

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 SECOND STATUS REPORT, ANNUAL  
ACCOUNTING, AND FIRST REPORT OF CLAIMS**

I, J. David Leslie, Special Deputy Liquidator, hereby submit this status report, annual accounting, 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. As with other key documents relating to this proceeding, the Liquidator's First Status Report was posted on the liquidation website (<https://dfr.vermont.gov/hospitality>).

3. The First Status Report contemplated that the Liquidator would make his next report to the Court in April of 2022. This report is submitted in connection with the Liquidator's Motion for an Order Authorizing Interim Distribution on Allowed Priority Class 3 Claims ("Motion for Interim Distribution") that is filed herewith.

4. Annual Accounting. The liquidation statutes require that the Liquidator submit annual accountings to the Court reflecting assets and liabilities of the insurer and all funds received or disbursed by the liquidator during the current period. See 8 V.S.A. § 7057(e); Liquidation Order, ¶ 4. An accounting for the period from April 8, 2021 to March 31, 2022 is attached hereto as Exhibit A. Explanation as to the assets and liabilities reported in that accounting is presented below.

5. Receipt of Proofs of Claim. As of 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.) As of March 31, 2022, the Liquidator had received an additional 6 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 31 of the POCs received by March 31, 2022 to be timely filed.

6. 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 63 claims.

7. 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.

8. The Liquidator also classifies claims by type to better understand that 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	45
Return Premium	2
Pre-Liquidation Loss Adjustment Expenses	9
“Other”	7
Total	<u>63</u>

9. Investigation and Determination of Claims. The Liquidator has focused attention on the 45 defense/indemnity related claims (priority class 3) because no assets are expected to be available to pay creditors at lower statutory priority levels.<sup>1</sup> Of those claims, 23 (relating to 10 incidents) have been resolved in the sense that the insured’s liability has been addressed through settlement or judgment. The Liquidator offered “non-objection” to settlement in advance and is presently 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. Hospitality’s indemnity obligations associated with those claims are expected to total \$9,879,523. (By way of comparison, Hospitality’s consulting actuaries’ pre-receivership “high” range estimate of its unpaid claim obligations was \$3.5 million.)

10. 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 so substantial exposure is presented. Hospitality’s insureds have assumed responsibility for the defense of claims that were defended by Hospitality prior to liquidation. Review of records associated with these claims and consultation with the insureds/claimants suggests that there is

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<sup>1</sup> Return premium claims would also fall within priority class 3. Such claims present less urgency than defense/indemnity claims, however, because they do not involve active disputes with third-party claimants.

significant uncertainty regarding the ultimate value of these claims. See, *infra*, ¶ 15 (providing a “best estimate” and a “pessimistic scenario” valuation of class 3 claims).

11. Liquidator’s First 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). The Liquidator has now issued 7 notices that 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. Hospitality was organized to provide commercial automobile liability insurance to franchisees of Domino’s Pizza, Inc. (“Domino’s”). Ultimately, it was determined that liability coverage afforded by a risk retention group did not satisfy the insurance requirements established by Domino’s. The Company accordingly ceased writing business and by March 31, 2019 had no in-force business and entered run-off. The Company afforded coverage with relatively high limits (up to \$5 million per incident) and presently has no reinsurance for covered losses. Following review of loss reserve reports from

the Company's consulting actuaries that were calculated as of December 31, 2020, the Commissioner determined that Hospitality was insolvent and filed the Petition.

13. Hospitality's insolvency has imposed a significant economic burden on its Class 3 creditors due to the fact that a defense of claims is no longer being afforded and the insureds must pay amounts in the first instance to resolve claims against them that would otherwise have been funded by Hospitality. This burden can be reduced if the Liquidator is able to accelerate the disbursement of funds through the mechanism of an interim distribution. Accordingly, the Plan of Liquidation requires that the Liquidator monitor Hospitality's financial condition, and as circumstances warrant, petition the Court to establish a distribution percentage for making interim payments on finally determined claims in priority class 3.

14. The Liquidator estimates that a \$500,000 reserve should be sufficient for administrative expense in this proceeding and has accordingly established a \$500,000 reserve.<sup>2</sup> The Liquidator therefore projects that the Hospitality estate has \$3.35 million available to pay claims falling in priority class 3.

15. The Liquidator has finally determined 7 claims falling in priority class 3 with a total value of \$9,560,001. In addition to these "finally determined" claims, there are 40 priority class 3 claims that have not yet been determined. For some of these claims, the Liquidator has high confidence regarding their ultimate value because the underlying liabilities have been settled or adjudicated. Accordingly, while these claims remain "open", all that remains to be determined are defense expenses or matters that will not have large impacts on total claim value. For other claims, however, there is significant uncertainty as to the insured's liability, the amount

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<sup>2</sup> Because of the statutory mandate to "assure the proper recognition of priorities", this \$500,000 reserve is intended to be conservative. See 8 V.S.A. § 7083. Any funds not needed for 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.

of damages, or the existence of coverage. Given the high coverage limits applicable to certain of these claims (\$1.5 million to \$5 million per occurrence), this means that there could be a wide range of potential outcomes. The Liquidator has therefore evaluated the value of “open claims” falling in priority class 3 in two ways. First, the Liquidator has reviewed the available claim/coverage information and estimated the most likely value for which the claim might be allowed. Viewed on this “best estimate” basis, the Liquidator projects that the ultimate value of the “open” priority class 3 claims may total approximately \$5.24 million. Second, the Liquidator has evaluated the “open” claims in terms of a “pessimistic scenario” which reflects the adverse end of the expected range of values for each claim. Viewed on this “pessimistic scenario” basis, the Liquidator projects the ultimate value of the “open” priority class 3 claims may total approximately \$16.94 million.

16. In balancing the interests of creditors with allowed claims and the interest of creditors with unliquidated/undetermined claims, the Liquidator believes it would be appropriate to use conservative estimates of claim values. Specifically, the risks associated with using a conservative estimate is moderate (e.g. in retrospect, it will be apparent that the interim distribution could have been larger such that funds could have been distributed more quickly) while the risks associated with using a more optimistic estimate are very significant (e.g. there will be insufficient funds to make equal distributions to all creditors with allowed priority class 3 claims and it might be necessary to institute claw-back proceedings seeking recovery of excess funds from some creditors). The Liquidator therefore proposes to use the “pessimistic scenario”

estimate of "open claims" to calculate the ultimate value of claims in priority class 3 -- \$26.5 million.<sup>3</sup>

17. Using a \$26.5 million estimate for the value of claims falling in priority class 3 suggests that estate assets will be sufficient to permit a 12.6% distribution at the close of the proceeding.<sup>4</sup> Using these figures and providing a cushion against adverse development, the Liquidator has concluded that Hospitality's financial condition and the circumstances of the proceeding warrant establishment of a 10% interim distribution on allowed priority class 3 claims.

18. 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 11th day of April 2022,



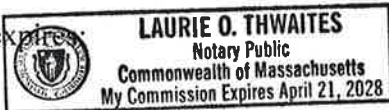
J. David Leslie  
Special Deputy Liquidator

Subscribed and sworn before me  
this 11th day of April 2022



Notary Public

My commission expires



<sup>3</sup> Claims for which the Liquidator has recommended allowance (\$9.56 million) plus the \$16.94 million value of "open" claims under the "pessimistic scenario" equals \$26.5 million.

<sup>4</sup> In contrast, using the Liquidator's "best estimate" of open claim values (\$5.24 million) would suggest \$14.8 million in priority class 3 claims and an ultimate distribution of 22.7%.



## EXHIBIT A

### Liquidation of Hospitality Risk Retention Group Inc.

#### SIMPLIFIED BALANCE SHEET (as of March 31, 2022)

##### ASSETS

Cash & Cash Equivalents	\$ 3,849,319
<b>Total</b>	<b>\$ 3,849,319</b>

##### LIABILITIES<sup>1</sup>

Priority Class 1 (Administrative expense)	\$ 500,000
Priority Class 3 (Policy-related claims)	
Finally determined claims	9,560,001
Liquidator's "Pessimistic Scenario" Estimate of open claims	16,939,999
<b>Total</b>	<b>\$ 27,000,000</b>

#### ANNUAL ACCOUNTING OF RECEIPTS AND DISBURSEMENTS

April 8, 2021 to March 31, 2022

<b>Date</b>	<b>Payee/Payor</b>	<b>Description</b>	<b>Amount</b>
04/09/21	Risk Services-Vermont, Inc.	Captive Management Fees	(15,193.92)
04/21/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(5,515.00)
04/30/21	SunTrust Banks	Interest Received	14.10
05/04/21	Milliman, Inc.	Actuarial Services	(25,000.00)
05/18/21	Peoples United Bank	Bank Fees	(30.00)
05/20/21	Suntrust Banks	Bank Fees	(95.00)
05/24/21	Peoples United Bank	Interest Received	86.25
05/25/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(18,211.50)
06/03/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
06/04/21	Peoples United Bank	Interest Received	50.90
06/10/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(4,155.00)
06/28/21	Florida Office of Insurance Regulation	Premium Tax Refund	45,961.00
07/09/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
07/13/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(5,878.42)
07/30/21	Peoples United Bank	Interest Received	102.44
08/16/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(2,369.06)
08/17/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
08/30/21	Peoples United Bank	Interest Received	327.82
09/13/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(5,639.63)

<sup>1</sup> Estate assets will not be sufficient to make full distribution on all claims falling in priority class 3. It will therefore be impossible to make any distribution on claims falling in priority classes 4 through 10 so these obligations are omitted from the simplified balance sheet. 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.").

<b>Date</b>	<b>Payee/Payor</b>	<b>Description</b>	<b>Amount</b>
09/13/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
09/30/21	Peoples United Bank	Interest Received	307.37
10/07/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(2,664.06)
10/19/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
10/29/21	Risk Services-Vermont, Inc.	Captive Management Fees	(17.01)
10/31/21	Peoples United Bank	Interest Received	297.14
11/05/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(7,673.50)
11/12/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,120.00)
11/30/21	Peoples United Bank	Interest Received	327.90
12/02/21	Johnson Lambert LLP	Tax Preparation Services	(4,000.00)
12/07/21	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
12/10/21	Rackemann Sawyer & Brewster, P.C.	Professional Services	(2,864.18)
12/31/21	Peoples United Bank	Interest Received	317.69
Subtotal: 2021			<b>(58,633.67)</b>

01/17/22	Risk Services-Vermont, Inc.	Captive Management Fees	(1,000.00)
01/24/22	Rackemann Sawyer & Brewster, P.C.	Professional Services	(3,220.00)
01/31/22	Peoples United Bank	Interest Received	317.72
02/08/22	Verrill Dana, LLP	Professional Services	(601.50)
02/28/22	Peoples United Bank	Interest Received	286.99
03/15/22	Risk Services-Vermont, Inc.	Captive Management Fees	(2,000.00)
03/15/22	Verrill Dana, LLP	Professional Services	(4,985.50)
03/31/22	Peoples United Bank	Interest Received	158.88
Subtotal: Q1 2022			<b>(11,043.41)</b>

**EXHIBIT B**

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

**LIQUIDATOR'S FIRST REPORT OF CLAIMS**

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

<b><u>POC No.</u></b>	<b><u>Claimant Name</u></b>	<b><u>Claimant Address</u></b>	<b><u>Priority</u></b>	<b><u>Amount</u></b>
		None	<b>Class</b>	<b>Allowed</b>
			<b>Total</b>	<b>n/a</b>

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

7a(Ind)	RPM Pizza Holdings, LLC.	15385 5 <sup>th</sup> Street, Gulfport, MS 39503	3	\$ 1,650,000.00
12a(Ind)	MAC Pizza Management, Inc.	12633 State Highway 30, College Station, TX 77845	3	75,001.00
12b(Ind)	MAC Pizza Management, Inc.	12633 State Highway 30, College Station, TX 77845	3	5,000,000.00
12c(Ind)	MAC Pizza Management, Inc.	12633 State Highway 30, College Station, TX 77845	3	375,000.00
12d(Ind)	MAC Pizza Management, Inc.	12633 State Highway 30, College Station, TX 77845	3	180,000.00
12e(Ind)	MAC Pizza Management, Inc.	12633 State Highway 30, College Station, TX 77845	3	30,000.00
25d(Ind)	Cowabunga, Inc.	3585 Trotter Drive, Alpharetta, GA 30004	3	2,250,000.00
			<b>Total</b>	<b>\$ 9,560,001.00</b>

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

		None		
			<b>Total</b>	<b>n/a</b>

**Claims Denied or Withdrawn**

		None		
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