

**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,**

No. 03-294-(IV)

Petitioner,

v.

**DOCTORS INSURANCE RECIPROCAL
(RRG), a Tennessee Domiciled Insurance
Company,**

Respondent.

**DIR LIQUIDATOR'S MOTION, PURSUANT TO T.C.A. § 56-9-333,
TO HOLD UNCLAIMED FUNDS SUBJECT TO DISTRIBUTION
FOR A PERIOD OF TWO (2) YEARS**

I. BACKGROUND

The DIR Liquidation Estate has paid millions of dollars of adjudicated and approved claims through the course of these liquidation proceedings. In some instances, however, those claim payments have not been deposited by the claimant and/or have been returned to the DIR Special Deputy Receiver as “undeliverable,” “address not valid,” “no forwarding address,”¹ etc. Reasonable and good faith efforts have been made to contact the claimants at issue, including extensive internet searches and further mailings and telephone calls, some of which were successful in making contact with the claimants who, in turn, were paid the approved claim

¹ As set forth in the Proof of Claim forms utilized in this liquidation process, the claimant submitting a Proof of Claim has the responsibility of informing the DIR Special Deputy Receiver of any changes in address/contact information.

amounts. Despite those efforts, there remains in the DIR Liquidation Estate an amount of \$568,667.57 in unclaimed funds. That amount is on deposit in an account for DIR at Regions Bank (Acct No. XXXX-8318). Because there are no outstanding claims in the DIR Liquidation Estate, the issue of disposition of unclaimed funds, as set forth herein, is ripe for presentation to the Court.

II. DISPOSITION OF UNCLAIMED FUNDS

T.C.A. §56-9-333 addresses disposition of unclaimed funds in an insurance company liquidation context. T.C.A. §56-9-333 sets forth two options relating to the disposition of unclaimed funds. First, the statute states that in conjunction with a request for discharge, the liquidator will deposit all unclaimed funds with the state treasurer. Second, and in the alternative, the statute states that “the liquidator may elect to apply to the Court for authority to hold the unclaimed funds subject to distribution for a period of two (2) years.” After the passage of that two year period, the liquidator will further address the unclaimed funds as allowed under the statute. T.C.A. § 56-9-333.

As part of the progression of the DIR Liquidation Estate toward closure, the DIR Liquidator, by and through her Special Deputy Receiver, moves the Court for authority to hold the DIR unclaimed funds for a period of two years. If during the running of that two year period, claimants with rights to unclaimed fund amounts come forward, the DIR Liquidator, through her appointed Special Deputy Receiver, will address the payment of unclaimed funds to those claimants. If, after two years passes, unclaimed funds remain, then the DIR Liquidator, through her Special Deputy Receiver, will address disposition of those funds, in her discretion, as set forth in T.C.A. § 56-9-333.

III. NOTICE

The DIR Special Deputy Receiver has employed reasonable and good faith efforts to locate the claimants of the remaining unclaimed funds, but without success. That situation compels the conclusion that efforts to notify those claimants of this Motion would be futile. Therefore, to address reasonable notice of this Motion, the DIR Liquidator, through her appointed Special Deputy Receiver, will post a copy of this Motion on the Tennessee Department of Commerce and Insurance website (<https://www.tn.gov/commerce/insurance/company-resources/insurance-company-actions.html>) and will serve the Tennessee Attorney General's Office with a copy of this Motion.

IV. REQUEST FOR ORDER TO BE ENTERED AS FINAL AS TO ALL MATTERS ADDRESSED HEREIN

This Motion seeks relief that needs to be relied upon in advancing the progression of the DIR Liquidation Proceedings toward closure. But the relief afforded through granting this Motion does not address all matters at issue in the DIR Liquidation Proceedings. In order to provide certainty with regard to the relief granted, the DIR Special Deputy 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. CONCLUSION

Accordingly, the DIR Liquidator, by and through her Special Deputy Receiver, moves the Court to order (a) that the unclaimed funds relating to the DIR Liquidation Estate (i.e. the \$568,667.57 deposited in Regions Bank Acct No. XXXX-8318) be held by the DIR Liquidator for two years, (b) that unclaimed amounts be paid to any claimants who, within that two year

period, show legitimate right to such amounts and (c) that thereafter, the funds remaining be further addressed in the discretion of the DIR Liquidator, as set forth in T.C.A. §56-9-333.

Respectfully submitted,



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Counsel for the DIR Special Deputy Receiver

NOTICE OF HEARING

THIS MOTION IS SET TO BE HEARD ON FRIDAY, NOVEMBER 30, 2018 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, NOVEMBER 26, 2018. IF NO RESPONSE IS TIMELY FILED AND SERVED, THE MOTION CAN BE GRANTED WITHOUT FURTHER NOTICE.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been delivered by e-mail transmission and U.S. Mail, First Class postage prepaid, to the following on this 8th day of November, 2018:

Sarah A. Hiestand, Senior Counsel
Office of the Attorney General
State of Tennessee
Post Office Box 20207
Nashville, TN 37202-0207
Sarah.Hiestand@ag.tn.gov

I further certify that a copy of this Motion was posted on the Tennessee Department of Commerce and Insurance website (<https://www.tn.gov/commerce/insurance/company-resources/insurance-company-actions.html>) on this the 8th day of November, 2018.



Counsel to the DIR Special Deputy Receiver