

**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 TENTH 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 June 3, 2024.

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

As previously reported, the Liquidator received a total of 137¹ proofs of claim (“**POCs**”). These POCs involved administrative claims, policyholder claims, and general creditor claims. To date, the Liquidator has denied, resolved or reclassified all but 35 policyholder (Class 2) claims totaling \$1,248,284. These POCs request refunds for premiums paid for extended reporting (“tail”) policies or for reimbursement for the cost of replacement tail policies. These continue to be evaluated by the Liquidator’s staff, which anticipates having these resolved by the time the next Status Report is due to the Court on June 1, 2025.

In addition, there are two POCs relating to litigation involving medical malpractice claims against a PSIC insureds which are being handled by the Missouri Property & Casualty Insurance Guaranty Association (“**MIGA**”). The underlying litigation for one POC, in the amount of \$700,000, has been dismissed and the time allowed for refiling expired; thus this claim is now in a position to be denied by the Liquidator. The other POC, in the amount of \$300,000 cannot be reviewed for denial or approval until the related underlying lawsuit is resolved. A trial on that matter is scheduled for October 2025. Two other claims being handled by MIGA, the outcome of which will affect the total amount of MIGA’s POC against the PSIC estate, are scheduled for mediation in late 2024 and should be resolved in 2025. A pro rata distribution to PSIC claimants (including MIGA) with class 2 policyholder claims cannot be proposed until these matters being handled by MIGA are finalized.

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

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

shown in Exhibit A. The amount of non-priority (classes 5-9) claims which have not been denied or otherwise resolved is shown in Exhibit A attached to this report.

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. MPM-PPIA Receivership/Fraudulent Transfer Action and the Federal Lawsuit

PSIC was previously majority-owned by a medical malpractice insurer based in Missouri, Missouri Professionals Mutual - Physicians Professional Indemnity Association ("**MPM-PPIA**"). On or about March 10, 2018, PSIC and MPM-PPIA entered into a Policy Acquisition Agreement under which MPM-PPIA's policy business was transferred to PSIC. The Liquidator contends that this transaction rendered PSIC insolvent. Within one year of that transaction, MPM-PPIA filed for voluntary receivership in Franklin County, MO, *In re: Missouri Professionals Mutual-Physicians Professional Association*, Case No. 18AB-CC00267. PSIC went into receivership shortly thereafter. MPM-PPIA and PSIC asserted various claims against each other in the respective receiverships. In addition, the Liquidator for PSIC asserted various tort and other causes of action against the following individuals and entities. As detailed below, all litigation claims have been or are in the process of being settled.

- a. The Liquidator settled her claims against PSIC's former accountant, James Randy Snodgrass and his associated firm, J. Randy Snodgrass P.C. ("**Snodgrass Defendants**") in exchange for the Snodgrass Defendants' liability insurance limits, \$500,000, which the Liquidation Court reviewed and approved on September 18, 2024.

- b. The Liquidator settled her claims against PSIC's former chief executive, Timothy H. Trout, in exchange for Mr. Trout's payment to PSIC of \$87,000, withdrawal of his POC of \$1,250,000 against PSIC for payments he alleged were due him under a Noncompetition Agreement between Mr. Trout and MPM-PPIA, assignment of Mr. Trout's right to receive any proceeds from his proof of claim filed in the receivership of MPM-PPIA ("**Receivership Claim**"), and all of Mr. Trout's accounts, payment intangibles and general intangibles relating to or arising from the Receivership Claim, which the Liquidation Court reviewed and approved on September 26, 2023.
- c. The Liquidator has settled in principle her claims against PSIC's former outside counsel, Jonathan L. Downard ("**Downard**") and his law firm, Hansen, Stierberger, Downard, Schroeder & Head LLC ("**HSDSH**") under which HSDSH will consent to judgment against it on the Liquidator's legal malpractice claim and an assignment of these defendants' rights and claims against their legal malpractice insurer. The Liquidator will file a motion for the Liquidation Court to approve this settlement once it is finalized.
- d. The Liquidator has reached a settlement in principle of her claims against Downard, in his capacity as a director and/or officer of PSIC, PSIC's former third-party administrator, Corporate Insurance Services ("**CIS**"), and PSIC's former landlord, and The Baltic & Mediterranean Company, LLC ("**B&M**") under which these defendants shall pay \$175,000, of which \$150,000 shall be paid upon approval by the Liquidation Court and \$25,000 shall be paid by Downard, individually, pursuant to a promissory note to be paid on or before October 15, 2025. The parties are

finalizing settlement terms which shall be submitted to the Liquidation Court for approval.

IV. Data Security Incident (Ransomware)

PSIC's servers have been stored with an IT vendor in Union, Missouri, that provided IT-related services to PSIC prior to PSIC entering receivership ("**Storage Vendor**"). At the inception of the receivership, the Liquidator arranged for a backup of the data on PSIC's servers by a separate IT vendor (the "**Backup Vendor**"). In March 2024, the Storage Vendor reported that a criminal actor gained unauthorized access to the PSIC servers, encrypted the data, and was holding the data ransom. Because the Liquidator had a backup of the data stored to the servers, the Liquidator did not need to evaluate the ransomware demand. However, the Liquidator had to arrange for restoration and initial evaluation of the backup data through the Backup Vendor.

The data stored to the servers related mostly to medical malpractice policies issued to Missouri policyholders, a smaller subset relating to policies issued to Kansas policyholders, and claims made under the policies. Under Missouri law, notice of a data breach should be reported to a person if that person's first name (or first initial) and last name *plus* any of the following was involved in the data breach (1) the person's Social Security/Driver's license/other unique government identification number; (2) the person's financial account number or bank routing number in combination with a required security/access code or password; or (3) medical or health insurance information. Mo. Rev. Stat. 407.1500. Similarly, under Kansas law, notice should be provided if the person's first name (or first initial) and last name *plus* either the person's Social Security/Driver's license/state identification card number, or the person's financial account number, or credit/debit card number, alone or in combination with any required security code/access code, or password was involved. K.S.A. 50-7a01.

The data on PSIC's servers was voluminous and covered many years of historical operations. It was not practical for the Liquidator's staff or outside law firm to review and evaluate years of data to determine if there were reporting obligations because the cost of such an endeavor would unnecessarily deplete the already limited assets in PSIC's liquidation estate. The Liquidator consulted with a data breach vendor which routinely assists customers with data breach notices, including review of data to identify consumers who should be notified of the data incident, compilation of a mailing list, and handling mail notice. The vendor staffs its projects with experienced non attorneys, including individuals who are offshore, to provide a more practical and economic route to evaluating the data. The vendor agreed to waive all data hosting and processing fees. Still, the vendor's estimate to review the backup data for consumers who should receive notice, compile a mailing list, and issue mail notices to impacted consumers ranges from at least \$112,000 to \$310,000+, depending upon how the project develops and was staffed (offshore versus U.S. personnel). These costs were in addition to costs incurred by the PSIC estate for legal services, restoration and evaluation of the backup data through the Backup Vendor, and consultation with various data breach experts to evaluate multiple issues surrounding the data breach incident.

The data breach vendor's estimate demonstrates that the data breach could potentially result in significant costs to the Estate. However, both Missouri and Kansas statutes² allow a reporting entity to avoid mailing written notice to each consumer if the reporting company can demonstrate that the cost of providing individualized notice would exceed \$100,000, in which case the reporting company may provide what is referred to as "substitute notice." Mo. Rev. Stat. § 407.1500.2(6)(d); K.S.A 50-7a01(c)(3). "Substitute notice" is defined to include posting the notification or a link to the notice on the PSIC in Liquidation's webpage hosted on the website for

² MPM-PPIA was only licensed to write insurance in Missouri. PSIC was licensed and wrote insurance in Kanas and Missouri. Thus, Kansas and Missouri are the two state laws which most likely apply.

the Kansas Department of Insurance (“**Department**”) and notification to statewide media. Mo. Rev. Stat. § 407.1500.2(7); K.S.A. 50-7a01(e). Rather than depleting Estate assets by the costly and time consuming process of sifting through the data to try to identify if there are any particular consumers who should be notified, the Liquidator has posted a detailed notice with other PSIC Liquidation-related information on the Department’s website as set forth in Exhibit B, and she is arranging for publication of notice in various statewide and regional newspapers which cover the geographic areas of Kansas and Missouri as set forth in Exhibit C.

V. Online Information Regarding the Liquidation Matter

As referenced above, the Liquidator maintains information on the Department’s 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 periodically updated, and filings by the Liquidator with the 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: kdoi.psic@ks.gov.

VI. Accounting and Other Items

PSIC’s Statement of Net Assets and Net Liabilities (Unaudited) as of September 30, 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.

CERTIFICATE OF SERVICE

The undersigned certifies a true and correct copy of the above and foregoing was served by email on November 27, 2024, 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
Missouri Department of Insurance
Shelley.Forrest@insurance.mo.gov

Tamara Kopp
The Missouri Insurance Guaranty Association
tkopp@mo-iga.org

Chad Anderson
Kansas Insurance Guaranty Association
canderson@wgfs.org
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/s/ Kirsten A. Byrd

Attorney for Petitioner

EXHIBIT A

Physicians Standard Insurance Company
Statement of Net Assets and Net Liabilities (Unaudited)
As of September 30, 2024

Assets	9.30.2024
Cash Assets - Checking/Savings	\$ 3,556,023
Short and Long Term Investments	\$ 734,873
Accounts Receivable-Snodgrass	\$ 500,000
Total Assets	\$ 4,790,897
Liabilities	
Class 1 Administrative Claims	
Liquidator Administrative Expenses Accounts Payable	\$ 361,751
MIGA Administrative Expenses Incurred	\$ 1,013,287
MIGA anticipated future administrative expenses ¹	\$ 26,760
Liquidator Anticipated Future Legal-Related Expenses ²	\$ 644,440
Liquidator Anticipated Future Miscellaneous Expenses ³	\$ 153,820
Total Class 1 Expenses	\$ 2,200,058
Assets less Class 1 Administrative Expenses	\$ 2,590,839
Class 2 Policyholder Claims	
MIGA Claims Paid to date ⁴	\$ 4,939,089
Reserve for MIGA Anticipated Future Claim Payments and defense costs	\$ 133,800
KIGA ⁵ Unearned Premium Refunded	\$ 2,310
Class 2 Claims filed with Liquidator ⁶	\$ 2,248,284
Total Class 2 Claims	\$ 7,323,483
Proofs of Claims Classes 3 to 9⁷	\$ 77,200
Total Liabilities (All classes)	\$ 9,600,741
Total Net Liabilities (Assets minus liabilities)	\$ (4,809,845)

1. Estimates provided by staff of the Missouri Insurance Guaranty Association ("MIGA") to finalize PSIC MIGA-covered claims through 12/31/2027.

2. These include fees for litigation-related matters, including outside counsel fees, forensic financial analysis, expert witness fees and court reporting fees.

3. Includes anticipated administrative costs such as accounting, bank service fees, and computer software and storage fees through 12/31/27.

4. Includes reimbursement of unearned premium of \$299,715, Claim payments of \$3,029,576 and Defense and Containment Expenses of \$1,609,799, as shown in the MIGA D Report.

5. Kansas Insurance Guaranty Association

6. These include 35 claims relating to tail policies (totaling \$1,248,284); and two claim relating to litigation being handled by MIGA (totaling \$1,000,000).

7. Includes five claims, consisting of three general creditor claims, one late-filed claim and one shareholder claim.

EXHIBIT B

OFFICE OF THE LIQUIDATOR OF PHYSICIANS STANDARD INSURANCE COMPANY

November 26, 2024

Notice of Data Security Incident

This is notice of a data security incident involving the electronic records of Physicians Standard Insurance Company (“**PSIC**”) and certain affiliates. PSIC is an insolvent medical malpractice insurer in liquidation pursuant to a Final Order and Judgment of Liquidation entered by the District Court of Shawnee County, Kansas, effective December 1, 2019. The Liquidator of PSIC, Kansas Commissioner of Insurance, Vicki Schmidt (the “**Liquidator**”), is providing this notice to alert those whose personal information may have been impacted.

What Happened. We have learned from the vendor storing PSIC’s servers that a criminal actor gained unauthorized access to the PSIC servers, encrypted the data, and is holding the data ransom.

What We Are Doing. Fortunately, the Liquidator has a backup of the data that was stored to the servers. However, it would be costly, with no result guaranteed, to hire a cyber security firm to try to confirm which data the criminal actor accessed, whether it was in a format that would be usable, and whether the criminal wrongfully distributed the data. The estimated cost to identify and provide notice to potentially affected consumers exceeds \$100,000.00. As an alternative to the costly and uncertain endeavor of confirming whether the criminal actor accessed personally identifiable information and identifying those affected, we are providing notice of the data breach via the Liquidator’s website for PSIC at <https://insurance.kansas.gov/legal-issues/#psic>, and statewide media outlets in Kansas and Missouri as authorized by applicable Kansas and Missouri statutes.¹

Information Involved. The data included the following types of information: names, basic contact information, summaries of claimant allegations which contain medical information and some medical records of claimants; potential social security numbers, tax identification numbers, license numbers; and information used for payments, *e.g.*, ACH information.

What You Can Do. We are not aware of any individual’s information being misused as a result of the incident, but as a precautionary measure, we encourage you to take steps to ensure your data remains secure. We recommend you remain vigilant for incidents or suspicious activity of identity theft or fraud by review of bank accounts and other financial statements. You can follow the recommendations on the following pages to help protect your personal information. For your security, please note that we will not initiate contact with you regarding this cybersecurity incident by phone call, text, or email. Should someone unexpectedly initiate contact with you by phone, email or text regarding this incident, you should end the phone call or delete any text or email as a security precaution. We encourage you to remain vigilant against incidents of identity theft and fraud, promptly change any potentially involved account passwords, and to proactively review account statements, credit reports, and explanation of benefits forms for suspicious activity.

Access to Credit Reports. Under U.S. law, you are entitled to one free credit report annually from each of the three major credit reporting bureaus. To order your free credit report, visit www.annualcreditreport.com or call 1-877-322-8228 (toll-free). You may also contact the three major credit bureaus directly to request a free copy of your credit report. You may wish to stagger your requests so that you receive a free report by one of the three credit bureaus every four months.

Request a Security Freeze. You have the right to place a “security freeze” on your credit report, which will prohibit a consumer reporting agency from releasing information in your credit report without your express authorization. The security freeze is designed to prevent credit, loans, and services from being approved in your name without your consent. However, using a security freeze to control who may access personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding a new loan,

credit, mortgage, or any other account involving the extension of credit. Pursuant to federal law, you cannot be charged to place or lift a security freeze on your credit report. To request a security freeze, you must provide the following information:

1. Full name (including middle initial as well as Jr., Sr. II, III, etc., if applicable)
2. Social Security number
3. Date of birth
4. Each address where you have lived over the past five (5) years
5. A legible photocopy of a government-issued identification card (a state driver’s license or ID card, military identification, etc.)
6. If you are a victim of identity theft, include a copy of either the police report, investigative report, or complaint to a law enforcement agency concerning identity theft.

Placing a Fraud Alert. As an alternative to a security freeze, you have the right to place an initial or extended “fraud alert” on your file at no cost. An initial fraud alert is a one-year alert that is placed on a consumer’s credit file. Upon seeing a fraud alert display on a consumer’s credit file, a business is required to take steps to verify the consumer’s identity before extending new credit. If you are a victim of identity theft, you are entitled to an extended fraud alert which lasts seven (7) years.

To access your credit report, implement a security freeze, or a fraud alert, you may contact the three major credit reporting agencies listed below.

	Credit Report	Security Freeze	Fraud Alert
Equifax	P.O. Box 740241 Atlanta, GA 30374-0241 1-866-349-5191 www.equifax.com	P.O. Box 105788 Atlanta, GA 30348-5788 1-888-298-0045 www.equifax.com/personal/credit-report-services	P.O. Box 105069 Atlanta, GA 30348-5069 1-800-525-6285 www.equifax.com/personal/credit-report-services/credit-fraud-alerts/
Experian	P.O. Box 2002 Allen, TX 75013-9701 1-866-200-6020 www.experian.com	P.O. Box 9554 Allen, TX 75013-9554 1-888-397-3742 www.experian.com/help/credit-freeze/	P.O. Box 9554 Allen, TX 75013-9554 1-888-397-3742 www.experian.com/fraud/center.html
TransUnion	P.O. Box 1000 Chester, PA 19016-1000 1-800-888-4213 www.transunion.com	P.O. Box 160 Woodlyn, PA 19094 1-800-916-8800 www.transunion.com/credit-freeze	P.O. Box 2000 Chester, PA 19016-2000 1-800-680-7289 www.transunion.com/fraud-alerts

For any additional questions or concerns, you may contact us by email at kdoi.psic@ks.gov. The Federal Trade Commission can be reached at 600 Pennsylvania Avenue NW, Washington, DC 20580; www.identitytheft.gov; 1-877-ID-THEFT (1-877-438-4338); and TTY: 1-866-653-4261. The Federal Trade Commission encourages those who discover that their information has been misused to file a complaint with the Federal Trade Commission. You can obtain further information on how to file such a complaint via the contact information listed above. You have the right to file a police report if you do experience identity theft or fraud. To file a report with law enforcement for identity theft, you may need to provide some proof that you have been victimized. You should report instances of known or suspected identity theft to law enforcement and your state Attorney General.

¹ See Mo. Rev. Stat. § 407.1500.2(7) and K.S.A. 50-7a01(e).

EXHIBIT C

Notice of Data Security Incident: Physicians Standard Insurance Company

This is notice of a data security incident involving the electronic records of Physicians Standard Insurance Company (“PSIC”) and certain affiliates to alert those whose personal information may have been impacted. PSIC is an insolvent medical malpractice insurer. The vendor storing PSIC’s servers reported that a criminal actor gained unauthorized access to the PSIC servers and encrypted the data. The data included the following types of information: names, basic contact information, summaries of claimant allegations which contain medical information and some medical records of claimants, potential social security numbers, tax identification numbers, license numbers, and information used for payments. For more information visit <https://insurance.kansas.gov/legal-issues/#psic> or email us at kdoi.psic@ks.gov. For your security, please note that we will not initiate contact with you regarding this cybersecurity incident by phone call, text, or email. We encourage you to take steps to ensure your data remains secure and remain vigilant for incidents of identity theft or fraud by reviewing bank accounts and other financial statements, and by proactively monitoring free credit reporting. Under U.S. law, you are entitled to one free credit report annually from each of the three major credit reporting bureaus. To order your free credit report, visit www.annualcreditreport.com or call 1-877-322-8228 (toll free). To learn more about credit bureau resources, visit our website at <https://insurance.kansas.gov/legal-issues/#psic>. You may contact the three major credit reporting agencies listed below:

Equifax: P.O. Box 740241, Atlanta, GA 30374-0241; Phone: 1-866-349-5191; Website: www.equifax.com

Experian: P.O. Box 2002, Allen, TX 75013-9701; Phone: 1-866-200-6020; Website: www.experian.com

TransUnion: P.O. Box 1000, Chester, PA 19016-1000; Phone: 1-800-888-4213; Website: www.transunion.com