

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,

Petitioner,

No. 03-295-(IV)

2018 NOV 30 PM 3:20
CLERK & MASTER
DAVIDSON CO. CHANCERY CT.
D.C.&M

FILED

v.

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

Respondent.

TRA 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 TRA LIQUIDATION PROCEEDINGS

I. INTRODUCTION

Julie Mix McPeak, Commissioner of the Tennessee Department of Commerce and Insurance, as Liquidator of The Reciprocal Alliance (RRG) ("TRA 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 TRA Liquidation Proceedings, including the anticipated plan leading to the closure of the TRA 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 TRA Receivership/Liquidation Proceedings, the TRA Liquidator has received and/or maintained an enormous amount of documents and records relating to TRA and the TRA Receivership/Liquidation Proceedings. Presently, those records are housed in storage facilities which contain documents and records of TRA and its two sister companies, in liquidation – Doctors Insurance Reciprocal (RRG) (in Liquidation) (“DIR”) and American National Lawyers Insurance Reciprocal (RRG) (in Liquidation) (“ANLIR”) (collectively referred to as the “RRGs”). The RRGs are spending \$2,681.00 / month (plus annual rent 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 TRA Liquidation Proceedings that have been maintained by TRA’s counsel (which either remain with TRA’s counsel or have been recently moved to the above-referenced storage units) are no longer of any use in the TRA Liquidation Proceedings. Attached as **Exhibit A** is a listing of categories which the TRA Special Deputy Receiver – and the DIR and ANLIR Special Deputy Receivers – recommend should be destroyed.¹ The TRA 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 TRA Liquidation Proceedings indicate that such 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.

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

As illustrated by **Exhibit A**, large volumes of stored documents and records (1) have never been of use in the TRA 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 TRA Liquidation Proceedings), (2) relate to policy and claim files as to claims submitted in the TRA Liquidation Proceedings that have been processed, adjudicated, approved by final order of this Court, paid and closed, (3) relate to litigation involving the TRA 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 TRA 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 TRA 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 TRA 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, documents relating to the COPIC and ACA claims in the TRA Liquidation Proceedings (*see* Court Order entered September 27, 2018) and documents related to the claims for which “unclaimed funds” exist that, through order of this Court, will be held by the TRA 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 TRA LIQUIDATION PROCEEDINGS

All claims, of all claim classifications, submitted in the TRA 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 TRA Special Deputy Receiver (i.e. “unclaimed funds”), all of the adjudicated approved claim amounts have been paid to the claimants. Through Court order, the TRA 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 TRA 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 TRA Liquidator, through her Special Deputy Receiver, will take all actions necessary for the closure of the TRA Liquidation Estate/TRA Liquidation Proceedings. Between the present and that closure, the TRA Liquidator, through her Special Deputy Receiver, will engage in administrative services in relation the TRA 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 TRA 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 funds issues and tax reporting issues;
5. Preparing and filing quarterly motions approving fees and expenses incurred;
6. Reviewing retained reserves and the need to retain or release reserved amounts;

7. Receiving payment from DIR and ANLIR regarding released reserve amounts from those Liquidations Estates as per the final order entered in the TRA Liquidation Proceedings on September 27, 2018;
8. Payment of any amount released from the TRA reserves and received from DIR and ANLIR to a TRA Class 8 claimant (COPIC) and to a TRA Class 9 claimant (ACA) as per the final order entered in the TRA Liquidation Proceedings on September 27, 2018; and
9. Making further reports to this court as needed.

The TRA 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 TRA and its sister insolvent companies DIR and ANLIR, which are deemed sufficient to reserve for the operation of the TRA Liquidation Estate from the present until its ultimate closure, forecasted for 2022. As noted above, the TRA 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, along with any reserve amount released from DIR and ANLIR, be paid as a further interim distribution 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 TRA Special Deputy Receiver will, as the matter progresses, move the Court for approval of destruction of additional documents and records.

Because what matters remain in the progression of the TRA Liquidation Proceedings to closure are administrative in nature, the current Special Deputy Receiver, Michael D. Pearigen, will resign in the near future and the Commissioner will appoint Jeanne Barnes Bryant as TRA

Special Deputy Receiver. Special Deputy Receiver Pearigen will take all actions needed to transfer TRA documents and assets (e.g. operating bank accounts, unclaimed funds bank account, etc.) to Ms. Bryant's control as the replacement TRA Special Deputy Receiver. After her appointment as TRA Special Deputy Receiver, Ms. Bryant will forge on with the matters set forth herein, culminating with taking the necessary actions to close the TRA Liquidation Estate/TRA Liquidation Proceedings, which again, in good faith, is anticipated in the 2022 timeframe.

IV. REQUEST THAT ORDER APPROVING DESTRUCTION OF DOCUMENTS AND RECORDS BE MADE FINAL PURSUANT TO RULE 24.01

This filing moves, pursuant to T.C.A. § 56-9-336, for an order approving the destruction of TRA documents and records the categories of which are set forth in **Exhibit A**. In so moving, the TRA Liquidator, through her Special Deputy Receiver, seeks relief that is to be relied upon in advancing the progression of the TRA Liquidation Proceedings toward closure. But the relief afforded through granting this Motion does not address all matters at issue in the TRA Liquidation Proceedings. In order to provide certainty with regard to approval of the requested destruction of TRA documents and records set forth in **Exhibit A**, the TRA 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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615.254.9146

*Counsel for The Reciprocal Alliance (RRG) in
Liquidation Special Deputy Receiver*

NOTICE OF HEARING

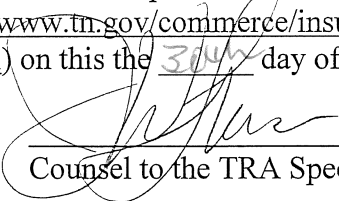
THIS MOTION IS SET TO BE HEARD ON FRIDAY, DECEMBER 14, 2018 AT 9:00 A.M. (CENTRAL TIME) IN THE COURTROOM FOR THE CHANCERY COURT OF DAVIDSON COUNTY, TENNESSEE (PART IV) LOCATED AT THE METRO COURTHOUSE IN NASHVILLE, TENNESSEE. ANY RESPONSE IN OPPOSITION IS TO BE FILED WITH THE COURT AND SERVED ON ABOVE-NOTED 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 30th 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 30th day of November, 2018.



Counsel to the TRA 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 INSUREDS" 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.