

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

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

CASE NO.: 2009-CA-2669

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**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 Transportation & Property 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 Transportation and Property Insurance Company ("the Department" or "FCTPIC").

2. This Court has jurisdiction over the FCTPIC 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. This Court has jurisdiction over the FCTPIC 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(1), Florida Statutes.

4. The Court previously approved the Department's Final Claims Report, Claims Distribution Report, and Distribution Accounting, in an Order entered on April 4,

2018. Distribution was made to Classes 1, 2, and 3, and on a pro rata basis to Class 6 (there were no Class 4 or 5 claimants in this estate), as authorized by that Order in the total amount of \$11,596,916.89. That distribution represented a 100% distribution of the recommended claim amount to Class 1, 2 and 3 claimants, and an approximate 6.5972% distribution to Class 6 claimants. Previously, the Department obtained the federal release and the Court approved the Release Agreement on August 10, 2017.

5. 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.

6. The Department's Discharge Accounting Statement – Projected for October 2018 (the "Discharge Accounting") is attached hereto as Exhibit 1. As shown in the Discharge Accounting, the estimated value of all assets of the FCTPIC Receivership estate is projected to be \$128,886.41 as of October, 2018. See Schedule A to Exhibit 1. Of that \$128,886.41, \$87,364.93 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.

7. The Department would retain \$14,600.00 as a reserve for "wind up" expenses of the Receivership.

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

9. Upon approval of the Department’s request for final discharge, the records of the FCTPIC 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.

10. Although such recovery is unlikely, the Department requests an order authorizing it to remit to FIGA 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.

11. 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 October 31, 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 \$14,600.00 as a reserve for wind up expenses of the Department;
- D. Authorizing the Department to remit any surplus expense funds remaining after discharge to FIGA;
- E. Authorizing the Department, after final discharge, to destroy any obsolete records in the Department's possession;
- F. Authorizing the Department to remit to FIGA 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. 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 October 31, 2018.

Dated this 9th day of October, 2018.

Respectfully submitted,



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First Commercial Transportation Property Insurance Company
Discharge Accounting Statement
Projected for October 2018

ASSETS

	Amount		
Cash	\$ 128,886.41		Schedule A
Total Assets	\$ 128,886.41		

LIABILITIES

	Recommended Disbursement
Outstanding Amounts from Distribution to Unclaimed Property	87,364.93
Total Liabilities	\$ 87,364.93

WINDUP SUMMARY

Funds Available for Windup Expenses	41,521.48		
Projected Windup Expenses	(14,600.00)		Schedule D
Balance (Any Remaining Funds to FIGA)	26,921.48		

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 Transportation Property Insurance Company
Available Cash Projection
Projected for October 2018

	Cash Bal. as of July 31, 2018	Aug-18	Sep-18	Oct-18
Beginning Pooled Cash Balance	\$ 183,192.04	\$ 179,714.39	\$ 132,383.41	\$ 132,383.41
Ben Baucom and Carey			\$ 43,933.98	
Direct Receiver Expenses (Actual or Estimated)				
Rent-Storage, Postage, Scanning UCP records		500.00	500.00	500.00
Sub-total		500.00	500.00	500.00
Allocated Receiver Expenses (Estimated)				
Labor & Benefits		3,180.00	3,180.00	3,180.00
Indirect Expenses		17.00	17.00	17.00
Sub-total		3,197.00	3,197.00	3,197.00
Cash Balance Before Interest Earnings		179,495.04	132,083.41	128,686.41
Interest Earnings				
Pooled Cash:				
Actual SPIA Earnings for July to be credited on 8/1/2017.		219.35		
Estimate based on assume SPIA APR on the previous month's average Pooled Cash balance (Sch. D)			300.00	200.00
Ending Pooled Cash Balance	\$ 183,192.04	\$ 179,714.39	\$ 132,383.41	\$ 128,886.41

Assumptions for Allocated Receiver Expenses:

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

April Actual	\$ 3,189.07
May Actual	4,636.65
June Actual	2,329.53
July Actual	2,571.72
Sub-total	12,726.97
4 mth. actual average (rounded)	<u>\$ 3,180.00</u>

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

Estimated Total Asset %	0.02%
Estimated Total for the Receiver	\$ 85,000.00
Estimated Expense	<u>\$ 17.00</u>

First Commercial Transportation Property Insurance Company
Allocated State Funds Expensed

Estimated from August 2018 through the Projected Discharge Date of October 2018

THIS STATEMENT INCLUDED FOR INFORMATION PURPOSES ONLY - AMOUNTS NOT PART OF DISTRIBUTION CALCULATION

	August	September	October	Totals
Accrued Allocated State of Florida Expenses (Estimated)				
Labor & Benefits	\$ 90.00	\$ 90.00	\$ 90.00	\$ 270.00 ¹
Indirect Expenses	9.00	9.00	9.00	\$ 27.00 ²
Total	\$ 99.00	\$ 99.00	\$ 99.00	\$ 297.00 ³

Assumptions for Allocated State of Florida Expenses:

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

April Actual	89.70
May Actual	123.99
June Actual	64.99
July Actual	71.98
Sub-total	350.66
4 mth. actual average (rounded)	<u>\$ 90.00</u>

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

Before Distribution

Estimated Total Asset %	0.02%
Estimated Total for the State	<u>\$ 45,000.00</u>
Estimated Expense	<u>\$ 9.00</u>

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

First Commercial Transportation Property Insurance Company
Interest Earnings Projection - Pooled Cash
Projected for October 2018

Interest accrued for August 2018

Beginning cash balance	183,192.04
Ending cash balance	179,714.39
Average cash balance	181,453.22
Assumed SPIA interest rate (Annualized)	1.75%
Subtotal (Annualized)	3,175.43

Accrual for August 2018

\$ 300.00

Interest accrued for September 2018

Beginning cash balance	179,714.39
Ending cash balance	132,383.41
Average cash balance	156,048.90
Assumed SPIA interest rate (Annualized)	1.75%
Subtotal (Annualized)	2,730.86

Accrual for September 2018

\$ 200.00

Interest accrued for October 2018

Beginning cash balance	132,383.41
Ending cash balance	128,886.41
Average cash balance	130,634.91
Assumed SPIA interest rate (Annualized)	1.75%
Subtotal (Annualized)	2,286.11

Accrual for October 2018

\$ 200.00

First Commercial Transportation Property Insurance Company
Receiver Windup Expenses
Projected for October 2018

Discharge Expenses (Projected for Post 10/31/2018)

Unclaimed Property Reports	
Records Storage, Labor	14,600.00
2018 Final Tax Return Preparation	
Total	<u>\$ 14,600.00</u>

First Commercial Transportation Property Insurance Company
Statement of Contributed Equity from Regulatory Trust Fund Estimated Balances
Projected for Discharge by 10/31/2018

I. Contributed Equity Balance as of 7/31/2018	\$	69,534.29
Accrual for August - October (Estimate from Schedule B)	<u>\$</u>	<u>297.00</u>
Total	\$	<u>297.00</u>
Projected Contributed Equity Balance as of 10/31/2018	<u>\$</u>	<u>69,831.29</u>