



**GRANTED**

**EFiled: Dec 8 2003 10:19AM EST  
Filing ID 2798732**



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

**IN AND FOR NEW CASTLE COUNTY**

**IN THE MATTER OF )  
THE LIQUIDATION OF ) C. A. No. 12789  
CONSUMERS UNITED INSURANCE COMPANY )**

**ORDER CONCERNING  
RECEIVER'S THIRD CLAIM RECOMMENDATION REPORT  
AND PETITION SEEKING HEARING ON DISPUTED CLAIMS**

**WHEREAS, pursuant to 18 Del. C. § 5917(c), the Receiver of Consumers United Insurance Company in Liquidation (herein "Receiver") filed her Third Claim Recommendation Report pertaining to certain health, life and annuity claims that either were paid by an applicable state guaranty association, are not covered by any applicable state guaranty association or have been denied in whole or in part by a state guaranty association, and which the Receiver believes should be allowed, disallowed in their entirety or only allowed in part ("Disputed Claims");**

**WHEREAS, this Court entered an Order to Show Cause dated October 16, 2003, which set December 5, 2003 at 9:30 a.m. as the date and time for the hearing on the sixteen (16) Disputed Claims which are the subject of the Petition. The Order to Show Cause further required each claimant to notify the Court in writing of their intent to appear at the hearing by November 25, 2003 or**

their claim would be considered abandoned and the Receiver's recommendation would be adopted by the Court;

WHEREAS, the Receiver has filed proof that each of the sixteen (16) claimants received due notice at their last known address of the hearing date and the requirement to notify the Court of their intent to appear by the November 25, 2003 deadline; and

WHEREAS, none of the sixteen (16) claimants notified the Court in writing of their intent to appear at the hearing, and none of the claimants appeared at the hearing.

NOW, THEREFORE, the Court finds that Ms. Mary M. Bowler (proof of claim number 515); Mr. William V. Chittick and Ms. Marilyn Vickers (proof of claim number 1434); Ms. Cynthia M. Hasty and Mr. Larry Hasty (proof of claim number 21); Ms. Christina H. Kohout (proof of claim number 1570); Ms. Gloria S. Laynor (proof of claim number 345); Ms. Sylvia Lowry (proof of claim number 1470); Mr. Daniel A. Romeo (proof of claim number 255); Ms. Christine Schwartz (Carter) (proof of claim number 1506); Mr. Omer B. Toney, Ms. Jennifer Lynn Toney, Ms. Lottie Suzanne Toney and Mr. Jason Toney (proof of claim numbers 1311, 1312 and 1312A); Ms. Elizabeth M. Dixon (proof of claim number 226); Ms. Rebecca R. Kaiser (proof of claim number 1535); Ms. Juhaina F. Najm (proof of claim number 1107); Ms. Charlene H. Ryan (proof of claim number 1109); and Mr. Billy B. Traweek (proof of claim number 451) have all abandoned their appeals

from the Receiver's recommendation that their claims be denied in full or in part, except in the case of the claim of Omer B. Toney regarding the policy application for Jason Toney (proof of claim number 1312A) which is recommended in the full amount claimed of \$75.00;

IT IS HEREBY ORDERED THAT:

1. The Receiver's recommendation that the claim of MS. MARY M. BOWLER (proof of claim number 515) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Bowler's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Bowler by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer.

2. The Receiver's recommendation that the claim of MR. WILLIAM V. CHITTICK and MARILYN VICKERS (proof of claim number 1434) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Mr. Chittick's and Ms. Vicker's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Mr. Chittick and/or

Ms. Vickers by the applicable state life and health insurance guaranty association or any other benefits received by them from the guaranty association directly or through an assuming insurer.

3. The Receiver's recommendation that the claim of MS. CYNTHIA M. HASTY and MR. LARRY HASTY (proof of claim number 21) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Hasty and Mr. Hasty's Bowler's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Hasty or Mr. Hasty by the applicable state life and health insurance guaranty association or any other benefits received by them from the guaranty association directly or through an assuming insurer.

4. The Receiver's recommendation that the claim of MS. CHRISTINA H. KOHOUT (proof of claim number 1570) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Kohout's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Kohout by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming

insurer.

5. The Receiver's recommendation that the claim of MS. GLORIA S. LAYNOR (proof of claim number 345) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Laynor's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Laynor by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer.

6. The Receiver's recommendation that the claim of MS. SYLVIA LOWRY (proof of claim number 1470) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Lowry's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Lowry by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer.

7. The Receiver's recommendation that the claim of MR. DANIEL A. ROMEO (proof of claim number 255) be assigned to the

policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Mr. Romeo's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Mr. Romeo by the applicable state life and health insurance guaranty association or any other benefits received by him from the guaranty association directly or through an assuming insurer.

8. The Receiver's recommendation that the claim of MS. CHRISTINE SCHWARZ CARTER (proof of claim number 1506) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ms. Carter's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Ms. Carter by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer.

9. The Receiver's recommendation that the claim of MR. OMER B. TONEY and MS. JENNIFER LYNN TONEY (proof of claim number 1311) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Mr. Toney and Ms. Toney's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not

affect any amounts already paid to Mr. Toney or Ms. Toney by the applicable state life and health insurance guaranty association or any other benefits received by them from the guaranty association directly or through an assuming insurer.

10. The Receiver's recommendation that the claim of MR. OMER B. TONEY and MS. LOTTIE SUZANNE TONEY (proof of claim number 1312) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Mr. Toney and Ms. Toney's claim is HEREBY DISALLOWED IN ITS ENTIRETY pursuant to 18 Del. C. § 5917(d). This disallowance shall not affect any amounts already paid to Mr. Toney or Ms. Toney by the applicable state life and health insurance guaranty association or any other benefits

received by them from the guaranty association directly or through an assuming insurer.

11. The Receiver's recommendation that the claim of MS. ELIZABETH M. DIXON (proof of claim number 226) be assigned to the policyholder priority class (class 3) and valued at \$2,957.17 is hereby adopted by the Court, and Ms. Dixon's claim is HEREBY ALLOWED IN PART at the value of \$2,957.17 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to Ms. Dixon by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer. Further, the allowance of Ms. Dixon's claim at the value of \$2,957.17 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3) claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

12. The Receiver's recommendation that the claim of MS. REBECCA R. KAISER (proof of claim number 1535) be assigned to the policyholder priority class (class 3) and valued at \$965.25 is hereby adopted by the Court, and Ms. Kaiser's claim is HEREBY ALLOWED IN PART at the value of \$965.25 pursuant to 18 Del. C.

§ 5917(d). This allowance shall not affect any amounts already paid to Ms. Kaiser by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer. Further, the allowance of Ms. Kaiser's claim at the value of \$965.25 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3) claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

13. The Receiver's recommendation that the claim of MS. JUHAINA F. NAJM (proof of claim number 1107) be assigned to the policyholder priority class (class 3) and valued at \$265.34 is hereby adopted by the Court, and Ms. Najm's claim is HEREBY ALLOWED IN PART at the value of \$265.34 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to Ms. Najm by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer. Further, the allowance of Ms. Najm's claim at the value of \$265.34 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3)

claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

14. The Receiver's recommendation that the claim of MS. CHARLENE H. RYAN (proof of claim number 1109) be assigned to the policyholder priority class (class 3) and valued at \$161.44 is hereby adopted by the Court, and Ms. Ryan's claim is HEREBY ALLOWED IN PART at the value of \$161.44 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to Ms. Ryan by the applicable state life and health insurance guaranty association or any other benefits received by her from the guaranty association directly or through an assuming insurer. Further, the allowance of Ms. Ryan's claim at the value of \$161.44 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3) claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

15. The Receiver's recommendation that the claim of MR. OMER B. TONEY with respect to the policy application of JASON TONEY (proof of claim number 1312A) be assigned to the policyholder priority class (class 3) and valued at \$75.00 is hereby adopted by the Court, and Mr. Omer B. Toney's claim

concerning the policy application for Jason Toney is HEREBY ALLOWED at the value of \$75.00 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to Mr. Toney by the applicable state life and health insurance guaranty association or any other benefits received by him from the guaranty association directly or through an assuming insurer. Further, the allowance of Mr. Toney's claim at the value of \$75.00 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3) claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

16. The Receiver's recommendation that the claim of MR. BILLY B. TRAWEEK (proof of claim number 451) be assigned to the policyholder priority class (class 3) and valued at \$508.50 is hereby adopted by the Court, and Mr. Traweek's claim is HEREBY ALLOWED IN PART at the value of \$508.50 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to Mr. Traweek by the applicable state life and health insurance guaranty association or any other benefits received by him from the guaranty association directly or through an assuming insurer. Further, the allowance of Mr. Traweek's claim at the value of \$508.50 does not mean that the claim will be

paid in full. The claim will share, pro rata, with the other policyholder level priority class (class 3) claims in any assets available for distribution to that class, after all higher priority classes have been satisfied in full.

17. The allowance, disallowance in whole, or disallowance in part of each claim subject to this Order constitutes a separate matter and this Order shall be deemed a separate Order with respect to each such claim. Any appeal from this Order and any stay of

this Order pending appeal concerning one claim shall not act as an appeal of or stay of this Order as to any other claim.

18. Within three (3) business days of receipt of this Order, the Receiver's counsel shall serve, by United States certified mail, postage prepaid, return receipt requested, to the claimant's last known address in the Receiver's file, a copy of this Order to each claimant whose claim is subject to this Order.

19. There is no just reason for delay, and this Order, pursuant to Chancery Court Rule 54(b), is entered as a final judgment. EACH OF THE ABOVE CLAIMANTS WHOSE CLAIMS HAVE BEEN ALLOWED, DISALLOWED IN THEIR ENTIRETY, OR DISALLOWED IN PART MAY APPEAL THIS ORDER TO THE SUPREME COURT OF THE STATE OF DELAWARE.

SUCH APPEAL MUST BE FILED WITH (RECEIVED BY) THE CLERK OF THE DELAWARE SUPREME COURT WITHIN THIRTY (30) DAYS OF THE DATE OF THIS ORDER. IF YOU FAIL TO FILE A TIMELY APPEAL, THIS DECISION WILL BECOME FINAL.

\_\_\_\_\_  
Vice-Chancellor

Dated:

**Court: DE Court of Chancery**

**Judge: Stephen Lamb**

**LexisNexis File & Serve Reviewed Filing ID: 2794746**

**Date: 12/8/2003**

**Case Number: 12789**

**Case Name: In re: Matter of the Rehabilitation of Consumers United Insurance**

**/s/ Judge Stephen Lamb**