

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 2**

VICKI SCHMIDT,)	
COMMISSIONER OF)	
INSURANCE,)	
<i>In her Official Capacity,</i>)	
)	
Petitioner,)	
)	Case No. 2019 CV 351
vs.)	
)	
PHYSICIANS STANDARD INSURANCE)	
COMPANY,)	
)	
Respondent.)	

LIQUIDATOR’S FIFTH STATUS REPORT

Vicki Schmidt, in her capacity as the court-appointed liquidator (“Liquidator”) of Physicians Standard Insurance Company (“PSIC”), provides the following status report relating to PSIC, pursuant to the Court’s Order of Liquidation (“Liquidation Order”), the Court’s Order on Liquidator’s Motion to Establish Certain Procedures, Extend Certain Deadlines, and to Approve Fees and Expenses in Relation to PSIC (“Procedural Order”), and K.S.A. 40-3622(d).

I. Introduction

This Court entered the Liquidation Order effective December 1, 2019 (“Liquidation Date”). Subsequently, on May 22, 2020, the Court issued its Procedural Order, which set regular reporting deadlines of every 6 months beginning June 1, 2020. This status report focuses on developments that occurred since the Liquidator filed her last report on December 1, 2021.

II. Update on Policyholder and Other Creditor Claims-Related Activities

As previously reported, the Liquidator received a total of 137¹ proofs of claim. To date, the Liquidator has denied 60 claims, consisting of 54 policyholder (class 2) claims and six non-policyholder claims, and totaling at least \$702,578.00.² Three other proofs of claims were denied but the claimants objected to the denials. The Liquidator is in the process of evaluating those objections. The Liquidator continues to adjudicate the validity of remaining claims. The Liquidator may submit reports and recommendation for either allowance or disallowance of individual claims, as needed. The Liquidator will submit a report and recommendation for allowance of claims pursuant to K.S.A. 40-3642 once the Liquidator's review of all claims is complete.

III. Collection Efforts for Premium Receivables

PSIC's financial records indicated it had premium receivables of \$117,146.21, which consists of premiums reportedly owed to PSIC by 116 policyholders at the time of the Liquidation. The amounts owed range from less than \$1.00 to \$22,744.00, with 59 policyholders owing less than \$50. While the entirety of the premium receivables is likely not collectable, the Liquidator has continued efforts to collect these receivables. At this time, the Liquidator has collected \$5,278 of these receivables. The Liquidator is continuing to review premium receivables and pursue collection of amounts due from policyholders as the unpaid premium amounts can be verified.

¹ Some proofs of claim contained more than one claim or more than one class of claim.

² Some claims did not specify an amount or stated the claim was for the "policy limits." The \$702,578 amount is the sum of denied claims which specified an actual dollar amount claimed.

IV. Update on Claims Handled by MIGA

As previously reported, MIGA is handling 47 insured loss claims (i.e., claims by third parties, such as patients) against PSIC insured medical providers filed before the date of the Liquidation Order. As of March 31, 2022, MIGA had settled 20 claims and 14 had been dismissed. MIGA continues to provide the Liquidator with quarterly financial reports on the amount it has incurred in administrative expenses and loss claim costs, including defense costs. The Liquidator works closely with MIGA on matters such as settlement discussions and in evaluating whether a claim is properly brought against PSIC (so should be defended by MIGA) or whether is a claim which should have been brought against MPM-PPIA, so should be handled in the Missouri Receivership.

V. MPM-PPIA Receivership/Fraudulent Transfer Action

As previously reported, on December 31, 2018, MPM-PPIA filed an action for voluntary commercial receivership in Franklin County, MO, *In re: Missouri Professionals Mutual-Physicians Professional Association*, Case No. 18AB-CC00267, with Daniel E. Leslie appointed as Receiver. The Receiver for MPM-PPIA has also asserted a fraudulent transfer action against PSIC in relation to a security interest granted to PSIC in MPM-PPIA's building shortly before MPM-PPIA filed for voluntary receivership. That action is styled *In re: Missouri Professionals Mutual-Physicians Professional Association v. Physicians Standard Insurance Company*, Case No. 19AB-CC00177.

For several months that matter was stayed upon the agreement of the parties, during which the Liquidator attempted to reach a resolution with the MPM-PPIA Receiver, but without success. On October 13, 2020, the Missouri Court gave the Receiver leave to file a First Amended Petition. PSIC filed an Answer and Affirmative Defenses to the First Amended Petition and Counterclaim

on November 2, 2020. The Liquidator continues to work toward resolution of this matter with the Receiver. In the meantime, the Liquidator, through her counsel, has participated in some of the discovery proceedings in the MPM-PPIA receivership action.

VI. Action by the Liquidator against MPM-PPIA, et al.

On July 2, 2020, the Liquidator filed a petition in this Court, case number 2020-CV-364, against several former PSIC-related entities, including MPM-PPIA, Jonathan L. Downard (“Downard”), Hansen, Stierberger, Downard, Schroeder & Head LLC (“HSDSH”), Corporate Insurance Services (“CIS”), James Randy Snodgrass, J. Randy Snodgrass P.C. (“Snodgrass Defendants”), Timothy Hayden Trout (“Trout”), and The Baltic & Mediterranean Company, LLC (“B&M”). On August 25, 2020, Defendants Downard, HSDSH, CIS, and B&M, with consent of the other defendants, filed a Notice of Removal in the United States District Court for the District of Kansas. The District of Kansas case number for the action is 5-20-CV-04047-EFM-ADM.

In response to the removal to the District of Kansas, the Liquidator filed a Motion to Remand to the Shawnee County District Court. On June 21, 2021, the Court issued a Memorandum and Order that denied the Motion to Remand. Rather, in the Order the Court stayed the action until the liquidation proceedings conclude in state court. Accordingly, the federal action is still stayed.

VII. Accounting and Other Items

PSIC’s unaudited financial statements as of March 31, 2022, is attached to this status report as **Exhibit A**. The Liquidator will continue to amend or supplement the list of PSIC’s assets pursuant to K.S.A. 40-3628(a) or at the Court’s request.

Effective May 1, 2022, Doug Schmidt, who has been lead counsel for the Liquidator since 2019, resigned from Husch Blackwell LLP and is now practicing at Kuckelman Torline Kirkland (“KTK”). The Liquidator believes it would be the most economically efficient for the estate to continue to use Mr. Schmidt at KTK as co-counsel with Husch Blackwell. All parties have discussed the situation and they all agree this is the best for the estate and they do not anticipate the co-counsel arrangement will create any additional financial burden on this estate. KTK and Husch Blackwell will coordinate their efforts and work diligently to ensure this does not create a financial burden on the estate. The Liquidator will file a separate motion to approve the updated engagement terms.

Respectfully submitted,

VICKI SCHMIDT, COMMISSIONER OF
INSURANCE

/s/ Kirsten A. Byrd

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ATTORNEYS FOR THE LIQUIDATOR

CERTIFICATE OF SERVICE

The undersigned certifies a true and correct copy of the above and foregoing was served by email on June 1, 2022, by causing the same to be sent by electronic mail addressed to the following, and by filing the same via the Court's electronic filing system, causing email service to all counsel of record:

Shelley Forrest
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/s/ Kirsten A. Byrd

Attorney for Petitioner

Physicians Standard Insurance Company
Statement of Assets and Net Liabilities (Unaudited) As
of March 31, 2022

Cash and Invested Assets	\$	5,236,898
Premium Receivable ¹	\$	111,868
Premium Receivable Collected	\$	5,278
Fixed Assets ²	\$	9,000
Total Assets	<u>\$</u>	<u>5,363,045</u>
MIGA Administrative Expenses Incurred	\$	830,877
Reserve for MIGA anticipated future administrative expenses ³	\$	807,742
MIGA Claims Paid	\$	4,024,714
Reserve for MIGA Anticipated Future Claim Payments ³	\$	4,038,714
KIGA ⁴ Claims Paid	\$	2,310
Reserve for Liquidator Anticipated Future Administrative Expenses	\$	1,500,000
Proofs of Claims Classes 1 and 2 ⁵	\$	7,459,655
Proofs of Claims Classes 3 to 9 ⁶	\$	4,394,772
Total Liabilities	<u>\$</u>	<u>23,058,784</u>
	<u>\$</u>	<u>17,695,739</u>

Total Net Liabilities

1. Reflects the amount on PSIC's books consisting of premium purportedly owed to PSIC by approximately 113 policyholders. The entirety of this amount is likely not collectable, but reasonable efforts will be utilized to collect accounts above an amount to be determined.
2. Estimated value of data processing equipment.
3. Estimates provided by staff of the Missouri Insurance Guaranty Association ("MIGA") to finalize PSIC MIGA-covered claims through 12/31/2027.
4. Kansas Insurance Guaranty Association.
5. Excludes Claims of MIGA and KIGA, and claims denied by the Liquidator and to which no objection was filed by the claimants.
6. Includes claim of MPM-PPIA filed by the MO Receiver in the amount of \$3,019,017