

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

**DEPARTMENT OF FINANCIAL SERVICES' MOTION FOR ORDER
APPROVING DISCHARGE ACCOUNTING STATEMENT, DIRECTING FINAL
DISCHARGE, AND AUTHORIZING DESTRUCTION OF OBSOLETE
RECORDS**

The Florida Department of Financial Services, in its capacity as Receiver for First Commercial Insurance Company, moves this Court for entry of an Order approving the Discharge Accounting Statement, for an Order directing final discharge of the Receivership, and for authorization to destroy obsolete records, and in support of its Motion states as follows:

1. Effective August 24, 2009, the Florida Department of Financial Services was appointed as Receiver in liquidation for First Commercial Insurance Company ("the Department" or "FCIC").
2. This Court has jurisdiction over the FCIC Receivership 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, Florida Statutes.
3. The Court previously approved the Department's Final Claims Report, Claims Distribution Report, and Distribution Accounting, in an Order entered on April 2, 2018. Distribution was made to Class 1, and on a pro rata basis to Class 2, as authorized by that Order in the total amount of \$20,001,452.11 in May, 2018. That distribution represented a 100% distribution of the recommended claim amount to Class 1 claimants, and an approximate 7.5247% distribution to Class 2 claimants.

4. Prior to that distribution in May, 2018, the Department evaluated claims and made distributions as reported in the First, Second, Third and Fourth Interim Claims Reports. Early access payments to the guaranty association were made, as approved by this Court, in the total amount of \$16,425,000.00.

5. The Department obtained the federal release and the Court approved the Release Agreement on August 10, 2017.

6. Despite the Department's best efforts, some approved claims may have inadequate current address information and/or may not have provided the Department with a form W-9, required by the Internal Revenue Service. The total unclaimed property in the estate is listed below. The Department recommends that said funds be transferred to the Division of Unclaimed Property, Department of Financial Services, as "unclaimed property" pursuant to Section 717.119, Florida Statutes and/or to the unclaimed property units of other states as appropriate.

7. The Department's Discharge Accounting Statement – Projected for November 2018 (the "Discharge Accounting") is attached hereto as Exhibit 1. As shown in the Discharge Accounting, the estimated value of all assets of the FCIC Receivership estate is projected to be \$250,774.17 as of November, 2018. See Schedule A to Exhibit 1. Of that \$250,774.17, \$22,051.72 will be forwarded by the Department to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files.

8. The Department would retain \$23,100.00 as a reserve for "wind up" expenses of the Receivership.

9. The Department requests an order authorizing the Department to remit to the Florida Insurance Workers Compensation Guaranty Association (“FWCIGA”) any surplus expense funds remaining after discharge.

10. Upon approval of the Department’s request for final discharge, the records of the FCIC receivership estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. This procedure is in direct compliance with Article 1, Section 24, Florida Constitution, Chapters 119 and 257, Florida Statutes, and chapter 1B-24 and 1B-26.003, Florida Administrative Code. The Department will further give notice of its intent to the United States Department of Justice as agreed in the Federal Release Agreement.

11. The Department is still in the process of collecting reinsurance on several worker’s compensation claims and reinsurance commutations that were unable to be concluded prior to discharge. However, it is not economical to keep the receivership open for the sole purpose of collecting the reinsurance. The Department requests authorization from the Court to continue working on the reinsurance recoveries following discharge. All recoveries will be turned over to FWCIGA less expenses incurred related to the recovery process.

12. For any other recoveries, the Department requests an order authorizing it to remit to FWCIGA any assets which may be recovered following the discharge of this receivership if, in the Department’s sole discretion, the value of the recovered assets does not justify the re-opening of this receivership estate.

13. The Department advises the Court that the mortgage executed by Vincent Suarez and Gladys Perez, husband and wife, recorded in the Miami-Dade County, Florida on June 20, 2007 in O.R. Book 25747, Pages 2387-2390 has been assigned to the Florida Insurance Guaranty Association.

14. The Department requests an Order that it shall be fully and finally discharged of its responsibilities in this receivership as of 11:59 P.M. on November 30, 2018, subject to the terms stated above.

WHEREFORE, the Department respectfully requests the Court grant this Motion and enter an Order:

- A. Approving and adopting the Department's Discharge Accounting Statement.
- B. Authorizing and directing the Department to transfer any unclaimed funds to the unclaimed property unit(s) of the state(s) reflected in the claimants' last address of record in the Department's files, including the Florida Division of Unclaimed Property;
- C. Authorizing and directing the Department to retain \$23,100.00 as a reserve for wind up expenses of the Department;
- D. Authorizing the Department to remit any surplus expense funds remaining after discharge to FWCIGA;
- E. Authorizing the Department, after final discharge, to destroy any obsolete records in the Department's possession;
- F. Authorizing the Department to remit to FWCIGA any assets which may be recovered following the discharge of this receivership if, in the Department's sole discretion, the value of the recovered assets does not justify the re-

opening of this receivership estate, including any judgments or amounts recovered from judgments;

G. The Court acknowledges that the mortgage executed by Vincent Suarez and Gladys Perez, husband and wife, recorded in the Miami-Dade County, Florida on June 20, 2007 in O.R. Book 25747, Pages 2387-2390 has been assigned to the Florida Insurance Guaranty Association.

H. Authorizing the Department to continue working on the reinsurance recoveries following discharge, and to turn over to FWCIGA all funds recovered less expenses incurred by the Department related to the recovery process;

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I. Directing, without further order of this Court, the final discharge of the Department of its responsibilities in this receivership estate as of 11:59 P.M. on November 30, 2018.

SUBMITTED this 16th day of November, 2018.



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First Commercial Insurance Company
 Discharge Accounting Statement
 Projected for November 2018

ASSETS

	<u>Amount</u>	
Cash	\$ 250,774.17	Schedule A
Total Assets	<u>\$ 250,774.17</u>	

LIABILITIES

	<u>Recommended Disbursement</u>	
Outstanding Amounts from Distribution to Unclaimed Property	22,051.72	
Total Liabilities	<u>\$ 22,051.72</u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	228,722.45	
Projected Windup Expenses	<u>(23,100.00)</u>	Schedule D
Balance (Any Remaining Funds to FIGA)	<u>205,622.45</u>	

Index to Attached Schedules:

- Schedule A - Available Cash Projection
- Schedule B - Allocated State Funds Expensed
- Schedule C - Interest Earnings Projection
- Schedule D - Receiver Windup Expenses
- Schedule E - Contributed Equity and Advances from the Regulatory Trust Fund

First Commercial Insurance Company
Available Cash Projection
Projected for November 2018

	Cash Bal. as of September 30, 2018	Oct-18	Nov-18
Beginning Pooled Cash Balance	\$	263,558.16	\$ 257,184.17
Direct Receiver Expenses (Actual or Estimated)			
Rent-Storage, Postage, Scanning UCP records		3,500.00	3,500.00
Sub-total		3,500.00	3,500.00
Allocated Receiver Expenses (Estimated)			
Labor & Benefits		3,070.00	3,070.00
Indirect Expenses		240.00	240.00
Sub-total		3,310.00	3,310.00
Cash Balance Before Interest Earnings		256,748.16	250,374.17
Interest Earnings			
Pooled Cash:			
Actual SPIA Earnings for September to be credited on 10/1/2018		436.01	
Estimate based on assume SPIA APR on the previous month's average Pooled Cash balance (Sch. D)			400.00
Ending Pooled Cash Balance	\$	263,558.16	\$ 257,184.17

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: this estimate is based on a four month actual average.

June Actual	\$ 3,828.33
July Actual	3,042.44
August Actual	3,100.20
September Actual	2,294.23
Sub-total	<u>12,265.20</u>
4 mth. actual average (rounded)	<u>\$ 3,070.00</u>

² Indirect Expenses: This estimate is FCIC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on FCIC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.40%
Estimated Total for the Receiver	\$ 60,000.00
Estimated Expense	<u>\$ 240.00</u>

First Commercial Insurance Company
Allocated State Funds Expensed
 Estimated from October 2018 through the Projected Discharge Date of November 2018
THIS STATEMENT INCLUDED FOR INFORMATION PURPOSES ONLY - AMOUNTS NOT PART OF DISTRIBUTION
CALCULATION

	October	November	Totals
Accrued Allocated State of Florida Expenses (Estimated)			
Labor & Benefits	\$ 90.00	\$ 90.00	\$ 180.00 ¹
Indirect Expenses	260.00	260.00	520.00 ²
Total	\$ 350.00	\$ 350.00	\$ 700.00 ³

Assumptions for Allocated State of Florida Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

June Actual	106.81
July Actual	85.16
August Actual	88.08
September Actual	65.85
Sub-total	345.90
4 mth. actual average (rounded)	<u>\$ 90.00</u>

² Indirect Expenses: This estimate is FCIC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on FCIC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Before Distribution

Estimated Total Asset %	0.40%
Estimated Total for the State	<u>\$ 65,000.00</u>
Estimated Expense	<u>\$ 260.00</u>

³ Per current Receiver policies and procedures, these accumulated amounts are recorded contributed equity to the estate.

First Commercial Insurance Company
Interest Earnings Projection - Pooled Cash
Projected for November 2018

Interest accrued for October 2018

Beginning cash balance	263,558.16
Ending cash balance	257,184.17
Average cash balance	260,371.17
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	5,207.42

Accrual for October 2018

\$	400.00
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Interest accrued for November 2018

Beginning cash balance	257,184.17
Ending cash balance	250,774.17
Average cash balance	253,979.17
Assumed SPIA interest rate (Annualized)	2.00%
Subtotal (Annualized)	5,079.58

Accrual for November 2018

\$	400.00
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First Commercial Insurance Company
Receiver Windup Expenses
Projected for November 2018

Discharge Expenses (Projected for Post 11/30/2018)

Unclaimed Property Reports	
Records Storage, Labor	23,100.00
2018 Final Tax Return Preparation	
Total	<u>\$ 23,100.00</u>

First Commercial Insurance Company
Statement of Contributed Equity from Regulatory Trust Fund Estimated Balances
Projected for Discharge by 11/30/2018

I. Contributed Equity Balance as of 9/30/2018	\$ 193,559.44
Accrual for October - November (Estimate from Schedule B)	<u>\$ 700.00</u>
Total	<u>\$ 700.00</u>
Projected Contributed Equity Balance as of 11/30/2018	<u><u>\$ 194,259.44</u></u>