

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

IN THE MATTER OF THE LIQUIDATION) No. 96 CH 5093
OF GENEVA ASSURANCE SYNDICATE, INC.)
)
IN THE MATTER OF THE LIQUIDATION) No. 96 CH 10138
OF FIRST OAK BROOK CORP. SYNDICATE) (Consolidated)
)
IN THE MATTER OF THE LIQUIDATION) No. 97 CH 1974
OF RESURE INC.) (Consolidated)
)
IN THE MATTER OF THE LIQUIDATION) No. 99 CH 1639
OF AAI SYNDICATE # 1, LTD.) (Consolidated)
)
IN THE MATTER OF THE LIQUIDATION) No. 99 CH 267
OF ALPINE INSURANCE COMPANY) (Consolidated)
)
IN THE MATTER OF THE LIQUIDATION) No. 00 CH 7217
OF RCA SYNDICATE #1, LTD.) (Consolidated)
)
IN THE MATTER OF THE LIQUIDATION) No. 00 CH 13471
OF AGORA SYNDICATE, INC.) (Consolidated)

NATHANIAL S. SHAPO, Director of)
Insurance of the State of Illinois,)
as Statutory Liquidator of Geneva)
Assurance Syndicate, Inc., and)
First Oak Brook Corp. Syndicate,)
)
Counterplaintiff,)
)
v.)
)
) No. 96 CH 5093
) (Consolidated)
) Judge Foreman
THE INEX INSURANCE EXCHANGE, an)
Illinois not-for-profit corporation,)
and THE INEX INSURANCE EXCHANGE)
GUARANTY FUND, an Illinois)
not-for-profit corporation,)
)
)
Counter-defendants.)

**NOTICE OF HEARING ON THE FAIRNESS OF A PROPOSED PLAN OF
DISTRIBUTION TO CLAIMANTS OF CERTAIN INSOLVENT
INSURANCE SYNDICATES APPROVED AS UNDERWRITING MEMBERS
OF THE INEX INSURANCE EXCHANGE**

TO: PERSONS AND ENTITIES WITH PENDING OR APPROVED CLAIMS WITH RESPECT TO THE FOLLOWING SEVEN SYNDICATES AFFECTED BY ORDERS OF LIQUIDATION WITH FINDINGS OF INSOLVENCY ENTERED BY THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS:

- (A) Geneva Assurance Syndicate, Inc. ("Geneva"),
order entered July 11, 1996;
- (B) First Oak Brook Corp. Syndicate ("First Oak
Brook") order entered November 12, 1996;
- (C) Resure, Inc. ("Resure"),
order entered February 27, 1997;
- (D) AAI Syndicate #1, Ltd. ("AAI"),
order entered February 9, 1999;
- (E) RCA Syndicate #1, Ltd. ("RCA"),
order entered June 5, 2000;
- (F) Transco Syndicate #1, Ltd., now known as Alpine Holdings
Company ("Transco"), order affecting Transco
creditors entered June 28, 2000 in the liquidation
of its subsidiary Alpine Insurance Company;
- (G) Agora Syndicate, Inc. ("Agora"),
order entered November 15, 2000.

PURPOSE OF NOTICE

YOU ARE BEING SENT THIS NOTICE TO ADVISE YOU THAT ON JULY 21, 2003 , AT 2:00 P.M., THE CIRCUIT COURT OF COOK COUNTY WILL CONDUCT A HEARING TO CONSIDER APPROVAL OF A PLAN OF DISTRIBUTION OF ASSETS OF THE INEX INSURANCE EXCHANGE GUARANTY FUND ("THE GUARANTY FUND") TO CLAIMANTS OF THE ABOVE-LISTED SEVEN SYNDICATES ("THE INSOLVENT SYNDICATES").

AS EXPLAINED BELOW, THE GUARANTY FUND, THE INEX INSURANCE EXCHANGE ("THE EXCHANGE"), AND THE INEX INSURANCE EXCHANGE IMMEDIATE ACCESS SECURITY ASSOCIATION ("THE ASSOCIATION"), HAVE PROPOSED THE PLAN OF DISTRIBUTION AND ARE SEEKING AN ORDER FROM

THE COURT APPROVING THE PLAN. IF APPROVED, THE ORDER WILL PROVIDE THAT THE RIGHTS OF ALL CLAIMANTS OF THE SEVEN INSOLVENT SYNDICATES TO PAYMENT FROM THE GUARANTY FUND ARE BOUND BY AND SUBJECT TO THE TERMS OF THE PLAN OF DISTRIBUTION.

BACKGROUND TO THE HEARING

The Exchange is an Illinois not-for-profit corporation, created pursuant to the Illinois Insurance Exchange Act, Article V 1/2 of the Illinois Insurance Code, 215 ILCS 5/107 *et seq.*, to operate as an exchange for the insurance and reinsurance of risks. The seven Insolvent Syndicates were underwriting members of the Exchange.

The Guaranty Fund is an Illinois not-for-profit corporation, established for the protection of persons and entities insured or reinsured pursuant to policies issued by member syndicates of the Exchange through the facilities of the Exchange.

The Association is an Illinois not-for-profit corporation, created pursuant to §107.26 of the Illinois Insurance Code, 215 ILCS 5/107.26 with certain responsibilities with respect to claims against insolvent syndicates. Certain of the Association's responsibilities pertaining to the seven Insolvent Syndicates have been delegated, with Court approval, to the Liquidator of the insolvent syndicates pursuant to §107.26(c) of the Illinois Insurance Code.

Pursuant to the Guaranty Fund's Plan of Operation ("the Plan of Operation"), persons or entities insured or reinsured pursuant to contracts underwritten through the Exchange by insolvent member syndicates of the Exchange may be entitled to payments from the Guaranty Fund, subject to the terms of its Plan of Operation and the Exchange's rules and regulations.

The circumstance whereby orders of liquidation with findings of insolvency have been entered affecting seven Exchange syndicates have imposed extraordinary burdens on the limited assets of the Guaranty Fund. It is now clear that assets of the Guaranty Fund available for payment of claims relating to these insolvencies pursuant to the Plan of Operation will be insufficient to fully satisfy the anticipated total covered claims against the Guaranty Fund arising from the seven insolvencies.

The Director of the Department of Insurance of the State of Illinois has been named the statutory liquidator of the seven Insolvent Syndicates pursuant to the orders of liquidation. ("the

Liquidator"). There has been a dispute, which includes pending litigation in the Circuit Court of Cook County, Illinois, between the Director and the Exchange and Guaranty Fund concerning the applicability of §4.9 of the Plan of Operation in the context of the Geneva and First Oak Brook insolvencies. Under this section of the Plan of Operation, when two syndicates have been declared insolvent within a 90 day period they are deemed to be a single insolvency. When §4.9 is applicable, the two affected insolvencies would be subjected to the maximum \$15,000,000 amount payable for a single insolvency under the Guaranty Fund Plan of Operation.

While in normal circumstances a determination that §4.9 is inapplicable would increase the amounts available from the Guaranty Fund for covered claims relating to syndicate insolvencies, this is not true in the present situation where seven Exchange syndicates have been affected by insolvencies. Regardless of any resolution of this dispute, the total assets of the Guaranty Fund available for these insolvencies will be insufficient to satisfy all of the projected covered claims. Furthermore, the costs of continued litigation over §4.9 would only deplete the available assets of the insolvent syndicate estates and of the Guaranty Fund.

Accordingly, the Guaranty Fund, the Exchange, and the Association have proposed a Plan of Distribution to achieve the fairest and most effective utilization of the limited assets of the Guaranty Fund for payment of approved covered claims relating to the seven Insolvent Syndicates. As summarized below, the Plan provides for a *pro rata* distribution of the applicable funds among all insureds and reinsureds having approved covered claims arising from the seven insolvencies.

The Guaranty Fund and the Exchange are of the opinion that this plan will

- ◆ maximize the amount of funds for distribution with respect to approved covered claims arising from the seven insolvencies
- ◆ provide the fairest means of distribution
- ◆ enable earlier distributions to claimants, and
- ◆ avoid the costs of litigation which could substantially reduce the amounts available for distribution to claimants.

The Director, in his capacity as statutory liquidator of the seven Insolvent Syndicates, has agreed to dismiss the litigation concerning the interpretation of §4.9 of the Plan of Operation, provided that the Circuit Court enters a binding order approving the proposed Plan of Distribution following a hearing as to its fairness.

SUMMARY OF THE PLAN OF DISTRIBUTION

The Guaranty Fund will make available the entire amount in its Premium Surcharge Account, for payment of approved covered claims and expenses relating to the seven Insolvent Syndicates, except for those Premium Surcharge funds which would not be available for any of these insolvencies under the provisions of the Plan of Operation. Approved covered claims are those claims as defined by §1.2(f) of the Plan of Operation, which have been approved and adjudicated by the Court with jurisdiction over the relevant syndicate insolvency.

After distribution of the applicable amounts from the Premium Surcharge Account, the Guaranty Fund will also make available for payment of approved covered claims and related expenses the amounts held in various syndicate Guaranty Fund Custodial Accounts, except for those Custodial Account funds which would not be applicable to any of the seven insolvencies under the provisions of the Plan of Operation and the Exchange's rules and regulations.

These amounts will be distributed on a *pro rata* basis among Approved Claimants. Approved Claimants are those insureds and reinsureds who submitted timely covered claims to the Liquidator of the seven insolvencies whose claims have been approved and adjudicated by the Court with jurisdiction pertaining to the insolvency. The determination of whether a claim is a covered claim within the meaning of §1.2(f) of the Guaranty Fund's Plan of Operation will be made by the Guaranty Fund. Disbursement will be calculated so that Approved Claimants of each of the seven Insolvent Syndicates will receive from the Guaranty Fund the same percentage of the first unpaid \$300,000 of their approved Covered Claims for unpaid insurance and reinsurance obligations as adjudicated by the court with jurisdiction for the insolvency. The aggregate total of payments with respect to any one of seven insolvencies, including Geneva and First Oak Brook, shall be limited to \$15,000,000.

Thus, distributions will be *pro rata* among all Approved Claimants, and each of the seven insolvencies will be deemed to be a separate insolvency subject to the identical payment limit.

The respective dates of the orders of insolvencies will not affect distributions to Approved Claimants.

Distributions from the Guaranty Fund will be made in an expedited manner. Rather than waiting for the Liquidator to complete its distributions from all seven insolvent syndicate estates, partial distributions will be made after the Liquidator has made final distributions to claimants of any individual estate. Such partial payments will be made according to calculations that will ensure that in the end all Approved Claimants will receive their *pro rata* share of the available amounts from the Guaranty Fund.

THE HEARING ON THE PLAN OF DISTRIBUTION

A hearing will be held by the Hon. Lester D. Foreman on July 21, 2003, at 2:00 P.M. in Courtroom 2308 of the Richard J. Daley Center, Chicago, Illinois. Judge Foreman is the judge with jurisdiction over all of the seven syndicate liquidation proceedings with respect to the issues concerning distributions from the Guaranty Fund.

The hearing will consider the fairness of the Plan of Distribution. The Court will decide whether to grant the motion of the Guaranty Fund and the Exchange to approve the Plan of Distribution. If the Court approves the Plan of Distribution, the Court will be requested to enter an order declaring that the terms of the Plan of Distribution shall be binding upon all claimants of the seven Insolvent Syndicates. Additionally, if the Court approves the Plan of Distribution, the Court will be asked by the Liquidator to dismiss with prejudice the litigation concerning §4.9 of the Plan of Operation.

The hearing shall be open to all claimants who have submitted timely claims to the Liquidator with respect to any of the seven insolvencies, provided that their claims have not been denied pursuant to the procedures applicable to such claims.

CLAIMANTS WHO WISH TO PARTICIPATE IN THE HEARING MUST COMPLY WITH THE FOLLOWING PROCEDURE:

Claimants must file with the Court a written notice stating an intention to appear at the hearing, and briefly summarizing the nature of the points the claimant wishes the Court to consider in determining whether to approve the Plan of

Distribution.

A claimant must also submit with the notice all papers which the claimant wishes the Court to consider as part of its determination.

The notice and documents must be sent to:

Hon. Lester D. Foreman/INEX Guaranty Fund Hearing
Room 2308
Richard J. Daley Center
Chicago, Illinois 60602

Copies of the notice and documents must also be sent to the following attorneys:

- 1) The attorneys representing the Exchange and Guaranty Fund:

Torshen, Slobig, Genden, Dragutinovich and Axel, Ltd.
105 W. Adams Street
Suite 3200
Chicago, IL 60603

- 2) The attorneys representing the Director of the Department of Insurance (the statutory liquidator of the seven Insolvent Syndicates):

Office of the Special Deputy Receiver
222 Merchandise Mart Plaza
Suite 1450
Chicago, IL 60654

The notice and documents must be filed and served no later than May 23, 2003. The claimant must attach to these documents a notarized statement specifying the date on which the notice and documents were either mailed or caused to be hand-delivered to the Clerk of the Court and the attorneys for the Exchange/Guaranty Fund and the attorney for the Director of the Department of Insurance.

Only those claimants who have given timely notice to the Court and the attorneys shall be permitted to participate in the hearing.

Additional Information

Copies of relevant documents, including the Plan of Distribution, the Guaranty Fund's Plan of Operation, pertinent Exchange regulations, and the motion for approval of Plan of Distribution may be reviewed on and downloaded from INEX's website at www.theinex.com. Alternatively, if you are unable to access or download these documents, you may submit a written request to:

The INEX Insurance Exchange
One South Wacker Drive
Suite 2720
Chicago, IL 60606-6619

fax: 312-803-2948

The court papers filed in the cases identified in this Notice are available for inspection in the office of the Clerk of the Circuit Court of Cook County, Illinois, Chancery Division, Daley Center, 8th Floor, Chicago, Illinois 60602.

Please do not call the Judge or the Clerk of the Court. They will not be able to give you advice about this case or information concerning the Plan of Distribution.

By Order of the Circuit Court of Cook County, Illinois,
Chancery Division.

Judge Lester D. Foreman

dated February 3, 2003