

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Excalibur Reinsurance Corporation, :
In Liquidation : No. 1 ERC 2016

**APPLICATION FOR APPROVAL OF
FINAL ACCOUNTING, FINAL DISTRIBUTION AND
RECOMMENDATION FOR DISPOSITION OF RECORDS
PURSUANT TO 40 P.S. § 221.50**

Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator of Excalibur Reinsurance Corporation (hereinafter, "Liquidator"), by her undersigned counsel, respectfully represents that:

1. Excalibur Reinsurance Corporation ("Excalibur"), was placed in liquidation by Order of this Court dated July 18, 2016.
2. On October 28, 2020, the Liquidator filed with this Court her Final Accounting, Proposal for Final Distribution and Application for Approval of Notice ("Application"), seeking to make a final distribution of those assets she has collected, in accordance with 40 P.S. § 221.44.
3. The Liquidator provided notice to all known claimants of the Application, which Notice was mailed on December 2, 2020, after approval by this Court by Order dated November 30, 2020. Copies of the Order and Notice are attached hereto as Exhibits A and B, respectively.
4. In response to her Notice, the Liquidator did not receive any objections.
5. The Liquidator has responded to all Application-related claimant inquiries and has made all necessary address and information corrections to the claimant mailing list and stands ready to begin paying claims.

6. Accordingly, the Liquidator now files this Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, seeking this Court's approval of her final accounting and final distribution, and her recommendation regarding the disposition of records, which is attached hereto as Exhibit C.

WHEREFORE, the Liquidator prays your Honorable Court that:

1. The Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 of Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator ("Liquidator") of Excalibur Reinsurance Corporation (In Liquidation), be approved and confirmed absolutely.

2. The Liquidator be authorized to make distribution of the assets of Excalibur in accordance with paragraph 6 of the Liquidator's Final Accounting, Proposal for Final Distribution and Application for Approval of Notice, as follows:

- a. Priority class "a" claims will be paid at 100%. The Liquidator has already received \$1,431,122.68 in administrative expenses.
- b. Priority class "b" claims will be paid 100%.
- 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 4.25%.
- 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. There are no priority class "i" claims.

3. The Liquidator be authorized to destroy the records of Excalibur in accordance with the recommendation attached to this Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 as Exhibit C.

4. In accordance with 40 P.S. § 221.48(a), following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator, which will also seek approval of the final disposition of any assets remaining in the Liquidator's possession at the time of discharge, or that may be unexpectedly received by the Liquidator post-discharge.

Respectfully submitted,

/s/ Preston M. Buckman
PRESTON M. BUCKMAN (I.D. #57570)
Insurance Department Counsel
Office of Liquidations, Rehabilitations
& Special Funds
Governor's Office of General Counsel
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 886-2080

Attorney for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in her capacity as Statutory Liquidator
of Excalibur Reinsurance Corporation, In
Liquidation

Dated: January 13, 2021

EXHIBIT A

EXHIBIT B

December 2, 2020

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Excalibur Reinsurance
Corporation (In Liquidation)

:
:

No. 1 ERC 2016

**NOTICE TO ALL CLAIMANTS OF
EXCALIBUR REINSURANCE CORPORATION**

PLEASE TAKE NOTICE that Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, and as such, Statutory Liquidator of Excalibur Reinsurance Corporation (In Liquidation) ("Liquidator"), has filed for approval of her Final Accounting and Proposed Final Distribution, which sets forth the steps taken in this liquidation.

PLEASE TAKE FURTHER NOTICE that the total for class "a", "b", "e", "f" and "g" priority claims that has been approved and allowed is \$64,860,582.27. There are no class "c", "d", "h" or "i" claims. The total net assets available for distribution, after payment of administrative expenses of \$1,431,122.68 incurred by the Liquidator and a reserve of \$76,000 for future administrative expenses of the Liquidator related primarily to making the final distribution and seeking discharge of the Liquidator, are \$3,408,712.67.

The Liquidator requests, or will subsequently request, that:

1. The Final Accounting and Proposed Final Distribution be approved and confirmed absolutely.

2. The Liquidator be authorized to make a distribution of the assets of Excalibur Reinsurance Corporation as follows:

- a. Priority class "a" claims will be paid at 100%. The Liquidator has already received \$1,431,122.68 in administrative expenses.
- b. Priority class "b" claims will be paid at 100%.
- 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 4.25%.
- 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. There are no priority class "i" claims.

3. The Liquidator's form of Notice to be sent by first class mail to claimants be approved.

4. The Liquidator be authorized to destroy records of Excalibur Reinsurance Corporation in accordance with a recommendation to be filed by the Liquidator with the Court after the issuance of the Notice and the resolution of any objections received to the Final Accounting and Proposed Final Distribution.

6. Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, and her predecessors in office, be discharged as Statutory Liquidator of Excalibur Reinsurance Corporation, and thereby released from any liability to make payment of any further claims, subject to the filing of an application by the Liquidator with this Court seeking the discharge of the Statutory Liquidator upon completion of the final distribution.

TAKE FURTHER NOTICE that objections to the Final Accounting and Proposed Final Distribution must be filed in writing with the Commonwealth Court of Pennsylvania, Office of the Prothonotary, 601 Commonwealth Avenue, Suite 2100, Harrisburg, Pennsylvania 17106-9185. In the event of such a filing, please refer to Docket No.1 ERC 2016.

Objections must be filed within 30 days of the date of this Notice, or they shall be forever barred. Objections must be clearly and concisely written.

Copies of this Final Accounting and Proposed Final Distribution are available to interested parties for inspection at the Commonwealth Court of Pennsylvania, Office of the Prothonotary, 601 Commonwealth Avenue, Suite 2100, Harrisburg, Pennsylvania 17106-9185; and the PA Insurance Department, 901 North 7th Street, Harrisburg, Pennsylvania 17102. Please note that due to office closures related to the pandemic, alternative arrangements may need to be made to inspect this Final Accounting and Proposed Final Distribution.

If you have any questions, please call the Bureau of Liquidations Claims, 901 North 7th Street, Harrisburg, Pennsylvania 17102, (717) 787-7823.



Laura L. Slaymaker
Deputy Insurance Commissioner

EXHIBIT C

EXHIBIT C

**TO THE LIQUIDATOR'S APPLICATION FOR APPROVAL OF FINAL
ACCOUNTING, FINAL DISTRIBUTION AND RECOMMENDATION
FOR DISPOSITION OF RECORDS PURSUANT TO 40 P.S. §221.50**

RECOMMENDATION FOR THE DISPOSITION OF RECORDS

The Excalibur Reinsurance Corporation ("Excalibur") (In Liquidation) estate currently has the following categories of records:

Underwriting Files including;
 Policy Forms
 Correspondence
 Terminated policies

Pre-liquidation administrative files
Pre-liquidation files containing annual statements
Pre-liquidation accounting files with correspondence
Pre-liquidation accounting files containing payables
Pre-liquidation accounting files containing tax records
Pre-liquidation reinsurance files – both ceded and assumed
Pre-liquidation closed claim files
Pre-liquidation legal correspondence files

Post liquidation administrative files including;
 Correspondence files
 Post liquidation proof of claim files

Pre-liquidation records are important in the early stages of a liquidation proceeding, as they inform the Liquidator about, *inter alia*, the company's assets and financial arrangements, the identity of policyholders and creditors, the identity and status of claims, agent and reinsurance arrangements, and the identity and status of ongoing or contemplated litigation. These records,

however, become less and less utilized as the liquidation progresses, as the Liquidator's staff creates and maintains their own records, such that the original, pre-liquidation records of the company lose, to a large extent, their usefulness in the final stages of a liquidation proceeding. Accordingly, now that the Excalibur liquidation proceeding is nearing its conclusion, the Liquidator is recommending that most of the pre-liquidation records be destroyed, as they no longer serve any purpose and will not be required in the future to respond to any post-discharge inquiries that may be received concerning the Excalibur liquidation proceeding. The Liquidator would, however, retain the pre-liquidation accounting files that contain tax records, as they could contain information that would possibly be needed to file the post-discharge final tax return with the IRS.

The Liquidator is also recommending that all post liquidation files be retained until such time post discharge that she believes they are no longer needed in order to respond to any future inquiries concerning the Excalibur liquidation, or for any other purpose, at which time the Liquidator respectfully requests that this Court grant her the discretion to destroy those records.

Finally, the Liquidator would note that certain key records of any liquidation proceeding, such as Court orders, final executed settlement agreements, legal filings, certain significant reports and memoranda, *inter alia*, are maintained in perpetuity. That will be the case with the Excalibur estate as well.

In keeping with the foregoing, the Liquidator seeks this Court's approval of the following recommendation for the disposition of Excalibur's records:

1. The Liquidator be authorized to destroy the pre-liquidation records, with the exception of the accounting files that contain tax records;

2. That the Liquidator be granted the discretion to prospectively destroy records that she believes no longer need to be retained for any post discharge purpose.

**CERTIFICATION OF COMPLIANCE
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

/s/ Preston M. Buckman

Preston M. Buckman (I.D. No. 57570)
PA Office of General Counsel
Pennsylvania Insurance Department
Office of Liquidations, Rehabilitations
and Special Funds
901 North 7th Street
Harrisburg, PA 17102
(717) 886-2080

Attorney for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in her capacity as Statutory Liquidator
of Excalibur Reinsurance Corporation, In
Liquidation

Dated: January 13, 2021

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 via regular U.S. Mail addressed as follows:

Keith E. Kaplan, Esq.
Chief Liquidation Officer
c-kkaplan@pa.gov
Excalibur Reinsurance Corporation,
In Liquidation
1880 JFK Blvd., Suite 801
Philadelphia, PA 19103

Robert W. Blazer, III, Managing
Director of Reinsurance
Markel Corporation
310 Highway 35 South
Red Bank, NJ 07701
(732) 391-8863

William D. Goddard, Esq.
wgoddard@daypitney.com
Day Pitney LLP
242 Trumbull Street
Hartford, CT 06103-1212
(860) 275-0117
(860) 881-2449 (fax)

/s/ Preston M. Buckman
PRESTON M. BUCKMAN (I.D. #57570)
Insurance Department Counsel
Office of Liquidations, Rehabilitations
& Special Funds
Governor's Office of General Counsel
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Attorney for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in her capacity as Statutory Liquidator
of Excalibur Reinsurance Corporation, In
Liquidation

Dated: January 13, 2021

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Excalibur Reinsurance Corporation, :
In Liquidation : No. 1 ERC 2016

ORDER

AND NOW, this ____ day of _____, 2021, upon consideration of the foregoing Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, it is ordered and decreed that:

1. The Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 of Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania as Statutory Liquidator (“Liquidator”) of Excalibur Reinsurance Corporation (“Excalibur”) (In Liquidation), is approved and confirmed absolutely.

2. The Liquidator is authorized to make distribution of the assets of Excalibur in accordance with paragraph 6 of the Liquidator’s Final Accounting, Proposal for Final Distribution and Application for Approval of Notice, as follows:

- a. Priority class “a” claims will be paid at 100%. The Liquidator has already received \$1,431,122.68 in administrative expenses.
- b. Priority class “b” claims will be paid 100%.
- c. There are no priority class “c” claims.
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- e. Priority class "e" claims will be paid at least 4.25%.
- 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. There are no priority class "i" claims.

3. The Liquidator is authorized to destroy the records of Excalibur in accordance with the recommendation attached as Exhibit C to the Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50.

4. In accordance with 40 P.S. § 221.48(a), following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator, which shall also seek approval of the final disposition of any assets remaining in the Liquidator's possession at the time of discharge, or that may be unexpectedly received by the Liquidator post-discharge.

P. KEVIN BROBSON, PRESIDENT JUDGE



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

January 13, 2021

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

Dear Mr. Krimmel:

Attached for filing please find the Liquidator's Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, with regard to the above-referenced matter.

Thank you for your assistance in this matter.

Very truly yours,

/s/ Preston M. Buckman

Preston M. Buckman
Insurance Department Counsel

PMB:drh

Enclosure