

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)

ORDER REGARDING THE SERVICE PLAN, CLAIM FINAL DETERMINATION PLAN, AND JEFFREY COHEN’S OBJECTION

WHEREAS:

A. On May 20, 2020, this Court issued an Order to Show Cause setting July 17 as the deadline for objecting to two plans by the Receiver in this insurer liquidation case: 1) the Plan for the Receiver’s Claim Recommendation Reports and Final Determination of Claims by the Court (the “Claim Final Determination Plan”), and 2) the Plan Regarding the Service of the Receiver’s Public Court Filings Concerning the Proof of Claims Process (the “Service Plan”).¹

B. On July 9, Jeffrey Cohen, who contends he has submitted four policyholder claims and seven creditor claims, objected to the Claim Final Determination Plan on the basis that it lacked an opportunity to conduct discovery.²

¹ Docket Item (“D.I.”) 800.

² D.I. 805. Cohen was the only claimant that objected to the Plans set forth in the May 20 Order. Cohen also filed a Petition for Declaratory Relief seeking the appointment of counsel and asserting other contentions specific to his claims. D.I. 806. This Order does not address that Petition, which is properly considered once the liquidation reaches the stage of adjudicating claims.

C. In advance of an August 18 hearing to address objections to the Claim Final Determination Plan and the Service Plan, this Order addresses only Cohen’s objection to the Claim Final Determination Plan. Because Cohen is incarcerated, he is unable to participate in the hearing, and therefore his objection must be reviewed on the papers.

D. This statutory liquidation proceeding is intended to “center on the orderly, expeditious, and equitable resolution of all claims against the insolvent insurer.”³ Accordingly, the Delaware Uniform Insurers Liquidation Act (“DUILA”) does not provide for discovery.⁴

E. No other objections to the Claim Final Determination Plan or the Service Plan were filed, and the Order to Show Cause contemplated that the Court could cancel the August 18 hearing if no objection is timely filed.

³ *Cohen v. State ex rel. Stewart*, 89 A.3d 65, 94 (Del. 2014).

⁴ 18 *Del. C.* § 5917 (establishing a mechanism for filing, processing, and paying claims in accordance with a statutory prioritization scheme, which does not explicitly provide an opportunity for discovery); *In re Liquid. of Freestone Ins. Co.*, 143 A.3d 1234, 1246 (Del. Ch. 2016) (detailing the DUILA procedure with no mention of an opportunity to conduct discovery); *Kreidler v. Cascade Nat. Ins. Co.*, 321 P.3d 281, 290 (Wash. Ct. App. 2014) (applying the Uniform Insurers Liquidation Act, determining that “the statutory scheme for administering proofs of claim requires claimants to produce evidence to support their own claim; it does not, however, provide a process for obtaining discovery from the Receiver,” and providing persuasive guidance for interpreting DUILA).

IT IS SO ORDERED this 17th day of August, 2020:

1. Cohen's objection is **DISMISSED**. Cohen may avail himself of the opportunity for claimants to receive a complete copy of the Receiver's POC File, together with the Notice of Determination Claim Review Summary for any claim he has submitted.

2. The hearing scheduled for August 18th is **CANCELLED**.

3. The Claim Final Determination Plan and Service Plan are **APPROVED**.

/s/ Morgan T. Zurn
Vice Chancellor Morgan T. Zurn