

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Re: Application for Approval of Final Accounting and Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50

MEMORANDUM AND ORDER

Presently before the Court for consideration is the Application for Approval of Final Accounting and Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 (Application).¹ In her Application, the

¹ On March 8, 2017, in connection with this final step in the liquidation process, the Liquidator filed her Application for Approval of Notice of Final Accounting, Final Distribution and Discharge (Application for Approval of Notice of Final Accounting). Therein, the Liquidator provided First Sealord Surety, Inc.'s (FSS) Special Purpose Statement of Assets as of December 31, 2016, which reflected total assets available for distribution in the amount of \$5,892,036, and after withholding a reserve of \$75,000 for future administrative expenses, total net assets available for distribution in the amount of \$5,817,036. According to the Liquidator, she "ha[d] collected all the assets deemed worthy of pursuit." Application for Approval of Notice of Final Accounting, ¶ 7. In addition, the Liquidator averred that all claims had been evaluated and no unresolved objections remained. The Liquidator further provided an exhibit which identified all claimants with approved claims and the amount allowed for each claim. The Liquidator set forth her proposed distribution of assets by priority classification and amount.

Finally, the Liquidator requested Court approval of a form Notice to be sent to all claimants regarding the Liquidator's final accounting and application for final distribution and discharge. The Court approved the form Notice on March 9, 2017. Only one objection by a *pro se* claimant was filed to the Application for Approval of Notice of Final Accounting. In a memorandum opinion filed September 14, 2017, the Court dismissed that objection. The time for an appeal has now since passed.

Liquidator represents that: (1) she has provided notice of her Application to all known claimants; (2) the only objection filed to the application was dismissed by the Court on September 14, 2017; and (3) she has responded to all claimant inquiries regarding the Application and has made all address and information corrections required in order to make a proper payment of claims. The Liquidator seeks authorization to make a distribution of assets in accordance with the distribution described in her March 8, 2017 application, which provides that class “a” claims will be paid at 100%, and class “e” claims will be paid at least 14.45%.

In addition, pursuant to Section 550 of Article V of the Insurance Department Act of 1921 (Act),² 40 P.S. § 221.50, the Liquidator has submitted a recommendation regarding her retention and disposition of FSS records (pre- and post-liquidation). Essentially, the Liquidator recommends that pre-liquidation records, except for accounting files containing tax records and bond files that contain unreleased collateral, be destroyed following final discharge because they no longer serve any purpose and will not be required to respond to post-discharge inquiries. The Liquidator proposes to retain all post-liquidation files until such time that she believes they are no longer needed to respond to post-discharge inquiries. She requests that the Court grant her the discretion to determine the appropriate time to destroy the post-liquidation files.

The Liquidator states that following completion of the final distribution of assets, she will file an application seeking her discharge as Liquidator. *See* Section 548(a) of Article V of the Act, 40 P.S. § 221.48(a).

² Act of May 17, 1921, P.L. 789; Section 550 was added by the Act of December 14, 1977, P.L. 280.

In considering the Liquidator's request for approval of the final accounting and final distribution, the Court notes that Section 546 of Article V of the Act directs as follows:

Under the direction of the court, the liquidator shall pay distributions in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims, including third party claims. . . .

40 P.S. § 221.46. Moreover, when "all assets justifying the expense of collection and distribution have been collected and distributed under this article, the liquidator shall apply to the court for discharge." Section 548(a) of Article V of the Act, 40 P.S. § 221.48(a).

After review of both the March 8, 2017 Application for Approval of Notice of Final Accounting, the present Application, and the exhibits attached to each, the Court accepts the Liquidator's representations and recommendation that a final accounting and distribution is now appropriate. Accordingly, the Court enters the following Order:

AND NOW, this 6th day December, 2017, the Liquidator's Application for Approval of Final Accounting and Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 is GRANTED as set forth below.

1. The Liquidator's final accounting as set forth in the exhibits attached to her March 8, 2017 Application for Approval of Notice of Final Accounting, Final Distribution and Discharge (Application for Approval of Notice of Final

Accounting), which includes the Special Purpose Statement of Assets (unaudited) as of December 31, 2016, and the Final Count Report (identifying the claimants by name and address, Proof of Claim number, total claimed amount and amount allowed) is approved.

2. The Liquidator is authorized to make distribution of the assets of First Sealord Surety, Inc. (FSS) in accordance with paragraph 6 of the March 8, 2017 Application for Approval of Notice of Final Accounting, to wit:

a. Priority class “a” claims will be paid at 100%. The Liquidator has already received \$4,004,422.99 in administrative expenses.

b. There are no priority class “b” claims.

c. There are no priority class “c” claims.

d. There are no priority class “d” claims.

e. Priority class “e” claims will be paid at least 14.45%.

f. Priority class “f” claims will not be paid.

g. Priority class “g” claims will not be paid.

h. There are no priority class “h” claims.

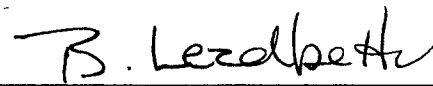
i. Priority class “i” claims will not be paid.

3. The Liquidator is authorized to destroy the records of FSS in accordance with the recommendation attached to the present Application as Exhibit C.

4. Any assets of FSS received after the date of discharge are to be used to satisfy any unreimbursed administrative expenses incurred by the Liquidator.

5. Following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator in accordance with Section 548(a) of Article V of the Act, 40 P.S. § 221.48(a). In her application, the Liquidator shall notify the Court whether any administrative expenses remain

unpaid, and, if so, the amount. The Liquidator shall also notify the Court whether any funds remain undistributed and in the possession and control of the Liquidator; if any funds remain, the Liquidator shall advise the Court of the amount so remaining.

A handwritten signature in black ink, appearing to read "B. Leadbetter", written over a horizontal line.

**BONNIE BRIGANCE LEADBETTER,
SENIOR JUDGE**

Certified from the Record

DEC 06 2017

And Order Exit