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

COMMISSIONER OF INSURANCE
OF THE STATE OF MICHIGAN,

Plaintiff,

File No. 97-86662-CR

v

HON. WILLIAM E. COLLETTE

LINCOLN MUTUAL CASUALTY COMPANY,
A Michigan domestic insurance company

IN LIQUIDATION

Defendant.
_____/

LIQUIDATOR'S PETITION FOR AN ORDER:
(1) APPROVING THE LIQUIDATOR'S CLAIM RECOMMENDATIONS;
(2) RATIFYING PRIORITY OF DISTRIBUTION OF CLAIMS; AND
(3) AUTHORIZING FINAL DISTRIBUTION OF ESTATE ASSETS

Annette E. Flood, Director of the Michigan Department of Insurance and Financial Services and Court-appointed Liquidator (the "Liquidator") for Lincoln Mutual Casualty Company ("Lincoln Mutual"), by and through her attorneys, Bill Schuette, Attorney General of the State of Michigan, and Christopher L. Kerr, Assistant Attorney General, petitions this Court for an Order: (1) approving the Liquidator's claim recommendations, pursuant to MCL 500.8143(2); (2) ratifying the Liquidator's priority of distribution of claims filed against the Lincoln Mutual Liquidation Estate, consistent with MCL 500.8142; and (3) authorizing the Liquidator to make a final distribution of Estate assets to certain claimants, pursuant to MCL 500.8144.

In support of this Petition, the Liquidator states as follows:

BACKGROUND

1. On August 29, 1997, this Court entered an Order of Liquidation appointing then-Acting Commissioner of Insurance Dominic D'Annunzio as Liquidator for Lincoln Mutual and James E. Gerber as the Special Deputy Liquidator. (Exhibit A, Order of Liquidation.)

2. Since the inception of the Liquidation of Lincoln Mutual, the former Insurance Bureau has gone through several reorganizations, and each successor insurance commissioner has served as the company's Liquidator while in office. Under Executive Order 2000-04, former Governor Engler established the Michigan Office of Financial and Insurance Services ("OFIS") as successor to the Michigan Insurance Bureau, with the OFIS Commissioner assuming the duties previously delegated to the Commissioner of Insurance. Under Executive Order 2008-02, former Governor Granholm reorganized OFIS and changed its name to the Office of Financial and Insurance Regulation ("OFIR"). Under Executive Order 2013-1 effective March 18, 2013, Governor Snyder renamed OFIR the Department of Insurance and Financial Services ("DIFS") and transferred all the authority, powers, duties, functions, and responsibilities of the former Commissioner of OFIR to the newly-created position of the Director of DIFS. Annette E. Flood currently serves as the DIFS Director and Liquidator for Lincoln Mutual.

3. As related more fully in the Annual Reports filed with this Court, the liquidation of Lincoln Mutual has been successfully accomplished through:

a. Implementation of the Proof of Claim form filing process;

b. Creation and implementation of the POC adjudication process through final conclusion;

c. Marshaling all available assets of Lincoln Mutual and converting them to cash;

d. Diligent tax planning and preparation;

e. Commutation of all reinsurance contracts; and

f. Settlement of various disputes and litigation.

4. These activities having been completed, the Liquidator now seeks the following:

a. Approval of the Liquidator's final recommendation to pay 100% of the accrued and reserved administrative expenses of the Michigan Property and Casualty Guaranty Association ("MPCGA") under the terms stated in the Liquidator's Revised Notice of Determination to the MPCGA dated November 8, 2013 and the Agreement for Disbursement of Funds entered into between the Liquidator and the MPCGA, together with approval of that Agreement. (Exhibit B, 11/8/13 Revised Notice of Determination and Agreement for Disbursement of Funds.)

b. Approval of the Liquidator's final recommendation to pay a pro-rata (58.60% of the approved claim amount) distribution of Estate assets to Class 2 priority claimants pursuant to MCL 500.8142(1)(b), which includes claims of policyholders, policy claimants, and guaranty associations.

c. Approval of the Liquidator's final claim report and recommendations regarding all claims filed and processed in the Lincoln Mutual liquidation. (Exhibit C, Final Claim Report and Exhibit D, Liquidator's Recommendations for Distribution by Class of Claim.)

d. Ratification of the Liquidator's claim determination process, including the priority of distribution of claims filed against the Lincoln Mutual Liquidation Estate under MCL 500.8142.

e. Authority to make a final distribution of Estate assets consistent with the Liquidator's claim recommendations.

f. Approval of an administrative expense reserve to cover the operating expenses and costs associated with the final closure of the Lincoln Mutual Estate.

THE CLAIM DETERMINATION PROCESS

5. Pursuant to MCL 500.8122, the Liquidator provided notice of the liquidation to all persons known or reasonably expected to have claims against Lincoln Mutual. (Exhibit E, Notice of Liquidation.) All policies not previously cancelled before the Order of Liquidation were cancelled as of September 29, 1997.

6. Proof of Claim forms were sent to all known potential claimants, requiring them to provide information supporting their claim(s) as provided by MCL 500.8136(1). The Proof of Claim form further notified potential claimants of the March 1, 1998 claim filing deadline. More than 10,000 Proof of Claim forms were sent to policyholders, general creditors, and other interested parties. Notice of the liquidation was also provided to the National Association of Insurance Commissioners and all property and casualty guaranty associations, as well as published for four weeks in the Detroit News from September 7, 1997 through September 28, 1997.

7. Following entry of the Order of Liquidation, the MPCGA took possession of Lincoln Mutual's existing company claim files. Upon submission of a Proof of Claim form to the Lincoln Mutual Liquidation Estate, the liquidation staff created a new liquidation claim file, assigned the claim a Proof of Claim number, and established a reserve for the amount asserted in the Proof of Claim while entering this information into the Proof of Claim database. The Proof of Claim was then forwarded to the MPCGA for further processing. In addition, consistent with

MCL 500.8143(1), the liquidation staff independently reviewed (and when necessary investigated) all Proofs of Claim for which it was determined that MPCGA coverage was not available.

8. In total, the Lincoln Mutual Liquidation Estate received and processed to final conclusion 2,292 Proof of Claim forms. (Exhibit C.)

9. Pursuant to MCL 500.8139(1), if the Liquidator denied a claim in whole or in part, the Liquidator gave written notice of the determination to the claimant or his or her attorney by first-class mail at the address shown in the Proof of Claim form or any updated address provided by the claimant.

10. Consistent with MCL 500.8139(1), the Liquidator prohibited any claimant from pursuing an objection to the Liquidator's adverse claim determination if the objection was not timely filed within sixty (60) days after the date of mailing of the notice of determination.

11. Consistent with MCL 500.8139(2), the Liquidator responded to each objection regarding an adverse claim determination by mailing to the claimant or his or her attorney by first-class mail at the address shown in the Proof of Claim form (or any updated address provided by the claimant) a letter stating the Liquidator's response to the objection.

12. Consistent with MCL 500.8139(2), if the Liquidator did not alter the denial of a claim in response to a claimant's objection, the claimant was required to advise the Liquidator in writing that the claimant maintained the objection and wished to pursue further Court review of the matter. In addition, the claimant was required to state the basis for the request for judicial review and provide any

additional documentation not previously submitted in support of the objection and claim.

13. The Liquidator requests the Court to formally ratify and approve the above-described process used by the Liquidator to adjudicate all claims filed against the Lincoln Mutual Liquidation Estate.

PRIORITY OF DISTRIBUTION OF CLAIMS

14. The Liquidator further requests this Court to ratify and approve the priority of distribution of claims used by the Liquidator to administer and adjudicate claims filed against the Lincoln Mutual Liquidation Estate and to make the recommended distributions described in this Petition. The Liquidator's priority of distribution of claims is in accordance with the statutory priority requirements contained in MCL 500.8142, as follows:

- Class 1: The costs and expenses of administration of the Lincoln Mutual Liquidation Estate, including but not limited to legal and supervisory fees, the actual and necessary costs of preserving or recovering Lincoln Mutual's assets, compensation for all services rendered in the liquidation, any necessary filing fees, and the reasonable expenses of a guaranty association in handling claims. MCL 500.8142(1)(a).

- Class 2: All claims under Lincoln Mutual policies for losses incurred, including third party claims, and all claims of a guaranty association or foreign guaranty association. MCL 500.8142(1)(b).

- Class 3: Federal government claims. MCL 500.8142(1)(c).

- Class 4: All claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not under policies, together with certain

types of employee claims. MCL 500.8142(1)(d). The Liquidator received no claims that fall within this class.

- Class 5: Claims of general creditors. MCL 500.8142(1)(e).

- Class 6: Claims of any state or local government, with certain limitations applicable to claims involving penalty or forfeiture. MCL 500.8142(1)(f). The Liquidator received no claims that fall within this class.

- Class 7: Claims filed late or any other claims other than claims under MCL 500.8142(1)(h) and (i). MCL 500.8142(1)(g).

- Class 8: Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. MCL 500.8142(1)(h).

- Class 9: Claims of [former] shareholders or other owners. MCL 500.8142(1)(i). The Liquidator received no claims that fall within this class.

15. In addition, the Liquidator has imposed the requirement in MCL 500.8142(1) that "[e]very claim in each class shall be paid in full or adequate funds retained for their payment before the members of the next class receive payment," and requests the Court to formally ratify and approve the Liquidator's application of this statutory requirement.

APPROVAL OF CLAIM RECOMMENDATIONS

16. MCL 500.8143(1) provides:

> As soon as practicable, the liquidator shall present to the court a report of the claims against the insurer with his or her recommendations. The report shall include the name and address of each claimant and the amount of the claim finally recommended, if any.

MCL 500.8143(2) further provides that "[t]he court may approve, disapprove, or modify the report on claims by the liquidator."

17. The Liquidator has resolved all claims consistent with the above-described claims determination process and Chapter 81 of the Michigan Insurance Code, and now presents his final claim report and recommendations in attached Exhibits C and D. Pursuant to MCL 500.8143(2), the Liquidator asks the Court to approve his claim recommendations set forth in these Exhibits, which are summarized as follows:

- The Liquidator has resolved the Class 1 MPCGA claims related to administrative expenses incurred by the MPCGA in handling Lincoln Mutual claims. These claims total $2,150,493. The Liquidator's final recommendation to pay 100% of these Class 1 claims is reflected in Exhibit B, the Liquidator's Revised Notice of Determination to the MPCGA dated November 8, 2013 (which the MPCGA accepted by executing) and the Agreement for Disbursement of Funds between the Liquidator and the MPCGA (which the Liquidator also asks this Court to approve). This final recommendation is also contained in Exhibit D, the Liquidator's Recommendations for Distribution by Class of Claim.

- The Liquidator has also resolved Class 2 claims. These claims consist of one open policyholder claim which totals $2,916.69 and an MPCGA claim for losses incurred under Lincoln Mutual policies which totals $9,828,977.00. The Liquidator recommends paying a final pro-rata 58.60% distribution on the allowed amount of these claims. (Exhibits B, C, and D.) In addition, the MPCGA has 42 open claim files from Lincoln Mutual that would otherwise be Class 2 claims, but the MPCGA will continue to administer these claims and remain responsible for any potential future payments associated with them. (Exhibit F, MPCGA Open Claims.)

- The Liquidation Estate received one Class 3 claim from the IRS involving a pre-liquidation payroll tax issue. Because there are insufficient assets to satisfy 100% of the Class 2 claims, the Liquidator recommends no distribution on this Class 3 claim. (Exhibit D.) Consistent with MCL 800.8139(1), a notice of

determination was sent disallowing the amount claimed. No objection to this determination was received by the Liquidator, so the claim file is now closed.

- The Liquidation Estate received Class 5 claims totaling $186,915.22. (Exhibits C and D.) Because there are insufficient assets to satisfy 100% of the Class 2 claims, the Liquidator recommends no distribution on these Class 5 claims. (Exhibit D.) Consistent with MCL 800.8139(1), notices of determination were sent disallowing the amounts claimed. No objections to these determinations were received by the Liquidator, so the claim files are now closed.

- The Liquidation Estate received sixty-nine (69) Class 7 (late-filed) claims. After review by the Liquidator, these files were sent to the MPCGA for further evaluation and claims processing. The MPCGA, working in coordination with the Liquidator, resolved the majority of these claims. The Liquidator recommends no distribution on the remaining Class 7 claims that could not be paid by the MPCGA, because there are insufficient assets to satisfy 100% of the Class 2 claims. (Exhibit D.) Consistent with MCL 500.8135 and MCL 500.8139(1), notices of determination were sent to these claimants disallowing the amounts claimed. No objections were received by the Liquidator, so the reserve for these claims was released and the claim files are now closed.

- The Liquidation Estate received two Class 8 claims totaling $2,079,333. (Exhibits C and D.) Because there are insufficient assets to satisfy 100% of the Class 2 claims, the Liquidator recommends no distribution on these Class 8 claims. (Exhibit D.) Consistent with MCL 800.8139(1), notices of determination were sent disallowing the amounts claimed. No objections to these determinations were received by Liquidator, so the reserve for these claims was released and the claim files are now closed.

As stated above, the Liquidator received no claims falling within Classes 4, 6, or 9.

AUTHORITY TO DISTRIBUTE LIQUIDATION ESTATE ASSETS

18. As of December 31, 2013, the Lincoln Mutual Liquidation Estate had assets in the amount of $8,045,450.30. (Exhibit G, Balance Sheet.) Based on conservative estimates, the Liquidator proposes to retain approximately $133,467 to pay the Class 1 final administrative costs and expenses of closing the Estate, leaving $7,911,983 that the Liquidator now seeks authority to distribute (the "Distribution Amount").

19. Specifically, consistent with the Liquidator's claim recommendations summarized above and contained in Exhibits C and D, the Liquidator requests the Court's authority to make the following final distributions of Liquidation Estate assets: (a) a distribution to the MPCGA in the amount of $2,150,493, which represents a payment of 100% on its Class 1 administrative expense claim; and (b) distributions to the MPCGA in the amount of $5,759,781 and to Citizens Insurance Co. in the amount of $1,709, which represent a pro-rata 58.60% payment on the total allowed amount of their respective Class 2 claims.

20. Any additional Estate assets that the Liquidator recovers, and that are not required to fund Class 1 administrative costs and expenses, would be distributed in the future following the filing of a Petition and this Court's approval. At this time, however, the Liquidator does not anticipate any additional recoveries. Moreover, in the unlikely event any such additional assets are recovered, it is anticipated that they would be used only to increase the pro-rata payment to Class 2 claimants, with all Class 3, 5, 7, and 8 claimants still receiving no distribution.

21. MCL 500.8144 provides that the Liquidator shall pay distributions, under the Court's direction, "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." The Liquidator believes that his recommended 100% distribution on Class 1 claims and pro-rata distribution to Class 2 claimants assures the proper recognition of priorities and is necessary to complete this liquidation. Moreover, the proposed distribution will not adversely impact unliquidated and undetermined claims because all claims belonging to the class that would be the likely recipient of any future distribution are already liquidated and determined.

22. Claimants in Classes 3, 5, 7, and 8 have been informed that they are unlikely to receive any distribution for their claims. The Liquidator will retain records, however, that will permit adjudication of such claims and pro-rata distributions to be made to these claimants, as appropriate, should sufficient funds become available.

23. Following this Court's approval of the proposed final distributions described in this Petition and the making of those distributions, the Liquidator will file a closing petition to terminate the liquidation and will also provide a final accounting to the Court. Based on current financial projections, the Liquidator anticipates that the funds reserved to pay Class 1 final administrative costs and expenses of closing the Estate will be nearly exhausted and any remaining funds will be minimal, making any additional distributions to Creditors economically

unfeasible. Accordingly, the closing petition will likely request the Court's approval to irrevocably escheat any remaining Estate funds to the State of Michigan.

SHORTENED NOTICE AND SERVICE OF PETITION AND ANY RESULTING ORDER

23. Time is of the essence in having this Petition heard by the Court and, if approved, making the Liquidator's proposed distributions because: (a) the only remaining member of the Lincoln Mutual liquidation staff is retiring effective March 31, 2014; (b) the bank where Lincoln Mutual's assets are currently held is terminating services for all insolvency accounts and therefore closing Lincoln Mutual's bank account effective April 10, 2014; and (c) distribution of these Estate assets is the final step necessary before proceeding with the termination of this liquidation proceeding. In addition, the MPCGA has already signed off on the distributions proposed by this Petition (Exhibit B), while a copy of this Petition was provided to the MPCGA before it was filed. Accordingly, and anticipating no objections to the Petition, the Liquidator requests this Court to approve and ratify an expedited hearing on this Petition on 2-days' notice, i.e., filing the Petition on March 17, 2014 and hearing the Petition on March 19, 2014.

24. Similarly, attempting to identify and personally notify any parties with a remote or potential interest in this Petition would be time-intensive and costly to Lincoln Mutual's Liquidation Estate. For this reason, the Liquidator requests that the Court authorize and ratify service of this Petition and any resulting Order by:

(a) Posting a copy of the Petition and any resulting Order on the DIFS website, www.michigan.gov/difs, under the section "Who We Regulate" and the subsection "Lincoln Mutual"; and

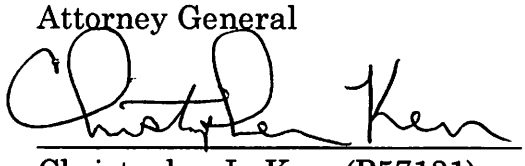
(b) Serving a copy of the Petition and any resulting Order via e-mail and U.S. First Class Mail on the MPCGA.

Service in this manner is reasonably calculated to give interested parties actual notice of these proceedings and an opportunity to be heard, and is otherwise reasonable under the circumstances.

WHEREFORE, for the reasons stated above, the Liquidator respectfully requests this Court to enter an Order: (1) ratifying and approving the Liquidator's claim determination process; (2) approving the Liquidator's claim recommendations, pursuant to MCL 500.8143(2); (3) ratifying the Liquidator's priority of distribution of claims filed against the Lincoln Mutual Liquidation Estate, consistent with MCL 500.8142; (4) authorizing the Liquidator to make a final distribution of Estate assets to the claimants identified in this Petition, pursuant to MCL 500.8144; and (5) approving and ratifying the hearing of this Petition on shortened notice and service in the manner described above.

Respectfully submitted

Bill Schuette
Attorney General



Christopher L. Kerr (P57131)
Assistant Attorney General
Michigan Department of Attorney General
Corporate Oversight Division
Attorneys for Petitioner
P.O. Box 30755
Lansing, Michigan 48909
(517) 373-1160

Dated: March 17, 2014