

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN
AND FOR LEON COUNTY, FLORIDA

IN RE: The Receivership of FIRST
COMMERCIAL INSURANCE
COMPANY, a Florida corporation.

CASE NO.: 2009-CA 2668

10 APR 23 PM 3:32
BOB INZER
CLERK CIRCUIT COURT
LEON COUNTY, FLORIDA

FILED

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**MOTION FOR APPROVAL OF PROCEDURE FOR DEEMING
RETURN PREMIUM CLAIMS AS TIMELY FILED**

COMES NOW the State of Florida, Department of Financial Services as Receiver for FIRST COMMERCIAL INSURANCE COMPANY (hereinafter “the Receiver” or “FCIC”) and asks that the Court enter an Order approving its procedure for deeming return premium claims as timely filed in the FCIC estate, and as grounds therefore states:

1. On August 24, 2009, the Florida Department of Financial Services was appointed Receiver in Liquidation of FIRST COMMERCIAL INSURANCE COMPANY by Order of this Court.
2. This Court has jurisdiction over the FCIC receivership estate and is “authorized to make all necessary or proper orders to carry out the purposes of the Florida Insurers Rehabilitation and Liquidation Act.” Section 631.021(1), Florida Statutes.
3. Pursuant to Paragraph 15 of the August 24, 2009 Liquidation Order, all FCIC policies were canceled by September 23, 2009.
4. If the FCIC policy cancellation took place before the normal policy term expiration date, the policyholders may be entitled to a refund of the unearned premium. “Policyholder” shall refer to all FCIC insureds whose policies were canceled pursuant to the terms of the Liquidation Order or whose policies were otherwise canceled or changed, and who may be owed a refund of premium. However, at this time, “policyholder” will not include those who purchased vehicle service contracts, as the Receiver is still investigating and has not yet determined how best to address those potential claims.

5. When an insurer is placed in liquidation, the Receiver coordinates with the Florida Insurance Guaranty Association (“FIGA”) and the Florida Workers’ Compensation Insurance Guaranty Association (“FWCIGA”) in an effort to facilitate the return of premium to the policyholders of the liquidated insurer. The return of premium falls within the definitions of a FIGA and FWCIGA “covered claim” pursuant to Sections 631.54(3) and 631.904(2), Florida Statutes, respectively.

6. Under the Receiver’s normal course of handling claims, including claims for return premium, the Receiver would send a notice and Proof of Claim (“POC”) to all potential claimants of a liquidated company. The claimant would be asked to complete the POC and submit it to the Receiver. The Receiver would then process the POC’s, evaluate the claims, prepare a claims report and provide the claimants with notice of the Receiver’s recommendation. The claimants would have an opportunity to object to the class, amount, and/or denial of their claim. The Receiver makes a distribution, if funds are available, after all claims are finally adjudicated. This process takes considerable time and expense.

7. In an effort to reduce the costs and increase the efficiency of the claims process, the Receiver proposes an alternative process whereby it will deem as timely filed all potential claims in the FCIC estate for “Return Premium.” Potential claims include those claimants who had a policy in force on the date of liquidation and all other claimants the Receiver calculates are due return premium. All other claimants will receive a POC in the normal fashion.

8. The Receiver proposes the following POC procedure for policyholders who may have a return premium claim:

A. The Receiver will not require POC’s from policyholders who the Receiver calculates are due return premium.

B. The policyholders included above in paragraph 8A do not need to do anything to file a claim for the return of premium or to have their claim accepted by the Receiver.

C. The return premium claims identified above will be considered as timely filed in the FCIC estate.

D. Once the claims in the FCIC estate have been evaluated, the Receiver will advise the claimants of the determination of the class and amount of their claims. The claimants will have an opportunity to object to the Receiver's evaluation.

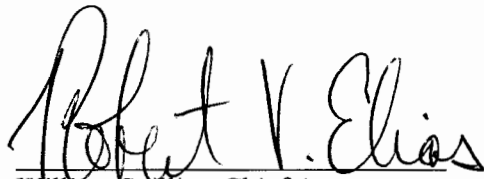
E. If the Receiver cannot resolve the Claimant's objection, the Receiver will schedule a hearing with the Receivership Court.

9. The procedure will not affect the rights of any other claimants in the FCIC estate.

10. The Receiver believes that these actions are in the best interests of this Receivership Estate and therefore recommends that the Motion be granted and the process proposed above be authorized and approved.

WHEREFORE, the Receiver requests that this Court enter an Order approving the procedure for deeming return premium claims as timely filed in the FCIC estate.

DATED: April 20th, 2010.



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IN RE: The Receivership of
FIRST COMMERCIAL INSURANCE
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CASE NO.: 2009 CA 2668

**ORDER APPROVING PROCEDURE FOR DEEMING
RETURN PREMIUM CLAIMS AS TIMELY FILED**

THIS CAUSE came on for consideration upon the Florida Department of Financial Services as Receiver for First Commercial Insurance Company's ("Receiver") Motion for Approval of Procedure for Deeming Return Premium Claims as Timely Filed, and the Court having been advised in the premises, it is:

ORDERED AND ADJUDGED as follows:

1. The Receiver's proposed procedure of deeming return premium claims as timely filed is approved.
2. Under this approved procedure, the following will occur:
 - A. The Receiver will not require Proof of Claim forms (POCs) from policyholders who have a potential claim in the First Commercial Insurance Company ("FCIC") estate for "Return Premium." Potential claims include those policyholder claimants who had a policy in force on the date of liquidation and all other policyholder claimants who the Receiver calculates are due return premium. The term "policyholders" at this time does not include those who purchased vehicle service contracts.
 - B. The policyholders described in paragraph 2A do not need to do anything to file a claim for the return of premium or to have their claim accepted by the Receiver.

- C. The return premium claims identified above will be considered as timely filed in the FCIC estate.
- D. Once the claims in the FCIC estate have been evaluated, the Receiver will advise the claimants of the determination of the class and amount of their claims. The claimants will have an opportunity to object to the Receiver's evaluation.
- E. If the Receiver cannot resolve the Claimant's objection, the Receiver will schedule a hearing with the Receivership Court.

DONE AND ORDERED in Chambers in Leon County, Florida this _____ day of April, 2010.

JUDGE CHARLES A. FRANCIS

Copy furnished to:
Will Spillias, Esq.