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Davidson Co. Chancery Court

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

STATE OF TENNESSEE
ex rel. HODGEN MAINDA,
COMMISSIONER OF COMMERCE
AND INSURANCE FOR THE STATE OF
TENNESSEE,

Petitioner,

v.

THE RECIPROCAL ALLIANCE (RRG),
a Tennessee Domiciled Insurance
Company,

Respondent.

NF
~~No. 03-294 (IV)~~
03-295-IV

SJA

2020 JUL 15 PM 12:59

FILED

~~PROPOSED~~ ORDER GRANTING TRA LIQUIDATOR'S MOTION, PURSUANT TO
T.C.A. § 56-9-333, TO TRANSFER UNCLAIMED FUNDS REMAINING AS OF
DECEMBER 3, 2020 TO A "CLOSED ESTATE FUND" MAINTAINED BY THE
COMMISSIONER

Before the Court is the TRA Liquidator's Motion, pursuant to T.C.A. § 56-9-333, to Transfer Unclaimed Funds Remaining as of December 3, 2020 to a "Closed Estate Fund" Maintained by the Commissioner (filed on June 18, 2020) ("Instant Motion").

In this Instant Motion, the TRA Liquidator, through his Special Deputy Receiver, states that payments of approved claim amounts mailed to various TRA claimants have not been deposited by the claimant and/or have been returned as undeliverable.¹ The TRA Liquidator, through his Special Deputy Receiver, further states that they have utilized reasonable, good faith efforts to locate the claimants with regard to the unclaimed funds. Despite those efforts, an

¹ The Court notes that the claim form used in the TRA liquidation process places upon the claimant submitting the claim the responsibility of notifying the Special Deputy Receiver of changes in address/contact information.

amount of \$91,889.52 in unclaimed funds remains in a TRA account at Regions Bank (account #XXXX-9690).

T.C.A. § 56-9-333 addresses disposition of unclaimed funds. The TRA Liquidator, on November 18, 2018, moved the Court to approve his holding of the unclaimed funds for a period of two years during which any person or entity could come forward and establish his/her/its claim to the unclaimed funds. The Court, on December 3, 2018, entered its order, made final pursuant to Rule 54.02 Tenn. R. Civ. P., which granted the TRA Liquidator's November 18, 2018 motion and held that:

The TRA Liquidator, by and through her Special Deputy Receiver, is hereby authorized:

- (1) to hold the TRA unclaimed funds in Regions Bank Acct No. XXXX-9690 for a period of two (2) years,
- (2) to pay from the above-referenced unclaimed funds the approved amount of any valid "unclaimed funds" claimant that comes forward in that two (2) year period, and
- (3) to further address, at the end of that two (2) year period, remaining unclaimed funds as allowed under T.C.A. § 56-9-333.

December 3, 2018 Order at pp. 2-3 (#03-295-IV).

The two (2) year period expires December 3, 2020. Under T.C.A § 56-9-333, the TRA Liquidator has discretion as to the disposition of the unclaimed funds after expiration of the two (2) year period. He can either distribute the unclaimed funds to approved claimants who have previously received a distribution (if economically feasible) or he can seek permission of this Court for the unclaimed funds to be placed in a closed estate fund under the control of the Commissioner of the Department of Commerce and Insurance ("Commissioner") to be used to defray the costs and expenses of administration of other insolvent insurers which do not have assets to cover those costs and expenses. T.C.A. § 56-9-333(a).

For the reasons set forth in the Instant Motion, the TRA Liquidator seeks the Court's approval to transfer the funds, remaining as of December 3, 2020, in the TRA unclaimed funds account (Regions Acct #XXXX-9690) to a closed estate fund controlled by the Commissioner.

The Court finds that reasonable efforts to locate the various "unclaimed funds" claimants have been made and that the notice provided of the Instant Motion (i.e. mailing/e-mailing notice to the Tennessee Attorney General's Office, to representatives of COPIC Insurance and to representatives of ACA Insurance Trust, Inc., and the posting of the Instant Motion on the Tennessee Department of Commerce and Insurance website) is adequate. The Court notes that no objections or responses to the Instant Motion have been filed.

Accordingly, upon consideration of the Instant Motion and the record before it relating to the TRA liquidation proceedings, the Court GRANTS the Instant Motion.

The TRA Liquidator, by and through his Special Deputy Receiver is approved to:

- (1) continue to hold the TRA unclaimed funds in Regions Bank Acct No. XXXX-9690 until December 3, 2020;
- (2) to pay from the above-referenced unclaimed funds account the approved amount of any valid "unclaimed funds" claimant that comes forward on or before December 3, 2020; and
- (3) after December 3, 2020, transfer the remaining funds in the above-referenced unclaimed funds account to a closed estate fund controlled by the Commissioner pursuant to T.C.A. § 56-9-333(a).

Finally, the Court finds that the relief granted in this Order does not address all matters at issue in the TRA liquidation proceeding but that reliance upon the certainty of the relief granted herein is needed for the TRA liquidation proceeding to progress to closure. The Court finds that

there is no just reason for delay and the Clerk and Master is instructed to enter this Order as a final order regarding the matters addressed herein. Rule 54.02, Tenn. R. Civ. P.

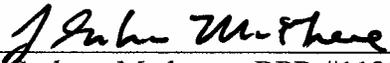
The TRA Liquidator, by and through his Special Deputy Receiver, is instructed to post a copy of this Order, as soon as practicable after entry, upon the Tennessee Department of Commerce and Insurance website (<https://www.tn.gov/commerce/insurance/company-resources/insurance-company-actions.html>).

It is so ORDERED this the _____ day of _____, 2020.



Honorable Russell T. Perkins
Chancellor

Submitted and Approved for Entry:



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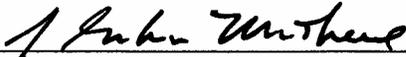
CERTIFICATE OF SERVICE

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 July, 2020:

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