

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, DECEMBER 15, 2010

101230130

COMMONWEALTH OF VIRGINIA *ex rel.*
STATE CORPORATION COMMISSION,

Applicant,

v.

CASE NO. INS-2010-00251

RECIPROCAL OF AMERICA and
THE RECIPROCAL GROUP,

Respondents

Re: Confidential Settlement Agreements

SCHEDULING ORDER

On November 30, 2010, Alfred W. Gross, as Deputy Receiver ("Deputy Receiver") of Reciprocal of America and The Reciprocal Group, in receivership ("Companies"), filed with the Clerk of the Commission his Application for Orders Setting Contingent Hearing, Approving Procedures, Establishing Response Date, and Approving Deputy Receiver's Settlements with Certain Former Officers, Directors, and Outside Counsel of Reciprocal of America and The Reciprocal Group ("Application"). The Application asked that the Commission enter: (1) an order setting a contingent hearing, to be held only in the event that written objection to the Application is timely filed, approving procedures, and establishing response date; and (2) a final order approving without hearing if no hearing is required, or approving after hearing if one is required: (a) a confidential mediated settlement among the Deputy Receiver and the plaintiffs in other civil actions pending as part of *In Re Reciprocal of America (ROA) Sales Practices Litigation*, Multidistrict Litigation Docket No. 1551 (W.D. Tenn.) ("MDL-1551"), and MDL-1551 defendants John William Crews, Gordon D. McLean, Kenneth R. Patterson, Carolyn B.

Hudgins, Judith A. Kelley, Richard W. E. Bland, Crews & Hancock, P.L.C., William G. Sugg ("Sugg"), and Gerald R. Wages ("Wages"),¹ as well as Great American Insurance Company, Executive Liability Division, and Great American Insurance Company, Professional Liability Division ("D&O Settlement"), effectuated by a confidential mediated settlement agreement among those parties ("D&O Settlement Agreement");² and (b) a settlement of claims between the Deputy Receiver and Ronald K. Davis, M.D. ("Davis") ("Davis Settlement"),³ effectuated by a confidential settlement agreement between them ("Davis Settlement Agreement").⁴

NOW THE COMMISSION, having considered the Application, hereby sets a contingent hearing on the Application's request for approval of the D&O Settlement and the Davis Settlement, to be held only in the event that written objection to the Application is timely filed pursuant to the response date and procedures prescribed herein.

¹ The Deputy Receiver did not assert claims against Sugg or Wages, who were named as defendants by certain other MDL-1551 plaintiffs.

² The other MDL-1551 plaintiffs who are parties to the D&O Settlement Agreement are the plaintiffs in MDL-1551 actions *Leslie A. Newman v. General Reinsurance Corporation, et al.*, Civil Action No. 07-CV-1112, W.D. Tenn., *Leslie A. Newman v. General Reinsurance Corporation, et al.*, Civil Action No. 07-CV-1113, W.D. Tenn., *Leslie A. Newman v. General Reinsurance Corporation, et al.*, Civil Action No. 07-CV-1114, W.D. Tenn., *Crenshaw Community Hospital, et al. v. General Reinsurance Corporation, et al.*, Civil Action No. 03-CV-2696, W.D. Tenn., *Gateway Regional Health System, Inc., et al. v. General Reinsurance Corporation, et al.*, Civil Action No. 04-CV-2936, W.D. Tenn., *Delta Regional Medical Center, et al. v. General Reinsurance Corporation, et al.*, Civil Action No. 06-CV-2155, W.D. Tenn., *Appalachian Regional Healthcare, Inc., et al. v. General Reinsurance Corporation, et al.*, Civil Action No. 06-CV-2676, W.D. Tenn., *David Herrick, et al. v. General Reinsurance Corporation, et al.*, Civil Action No. 03-CV-2705, W.D. Tenn., *Schumacher Group, Inc. v. General Reinsurance Corporation, et al.*, Civil Action No. 04-CV-2410, W.D. Tenn., and *Christie Clinic, P.C. v. General Reinsurance Corporation, et al.*, Civil Action No. 03-CV-2859, W.D. Tenn., and *Missouri Hospital Plan, et al. v. Doctors Insurance Reciprocal, et al.*, Civil Action No. 04-CV-2294, W.D. Tenn.

³ The Deputy Receiver is the only MDL-1551 plaintiff who named Davis as a defendant.

⁴ Concurrently with the filing of the Application and pursuant to Commission Rule 5-20-170, the Deputy Receiver filed a motion for protective order relating to the D&O Settlement Agreement and the Davis Settlement Agreement.

Accordingly, IT IS ORDERED THAT:

(1) In accordance with §12.1-31 of the Code of Virginia, a Hearing Examiner ("Examiner") shall conduct all further proceedings, if any, in this matter on behalf of the Commission, concluding with the filing of the Examiner's report to the Commission, if a hearing is held.

(2) A hearing ("Contingent Hearing") for the consideration of the Deputy Receiver's request for approval of the D&O Settlement and the Davis Settlement, as described in the Application, is hereby set for February 15, 2011, at 10 a.m., in the Second Floor Courtroom, State Corporation Commission, Tyler Building, 1300 East Main Street, Richmond, Virginia.

(3) Beginning no later than forty-five (45) days before the scheduled date of the Contingent Hearing, the Deputy Receiver shall publish notice of the Contingent Hearing, including a summary and instructions on how to obtain a copy of this Order. Such notice shall be published for at least one (1) day each week for two (2) consecutive weeks in the *Richmond Times-Dispatch*, *The Wall Street Journal*, and *USA Today*. The Deputy Receiver shall also post on the Companies' web site (www.reciprocalgroup.com), no later than forty-five (45) days before the scheduled date of the Contingent Hearing, copies of the Application and this Order.

(4) All persons opposing the relief requested by the Application shall present their objections at the Contingent Hearing and shall file with the Commission, and simultaneously serve upon the Deputy Receiver and all other parties of record, no later than thirty (30) days before the scheduled date of the Contingent Hearing, a Notice of Objection, which shall contain: (i) a precise statement of the interest of the respondent; (ii) a statement of the specific relief sought, to the extent then known; and (iii) the factual and legal basis for the relief sought.

(5) All Notices of Objection and all other pleadings or related documents shall be filed with the Commission electronically in the manner prescribed by the Commission's Guidelines for Electronic Document Filing, <http://scc.virginia.gov/clk/efiling/Guidlines.aspx>, or by delivering the original and fifteen (15) copies to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218-2118. Service on the Deputy Receiver shall be made by delivering one (1) complete copy of any required filing to counsel for the Deputy Receiver, Patrick H. Cantilo, Esquire, Cantilo & Bennett, L.L.P., 11401 Century Oaks Terrace, Suite 300, Austin, Texas 78758, and electronically to service@cb-firm.com, on or before the date required for filing with the Commission.

(6) In the event that no person files a Notice of Objection, the Contingent Hearing shall not be held and the Commission will decide the Application without hearing.

(7) These proceedings shall be subject to the Commission's Rules of Practice and Procedure to the extent not modified by order of the Commission.

(8) On or before January 11, 2010, the Deputy Receiver shall provide proof of notice as required in this Order.

(9) This matter is continued pending further order of the Commission.

Commissioner Jagdmann did not participate in this matter.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to all persons on the official Service List in this matter. The Service List is available from the Clerk of the State Corporation Commission, c/o Document Control Center, 1300 East Main Street, First Floor, Tyler Building, Richmond, Virginia 23219. A copy shall also be sent to the Commission's Office of General Counsel and Bureau of Insurance.