

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

In Re: The Receivership of
Florida Specialty Insurance Company,
a Florida corporation.

CASE NO. 2019 CA 002328

**THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF
REHABILITATION AND LIQUIDATION'S APPLICATION FOR DISBURSEMENT OF
FUNDS TO THE FLORIDA INSURANCE GUARANTY ASSOCIATION**

The Florida Department of Financial Services, Division of Rehabilitation and Liquidation, as Receiver of Florida Specialty Insurance Company (hereinafter "The Department"), moves this Honorable Court for an entry of an Order authorizing the Department to disburse funds in the amount of TEN MILLION DOLLARS AND NO CENTS (\$10,000,000.00) to the Florida Insurance Guaranty Association (hereinafter "FIGA"). These funds are hereinafter referred to as early access funds. In support of its application, the Department states:

1. Section 631.397, Florida Statutes, provides in substance that the Department may disburse assets out of such insurer's marshaled assets, as such assets become available, to each guaranty association entitled thereto.

2. FIGA is one of the guaranty associations contemplated by Section 631.397, Florida Statutes.

3. FIGA will use the funds released from the Florida Specialty Insurance Company (hereinafter "Florida Specialty") estate to its current administrative expenses and the covered claims of policyholders and third parties. In compliance with Section 631.397(2)(d), Florida Statutes, The Department and FIGA have executed an Early Access Agreement ("Agreement"). The Agreement provides in substance that FIGA shall return such early access distributions as

may be required to pay claims of secured creditors and claims falling within the priority scheme established by part I of Chapter 631, Florida Statutes. Further, FIGA will not be entitled to share in the funds ultimately distributed from the Florida Specialty estate until such allocated distributions to which the FIGA is otherwise entitled exceed the early access distributions. The Early Access Agreement is attached hereto as **EXHIBIT A**.

5. The Department represents that in accord with Section 631.397(2)(a), Florida Statutes, there are sufficient assets in the Florida Specialty estate to permit the proposed early access to the FIGA, while reserving amounts for the payment of expenses of administration, the payment of claims of secured creditors' claims to the extent of the value of the security held, and the payment of claims falling within the priorities established by Part I of Chapter 631, Florida Statutes. See **EXHIBIT B** to this application.

6. In accord with Section 631.397(2)(b), Florida Statutes, if additional assets become available in an amount sufficient to allow further early access distribution, the Department will seek additional authority to disburse same.

7. The Department represents that the proposed early access distribution provides for the equitable allocation of disbursements to each association entitled thereto, consistent with Section 631.397(2)(c), Florida Statutes.

8. FIGA regularly reports to the Department on its activities in the Florida Specialty estate. These reports include all the information required by section 631.397 (2)(d), Florida Statutes.

WHEREFORE, the Department respectfully requests this Court enter an Order approving the disbursement of early access funds in the amount of TEN MILLION DOLLARS AND NO CENTS (\$10,000,000.00) to the Florida Insurance Guaranty Association.

Respectfully submitted this 21st day of July 2020.

/signed/

Yamile Benitez-Torviso, Senior Attorney

Florida Bar No. 0151726

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Florida Department of Financial Services

Division of Rehabilitation and Liquidation

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Florida Department of Financial Services

Division of Rehabilitation and Liquidation

325 John Knox Road, Suite 101

The Atrium

Tallahassee, FL

(850) 413-4408 Telephone

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served all parties who have entered an appearance on the ECF system with a copy of this Motion.

/signed/

Yamile Benitez-Torviso

EARLY ACCESS AGREEMENT

THIS EARLY ACCESS AGREEMENT is entered into on this 14th day of July, 2020, between the **Florida Department of Financial Services, as Receiver of Florida Specialty Insurance Company, ("Department")** and the **Florida Insurance Guaranty Association ("Guaranty Association")**.

WHEREAS, Florida Specialty Insurance Company, ("Florida Specialty"), was a Florida domiciled corporation previously authorized to transact an insurance business in the State of Florida.

WHEREAS, on October 2, 2019, the Second Judicial Circuit Court in and for Leon County, Florida, (the "Court") entered its ***ORDER OF LIQUIDATION, INJUNCTION AND NOTICE OF AUTOMATIC STAY***.

WHEREAS, Section 631.397(1), Florida Statutes, provides, in relevant part, that the Department may apply to this Court for authorization to "disburse assets out of such insurer's marshaled assets, as such assets become available, to each association entitled thereto." ("Early Access"); and

WHEREAS, the Guaranty Association has requested an advance of funds from the Florida Specialty Receivership estate in order to fulfill its obligations pursuant to Part II of Chapter 631, Florida Statutes. In support of its request, the Guaranty Association has submitted to the Department a summary of the claims payments and reserves made by or on behalf of the Guaranty Association and a summary of the Guaranty Association's administrative expenses; and

WHEREAS, the Department has reviewed the documents submitted by the Guaranty Association. Based upon this review, the Department has determined that the

Guaranty Association has adequately demonstrated its need for an early access distribution of funds from the receivership estate; and

WHEREAS, the Department and the Guaranty Association acknowledge and agree that neither the Department's review of the Guaranty Association's documentation for purposes of early access distribution(s) nor this Early Access Agreement constitute an evaluation of or recommendation on any claim which the Guaranty Association may be entitled to under Section 631.271, Florida Statutes; and

WHEREAS, the Department has determined that it has sufficient liquid funds available to make an early access distribution to the Guaranty Association and that the total sums of all early access distributions, to include this distribution, is less than the Guaranty Association's incurred claims and administrative expenses; and

WHEREAS, the Department has applied or will apply to the Court for an order permitting the Department to make an early access distribution to the Guaranty Association pursuant to Section 631.397, Florida Statutes, for the partial payment of claims and administrative expenses.

NOW THEREFORE, the Department and the Guaranty Association agree as follows:

1. The Guaranty Association will respond in good faith to requests from the Department for information, files and documents. The Department will be permitted full access to the books, records, and files of the Guaranty Association pertaining to the handling and payment of covered claims and administrative expenses incurred by the Guaranty Association in fulfilling its obligations pursuant to Part II, Chapter 631, Florida Statutes.

2. The Guaranty Association will make reports to the Department no less frequently than quarterly, through Uniform Data Standards (“UDS”) or in a form acceptable to the Department, disclosing the status of the following items received, held or processed during the reporting period: current open claims count, open claims reserves, claim payments, salvage or subrogation recoveries, if any, and such other items as may be reasonably required by the Department. The reports shall be sent to the Department electrically via Secure UDS (“SUDS”) server housed by the NCIGF or mailed to the Department at Florida Department of Financial Services, Division of Rehabilitation and Liquidation, address 325 John Knox Road, Atrium Building, Suite 101, Tallahassee, Florida 32303, or such other location designated by the Department.

3. The Guaranty Association will utilize any payment received pursuant to this Agreement solely for the payment of covered claims as defined by Section 631.271, and Part II, Chapter 631, Florida Statutes, and for the payment of claims handling or administrative expenses as defined by Section 631.271(1)(a)(2), Florida Statutes, relating to the Receivership of Florida Specialty.

4. The Guaranty Association will establish and maintain separate ledger accounts for the receipt of and payments from any funds received pursuant to this Agreement.

5. The Guaranty Association agrees to promptly return to the Department all or any portion of any early access disbursements acquired by the Guaranty Association pursuant to this Agreement, with any income earned thereon, if the Department determines, at any time, that such repayment is necessary to pay claims or expenses which the Department determines to be of equal or superior priority. In the event the

Guaranty Association is required to repay to the Department any early access disbursements, the Guaranty Association will pay the Department in cash or other liquid assets as may be acceptable to the Department.

6. Pursuant to Section 631.271, Florida Statutes, the Guaranty Association understands and agrees that any distribution made pursuant to this Agreement constitutes partial payment on any claim which the Guaranty Association may have in the Florida Specialty Receivership and that it will not share in any final distribution of assets from the Florida Specialty Receivership until claimants of an equal priority receive an equal pro rata distribution on their claims.

7. Prior to the final distribution of the assets of Florida Specialty, the Department is authorized to audit the financial accounts, records and procedures of the Guaranty Association with respect to the receipt of assets or the payment of covered claims. The Guaranty Association will, within 30 days after receipt of a written request from the Department, return to the Department any early access disbursements made pursuant to this Agreement which are in excess of the amount ultimately determined by the Department to be due the Guaranty Association as a final distribution of the assets of Florida Specialty. The Department and the Guaranty Association shall cooperate in making arrangements for the destruction or other final disposition of the information, files and documents received by the Guaranty Association from Florida Specialty or the Department.

8. The Department hereby agrees to distribute to the Guaranty Association the amount set out in the pleading to which this agreement is attached for payment of covered claims and claims handling or administrative expenses as contemplated in Part

II, Chapter 631, Florida Statutes. Any and all interest that the Guaranty Association earns on funds so distributed, shall also be considered early access distributions for purposes of this Agreement.

9. The Department and the Guaranty Association agree that any and all distributions pursuant to this Agreement constitute an equitable allocation of the marshaled assets of the Florida Specialty Receivership as contemplated by Section 631.397, Florida Statutes.

10. This Early Access Agreement shall be construed in accordance with Florida law. Any legal action by either party to enforce or interpret this Agreement or the parties' obligations under this Agreement shall be commenced, litigated, and adjudicated in and by the Second Judicial Circuit Court, in and for Leon County, Florida.

11. Any notice required to be given to the parties shall be given by regular United States mail, postage prepaid, addressed as follows:

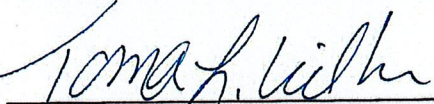
Department:	Toma Wilkerson, Division Director Florida Department of Financial Services Division of Rehabilitation and Liquidation 325 John Knox Road Atrium Building, Suite 101 Tallahassee, Florida 32303
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Guaranty Assoc.	Thomas D. Streukens, Executive Director Florida Insurance Guaranty Association Post Office Box 14249 Tallahassee, Florida 32317
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12. This Agreement merges all prior offers and agreements of every kind and expresses the full and final intent of the parties and shall be effective only upon Court approval. This Agreement shall not be modified, except by an instrument in writing, executed by the authorized representatives of the parties, and subject to Court approval.

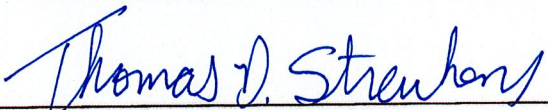
13. This Agreement supersedes all earlier agreements and will apply to all future Early Access Distributions to the Guaranty Fund. It will be attached to all future early access motions filed by the Department.

**THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, AS RECEIVER
OF FLORIDA SPECIALTY INSURANCE COMPANY**

By: 
NAME: Toma Wilkerson
TITLE: Division Director/Deputy Receiver

Date signed: 7/14/2020

FLORIDA INSURANCE GUARANTY ASSOCIATION

By: 
NAME: Thomas D. Streukens
TITLE: Executive Director

Date signed: 7/14/2020

Memo in Support of Consideration of Early Access Distribution to Guaranty Association(s)

To: Legal
 From: Tangela Sapp, Senior Estate Management Analyst
 Date: June 10, 2020
Re: Receivership of Florida Specialty Insurance Company
 All amounts reported are as of March 31, 2020, Statement of Affairs, unless otherwise noted.

Company Number 553
 Company Type P&C
 Domiciliary State Florida
 Date of Liquidation 10/02/19
 Claims Filing Deadline 10/02/20
 Guaranty Association(s) Involved FIGA

Cash Balance (non-restricted assets only) **\$31,396,426.00**

Non Guaranty Association Class 2 Claims **\$0.00**

Has a GA Interim Claims Report been produced for this estate^A ? No

^A If the answer to this question is yes, then the GA claims liabilities have been "frozen" from just prior to the time that the Report was produced. Subsequent Financial Statements produced by the Accounting Sections report the GA liabilities as these frozen values until such time as a distribution is made.

Florida Insurance Guaranty Association ("FIGA")

Class 1 - Paid ^{1,2}	\$1,203,756.00			
Class 1 - Reserves ^{1,2}	\$10,057,736.00			
Total Class 1 Claims ^{1,2}		\$11,261,492.00		
Class 2 - Paid ^{1,3}	\$2,729,721.00			
Class 2 - Reserves ^{1,3}	\$41,232,309.00			
Total Class 2 Claims ^{1,3}		\$43,962,030.00		
Class 3 - Paid ^{1,4}	\$33,420,991.00			
Class 3 - Reserves ^{1,4}	\$0.00			
Total Class 3 Claims ^{1,4}		\$33,420,991.00		
Total Classes 1, 2, & 3 Claims ^{1,2,3, 4}			\$88,644,513.00	
Prior Early Access Distribution(s) to FIGA			\$0.00	
Plus: Early Access Distribution after Financial Statement posted.			\$0.00	
Total Prior Early Access distribution			\$0.00	
Percentage of Prior Early Access Distribution(s) Applied by Class				Class 1 0.0% Class 2 0.0% Class 3 0.0%
Proposed Current Early Access Distribution to FIGA			\$10,000,000.00	
Total Prior + Proposed Early Access Distribution(s)			\$ 10,000,000.00	
Percentage of Prior + Proposed Early Access Distribution(s) Applied by Class				Class 1 88.8% Class 2 0.0% Class 3 0.00%

¹The claims amounts reported reflect paid and projected expenditures, net of any post-liquidation recoveries. These amounts have not been reduced by any previous early access distributions.

²Section 631.271(1)(a)(2), Florida Statutes; Class 1 - claims of guaranty associations for expenses incurred in handling claims.

³Section 631.271(1)(b), Florida Statutes; Class 2 - claims of guaranty associations for payment of policy loss claims.

⁴Section 631.271(1)(b), Florida Statutes; Class 3 - claims of guaranty associations for unearned premiums or premium refunds under nonassessable policies.