

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: First Sealord Surety, Inc., :  
In Liquidation : No. 1 FSS 2012

**ANNUAL REPORT OF THE LIQUIDATOR ON THE STATUS  
OF THE LIQUIDATION OF FIRST SEALORD SURETY, INC.  
AS OF DECEMBER 31, 2015**

**I. INTRODUCTION**

Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator ("Liquidator") of First Sealord Surety, Inc. ("FSSI" or "Estate"), through her undersigned counsel, hereby submits this Annual Report on the status of the liquidation of FSSI for the period from January 1, 2015 through December 31, 2015 ("Report").

**II. REPORT**

**A. Financial Statements.**

FSSI has prepared Special Purpose Statements of Assets, Cash Flows and Operations for the period from January 1, 2015 through December 31, 2015 ("Statements"). The Statements include estimates as noted below and may not fully reflect the effects of the liquidation upon some assets and liabilities. Consequently, the ultimate distribution to creditors is unknown at this time. For this reason, third parties should not rely on the financial information contained herein as providing any certainty as to the ultimate distribution that will be made from FSSI.

The Statements are addressed in more detail in sections 1 through 2 below.

1. **Special Purpose Statements of Assets, Liabilities and Deficit –**  
**EXHIBIT A.**

As of December 31, 2015, the attached Special Purpose Statement of Assets shows estimated total assets were \$5,954,629.

a. **Cash.**

FSSI had a cash and cash equivalents balance of \$5,800,418, including brokered certificates of deposit amounting to \$4,995,790, as of December 31, 2015. See Exhibit B —Special Purpose Statement of Cash Flows and Changes in Cash, for reconciliation between beginning and ending cash equivalent balances.

b. **Premium Receivable.**

As of December 31, 2015, approximately \$120,000 remains outstanding from agents on bonds issued by the company prior to liquidation. At the time of liquidation, this balance was approximately \$2,232,000. During 2015, the Liquidator collected \$97,353 in premium payments.

c. **Inter-company Receivables.**

FSSI was a wholly owned subsidiary of Sealord Holdings, Inc. At the time of liquidation, the parent company owed \$4.275 million in inter-company receivables to FSSI. The Liquidator was able to recover some of these monies through the settlement of a lawsuit brought by the Liquidator against certain former officers and directors concerning, among other things, inter-company activities and transactions, with any remaining balances being written off.

d. **Reinsurance Recoverable.**

The company maintained excess reinsurance under several treaties with reinsurers. All of the affected reinsurers have agreed to rescind the 2011 policies, resulting in a return of premium



to FSSI of \$924,398 in 2014. As of December 31, 2015 all outstanding amounts due from reinsurers have been recovered.

**e. Salvage and Subrogation Recoveries.**

FSSI entered into an agreement with Kazlow and Fields, LLC, a collections firm, to collect the available salvage and subrogation, on a contingent fee basis. In addition, FSSI had engaged a former employee of the company as a consultant to assist with collecting subrogation and salvage for the Estate. The total gross amount collected for 2015 was \$273,306. Since inception of the liquidation, the estate has collected \$1,935,024. The projected amount to be collected going forward, is approximately \$10,500.

**2. Liabilities – Exhibit A.**

Total estimated liabilities at December 31, 2015, were \$37,562,327. FSSI liquidation expenses are class (a) first priority payments under the Insurance Department Act of 1921, 40 P.S. §221.1 et seq. (“Act”), as are certain guaranty association (“GA”) expenses, to the extent permitted by the Act. Both Liquidator and GA expenses will be paid before distributions for claims under lower priority classes. As of December 31, 2015, there was \$36,014 in reserves for unpaid Liquidator administrative expenses and \$522,158 for class (a) GA administrative expenses.

However the most significant liability is the \$36,631,267 assigned to priority class (e) proof of claims (“POCs”).

**a. Priority Class A.**

The Operating Statement Analysis attached as Exhibit C lists \$610,156 of Liquidator administrative operating expenses paid by FSSI for January 1, 2015 through December 31, 2015. Total administrative expenses incurred since inception of the liquidation amounted to \$4,321,724.

**b. Priority Class E.**

Claims of surety fall under priority class (e) of the Act, along with general creditor claims. As a result, the vast majority of claims in the Estate fall under class (e). As of December 31, 2015, FSSI's liability for non-guaranty fund Notices of Determination ("NODs") accepted was \$34,484,239.

**c. Priority Classes Below Class E.**

Also included in total liabilities are estimated liabilities for POCs assigned to priority classifications below class (e), which total \$372,888.

**3. Special Purpose Statement of Operations – EXHIBIT C.**

Attached is the Statement of Operations ("Operations Report") for the year 2015 and inception to date ("ITD"), which reports FSSI experienced a net operating gain of \$773,740 due mainly to the release, or revision of class (e) Liquidator reserves. Since the date of liquidation through December 31, 2015, FSSI reflects a net loss of \$37,208,468.

**4. Operating Expense Analysis.**

The operating expenses of FSSI relate to efforts by the Liquidator to marshal and maximize the assets of the Estate for the benefit of all FSSI bondholders and claimants, as well as to review and determine the ultimate liabilities of the Estate, to fulfill the public policies and purposes of the Act and the liquidation process, and to investigate and hold accountable those third parties alleged to have contributed to the insolvency of FSSI. Additional significant time was allocated to the disposition of managed escrow funds and collateral held in the form of cash and Irrevocable Letters of Credit held as additional security.

**a. Legal Fees.**

Attached as Exhibit D is a schedule containing the legal expense detail by firm.



**b. Professional Services Expenses.**

Attached as Exhibit E is a schedule containing the professional service expense detail by vendor name for the period of the Report. The individual entities listed in the schedule provided services including reinsurance analysis and collection and salvage and subrogation collection.

**c. Real Estate Expenses.**

Until March 30, 2012, FSSI did business at its location in Villanova, Pennsylvania. Thereafter, operations were moved to the Pennsylvania Insurance Department.

**d. Guaranty Association Claims and Expense Information.**

GA coverage for surety claims is limited to six states: Arkansas, Kansas, Kentucky, Maryland, Michigan and New York.

**5. Claims Process.**

The deadline for filing POCs was October 5, 2012. As of December 31, 2015, FSSI had received a total of 1047 POCs. Of those, 90 were received after the filing deadline.

**a. Proofs of Claim Statistics – (Inception-to-Date).**

As of December 31, 2015, FSSI had issued NODs for 1047 of the 1047 POCs received for a total allowed amount of \$37,526,313. Of the 1,047 NODs issued, 1,047 have been accepted for a total allowed amount of \$ 37,526,313.

Issued NODs accounted for 100% of the POCs filed with the Estate.

**b. Notice of Claim Determination Objection Statistics.**

As of December 31, 2015, the Liquidator had received a total of 77 objections to the 1047 NODs issued. Of those 77 objections, the Liquidator has resolved every objection without the need to seek the appointment of a referee.

**c. Claims Bar Date.**

The claims bar date was February 7, 2014. The Court also approved the establishment of an Estimated Claims Value Process, on May 16, 2014.

**6. FSSI Operations Moved to PA Insurance Department.**

Effective April 2, 2012, FSSI operations and reporting were transferred “in house” to the Pennsylvania Insurance Department’s Office of Liquidations, Rehabilitations and Special Funds. FSSI staff worked with the Liquidator’s staff to transition files and records, and provided information about the company’s operations, prior to the transfer.

**7. Disposition of Escrowed Funds.**

At the time of liquidation, FSSI was under agreement to administer construction funds as a pass through entity receiving funds from the obligee and subsequently making payments to the principal. The primary purpose of funds control was to control job funds and to help minimize payment bond risk. These funds were maintained individually for each construction project and were disbursed upon review of the project status. The Liquidator was involved in the eventual disposition of the escrowed funds. At the time of the liquidation there were approximately \$7 million in funds under administration, or about 250 individual escrow accounts. As of December 31, 2015 all remaining funds have been distributed.

**8. Collateral.**

Under certain construction projects, FSSI required that principals provide collateral in the form of cash or an Irrevocable Letter of Credit (ILOC) to secure FSSI’s interests in the bond in the event the principal failed to perform as required and to help offset the bond exposure to the company. Under the collateral arrangement, cash funds were set aside in separate bank accounts identified by project while the ILOCs were secured in a local bank safe deposit box for




safekeeping. As of December 31, 2015 the Liquidator has released all of the cash collateral to the principals, where there were funds remaining in the accounts, as well as the ILOCs for projects with no claims, or where all claims have been settled.

**9. Federal Income Taxes.**

FSSI federal income taxes were filed as part of a consolidated group of affiliated companies with its parent company Sealord LLC. FSSI has a tax-sharing agreement with its parent entity whereby each company shares in proportion to amounts calculated as if they filed individual returns. Due to this arrangement, FSSI was unable to file its own independent federal tax return without the parent company's involvement. In 2015, with the assistance of outside tax consultants, the Liquidator prepared separate tax returns for only FSSI for the years 2011 to 2014. These returns were filed in early 2016 requesting the Internal Revenue Service (IRS) give prompt attention to the returns as a stand-alone affiliate. The returns are currently under review by the IRS and the results of those examinations remain pending.

Respectfully submitted:

By:   
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Governor's Office of General Counsel  
Pennsylvania Insurance Department  
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Attorney for Teresa D. Miller, Insurance  
Commissioner of the Commonwealth of  
Pennsylvania, in her official capacity as Statutory  
Liquidator of FSSI

Dated:  \_\_\_\_\_

# **EXHIBIT A**



# First Sealord Surety, Inc. (In Liquidation)

## SPECIAL PURPOSE STATEMENT OF ASSETS, LIABILITIES AND DEFICIT - Unaudited As of December 31, 2015 and 2014

	12/31/2015	12/31/2014
<b><u>Assets</u></b>		
Cash	\$ 804,628	\$ 873,633
Brokered Certificates of Deposit at Market Value	4,995,790	4,248,456
Premiums Receivable	120,000	76,032
Other Assets, principally Salvage and Subrogation	22,334	302,910
Reinsurance	-	606,173
Amounts due from escrow fund	11,877	9,816
State Deposits	-	528,553
<b>Total Assets</b>	<b>\$ 5,954,629</b>	<b>\$ 6,645,573</b>
<b><u>Liabilities</u></b>		
Class A Liquidator Administrative Expenses Unpaid	\$ (36,014)	\$ (99,997)
Class A GA Administrative Expenses	(522,158)	(396,347)
Class E GA LAE and LAE Reserves	-	(360,299)
Class E GA Claims	-	(1,006,745)
Class E GA Claim Reserves	-	(1,756,306)
Class E Claims - Liquidator	(36,631,267)	(35,031,768)
Class E Claims Reserve - Liquidator	-	-
Class F Claims - Liquidator	(213,195)	(213,195)
Class G Claims - Liquidator	(159,693)	(159,693)
<b>Total Liabilities</b>	<b>\$ (37,562,327)</b>	<b>\$ (39,024,350)</b>
<b><u>Deficit</u></b>		
Beginning Deficit Amount January 1st	\$ 32,378,777	\$ 40,572,498
Dormant Cash Account Adjustments	-	(20,323)
Unrealized loss on Brokered Certificates of Deposit	2,661	1,549
(Gain) from Operations	(773,740)	(8,174,947)
<b>Total Deficit</b>	<b>\$ 31,607,698</b>	<b>\$ 32,378,777</b>
<b>Total Liabilities and Deficit</b>	<b>\$ (5,954,629)</b>	<b>\$ (6,645,573)</b>

See accompanying report.

## **EXHIBIT B**



# First Sealord Surety, Inc. (In Liquidation)

## SPECIAL PURPOSE STATEMENT OF CASH FLOWS AND CHANGES IN CASH - Unaudited FOR THE PERIOD FEBRUARY 8, 2012 to DECEMBER 31, 2015 (ITD) and FOR THE PERIOD JANUARY 1, 2015 to DECEMBER 31, 2015

	<u>2015</u>	<u>ITD</u>
Beginning Cash and Cash Equivalent Balance 1/1/15 and 2/8/12	\$ 5,122,089	\$ 296,535
Sources of Cash:		
Premium payments	\$ 97,353	\$ 638,902
Reinsurance recoveries	606,356	2,748,479
State Deposits	200,947	2,286,607
Salvage & Subrogation Collections	273,306	1,935,024
State Premium Taxes Recovered	-	64,820
Commission Rights	1,815	167,151
Premiums and Other Fees Collected from Escrow Account	(2,061)	177,939
Other	181,345	1,917,686
Total Sources	\$ 1,359,061	\$ 9,936,608
Uses of Cash:		
Claim settlements and GA payments made	\$ 6,956	\$ 146,282
Payroll, Taxes and Benefits	251,869	1,460,735
Professional and Consulting Fees	30,212	815,986
Legal Expenses	130,001	978,864
Asset Collection Fees	172,650	413,328
Real Estate related	23,276	185,637
Furniture and Equipment	728	8,900
Postage, Telephone and Supplies	4,456	43,143
Data Processing and Software	30,234	152,085
Unrealized Loss on Brokered Certificates of Deposit	2,661	4,210
Other Operating	27,689	223,555
Total Uses	\$ 680,732	\$ 4,432,725
Net Increase in Funds	\$ 678,329	\$ 5,503,883
Ending Cash and Cash Equivalent Balance 12/31/15	\$ 5,800,418	\$ 5,800,418

See accompanying report.

# **EXHIBIT C**



# **First Sealord Surety, Inc. (In Liquidation)**

SPECIAL PURPOSE STATEMENT OF OPERATIONS - Unaudited  
FOR THE PERIOD JANUARY 1 TO DECEMBER 31, 2015 and  
FOR THE PERIOD FEBRUARY 8, 2012 to DECEMBER 31, 2015 (ITD)

	<u>2015</u>	<u>ITD</u>
<b>Income</b>		
Premium collections, net of cancellations	\$ 141,321	\$ (480,972)
Salvage and Subrogation	82,891	1,945,524
Commission Rights earned	1,526	167,153
Reinsurance	183	2,645,707
Other Income	91,587	1,479,994
<b>Total Income</b>	<b>\$ 317,508</b>	<b>\$ 5,757,406</b>
<b>Claims</b>		
Class A GA Administrative Expenses	\$ 125,811	\$ 531,856
Class E GA LAE & LAE Reserves	(360,299)	-
Class E GA Claims	(1,006,745)	-
Class E GA Claim Reserves	(1,756,306)	-
Class E NOD's Accepted - Liquidator	1,599,499	36,631,267
Class E Reserves - Liquidator	-	-
Class F NOD's Accepted - Liquidator	-	213,195
Class G NOD's Accepted - Liquidator	-	159,693
Liquidator Collateral Settlements	5,000	136,584
Surety claims paid by Other States	326,652	971,555
<b>Total Claims</b>	<b>\$ (1,066,388)</b>	<b>\$ 38,644,150</b>
<b>Expenses</b>		
Payroll, Taxes and Benefits	\$ 211,596	\$ 1,488,427
Professional and Consulting Fees	26,233	816,059
Legal Fees	121,138	978,853
Asset Collection Fees	172,650	413,329
Real Estate related	19,677	188,196
Furniture and Equipment	503	8,918
Postage, Telephone and Supplies	4,504	44,376
Data Processing and Software	27,752	153,521
Other Operating Expenses	26,103	230,045
<b>Total Expenses</b>	<b>\$ 610,156</b>	<b>\$ 4,321,724</b>
<b>Net (Loss) Gain</b>	<b>\$ 773,740</b>	<b>\$ (37,208,468)</b>

See accompanying report.

# **EXHIBIT D**



**FIRST SEALORD SURETY, INC. (IN LIQUIDATION)**

LEGAL FEE EXPENSES - Unaudited  
FOR THE PERIOD JANUARY 1 TO DECEMBER 31, 2015 and  
FOR THE PERIOD FEBRUARY 8, 2012 TO DECEMBER 31, 2015 (ITD)

<u>VENDOR NAME</u>	<u>2015</u>	<u>ITD</u>
Dreifuss Bonacci & Parker	\$ -	\$ 10,035
Eckert Seamans Cherin & Mellott, LLC	-	3,250
Kazlow & Fields, LLC	692	29,267
Kopelowitz Ostrow	3,195	3,195
Statutory Liquidator	46	588
Stradley Ronon Stevens & Young LLP	42,055	853,293
Scribner Hall	75,150	79,225
TOTAL	<u>\$ 121,138</u>	<u>\$ 978,853</u>

See accompanying report.

# **EXHIBIT E**



# FIRST SEALORD SURETY, INC. (IN LIQUIDATION)

PROFESSIONAL SERVICE EXPENSES - Unaudited  
FOR THE PERIOD JANUARY 1 TO DECEMBER 31, 2015 and  
FOR THE PERIOD FEBRUARY 8, 2012 TO DECEMBER 31, 2015 (ITD)

<u>VENDOR NAME</u>	<u>2015</u>	<u>ITD</u>
Baker Tilly Virchow Krause, LLP	\$ 225	\$ 1,035
Crowne Plaza - Harrisburg	-	12,591
DeVito Consulting, Inc.	-	61,438
INS Regulatory Ins Services	-	8,090
Invotex Group	-	228,697
James L Chokas	-	31,461
Michael McNulty	-	20,738
Morrone Technologies	-	9,000
Nancy M. Mucchetti	-	46,655
ParenteBeard	-	9,878
Salil P. Patel	810	333,359
Barry S. Slosberg	-	429
Statutory Liquidator	682	10,479
Verity LLC	516	516
WeisersMazars LLP	24,000	37,693
Wm. F.Comly & Son, Inc	-	4,000
TOTAL	<u>\$ 26,233</u>	<u>\$ 816,059</u>

See accompanying report.

## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 1 Pa. Code Chapter 33 in the following manner:

### Service by first-class mail, addressed as follows:

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Attorney for Teresa D. Miller, Insurance  
Commissioner of the Commonwealth of  
Pennsylvania, in her official capacity as Statutory  
Liquidator of FSSI

Dated: \_\_\_\_\_

4/8/16





COMMONWEALTH OF PENNSYLVANIA  
GOVERNOR'S OFFICE OF GENERAL COUNSEL

April 8, 2016

Michael F. Krimmel, Chief Clerk  
Commonwealth Court of Pennsylvania  
601 Commonwealth Avenue, Suite 2100  
P.O. Box 69185  
Harrisburg, PA 17120-9185

***Re: In Re: First Sealord Surety, Inc. (In Liquidation)  
No. 1 FSS 2012***

Dear Mr. Krimmel:

Attached please find the Report of the Liquidator on the Status of the Liquidation of First Sealord Surety, Inc., as of December 31, 2015, with regard to the above-referenced liquidation.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Preston M. Buckman".

Preston M. Buckman  
Insurance Department Counsel

PMB:drh

Enclosures