IN THE CHANCERY COURT FOR THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE ex rel. JULIE MIX McPEAK, COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE,	)	
	)	**Nos. 03-293 (IV)**
	)	**03-294 (IV)**
	)	**03-295 (IV)**
Petitioner,	)	
v.	)	
AMERICAN NATIONAL LAWYERS INSURANCE RECIPROCAL (RRG), a Tennessee Domiciled Insurance Company, DOCTORS INSURANCE RECIPROCAL (RRG), a Tennessee Domiciled Insurance Company and THE RECIPROCAL ALLIANCE (RRG), a Tennessee Domiciled Insurance Company,	)	
Respondent.	)	

RECEIVER'S MOTION TO ACCEPT AND ADD ADDITIONAL CLASS 2 CLAIMS TO LISTINGS APPROVED FOR INTERIM DISTRIBUTION AND FOR CORRECTION OF EARLIER SUBMITTED MATTERS

I. Introduction

The Commissioner of the Tennessee Department of Commerce and Insurance, in her capacity as Statutory Receiver of American National Lawyers Insurance Reciprocal (RRG), in Liquidation ("ANLIR"), Doctors Insurance Reciprocal (RRG), in Liquidation ("DIR") and The Reciprocal Alliance (RRG), in Liquidation ("TRA") (collectively referred to as "RRGs"), and through the appointed Special Deputy Receivers of each respective RRG, moves (a) for additional Class 2 Claims to be accepted and approved for a 50% interim payment and (b) for correction of several matters earlier submitted.

II. Additional Class 2 Claims Submitted for Acceptance and Approval for 50% Interim Distribution

On November 9, 2011, the Court signed and had entered an Order ["November 9th Order] which, amongst other matters, approved a 50% interim distribution and approved listings of Class 2 Claims to receive that interim distribution. In the November 9th Order the Court stated:

> In so accepting the listing of claims attached hereto, the Court is aware that further supplementation of the Claim [sic, should read "Class"] 2 approved claims, and request for equal interim distribution as to those added Class 2 Claims, will occur in due course and upon further filings by the Receiver.

November 9th Order at pp. 3-4. Through this filing, each of the RRGs presents additional Class 2 Claims for acceptance and approval of the 50% interim distribution payment. Such would mean that the additional Class 2 Claims would have been paid "on par" with previously accepted and approved Class 2 Claims. The Receiver, through her Special Deputy Receivers, asserts in good faith, that the payment of the 50% interim distribution requested herein as to the additional Class 2 Claims will not jeopardize an equal pro rata distribution to those Class 2 Claims that have yet to be finalized, and for which adequate reserving has been made.

A) ANLIR's Additional Class 2 Claims to be Accepted and Approved for 50% Interim Distribution

The ANLIR Receiver, through her ANLIR Special Deputy Receiver, moves the Court to accept and approve for interim distribution the additional Class 2 Claims against the ANLIR Receivership Estate listed in **Exhibit A** hereto. Those ANLIR Class 2 Claims (1) have been finalized, and have had Notices of Determination issued to which no objections have been submitted, (2) have had objections to claim determinations either sustained or overruled by the Referee with no further appeal being taken, and thus are final, or (3) have had previously submitted objections withdrawn and thus are final. Additional information on particular claims is provided on **Exhibit A**.

B) DIR's Additional Class 2 Claims to be Accepted and Approved for 50% Interim Distribution

The DIR Receiver, through her DIR Special Deputy Receiver, moves the Court to accept and approve for the interim distribution the additional Class 2 Claims against the DIR Receivership Estate listed in **Exhibit B** hereto. Those DIR Class 2 Claims (1) have been finalized, and have had Notices of Determination issued to which no objections have been submitted, (2) have had objections to claim determinations either sustained or overruled by the Referee with no further appeal being taken and thus are final, (3) have had previously submitted objections withdrawn, and thus are final, or (4) are claims which have had objections ruled upon by the Referee, through orders signed on June 28, 2012 and mailed June 29, 2012, which will become final, if not appealed, on or before July 16, 2012.[1] See T.C.A. § 56-9-327(c).

The DIR Receiver, through her DIR Special Deputy Receiver, further requests that, to the extent necessary, the conditions in the November 9th Order placed upon any distribution wherein potential Medicare/Medicaid liens and similar issues may exist, also apply to the above identified Class 2 Claims.

C) TRA's Additional Class 2 Claims to be Accepted and Approved for 50% Interim Distribution

The TRA Receiver, through her TRA Special Deputy Receiver, moves the Court to accept and approve for interim distribution the additional Class 2 Claims against the TRA Receivership Estate listed in **Exhibit C** hereto. Those TRA Class 2 Claims (1) have been finalized, and have had Notices of Determination issued to which no objections have been

[1] Most of the Referee's late June 2012 orders addressed situations where the objecting claimant did not appear or otherwise defaulted upon or waived the objection. The DIR Special Deputy Receiver has contacted the other objecting claimants and it is unlikely that any of those will further appeal the Referee's late June 2012 decisions. If an appeal is filed with the Court as to any of the Referee's late June, 2012 orders, such will be known prior to submission of a proposed order to the Court regarding this Motion, which at the earliest would be July 23, 2012. The listing of Class 2 Claims set forth in any proposed order accepting and approving DIR Additional Class 2 Claims would not include any such "appealed" claims, and determination of acceptance and approval of those claims would await the outcome of any such appeal(s) to this Court.

submitted, (2) have had objections to claim determinations either sustained or overruled by the Referee with no further appeal being taken, and thus are final, or (3) have been addressed through recent settlements which waived all further objection or appeal of the agreed-upon claim treatment.

The TRA Receiver, through her TRA Special Deputy Receiver, further requests that, to the extent necessary, the conditions in the November 9th Order placed upon any distribution wherein potential Medicare/Medicaid liens and similar issues may exist, also apply to the above identified Class 2 Claims.

III. Corrections as to Information Previously Submitted

Review of information previously submitted in the process of the acceptance and approvals of the Class 2 Claims for interim distribution payments has resulted in identifying a few matters that have been submitted in error and which are in need of correction. Whether based upon the rationales set forth in Rule 60 Tenn. R. Civ. P. or upon the inherent equitable powers of the Court, the Receiver, through her Special Deputy Receivers, requests correction of the errors set forth below:

A) Corrections Regarding ANLIR

ANLIR Claim #002163 was submitted as part of the listings for approval in the October 28, 2011 Notice of Receiver's Supplementation of Listings of Class 2 Claims Proposed to be Paid in Interim Distribution. The October 28, 2011 Notice, together with the October 5, 2011 Motion, gave rise to this Court's November 9, 2011 Order. The approved amount for Claim #002163 was $40,500.00. Claim #002163 was mistakenly omitted from the November 9th Order when it was submitted to the Court. ANLIR requests approval *nunc pro tunc* of its 50% Interim Distribution on this claim.

B) Corrections Regarding DIR

DIR Claim # 0002611, which through the issuance of an amended Notice of Determination was thought to be finalized, was submitted as part of the listings for approval in the October 5, 2011 Motion, and thus was noted as a claim approved for interim payment in the Court's November 9th Order. The approved amount for that claim in the November 9th Order was $5,267.80. See Exhibit 2 to November 9th Order. On November 8, 2011 (after the proposed order that became the November 9th Order was submitted to the Court), the DIR Special Deputy Receiver received claimant's objection to that amended Notice of Determination and therefore, the $5,267.80 should not have been included in the Court's November 9th Order. Through the process of addressing the claimant's objection to the amended Notice of Determination for DIR Claim # 0002611, it has been determined that the previously approved amount should be amended to add additional fees. The amended, and now final, approved claim amount should be $6,767.64. No interim payment has been made as to this claim, and thus the above noted $6,767.64 amount should be approved for the interim distribution payment.

DIR Claim # 0001178 was a claim that in May 2008 was merged with other related claims and thereafter administratively proceeded as part of DIR Claim # 0000513. However, that claim was erroneously listed in the DIR January 26, 2012 Motion to Add Additional Class 2 Claims to Listings Approved for Interim Distribution ("DIR January 26, 2012 Motion") at an erroneous amount of $190,000. The Court's February 13, 2012 Order that granted DIR January 26, 2012 Motion approved the erroneous claim and the erroneous $190,000 claim amount. That now needs to be corrected. The DIR Special Deputy Receiver has not issued an interim payment on Claim # 0001178, and now moves the Court to recognize that DIR Claim # 0001178, having been merged long ago with DIR Claim #0000513, no longer exists and to correct the previous February 13, 2012 order to strike the erroneous claim and claim amount.

IV. Request for Order Granting Motion to be Entered as Final Order Pursuant to Rule 54.02 Tenn. R. Civ. P.

This Motion seeks relief that needs to be relied upon in going forward with the progression of the RRG Receiverships. But the relief afforded through granting this Motion does not address all matters at issue in the RRG Receivership proceedings. In order to provide certainty with regard to the relief granted, the Receiver requests that the Court expressly find that there exists no just reason for delay and that the Order granting this Motion be entered as final regarding the matters addressed in that Order. Rule 54.02 Tenn. R. Civ. P.

V. Notice of Motion

A copy of this Motion and exhibits will be mailed to every Class 2 Claimant listed in **Exhibits A, B** and **C** hereto at the addresses shown in the RRG Receivership's records and to all known current counsel to those claimants, if not already listed on **Exhibits A, B** and **C**. Additionally, the claimants who have claims impacted by the corrections requested in this Motion (see Part III infra) will receive a copy of this Motion and exhibits mailed to the addresses shown in the RRG Receivership's records. Finally, the Motion and all exhibits will be posted on the website of the Tennessee Department of Commerce and Insurance website.

VI. Conclusion

For the reasons set forth herein, the Receiver, through her Special Deputy Receivers, request that the claim/approved claim amounts listed in **Exhibits A, B** and **C** hereto, be accepted as a further report on claims pursuant to T.C.A. § 56-9-331 and that they be approved for 50% interim distribution payment. It is further moved that the Court order the corrections as to matters erroneously submitted - - as set forth above in Part IV infra. Finally, it is requested that the Order granting this Motion be made final as to all matters set forth herein. Rule 54.02 Tenn. R. Civ. P.

Respectfully submitted,

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THIS MOTION IS SET TO BE HEARD ON FRIDAY, JULY 27, 2012 AT 9:00 A.M. (CENTRAL TIME) IN THE COURTROOM FOR THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE (PART IV) LOCATED AT THE METRO COURTHOUSE IN NASHVILLE, TENNESSEE. ANY RESPONSE IN OPPOSITION IS TO BE FILED WITH THE COURT AND SERVED ON ABOVE-NOTED COUNSEL ON OR BEFORE MONDAY, JULY 23, 2012. IF NO RESPONSE IS TIMELY FILED AND SERVED, THE MOTION MAY BE GRANTED WITHOUT FURTHER HEARING, PURSUANT TO LOCAL RULE 26.04.e.

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been sent by electronic transmission and delivered by U.S. Mail, First Class postage prepaid, to the following on this 13th day of July, 2012:

Sarah A. Hiestand, Senior Counsel
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R. Barrow Blackwell
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Norfolk, VA 23510
[on behalf of Charlie M. Faulk
MD/R. Barrow Blackwell, DIR Claim
0002611 claimant]

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Lafayette, LA 70598
[on behalf of Gulf South Emergency
Associates, PMC, DIR Claim # 0001178
claimant]

Gail Davis
4753 South Ranger Trail
Gilbert, AZ 85297
[ANLIR Claimant on
Claim #0002163]

This is to also certify that on or before July 13th, 2012, a copy of this Motion and exhibits will be mailed to all claimants listed on **Exhibits A, B** and **C** to this Motion at the claimant's address as shown in the RRG Receivership's records, and to the extent not listed on those exhibits, a copy will also be mailed to the current counsel for any such claimant at that counsel's address as shown in the RRG Receivership's records.

Finally, this certifies that as soon as practicable after the filing of this Motion, a copy of this Motion and all exhibits will be posted on the website for the Tennessee Department of Commerce and Insurance at: www.state.tn.us/commerce/insurance/index.shtml.

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