

STATE OF VERMONT
WASHINGTON COUNTY, SS

_____)	
COMMISSIONER OF THE)	
DEPARTMENT OF FINANCIAL)	
REGULATION)	
PLAINTIFF,)	SUPERIOR COURT
)	DOCKET NO. 21-CV-0406
v.)	
)	
HOSPITALITY RISK)	
RETENTION GROUP, INC.,)	
RESPONDENT.)	
_____)	

LIQUIDATOR'S FIRST STATUS REPORT

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

1. 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. The Claim Filing Deadline. The Liquidation Order and governing statutes require that the Liquidator set a claim filing deadline calculated within a minimum (120 days) and

maximum (18 months) period from entry of the Liquidation Order. See Liquidation Order, ¶ 6.b; 8 V.S.A. § 7061(b). In setting a claim filing deadline within those limits, the Liquidator seeks to establish a balance between the interests of creditors with known claims (who may benefit from an earlier deadline, a shorter proceeding, and the opportunity to receive a distribution earlier) and those with unknown claims (who may benefit from a later deadline, a longer proceeding, and an increased opportunity to discover and file claims). Here, the Liquidator notes that Hospitality had no in-force business after March 31, 2019 and therefore operated in runoff for over two years before the Liquidation Order entered. At that time, 24 claims were shown as open on the Company's records. (A number of those open claims presented significant exposure. The size of the ultimate distribution to creditors will be primarily a function of how those claims are resolved.) In addition, the commercial automobile liability insurance that Hospitality offered is a fairly "short tail" line of business such that there is a lower likelihood of latent or slow-developing claims than might be the case with other lines of business. As a result, the Liquidator determined that a comparatively short claim filing period would be appropriate and established a claim filing deadline of October 8, 2021 – six months after entry of the Liquidation Order.

3. Provision of Notice. Pursuant to ¶ 6.a of the Liquidation Order, I caused notice of the Liquidation Order and October 8, 2021 claim filing deadline to be sent by first class mail, along with a blank proof of claim form and instructions for its submission, to the following:

- The chief insurance regulators and taxing authorities in each of the fifteen jurisdictions in which Hospitality had business contacts;
- Seventy-four entities insured by Hospitality from its formation to the present for which the Company had address information, along with one agent of record;

- Twenty-four claimants’ attorneys and thirteen defense counsel involved with claims shown as “open” in Hospitality’s books and records;
- Seventeen other individuals and entities known or reasonably expected to have claims against Hospitality including vendors and former officers/employees.

4. Pursuant to ¶ 6.a.(iii) of the Liquidation Order, I caused notice of the Liquidation Order and claim filing deadline to be published in the Burlington Free Press on May 1, 2021.

5. In addition to traditional publication notice, a liquidation website was created (<https://dfr.vermont.gov/hospitality>) announcing entry of the Liquidation Order, advising of the claim filing deadline, and permitting the download of the proof of claim form, filing instructions, and related materials. See *id.*, ¶ 6.a.(iv). This website will be maintained throughout the liquidation process.

6. Receipt of Proofs of Claim. As of October 9, 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.) As of October 31, 2021, the Liquidator had received an additional 3 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 28 of the POCs received by October 31, 2021 to be timely filed. Considering the early stage of this proceeding, the Liquidator believes it will remain possible to accept, acknowledge, and investigate late-filed claims for several more months. See *id.*

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 52 claims.

8. Because the insurance 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 seeks 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. At present, however, claim distribution appears to be as follows:

Claim Type	Claim Count
Defense/Indemnity under Policy (Claims appear to arise from 30 separate incidents)	35
Return Premium	2
Pre-Liquidation Loss Adjustment Expenses	8
“Other”	7
Total	52

9. Investigation and Determination of Claims. As a general matter, the Liquidator has deferred investigation and determination of claims until after the claim filing deadline. There are a number of instances, however, in which insureds or other claimants have requested

accelerated review in relation to settlement discussion or events in an underlying lawsuit. In those cases, the Liquidator has investigated the matter and (where appropriate) provided non-objection to settlement within an agreed range. This process has facilitated resolution of several large claims and the Liquidator anticipates issuing notices of determination on the associated proofs of claim promptly. For the remaining claims, the Liquidator will be conducting “trriage” to determine whether the matter may be susceptible of determination in the short term or whether it may be more efficient to investigate and determine other claims while underlying litigation progresses. The Liquidator will complete the triage process before the next status report is filed. The Liquidator also expects to have a significant number of claim determinations to report at that time.

10. Consolidation of HRRG Assets. Prior to Liquidation, Hospitality held assets in investment and bank accounts at multiple financial institutions. I directed that these accounts be consolidated in a Vermont financial institution. This has been accomplished and, as of September 30, 2021, Hospitality had assets totaling \$3,909,256. These assets are held principally in cash and cash equivalents. As the “trriage” process described above continues, the Liquidator will gain a better understanding as to the time that may be required to complete the liquidation process. The Liquidator will use that information to develop an estimate of potential administrative expenses as well as an investment horizon that may be appropriate for Hospitality’s assets.

11. Retention of Captive Manager. Prior to liquidation, Hospitality received certain administrative services from Risk Services-Vermont, Inc. (“Risk Services”), a firm providing administrative and financial reporting services to Vermont risk retention groups and captive insurers. The Liquidator has determined that it will be cost-effective to continue this relationship

in liquidation and has therefore entered into an agreement by which Risk Services will provide accounting, reporting, cash management, and other limited administrative services on an hourly-rate basis and subject to an annual minimum fee of \$12,000.

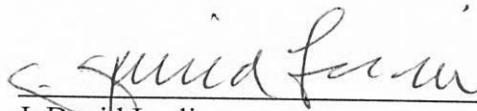
12. Member Claims against Former Management. The Liquidator has learned that at least one former Hospitality member has filed a civil action alleging injury resulting from the actions/omissions of various individuals and entities in the organization and operation of Hospitality, the sale of Hospitality policies, and the handling of claims.¹ Hospitality is not a party to the suit and, while the Liquidator is monitoring the proceeding, he does not currently intend to intervene or otherwise participate. The Liquidator has, however, contacted the former member to clarify the distinction between “direct” claims which the member is entitled to pursue (i.e. claims for unique harms suffered by the member) and “common” claims which the member is not entitled to pursue (i.e. claims belonging to the Hospitality estate). See, e.g., Matter of Liquidation of Am. Mut. Liab. Ins. Co., 632 N.E.2d 1209, 1213 (Mass. 1994) (noting the distinction between “direct” actions belonging to an individual insured and “common” actions that may be pursued only by an insurer’s liquidator); 3A Fletcher Cyc. Corp. § 1134 (applying the principle to corporations generally). If it appears that the member is pursuing “common” claims in its lawsuit, the Liquidator will evaluate whether these appear to have merit (in which case the Liquidator will consider the possibility of filing suit on behalf of Hospitality) and whether it appears that the member is attempting to circumvent the liquidation process and secure an improper preference. See 8 V.S.A. §§ 7057(a) (Liquidator vested “with the title to all the property, contracts, and rights of action” belonging to Hospitality), 7060 (Liquidator entitled

¹ Risk Services is one of the named defendants. The Liquidator is not aware of any reason to believe that those allegations against Risk Services impair its ability to provide the contemplated administrative services to the Hospitality estate. Risk Services exercises no discretion in performing those tasks.

to prosecute actions on behalf of the estate), and 7067 (regarding voidable preferences);
Liquidation Order, ¶¶ 3, 5.a, and 9.b (regarding Liquidator's title to assets and authority to act;
injunction against others attempting to collect estate assets)

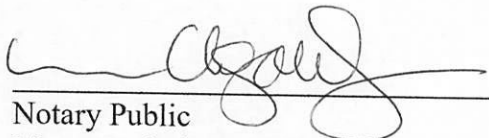
13. Next Steps. Over the coming months, the Liquidator will conduct the proof of claim triage discussed above. Informed by the results of that process, the Liquidator will also begin to investigate and (as permitted by circumstances) determine the filed proofs of claim. If a material number of determinations can be issued within the next six months, the Liquidator will also compile his first report of claims for submission to the Court. See 8 V.S.A. § 7082(a). The Liquidator proposes making his next report to the Court in April of 2022.

Dated this 10th day of November, 2021,



J. David Leslie
Special Deputy Liquidator

Subscribed and sworn before me
this 10 day of November, 2021,



Notary Public

My commission expires: 10.24.25

