

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Michael Wise, as Acting Director of the
South Carolina Department of Insurance,

Petitioner,

vs.

Consumers' Choice Health Insurance
Company,

Respondent.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C.A. No. 2016-CP-40-00034

**ORDER APPROVING LIQUIDATOR'S
SIXTH CLAIMS REPORT AND
RECOMMENDATION AND
PROPOSAL FOR PAYMENT OF
FOURTH INTERIM DISTRIBUTION**

This matter comes before the Court pursuant to the Liquidator's Sixth Claims Report and Recommendation and Proposal for Payment of Fourth Interim Distribution and Application for Order Approving same (the "Application") in accordance with S.C. Code Ann. § 38-27-620 (2015) and S.C. Code Ann. § 38-27-630 (2015).

Attached as Exhibits A and B to the Application pertaining to the Sixth Claims Report, Recommendation are schedules containing the names and addresses of a total of five (5) claimants, recommended valuations for each claim, the priority class, and the proposed distribution. Attached as Exhibit C to the Application is a schedule of recommendations and distributions pursuant to the previously approved Early Access Agreement to the South Carolina Life and Accident and Health Insurance Guaranty Association the "Association"), this Court's prior approved amounts, and the priority class of the Association's claim. Also attached as Exhibit D is the Affidavit of the Special Deputy Liquidator filed in support of the Application.

It appears that the recommendations are in the interests of all creditors in this matter and the distribution as proposed is appropriate under S.C. Code Ann. § 38-27-630 (2015) in that it

assures the proper recognition of priority classes, as well as a reasonable balance between the expeditious completion of the liquidation and the protection of other claimants.

IT IS THEREFORE ORDERED that pursuant to S.C. Code Ann. § 38-27-620 (2015), the Sixth Claims Report and Recommendation is APPROVED.

IT IS FURTHER ORDERED that pursuant to S.C. Code Ann. § 38-27-630 (2015), the payment of a Fourth Interim Distribution is APPROVED.

IT IS FURTHER ORDERED that if any additional factors hereafter come to the attention of the Liquidator or his Special Deputy that may require modification, the Liquidator shall promptly file an application to modify these claims.

AND IT IS SO ORDERED.

Jocelyn Newman
Chief Administrative Judge
Fifth Judicial Circuit

October ____, 2022
Columbia, South Carolina



Richland Common Pleas

Case Caption: Raymond G Farmer , plaintiff, et al vs Consumers Choice Health Insurance Company

Case Number: 2016CP4000034

Type: Order/Other

IT IS SO ORDERED.

Jocelyn Newman, Chief Judge for Administrative Purposes, Court of Common Pleas, 5th Judicial Circuit

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Michael Wise, as Acting Director of the
South Carolina Department of Insurance,

C.A. No. 2016-CP-40-00034

Petitioner,

**LIQUIDATOR'S SIXTH CLAIMS
REPORT AND RECOMMENDATION
AND PROPOSAL FOR FOURTH
INTERIM DISTRIBUTION AND
APPLICATION FOR ORDER
APPROVING SAME**

vs.

Consumers' Choice Health Insurance
Company,

Respondent.

Comes now Petitioner Michael Wise, as Liquidator ("Liquidator") of the above-captioned insurance company (Consumers' Choice), by and through the undersigned counsel, and files herewith his Sixth Claims Report and Recommendation and Proposal for Fourth Interim Distribution, and applies to the Court for an Order (1) approving the Liquidator's undisputed claims determinations specified herein and (2) authorizing the Liquidator to pay a fourth interim distribution to certain approved claimants.

This application is made pursuant to the South Carolina Insurers Rehabilitation and Liquidation Act, S.C. Code Ann. §§ 38-27-10 *et seq.*, specifically, S.C. Code Ann. § 38-27-620(a) (2015), wherein the Liquidator is required to review all claims duly filed in the liquidation proceedings, make such further investigation as he deems necessary and submit a claims report to the Court containing his claim recommendations, and S.C. Code Ann. § 38-27-630 (2015), which allows the Liquidator to pay distributions under the direction of the Court in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims.

In support of his report, recommendation and application, the Liquidator respectfully shows the following:

1. Between the entry of the Order of Liquidation on March 28, 2016, and December 31, 2016, the Claims Bar Date, the Liquidator issued eighty-seven thousand, seven-hundred thirty-six (87,736) Notices of Liquidation and Proof of Claim (POC) forms, with instructions to members, general creditors and other potential claimants and/or creditors of Consumers' Choice.
2. On April 25, 2016, notice of the liquidation was published in the Post & Courier, Greenville News, The State, The Sun and The Island Packet, all being newspapers of general circulation in Charleston, Greenville, Columbia, Myrtle Beach and Beaufort/Bluffton, informing interested parties of the liquidation proceedings and including contact information and instructions for the timely filing of a claim.
3. Total timely-filed POCs amount to six-hundred twenty-one (621). Late-filed POCs amount to fifty-six (56).
4. One-hundred fifty-four (154) claims were approved by this Court by Order entered July 24, 2017.
5. Six (6) claims resolved by the Special Referee were approved by this Court with Orders entered on February 12, 2019, June 4, 2019, June 6, 2019, October 15, 2019, and February 11, 2020.
6. Four hundred twenty-five (425) claims were approved by this Court by Order entered on July 2, 2020.
7. Fifteen (15) claims were approved by this Court by Order entered June 17, 2021.
8. Thirty-seven (37) claims were approved by this Court on August 17, 2021.
9. Thirty-four (34) claims were approved by this Court on July 27, 2022.

10. The final six (6) claims have now been valued and are subject to this application at Exhibits A, B and C. There are no POCs pending adjudication.

11. Virtually all assets have now been marshalled and the Special Deputy Liquidator has determined that there are sufficient assets to pay in full Class 1 through Class 8 claimants.

12. By Orders dated November 10, 2020, June 17, 2021, and July 27, 2022, the Court has approved three previous interim distributions to claimants in Classes 1-8 as defined by S.C. Code Ann. § 38-27-610(6) & (8) (2015).

13. The Special Deputy Liquidator has concluded that no policyholder or creditor would be prejudiced by full payment of interim distributions to approved POC claimants in Classes 2-8 as defined by S.C. Code Ann. § 38-27-610(6) & (8) (2015).

14. Therefore, attached hereto as Exhibit A and incorporated herein is a Schedule listing the names and addresses of four (4) claimants holding a class 2 claim as defined by S.C. Code Ann. § 38-27-610(2) (2015), the POC number, the Liquidator's valuation of the claim, the class code, and the proposed 100% distribution.

15. Attached hereto as Exhibit B and incorporated herein is a Schedule listing the name and address of one (1) claimant holding a class 8 claim as defined by S.C. Code Ann. § 38-27-610(8) (2015), the POC number, the Liquidator's valuation of the claim, the class code, and the proposed 100% distribution.

16. Exhibit C depicts the revised valuation of the South Carolina Life and Accident and Health Insurance Guaranty Association (SCLAHIGA) Class 2 claim as defined by S.C. Code Ann. § 38-27-610(2) (2015), the POC number, the Liquidator's amendment to the valuation of the claim, the class code, and the proposed 100% distribution. The initial Liquidator's valuation as recommended to this Court was approved by Order dated November 10, 2020.

17. In further support of this application, attached as Exhibit D, is the affidavit of Michael J. FitzGibbons, Special Deputy Liquidator.

WHEREFORE, the Liquidator prays the Court for an Order approving this Sixth Claims Report and Recommendation, and authorizing distributions as proposed.

Respectfully submitted,

October 25, 2022

s/Geoffrey R. Bonham
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Columbia SC 29201

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One of the Attorneys for Petitioner

Consumers' Choice Health Insurance Company in Liquidation
 Exhibit A

POC No.	Claimant Name	Address 1	Address 2	City	State	Zip	Class Code	Liquidator's Recommended Amount	Proposed Distribution
31700002	D.H. of A.	c/o Paul Jennings	150 Third Ave. South, Ste. 2800	Nashville	TN	37201	2	-	-
3651600004	T.R.M.C	c/o Paul Jennings	150 Third Ave. South, Ste. 2800	Nashville	TN	37201	2	44,510.90	44,510.90
3651600003	Cc.M.C	c/o Paul Jennings	150 Third Ave. South, Ste. 2800	Nashville	TN	37201	2	-	-
3651600002	D.H. of A.	c/o Paul Jennings	150 Third Ave. South, Ste. 2800	Nashville	TN	37201	2	8,013.50	8,013.50
Total								52,524.40	52,524.40

Consumers' Choice Health Insurance Company in Liquidation
Exhibit B

POC No.	Claimant Name	Address 1	Address 2	City	State	Zip	Class Code	Liquidator's Recommended Amount	Proposed Distribution
2672100001	M&A P.B. LLC	709 Gamecock Ave	Suite 709	Charleston	SC	29407	8	18,966.55	18,966.55
Total								18,966.55	18,966.55

Consumers' Choice Health Insurance Company in Liquidation
 South Carolina Life and Accident and Health Insurance Guaranty Association
 Supplement to Existing POC
 Exhibit C

POC No.	Claimant Name	Address 1	Address 2	City	State	Zip	Class Code	Liquidator's Recommended Amount	Court Allowed Amount	Order Date	Additional Liquidator's Recommended Amount*	Prior Distribution	Court Approval of Payment	
2451600001	S. C. L. A. H. I. G. A.	P.O. Box 8625		Columbia	SC	29209	2	35,958,576.00	35,958,576.00	11/10/2020	N/A	35,958,576.00 (a)	N/A	
Increase in Original POC Recommended amount								150,000.00	Pending	Pending	150,000.00	N/A	150,000.00 (b)	
Total								36,108,576.00	36,108,576.00		N/A	150,000.00	35,958,576.00	150,000.00

(a) Paid \$5,125,263 in 2018 distributions pursuant to provisions of early access agreement and \$30,833,313 on November 19, 2020.

(b) Paid 9/2/2021 as a disbursement pursuant to provisions of early access agreement

Exhibit D

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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Consumers' Choice Health Insurance
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IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

C.A. No. 2016-CP-40-00034

**AFFIDAVIT OF MICHAEL J.
FITZGIBBONS
IN SUPPORT OF LIQUIDATOR'S
SIXTH CLAIMS REPORT AND
RECOMMENDATION AND
PROPOSAL FOR PAYMENT OF
FOURTH INTERIM DISTRIBUTION
AND APPLICATION FOR ORDER
APPROVING SAME**

Michael J. FitzGibbons, being first duly sworn, deposes and says as follows:

1. I am the Special Deputy Liquidator of Consumers' Choice Health Insurance Company. ("Consumers' Choice"). I was appointed to my position by the then Liquidator, Raymond G. Farmer, Director of the South Carolina Department of Insurance.

2. I am over 21 years of age and suffer no legal disability.

3. I submit this affidavit in support of the Liquidator's Final (Sixth) Claims Report, Recommendation and Proposal for Payment of Fourth Interim Distribution and Application for Order Approving Same ("Report, Recommendation, Proposal and Application").

4. By virtue of my appointment as Special Deputy Liquidator, I have been actively and personally involved in the liquidation of Consumers' Choice at all times since it was placed into liquidation, including the matters addressed in this Affidavit. My responsibilities as the Special Deputy Liquidator include supervision and oversight of and direct involvement in the liquidation process. I am familiar with the claims process and with the claims that have been filed. Therefore, I have personal knowledge of the matters addressed in this Affidavit.

5. The claims process has included the following components, all of which has been followed:
- a. Notice of Consumers' Choice's liquidation was given in accordance with S.C. Code Ann. § 38-27-410(a) (2015).
 - b. In accordance with S.C. Code Ann. § 38-27-410(b) (2015), the notice specified that the last date to file a timely Proof of Claim (POC) with the Liquidator was December 31, 2016. Timely proofs of claim were required to have been postmarked no later than 5:00 P.M. Eastern Time, on such date.
 - c. The Liquidator's POC forms are in compliance with S.C. Code Ann. § 38-27-550(a) (2015) and provided notice thereof in accordance with S.C. Code Ann. § 38-27-410(b) (2015).
 - d. I am administering the POC process. I retained certain of the Company's claim professionals in addition to continuing the engagement of the Company's third party administrator to assist me in the adjudication of claims under the policies. These claim professionals were retained with the responsibility to make recommendations to the Liquidator as to the validity, valuation and priority of each POC. I then, as Special Deputy Liquidator on behalf of the Liquidator, approved or denied recommendations in whole or in part and then submit the same to this Court for approval.
 - e. Each and every claim and POC subject to this Claims Report contains the necessary claim file documentation for the Liquidator's recommendation herein.
 - f. To the extent this Claims Report includes claims that were denied in whole or in part, notice of such denial complying with S.C. Code Ann. § 38-27-580(a) (2015)

was provided to the affected claimants and either no timely objection was made by the affected claimants, or the objection was resolved by mutual agreement.

- g. Between March 28, 2016 and December 31, 2016, I caused to be issued eighty-seven thousand, seven-hundred thirty-six (87,736) Notices of Liquidation and POC forms, with instructions to policyholders (members), general creditors, and/or other potential claimants and creditors of Consumers' Choice.
- h. On April 25, 2016, I caused to be published Notice of the liquidation in the Post & Courier, Greenville News, The State, The Sun and The Island Packet, all of which are newspapers of general circulation in Charleston, Greenville, Columbia, Myrtle Beach and Beaufort/Bluffton, informing interested parties of the liquidation proceedings and including contact information and instructions for the timely filing of a claim.

6. I have received six-hundred twenty-one (621) timely-filed POCs and fifty-six (56) late-filed POCs.

7. As the Special Deputy Liquidator, I have now considered and valued each of the four (4) POCs listed in Exhibit A to this Claims Report, one (1) POC listed in Exhibit B, and the South Carolina Life and Accident and Health Insurance Guaranty Association (SCLAHIGA) POC listed in Exhibit C in accordance with the requirements of the South Carolina Insurers Rehabilitation and Liquidation Act, S.C. Code Ann. §§ 38-27-10 *et seq.* There are no further POCs pending adjudication.

8. Pursuant to S.C. Code Ann. § 38-27-610 (2015), the priority of distribution of assets from the insurer's estate must be in accordance with the order in which each class of claims is set forth in that Code section, and “[e]very claim in each class must be paid in full or adequate funds

retained for the payment before the members of the next class receive any payment.”

9. I recovered approximately \$91 million due to Consumers’ Choice from Centers for Medicare & Medicaid Services (“CMS”) for risk corridor payment.

10. There are sufficient assets to fully pay all claims in Classes 1 through 8.

11. All classes of claims superior to Class 9 have been paid or assets have been set aside to pay these creditors in full.

12. With the exception of a single priority class 9 claim in the amount of \$69.5 million filed by the United States of America on behalf of United States Department of Health and Human Services, CMS, and part of the Liquidator’s Fourth Claims Report and Recommendation approved by this Court on August 17, 2021, no other claims with a priority class subordinate to Class 8 have been made against the liquidation estate.

13. Therefore, I propose to make a fourth interim distribution in the full amount to all remaining claimants holding a Class 2 to Class 8 priority claim as defined by S.C. Code Ann. § 38-27-610(2) & (8) (2015). Such a distribution would not prejudice the rights of any claimant holding a claim of a superior priority class.

14. Attached to the Report, Recommendation, Proposal and Application and incorporated by reference as Exhibit A is a listing of the names and addresses of four (4) claimants with class 2 claims as defined in S.C. Code Ann. § 38-27-610(2) (2015), the assigned POC number, the Liquidator’s proposed valuation of each POC pursuant to S.C. Code Ann. § 38-27-620 (2015), and the proposed 100% distribution.

15. Attached to the Report, Recommendation, Proposal and Application and incorporated by reference as Exhibit B is a listing of the names and addresses of one (1) claimant with a class 8 claim as defined in S.C. Code Ann. § 38-27-610(8) (2015), the assigned POC

number, the Liquidator's proposed valuation of each POC pursuant to S.C. Code Ann. § 38-27-620 (2015), and the proposed 100% distribution.

16. Attached to the Report, Recommendation, Proposal and Application and incorporated by reference as Exhibit C is the revised valuation of the SCLAHIGA Class 2 claim as defined by S.C. Code Ann. § 38-27-610(2) (2015), the assigned POC number, the Liquidator's amendment to the valuation of the claim, the class code, and the proposed 100% distribution. The initial Liquidator's valuation as recommended to this Court was approved by Order dated November 10, 2020, and paid in full on November 19, 2020, in accordance with the Early Access Agreement. This additional amount, \$150,000, was paid on September 2, 2021, again in accordance with the Early Access Agreement.


17. To the best of my knowledge and belief, the claims subject to this Report and Application are not subject to modification. If any additional factors hereafter come to my attention which may require any modification, such as third-party payments or releases of any such claims, I will immediately notify the Liquidator, and he and/or I will promptly bring those matters to the attention of this Court.

FURTHER AFFIANT SAYETH NOT.



Michael J. FitzGibbons
Special Deputy Liquidator

SWORN to before me this 21 day of October 2022.


Notary Public for the State of _____
My commission expires _____



SARAH E. ALEXANDER
Notary Public - Arizona
Maricopa Co. / #633463
Expires 09/15/2026