

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS  
DIVISION 6**

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 NINTH 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 (the “**Liquidation 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, 2023.

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

As previously reported, the Liquidator received a total of 137<sup>1</sup> proofs of claim (“**POCs**”). Since the last report, the Liquidator has denied or resolved additional claims totaling \$1,400,000.

There are two contingent POCs which involve medical malpractice claims against PSIC insureds which are being handled by the Missouri Property & Casualty Insurance Guaranty Association (“**MIGA**”). These claims cannot be reviewed for denial or approval until the related lawsuits are resolved. Both matters are expected to conclude in 2024, after which the Liquidator will determine whether those liquidated claim will be accepted or denied.

The Liquidator continues to review and adjudicate the validity of 35 remaining policyholder claims totaling \$1,248,284, all of which request refunds for premiums paid for extended reporting (“tail”) policies or for reimbursement for the cost of replacement tail policies.

The Liquidator will submit a report and recommendation for allowance of claims pursuant to K.S.A. 40-3642 once litigation matters being handled by MIGA are resolved and the Liquidator’s review of all claims is complete.

## III. Litigation Update

MPM-PPIA is the former majority owner of PSIC. MPM-PPIA and PSIC are both in receivership.<sup>2</sup> The Liquidator and the Receiver asserted various claims arising from events preceding the receivership of both companies, including:

- The Receiver’s fraudulent transfer action against PSIC, *In re: Missouri Professionals Mutual-Physicians Professional Association v. Physicians Standard Insurance Company*, Franklin County, Missouri, Circuit Court, Case No. 19AB-CC00177; and

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<sup>1</sup> Some proofs of claim contained more than one claim or more than one class of claim.

<sup>2</sup> MPM-PPIA’s commercial receivership action is pending in the Franklin County, Missouri, Circuit Court, Case No. 18AB-CC00267 (“**Receivership Court**”). Daniel Leslie is the Court appointed Receiver of MPM-PPIA (“**Receiver**”).

- The Liquidator’s civil claims against MPM-PPIA and various individuals and entities associated with PISC and/or MPM-PPIA, including Timothy Trout (“**Trout**”), Jonathan Downard, and his affiliates (collectively, “**Downard**”), and the companies’ former independent accountant, J. Randy Snodgrass and J. Randy Snodgrass, P.C. (“**Snodgrass**”), *Schmidt v. MPM-PPIA, et al.*, United States District Court for the District of Kansas, Case No. 20-4047-JAR-ADM (“**Federal Action**”).<sup>3</sup>

The Federal Action was stayed pending completion of related proceedings in PSIC’s liquidation which concluded in late 2023, including resolution of the Liquidator’s claims against Trout and Trout’s Proof of Claim filed with the Liquidator. The Liquidation Court approved the Liquidator’s settlement with Trout on September 26, 2023.

At the parties’ request, the Court in the Federal Action lifted the stay in late 2023, and the parties met and conferred on scheduling and discovery matters. At Downard’s request, the Liquidator agreed to defer formal discovery while the parties engaged in informal document requests and attempted to reach a settlement through mediations scheduled for April 16, 2024, and May 15, 2024. Through that mediation, the Liquidator and Receiver reached a settlement of their respective claims which is subject to approval by the Liquidation Court and the Receivership Court. The Liquidator and Receiver have both filed motions for approval of the settlement with the respective courts which are pending.

The mediations did not result in settlement with Downard or Snodgrass; thus, formal discovery is underway with regard to those claims. The deadlines in the Federal Action include a deadline to substantially complete fact discovery (July 26, 2024), expert reports and discovery

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<sup>3</sup> The Liquidator filed her claims in the Shawnee County District Court, case number 2020-CV-364, but the Defendants removed the case to the United States District Court for the District of Kansas, Case No. 20-4047-JAR-ADM.

(August-October 2024), and dispositive motions (December 13, 2024), and submission of a final pretrial order (November 4, 2024). There is currently no trial setting in the Federal Action.

#### **IV. Update on Claims Handled by MIGA**

As discussed above, there are two remaining POCs which involve medical malpractice claims against PSIC insureds<sup>4</sup> which are being handled by MIGA. The forty-four other insured loss claims which were handled by MIGA on behalf of PSIC have been settled or dismissed. MIGA continues to provide the Liquidator with quarterly financial reports on the amounts it has incurred in administrative expenses and loss claim costs, including defense costs, which are shown in Exhibit A.

#### **V. Online Information Regarding the Liquidation Matter**

The Liquidator maintains information on the Kansas Department of Insurance website to provide historical and ongoing information about the PSIC Liquidation for access by the public and claimants. Information includes links to court orders, various notifications to policyholders since 2019, the POC form and related filing information, a frequently asked questions (“**FAQ**”) document, which is updated from time to time, and filings by the Liquidator with the Liquidation Court.

Online information regarding PSIC can be found at the Department’s website at: <https://insurance.kansas.gov/legal-issues/#psic>. The Liquidator also maintains a dedicated email address for PSIC-related matters which is monitored daily: [kid.psic@ks.gov](mailto:kid.psic@ks.gov).

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<sup>4</sup> These included claims by third parties, such as patients against PSIC-insured medical providers filed either (1) before the date of the Liquidation Order, or (2) after the date of the Liquidation Order but which PSIC had notice of prior to the date of liquidation.

## **VI. Accounting and Other Items**

PSIC's Statement of Net Assets and Net Liabilities (Unaudited) as of March 31, 2024, is attached to this status report as Exhibit A. The Liquidator will continue to amend or supplement that asset list pursuant to K.S.A. 40-3628(a) or at the Court's request.

Respectfully submitted,

VICKI SCHMIDT, COMMISSIONER OF  
INSURANCE, AS LIQUIDATOR

/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 filed via the Court's electronic filing system (ECF) and served by email on June 3, 2024, causing the same to be sent by electronic mail addressed to all counsel of record, and via email to the following:

Shelley Forrest  
Missouri Department of Insurance  
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*/s/ Kirsten A. Byrd*  
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Attorney for Petitioner

<b>EXHIBIT</b> <b>A</b>
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Physicians Standard Insurance Company  
 Statement of Net Assets and Net Liabilities (Unaudited)  
 As of March 31, 2024

<u>Assets</u>	<u>3.31.2024</u>
Cash Assets - Checking/Savings	\$ 129,426
Short and Long Term Investments	\$ 4,482,369
Fixed Assets <sup>1</sup>	\$ 9,000
<b>Total Assets</b>	<b>\$ 4,620,795</b>
<u>Liabilities</u>	
<u>Class 1 Administrative Claims</u>	
Liquidator Administrative Expenses Accounts Payable	\$ 47,275
MIGA Administrative Expenses Incurred	\$ 1,009,242
MIGA anticipated future administrative expenses <sup>2</sup>	\$ 134,440
Liquidator Anticipated Future Legal-Related Expenses <sup>3</sup>	\$ 771,313
Liquidator Anticipated Future Miscellaneous Expenses <sup>4</sup>	\$ 169,248
<b>Total Class 1 Expenses</b>	<b>\$ 2,131,517</b>
<b>Assets less Class 1 Administrative Expenses</b>	<b>\$ 2,489,278</b>
<u>Class 2 Policyholder Claims</u>	
MIGA Claims Paid to date <sup>5</sup>	\$ 4,911,067
Reserve for MIGA Anticipated Future Claim Payments and defense costs	\$ 170,954
KIGA <sup>6</sup> Unearned Premium Refunded	\$ 2,310
Class 2 Claims filed with Liquidator <sup>7</sup>	\$ 2,248,284
<b>Total Class 2 Claims</b>	<b>\$ 7,332,615</b>
<b>Proofs of Claims Classes 3 to 9<sup>8</sup></b>	<b>\$ 77,200</b>
<b>Total Liabilities (All classes)</b>	<b>\$ 9,541,332</b>
<b>Total Net Liabilities (Assets minus liabilities)</b>	<b>\$ (4,920,537)</b>

1. Estimated value of data processing equipment.
2. Estimates provided by staff of the Missouri Insurance Guaranty Association ("MIGA") to finalize PSIC MIGA-covered claims through 12/31/2027.
3. These include fees for litigation-related matters, including outside counsel fees, forensic financial analysis, expert witness fees and court reporting fees.
4. Includes anticipated administrative costs such as accounting, bank service fees, and computer software and storage fees through 12/31/27.
5. Includes reimbursement of unearned premium of \$299,715, Claim payments of \$3,029,575.54 and Defense and Containment Expenses of \$1,581,777, as shown in the MIGA D Report.
6. Kansas Insurance Guaranty Association
7. These include 35 claims relating to tail policies (totaling \$1,248,284) and two claims relating to litigation being handled by MIGA (totaling \$1,000,000).
8. Includes five claims, consisting of three general creditor claims, one late-filed claim and one shareholder claim.