

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Excalibur Reinsurance Corporation (In Liquidation) :  
: No. 1 ERC 2016

*Re: Liquidator's Application for Approval of Transfer Agreement*

**MEMORANDUM and ORDER**

Presently before the Court is the Liquidator's application for approval of a transfer agreement (Application) involving Excalibur Reinsurance Corporation, Evanston Insurance Company and Maxum Indemnity Company.<sup>1</sup> The policies of insurance covered by the transfer agreement were written by Lincoln Insurance Company prior to Excalibur's acquisition of Lincoln as a subsidiary in 1997.<sup>2</sup> Under the terms of the transfer agreement, title to the Lincoln policies will be transferred to Evanston, which will assume all responsibilities and liabilities stemming from the policies as direct obligations, thereby relieving Excalibur and Maxum from any present or future potential liability under the policies.

Considering the Liquidator's express statutory authority to "use assets of the estate to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable [priorities of distribution],"<sup>3</sup> the terms of the Transfer Agreement (attached to the Application as

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<sup>1</sup> No responses have been filed to the application.

<sup>2</sup> Lincoln's name was subsequently changed to Maxum Indemnity Company following its divestiture in 2003.

<sup>3</sup> Section 523(8) of The Insurance Department Act of 1921 (Act), Act of May 17, 1921, P.L. 789, added by the Act of December 14, 1977, P.L. 280, 40 P.S. § 221.23(8). The priorities

Exhibit A), and the supporting documentation, the Application is granted as follows.

AND NOW, this 24th day of August, 2017, the Liquidator's Application is GRANTED, and the Transfer Agreement is APPROVED.

  
P. KEVIN BROBSON, Judge

**Certified from the Record**

**AUG 24 2017**

**And Order Exit**

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for distribution of assets are set forth in Section 544 of the Act, also added by the Act of December 14, 1977, P.L. 280, 40 P.S. § 221.44.