



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF THE )  
LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )

**RECEIVER'S AMENDED VERIFIED  
PETITION FOR APPROVAL OF PLAN FOR  
EARLY ACCESS DISBURSEMENTS TO  
PARTICIPATING GUARANTY ASSOCIATIONS**

The Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as the Receiver ("Receiver") of Ullico Casualty Company in Liquidation ("Ullico Casualty"), through the undersigned attorney, hereby petitions this Honorable Court, pursuant to 18 Del. C. §§ 5902 and 5911(c), for an Order approving the Receiver's Plan for Early Access Disbursements to Participating Guaranty Associations and approving the form of Administrative Expense Early Access Agreement appended hereto as Exhibit "1" (the "Proposed Administrative Expense Early Access Agreement") and the form of Class III Early Access Agreement appended hereto as Exhibit "2" (the "Proposed Class III Early Access Agreement"). In support of this Petition, the Receiver states the following:

**BACKGROUND OF ULLICO CASUALTY**

1. Ullico Casualty issued primarily workers' compensation, surety, fiduciary, union liability, and commercial insurance policies to its policyholders. As of December 31, 2012, Ullico Casualty was licensed to transact insurance business in the District of Columbia and **all** states **except** Maine, New Hampshire, and Rhode

Island. Although not licensed in Rhode Island and Puerto Rico, it was an eligible reporting entity to write insurance on a surplus lines basis in Rhode Island and Puerto Rico.

2. On March 11, 2013, by Rehabilitation and Injunction Order, this Court found Ullico Casualty impaired, insolvent, in unsound condition, and in such condition as to render its further transaction of insurance presently or prospectively hazardous to its policyholders, and appointed the Commissioner as Receiver of Ullico Casualty pursuant to 18 *Del. C. Ch. 59* (the “Act”). (File & ServeXpress Tr. No. 50444515).

3. On May 30, 2013, by Liquidation and Injunction Order with Bar Date (the “Liquidation Order”), this Court found that the impairment, insolvency, unsound condition, and hazardous condition of Ullico Casualty continued, found that further efforts to rehabilitate Ullico Casualty would be useless, and ordered the liquidation of Ullico Casualty pursuant to the Act. (File & ServeXpress Tr. No. 52543980).

4. Also on May 30, 2013, this Court continued the appointment of the Commissioner, including the Commissioner’s successors in office, as the Receiver of Ullico Casualty. Liquidation Order, at ¶ 2.

5. Section 5918(e)(2) of Title 18 of the Delaware Code generally provides that the reasonable and necessary administrative expenses of certain Guaranty

Associations affected by the Ullico Casualty insolvency qualify as Priority Class II claims against the Ullico Casualty estate. The statute further provides generally that those expenses are to be paid currently if the Receiver determines that the assets of the estate will be sufficient to pay all Class I claims in full and the Receiver secures from each of the Guaranty Associations receiving disbursements an agreement to return to the Receiver such disbursement, together with investment income actually earned on such disbursement, as may be required to pay Class I claims (which are the administrative expenses of the Receiver, the estate, and, in certain instances, expenses of the Delaware Insurance Department related to the company's delinquency proceedings).

6. Pursuant to 18 Del. C. §5911(c), the Receiver is required to propose an Order to provide for a plan for early access disbursements ("Early Access Disbursements") to the Guaranty Associations for their payments on Covered Claims, which are generally classified as Priority Class III claims pursuant to 18 Del. C. §5918(e)(3).

7. The Early Access Plan is required to provide for (a) reserving amounts for the payment of expenses of administration and the payment of secured claims; (b) disbursement of available assets; (c) equitable allocation of disbursements to Guaranty Associations; (d) an agreement from each Participating

Guaranty Association to return to the Receiver disbursed assets required to pay claims of higher priority creditors; and (e) a report by a Guaranty Association accounting for the disbursed assets and interest thereon. 18 Del. C. §5911(c)(2)(a)-(e). Pursuant to that statute, the proposed Order would provide for disbursements at least equal to the claim payments made or to be made by the participating Guaranty Associations to the extent assets are available.

8. There is an exception to the above provisions in 18 Del. C. §5918(c) for Guaranty Associations which are “owners” of special deposit claims. That issue is described further below.

9. In accordance with 18 Del. C. §5911(c)(4), the Receiver submitted a proposed Early Access Agreement (the “Initial Proposed Early Access Agreement”) and a proposed form of Order to the Guaranty Associations and State Insurance Commissioners on September 30, 2013. See Exhibit “2” to the Receiver’s Verified Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations, filed on March 6, 2015 (File & ServeXpress Tr. No. 56880479; the “Initial Petition”). The Initial Proposed Early Access Agreement addressed both the Participating Guaranty Associations’ Administrative Expenses (Priority Class II) and the Participating Guaranty Associations’ Covered Claims (Priority Class III).

10. The Receiver and the Guaranty Associations then began their negotiations concerning the forms of the Agreement and the Order to approve the Agreement. At the request of the Guaranty Associations, the form of Early Access Agreement and Order submitted by the Receiver with the Initial Petition sought approval of a proposed form of Class III Early Access Agreement for the Participating Guaranty Associations. At that time the parties agreed to defer the form of the Class II Administrative Expense Early Access Agreement.

11. From September 2015 through March 2016, the Receiver and the Guaranty Associations, through their Coordinating Committee, negotiated certain revisions to the proposed Class III Early Access Agreement and the proposed form of Order and significantly narrowed the issues. However, certain issues remained at the time the Initial Petition was submitted. The main issue still in dispute concerned the conditions under which Guaranty Associations which are owners of special deposit claims are eligible to participate as claimants of the estate and the timing of the election by such Guaranty Associations to either participate in the Early Access Disbursements or to retain their claim to the special deposit funds.

12. States often require an insurer to post a statutory deposit in order to conduct business in that jurisdiction. Statutory deposits are generally categorized

as either general deposits or special deposits, depending upon the statutory requirements in a particular jurisdiction.

13. In basic terms, a “general deposit” is a fund which is available to all creditors of an insolvent insurer’s estate and, therefore, would be turned over to the insurer’s receiver for inclusion in the general assets of the estate.

14. A “special deposit” is generally posted for the benefit of only the policyholders or only the creditors in a particular state. Those assets are often not turned over to the receiver of an insolvent insurer unless and until all qualifying claims of policyholders or creditors in that jurisdiction have been satisfied in full or those claimants waive their claim to the funds on deposit.

15. The Delaware statute provides the following concerning the owner of a “special deposit claim”:

Priority of certain claims.

\* \* \*

(c) The owners of special deposit claims against an insurer for which a receiver is appointed in this or any other state shall be given priority against their several special deposits in accordance with the provisions of the statutes governing the creation and maintenance of such deposits. If there is a deficiency in any such deposit so that the claims secured thereby are not fully discharged therefrom, the claimants may share in the general assets, *but such sharing shall be deferred until general creditors and also claimants against other special deposits who*

*have received smaller percentages from their respective special deposits have been paid percentages of their claims equal to the percentage paid from the special deposit.*

18 Del. C. § 5918(c); emphasis supplied.

16. The above statute would subordinate the claim of an owner of a special deposit claim to the general creditor class and would limit its recovery from the estate until all other general creditors and other owners of special deposit claims had received at least the same share of recovery on their claims. Therefore, it is the Receiver's position that any Guaranty Association which has a claim against a special deposit would not qualify as a Participating Guaranty Association under the Receiver's Early Access Plan unless and until such Guaranty Association waives any claim it has against the special deposit and remits to the Receiver any funds which it has received from that special deposit. The only exception to this position is that if the applicable state law prohibits a Guaranty Association from using special deposit funds for its administrative expenses but such Guaranty Association remains the owner of a special deposit claim as to its Class III Covered Claims, such Guaranty Association would be permitted to participate in Administrative Expense Early Access Disbursements, but would not be permitted to participate in the Class III Early Access Disbursements unless and until such Guaranty Association waived its claim to the special deposit funds and returned

any such funds as required by the Class III Early Access Agreement set forth in the Plan. This exception is based upon the language in 18 Del. C. §5918(c) which bases the treatment of the “owners of special deposit claims” on “the provisions of the statutes governing the creation and maintenance of such deposits.” Therefore, the Receiver has agreed to treat the Class II claims separately from the Class III claims where the Guaranty Association is expressly prohibited by its state law from using the special deposit funds for its administrative expenses. However, this exception would not apply where a Guaranty Association voluntarily chose to use special deposit funds to reimburse its Covered Claim payments rather than use the funds to reimburse its Administrative Expenses. Nothing herein is intended to resolve issues concerning the interpretation of 18 Del. C. §5918(c) concerning the claim of a specific Guaranty Association or interpretation of the applicable state statute governing the creation and/or maintenance of a special deposit. The rights of a party to argue that the above exception does or does not apply will be preserved until such time as such issues are ripe for determination.



17. The Receiver's Initial Petition would have required any such Guaranty Association to make their election between retaining the special deposit funds or participating in the Early Access Disbursements by December 31, 2015. See, Exhibit 1 to the Initial Petition. The Receiver's Amended Petition seeks approval of forms of Agreement which would require that election to be made on or before the initial disbursement or any subsequent disbursement.

18. The Court issued an Order to Show Cause concerning the Initial Petition on July 21, 2015 (File & ServeXpress Tr. No. 57581732).

19. The Arizona Property & Casualty Insurance Guaranty Fund, Georgia Insurers Insolvency Pool, Idaho Insurance Guaranty Association, Kansas Insurance Guaranty Association, Massachusetts Insurers Insolvency Fund, Montana Insurance Guaranty Association, Nebraska Property and Liability Insurance Guaranty Association, Nevada Insurance Guaranty Association, New Mexico Property and Casualty Insurance Guaranty Association, North Carolina Insurance Guaranty Association, Oregon Insurance Guaranty Association, South Carolina Property and Casualty Insurance Guaranty Association, Texas Property and Casualty Insurance Guaranty Association, and Virginia Property and Casualty Insurance Guaranty Association (the "Objecting Guaranty Associations") filed an Objection to the Initial Petition and the Initial Class III Early Access Agreement

on September 21, 2015 (File & ServeXpress Tr. No. 57899808). No Order was entered by the Court on the substance of the Initial Petition or on the Initial Proposed Class III Early Access Agreement.

20. Since that time, the Receiver continued to negotiate the terms of the Class III Early Access Agreement and also negotiated a form of Administrative Expense Early Access Agreement with the Guaranty Associations. The forms of Agreement appended as Exhibits “1” and “2” hereto are the product of those negotiations. The Receiver believes that the objections of the Objecting Guaranty Associations to the process set forth in the Early Access Plan have been resolved by the revisions made in the two Exhibits hereto.

21. The Receiver submits that the Proposed Administrative Expense Early Access Agreement, the Proposed Class III Early Access Agreement, and the proposed Order submitted with this Petition meet the requirements of the statute.

22. In addition, to clarify that the Receiver is not proposing to distribute assets which a third party has asserted do not belong to the estate unless and until the dispute concerning those assets is resolved in the estate’s favor, the Receiver has also included a notice and objection procedure in both forms of Agreement to provide notice that an Early Access Disbursement has been proposed and to afford third parties or the Guaranty Associations with an opportunity to object to the use

of particular assets for such disbursement. That procedure would also allow for the establishment of a reserve as to any disputed assets while permitting the disbursement of undisputed assets to go forward.

23. In order to permit any Guaranty Association or affected third party which wishes to object to or to comment further on the Proposed Administrative Expense Early Access Agreement, the Proposed Class III Early Access Agreement, and the Proposed Order seeking approval of both Agreements, the Receiver is requesting the entry of an Order to Show Cause which provides interested parties a period of at least 60 days to raise their objections to or provide their further comments on the Proposed Administrative Expense Early Access Agreement, the Proposed Class III Early Access Agreement, and the Proposed Order. A form of Order to Show Cause has been submitted with this Petition.

WHEREFORE, the undersigned attorney on behalf of The Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as Receiver of Ullico Casualty Insurance Company in Liquidation, respectfully requests that this Honorable Court issue the Order to Show Cause and, after affording the interested parties notice and an opportunity to be heard, grant the Receiver's Verified Amended Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations, approve the forms of Agreement appended as Exhibits "1" and "2" to the Petition, and for such other relief as the Court deems appropriate.

Respectfully submitted,

By: /s/ Diane J. Bartels

Of Counsel:  
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Trinidad Navarro, Insurance  
Commissioner of the State of  
Delaware, in his capacity as  
Receiver of Ullico Casualty  
Company in Liquidation

Dated: July 18, 2017




IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF )  
THE LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )


STATE OF DELAWARE :  
 : SS  
COUNTY OF NEW CASTLE :

**VERIFICATION OF MICHAEL JOHNSON  
TO THE RECEIVER'S AMENDED VERIFIED  
PETITION FOR APPROVAL OF PLAN FOR  
EARLY ACCESS DISBURSEMENTS TO  
PARTICIPATING GUARANTY ASSOCIATIONS**

I, Michael Johnson, in my capacity as Deputy Receiver of Ullico Casualty Company in Liquidation, having read the attached *Receiver's Amended Verified Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations* in the above-captioned matter, hereby verify that the factual statements set forth therein are true and correct to the best of my knowledge, information, and belief.

  
\_\_\_\_\_  
Michael Johnson

SWORN TO AND SUBSCRIBED before me this 17<sup>th</sup> day of July, 2017.

  
\_\_\_\_\_  
Diane J. Bartels, Delaware Bar No. 2530  
Notarized Pursuant to 29 Del. C. §4323(a)(3)



# Exhibit “1”

**AGREEMENT CONCERNING REIMBURSEMENT  
OF GUARANTY ASSOCIATION ADMINISTRATIVE EXPENSES**

This Administrative Expense Agreement (the “Administrative Expense Agreement”), is entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between THE HONORABLE TRINIDAD NAVARRO, INSURANCE COMMISSIONER OF THE STATE OF DELAWARE AND HIS SUCCESSORS AND ASSIGNS, IN HIS CAPACITY AS THE RECEIVER (the “Receiver”) OF **ULLICO CASUALTY COMPANY IN LIQUIDATION** (“ULLICO CASUALTY”), 704 North King Street, Suite 200, Wilmington, Delaware 19801, and the [State Property and Casualty Insurance Guaranty Association or Workers’ Compensation Fund] (“ASSOCIATION” or “FUND”), [Address of ASSOCIATION or FUND].

**WITNESSETH:**

WHEREAS, on May 30, 2013, the Court of Chancery of the State of Delaware (the “Liquidation Court”) entered a Liquidation and Injunction Order with Bar Date (the “Liquidation Order”) concerning ULLICO CASUALTY in the matter now captioned as “In the Matter of the Liquidation of Ullico Casualty Company,” C.A. No. 8392-VCS;

WHEREAS, the states in which ULLICO CASUALTY was licensed to engage in the business of insurance have enacted insurance guaranty fund or association laws or workers' compensation guaranty fund laws requiring that certain statutorily defined claims arising under certain policies of an insolvent insurance company (the "Covered Claims") be paid by the state property and casualty insurance guaranty funds or associations or workers' compensation guaranty funds (collectively herein the "Guaranty Associations");

WHEREAS, the determination of insolvency of ULLICO CASUALTY became final and non-appealable on July 1, 2013;

WHEREAS, the ASSOCIATION is required to pay the Covered Claims Obligations of ULLICO CASUALTY as a consequence of the determination of insolvency and entry of the Liquidation and Injunction Order with Bar Date concerning ULLICO CASUALTY and has commenced paying claims and incurring in connection therewith reasonable and necessary administrative expenses (the "Administrative Expenses");

WHEREAS, the statute governing liquidation of Delaware-domiciled insurers, 18 Del. C. chapter 59, provides in §5918(e)(2) that, pursuant to the terms of that section, if the Receiver determines that the assets of the estate will be sufficient to pay all Class I claims in full, then the reasonable and necessary



administrative expenses of the Delaware Insurance Guaranty Association and any similar organization in another jurisdiction (“Class II Claims”) shall be paid currently as funds are available, provided that the Receiver shall secure from each of the associations an agreement to return to the Receiver such disbursements together with investment income (if any) actually earned on such disbursements, as may be required to pay Class I claims;

WHEREAS, at this time the Receiver has determined that the assets of the ULLICO CASUALTY estate will be sufficient to pay all Class I claims;

WHEREAS, the Receiver and the ASSOCIATION desire to enter into a written Agreement to satisfy the requirements of 18 Del. C. §5918(e)(2) concerning the potential return of disbursements made to the ASSOCIATION pursuant to that section so that the reimbursement of the ASSOCIATION’s Administrative Expenses that have been and will be incurred may commence and continue promptly as funds are available;

WHEREAS, the ASSOCIATION has provided reasonable assurance satisfactory to the Receiver that one of the following conditions is satisfied: (1) the ASSOCIATION is not the owner of a special deposit claim as that term is used in 18 Del. C. §5918(c); (2) under the applicable state guaranty statute, the ASSOCIATION has no right to payment or reimbursement of its Administrative

Expenses from special deposit funds posted by ULLICO CASUALTY in the ASSOCIATION's state; or (3) if the ASSOCIATION has or had any rights to make a claim against a special deposit claim concerning the ULLICO CASUALTY liquidation in order to pay or reimburse the ASSOCIATION's Administrative Expenses, the ASSOCIATION has waived and relinquished any and all rights it had or has to any special deposit claim it owns or owned concerning the ULLICO CASUALTY liquidation and if the ASSOCIATION has received any funds from a special deposit claim, it has returned any and all funds received out of such special deposit and any income actually earned thereon to the Receiver by transferring to the Receiver an amount equal to the funds received by the ASSOCIATION from the special deposit on or before the date of the initial disbursement or any subsequent disbursement under this Agreement. The ASSOCIATION expressly understands and acknowledges that the Receiver has been induced to enter into this Agreement based upon these representations of the ASSOCIATION;

WHEREAS, on or before the Bar Date of June 30, 2014, the ASSOCIATION has filed with the Receiver an omnibus proof of claim, as supplemented from time to time with data reported in accordance with this Administrative Expense Agreement, for the Administrative Expenses referred to herein; and

WHEREAS, the Receiver has submitted a proposed Order to the Liquidation Court with a plan for Administrative Expense Early Access Disbursements to Participating Guaranty Associations out of the general assets of the ULLICO CASUALTY estate as such assets become available for such disbursement and such Order was entered on \_\_\_\_\_, approving the Administrative Expense Early Access Plan and the terms of this Administrative Expense Agreement.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Receiver and the ASSOCIATION agree:

**1. Administrative Expense Reporting.** Within sixty (60) days after the close of each quarter, or within such other time frame as may be mutually agreed upon by the Receiver and the ASSOCIATION, the ASSOCIATION shall provide the Receiver with administrative expense reports in accordance with the UDS reporting format (the “Reports”), including C-Records, and, as available, D-Records. If the ASSOCIATION has not already submitted such administrative expense reports for periods in effect prior to the signing of this Agreement by both parties, the ASSOCIATION shall file such reports within sixty (60) days after the date this Agreement has been executed by both parties hereto. To the extent D-

Records are not available, the ASSOCIATION shall provide equivalent written reports of Administrative Expense payments. The ASSOCIATION shall also provide such other information as may be reasonably requested by the Receiver related to the ASSOCIATION's Administrative Expenses.

**2. Determination of Available Assets and Notice Thereof.** Upon determining that funds are available for an Administrative Expense Early Access Disbursement, the Receiver shall file in the Liquidation Proceedings a "Notice of Receiver's Intent to Make an Administrative Expense Early Access Disbursement to Participating Guaranty Associations" with a proposed Order to Show Cause which shall be served upon all counsel appearing in the Liquidation Proceeding and all Guaranty Associations which have filed a Proof of Claim and which Notice shall require all parties receiving the Notice and signed Order to Show Cause to file any objections to such Administrative Expense Early Access Disbursement within thirty (30) days after receipt of such Notice and Order to Show Cause.

**3. Factors Affecting Determination of Available Assets.** The Receiver's determination concerning whether funds are available to make an Early Access Disbursement to reimburse the Participating Guaranty Associations' Administrative Expenses shall take into account any Class I Receiver's

administrative expenses already due or reasonably anticipated to be due from the estate, a reasonable reserve for future administrative expenses, penalties for early withdrawal of invested funds, and any encumbrances on estate Assets, whether or not such encumbrances are disputed.

**4. Objections to and Implementation of Disbursements.** If one or more objections are timely filed in response to the Receiver's "Notice of Receiver's Intent to Make an Administrative Expense Early Access Disbursement to Participating Guaranty Associations," the Receiver shall not use any Assets which are in dispute to make the Administrative Expense Early Access Disbursement. If there are other available Assets which are not implicated in the objection, the Administrative Expense Early Access Disbursement shall be made in the amount of the unencumbered available Assets. If no objections are timely filed in response to the Receiver's "Notice of Receiver's Intent to Make an Administrative Expense Early Access Disbursement to Participating Guaranty Associations," the Receiver shall make the Early Access Disbursement within thirty (30) days of the objection deadline.

**5. Participation in and Allocation of Disbursements.** The Participating Guaranty Associations for each Early Access Disbursement shall be

those Guaranty Associations with which the Receiver has entered into an Administrative Expense Agreement as of the date on which the Receiver makes the Early Access Disbursement. Each Early Access Disbursement shall be allocated among the Participating Guaranty Associations in proportion to the total administrative expenses paid by such Participating Guaranty Associations as of the most recently filed reports required by Paragraph 1 hereof.

**6. Potential Return of Disbursements.** While the parties acknowledge that the Receiver currently has determined that the ULLICO CASUALTY estate assets are sufficient to pay all anticipated Class I claims, should in the future the Receiver properly determine that funds disbursed to the ASSOCIATION pursuant to 18 Del. C. § 5918(e)(2) and this Agreement are required to be returned in order for the Receiver (1) to pay Class I claims allowed in the ULLICO CASUALTY estate, (2) as necessary to repay any monies that were in the Receiver's possession that are determined by the Court to be property of another party and thus are not general assets of the estate, or (3) as otherwise required by law, then the ASSOCIATION shall, within thirty (30) days after written demand is made by the Receiver in accordance with paragraph 8 below, or within ninety (90) days after such demand is made if it is necessary for the ASSOCIATION to make an

assessment in order to comply with the Receiver's demand, return to the Receiver the prior Administrative Expense disbursements together with investment income (if any) actually earned on such disbursements (1) to the extent required to pay Class I claims, (2) as necessary to repay any monies that were in the Receiver's possession that are determined by the Court to be property of another party and thus are not general assets of the estate, or (3) as otherwise required by law. Interest shall be calculated only on the portion of any disbursement to be returned to the Receiver that is in excess of the total amount of the claims paid and reimbursable expenses incurred by the ASSOCIATION as of the date of the demand made pursuant to this paragraph.

**7. Records.** The ASSOCIATION agrees to maintain records sufficient to show that the reported Administrative Expenses comply with 18 Del. C. § 5918(e)(2), including records showing the amount of any investment income (if any) actually earned on any Administrative Expense disbursements made pursuant to 18 Del. C. § 5918(e)(2).

**8. Final Distribution and Audit.** The Receiver shall, at any time prior to the final distribution of assets of the ULLICO CASUALTY estate, be authorized to audit the financial records of the ASSOCIATION with respect to any of the

ASSOCIATION's Administrative Expenses paid or submitted to be paid pursuant to 18 Del. C. § 5918(e)(2) during normal business hours and, to the extent the Receiver determines that such Administrative Expenses do not satisfy the requirements of 18 Del. C. § 5918(e)(2) or are in excess of the amount reasonably and accurately determined by the Receiver to be due the ASSOCIATION as its pro rata share of the final distribution of assets of ULLICO CASUALTY to Class II claims, may demand the return of any excess amount of such reimbursement payments pursuant to the procedure provided in paragraph 6 above. If the ASSOCIATION does not agree with the Receiver's determination that such reimbursements should be returned, the ASSOCIATION shall serve a written objection on the Receiver within thirty (30) days of receipt of such demand and may retain the reimbursements pending resolution of the objection. If the Receiver and the ASSOCIATION are not able to resolve their dispute through good faith negotiation, either the Receiver or the ASSOCIATION may thereafter initiate a hearing for the Liquidation Court to resolve the dispute.

**9. Notice.** Any notice required or permitted under the terms of this Agreement to be given to the parties shall be deemed given (i) if actually received by the intended recipient by any means of manual delivery, (ii) if posted by prepaid



United States certified first class mail, return receipt requested, or (iii) if consigned to and receipted by a commercial delivery service and addressed as follows:

9.1 If to the Receiver:

Michael J. Johnson, Deputy Receiver  
Ullico Casualty Co. in Liquidation  
704 N. King Street, Suite 200  
Wilmington, DE 19801

With a copy to:

James J. Black, III, Esquire  
Black & Gerngross, P.C.  
1617 John F. Kennedy Boulevard  
Suite 1575  
Philadelphia, PA 19103

9.2 If to the ASSOCIATION:

**[TO BE ADDED]**

**10. Merger and Modification.** This Agreement merges all prior offers and agreements of every kind and expresses the full and final intent of the parties with respect to the subject matter hereof. This Agreement shall not be modified except by an instrument in writing, executed by the authorized representative of each of the parties hereto.

**11. Jurisdiction and Choice of Law.** The ASSOCIATION hereby submits to the exclusive jurisdiction of the Liquidation Court solely with respect to

the enforcement of this Agreement or any issue or dispute arising out of this Administrative Expense Agreement or the Order approving the form thereof. However, nothing in this Administrative Expense Agreement or the Order approving the form thereof is intended to affect the proper venue or forum for any action arising out of or relating to any other matter or controversy not arising under or related to this Administrative Expense Agreement or the Order approving the form thereof and not arising under or related to any other matter within the jurisdiction of the Liquidation Court, and the fact that the ASSOCIATION executed this Administrative Expense Agreement shall not be used for the purposes of arguing the proper venue or forum for any action other than an action arising under or related to this Administrative Expense Agreement or the Order approving the form thereof or other than an action arising under or related to any other matter within the jurisdiction of the Liquidation Court. This Agreement shall in all respects be governed by the laws of the State of Delaware.

**12. Compliance.** The Receiver and the ASSOCIATION shall promptly comply with the Plan for Administrative Expense Early Access Disbursements. If the ASSOCIATION fails for any reason to forward to the Receiver assets due by the ASSOCIATION to the ULLICO CASUALTY estate pursuant to this

Administrative Expense Agreement (the “Demanded Assets”), the Receiver retains the right, in addition to any other rights he may have, to set off against any future disbursements to the ASSOCIATION the amount of such Demanded Assets.

**13. Waiver.** The parties agree that the execution of this Administrative Expense Agreement shall in no way operate to waive any rights any of the parties may otherwise have including the right to participate in any interim or final distribution of assets from the ULLICO CASUALTY estate, taking into consideration Administrative Expense Early Access Disbursements to such ASSOCIATION. Without limiting the generality of the foregoing, the ASSOCIATION reserves its right to assert to the Receiver and/or Liquidation Court whatever claims the ASSOCIATION deems appropriate with respect to its rights to recover its Administrative Expenses, and any other rights with respect to the ULLICO CASUALTY estate, and the Receiver reserves his right to contest such payment or other rights.

**14. Termination.** This Agreement shall terminate upon the closing of the ULLICO CASUALTY estate.

IN WITNESS WHEREOF, this Agreement has been executed by the parties  
as of the first date above written.

THE HONORABLE TRINIDAD NAVARRO,  
INSURANCE COMMISSIONER OF THE  
STATE OF DELAWARE, IN HIS CAPACITY  
AS THE RECEIVER OF ULLICO  
CASUALTY COMPANY IN LIQUIDATION

By: \_\_\_\_\_  
Michael J. Johnson, Deputy Receiver

THE ASSOCIATION

By: \_\_\_\_\_

Name:

Title:

**Guaranty Association Signature Page for  
Administrative Expense Agreement with the  
Receiver of Ullico Casualty Company  
In Liquidation (for Class II Claims)**



# Exhibit “2”

**EARLY ACCESS AGREEMENT BETWEEN  
THE RECEIVER OF ULLICO CASUALTY COMPANY IN  
LIQUIDATION AND [STATE GUARANTY ASSOCIATION  
OR WORKERS' COMPENSATION FUND] FOR CLASS III CLAIMS**

THIS EARLY ACCESS AGREEMENT (the "Agreement") is entered into and effective as of the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between THE HONORABLE TRINIDAD NAVARRO, INSURANCE COMMISSIONER OF THE STATE OF DELAWARE AND HIS SUCCESSORS AND ASSIGNS, IN HIS CAPACITY AS THE RECEIVER (the "Receiver") OF ULLICO CASUALTY COMPANY IN LIQUIDATION ("ULLICO CASUALTY"), 704 North King Street, Suite 200, Wilmington, Delaware 19801, and the [State Property and Casualty Insurance Guaranty Association or Workers' Compensation Fund] ("ASSOCIATION"), [Address of ASSOCIATION].

**WITNESSETH:**

WHEREAS, on May 30, 2013, the Court of Chancery of the State of Delaware (the "Liquidation Court") entered a Liquidation and Injunction Order With Bar Date concerning ULLICO CASUALTY in the matter now captioned as "In the Matter of the Liquidation of Ullico Casualty Company," C.A. No. 8392-VCS;

WHEREAS, the states in which ULLICO CASUALTY was licensed to engage in the business of insurance have enacted insurance guaranty fund or association laws or workers' compensation guaranty fund laws requiring that certain statutorily defined liabilities against an insolvent insurance company (the "Covered Claims") be paid by the state property and casualty insurance guaranty funds or associations or workers' compensation guaranty funds (collectively herein the "Guaranty Associations");

WHEREAS, the statute governing liquidation of Delaware-domiciled insurers, 18 Del. C. chapter 59, provides in §5911(c) that, pursuant to the terms of that section, within 120 days of the final determination of insolvency of a company, the Receiver shall apply for a proposed order to disburse assets out of such company's marshaled assets, from time to time as such assets become available to the Delaware Insurance Guaranty Association and to any entity or person performing a similar function in another jurisdiction having substantially the same provisions of law;

WHEREAS, the determination of insolvency of ULLICO CASUALTY became final and nonappealable on July 1, 2013. The statutory notice required under 18 Del. C. §5911(c)(4) was sent to the



Guaranty Associations and State Insurance Commissioners on September 30, 2013;

WHEREAS, the ASSOCIATION has provided reasonable assurance satisfactory to the Receiver that the ASSOCIATION is either not the owner of a special deposit claim as that term is used in 18 Del. C. §5918(c), or if the ASSOCIATION has or had any rights to make a claim against a special deposit claim concerning the ULLICO CASUALTY liquidation, the ASSOCIATION has waived and relinquished any and all rights it had or has to any special deposit claim it owns or owned concerning the ULLICO CASUALTY liquidation and if the ASSOCIATION has received any funds from a special deposit claim, it has returned any and all funds received out of such special deposit and any income actually earned thereon to the Receiver by transferring to the Receiver an amount equal to the funds received by the ASSOCIATION from the special deposit on or before the date of the initial disbursement or any subsequent disbursement under this Agreement, and hereby waives and relinquishes any further rights to the special deposit. The ASSOCIATION expressly understands and acknowledges that the Receiver has been induced to enter into this Agreement based upon these

representations of the ASSOCIATION that such ASSOCIATION shall not be seeking recovery from any special deposit;

WHEREAS, except for any “Large Deductible Collateral” (which for the purposes of this Agreement is defined as any money, property, letters of credit, or any other form of asset which was posted to secure or securing a policyholder’s direct obligations such as deductibles under a policy), the ASSOCIATION has provided reasonable assurance satisfactory to the Receiver that the ASSOCIATION is either not the owner of a secured claim against ULLICO CASUALTY as that term is used in 18 Del. C. §5918(d), or if the ASSOCIATION has or had any rights to make a claim against collateral or security relating to or arising out of the operations of ULLICO CASUALTY or the ULLICO CASUALTY liquidation, the ASSOCIATION has waived and relinquished any and all rights it had or has to any collateral or security relating to or arising out of the operations of ULLICO CASUALTY or the ULLICO CASUALTY liquidation, except for any claim which such ASSOCIATION has to any Large Deductible Collateral, which is not considered as a secured claim under 18 Del. C. §5918(d) for the purposes of this Agreement, solely with respect to the ULLICO CASUALTY receivership proceeding. The ASSOCIATION expressly

understands and acknowledges that the Receiver has been induced to enter into this Agreement based upon these representations of the ASSOCIATION that such ASSOCIATION shall not be recovering from any collateral or security (other than Large Deductible Collateral); and

WHEREAS, the Receiver has submitted a proposed Order to the Liquidation Court with a plan for Early Access Disbursements to Participating Guaranty Associations out of the general assets of the ULLICO CASUALTY estate as such assets become available for such disbursement and such Order was entered on \_\_\_\_\_, approving the Early Access Plan and this Agreement;

#### **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual covenants set forth in this Agreement, the Receiver and the ASSOCIATION agree as follows:

**1. Access to Records and Information.** The Receiver and the ASSOCIATION mutually agree to provide each other with reasonable access to certain business records and information, as follows:

**1.1** The Receiver will provide the ASSOCIATION with access, during normal business hours, to the claim files, policy files, premium records, and other books, records, and files of ULLICO CASUALTY held by the Receiver which are necessary for the ASSOCIATION to satisfy its obligations concerning the Covered Claims.

**1.2** The ASSOCIATION will provide the Receiver with access, during normal business hours, to the books, records, and files of ULLICO CASUALTY held by the ASSOCIATION or its representatives or agents, and will respond in good faith to requests from the Receiver for documents pertaining to the payment of Covered Claims upon the basis of which Early Access Disbursements have been made. The Guaranty Associations shall provide reports to the Receiver in accordance with Paragraph 6 of the Order. Reports shall be mailed or emailed by the ASSOCIATION to the Receiver to the address set forth in Section 9 of this Agreement or to such other address as the Receiver may from time to time designate in writing.

**2. Assets Otherwise Available.** Any assets of ULLICO CASUALTY which have been received or are available to the

ASSOCIATION in any manner other than disbursements in payment of the ASSOCIATION's administrative expenses, including but not limited to Early Access Disbursements from the Receiver, shall be deemed to be amounts paid to the ASSOCIATION pursuant to the Plan and such assets shall be subject to the provisions of this Agreement as if directly distributed to the ASSOCIATION by the Receiver, subject to the Receiver's right to demand return of such disbursed assets as may be required to pay claims of secured creditors and claims falling within the priorities established in 18 Del. C. §§5915-5919, 5924-5927, and 5929 in accordance with such priorities. The ASSOCIATION agrees, as part of its periodic reports to the Receiver, to submit to the Receiver a statement of assets of ULLICO CASUALTY that it has received or has available to it other than as an Early Access Disbursement. Interim or final distributions shall not be subject to the Plan.

**3. Determination of Available Assets and Notice Thereof.**

Upon determining that funds are available for a Class III Early Access Disbursement, the Receiver shall file in the Liquidation Proceedings a "Notice of Receiver's Intent to Make a Class III Early Access Disbursement to Participating Guaranty Associations" with a proposed Order to Show

Cause which shall be served upon all counsel appearing in the Liquidation Proceeding and all Guaranty Associations which have filed a Proof of Claim and which Notice shall require all parties receiving the Notice and signed Order to Show Cause to file any objections to such Class III Early Access Disbursement within thirty (30) days after receipt of such Notice and Order to Show Cause.

**4. Factors Affecting Determination of Available Assets.** The Receiver's determination concerning whether funds are available to make a Class III Early Access Disbursement to reimburse the Participating Guaranty Associations' Covered Claim payments shall take into account any Class I Receiver's administrative expenses already due or reasonably anticipated to be due from the estate, a reasonable reserve for future administrative expenses, penalties for early withdrawal of invested funds, and any encumbrances on estate Assets, whether or not such encumbrances are disputed. Unless otherwise agreed by the Guaranty Associations, such a determination shall also take into account any Class II administrative expenses already due or reasonably anticipated to be due from the Guaranty Associations and a reasonable reserve for future Class II administrative expenses.

**5. Objections to and Implementation of Disbursements.** If one or more objections are timely filed in response to the Receiver's "Notice of Receiver's Intent to Make a Class III Early Access Disbursement to Participating Guaranty Associations," the Receiver shall not use any Assets which are in dispute to make the Class III Early Access Disbursement unless and until such objection(s) has been resolved or adjudicated in favor of ULLICO CASUALTY. If there are other available Assets which are not implicated in the objection, the Class III Early Access Disbursement shall be made in the amount of the unencumbered available Assets. If no objections are timely filed in response to the Receiver's "Notice of Receiver's Intent to Make a Class III Early Access Disbursement to Participating Guaranty Associations," the Receiver shall make the Class III Early Access Disbursement within thirty (30) days of the objection deadline.

**6. Potential Return of Disbursements.** The ASSOCIATION agrees to return to the Receiver Class III Early Access Disbursements received by the ASSOCIATION upon proper written demand. Such repayment shall be required only if and to the extent necessary for the proportionate payment of (i) the claims of secured creditors, (ii) expenses or claims of an equal or higher priority to the claims of the ASSOCIATION, as

determined by the statutes cited in the Order, or (iii) as otherwise required by law. In the event that the Receiver reasonably deems it necessary or is ordered by a court of competent jurisdiction to pay proportionately other claim(s) at an equal or higher priority than the ASSOCIATION's priority, the ASSOCIATION shall, within thirty (30) days after written demand is made by the Receiver in accordance with Section 9, or within ninety (90) days after such demand is made if it is necessary for the ASSOCIATION to make an assessment in order to comply with the Receiver's demand, return the requested funds needed to pay the pro rata share due to the equal or higher priority claim(s). Interest shall be calculated only on the portion of any disbursement to be returned to the Receiver that is in excess of the total amount of the claims paid and reimbursable expenses incurred by the ASSOCIATION as of the date of the demand made pursuant to this paragraph.

**7. Omnibus Proof of Claim.** On or before the Bar Date of June 30, 2014, the ASSOCIATION has filed with the Receiver and the Receiver shall reasonably approve an omnibus proof of claim, as supplemented from time to time with data reported in accordance with Section 1.2, for any portion of a paid claim which constitutes a "Covered Claim" under the



ASSOCIATION's state law. The omnibus proof of claim and supplements shall (i) be materially consistent with the reports more particularly described in Section 1.2 above, and (ii) be in a form mutually acceptable to the Receiver and the ASSOCIATION.

**8. Final Distributions and Audit.** The Receiver shall, prior to any final distributions of assets, be authorized to audit the financial accounts, records, and procedures of the ASSOCIATION with respect to the receipt of Early Access Disbursements and payment of Covered Claims upon which the Final Distribution is based. The ASSOCIATION will, within thirty (30) days after written demand is provided by the Receiver in accordance with Section 6, or within ninety (90) days after such demand is given if it is necessary for the ASSOCIATION to make an assessment in order to comply with the Receiver's demand, return to the Receiver any Early Access Disbursements received by the ASSOCIATION which are in excess of the amount reasonably and accurately determined by the Receiver to be due the ASSOCIATION as its pro rata share of the final distribution of the assets of ULLICO CASUALTY. The Receiver and the ASSOCIATION shall cooperate in making arrangements for the final disposition of the

information, files, and documents received by the ASSOCIATION from ULLICO CASUALTY or the Receiver.

**9. Notice.** Except for any reports required by paragraph 1.2 above, any notice required or permitted under the terms of this Agreement to be given to the parties shall be deemed given (i) if actually received by the intended recipient by any means of manual delivery, (ii) if posted by prepaid United States certified first class mail, return receipt requested, or (iii) if consigned to and receipted by a commercial delivery service for overnight delivery and addressed as follows:

**9.1 If to the Receiver:**

Michael Johnson, Deputy Receiver  
Ullico Casualty Co. in Liquidation  
704 N. King Street, Suite 200  
Wilmington, DE 19801

With a copy to:

James J. Black, III, Esquire  
Black & Gerngross, P.C.  
1617 John F. Kennedy Boulevard  
Suite 1575  
Philadelphia, PA 19103

**9.2 If to the ASSOCIATION:**

**[TO BE ADDED]**

**10. Merger and Modification.** This Agreement merges all prior offers and agreements of every kind and expresses the full and final intent of the parties with respect to the subject matter hereof. This Agreement shall not be modified except by an instrument in writing, executed by the authorized representative of each of the parties hereto.

**11. Jurisdiction and Choice of Law.** The ASSOCIATION hereby submits to the exclusive jurisdiction of the Liquidation Court solely with respect to the enforcement of this Agreement or any claim, issue, or dispute arising out of this Agreement or the Order. However, nothing in this Agreement or the Order is intended to affect the proper venue or forum for any action arising out of or relating to any other matter or controversy not arising under or related to this Agreement or the Order and not arising under or related to any other matter within the jurisdiction of the Liquidation Court, and the fact that the Association executed this Agreement shall not be used for the purposes of arguing the proper venue or forum for any action other than an action arising under or related to this Agreement or the Order or other than an action arising under or related to any other matter within the jurisdiction of the Liquidation Court. This Agreement shall in all respects be governed by the laws of the State of Delaware.

**12. Compliance and Early Access Plan.** The Receiver and the ASSOCIATION shall promptly comply with all applicable Early Access requirements of the Delaware law and the Plan for Disbursement of Assets. If the ASSOCIATION fails for any reason to forward to the Receiver assets due by the ASSOCIATION to the ULLICO CASUALTY estate pursuant to this Agreement (the “Demanded Assets”), the Receiver retains the right, in addition to any other rights he may have, to set off against any future disbursements to the ASSOCIATION the amount of such Demanded Assets.

**13. Waiver.** The parties agree that the execution of this Agreement shall in no way operate to waive any rights any of the parties may otherwise have including the right to participate in any interim or final distribution of assets from the ULLICO CASUALTY estate, taking into consideration Early Access Disbursements to such ASSOCIATION. Without limiting the generality of the foregoing, the ASSOCIATION reserves its right to assert to the Receiver and/or Liquidation Court whatever claims the ASSOCIATION deems appropriate with respect to its rights to recover Covered Claims payments, its expense payments, and any other rights with respect to the ULLICO CASUALTY estate, and the Receiver reserves his right to contest such payments or other rights.

**14. Termination.** This Agreement shall terminate upon the closing of the ULLICO CASUALTY estate.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the first date above written.

THE HONORABLE TRINIDAD NAVARRO,  
INSURANCE COMMISSIONER OF THE STATE OF  
DELAWARE, IN HIS CAPACITY AS THE RECEIVER  
OF ULLICO CASUALTY COMPANY IN LIQUIDATION

By: \_\_\_\_\_  
Michael Johnson  
Deputy Receiver

[INSERT THE NAME OF THE ASSOCIATION]

By: \_\_\_\_\_

Name:

Title:

Address

**Guaranty Association Signature Page for  
Early Access Agreement with the  
Receiver of ULLICO Casualty Company  
in Liquidation for Class III Claims**



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF THE )  
LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )

**ORDER GRANTING RECEIVER'S AMENDED  
VERIFIED PETITION FOR APPROVAL OF PLAN  
FOR EARLY ACCESS DISBURSEMENTS TO  
PARTICIPATING GUARANTY ASSOCIATIONS**

WHEREAS, the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as Receiver (the "Receiver") of Ullico Casualty Company ("ULLICO CASUALTY") has filed an Amended Petition seeking an Order approving a Plan for Early Access Disbursements ("Plan") to state property and casualty insurance guaranty associations and workers' compensation funds (the "Guaranty Associations") which qualify for and agree to participate in such disbursements (the "Participating Guaranty Associations") by entering into an Administrative Expense Early Access Agreement for the Participating Guaranty Associations' Class II claims in substantially the form of Exhibit "1" to the Petition (the "Proposed Administrative Expense Early Access Agreement") and/or by entering into a Class III Early Access Agreement for the Participating Guaranty Associations' Class III claims in substantially the form of Exhibit "2" to the Petition (the "Proposed Class III Early Access Agreement");

WHEREAS, this Court placed ULLICO CASUALTY into rehabilitation proceedings on March 11, 2013, and into liquidation proceedings on May 30, 2013;

WHEREAS, the Liquidation and Injunction Order with Bar Date directs the Receiver to take control of all assets and real and personal property of any nature of ULLICO CASUALTY and to marshal and liquidate the assets, business, and affairs of ULLICO CASUALTY;

WHEREAS, Section 5918(e)(2) of Title 18 of the Delaware Code generally provides that the reasonable and necessary administrative expenses of certain Guaranty Associations affected by the Ullico Casualty insolvency qualify as Priority Class II claims against the Ullico Casualty estate. The statute further provides generally that those expenses are to be paid currently if the Receiver determines that the assets of the estate will be sufficient to pay all Class I claims in full and the Receiver secures from each of the Guaranty Associations receiving disbursements an agreement to return to the Receiver such disbursement, together with investment income actually earned on such disbursement, as may be required to pay Class I claims;



WHEREAS, pursuant to 18 Del. C. §5911(c), the Receiver is required to propose an Order to provide for a plan for early access disbursements (“Early Access Disbursements”) to the Guaranty Associations for their payments on Covered Claims;

WHEREAS, the Receiver has provided the Court with evidence that, in accordance with 18 Del. C. §5911(c)(4), the proposed form of such an Order and Exhibit 1 to the Petition, a proposed Early Access Agreement, were submitted in advance to the Guaranty Associations and State Insurance Commissioners on September 30, 2013;

WHEREAS, the Receiver initially submitted a Petition on March 6, 2016, for approval of an earlier version of the Class III Early Access Agreement, to which numerous Guaranty Associations filed objections. As a result, no Order was entered on the substance of the initial Petition; and

WHEREAS, after negotiations between the Receiver and the Guaranty Associations concerning the terms of the two forms of Agreement appended to the Amended Petition, the Receiver has submitted her Amended Petition seeking approval of the Proposed Administrative Expense Early Access Agreement appended as Exhibit “1” to the Amended Petition and the Proposed Class III Early Access Agreement appended as Exhibit “2” to the Amended Petition;

Having considered the Proposed Order, the Proposed Administrative Expense Early Access Agreement attached as Exhibit “1” to the Amended Petition, and the Proposed Class III Early Access Agreement attached as Exhibit “2” to the Amended Petition, and concluded that the Proposed Order and Exhibits “1” and “2” to the Petition are in compliance with the applicable statutes and in the best interests of ULLICO CASUALTY, the Guaranty Associations, the ULLICO CASUALTY policyholders, the claimants, the ULLICO CASUALTY general creditors, and the public;

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The Receiver’s Amended Petition is hereby GRANTED. The Early Access Plan submitted by the Receiver in the Proposed Order is hereby APPROVED in its entirety and hereby ENTERED, the form of the Proposed Administrative Expense Early Access Agreement appended to the Petition as Exhibit “1” is hereby APPROVED substantially in the form appended as Exhibit “1” to the Petition, and the form of the Proposed Class III Early Access Agreement appended to the Petition as Exhibit “2” is hereby APPROVED substantially in the form appended as Exhibit “2” to the Petition.

2. Upon determining that assets are available to make an Early Access Disbursement to the Participating Guaranty Associations on their Class II and/or Class III claims, the Receiver shall file in the Liquidation Proceedings a Notice, which for an Administrative Expense Early Access Disbursement shall be a “Notice of Receiver’s Intent to Make an Administrative Expense Early Access Disbursement to Participating Guaranty Associations,” and for a Class III Early Access Disbursement shall be a “Notice of Receiver’s Intent to Make a Class III Early Access Disbursement to Participating Guaranty Associations,” or a comparable Notice if the Early Access Disbursement is to be for both Class II and Class III claims of Participating Guaranty Associations, with a proposed Order to Show Cause which shall be served upon all counsel appearing in the Liquidation Proceeding and all Guaranty Associations which have filed a Proof of Claim and which Notice shall require all parties receiving the Notice and signed Order to Show Cause to file any objections to such Administrative Expense Early Access Disbursement within thirty (30) days after receipt of such Notice and Order to Show Cause.

3. The Receiver’s determination concerning whether funds are available to make an Early Access Disbursement to reimburse the Participating Guaranty Associations’ Administrative Expenses or payments

on Covered Claims shall take into account any Class I Receiver's administrative expenses already due or reasonably anticipated to be due from the estate, a reasonable reserve for future administrative expenses, penalties for early withdrawal of invested funds, secured claims, amounts held by the estate which a third party claims are not assets of the estate, higher priority claims, and any encumbrances on estate Assets, whether or not such encumbrances are disputed.

4. If one or more objections are timely filed in response to the Receiver's Notice referenced in Paragraph 3 above, the Receiver shall not use any Assets which are in dispute to make the proposed Early Access Disbursement unless and until after such objection(s) has been resolved or adjudicated in favor of ULLICO CASUALTY. If there are other available Assets which are not implicated in the objection, the proposed Early Access Disbursement shall be made in the amount of the unencumbered available Assets. If no objections are timely filed in response to the Receiver's Notice, the Receiver shall make the Early Access Disbursement within thirty (30) days of the objection deadline.

5. The Participating Guaranty Associations for each Early Access Disbursement shall be those Guaranty Associations with which the Receiver has entered into an Early Access Agreement for the type of disbursement

being made as of the date on which the Receiver makes the Early Access Disbursement. Each Early Access Disbursement shall be allocated among the Participating Guaranty Associations in proportion to the total claim in the applicable priority class (Class II or Class III) paid by such Participating Guaranty Associations as of the most recently filed reports required by Paragraph 1 hereof.

6. The Guaranty Associations shall report their Class II and Class III claims as required by the applicable Early Access Agreement.

7. Guaranty Associations which are owners of special deposit claims in accordance with 18 Del. C. §5918(c) shall be treated in accordance with the provisions of the proposed Early Access Agreements appended to the Receiver's Amended Petition as Exhibits "1" and "2." The parties have reserved their rights with respect to any dispute concerning 18 Del. C. §5918(c), should such a dispute arise, and nothing herein is intended to adjudicate any dispute concerning the interpretation of that section.

8. Within three (3) business days of receipt of this Order, the Receiver's counsel shall serve a copy of this Order on each Guaranty Association and Insurance Commissioner.

9. Upon execution of an Early Access Agreement, whether for Class II claims, Class III claims, or both, by a Participating Guaranty Association and the Receiver, the Receiver and each signatory Participating Guaranty Association shall be bound by its terms and shall comply with the terms of such Early Access Agreement(s).

10. This Court shall retain jurisdiction over any matters relating to the implementation of this Order including but not limited to issues concerning interpretation, enforcement, or implementation of the Early Access Plan and the respective Early Access Agreements.

IT IS SO ORDERED:

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Joseph R. Slights III  
Vice Chancellor

Dated:



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF )  
THE LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )

**RECEIVER'S MOTION FOR ENTRY OF AN ORDER TO  
SHOW CAUSE CONCERNING THE RECEIVER'S  
AMENDED VERIFIED PETITION FOR APPROVAL OF  
PLAN FOR EARLY ACCESS DISBURSEMENTS TO  
PARTICIPATING GUARANTY ASSOCIATIONS**

Movant, the Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as the Receiver ( "Receiver") of Ullico Casualty Company ("Ullico Casualty"), hereby moves this Honorable Court for the entry of an Order to Show Cause, substantially in the form of Order to Show Cause submitted with this Motion, concerning the Receiver's Amended Verified Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations (the "Petition"), which seeks approval of an plan for early access disbursements for the Class II administrative expenses and the Class III covered claims of the participating Guaranty Associations.

In support of this Motion, the Receiver states the following:

1. The Petition outlines the statutory requirements for the Receiver to propose a plan for early access disbursements and for the payment of the reasonable and necessary administrative expenses of the Guaranty Associations.

The Petition also outlines the provisions in the statute concerning the handling of guaranty association claims to special deposits held in their state.

2. The Receiver has filed this Amended Petition in response to certain objections to an earlier plan concerning the Class III claims of the Guaranty Associations, to supplement the plan to also address the Class II administrative expenses of the Guaranty Associations, and to formalize the results of negotiations among the Receiver and the Guaranty Associations affected by the Ullico Casualty insolvency concerning the Petition and forms of Agreement.

3. The Receiver seeks to have this Court issue an Order to Show Cause to establish a procedure for the Guaranty Associations, the Insurance Commissioners, and the other creditors and interested parties who have appeared in this matter to have the opportunity to review the Petition and the opportunity to provide their objections, if any, to the Petition.

4. The Order to Show Cause sought would require a Guaranty Association, Insurance Commissioner, or other creditor or interested party to file their objections, if any, to the Petition by a date no earlier than at least sixty (60) days after entry of the Order to Show Cause. The Order to Show Cause would further provide that a hearing would only be scheduled on the Petition if an objection is filed to the Petition. A form of Order to Show Cause has been submitted with this Motion.



WHEREFORE, the undersigned attorney on behalf of The Honorable Trinidad Navarro, Insurance Commissioner of the State of Delaware, in his capacity as Receiver of Ullico Casualty Company in Liquidation, respectfully requests that this Honorable Court grant the Receiver's Motion for Entry of an Order to Show Cause Concerning the Receiver's Amended Verified Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations, and for such further relief as the Court deems just.

Respectfully submitted,

By: /s/ Diane J. Bartels  
Diane J. Bartels  
Del. Bar No. 2530  
Brandywine Village  
1807 North Market Street  
Wilmington, DE 19802-4810  
Tel. (302) 656-7207  
Email: DBartelsDE@aol.com

Dated: July 18, 2017

Of Counsel:

James J. Black III, Esq.  
(Admitted Pro Hac Vice)  
Jeffrey B. Miceli, Esq.  
(Admitted Pro Hac Vice)  
Black & Gerngross, P.C.  
Suite 1575  
1617 John F. Kennedy Boulevard  
Philadelphia, PA 19103  
Tel. (215) 636-1650

Attorneys for the Honorable  
Trinidad Navarro, Insurance  
Commissioner of the State of  
Delaware, in his Capacity as  
the Receiver of Ullico Casualty  
Company in Liquidation



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF THE )  
LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )

**ORDER TO SHOW CAUSE CONCERNING RECEIVER'S AMENDED  
VERIFIED PETITION FOR APPROVAL OF PLAN FOR EARLY ACCESS  
DISBURSEMENTS TO PARTICIPATING GUARANTY ASSOCIATIONS**

**PLEASE READ THIS ORDER CAREFULLY AS IT MIGHT AFFECT  
YOUR RIGHTS CONCERNING ULLICO CASUALTY COMPANY IN  
LIQUIDATION ("ULLICO CASUALTY"). IF YOU DO NOT FILE A  
TIMELY RESPONSE TO THE RECEIVER'S AMENDED PETITION  
FOLLOWING THE INSTRUCTIONS IN THIS ORDER, ANY OBJECTION  
TO OR COMMENTS YOU HAVE CONCERNING THE RELIEF SOUGHT  
BY THE RECEIVER OF ULLICO CASUALTY WILL BE DEEMED  
WAIVED AND THE COURT WILL GRANT THE RECEIVER'S  
AMENDED PETITION AND THE RELIEF SOUGHT THEREIN. (If you  
have no objection or comment concerning the Petition or the relief sought  
therein, you do not need to take any further action in response to this Order  
to Show Cause.)**

WHEREAS, pursuant to 18 Del. C. §§ 5902(a) and 5911(c), the Receiver of  
ULLICO CASUALTY filed the *Receiver's Amended Verified Petition for  
Approval of Plan for Early Access Disbursements to Participating Guaranty*

*Associations* (the “Petition”) seeking to have the Court approve the Receiver’s plan for early access disbursement of available funds to Participating Guaranty Associations and specifically the form of Administrative Expense Early Access Agreement appended to the Amended Petition as Exhibit “1” and the form of Class III Early Access Agreement appended to the Amended Petition as Exhibit “2,”

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

**HEARING**

1. A hearing on the Petition will be scheduled only if there are any objections filed on or before the Objection Deadline set forth in Paragraph 2 below.

**OBJECTION PROCEDURE AND OBJECTION DEADLINE**

2. ***ANY INTERESTED PARTY WHO HAS AN OBJECTION TO THE PETITION MUST FILE SUCH OBJECTION WITH THE COURT SO THAT THE OBJECTION IS ACTUALLY RECEIVED BY THE COURT ON OR BEFORE \_\_\_\_\_ (THE “OBJECTION DEADLINE”). IF AN INTERESTED PARTY DOES NOT FILE AN OBJECTION ON OR BEFORE THE OBJECTION DEADLINE, ANY OBJECTION WHICH SUCH PARTY HAS TO THE PETITION OR THE RELIEF SOUGHT THEREIN WILL BE DEEMED TO HAVE BEEN***

***WAIVED, AND THE COURT WILL GRANT THE RECEIVER’S AMENDED PETITION AND APPROVE THE PLAN FOR EARLY ACCESS DISBURSEMENTS AND THE FORMS OF EARLY ACCESS AGREEMENTS IN EXHIBITS “1” AND “2” TO THE AMENDED PETITION.***

3. Any objection must be filed in writing on or before the Objection Deadline by Delaware counsel through electronic service as required by the Court’s Rules or by unrepresented individuals with the Court at the Court’s address at:

Register in Chancery  
Court of Chancery of the State  
of Delaware  
Kent Court Courthouse  
414 Federal Street  
Dover, Delaware 19901

and shall include the following information:

a. The caption of these proceedings:

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF THE	)
LIQUIDATION OF	) C.A. No. 8392-VCS
ULLICO CASUALTY COMPANY	)

b. the nature of the document being filed (i.e., Objection to the Receiver's Amended Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations);

- c. the name, address and telephone number of the person filing the document;
- d. the date the document is being filed; and
- e. the grounds for such party's objection to the Amended Petition and the relief sought therein.

Please note that corporations and other entities are required to be represented by Delaware counsel to appear before the Court.

**NOTICE OF THIS ORDER TO SHOW CAUSE**

4. Within three (3) business days of receipt of this signed Order to Show Cause, the Receiver shall serve copies of this signed Order to Show Cause, the Amended Petition, the Verification and Exhibits thereto, and the proposed Final Order thereto, by U.S. first class certified mail, postage prepaid, return receipt requested, on all Guaranty Associations and State Insurance Commissioners.

5. If no interested party files a timely objection to the Petition, the Court will enter an Order granting the relief sought by the Receiver.

IT IS SO ORDERED.

---

Joseph R. Slights III  
Vice Chancellor

Dated:



DIANE J. BARTELS, ESQUIRE

BRANDYWINE VILLAGE  
1807 NORTH MARKET STREET  
WILMINGTON, DELAWARE  
19802-4810

TELEPHONE: 302-656-7207

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July 18, 2017

The Honorable Joseph R. Slights III  
Court of Chancery of the State of Delaware  
Kent County Courthouse  
38 The Green  
Dover, Delaware 19901

Re: In the Matter of the Liquidation of Ullico Casualty Company  
C.A. No. 8392-VCS

Dear Vice-Chancellor Slights:

Enclosed please find the *Receiver's Amended Verified Petition For Approval of Plan for Early Access Disbursements to Participating Guaranty Associations*, with the Verification, Exhibits "1" and "2," form of Order granting the Petition, Motion for Entry of Order to Show Cause, and form of Order to Show Cause thereto.

Respectfully submitted,

/s/ Diane J. Bartels  
Diane J. Bartels  
Del. Bar No. 2530  
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DJB/db  
Enclosures

The Honorable Joseph R. Slight III

Re: I/M of the Liquidation of Ullico Casualty Company, C.A. No. 8392-VCS

July 18, 2017

Page 2

cc: Thomas W. Jenkins, Esquire  
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Julie L. Young, Esquire  
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Michael W. Arrington, Esquire  
Elio Battista, Jr., Esquire



**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE**

IN THE MATTER OF THE )  
LIQUIDATION OF ) C.A. No. 8392-VCS  
ULLICO CASUALTY COMPANY )

**CERTIFICATE OF SERVICE**

I, Diane J. Bartels, Esquire, hereby certify that on the 18<sup>th</sup> day of July, 2017, I caused a true and correct copy of the foregoing *Receiver's Amended Verified Petition for Approval of Plan for Early Access Disbursements to Participating Guaranty Associations*, with the Verification, Exhibits "1" and "2," the proposed form of Order granting the Petition, the Motion for entry of Order to Show Cause, and the proposed form of Order to Show Cause, to be efiled and served on the following persons in the following manner:

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*/s/ Diane J. Bartels*

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Company in Liquidation

Dated: July 18, 2017