



IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN THE MATTER OF:)
) C.A. No. 8601-VCZ
INDEMNITY INSURANCE CORPORATION,)
RRG, IN LIQUIDATION)

**OMNIBUS ORDER CONFIRMING
FIRST REPORTED CLAIM RECOMMENDATIONS**

WHEREAS:

A. On April 10, 2014, the Delaware Chancery Court placed Indemnity Insurance Corporation RRG (“IICRRG”) into liquidation by a Liquidation and Injunction Order with Bar Date (“Liquidation Order”), pursuant to Delaware Uniform Insurers Liquidation Act (“DUILA”), 18 *Del. C.* § 5901, *et seq.*

B. The Liquidation Order appointed the Delaware Insurance Commissioner as Receiver (“Receiver”) and set a bar date of January 15, 2015, for the filing of proofs of claims against IICRRG and information for filing claims, including a Proof of Claim (“POC”) form, was sent to potential claimants of IICRRG.

C. Pursuant to 18 *Del. C.* § 5902(a) and the Plan for the Receiver’s Claim Recommendation Report and Final Determination of Claim By The Court (the “Claim Final Determination Plan”),¹ the Receiver has filed the First Report of

¹ Docket Item (“D.I.”) 899.

Claims Recommendations Pursuant to Paragraph (C) 8 and 9 of the Claim Final Determination Plan (“First Report”);² the Court has entered an Order to Show Cause fixing a time, date, and objection deadline to respond to the claim recommendations in the First Report;³ the Court and Receiver have given notice to claimants whose claims are in the First Report;⁴ and the December 27, 2022, Objection Deadline has passed with the submission of only one objection via the Claimant Portal, in POC #s 0222 and 1074 (the “Objection”).⁵

D. A telephonic hearing on the Objection was held on January 25, 2023, at 1:30 p.m. Neither the claimants nor their counsel appeared. The Court considered the Receiver’s Claim Recommendation in view of the Objection and supporting materials as submitted through the Claimant Portal under an abuse of discretion standard.⁶

E. The Receiver submitted to the Court for *in camera* review its notices of determination for the First Report claims for which no objection was received (the

² D.I. 900.

³ D.I. 901.

⁴ D.I. 911, 912.

⁵ Materials submitted by the claimant and Receiver via the Claimant Portal in connection with this objection are submitted under seal as an exhibit to this Order.

⁶ *Matter of Scottish Re (U.S.), Inc.*, 273 A.3d 277, 293 (Del. Ch. Mar. 31, 2022) (“Black letter authorities generally state that an abuse of discretion standard applies when a court reviews the decision of an insurance commissioner acting as a receiver for a delinquent insurer.” (collecting authorities)).

“Unopposed Determinations”). The Court reviewed the Unopposed Determinations under an abuse of discretion standard.⁷

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Objection is overruled. The claimants offer no valid basis to conclude the Receiver abused its discretion in valuing the claim for indemnity at \$3,000,000, rather than \$4,000,000. While the claimants settled the underlying wrongful death claims for \$4,000,000, they did so after the insurer entered liquidation and on notice it had done so. By statute, no judgment against an insured “taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability or of the amount of damages.”⁸ If a court-ordered judgment after entry of a liquidation order cannot be considered as evidence of the amount of damages, certainly a private settlement that was reached after liquidation, and with notice of that liquidation, and without the involvement of the insurer or its receiver, cannot be considered as evidence of the amount of damages. The Receiver also offered rationales for its indemnity valuation, based on the exclusion of punitive damage coverage and the extent of exposure to earning capacity and pain and suffering amounts, that demonstrated the Receiver’s conclusion was not arbitrary and capricious.⁹

⁷ *See id.*

⁸ 18 *Del. C.* § 5928(c).

⁹ *See Matter of Scottish Re (U.S.), Inc.*, 273 A.3d at 293.

2. The Unopposed Determinations are confirmed. The Court saw no basis to conclude the Receiver abused its discretion in making those Determinations.

3. This Order shall be sent to the Objector through the Claimant Portal, and served on counsel for the Receiver. This Order will be publicly available to claimants in the Unopposed Determinations.

SO ORDERED this 25th day of January, 2023.

/s/ Morgan T. Zurn

Vice Chancellor Morgan T. Zurn