

STATE OF VERMONT

SUPERIOR COURT  
WASHINGTON UNIT

\_\_\_\_\_  
COMMISSIONER OF THE  
DEPARTMENT OF FINANCIAL  
REGULATION

PLAINTIFF,

v.

HOSPITALITY RISK  
RETENTION GROUP, INC.,  
RESPONDENT.  
\_\_\_\_\_

CIVIL DIVISION

DOCKET NO. 21-CV-0406

**LIQUIDATOR'S THIRD STATUS REPORT AND  
SECOND REPORT OF CLAIMS**

I, J. David Leslie, Special Deputy Liquidator, hereby submit this status report and report of claims concerning the liquidation of Hospitality Risk Retention Group, Inc. ("Hospitality" or the "Company").

1. Background. On March 1, 2021, the Commissioner of the Department of Financial Regulation ("Commissioner") filed a Petition for Order of Liquidation which was assented to by Hospitality's Board of Directors. On April 8, 2021, the Court entered its Order of Liquidation ("Liquidation Order") that, among other things, appointed the Commissioner as Liquidator ("Liquidator"), authorized him to appoint a special deputy liquidator, approved the Plan of Liquidation, and ordered that the Liquidator provide creditors and others with notice of the Liquidation Order and a claim filing deadline no less than 120 days after the date of the Liquidation Order. See Order of Liquidation ¶¶ 1, 5, 6, and 7. The Liquidator appointed me to serve as Special Deputy Liquidator on April 9, 2021.

2. I submitted the Liquidator’s First Status Report to the Court on November 8, 2021. That status report noted, among other things, that the Liquidator had established October 8, 2021, as the claim filing deadline, provided notice of liquidation to potential creditors, and received 28 proofs of claim. I submitted the Liquidators’ Second Status Report, Annual Accounting and First Report of Claims to the Court on April 19, 2022. That report presented an annual accounting of receipts/disbursements from estate accounts, the Liquidator’s First Report of Claims, and a general status report. At the same time, the Liquidator filed a motion seeking authority to make a 10% interim distribution on allowed priority class 3 claims.<sup>1</sup> Those documents, along with other key records relating to this proceeding, have been posted on the liquidation website (<https://dfr.vermont.gov/hospitality>).

STATUS REPORT

3. A simplified balance sheet reflecting Hospitality’s financial condition as of December 31, 2022 is presented below in Table 1.

**Table 1 – Simplified Hospitality Balance Sheet as of December 31, 2022**

<b>ASSETS</b>		
Cash & Cash Equivalents		\$ 3,212,232
Credit for Interim Distributions		566,000
Total Assets		\$ 3,778,232
<b>LIABILITIES</b>		
Priority Class 1 – Administrative Expenses		\$ 418,125
Priority Class 3 – Claims under Policies		
Finally determined claims		9,925,001
Open claims (“Best Estimate”)		4,974,999
Class 3 Subtotal		\$ 14,900,000
Total Liabilities		\$ 15,318,125

---

<sup>1</sup> The Court entered its Order approving the First Report of Claims and authorizing the 10% interim distribution on May 19, 2022.

4. Estate Assets. As of December 31, 2022, Hospitality had liquid assets of \$3,212,232.<sup>2</sup> In addition to these liquid assets, it should be noted that when calculating a final distribution the Company will be entitled to credit for interim distributions made on allowed priority class 3 claims pursuant to the Court's order of May 19, 2022. See, supra, ¶ 2. As of December 31, 2022, those distributions totaled \$566,000.

5. Estate Liabilities. The liquidation statutes require that payments on claims be made in accordance with the statutory priorities and that all claims in a class be paid in full (or adequate reserves established for such payment) before claims in subsequent classes receive any distribution. 8 V.S.A. § 7081. Accordingly, in Table 1 the Liquidator presents the Company's estimated liabilities in terms of priority classification rather than the annual statement format that would be presented by an insurer operating as a going concern.

- a. *Priority Class 1 (Administrative Expenses).* For purposes of evaluating potential estate distributions and recommending the establishment of an interim distribution, the Liquidator established an administrative expense reserve of \$500,000 as of March 31, 2022. See Liquidator's Second Status Report, ¶ 14. The \$418,125 reported in Table 1 reflects that original reserve less \$81,875 in administrative expense disbursements made since the reserve as established.<sup>3</sup> The Liquidator continues to believe that this reserve is appropriate and conservative and any funds not needed for

---

<sup>2</sup> As of December 31, 2022, all of these assets were held in cash or money market funds. The Rehabilitator has opened investment accounts on behalf of Hospitality, established an investment policy consistent with the Company's status and cash flow needs, and anticipates that investment in accordance with that policy will begin promptly.

<sup>3</sup> Administrative expenses totaled \$109,426 for calendar year 2021 (April to December) and \$93,682 for calendar year 2022 as a whole. Figures for 2021 included significant non-recurring expenses (e.g. initial pleadings, notice to creditors, etc...) such that experience for 2022 should be more representative of future costs.

the payment of administrative expense will be released at the close of the proceeding and become available to pay claims falling in priority class 3.

- b. *Priority Class 3 (Claims under Policies)*. The \$14.9 million figure presented in Table 1 reflects the best available information regarding policy-related exposure and is drawn from two sources. First, if the Court approves the Second Report of Claims (attached), the total allowed value of claims falling in priority class 3 will increase to \$9,925,001. Second, the Liquidator has reviewed the remaining claims filed in this proceeding and provided a “best estimate” as to the value (if any) in which each might be allowed. This total – \$4.97 million – is added to the value of the previously determined claims to produce the total estimate of \$14.9 million.<sup>4</sup>

Estate assets are unlikely to permit full payment of class 3 claims such that it is unlikely any distribution could be made on claims falling in priority classes 4-10. See 8 V.S.A.

§ 7081 (“Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment.”) The Liquidator has therefore deferred making a determination as to the amount, if any, of claims falling in priority classes 4-10 and has made no estimate as to the total potential value of such claim.

6. Receipt of Proofs of Claim. As of the claim filing deadline -- October 8, 2021 -- the Liquidator had received and acknowledged a total of 25 completed proofs of claim (“POCs”). (Incomplete proofs of claim were returned to their senders with instructions for resubmission.) The Liquidator received an additional 6 completed POCs between the claim filing deadline and the date of the preceding status report (March 31, 2022). Since the last status report, the

---

<sup>4</sup> The Liquidator has also produced a “pessimistic scenario” analysis which reflects the adverse end of the expected range of values for each claim. In this “pessimistic scenario”, the remaining open claims would be allowed for a total of \$12.9 million producing total class 3 claims of approximately \$22.8 million.

Liquidator has received 5 more completed POCs. The Liquidator may consider any “claim filed late” if doing so “does not prejudice the orderly administration of the estate.” 8 V.S.A. § 7074(d). Accordingly, the Liquidator has deemed all 36 of the POCs received by December 31, 2022, to be timely filed.

7. A POC may present a single claim (e.g. recovery for a loss resulting from a single motor vehicle accident) or multiple claims (e.g. the POC form encloses a schedule listing multiple motor vehicle accidents). Accordingly, the Liquidator has assigned separate control numbers to each claim presented in a POC. For example, POC no. 7 has been subdivided into seven subclaims assigned POC nos. 7a through 7g. Counted in this manner, the Liquidator has received a total of 69 claims.

8. Because the insurer receivership statutes permit third parties to file claims directly against the estate and because multiple entities may have a financial interest in a claim, a single incident may give rise to numerous related claims that may seek overlapping recovery (e.g. a tort claimant asserting the insured’s liability, another insurer asserting rights of subrogation/contribution, a policyholder seeking indemnity and post-liquidation defense expenses, and defense counsel seeking payment of pre-liquidation defense expenses.) This means that raw POC and claim counts are not a reliable metric for evaluating estate exposure or the amount of work remaining to crystallize Hospitality’s obligations and close the proceeding. The Liquidator has therefore attempted to group POCs by type and, among policy-related claims, by incident. This facilitates estimation as to the number of motor vehicle accidents requiring investigation and the number of disputes to be resolved. Figures are expected to evolve as the Liquidator gathers further information but, at present, there appear to be 32 separate incidents for which POCs have been submitted.

9. The Liquidator also classifies claims by type to better understand the priority class in which claims are likely to fall and the nature of the work that may be required to investigate and determine them. These classifications are subject to revision as further information is received but, at present, the distribution of claims by type appears to be as follows:

<b>Claim Type</b>	<b>Claim Count</b>
Defense/Indemnity under Policy	49
Return Premium	2
Pre-Liquidation Loss Adjustment Expenses	9
“Other”	9
Total	69

10. Investigation and Determination of Claims. The Liquidator has focused attention on resolution of the “incidents” giving rise to potential indemnity exposure under Hospitality policies. Fifteen of those incidents have now been resolved through settlement or judgment and, in all of the incidents resolved through settlement, the Liquidator was able to offer “non-objection” in advance. The Liquidator is now, therefore, in the process of verifying the documentation (e.g. collecting settlement agreements and checking that they contain the proper releases) and gathering information regarding defense expenses. With regard to the remaining incidents, several of the remaining defense/indemnity claims are not expected to exceed the relevant self-insured retention and thus present little likelihood of a Hospitality obligation. For the remaining claims, Hospitality’s policy limits range from \$1.5 million to \$5 million such that an adverse result in a single claim would have a very material effect on overall claim valuations. This accounts for the significant variability between the Liquidator’s “best estimate” of value for these claims (\$4.97M) and his “pessimistic scenario” analysis (\$12.8M). See, supra, ¶ 5.b.

11. Liquidator’s Second Report of Claims. The Liquidator is charged with reviewing all claims filed in the liquidation, making such investigation as he deems necessary, and issuing a determination as to whether the claim should be denied or approved. For approved claims, the

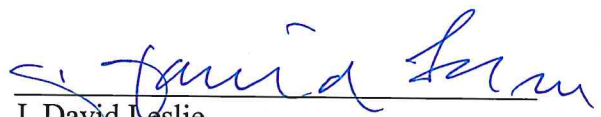
determination will also identify an amount and priority classification. “Within 60 days from the mailing of the notice [of determination], the claimant may file objections with the liquidator” and “[i]f no such filing is made the claimant may not further object to the determination.” 8 V.S.A. § 7078(a). After the 60-day period has run (or been waived) the claim is deemed to be “finally determined” and the Liquidator will report it to the Court with his recommendations. See 8 V.S.A. § 7082(a). The Court may then approve, disapprove, or modify the Liquidator’s report. 8 V.S.A. § 7082(b). Since the Liquidator’s last report of claims, an additional 16 claims have become “finally determined”. The Liquidator’s recommendation as to the amount and priority class in which such claims should be allowed is attached hereto as Exhibit B and the Liquidator requests that the Court issue an order approving his determinations. See id.

12. Interim Distribution to Class 3 Creditors & Medicare/Medicaid Reporting. On April 19, 2022, the Liquidator filed a motion seeking authority to make a 10% interim distribution on allowed priority class 3 claims. The Court entered its Order approving that motion on May 19, 2022. The Court’s order also approved the First Report of Claims (\$9.56M in priority class 3 claims) such that the Liquidator was authorized -- as a matter of Vermont law -- to distribute up to \$956,000 to creditors. The Liquidator notes, however, that Hospitality was a writer of liability insurance policies that may qualify as “primary plans” under the Medicare Secondary Payer (“MSP”) statute. See 42 U.S.C.A. § 1395y(b). This means that the Company has certain reporting responsibilities and, if it is discovered that the Medicare or Medicaid trust funds made conditional payments, Hospitality may have a duty to reimburse the United States. See id. It is therefore necessary for the Liquidator to verify the absence of Medicare/Medicaid claims before making distributions.


13. The preparation and submission of MSP reports is a task presenting significant administrative challenges and requiring technical expertise. The Liquidator determined this work could be performed most efficiently by a vendor and engaged Gallagher Basset Services, Inc. (“GB Specialty”) – a third-party administrator that has performed similar work for other risk retention group estates – to gather records, make the necessary queries, and submit reports to the Centers for Medicare and Medicaid Services (“CMS”) regarding reportable claims. That work is ongoing for several of the allowed priority class 3 claims such that the Liquidator has been able to distribute only \$566,000 of the \$956,000 that is eligible for interim distribution. If the Court approves the Second Report of Claims, a further \$36,500 will be eligible for interim distribution. GB Specialty has already begun the process of gathering associated records for MSP reporting.

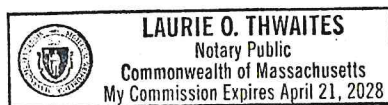
14. Next Steps. Over the coming months, the Liquidator will continue to seek to resolve the remaining Class 3 claims. The sooner those claims are resolved, the sooner a final distribution percentage can be determined and the proceeding brought to a close.

Dated this 13th day of February 2023,

  
\_\_\_\_\_  
J. David Leslie  
Special Deputy Liquidator

Subscribed and sworn before me  
this 13th day of February 2023

  
\_\_\_\_\_  
Notary Public  
My commission expires:





**EXHIBIT A**

**Liquidation of Hospitality Risk Retention Group Inc.**

LIQUIDATOR'S SECOND REPORT OF CLAIMS

**Claims Recommended for Allowance in Priority Class 1**

<u>POC No.</u>	<u>Claimant Name</u>	<u>Claimant Address</u>	<u>Priority</u>	<u>Amount Allowed</u>
		None		

**Claims Recommended for Allowance in Priority Class 3**

33	High Powered Pizza, LLC	125 N. Congress Ave. #13, Delray Beach, FL 33445	3	\$ 250,000.00
34	Flawless Pizza, LLC	125 N. Congress Ave. #13, Delray Beach, FL 33445	3	50,000.00
35	Flawless Pizza, LLC	125 N. Congress Ave. #13, Delray Beach, FL 33445	3	65,000.00
Recommended for Allowance in Second Report of Claims				\$ 365,000.00
Allowed in First Report of Claims				9,560,001.00
Total				\$ 9,925,001.00

**Claims Recommended for Allowance in Priority Classes 4-10**

14	Lewis, Brisbois, Bisgaard & Smith LLP	633 W. 5 <sup>th</sup> Street, Suite 4000, Los Angeles, CA 90071	6	n/a
15	Lewis, Brisbois, Bisgaard & Smith LLP	633 W. 5 <sup>th</sup> Street, Suite 4000, Los Angeles, CA 90071	6	n/a
18	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
19	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
20	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
21a	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
21b	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
21c	Mintzer, Sarowitz, Zeriz, Ledva & Meyers, LLP	1500 Market St., Suite 4100, Philadelphia, PA 19102	6	n/a
31	Fee, Smith, Sharp & Vitullo, LLP	3 Galleria Tower, 13155 Noel Rd., Suite 1000, Dallas, TX 75240	6	n/a
32a	Mississippi Dep't of Revenue	P.O. Box 22828, Jackson, MS 39225	6	n/a
32b	Mississippi Dep't of Revenue	P.O. Box 22828, Jackson, MS 39225	9	n/a
Total				n/a

**Claims Denied or Withdrawn**

1	Milliman, Inc.	1301 Fifth Ave., Suite 3500, Seattle, WA 98101	n/a	n/a
10	Matthew Bobo	5485 Kelly Drive, Sarasota, FL 34233	n/a	n/a