



GRANTED EFiled: Jul 22 2005 10:10AM EDT
Filing ID 6258924

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 FOURTH 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 the Fourth Claim Recommendation Report pertaining to certain health, life and annuity claims that either were paid by an applicable state guaranty association, were not covered by any applicable state guaranty association or were denied in whole or in part by a state guaranty association, and which the Receiver believes should be disallowed in their entirety or only allowed in the amount recommended by the Receiver (the "Disputed Policy Claims"), and certain claims which the Receiver believes should be classified as general creditor level claims (the "Disputed General Creditor Claims");

WHEREAS, this Court entered an Order to Show Cause dated June 2, 2005, which set July 22, 2005, at 9:30 a.m., as the date and time for the hearing on the Disputed Policy Claims and Disputed General Creditor 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 July

12, 2005, 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 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; and

WHEREAS, none of the claimants notified the Court in writing of their intent to appear at the hearing, and none of the claimants appeared at the hearing or the claimants appeared at the hearing and, after having heard from the Claimant, this Court overruled the basis for their objection to the Receiver's recommendation.

NOW, THEREFORE, the Court finds that all of the claimants have either abandoned their appeals by failing to appear at the hearing or have not provided a sufficient basis for the Court to reject the Receiver's recommendation as to the classification and/or value to be assigned to their claim;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Receiver's recommendation that the claim of ANN CONNER NICKLE HODGES (proof of claim number 1529) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Ann Conner Nickle Hodge'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 or on behalf of Ms. Hodges 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 LORI ANNES PHYSICAL THERAPY (concerning policyholder JENNIFER PORZIO) (proof of claim number 1355) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Lori Annes Physical Therapy'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 or on behalf of Lori Annes Physical Therapy or Ms. Jennifer Porzio 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 RICHARD A. YODER (concerning insured CORT A. YODER) (proof of claim number 746) be assigned to the policyholder priority class (class 3) and valued at \$0 is hereby adopted by the Court, and Richard A. Yoder'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 or on behalf of either Mr. Yoder 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 MALCOLM J. BALLARD AND PRIVATE DIAGNOSTIC CLINIC, JOINTLY (concerning insured ROCHELLE H. BALLARD) (proof of claim number 1170) be assigned to the policyholder priority class (class 3) and valued at \$24,111.67 is hereby adopted by the Court, and the claim of Malcolm J. Ballard and Private Diagnostic Clinic, Jointly, is HEREBY ALLOWED only at the value of \$24,111.67 pursuant to 18 Del. C. § 5917(d). This allowance shall not affect any amounts already paid to or on behalf of Mr. Ballard and/or Private Diagnostic Clinic 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. Further, the allowance of the claim of Mr. Ballard and Private Diagnostic Clinic, jointly, at the value of \$24,111.67 does not mean that the claim will be paid in full. The claim will share, pro rata, with the other allowed 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.

5. The Receiver's recommendation that the claim of CHRISTOPHER BENNETT (proof of claim number 1430) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of Mr. Bennett and the Receiver to pursue or dispute the value of this general

creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

6. The Receiver's recommendation that the claim of DATAVAULT CORPORATION (proof of claim number 1386) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of Datavault Corporation and the Receiver to pursue or dispute the value of this general creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

7. The Receiver's recommendation that the claim of FINANCIAL HEALTH CARE (MARK BUKOWSKI) (proof of claim number 1387) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of Financial Health Care (Mark Bukowski) and the Receiver to pursue or dispute the value of this general creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

8. The Receiver's recommendation that the claim of GLENBROOK HOSPITAL (NATIONAL MEDICAL ENTERPRISES; concerning policyholder DEBORAH WILLIAMS) (proof of claim number 866) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of Glenbrook Hospital (National Medical Enterprises) and the Receiver to pursue or dispute the value of this general creditor claim are reserved

until such time as funds, if any, become available to distribute to general creditor claims.

9. The Receiver's recommendation that the claim of IBM CREDIT CORPORATION (proof of claim number 886) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of IBM Credit Corporation and the Receiver to pursue or dispute the value of this general creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

10. The Receiver's recommendation that the claim of THE PRINTING NETWORK, INC. (proof of claim number 81) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of The Printing Network, Inc. and the Receiver to pursue or dispute the value of this general creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

11. The Receiver's recommendation that the claim of SNOHOMISH COUNTY, WASHINGTON, by its TREASURER (proof of claim number 1386) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of Snohomish County, Washington and the Receiver to pursue or dispute the value of this general creditor

claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

12. The Receiver's recommendation that the claim of THE WYATT COMPANY (proof of claim number 1569) be assigned to the general creditor priority class (class 6) is hereby adopted by the Court pursuant to 18 Del. C. § 5917(d). The rights of the Wyatt Company and the Receiver to pursue or dispute the value of this general creditor claim are reserved until such time as funds, if any, become available to distribute to general creditor claims.

13. The allowance, disallowance in whole, disallowance in part, and/or classification 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.

14. 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.

15. 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, DISALLOWED IN PART, OR CLASSIFIED 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 P Lamb

LexisNexis File & Serve Reviewed Filing ID: 6258144

Date: 7/22/2005

Case Number: 12789

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

/s/ Judge Stephen P Lamb