooled Cash		39.68	-
Ending Cash Balance	\$ 25,902.74	\$ 27,139.41	\$ 24,489.83

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: This estimate is based on May's actual hours worked and an estimate of hours for June.

May Estimate	1,500.00
June Estimate	2,000.00

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

Estimated Total Asset %	0.005%
Estimated Total for the Receiver	\$ 180,000.00
Estimated Expense	\$ 9.00

Sensible Home Warranty
Allocated State Funds Expensed (Contributed Equity)
Projected for Discharge in June 2016

	<u>May-16</u>	<u>June-16</u>	<u>Totals</u>
Estimated Accrual of Allocated State of Florida Expenses			
Labor & Benefits	\$ - ¹	\$ - ¹	\$ -
Indirect Expenses	- ²	- ²	-
Total	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>	<u><u>\$ -</u></u>

Assumptions for Allocated State of Florida Expenses:

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

May Actual

June Actual

July Actual

August Actual

Sub-total

4 month actual average (rounded)

-

-

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

Estimated Total Asset %

0.005%

Estimated Total for the State

\$ 15,000.00

Estimated Expense (rounded)

\$ -

Sensible Home Warranty
Interest Earnings Projection
Projected for Discharge in June 2016

Interest accrued for May 2016

Beginning cash balance	\$ 25,909.45
Ending cash balance	27,139.41
 Average cash balance for May	 26,524.43
Assumed SPIA interest rate (Annualized)	1.00%
 Subtotal (Annualized)	 265.24

Accrual for May 2016 (Rounded)

\$ -

Interest accrued for June 2016

Beginning cash balance	\$ 27,139.41
Ending cash balance	24,489.83
 Average cash balance for June	 25,814.62
Assumed SPIA interest rate (Annualized)	1.00%
 Subtotal (Annualized)	 258.15

Accrual for June 2016 (Rounded)

\$ -

Sensible Home Warranty
Receiver Windup Expenses
Projected for Discharge in June 2016

Windup Expenses (Projected)

Tax return for 2016

\$ 1,000.00

Total

\$ 1,000.00

Sensible Home Warranty
Statement of Contributed Equity and Advances from Regulatory Trust Fund Estimated Balances
Projected for Discharge in June 2016

I. Contributed Equity Balance as of 4/30/2016	\$ 2,770.71
May - June Accrual (Estimate from Schedule B)	<u>\$ -</u>
Total	<u>\$ -</u>
Projected Contributed Equity Balance as of 6/30/2016	<u>\$ 2,770.71</u>