

STATE CORPORATION COMMISSION

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AT RICHMOND, OCTOBER 28, 2003

COMMONWEALTH OF VIRGINIA, ex rel.

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STATE CORPORATION COMMISSION,
Applicant,

v.

CASE NO. INS-2003-00024

RECIPROCAL OF AMERICA and
THE RECIPROCAL GROUP,
Respondents

**ORDER SETTING FINAL BAR DATE AND GRANTING DEPUTY RECEIVER
CONTINUING AUTHORITY TO LIQUIDATE COMPANIES**

ON A FORMER DAY CAME Alfred W. Gross, as Deputy Receiver (the "Deputy Receiver") of Reciprocal of America ("ROA") and The Reciprocal Group ("TRG") (collectively, the "Companies"), and filed with the Clerk of the Commission an Application for Orders Setting Hearing On Liquidation of Reciprocal of America and The Reciprocal Group, Establishing Response Dates, Ordering Liquidation, Approving Claims Bar Dates, and Related Matters (the "Application"), seeking, *inter alia*, that the Commission enter an order granting the Deputy Receiver the authority to enact a proposed plan of liquidation, which focused primarily on marshaling the Companies' assets and allocating and distributing those assets among the Companies' creditors in accordance with applicable priorities, and the subsequent wind-down and liquidation of their affairs.

A hearing was held before the Commission on September 17, 2003, with respect to such matters, at which appearances were made by counsel on behalf of the Deputy Receiver; John Knox Walkup, Special Deputy Receiver for Doctors Insurance Reciprocal, RRG; Robert S. Brandt, Special Deputy Receiver for American National Lawyers Insurance Reciprocal, RRG;

Michael D. Pearigen, Special Deputy Receiver for The Reciprocal Alliance, RRG (together the "SDRs"); Clark Regional Medical Center, T.J. Samson Community Hospital, Pineville Community Hospital, Highlands Regional Medical Center, Twin Lakes Regional Medical Center, Hardin Memorial Hospital, Gateway Regional Medical Center, Regional Medical Center/Trover Clinic Foundation, Murray-Calloway County Hospital, Owensboro Mercy Health System, Harrison Memorial Hospital, River Valley Behavioral Health Hospital, Muhlenberg Community Hospital, and Lincoln Trail Hospital (together the "Kentucky Claimants"); Coastal Region Board of Directors ("Coastal"); PhyAmerica Physician Group, Inc.; Children's Hospital of Alabama; Indiana Insurance Guaranty Association, Kansas Insurance Guaranty Association, Mississippi Insurance Guaranty Association, Tennessee Insurance Guaranty Association, Texas Property and Casualty Insurance Guaranty Association, Virginia Property and Casualty Insurance Guaranty Association, and the Virginia Workers' Compensation Commission.

AND THE COMMISSION, having considered the Application, and the argument and evidence submitted by counsel in support thereof, finds that the relief sought by the Deputy Receiver should be granted as herein set forth.

Accordingly, IT IS ORDERED THAT:

(1) The Final Bar Date is hereby set for September 30, 2004. Claims subject to, and not received by, the Deputy Receiver on or before the Final Bar Date shall not be paid until all approved timely filed claims and all approved late claims of higher priority are paid in full.

Claims must be received at the following address on or before the Final Bar Date:

Proof of Claim Department
The Reciprocal Group/Reciprocal of America
4200 Innslake Drive
Glen Allen, Virginia 23060

(2) There are only two types of claims not subject to the Final Bar Date:

- a. Claims arising under direct policies of insurance issued by ROA that have already been properly submitted to ROA or the Deputy Receiver as of the date of this order (the "Pending Direct Claims"), provided, however, that all general creditor claims (including reinsurance claims) must be submitted on or before the Final Bar Date; and
- b. Proper administrative expense claims against TRG or ROA (*e.g.*, claims for payment of services rendered, or goods supplied, to the Companies at the request of the Deputy Receiver after January 29, 2003) (the "Administrative Claims").

(3) The Commission will set a Claims Liquidation Date upon motion of the Deputy Receiver a reasonable time prior to the closure of the receivership. Notice of such motion shall be provided to all parties of record and all interested parties and a hearing thereon will be set by the Commission if so requested. Any and all claims shall have been submitted properly and rendered non-contingent and liquidated by the Claims Liquidation Date, or the claims will be permanently barred from sharing in the assets of the estate.

(4) The Deputy Receiver shall provide written notice of the Final Bar Date (and any extension thereof) and proof of claim instructions, by first-class United States mail to all known claimants, creditors, and policyholders at their last known address disclosed in the books and records of the Companies, in a form reasonably calculated to provide interested persons with notice of the Final Bar Date, the consequences of failing to timely file claims against the Companies, and an explanation regarding the Claims Liquidation Date, except the Deputy

Receiver is not required to mail a notice if he reasonably believes that the last known address is no longer valid.

(5) The Deputy Receiver shall publish notice of the Final Bar Date (and any extension thereof) and proof of claim instructions for one day each week for two consecutive weeks in the Richmond Times-Dispatch, The Wall Street Journal, and USA Today. The publication notice must be in a form reasonably calculated to provide sufficient notice to any claimant, creditor, or policyholder who does not receive direct notice by first-class United States mail of the Final Bar Date and proof of claim instructions.

(6) The Commission further orders that the Deputy Receiver shall have the authority to continue the liquidation of the Companies, including the power to:

- a. Continue managing the affairs of the Companies until such time as they are liquidated and dissolved;
- b. Pay the costs and expenses of administration, pursuant to Va. Code Ann. §§ 38.2-1509(B)(1) and 38.2-1510;
- c. Adjudicate and pay the claims of all secured creditors with a perfected security interest not voidable under Va. Code Ann. § 38.2-1513 to the extent of the value of their security;
- d. Following an Order of the Commission so authorizing, adjudicate and pay the claims of the insurance guaranty associations for "covered claims" as defined in Va. Code Ann. § 38.2-1603 and other similar provisions under other applicable statutes, and the claims of other policyholders arising out of ROA insurance contracts, apportioned without preference;

- e. Pay taxes owed to the United States and other debts owed to any person, including the United States, which by the laws of the United States are entitled to priority;
- f. Adjudicate and pay claims for wages entitled to priority as provided in Va. Code Ann. § 38.2-1514;
- g. Maintain a reasonable reserve for claims, costs, expenses, unknown claims, and contingencies, over and above any existing reserves for direct insurance obligations, until final liquidation of ROA and TRG;
- h. Adjudicate and pay, on a *pro rata* basis to the extent assets are available, claims of all other creditors;
- i. In the event that the Deputy Receiver is unable to find any particular person owed funds by the Companies, deliver such unclaimed funds to the custody of the State of that person's last known address, as shown by the Companies' books and records, pursuant to the procedures established by that State's unclaimed property laws;
- j. Create a trust to hold any unclaimed funds if the applicable State unclaimed property laws did not permit him to deliver any such unclaimed funds to the relevant States prior to the date that ROA and TRG would cease to exist and the receivership would terminate;
- k. Cause a third party or contractor of the Companies to assume remaining obligations and contingencies of ROA or TRG in exchange for reasonable consideration, and obtain an independent opinion from an actuarial or

accounting firm regarding the reasonableness of consideration paid for the assumption of ROA or TRG obligations or contingencies; and

1. Take all steps necessary and appropriate to liquidate and dissolve ROA and TRG as soon as reasonably practicable.

(7) This matter is continued.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Walter A. Marston, Jr., Esquire, Reed Smith LLP, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1700, Richmond, Virginia 23219-4069, Counsel to the SDRs; Greg E. Mitchell, Esquire, R. K. Moorman, Esquire, Jan de Beer, Esquire, and William C. Gullett, Esquire, Frost Brown Todd LLC, 250 West Main Street, Suite 2700, Lexington, Kentucky 40507-1749, Counsel to the Kentucky Claimants; Wiley F. Mitchell, Jr., Esquire, Wilcox & Savage, P.C., 1800 Bank of America Center, Norfolk, Virginia 23510, Counsel to Coastal; Patrick H. Cantilo, Esquire, Mark Bennett, Esquire, and Pierre J. Riou, Esquire, Cantilo & Bennett, L.L.P., 7501 C North Capital of Texas Highway, Suite 200, Austin, Texas 78731, Counsel to the Deputy Receiver; Melvin J. Dillon, Special Deputy Receiver, c/o Reciprocal of America and The Reciprocal Group, In Receivership, 4200 Innslake Drive, Glen Allen, Virginia 23060; Philip B. Morris, Esquire, Morris & Morris, P.O. Box 30, Richmond, Virginia 23218-0030; H. L. Kneidler, Esquire, Curtis G. Manchester, Esquire, and Kevin R. McNally, Esquire, Counsel to Special Deputy Receiver, ReedSmith LLP, Riverfront Plaza, West Tower, 901 East Byrd Street, Suite 1700, Richmond, Virginia 23219-4069; J. G. Matherne, Esquire, and William Gibson, Esquire, Wyatt, Tarrant & Combs, LLP, 2525 West End Avenue, Suite 1500, Nashville, Tennessee 37203-1423; Kathryn A. Stephenson, Esquire, and Paul W. Ambrosius, Esquire, Trauger, Ney & Tuke, Southern Turf Building, 222 4th Avenue, North, Nashville, Tennessee

37219-2117; Leslie F. Shechter, Esquire, and J. W. Luna, Esquire, Farmer & Luna, PLLC, 333 Union Street, Suite 300, Nashville, Tennessee 37201; Jody M. Wagner, Treasurer of Virginia, 101 North 14th Street, Richmond, Virginia 23219; Louis E. Dolan, Jr., Esquire, Nixon Peabody LLP, 401 9th Street, N.W., Suite 900, Washington, D.C. 20004-2128; Timothy M. Lupinacci, Esquire, Maynard Cooper & Gale PC, 2400 AmSouth/Harbert Plaza, 1901 6th Avenue North, Birmingham, Alabama 35203-2602; Michael E. Harman, Esquire, Harman, Claytor, Corrigan & Wellman, P.O. Box 70280, Glen Allen, Virginia 23255; W. H. Albritton, IV, Esquire, and John K. Molen, Esquire, Bradley Arrant Rose & White LLP, One Federal Place, 1819 Fifth Avenue North, Birmingham, Alabama 35203; Steven G. Friedman, 2421 Ivy Road, Charlottesville, Virginia 22903; Ross C. Reeves, Esquire, and Michael R. Katchmark, Esquire, Wilcox & Savage, PC, One Commercial Place, Suite 1800, Norfolk, Virginia 23510; Will B. Hubbard, Esquire, and Robyn E. Smith, Esquire, Weed Hubbard Berry & Doughty, PLLC, 201 Fourth Avenue North, Suite 1420, Nashville, Tennessee 37219; Michelle Long, Esquire, Tennessee Hospital Association, 500 Interstate Boulevard, Nashville, Tennessee 37210; Charles F. Midkiff, Esquire, Midkiff, Muncie & Ross, P.C., 9030 Stony Point Parkway, Suite 160, Richmond, Virginia 23235; Commissioner of Insurance Alfred W. Gross, Deputy Receiver of Reciprocal of America and The Reciprocal Group, In Receivership, c/o The Bureau of Insurance; and Peter B. Smith, Esquire, Office of General Counsel, State Corporation Commission.