

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

PATRICK MCPHARLIN, DIRECTOR
OF THE DEPARTMENT OF INSURANCE
AND FINANCIAL SERVICES,

Petitioner,

Case No. 15-948-CR

HON. JAMES S. JAMO

v

CONSUMERS MUTUAL INSURANCE
OF MICHIGAN,

[IN LIQUIDATION]

Respondent.

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**EX PARTE ORDER APPROVING SECOND EARLY ACCESS
DISBURSEMENT TO PARTIALLY SATISFY CLAIMS OF THE MICHIGAN
LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION**

At a session of said Court
held in the Circuit Courtrooms
for the County of Ingham,
State of Michigan, on the
24 day of January, 2017.

PRESENT: HONORABLE JAMES S. JAMO, CIRCUIT COURT JUDGE

WHEREAS, Patrick M. McPharlin, Director of the Michigan Department of Insurance and Financial Services (“DIFS”) and duly appointed Liquidator of Consumers Mutual Insurance of Michigan (the “Liquidator”), has filed an *Ex Parte* Application for Approval of Second Early Access Disbursement to Partially Satisfy Claims of the Michigan Life and Health Insurance Guaranty Association (the “Application”); and

WHEREAS, the Court has reviewed and considered the Application, and is also fully informed of the circumstances involving Consumers Mutual Insurance of Michigan (“Consumers Mutual”) because the company has been subject to ongoing receivership proceedings assigned to and conducted under the supervision of this Court pursuant to the Rehabilitation Order that the Court entered on November 13, 2015 and the Order of Liquidation and Declaration of Insolvency of Consumers Mutual (“Liquidation Order”) that the Court entered on February 10, 2016; and

WHEREAS, the Application seeks the Court’s approval of the Liquidator’s proposed second early access disbursement to the Michigan Life and Health Insurance Guaranty Association (“Guaranty Association”)—in the form of a \$815,328.68 cash disbursement and ratification/approval of the Liquidator depositing past and future healthcare provider refunds due to Consumers Mutual with the Guaranty Association for the payment of covered claims—in partial satisfaction of the Guaranty Association’s claims arising from its statutory obligation, pursuant to Chapter 77 of the Michigan Insurance Code, to process and pay covered healthcare claims under Consumers Mutual insurance policies; and

WHEREAS, on March 18, 2016, the Court entered an Order granting the Liquidator's *Ex Parte* Application for Approval of Early Access Disbursement to Partially Satisfy Claims of the Michigan Life and Health Insurance Guaranty Association, which approved the Liquidator's payment of a first early access disbursement to the Guaranty Association in the amount of \$3 million; and

WHEREAS, MCL 500.8134(1) provides that "if at any time the estate obtains sufficient assets to support an early access disbursement" to any guaranty association having obligations because of Consumers Mutual's insolvency, the Liquidator "shall file an application" for approval to make a proposed disbursement; and

WHEREAS, the Guaranty Association has such obligations due to Consumers Mutual's insolvency, having already paid over \$14 million in claims and claims processing expenses under Consumers Mutual insurance policies as of December 21, 2016, while it remains statutorily responsible to process and pay an unknown amount of additional, future claims; and

WHEREAS, the Application addresses the specific requirements of MCL 500.8134(2)(a) – (e), together with other requirements relevant to the proposed second early access disbursement contained in MCL 500.8134 and 500.8142; and

WHEREAS, the Liquidator has determined, in compliance with MCL 500.8134(3) and due to the reserve requirements of MCL 500.8134(2)(a), uncertainties with the liquidation, and other considerations, that estate assets totaling \$1,458,190.91—in the form of a \$815,328.68 cash disbursement and healthcare provider refunds due to Consumers Mutual totaling \$642,862.23 through

December 27, 2016 that the Liquidator deposited with the Guaranty Association for the payment of covered claims—are presently available for a second early access disbursement; and

WHEREAS, the provisions of the Early Access Agreement entered into between the Liquidator and the Guaranty Association, which the Court approved as part of the Liquidation Order, are also consistent with MCL 500.8134 and 500.8142 and ensure performance of the statutes' requirements; and

WHEREAS, the Court finds that the Application satisfies the requirements of MCL 500.8134 and 500.8142, including but not limited to MCL 500.8134(5) that entitles only the Liquidator and Guaranty Association to notice of the Application and this resulting Order, and that the Liquidator and Guaranty Association have acknowledged therein the receipt of sufficient notice, consented to the relief granted by this Order, and agreed to waive any further notice requirements under MCL 500.8134(5); and

WHEREAS, the Court further finds that MCL 500.8134 authorizes the Liquidator's proposed second early access disbursement to the Guaranty Association, and agrees with the Liquidator's determination that this early access disbursement is necessary and appropriate, will assist with the effective and efficient administration of Consumers Mutual's liquidation, and will help maximize protection of creditors, policyholders, and the public;

NOW, THEREFORE, IT IS HEREBY ORDERED that the Court:

(a) GRANTS the Application;

(b) APPROVES the Liquidator's payment of a second early access disbursement to the Guaranty Association in the total amount of \$1,458,190.91, in partial satisfaction of the Guaranty Association's claims arising from its statutory obligation to process and pay covered healthcare claims under Consumers Mutual insurance policies and specifically comprised of: (i) a cash disbursement in the amount of \$815,328.68; and (ii) healthcare provider refunds due to Consumers Mutual totaling \$642,862.23 through December 27, 2016 that the Liquidator deposited with the Guaranty Association for the payment of covered claims; and

(c) AUTHORIZES and DIRECTS the Liquidator and/or Special Deputy Liquidators to execute any necessary documentation and take such other action required to finalize this second early access disbursement.

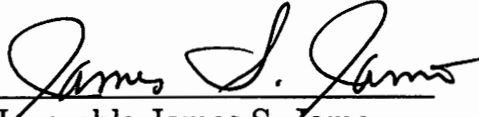
IT IS FURTHER ORDERED that the Court ratifies and/or approves the Liquidator depositing past and future healthcare provider refunds due to Consumers Mutual with the Guaranty Association for the payment of covered claims, and a final accounting of all provider refunds received when the Guaranty Association submits its reimbursement claim.

IT IS FURTHER ORDERED that pursuant to MCL 500.8134(5), a copy of the filed Application and this Order shall be personally served via regular mail on John Colpean, the Guaranty Association's Administrator and General Counsel.

IT IS FURTHER ORDERED that because providing personal notice of the Application and this Order to other parties that may have a general interest in Consumers Mutual's liquidation: (a) is not required by MCL 500.8134(5); and (b) would be difficult, time-intensive, and costly to the Consumers Mutual liquidation estate, the Court authorizes, approves, and/or ratifies courtesy notice of the

Application and this Order on any other potentially interested parties by posting electronic copies on the DIFS website, www.michigan.gov/difs, under the section "Who We Regulate," the subsection "Receiverships," and the sub-subsection "Consumers Mutual Ins. of Michigan. As explained in the Application, this courtesy notice is consistent with DIFS' standard procedure of posting on its website all filings made in insurance receivership proceedings.

IT IS SO ORDERED.



Honorable James S. Jamo
Circuit Court Judge