

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Re: Liquidator's Application to Establish a Claims Bar Date

ORDER

AND NOW, this 26th day of January, 2018, upon consideration of the Liquidator's Application to Establish a Claims Bar Date (Application), the Application is GRANTED as follows:

1. June 25, 2018, is hereby established as the Claims Bar Date.
2. Any claim against Excalibur Reinsurance Corporation (Excalibur), the Liquidator, her agents and representatives, or any claim that could affect the assets of Excalibur, wherever or however such assets may be owned or held, directly or indirectly, must be filed with the Liquidator no later than the Claims Bar Date.
3. A claim must be filed by means of a completed Proof of Claim Form, together with proper proofs supporting the claim.¹ The Proof of Claim Form attached as Exhibit C to the Supplemental Application is approved and should be used by any claimant who files a claim after the date of this Order. Notwithstanding the foregoing, a Proof of Claim received on the original Proof of Claim Form for the Excalibur Estate shall be reviewed by the Liquidator and will be subject to the terms

¹ The Liquidator has also filed a Supplemental Application to Establish a Claims Bar Date (Supplemental Application) seeking Court approval of a Proof of Claim Form that she intends to provide to claimants who contact the Liquidator following the provision of notice that a claims bar date has been established.

of this Order. Claimants requiring a Proof of Claim Form should contact the Liquidator as directed at the end of the Notice of the Claims Bar Date Order, attached as Exhibit A to the Application.

4. A Proof of Claim shall be deemed to be filed on the day it is received by the Liquidator, unless first-class mail is utilized, in which case it will be deemed to be filed on the date of the postmark.

5. Any Proof of Claim filed after the Claims Bar Date is untimely and shall be disallowed by the Liquidator without consideration of its merits. This Order bars the filing of any such Proof of Claim after the Claims Bar Date for any reason, including, without limitation, a reason constituting “good cause” under the late claim provisions of Section 537 of Article V of the Insurance Department Act of 1921,² 40 P.S. § 221.37, the discovery of information not previously known, or the fact that a claim was previously contingent or had not yet matured. Any claim that does not ripen into a legal cause of action prior to the Claims Bar Date is barred, even though the claimant filed a Proof of Claim before the Claims Bar Date. Notwithstanding the foregoing, if a claim ripens into a legal cause of action within 30 days prior to the Claims Bar Date, a timely Proof of Claim may be filed within 30 days thereafter.

6. The establishment of the Claims Bar Date does not constitute the waiver of any defenses to individual Proofs of Claim. All defenses to such claims remain available to Excalibur and the Liquidator, including defenses otherwise based on the untimeliness of claims.

7. The Claims Bar Date does not apply to, or affect in any way, any claims, actions, or rights of Excalibur or the Liquidator.

² Act of May 17, 1921, P.L. 789, *as amended*. Article V was added by the Act of December 14, 1977, P.L. 280.

8. The establishment of the Claims Bar Date is not an opportunity to refile or reargue a claim previously filed with Excalibur or the Liquidator, and duplicative Proofs of Claim shall not be submitted. If duplicative Proofs of Claim are filed contrary to this Order, the Liquidator shall disallow them without further consideration of their merits.

9. The Claims Bar Date shall not apply to routine administrative expense claims.

10. The Claims Bar Date shall not apply to any claim by a guaranty association.

11. The mailing Notice attached as Exhibit A to the Application shall be revised to conform to paragraphs 1, 5, 10 and 12 of this Order. The Liquidator shall mail by first-class mail, as soon as practicable after receipt of this Order, a copy of the revised mailing Notice to all insureds of record as of July 18, 2016, the date of the Liquidation Order, and to all other persons or entities that filed a Proof of Claim with the Liquidator, all creditors and potential creditors as of July 18, 2016, and the Alabama Guaranty Association.

12. The publication Notice attached as Exhibit B to the Application is approved. The Liquidator shall cause a copy of the publication Notice to be published in a newspaper of general circulation where Excalibur has its principal place of business. The Notice shall be published twice over a two-week period within 30 days of the date of this Order.


P. KEVIN BROBSON, Judge

Certified from the Record

JAN 26 2018

And Order Exit

