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November 1, 2019

VIA HAND DELIVERY

Clerk of the Court
Ingham County Circuit Court
313 W. Kalamazoo Street
Lansing, MI 48901

2019 NOV -1 P 1:11

Re: Fox v Pavonia Life Insurance Company of Michigan, Case No. 19-504-CR

Dear Clerk:

Please find enclosed for filing the following documents in the above-referenced matter:

- (1) Appearance of Ryan M. Shannon and Jeffery V. Stuckey of Dickinson Wright PLLC on behalf of GBIG Holdings, Inc.;
- (2) Response of GBIG Holdings, Inc., to the 10/04/2019 Objection to Plan of Rehabilitation by Independent Insurance Group, LLC; and
- (3) Proof of Service.

We are hand delivering a Judge's Copy to the Mason Courthouse as well.

Should you have any questions or require additional information, please feel free to contact me at (517) 487-4719 or rshannon@dickinsonwright.com.

Sincerely,

Ryan M. Shannon

CAS

Enclosures

cc: Michigan Dep't of the Attorney General, Attn: Christopher Kerr Esq., and James Long, Esq.
Jonathan E. Raven, Esq., Fraser Trebilcock
Timothy W. Volpe, Adams and Reese LLP
Hon. Wanda Stokes (via hand delivery)
LANSING 88848-1 548483v1

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

Anita G. Fox, Director of the Michigan
Department of Insurance and
Financial Services

Plaintiff,

v

Pavonia Life Insurance Company
of Michigan,

Defendant.

Case No. 19-504-CR

Hon. Wanda M. Stokes

**NOTICE OF APPEARANCE OF RYAN M. SHANNON AND
JEFFERY V. STUCKEY ON BEHALF OF GBIG HOLDINGS, INC.**

NOW COMES Dickinson Wright PLLC, by Ryan M. Shannon and Jeffery V. Stuckey,
who hereby enter their appearances on behalf of non-party GBIG Holdings, Inc. in the above-
captioned matter.

Respectfully submitted,

DICKINSON WRIGHT PLLC

Dated: November 1, 2019

By:



Ryan M. Shannon (P74535)

Jeffery V. Stuckey (P34648)

Attorneys for GBIG Holdings, Inc.

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

Anita G. Fox, Director of the Michigan
Department of Insurance and
Financial Services

Plaintiff,

Case No. 19-504-CR

Hon. Wanda M. Stokes

v

Pavonia Life Insurance Company
of Michigan,

Defendant.

PROOF OF SERVICE

The undersigned hereby certifies that on November 1, 2019, he caused to be served on the following, by first class mail, postage prepaid, a true and correct copy of (1) the Appearance of Ryan M. Shannon and Jeffery V. Stuckey on behalf of GBIG Holdings, and (2) the Response of GBIG Holdings, Inc. to the 10/04/2019 Objection to Plan of Rehabilitation By Independent Insurance Group LLC:


Michigan Department of Attorney General
Attn: Christopher Kerr and James Long
Corporate Oversight Division
P.O. Box 30736
Lansing, MI 48909

Jonathan E. Raven
Fraser Trebilcock Davis & Dunlap PC
124 W. Allegan Street, Suite 1000
Lansing, MI 48933

Timothy W. Volpe
Adams and Reese LLP
501 Riverside Avenue, Suite 601
Jacksonville, FL 32202

The undersigned further certifies that on November 1, 2019, he caused to be served via hand-delivery, a copy of the foregoing documents on the Clerk of the Court, Ingham County Circuit Court, 313 W. Kalamazoo Street, Lansing, MI, and a Judge's Copy of the Response of GBIG Holdings, Inc. to the 10/04/2019 Objection to Plan of Rehabilitation by Independent

Insurance Group LLC on the Honorable Wanda M. Stokes, Ingham County Circuit Court, 315 S. Jefferson St, 3rd Floor, Mason, MI 48854.



Ryan M. Shannon

LANSING 88848-1 548481v1

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

Anita G. Fox, Director of the Michigan
Department of Insurance and
Financial Services

Case No. 19-504-CR

Plaintiff,

Hon. Wanda M. Stokes

v

Pavonia Life Insurance Company
of Michigan,

Defendant.

**RESPONSE OF GBIG HOLDINGS, INC.,
TO THE 10/04/2019 OBJECTION TO PLAN OF REHABILITATION
BY INDEPENDENT INSURANCE GROUP, LLC**

GBIG Holdings, Inc. ("GBIG"), by and through its counsel, Dickinson Wright PLLC, and pursuant to the Court's August 8, 2019 Order Preliminary Approving Plan of Rehabilitation (the "Procedural Order")¹ hereby responds to the October 4, 2019 Objection to the Plan of Rehabilitation filed by Independent Insurance Group ("IIG").

I. Introduction

*"The purpose of [Chapter 81 of the Insurance Code] is the protection of the interests of insureds, claimants, creditors, and the public with minimum interference with the normal prerogatives of the owners and managers of insurers."*²

These rehabilitation proceedings were initiated following the *voluntary* consent of GBIG and Pavonia Life Insurance Company ("Pavonia") to the filing of a Petition for Rehabilitation by

¹ See August 8, 2019 Order, Section II, Page 12 ("Other interested parties may likewise file and serve a written response to such comments or objections on or before Friday, November 1, 2019.")

² MCL 500.8101(3).

the Director of Insurance and Financial Services (“DIFS”). The question presently before this Court is whether the Plan of Rehabilitation, submitted by the Director (Michigan’s chief insurance regulator, acting as rehabilitator) should be approved. This question is reviewed on an abuse of discretion standard. There is ample support for the Plan already in the record, and the Court has received no objections from interested parties showing that the Director has abused her discretion in proposing the Plan.

IIG has filed an Objection in which it asks to delay the entry of the Plan while IIG considers whether to make an offer to buy Pavonia—i.e., IIG makes a non-binding *proposal to propose*. Such delay is unwarranted and unwise, especially as IIG sat on the sidelines for months after GBIG made it publicly known that it was courting potential purchasers for Pavonia (and while GBIG worked with potential buyers to facilitate their diligence). Indeed, IIG only sought to insert itself into this process *after* the stipulated Petition for Rehabilitation had been filed. Delay of the nature sought by IIG would moreover increase risks to Pavonia Life Insurance Company’s (“Pavonia”) policyholders, creditors, and shareholders in various ways. (These are the very parties that rehabilitation is designed to protect.) Delay would increase the costs of administration (which are to be paid from Pavonia’s estate), increase the likelihood that key employees will depart for other opportunities while a new deal is explored and developed, and increase execution risk on the deal that has already been negotiated over many months of good faith efforts by GBIG, Aspida Holdco, Inc., and DIFS.

Though IIG repeatedly refers to itself as an “interested party,” it is not—it has no legally protected interests in this proceeding. It is a complete stranger to Pavonia as well as to Pavonia’s

policyholders, shareholders, and creditors.³ IIG has cited no authority—and none exists—to support its involvement in this proceeding. Chapter 81 of the Insurance Code, which governs insurance rehabilitations, does not confer any rights upon entities that aspire to buy insurers or on disappointed bidders. Contrary to IIG’s claims, nothing in the Plan or in the negotiated Stock Purchase Agreement requires *anyone* to consider alternative offers or to allow for IIG to delay proceedings while it considers whether to make one.

Conversely, Chapter 81 confers sole authority in proposing a Plan of Rehabilitation on the Director. As IIG has no legally protected interests in this proceeding, IIG’s Objection should be disregarded, the Plan should be approved, and this Court should move ahead with steps to return Pavonia to its normal operations as soon as practicable and as is consistent with the purposes of Chapter 81.

II. Pertinent Facts and Procedural History

A. The Plan of Rehabilitation is the work of multiple parties over many months.

This rehabilitation proceeding concerns the disposition of Pavonia—a life insurer domiciled in Michigan. Pavonia is a wholly-owned subsidiary of GBIG Holdings, Inc. (“GBIG”). GBIG is ultimately owned by Greg Lindberg.

In April of 2019, the United States Department of Justice unsealed a federal criminal indictment of Mr. Lindberg. By that time, and indeed long before, GBIG and Pavonia had already

³ IIG states in its Objection that it “act[s] through” its subsidiary, “Independent Life Insurance Company” (“ILIC”), and characterizes ILIC as a “national leader in the structured settlement market.” (Objection p. 2-3.) Like IIG, ILIC is a stranger to Pavonia and also to the Michigan insurance market. ILIC holds authority to transact insurance only in one state—Texas—and only began operations in 2018. It has had negative net income (losing more than \$1.5 million) since it started operations. (See 2Q Financial Statement of Independent Life Insurance Company, p. 1, 4, attached as Exhibit 1. The attachment is an excerpt from the publicly available financial disclosures ILIC must make to Texas and the NAIC.)

commenced discussions with DIFS concerning the status of and future plans for Pavonia. (See Affidavit of Tamre Edwards (“Edwards Affidavit”), Exhibit 2, ¶ 5.) GBIG raised the sale of Pavonia as a potential solution (i.e., to the holding company hazards posed by the investigation into Mr. Lindberg) in its initial discussions with DIFS, which occurred as far back as October of 2018. (*Id.*) For the next nine months—including up to filing of the stipulated Petition for Rehabilitation—GBIG was in regular communications with DIFS concerning its plans and proposals and the interim measures taken by Pavonia and GBIG to protect Pavonia’s policyholders.⁴ (See *id.*, ¶ 6.)

During its consideration of alternatives, GBIG engaged in an open process to attract a suitable buyer. (*Id.*, ¶¶ 7-8.) The fact that GBIG was looking for a buyer was widely disseminated. The Wall Street Journal, e.g., reported on February 28, 2019 that “Mr. Lindberg’s team has shopped the U.S. insurance units to financial firms eager to expand or get into life insurance.”⁵ Further, on April 5, 2019, GBIG issued a press release confirming that it was pursuing a sale of its U.S. life insurance companies. (See Press Release, Exhibit 3.) Over the last year, GBIG and Pavonia have entered into multiple agreements to facilitate due diligence by potential buyers; fully 20 prospects were given access to a dedicated data room to perform review and consider making proposals to acquire Pavonia. (See Edwards Affidavit, Ex. 2, ¶ 8.) Seven different interested

⁴ Prior to rehabilitation, as a result of the investigation and indictment of Mr. Lindberg, and with the support of DIFS, GBIG transitioned all of Pavonia’s investment management services to Goldman Sachs Asset Management (“GSAM”). Notwithstanding IIG’s expressed concerns about the investment portfolios of Pavonia’s *North Carolina* affiliates, GSAM has kept Pavonia’s investments in compliance with the laws of Michigan, where Pavonia is domiciled.

⁵ See Leslie Scism, *Financier Who Amassed Insurance Firms Diverted \$2 Billion Into His Private Empire*, Wall Street Journal (February 28, 2019), available at <https://www.wsj.com/articles/financier-who-amassed-insurance-firms-diverted-2-billion-into-his-private-empire-11551367856> (last accessed October 29, 2019).

parties met with GBIG management for comprehensive diligence discussions, and multiple proposals were received and considered. (*Id.*)

GBIG ultimately identified Aspida Holdco, Inc. (“Aspida”) (a subsidiary of Ares Management Corporation (“Ares”)) as a suitable buyer and entered into good faith negotiations. (Edwards Affidavits, Ex. 2, ¶ 9.) Ares is a publicly traded company with approximately \$142 billion of assets under management, and nearly \$6 billion in market capitalization. Ares proposes to support Pavonia with significant capital and resources as part of its overall growth plan.

Aspida and GBIG negotiated the July 9, 2019 Stock Purchase Agreement (“SPA”)⁶ over the course of six months. (*Id.*, ¶ 10.) GBIG identified Aspida as a suitable purchaser to DIFS in the middle of that negotiation process (in or around May of 2019), and DIFS remained involved in discussions throughout. (*Id.*, ¶ 11.) Following completion of the negotiations, on July 9, 2019, Pavonia stipulated to the Director’s filing of a Rehabilitation Petition in this Court, which Petition contemplates the sale of Pavonia to Aspida under the negotiated SPA. Pavonia’s board of directors, and GBIG (as the shareholder of Pavonia) consented to *voluntary* rehabilitation *because* of the negotiated transaction reflected in the SPA and Rehabilitation Plan. (*Id.*, ¶ 12.)

As stated in the Petition by the Director (acting as rehabilitator), “Pavonia is financially stable,” and “has not engaged in the non-insurance affiliate investment activity encumbering” affiliate insurers now under rehabilitation in North Carolina. (See Petition, ¶ 11.) None of Pavonia’s contemplated officers or directors following closing are known to be facing criminal

⁶ See Exhibit A to filed Plan of Rehabilitation.

indictment,⁷ and moreover, Pavonia’s rehabilitation can be achieved through its sale to a ready and willing buyer—Aspida—with adequate sophistication and capital to assure Pavonia’s continued success.

Shortly after the Petition was filed—on July 24, 2019—Aspida filed a “Form A” Statement (“Regarding the Acquisition of Control of or Merger with a Domestic Insurer”) with the Director. By statute, before Pavonia is sold to Aspida, the Director—in a process that is separate from this rehabilitation—must approve of Aspida’s plans for Pavonia, including, among other things, the probity of management and directors that will be in place after the change of control, the consideration to be paid for Pavonia, the investment plans that will apply to Pavonia following transfer, and the intercompany services and cost sharing arrangements that will exist between Pavonia and its new affiliates. See MCL 500.1315. The Plan of Rehabilitation before this Court is contingent on approval of the Form A. DIFS has deemed the Form A filing “complete” and is in the course of review. GBIG anticipates that approval should be forthcoming.

B. No policyholder has objected to the Plan of Rehabilitation.

Following submission of the Rehabilitation Plan by the Director, this Court entered an August 8, 2019 Procedural Order that preliminarily approved of the Plan and established various deadlines and procedures. Pursuant to the Order, “[i]nterested parties desiring to submit any comment or objection to the Plan of Rehabilitation” were to do so by October 4, 2019. (Procedural Order, pp. 11-12.) The Court further ordered that parties interested in responding to objections could do so by November 1, 2019. (*Id.*)

⁷ Pursuant to 18 U.S.C. § 1033, no person with a prior conviction for crimes of dishonesty may serve in a management or ownership role as respects an insurance company without written permission from each relevant state’s insurance regulator.

No policyholder of Pavonia has filed any objection to the Plan of Rehabilitation. IIG is not a policyholder, claimant, or creditor of Pavonia; though IIG claims that it desires to make an offer “for the benefit of the Pavonia policyholders,” no policyholder has expressed support for IIG’s Objection in any filing with this Court. (See Objection at Ex. A Letter, p. 1; see also Edwards Affidavit, Ex. 2, ¶ 13.)

C. IIG did not present any proposals during the months of negotiation and review preceding the filing of the Petition.

Notwithstanding that GBIG had made it known that it was seeking buyers for Pavonia for months before the filing of the July 9, 2019 Petition, IIG did not communicate any interest to GBIG or Pavonia during that period. (See Edwards Affidavit, Ex. 2, ¶ 14.) IIG’s first contact to alert *anyone* of its potential interest in purchasing Pavonia apparently did not occur until August 2, 2019 (in the letter IIG attaches to its Objection).

IIG’s October 4 Objection further does not contain an offer to purchase or otherwise bind IIG to any specific terms. Instead, it merely “express[es] [IIG’s] desire and intent *to make* a ... [p]roposal,” at a later date, following an undefined diligence period. (See Objection, pp. 2-3.) IIG thus *proposes* to *propose*—it specifically states that its “Proposal” is “non-binding” and conditioned on “satisfactory due diligence review” of nonspecific “due diligence information.” (*Id.*, p. 3, n. 1.) Further, IIG’s “Proposal” does not include any details on the agreements that IIG will potentially enter into *with Pavonia* concerning, e.g., intercompany services, sharing of space, tax allocations, reinsurance proposals, or cost-sharing arrangements. DIFS has thus not engaged in any review of these agreements or of the various other factors that would be reviewed in a Form A submitted with respect to an *actual* change of control proposal. See MCL 500.1315, MCL 500.1341. Development and review of such materials would likely take months.

III. Argument

A. Standard of Review and General Principles of Chapter 81

Insurance receivership proceedings in Michigan are governed by Chapter 81 of the Michigan Insurance Code (the “Code”). MCL 500.8101 *et seq.* Chapter 81’s stated purpose is the protection of the interests of “*insureds, claimants, creditors, and the public, with minimum interference to the prerogatives of the owners and managers of insurers*” MCL 500.8101(3) (emphasis added). Chapter 81 further emphasizes the goal of enhanced “efficiency and economy” in receivership proceedings, with the minimization of legal uncertainty and litigation. MCL 500.8101(3)(c).

The only person authorized to propose a plan of rehabilitation is the Director of DIFS, acting as rehabilitator. MCL 500.8104(1), MCL 500.8114(4). The Director, further, is the state’s chief regulator of life insurance companies. With her staff at DIFS, she is uniquely qualified to assess the financial viability and probity of insurance companies and their owners.⁸ The Director is given great discretion and power when acting as rehabilitator to “reform,” “revitalize,” “transform,” “convert,” and otherwise to “deal with the property and business of” an insurer in receivership. MCL 500.8114. Chapter 81 does not contemplate that any other person—interested or not—may propose alternative plans or usurp the Director’s authority to propose plans, or may compel the Director to proceed with the filing of a plan at any particular time. See MCL 500.8114(4).

⁸ See *Attorney General ex rel Comm’r of Ins v Lapeer Farmers Mut Fire Ins Ass’n*, 300 Mich 320, 326 (1942) (finding trial court did not abuse discretion in denying petition of objecting members and creditors to intervene in insurance receivership, in part, because commissioner was already a party and was an “impartial and important state department[] charged with the duty and responsibility of seeing that justice is done” in receiverships).

Chapter 81 is not designed to protect or foster the business interests of persons who desire to purchase insurers. As is relevant here, nothing in Chapter 81 compels that an insurer in rehabilitation must be sold, or that any particular offer to purchase an insurer must be considered. Indeed, nothing in Chapter 81 requires that a Court give objectors of any type a hearing. See MCL 500.8114(4) (stating the court may approve, modify, or disapprove of a plan “after notice and hearings *as the court may prescribe*”) (emphasis added).

Like many chapters of the Code, Chapter 81 is based on a model law—the Insurance Receivership Model Act—promulgated by the National Association of Insurance Commissioners (“NAIC”).⁹ In addition to revising and updating the model law, the NAIC trains regulators on its application and develops implementation materials, including the NAIC *Receiver’s Handbook for Insurance Company Insolvencies*, which is updated regularly to reflect developments in state law (the “Handbook”). (The most recent updates to the Handbook were made in 2018.)

The Handbook states that “[t]he court’s review of the rehabilitator’s proposed plan is generally a limited one, subjecting the rehabilitator’s proposal to an abuse of discretion standard.” See Excerpts from Handbook, p. 488 (2018), Exhibit 4 (gathering legal authorities). Courts applying analogous state receivership statutes have generally deferred to the business judgment of a rehabilitator, and will disapprove of the rehabilitator’s actions only when they are shown to be arbitrary, capricious, or an abuse of discretion. See *Mills v Florida Asset Financing Corp*, 31 AD 3d 849, 850 (NY 3d Dep’t 2006). Learned treatises on the subject of insurance similarly recognize that, within the context of reviewing the plans of a rehabilitator, “[t]he court may not ... use its

⁹ See *MacDonald v State Farm Ins Co*, 419 Mich 146, 151 (1984) (approving of reference/reliance on statements and purposes in model acts adopted by Michigan legislature when interpreting state laws).

supervisory role as a means of substituting its judgment for that of the commissioner.” Couch on Insurance (3d), § 5:23 (2019). In sum, the statutes and related authorities contemplate that this Court should approve of the Plan as submitted unless the Court identifies some reason to believe that the Director has acted outside of the scope of her considerable statutory discretion.

B. IIG is not an interested party.

IIG asserts at various points that it is an “interested party” to these proceedings (see, e.g., Objection p. 1, p. 9); it requests discovery and delay, and an opportunity to propose an alternative plan to the one put forward by the Director. IIG is not, however, an “interested party” in the sense suggested by its Objection.

IIG apparently seeks to convert the Court’s use of the phrase “interested parties” in the Procedural Order into something more than it is. The only *true* parties in a receivership proceeding are the Director, as rehabilitator, and the insurer’s estate (here, Pavonia). Formal intervention by other additional persons in insurance receiverships is only permitted in “unusual circumstances,” and even actual policyholders and claimants are not afforded *actual* party status absent a showing that the commissioner is not protecting their interests. See *Attorney General ex rel Commissioner of Ins v Lapeer Farmers Mut Fire Ins Ass’n*, 300 Mich 320, 236 (1942). Further, under Michigan law, only “real parties in interest” have standing and are owed due process. MCR 2.201(B). See *Lansing Sch Ed Ass’n v Lansing Bd of Ed*, 487 Mich 349, 372 (2010) (holding that standing as a party in interest requires a special injury or right, or a substantial interest that will be detrimentally affected in a manner different from the citizenry at large); see also *Michigan Nat’l Bank v Mudgett*, 178 Mich App 677, 679 (1989) (finding even corporation’s owner lacked standing with respect to corporate contract claim; only corporation itself could initiate action).

There was no statutorily-mandated bid process as related to the purchase of Pavonia—and even in the Objection, IIG makes no actual “bid.” But even if there *had* been such a process, or even if IIG *had* made a binding proposal, IIG would have no rights as a disappointed bidder under Michigan law. Even in instances where state law requires consideration of offers through, e.g., a bid process, it is longstanding black letter law in Michigan that disappointed bidders, suitors, and prospective buyers have no standing to challenge an agency’s determination. See *Talbot Paving Co v Detroit*, 109 Mich 657 (1896); see also *City Communications, Inc v City of Detroit*, 650 F Supp 1570, 1581 (ED Mich 1987) (even where fraud, conspiracy, or collusion in a bidding process is alleged, “the law of Michigan gives no rights to unsuccessful bidders.”).

Chapter 81, as noted previously, contains no protections for hopeful buyers¹⁰ of insurance companies.¹¹ Such protections would be contrary to the purposes of Chapter 81—i.e., the efficient and speedy return of an insurer to its normal operations. Permitting self-interested bidders to slow or stop the process would further cause the rehabilitator to incur administrative and legal expenses—all of which must be paid from the assets of the receivership estate. See MCL 500.8114(1).

¹⁰ While Chapter 81 makes no reference to objections by “interested parties,” under the NAIC’s Insurance Receivership Model Act, a “party in interest” in a rehabilitation proceeding is expressly limited to only certain categories of persons: (i) the commissioner, (ii) a non-domiciliary commissioner in whose state the insurer has outstanding claims liabilities, (iii) an insurer that ceded to or assumed business from the insurer, (iv) a policyholder, (v) a third party claimant, (vi) a creditor, (vii) a shareholder, or (viii) a person with a financial or regulatory interest in the proceeding.

¹¹ By analogy, in bankruptcy proceedings, case law holds that “parties in interest” who may raise and appear and be heard on issues under the Bankruptcy Code include the debtor, the trustee, and creditors, but not disappointed bidders. See generally *In re 60 E. 80th St Equities, Inc*, 218 F3d 109 (2d Cir 2000).

Because IIG is not a claimant, policyholder, or creditor, its Objection should be disregarded, and this Court should proceed to approve the Plan.

1. IIG misstates the importance of the “Superior Proposal” language of the SPA.

In its Objection, IIG considerably overstates the import of the “Superior Proposal” language contained in the negotiated SPA. That is, IIG alleges that “Section 12.04(d) of the GBIG-Aspida SPA, adopted in the Plan, specifically and expressly contemplates a ‘Superior Proposal,’” and IIG asserts further that “in accordance with the express terms of the Plan, *[IIG] must be afforded the opportunity to submit a Superior Proposal to acquire Pavonia.*” (See *id.*, p. 9 (emphasis added).)

The Plan contains no such terms.

Nothing in the SPA or the Plan requires that *anyone* consider¹² or accept a “Superior Proposal.” Section 12.04 of the SPA merely concerns whether a party to the SPA must pay to the other a sum-certain “Break Up Fee” for failing to close. Section 12.04(d), cited by IIG, identifies certain limited circumstances where the Break Up Fee provisions do not apply—i.e., it states that no break up fee is required to be paid where the seller or rehabilitator receives a “superior proposal” prior to termination of the Agreement. That is all.

Regardless, as noted above, IIG has not made any binding proposal—it has merely *proposed to propose—maybe*—after an undefined diligence period. Nothing in IIG’s Objection

¹² To the contrary, the SPA actually prevents GBIG from directly or indirectly “solicit[ing], initiat[ing], encourage[ing], respon[ing] to or facilitate[ing] any inquiry, indication of interest, proposal or offer from any Person other than [Aspida] or its representatives.” See SPA, § 8.09. This “no shop” language is typical in a privately negotiated transaction like the SPA contemplated in the Rehabilitation Plan.

supports its claim that it “must be afforded the opportunity” to make a proposal, and its Objection should thus be disregarded.

2. IIG’s request for relief would likely harm the very parties that Chapter 81 is designed to protect.

Under Chapter 81, the Court’s primary concern should be for the policyholders and creditors of Pavonia. Not one of these has filed an objection to the proposed purchase by Aspida. As recognized by learned treatises, “[w]hile a plan of rehabilitation may be approved in spite of dissenting minorities, the absence of objections *by certificate holders* to a plan of rehabilitation is material in considering whether or not the plan should be approved by the court.” Couch on Insurance (3d), § 5:29 (2019) (citing, *inter alia*, *Koken v Fidelity Mut Life Ins Co*, 907 A2d 1149, 1156 (Pa Commw Ct 2006)).

Consideration of IIG’s proposal would significantly delay Pavonia’s exit from rehabilitation as well as the restoration of its normal operations. It would require a diligence period by IIG, a new Form A filing with DIFS, the negotiation and review of all proposed agreements (including not just an SPA but all ancillary agreements for the operation of Pavonia), and vetting of proposed officer and director qualifications. See MCL 500.1315, MCL 500.1341. To the extent ILIC is involved in the acquisition (either as the acquiring party or as a co-party to affiliate agreements), it would also require notice to and non-disapproval by the Texas Department of Insurance, e.g., as to any proposed intercompany services agreements. Tex. Code. Ann. § 823.103.

Delay in exiting rehabilitation can have any number of adverse consequences for both an insurer as well as its policyholders. Key employees of Pavonia (Pavonia employs approximately 178 staff members) may depart if they view their positions to be in jeopardy, and delay also increases execution risk—i.e., it increases the danger that the deal actually negotiated and ready for closing could terminate due to changed or unforeseen circumstances.

3. IIG is not a superior counterparty to Aspida/Ares.

Moreover, even if IIG *were, for the sake of argument*, to be considered as a possible suitor for purchasing Pavonia—IIG is not a superior counterparty to Aspida. As discussed *supra*, IIG states that it acts through its sole insurance subsidiary, ILIC—but ILIC is licensed in only one jurisdiction, has operated only since 2018, and *has not yet had positive net income*. (See fn 3, *supra*.) To the extent that IIG intends that *ILIC* is to acquire Pavonia, ILIC’s public financial statements show that it lacks the capital and surplus necessary to support the \$100 million “Independent Proposal” stated in IIG’s Objection. (See 2Q Financial Statement of Independent Life Insurance Company, p. 1, 4, attached as Exhibit 1, showing that ILIC has less than \$43 million in combined capital and surplus.)

Conversely, Ares is a publicly traded company with approximately \$142 billion of assets under management, and nearly \$6 billion in market capitalization. It has an existing \$15 billion insurance platform,¹³ and has vastly more resources to assure the safe operation of Pavonia than IIG or its owners. (See Objection, p. 3.) Moreover, unlike IIG, Aspida has already dedicated significant resources to the SPA negotiation and diligence process; it has spent more than six months performing extensive legal and financial due diligence on Pavonia, GBIG, and related entities as reflected in the Rehabilitation Plan and SPA.

Finally, it is notable that the \$100 million “offer” stated in IIG’s nonbinding “Independent Proposal” would not benefit policyholders in any material respect. The \$80 million purchase price would be paid to GBIG—not policyholders. IIG proposes injecting the remaining \$20 million into

¹³ See Rebecca Szkutak, *Ares grows insurance platform with acquisition of Pavonia*, Private Debt Investor, July 11, 2019, available at <https://www.privateinvestor.com/ares-grows-its-insurance-platform-with-acquisition-of-pavonia/> (last accessed October 24, 2019).

Pavonia as operating capital, but as stated by the Director in the Petition, there are no current solvency concerns as relate to Pavonia—the additional capital provides no material benefit to existing policyholders, especially as IIG seeks to replace an experienced management team with one that has not successfully operated an insurer before and which has no familiarity with Pavonia. (IIG also wholly ignores the fact that Aspida also proposes injecting capital into Pavonia following closing; the amount of capital at issue is contained in the non-public portions of Aspida’s Form A filing and is under review at DIFS.)

The Court ultimately need not reach any of these issues—IIG’s Objection can be disregarded on the basis that IIG is not an interested party and on the basis that IIG presents no evidence or argument that the Director has abused her discretion in proposing the Plan. But to the extent the Court does consider the merits of IIG’s nonbinding proposal, it should be plain that it is inferior in multiple respects to the Plan now before the Court.

C. The Plan of Rehabilitation should be approved.

The hazards currently presented to Pavonia are limited in nature:¹⁴

- Pavonia is in good financial condition and is ready to be returned to normal operations once it has been moved to the oversight of a new holding company system;
- None of the affiliate investment issues identified by IIG in its Objection actually concern Pavonia (a Michigan entity)—each relates to the insurers in receivership in North Carolina;
- None of Pavonia’s post-transaction officers, directors, or owners is under indictment by the DOJ or is anticipated to be, and each will have to undergo criminal background checks and review of their competence and probity in DIFS’ Form A review.

¹⁴ As of December 31, 2018, Pavonia had total net admitted assets in excess of \$1 billion. It had capital and surplus in excess of \$73.7 million. It is not presently and has not recently been at risk of insolvency. The rehabilitator’s concerns relate to the financial position of *upstream* and *lateral* affiliates—the precise parties being replaced through the contemplated SPA.

The Form A review process contemplated by the Code assures that any concerns that IIG has identified with respect to the components of the SPA and the post-transaction management of Pavonia will be addressed by the Director as Michigan's chief insurance regulator. (And indeed, this Court's determination to approve the Plan of Rehabilitation remains subject to the Code's requirement that the Director approve of the transaction as well.) The Code empowers the Director with a wide array of investigative tools to discover information about the proposed buyers of insurance companies, as well as authority to hold hearings before the approval of a Form A application. See MCL 500.1315(2). Ultimately, under the Code, the Director must find that Pavonia will continue to be "safe, reliable, and entitled to public confidence" before approving Aspida's Form A filing. See MCL 500.249, MCL 500.249a. The Director cannot authorize a change in control if she finds that any one of various hazards are present, including, e.g., "unfair" or "unreasonable" outcomes for policyholders or creditors, incompetence or lack of integrity in the purchaser, and undue financial risk presented by the solvency status of the purchaser. MCL 500.1315(1)(a)-(f).

The record contains ample support for the Director's decision to propose the Plan. It demonstrates that Pavonia, GBIG, Aspida, and DIFS have worked throughout the course of the last year in developing the Plan before the Court, and that the Plan protects the interests of policyholders and creditors of Pavonia. Given the record before the Court, the Court should not "use its supervisory role as a means of substituting its judgment for that of the commissioner," (see Couch, § 5:23, *supra.*), and should approve of the Plan notwithstanding IIG's Objection.

IV. Conclusion

For the foregoing reasons, the Objection submitted by IIG should be disregarded, and the Rehabilitation Plan before the Court should be approved without modification.

Respectfully submitted,

DICKINSON WRIGHT PLLC

Dated: November 1, 2019

By:



Ryan M. Shannon (P74535)

Jeffery V. Stuckey (P34648)

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QUARTERLY STATEMENT

AS OF JUNE 30, 2019

OF THE CONDITION AND AFFAIRS OF THE

Independent Life Insurance Company

NAIC Group Code	0000 <small>(Current Period)</small>	0000 <small>(Prior Period)</small>	NAIC Company Code	16354	Employer's ID Number	82-3172337
Organized under the Laws of	Texas		State of Domicile or Port of Entry	TX		
Country of Domicile	United States of America					
Licensed as business type:	Life, Accident & Health[]		Fraternal Benefit Societies[]			
Incorporated/Organized	10/13/2017		Commenced Business	04/23/2018		
Statutory Home Office	P.O. Box 679053 <small>(Street and Number)</small>		Dallas, TX, US 75267-9053 <small>(City or Town, State, Country and Zip Code)</small>			
Main Administrative Office			135 W Bay St., Suite 500 <small>(Street and Number)</small>			
	Jacksonville, FL, US 32202 <small>(City or Town, State, Country and Zip Code)</small>		(800)793-0848 <small>(Area Code) (Telephone Number)</small>			
Mail Address	P.O. Box 679053 <small>(Street and Number or P.O. Box)</small>		Dallas, TX, US 75267-9053 <small>(City or Town, State, Country and Zip Code)</small>			
Primary Location of Books and Records			135 W Bay St., Suite 500 <small>(Street and Number)</small>			
	Jacksonville, FL, US 32202 <small>(City or Town, State, Country and Zip Code)</small>		(800)793-0848 <small>(Area Code) (Telephone Number)</small>			
Internet Web Site Address	www.independent.life					
Statutory Statement Contact	John Todd Hagely <small>(Name)</small>		(214)731-4230 <small>(Area Code) (Telephone Number) (Extension)</small>			
	thagely@independent.life <small>(E-Mail Address)</small>					

OFFICERS

Name	Title
James Daryl Atkins	President
Donald James Herrema	Secretary
John Todd Hagely	Treasurer

OTHERS

Robert R Avery, Vice President

Jacob Daniel Smith, Vice President

DIRECTORS OR TRUSTEES

James Daryl Atkins
Donald James Herrema
Corbin James Robertson III

Robert R Avery
John Bryan King
Jacob Daniel Smith

State of _____
County of _____ ss

The officers of this reporting entity being duly sworn, each depose and say that they are the described officers of said reporting entity, and that on the reporting period stated above, all of the herein described assets were the absolute property of the said reporting entity, free and clear from any liens or claims thereon, except as herein stated, and that this statement, together with related exhibits, schedules and explanations therein contained, annexed or referred to, is a full and true statement of all the assets and liabilities and of the condition and affairs of the said reporting entity as of the reporting period stated above, and of its income and deductions therefrom for the period ended, and have been completed in accordance with the NAIC Annual Statement Instructions and Accounting Practices and Procedures manual except to the extent that: (1) state law may differ; or, (2) that state rules or regulations require differences in reporting not related to accounting practices and procedures, according to the best of their information, knowledge and belief, respectively. Furthermore, the scope of this attestation by the described officers also includes the related corresponding electronic filing with the NAIC, when required, that is an exact copy (except for formatting differences due to electronic filing) of the enclosed statement. The electronic filing may be requested by various regulators in lieu of or in addition to the enclosed statement.

_____ (Signature) James D. Atkins _____ (Printed Name) 1. President _____ (Title)	_____ (Signature) Donald J. Herrema _____ (Printed Name) 2. Secretary _____ (Title)	_____ (Signature) J. Todd Hagely _____ (Printed Name) 3. Treasurer _____ (Title)
---	---	--

Subscribed and sworn to before me this _____ day of _____, 2019

- a. Is this an original filing?
b. If no, 1. State the amendment number
2. Date filed
3. Number of pages attached

Yes[X] No[]

(Notary Public Signature)

ASSETS

		Current Statement Date			4
		1	2	3	
		Assets	Nonadmitted Assets	Net Admitted Assets (Cols. 1 - 2)	December 31 Prior Year Net Admitted Assets
1.	Bonds	84,231,881		84,231,881	59,786,457
2.	Stocks:				
2.1	Preferred stocks	178,116		178,116	
2.2	Common stocks				
3.	Mortgage loans on real estate:				
3.1	First liens				
3.2	Other than first liens				
4.	Real estate:				
4.1	Properties occupied by the company (less \$ 0 encumbrances)				
4.2	Properties held for the production of income (less \$ 0 encumbrances)				
4.3	Properties held for sale (less \$ 0 encumbrances)				
5.	Cash (\$ 349,521), cash equivalents (\$ 7,748,256) and short-term investments (\$ 0)	8,097,777		8,097,777	14,749,946
6.	Contract loans (including \$ 0 premium notes)				
7.	Derivatives				
8.	Other invested assets				
9.	Receivables for securities				
10.	Securities lending reinvested collateral assets				
11.	Aggregate write-ins for invested assets	3,250,000		3,250,000	
12.	Subtotals, cash and invested assets (Lines 1 to 11)	95,757,774		95,757,774	74,536,403
13.	Title plants less \$ 0 charged off (for Title insurers only)				
14.	Investment income due and accrued	915,655		915,655	640,409
15.	Premiums and considerations:				
15.1	Uncollected premiums and agents' balances in the course of collection				
15.2	Deferred premiums, agents' balances and installments booked but deferred and not yet due (including \$ 0 earned but unbilled premiums)				
15.3	Accrued retrospective premiums (\$ 0) and contracts subject to redetermination (\$ 0)				
16.	Reinsurance:				
16.1	Amounts recoverable from reinsurers				
16.2	Funds held by or deposited with reinsured companies				
16.3	Other amounts receivable under reinsurance contracts				
17.	Amounts receivable relating to uninsured plans				
18.1	Current federal and foreign income tax recoverable and interest thereon				
18.2	Net deferred tax asset				
19.	Guaranty funds receivable or on deposit				
20.	Electronic data processing equipment and software	43,387		43,387	54,016
21.	Furniture and equipment, including health care delivery assets (\$ 0)				
22.	Net adjustments in assets and liabilities due to foreign exchange rates				
23.	Receivables from parent, subsidiaries and affiliates				
24.	Health care (\$ 0) and other amounts receivable				
25.	Aggregate write-ins for other-than-invested assets	63,944	63,944		
26.	TOTAL assets excluding Separate Accounts, Segregated Accounts and Protected Cell Accounts (Lines 12 to 25)	96,780,760	63,944	96,716,816	75,230,828
27.	From Separate Accounts, Segregated Accounts and Protected Cell Accounts				
28.	TOTAL (Lines 26 and 27)	96,780,760	63,944	96,716,816	75,230,828
DETAILS OF WRITE-INS					
1101.	Investment Suspense	3,250,000		3,250,000	
1102.					
1103.					
1198.	Summary of remaining write-ins for Line 11 from overflow page				
1199.	TOTALS (Lines 1101 through 1103 plus 1198) (Line 11 above)	3,250,000		3,250,000	
2501.	Prepaid insurance	50,809	50,809		
2502.	Prepaid rent and other	13,135	13,135		
2503.					
2598.	Summary of remaining write-ins for Line 25 from overflow page				
2599.	TOTALS (Lines 2501 through 2503 plus 2598) (Line 25 above)	63,944	63,944		

LIABILITIES, SURPLUS AND OTHER FUNDS

	1	2
	Current Statement Date	December 31 Prior Year
1. Aggregate reserve for life contracts \$ 0 less \$ 0 included in Line 6.3 (including \$ 0 Modco Reserve)	27,626,267	12,824,832
2. Aggregate reserve for accident and health contracts (including \$ 0 Modco Reserve)		
3. Liability for deposit-type contracts (including \$ 0 Modco Reserve)	18,853,615	6,075,208
4. Contract claims:		
4.1 Life		
4.2 Accident and health		
5. Policyholders' dividends/refunds to members \$ 0 and coupons \$ 0 due and unpaid		
6. Provision for policyholders' dividends, refunds to members and coupons payable in following calendar year - estimated amounts:		
6.1 Policyholders' dividends and refunds to members apportioned for payment (including \$ 0 Modco)		
6.2 Policyholders' dividends and refunds to members not yet apportioned (including \$ 0 Modco)		
6.3 Coupons and similar benefits (including \$ 0 Modco)		
7. Amount provisionally held for deferred dividend policies not included in Line 6		
8. Premiums and annuity considerations for life and accident & health contracts received in advance less \$ 0 discount, including \$ 0 accident and health premiums		
9. Contract liabilities not included elsewhere:		
9.1 Surrender values on canceled contracts		
9.2 Provision for experience rating refunds, including the liability of \$ 0 accident and health experience rating refunds of which \$ 0 is for medical loss ratio rebate per the Public Health Service Act		
9.3 Other amounts payable on reinsurance, including \$ 0 assumed and \$ 0 ceded		
9.4 Interest Maintenance Reserve		(81,973)
10. Commissions to agents due or accrued-life and annuity contracts \$ 0, accident and health \$ 0 and deposit-type contract funds \$ 0		
11. Commissions and expense allowances payable on reinsurance assumed		
12. General expenses due or accrued	278,098	401,622
13. Transfers to Separate Accounts due or accrued (net) (including \$ 0 accrued for expense allowances recognized in reserves, net of reinsured allowances)		
14. Taxes, licenses and fees due or accrued, excluding federal income taxes		7,810
15.1 Current federal and foreign income taxes, including \$ 0 on realized capital gains (losses)	9,504	
15.2 Net deferred tax liability		
16. Unearned investment income		
17. Amounts withheld or retained by reporting entity as agent or trustee		
18. Amounts held for agents' account, including \$ 0 agents' credit balances		
19. Remittances and items not allocated		
20. Net adjustment in assets and liabilities due to foreign exchange rates		
21. Liability for benefits for employees and agents if not included above		
22. Borrowed money \$ 0 and interest thereon \$ 0		
23. Dividends to stockholders declared and unpaid		
24. Miscellaneous liabilities:		
24.01 Asset valuation reserve	223,373	96,587
24.02 Reinsurance in unauthorized and certified (\$ 0) companies		
24.03 Funds held under reinsurance treaties with unauthorized and certified (\$ 0) reinsurers		
24.04 Payable to parent, subsidiaries and affiliates	76,277	87,061
24.05 Drafts outstanding		
24.06 Liability for amounts held under uninsured plans		
24.07 Funds held under coinsurance		
24.08 Derivatives		
24.09 Payable for securities	143,531	
24.10 Payable for securities lending		
24.11 Capital notes \$ 0 and interest thereon \$ 0		
25. Aggregate write-ins for liabilities	6,860,377	12,395,737
26. Total Liabilities excluding Separate Accounts business (Lines 1 to 25)	54,071,042	31,806,884
27. From Separate Accounts Statement		
28. Total Liabilities (Lines 26 and 27)	54,071,042	31,806,884
29. Common capital stock	700,000	700,000
30. Preferred capital stock		
31. Aggregate write-ins for other than special surplus funds		
32. Surplus notes		
33. Gross paid in and contributed surplus	43,969,430	43,969,430
34. Aggregate write-ins for special surplus funds		
35. Unassigned funds (surplus)	(2,023,656)	(1,245,486)
36. Less treasury stock, at cost:		
36.1 0 shares common (value included in Line 29 \$ 0)		
36.2 0 shares preferred (value included in Line 30 \$ 0)		
37. Surplus (Total Lines 31 to 35, Less 36) (including \$ 0 in Separate Accounts Statement)	41,945,774	42,723,944
38. Totals of Lines 29, 30 and 37	42,645,774	43,423,944
39. Totals of Lines 28 and 38 (Page 2, Line 28, Col. 3)	96,716,816	75,230,828
DETAILS OF WRITE-INS		
2501. Advance premiums for policies not yet issued	6,860,377	12,395,737
2502.		
2503.		
2598. Summary of remaining write-ins for Line 25 from overflow page		
2599. TOTALS (Lines 2501 through 2503 plus 2598) (Line 25 above)	6,860,377	12,395,737
3101.		
3102.		
3103.		
3198. Summary of remaining write-ins for Line 31 from overflow page		
3199. TOTALS (Lines 3101 through 3103 plus 3198) (Line 31 above)		
3401.		
3402.		
3403.		
3498. Summary of remaining write-ins for Line 34 from overflow page		
3499. TOTALS (Lines 3401 through 3403 plus 3498) (Line 34 above)		

SUMMARY OF OPERATIONS

	1 Current Year To Date	2 Prior Year To Date	3 Prior Year Ended December 31
1. Premiums and annuity considerations for life and accident and health contracts	14,461,835	4,034,518	12,438,511
2. Considerations for supplementary contracts with life contingencies			
3. Net investment income	1,433,609	180,375	979,756
4. Amortization of Interest Maintenance Reserve (IMR)	(11,524)		(10,915)
5. Separate Accounts net gain from operations excluding unrealized gains or losses			
6. Commissions and expense allowances on reinsurance ceded			
7. Reserve adjustments on reinsurance ceded			
8. Miscellaneous Income:			
8.1 Income from fees associated with investment management, administration and contract guarantees from Separate Accounts			
8.2 Charges and fees for deposit-type contracts			
8.3 Aggregate write-ins for miscellaneous income			
9. Totals (Lines 1 to 8.3)	15,883,920	4,214,893	13,407,352
10. Death benefits			
11. Matured endowments (excluding guaranteed annual pure endowments)			
12. Annuity benefits	293,991	28,260	194,919
13. Disability benefits and benefits under accident and health contracts			
14. Coupons, guaranteed annual pure endowments and similar benefits			
15. Surrender benefits and withdrawals for life contracts			
16. Group conversions			
17. Interest and adjustments on contract or deposit-type contract funds	322,617		109,630
18. Payments on supplementary contracts with life contingencies			
19. Increase in aggregate reserves for life and accident and health contracts	14,801,435	3,925,971	12,824,832
20. TOTALS (Lines 10 to 19)	15,418,043	3,954,231	13,129,381
21. Commissions on premiums, annuity considerations, and deposit type contract funds (direct business only)			
22. Commissions and expense allowances on reinsurance assumed			
23. General insurance expenses and fraternal expenses	823,967	558,156	1,375,975
24. Insurance taxes, licenses and fees, excluding federal income taxes		1,711	9,672
25. Increase in loading on deferred and uncollected premiums			
26. Net transfers to or (from) Separate Accounts, net of reinsurance			
27. Aggregate write-ins for deductions			
28. Totals (Lines 20 to 27)	16,242,010	4,514,098	14,515,028
29. Net gain from operations before dividends to policyholders and federal income taxes (Line 9 minus Line 28)	(358,090)	(299,205)	(1,107,676)
30. Dividends to policyholders and refunds to members			
31. Net gain from operations after dividends to policyholders, refunds to members and before federal income taxes (Line 29 minus Line 30)	(358,090)	(299,205)	(1,107,676)
32. Federal and foreign income taxes incurred (excluding tax on capital gains)	144,504	4,870	
33. Net gain from operations after dividends to policyholders, refunds to members and federal income taxes and before realized capital gains or (losses) (Line 31 minus Line 32)	(502,594)	(304,075)	(1,107,676)
34. Net realized capital gains (losses) (excluding gains (losses) transferred to the IMR) less capital gains tax of \$ 0 (excluding taxes of \$ 0 transferred to the IMR)	(30,929)		
35. Net income (Line 33 plus Line 34)	(533,523)	(304,075)	(1,107,676)
CAPITAL AND SURPLUS ACCOUNT			
36. Capital and surplus, December 31, prior year	43,423,944		
37. Net Income (Line 35)	(533,523)	(304,075)	(1,107,676)
38. Change in net unrealized capital gains (losses) less capital gains tax of \$ 0			
39. Change in net unrealized foreign exchange capital gain (loss)			
40. Change in net deferred income tax		67,697	
41. Change in nonadmitted assets	(117,861)	(108,972)	(41,223)
42. Change in liability for reinsurance in unauthorized and certified companies			
43. Change in reserve on account of change in valuation basis, (increase) or decrease			
44. Change in asset valuation reserve	(126,786)	(59,471)	(96,587)
45. Change in treasury stock			
46. Surplus (contributed to) withdrawn from Separate Accounts during period			
47. Other changes in surplus in Separate Accounts Statement			
48. Change in surplus notes			
49. Cumulative effect of changes in accounting principles			
50. Capital changes:			
50.1 Paid in		700,000	700,000
50.2 Transferred from surplus (Stock Dividend)			
50.3 Transferred to surplus			
51. Surplus adjustment:			
51.1 Paid in		43,969,430	43,969,430
51.2 Transferred to capital (Stock Dividend)			
51.3 Transferred from capital			
51.4 Change in surplus as a result of reinsurance			
52. Dividends to stockholders			
53. Aggregate write-ins for gains and losses in surplus			
54. Net change in capital and surplus (Lines 37 through 53)	(778,170)	44,264,609	43,423,944
55. Capital and surplus as of statement date (Lines 36 + 54)	42,645,774	44,264,609	43,423,944
DETAILS OF WRITE-INS			
08.301			
08.302			
08.303			
08.398. Summary of remaining write-ins for Line 8.3 from overflow page			
08.399. TOTALS (Lines 08.301 through 08.303 plus 08.398) (Line 8.3 above)			
2701			
2702			
2703			
2798. Summary of remaining write-ins for Line 27 from overflow page			
2799. TOTALS (Lines 2701 through 2703 plus 2798) (Line 27 above)			
5301			
5302			
5303			
5398. Summary of remaining write-ins for Line 53 from overflow page			
5399. TOTALS (Lines 5301 through 5303 plus 5398) (Line 53 above)			

CASH FLOW

	1 Current Year To Date	2 Prior Year To Date	3 Prior Year Ended December 31
Cash from Operations			
1. Premiums collected net of reinsurance	14,461,835	8,657,520	12,438,511
2. Net investment income	1,208,235	(189,291)	348,627
3. Miscellaneous income			
4. TOTAL (Lines 1 to 3)	15,670,070	8,468,229	12,787,138
5. Benefit and loss related payments	293,991	28,260	194,919
6. Net transfers to Separate Accounts, Segregated Accounts and Protected Cell Accounts			
7. Commissions, expenses paid and aggregate write-ins for deductions	1,020,598	559,867	1,019,008
8. Dividends paid to policyholders			
9. Federal and foreign income taxes paid (recovered) net of \$ 135,000 tax on capital gains (losses)	135,000		
10. TOTAL (Lines 5 through 9)	1,449,589	588,127	1,213,927
11. Net cash from operations (Line 4 minus Line 10)	14,220,481	7,880,102	11,573,211
Cash from Investments			
12. Proceeds from investments sold, matured or repaid:			
12.1 Bonds	357,172	434,863	14,363,159
12.2 Stocks			
12.3 Mortgage loans			
12.4 Real estate			
12.5 Other invested assets			
12.6 Net gains or (losses) on cash, cash equivalents and short-term investments			
12.7 Miscellaneous proceeds	143,531	12,309	0
12.8 TOTAL investment proceeds (Lines 12.1 to 12.7)	500,703	447,172	14,363,158
13. Cost of investments acquired (long-term only):			
13.1 Bonds	24,818,101	44,141,654	74,233,683
13.2 Stocks	178,116		
13.3 Mortgage loans			
13.4 Real estate			
13.5 Other invested assets			
13.6 Miscellaneous applications	3,250,000		
13.7 TOTAL investments acquired (Lines 13.1 to 13.6)	28,246,217	44,141,654	74,233,683
14. Net increase (or decrease) in contract loans and premium notes			
15. Net cash from investments (Line 12.8 minus Line 13.7 and Line 14)	(27,745,514)	(43,694,482)	(59,870,524)
Cash from Financing and Miscellaneous Sources			
16. Cash provided (applied):			
16.1 Surplus notes, capital notes			
16.2 Capital and paid in surplus, less treasury stock		44,669,430	44,669,430
16.3 Borrowed funds			
16.4 Net deposits on deposit-type contracts and other insurance liabilities	12,455,790	662,157	5,965,578
16.5 Dividends to stockholders			
16.6 Other cash provided (applied)	(5,582,926)	66,772	12,412,251
17. Net cash from financing and miscellaneous sources (Line 16.1 through 16.4 minus Line 16.5 plus Line 16.6)	6,872,864	45,398,359	63,047,259
RECONCILIATION OF CASH, CASH EQUIVALENTS AND SHORT-TERM INVESTMENTS			
18. Net change in cash, cash equivalents and short-term investments (Line 11, plus Lines 15 and 17)	(6,652,169)	9,583,979	14,749,946
19. Cash, cash equivalents and short-term investments:			
19.1 Beginning of year	14,749,946		
19.2 End of period (Line 18 plus Line 19.1)	8,097,777	9,583,979	14,749,946

Note: Supplemental Disclosures of Cash Flow Information for Non-Cash Transactions:

20 0001			
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EXHIBIT 1**DIRECT PREMIUMS AND DEPOSIT - TYPE CONTRACTS**

	1 Current Year To Date	2 Prior Year To Date	3 Prior Year Ended December 31
1. Industrial life			
2. Ordinary life insurance			
3. Ordinary individual annuities	14,461,835		12,438,511
4. Credit life (group and individual)			
5. Group life insurance			
6. Group annuities			
7. A & H - group			
8. A & H - credit (group and individual)			
9. A & H - other			
10. Aggregate of all other lines of business			
11. Subtotal (Lines 1 through 10)	14,461,835		12,438,511
12. Fraternal (Fraternal Benefit Societies Only)			
13. Subtotal (Lines 11 through 12)	14,461,835		12,438,511
14. Deposit-type contracts	12,720,273		6,021,871
15. Total (Lines 13 and 14)	27,182,108		18,460,382
DETAILS OF WRITE-INS			
1001			
1002			
1003			
1098. Summary of remaining write-ins for Line 10 from overflow page			
1099. Totals (Lines 1001 through 1003 plus 1098) (Line 10 above)			

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

Anita G. Fox, Director of the Michigan
Department of Insurance and
Financial Services

Case No. 19-504-CR

Petitioner,

Hon. Wanda M. Stokes

v

Pavonia Life Insurance Company
of Michigan,

Respondent.

_____ /

AFFIDAVIT OF TAMRE F. EDWARDS

State of North Carolina)
) ss
County of Wake)

Tamre F. Edwards, appearing before the undersigned notary and being duly sworn, states that:

1. I, Tamre F. Edwards, am over the age of eighteen and competent to testify to the facts stated herein based upon my best recollection and belief.

2. I am currently the Chief Legal Officer and Secretary of Global Bankers Insurance Group, LLC ("Global Bankers") and Pavonia Life Insurance Company ("Pavonia"). Global Bankers is a wholly-owned subsidiary of Pavonia. In my role as Chief Legal Officer and Secretary of Global Bankers and Pavonia, I was the primary lawyer for Global Bankers and Pavonia in connection with the proposed sale of the companies, and have thus had reason to become familiar with the facts stated herein.

3. Global Bankers and Pavonia are subsidiaries of GBIG Holdings, Inc. ("GBIG") and they are all ultimately and indirectly owned by Greg Lindberg.

4. The United States Department of Justice unsealed a federal criminal indictment of Mr. Lindberg in April of 2019. The Department of Justice's investigation into Mr. Lindberg, however, was known to Global Bankers, Pavonia and GBIG prior to the unsealing of that indictment.

5. GBIG commenced discussions with the Michigan Department of Insurance and Financial Services ("DIFS") concerning the status of Pavonia in October of 2018. In the initial discussions with DIFS, GBIG discussed the prospect of the sale of Pavonia to a willing buyer as a potential solution to holding company hazards presented by the Department of Justice's investigation into Mr. Lindberg.

6. Between October 2018 and July of 2019, GBIG, Global Bankers and Pavonia had ongoing contact, including discussions, with DIFS about the status of Pavonia and Global Bankers and the potential that GBIG would identify a suitable buyer for Pavonia and Global Bankers.

7. GBIG disseminated its interest in selling Pavonia and Global Bankers widely to a variety of potential buyers. On April 5, 2019, GBIG issued a press release confirming that it was pursuing a sale of its U.S.-based life insurance companies, which includes Pavonia and Global Bankers.

8. Between September 2018 and July of 2019, GBIG, Global Bankers and Pavonia engaged in discussions with potential buyers for Pavonia. This included entering into agreements with 20 potential buyers to give them access to a dedicated data room so that each could perform due diligence. Seven potential buyers met with management to engage in more comprehensive diligence discussions and multiple proposals were received and considered by GBIG.

9. During the review process, GBIG identified Aspida Holdco, Inc (“Aspida”) as a suitable buyer and entered into good faith negotiations to develop a proposed Stock Purchase Agreement. Aspida is a subsidiary of Ares Management Corporation (“Ares”).

10. GBIG and Aspida negotiated a proposed Stock Purchase Agreement over the course of approximately six months.

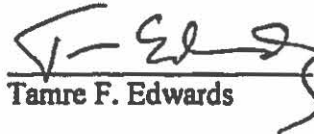
11. GBIG advised DIFS in the middle of that negotiation process (in or around May of 2019) that Aspida had been identified as a suitable buyer; DIFS was apprised of the progress of negotiations thereafter at multiple points and GBIG had multiple discussions with DIFS concerning the timing and content of filings with DIFS and this Court related to the sale.

12. On July 9, 2019, following a vote of its board, Pavonia, as well as GBIG, consented to the Director of DIFS filing the Rehabilitation Petition in this Court. Pavonia’s board and GBIG consented to voluntary rehabilitation because of the negotiated transaction reflected in the Stock Purchase Agreement and Rehabilitation Plan (as have been filed previously in the above-captioned proceedings).

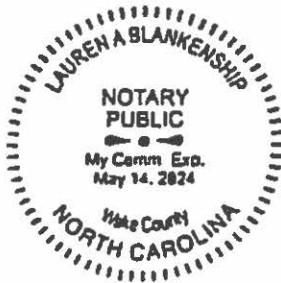
13. Independent Insurance Group is not, to my knowledge, a policyholder of Pavonia.

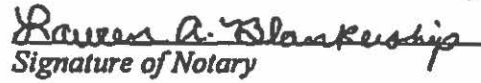
14. Independent Insurance Group did not, to my knowledge, communicate to GBIG any offer or interest in making an offer for the purchase of Pavonia prior to the filing of the Petition for Rehabilitation on July 9, 2019.

15. Further affiant sayeth not.


Tamre F. Edwards

(Official Seal)




Signature of Notary

Lauren A. Blankenship, Notary Public
Printed Name of Notary

My commission expires: May 14, 2024

Business

Global Bankers Insurance Group Pursues Sale of U.S. Life Insurance Companies

April 5, 2019 5:15 PM

Global Bankers Insurance Group Pursues Sale of U.S. Life Insurance Companies

Business Wire

DURHAM, N.C. -- April 5, 2019

Global Bankers Insurance Group, LLC ("Global Bankers" or "the Company") today confirmed that it is pursuing a sale of its U.S. life insurance companies and has been in active discussions with potential acquirers. The Company issued the following statement:

"Global Bankers made the decision to sell its domestic life insurance companies because it believes it is in the best interests of the Company, its policyholders, partners and employees. During this process, the collective focus of Global Bankers and its domestic insurance companies will remain squarely on their policyholders and providing solutions to help them address their immediate insurance needs and plan for their long-term financial goals."

About Global Bankers Insurance Group, LLC

Global Bankers is a family of insurance and reinsurance companies, focused on life insurance and annuities. Global Bankers is headquartered in Durham, North Carolina. For further information, please visit www.globalbankers.com.

View source version on businesswire.com:
<https://www.businesswire.com/news/home/20190405005469/en/>

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Receiver's Handbook for Insurance Company Insolvencies

2018



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c. Termination of Conservation

The conservator must conduct an analysis of the insurer to determine if it is possible to correct the problems that precipitated the need for conservation. The conservator must then file a motion requesting that the insurer be either released from conservation, or placed in rehabilitation or liquidation. The motion must be filed within 180 days of the conservation order, unless the court grants a 180-day extension. See IRMA § 302. The conservator is required to coordinate with guaranty associations to ensure an orderly transition in the event of liquidation. See IRMA § 303.

2. Conservation of Property of Foreign or Alien Insurers

Most states' receivership statutes provide that a regulator may apply to the court for a conservation order of the property of an alien or foreign insurer not domiciled in the regulator's state. The grounds and terms of such an order generally include those necessary to obtain a similar order against a domiciliary insurer, but there may be some differences. Usually if the alien or foreign insurer has property sequestered in an official action in its domiciliary state or foreign country, or if its certificate of authority in the state has been revoked or was never issued, the regulator may seek an order of seizure. A conservation order against a non-domiciliary insurer is generally not confidential.

IRMA § 1001 provides for ancillary conservation of a foreign insurer that is separate and distinct from the process contained in Article III of IRMA.

D. Rehabilitation

A regulator may petition a court of competent jurisdiction for an order of rehabilitation that may be used in an effort to remedy an insurer's problems.

1. Grounds

The grounds upon which a regulator may petition the court for an order of rehabilitation vary from state to state. A regulator must allege and prove a specific statutory ground for rehabilitation. Per § 207 of IRMA, the grounds upon which a regulator may petition the court are the same whether the requested order is for conservation, rehabilitation or liquidation.

An order of rehabilitation is usually obtained through a formal proceeding that entails certain due process requirements, such as: the filing of a petition by the regulator, usually brought in the name of the people of the state; service of process upon the insurer; an opportunity for the insurer to be heard prior to the issuance of the rehabilitation order; and a formal order from which an appeal may be taken.

2. Burden of Proof

Generally, courts hold that if a regulator presents uncontroverted evidence that an insurer is in need of rehabilitation, entry of the order is justified. IRMA § 208 provides that if the regulator establishes any of the grounds for a receivership, the receivership court shall grant the petition and issue the order of conservation, rehabilitation or liquidation requested.

3. Contents of a Rehabilitation Order

An order of rehabilitation generally appoints the regulator as rehabilitator; vests the rehabilitator with possession or title to all of the insurer's assets, books, records, accounts, property and premises⁶; and directs the rehabilitator to take possession of the insurer's assets and to administer those assets under general court supervision, and to conduct the insurer's business. The order should be recorded with the county clerk or recorder of deeds for the county in which the insurer resides and where any real

⁶ See Liquidation Model Act, at Section 12; Uniform Act, Section 2(2); IRMA, §401.

property is located, so that creditors and the public are put on notice of the rehabilitation. Additionally, the order should be served on all financial institutions where the insurer maintains accounts or has other assets.

The Model Acts typically provide that the rehabilitator has the power to take any legal action that is deemed necessary or appropriate to reorganize and revitalize the insurer. In accordance with the applicable receivership act, the order will typically suspend the insurer's directors, officers and managers powers, except as the rehabilitator delegates. The rehabilitator retains all powers not expressly delegated.

4. Rehabilitation Plan

The receivership act may allow, or require, the rehabilitator to file a plan of rehabilitation ("plan"). Under IRMA the filing of a plan is mandatory; § 403 A. requires that a plan be filed within one year after entry of the rehabilitation order or such further time as the court may allow. In contrast, some receivership acts require that a plan be filed only if the rehabilitator proposes to reorganize, convert, reinsure or merge the insurer. The plan should not treat creditors less favorably than they would be treated in liquidation.⁷ It should be noted that the Model Acts do not require that the plan provide for the emergence of the insurer from rehabilitation as a going concern. Thus, a plan for a run-off may be permissible. After formulating the plan, the rehabilitator must submit it to the supervising court for approval. The court will either approve, disapprove or modify the plan. State law typically requires that the court give notice and hold hearings upon any proposed plan. The court's review of the rehabilitator's proposed plan is generally a limited one, subjecting the rehabilitator's proposal to an abuse of discretion standard.⁸ (See Chapter 8—Special Receiverships, section on Alternatives to Immediate Liquidation of a Financially Troubled HMO, for further discussion.)

5. Insufficient Assets

Sometimes the rehabilitator discovers that the insurer does not have sufficient liquid assets to defray costs incurred during the receivership. In this instance, the rehabilitator may seek an advance for costs that will be incurred during the rehabilitation from the state regulator. Most statutes require that any money so advanced to the rehabilitator be repaid out of the assets of the insurer. § 804 of IRMA, under certain circumstances, allows unclaimed funds of receivership estates to be found by the court to be abandoned and disbursed under several methods, one of which is to fund a general receivership expense account.

6. Agency Force

In a rehabilitation proceeding or when the rehabilitator otherwise contemplates selling or reinsuring the in-force business of the delinquent insurer, it is important to create an atmosphere favorable to the preservation of the business. Public confidence in the insurer may be shaken. The relationship with policyholders should be preserved to the extent possible. Communication with policyholders and agents of the insurer is necessary to maintain the desired book of business. Agents can influence the degree of confidence policyholders have in the receiver and the efforts to rehabilitate the insurer. Policyholders view life insurance, in particular, as a long-term investment. Their natural tendency,

⁷ See generally Liquidation Model Act, *supra* note 3, at Section 12; Uniform Act, Section 2(2); IRMA §403 C. provides that the holder of a particular claim may agree to less than favorable treatment than would occur in liquidation. see also *Gersenson v. Pennsylvania Life and Health Ins. Guar. Assoc.*, 729 A.2d 1191 (Pa. Super. App. 1999) (court, not rehabilitator, empowered to compromise value of policies).

⁸ *Foster v. Mutual Fire, Marine & Inland Ins. Co.*, 531 Pa. 598, 614 A.2d 1086 (1992), *cert. denied*, *Allstate Ins. Co. v. Maleski*, 506 U.S. 1080, 122 L.Ed.2d 356, 113 S.Ct. 1047; and *cert. denied*, *Rhine Reinsurance Co., Ltd., v. Mutual Fire, Marine & Inland Ins. Co.*, 506 U.S. 1080, 122 L.Ed.2d 356, 113 S.Ct. 1051; and *cert. denied*, *Republic Ins. Group v. Maleski*, 506 U.S. 1087, 122 L.Ed.2d 371, 113 S.Ct. 1066 (1993); and *Kuekelhan v. Fed. Old Line U.S. Co.*, 74 Wash.2d 304, 444 P.2d 667 (1968). But see *In re Executive Life*, 38 Cal. Rptr.2d 453, 32 Cal. App. 4th 344 (Cal. App. 2d Dist. 1995), as modified on denial of rehearing (Mar. 15, 1995), and review denied (May 11, 1995).