

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.

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DIR LIQUIDATOR'S (1) MOTION FOR APPROVAL OF DESTRUCTION OF  
RECORDS AND (2) REPORT AS TO CURRENT STATUS AND ANTICIPATED PLAN  
LEADING TO CLOSURE OF THE DIR LIQUIDATION PROCEEDINGS

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I. INTRODUCTION

Julie Mix McPeak, Commissioner of the Tennessee Department of Commerce and Insurance, as Liquidator of Doctors Insurance Reciprocal (RRG) ("DIR Liquidator"), by and through her Special Deputy Receiver, (1) moves the Court for approval of the destruction of documents/records the categories of which are set forth in **Exhibit A** hereto and (2) provides the Court a report as to the current status of the DIR Liquidation Proceedings, including the anticipated plan leading to the closure of the DIR Liquidation Proceedings.

II. REQUESTED APPROVAL OF DESTRUCTION OF DOCUMENTS AND RECORDS

T.C.A. §56-9-336 stated as follows:

Whenever it appears to [the liquidator] that the records of any insurer in process of liquidation, or completely liquidated, are no longer useful, [the liquidator] may recommend to the court , and the court shall direct, what records should be retained or future reference and what should be destroyed.

From the onset of the DIR Receivership/Liquidation Proceedings, the DIR Liquidator has received and/or maintained an enormous amount of documents and records relating to DIR and the DIR Receivership/Liquidation Proceedings. Presently, those records are housed in storage facilities which contain documents and records of DIR and its two sister companies, in liquidation – American National Lawyer’s Insurance Reciprocal (RRG) (in Liquidation) (“ANLIR”) and The Reciprocal Alliance (RRG) (in Liquidation) (“TRA”) (collectively referred to as the “RRGs”). The RRGs are spending \$2,681.00 / month (plus annual increases) for these storage units. Much of what is being housed at the storage units is no longer of any use in any of the RRG Liquidation Proceedings. Moreover, records and documents relating to the DIR Liquidation Proceedings that have been maintained by DIR’s counsel are no longer of any use in the DIR Liquidation Proceedings. Attached as **Exhibit A** is a listing of document categories which the DIR Special Deputy Receiver – and the ANLIR and TRA Special Deputy Receivers – recommend should be destroyed.<sup>1</sup> The DIR Liquidator, through her Special Deputy Receiver, will continue to maintain documents and records not set forth in **Exhibit A**, but will, in due course, move the Court for approval to destroy additional documents and records as subsequent developments in the wind-down of the DIR Liquidation Proceedings indicate that such

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<sup>1</sup> The Special Deputy Receivers of ANLIR and TRA have filed parallel motions requesting approval of the destruction of the documents and records set forth in **Exhibit A**.

documents and records are no longer of any use. Destruction of the documents and records set forth in **Exhibit A** will reduce the expenditures of leasing several of the storage units.

As illustrated by **Exhibit A**, large volumes of the stored documents and records (1) have never been of use in the DIR Liquidation Proceedings (e.g. claim files and policy files related to old pre-receivership claims and policies upon which no claim was made in the DIR Liquidation Proceedings), (2) relate to policy and claim files as to claims submitted in the DIR Liquidation Proceedings that have been processed, adjudicated, approved by final order of this Court, paid and closed, (3) relate to litigation involving the DIR Liquidation Estate as against the Virginia entities Reciprocal of America and The Reciprocal Group that have finalized and closed years ago, (4) relate to asset recovery litigation involving the DIR Liquidation Estate that finalized and closed years ago, (5) relate to both internal and external audits of the claims procedure performed years ago as to claims which have been finalized, approved by final order of this Court, and paid, (6) are duplicate copies of numerous documents from years ago, and (7) are miscellaneous documents regarding claims research, litigation research and other work papers relating to matters finalized and closed years ago.

While the DIR Liquidator, through her Special Deputy Receiver, is requesting approval of the destruction of records and documents categorized in **Exhibit A**, records and documents relating to matters not yet finalized will be retained. Those documents that will be retained include documents reasonably envisioned as needed for reference in the closure of the DIR Liquidation Proceedings, documents regarding financial information that may be needed in relation to filing of tax returns and/or the anticipated tax refunds from the IRS and documents related to the claims for which “unclaimed funds” exist that, through order of this Court, will be held by the DIR Liquidator for two (2) years pursuant to T.C.A. § 56-9-333.

**III. REPORT AS TO CURRENT STATUS AND ANTICIPATED PLAN LEADING TO CLOSURE OF DIR LIQUIDATION PROCEEDINGS**

All claims, of all claim classifications, submitted in the DIR Liquidation Proceedings, have been reviewed, adjudicated and approved by final order of this Court. Except for the approved claim payments which have not been deposited by the claimant or have been returned to the DIR Special Deputy Receiver (i.e. “unclaimed funds”), all of the adjudicated approved claim amounts have been paid to the claimants. Through Court order, the DIR Liquidator, through her Special Deputy Receiver, will hold the unclaimed funds for a period of two (2) years to pay any valid claim made as to those unclaimed funds, and after the passage of two (2) years, move the Court for further disposition of those unclaimed funds under T.C.A. § 56-9-333.

The DIR Liquidation Estate will remain open for the purposes of receiving tax refunds from the IRS. It is anticipated that those tax refunds will be received through the year 2022. Upon receipt of the final tax refund payment, the DIR Liquidator, through her Special Deputy Receiver, will take all actions necessary for the closure of the DIR Liquidation Estate/DIR Liquidation Proceedings. Between the present and that closure, the DIR Liquidator, through her Special Deputy Receiver, will engage in administrative services in relation the DIR Liquidation Proceedings, including the following:

1. Having prepared and filing all applicable tax returns;
2. Securing, if advised by its tax professionals, tax closure letters as to the DIR Liquidation Estate from all applicable taxing authorities, including the IRS;
3. Preparing and filing notices of financial status;
4. Responding to claimant requests and inquiries regarding matters such as unclaimed finds and tax reporting issues;
5. Preparing and filing quarterly motions approving fees and expenses incurred;
6. Reviewing retained reserves and evaluating the need to retain or release reserved

amounts;

7. Payment of any amount released from the DIR reserves to the TRA Liquidation Estate as per the final order entered in the TRA Liquidation Proceedings (#03-295(IV)) on September 27, 2018; and
8. Making further reports to this court as needed.

The DIR Special Deputy Receiver has reserved funds in its operating account and also has funds held in a LGIP account under the control of the Commissioner of the Tennessee Department of Commerce and Insurance, as Liquidator for DIR and its sister insolvent companies ANLIR and TRA, which are deemed sufficient to reserve for the operation of the DIR Liquidation Estate from the present until its ultimate closure, forecasted for 2022. As noted above, the DIR Liquidator, through her Special Deputy Receiver, will periodically (e.g. on an annual basis) review the status of the reserves being held. If, in the discretion of the Special Deputy Receiver, amounts then reserved can prudently be released, those amounts will be released and paid to the TRA Liquidation Estate for payment by that estate to a TRA Class 8 claimant (COPIC) and a TRA Class 9 claimant (ACA) as instructed by final order of this Court entered on September 27, 2018, in the TRA Liquidation Proceedings.

And while this filing requests an order approving destruction of the documents and records set forth in **Exhibit A**, the DIR Special Deputy Receiver will, as the matter progresses, move the Court for approval of destruction of additional documents and records.

**IV. REQUEST THAT ORDER APPROVING DESTRUCTION OF DOCUMENTS AND RECORDS BE MADE FINAL PURSUANT TO RULE 54.02**

This filing moves, pursuant to T.C.A. § 56-9-336, for an order approving the destruction of DIR documents and records the categories of which are set forth in **Exhibit A**. In so moving, the DIR Liquidator, through her Special Deputy Receiver, seeks relief that is 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 approval of the requested destruction of DIR documents and records, the DIR Special Deputy Receiver requests that the Court expressly find that there exists no just reason for delay and that the Order approving said destruction of documents and records be entered as final. Rule 54.02 Tenn. R. Civ. P.

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, DECEMBER 14, 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, DECEMBER 10, 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 30<sup>th</sup> 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 30<sup>th</sup> day of November, 2018.

  
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Counsel to the DIR Special Deputy Receiver

## EXHIBIT A

1. CLAIM FILES: For all three RRGs – these are claim materials that were not connected to a POC filing;
2. POLICY FILES: For all three RRGs – these are policy underwriting file materials that were not connected to an unearned premium or indemnity POC filing;
3. TRA DEDUCTIBLE RESEARCH FILES (RRG work papers);
4. UNEARNED PREMIUM POC FILES (except as to those unearned Premium POC files that related to unclaimed funds);
5. “ELECTRONIC DUMP” FILES: Work papers and related material regarding the electronic transfer of information from Virginia entity (the Reciprocal Group - “TRG”) regarding insureds/claims computer system (AS400 system);
6. VIRGINIA AUDIT PAPERS: Papers generated in preparation of a claims procedure audit conducted by the Virginia entities Reciprocal of American (ROA) and TRG;
7. FARMER AND LUNA DISCOVERY DOCUMENTS: Papers previously housed at the offices of Farmer and Luna (counsel for TRA) relating to discovery in litigation with ROA and TRG;
8. JANE TAYLOR AUDIT DOCUMENTS: Notes and materials from a consultant (Jane Taylor) hired by the RRGs regarding claims review and related issues;
9. INVENTORY CHECK-OFF PAPERS: Inventory materials regarding records received from ROA and/or TRG;
10. DUPLICATE INVOICE FILES: Old defense fee invoices from old claims that did not connect to a POC filing;
11. TENCO REPORTS: Copies of claims reports from TENCO;
12. DIR AND TRA UNEARNED PREMIUM “LOWER THAN CLASS 2” MAILING: Work papers;
13. ANLIR/DIR/TRA AUDIT FILES: Work papers from one of the ROA/TRG audits of RRAO claim processing;
14. COMPLETE INVENTORY MASTER COPIES: RRAO work papers creating “complete inventory” of the RRG boxes of records;
15. PREMIUM DETAILS RESEARCH: RRAO work papers researching premium info for unearned premium filings;
16. JERE P. COWAN MISCELLANEOUS LITIGATION RESEARCH AND TO-DOS;



17. JERE P. COWAN MISCELLANEOUS LITIGATION RESEARCH – US ATTORNEY REQUEST;
18. “NEW” CLAIM FILES (PURPLE FILES): Correspondence received from RRAO regarding claims that were not connected to a POC filing;
19. “NOT OUR INSURED” NEW CLAIMS FILES NOT REGISTERED IN AS 400: Correspondence received at RRAO regarding claims that were not connected to a POC filing against persons identified as “Not Our Insured”;
20. TRA POLICY FILES AND OLD CLAIM FILES/CLOSED CLAIMS;
21. ANLIR CLOSED CLAIMS: Pre-receivership closed claim files;
22. “AL COUNSEL” BOXES: Claim records for RRG AL attorneys (most were pre-receivership claims);
23. TRA DEDUCTIBLE RECOVERY FILES;
24. JERE P. COWAN’S OFFICE CONTENTS;
25. POC FORM REQUESTS: Correspondence to RRAO seeking POC forms for filing;
26. TRA NPDB FILES: Drafts for NPDB reportings;
27. DIR NPDB FILES: Drafts for NPDB reportings;
28. MAX THEODORE’S OFFICE MATERIALS – MISCELLANEOUS;
29. ROA DISCOVERY ANSWERS/RESPONSES;
30. PREMIUM BEARING ENDORSEMENT FILES: RRAO records from mail received from insureds making changes that impacted their coverage (e.g. “I cancel” or “add”, etc.). RRAO provided such information to VA to update the AS 4000 system regarding same;
31. POC/NOD FILES: POC claim files from claimants with the connected policy and supporting materials (except for those files that relate to unclaimed finds claims);
32. MASTER NOD SET: “Copy set” of all NODs mailed; and
33. RRG counsel records and documents relating to closed litigation matters, pleadings that are duplicative of filings with the particular courts of record, and claim files and working files of claims that have been reviewed, adjudicated, approved by final order of this Court, paid and closed.