

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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COMMONWEALTH COURT
OF PENNSYLVANIA

24 JUN 2020 09 13

JESSICA K. ALTMAN,
INSURANCE COMMISSIONER OF
THE COMMONWEALTH OF
PENNSYLVANIA,

Plaintiff,

v.

WESTMORELAND CASUALTY
COMPANY,

Defendant.

No. 2645 C.D. 1987

ORDER

AND NOW, this ____ day of _____ 2020, upon consideration of the foregoing Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, it is ordered and decreed that:

1. The Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 of Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator (“Liquidator”) of Westmoreland Casualty Company (“Westmoreland”) (In Liquidation), is approved and confirmed absolutely.

2. The Liquidator is authorized to make distribution of the assets of Westmoreland in accordance with paragraph 6 of the Liquidator’s Final Accounting, Proposal for Final Distribution and Application for Approval of Notice, as follows:

- a. Priority class “a” claims will be paid at 100%. The Liquidator has already received \$6,130,434.35 in administrative expenses.
- b. Priority class “b” claims will be paid at least 49.505%.
- c. There are no priority class “c” claims.

- d. Priority class “d” claims will not be paid.
- e. Priority class “e” claims will not be paid.
- f. Priority class “f” claims will not be paid.
- g. Priority class “g” claims will not be paid.
- h. There are no priority class “h” claims.
- i. There are no priority class “i” claims.

3. The Liquidator is authorized to assign future annuity payments currently being received by the Liquidator to reimburse the payment of certain workers compensation payments to the entity that will continue to pay these claims post discharge, namely the Pennsylvania Workers Compensation Security Fund.

4. The Liquidator is authorized to destroy the records of Westmoreland in accordance with the recommendation attached as Exhibit C to the Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50.

5. In accordance with 40 P.S. § 221.48(a), following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator, which shall also seek approval of the final disposition of any assets remaining in the Liquidator’s possession at the time of discharge, or that may be unexpectedly received by the Liquidator post-discharge.

BY THE COURT:

BONNIE BRIGANCE LEADBETTER,
SENIOR JUDGE

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JESSICA K. ALTMAN,
INSURANCE COMMISSIONER OF
THE COMMONWEALTH OF
PENNSYLVANIA,

Plaintiff,

v.

WESTMORELAND CASUALTY
COMPANY,

Defendant.

No. 2645 C.D. 1987

**APPLICATION FOR APPROVAL OF
FINAL ACCOUNTING, FINAL DISTRIBUTION AND
RECOMMENDATION FOR DISPOSITION OF RECORDS
PURSUANT TO 40 P.S. § 221.50**

Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator of Westmoreland Casualty Company (hereinafter, "Liquidator"), by her undersigned counsel, respectfully represents that:

1. Westmoreland Casualty Company (hereinafter "Westmoreland") was placed in liquidation by Order of this Court dated September 27, 1988.
2. On October 1, 2019, the Liquidator filed with this Court her Final Accounting, Proposal for Final Distribution and Application for Approval of Notice ("Application"), seeking to make a final distribution of those assets she has collected, in accordance with 40 P.S. § 221.44.

3. The Liquidator provided notice to all known claimants of the Application, which Notice was mailed on February 5, 2020, after approval by this Court by Order dated February 5, 2020. Copies of the Order and Notice are attached hereto as Exhibits A and B, respectively.

4. In response to her Notice, the Liquidator did not receive any objections.

5. The Liquidator has responded to all Application-related claimant inquiries and has made all necessary address and information corrections to the claimant mailing list and stands ready to begin paying claims.

6. Accordingly, the Liquidator now files this Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50, seeking this Court's approval of her final accounting and final distribution, and her recommendation regarding the disposition of records, which is attached hereto as Exhibit C.

WHEREFORE, the Liquidator prays your Honorable Court that:

1. The Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 of Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator ("Liquidator") of Westmoreland Casualty Company ("Westmoreland") (In Liquidation), be approved and confirmed absolutely.

2. The Liquidator be authorized to make distribution of the assets of Westmoreland in accordance with paragraph 6 of the Liquidator's Final Accounting, Proposal for Final Distribution and Application for Approval of Notice, as follows:

- a. Priority class "a" claims will be paid at 100%. The Liquidator has already received \$6,130,434.35 in administrative expenses.

- b. Priority class “b” claims will be paid at least 49.505%.
- c. There are no priority class “c” claims.
- d. Priority class “d” claims will not be paid.
- e. Priority class “e” claims will not be paid.
- f. Priority class “f” claims will not be paid.
- g. Priority class “g” claims will not be paid.
- h. There are no priority class “h” claims.
- i. There are no priority class “i” claims.

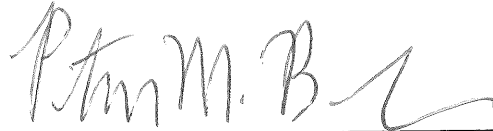
3. The Liquidator be authorized to assign future annuity payments currently being received by the Liquidator to reimburse the payment of certain workers compensation payments to the entity that will continue to pay these claims post discharge, namely the Pennsylvania Workers Compensation Security Fund.

4. The Liquidator be authorized to destroy the records of Westmoreland in accordance with the recommendation attached to this Application for Approval of Final Accounting, Final Distribution and Recommendation for Disposition of Records Pursuant to 40 P.S. § 221.50 as Exhibit C.

5. In accordance with 40 P.S. § 221.48(a), following the completion of the final distribution of assets, the Liquidator shall file an application seeking discharge of the Liquidator, which will also seek approval of the final disposition of any assets remaining in the Liquidator’s

possession at the time of discharge, or that may be unexpectedly received by the Liquidator post-discharge.

Respectfully submitted:



PRESTON M. BUCKMAN (I.D. #57570)
Governor's Office of General Counsel
Pennsylvania Insurance Department
Capitol Associate Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Attorney for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in her official capacity as Statutory
Liquidator of Westmoreland Casualty Company

Dated: _____

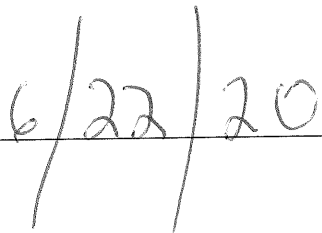


EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jessica K. Altman,
Insurance Commissioner of
The Commonwealth of
Pennsylvania,

Plaintiff

v.

Westmoreland Casualty Company,
Defendant

No. 2645 C.D. 1987

ORDER

NOW, February 5, 2020, upon consideration of the Liquidator's Application for Approval of Notice of Final Accounting and Proposal for Final Distribution (Application), which requests approval of the Notice (attached to the Application as Exhibit C) to claimants regarding the filing of the Application, the form of Notice and scope of service is hereby approved. The Liquidator shall mail the Notice by first-class mail to those 217 claimants in priority classes "a" and "b" that will receive a distribution, as listed in the report attached to the Application as Exhibit B. The Liquidator shall also mail the Notice by first-class mail to the workers' compensation claimants whose claims are subject to assignment to the Pennsylvania Workers' Compensation Security Fund, as provided in paragraph 12 of the Application.



Bonnie Brigance Leadbetter,
Senior Judge

Certified from the Record

FEB 05 2020

And Order Exit

EXHIBIT B

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Jessica K. Altman, Insurance
Commissioner of the Commonwealth
of Pennsylvania, as Statutory
Liquidator of Westmoreland Casualty
Company
Plaintiff

No. 2645 C.D. 1987

v.

Westmoreland Casualty Company
(in Liquidation),
Defendant

**NOTICE TO ALL CLAIMANTS OF
WESTMORELAND CASUALTY COMPANY**

PLEASE TAKE NOTICE that Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, and as such, Statutory Liquidator of Westmoreland Casualty Company (In Liquidation) ("Liquidator"), has filed for approval of her Final Accounting and Proposed Final Distribution, which sets forth the steps taken in this liquidation.

PLEASE TAKE FURTHER NOTICE that the total for class "a", "b", "d", "e", "f" and "g" priority claims that has been approved and allowed is \$252,628,995.62. There are no class "c", "h" or "i" claims. The total net assets available for distribution, after payment of administrative expenses incurred by the Liquidator and a reserve of \$128,000 for future pre and post discharge administrative expenses of the Liquidator, are \$135,915,371.09.

The Liquidator requests, or will subsequently request, that:

1. The Final Accounting and Proposed Final Distribution be approved and confirmed absolutely.

2. The Liquidator be authorized to make a distribution of the assets of Westmoreland as follows:

- a. Priority class "a" claims will be paid at 100%. The Liquidator has already received \$6,130,434.35 in administrative expenses.
- b. Priority class "b" claims will be paid at 49.505%.
- c. There are no priority class "c" claims.
- d. Priority class "d" claims will not be paid.
- e. Priority class "e" claims will not be paid.
- f. Priority class "f" claims will not be paid.
- g. Priority class "g" claims will not be paid.
- h. There are no priority class "h" claims.
- i. There are no priority class "i" claims.

3. The Liquidator's form of Notice to be sent by first class mail to claimants be approved.

4. The Liquidator be permitted to assign future annuity payments currently being received by the Liquidator to reimburse the payment of certain workers compensation payments to the entity that will continue to pay these claims post discharge, namely the Pennsylvania Workers Compensation Security Fund.

5. The Liquidator be authorized to destroy records of Westmoreland in accordance with a recommendation to be filed by the Liquidator with the Court after the issuance of the Notice and the resolution of any objections received to the Final Accounting and Proposed Final Distribution.

6. Jessica K. Altman, in her official capacity as Insurance Commissioner of the Commonwealth of Pennsylvania, and her predecessors in office, be discharged as Statutory

Liquidator of Westmoreland, and thereby released from any liability to make payment of any further claims, subject to the filing of an application by the Liquidator with this Court seeking the discharge of the Statutory Liquidator upon completion of the final distribution.

TAKE FURTHER NOTICE that objections to the Final Accounting and Proposed Final Distribution must be filed in writing with the Commonwealth Court of Pennsylvania, Office of Prothonotary, 601 Commonwealth Avenue, Suite 2100, Harrisburg, Pennsylvania 17106-9185. In the event of such a filing, please refer to Docket No. 2645 C.D. 1987.

Objections must be filed within 30 days of the date of this Notice, or they shall be forever barred. Objections must be clearly and concisely written.

Copies of this Final Accounting and Proposed Final Distribution are available to interested parties for inspection at the Commonwealth Court of Pennsylvania, Office of Prothonotary, 601 Commonwealth Avenue, Suite 2100, Harrisburg, Pennsylvania 17106-9185; and the PA Insurance Department, 901 North 7th Street, Harrisburg, Pennsylvania 17102.

If you have any questions, please call the Bureau of Liquidations Claims, 901 North 7th Street, Harrisburg, Pennsylvania 17102, (717) 787-7823.


Laura L. Slaymaker
Deputy Insurance Commissioner

EXHIBIT C

EXHIBIT C

TO THE LIQUIDATOR'S APPLICATION FOR APPROVAL OF FINAL ACCOUNTING, FINAL DISTRIBUTION AND RECOMMENDATION FOR DISPOSITION OF RECORDS PURSUANT TO 40 P.S. §221.50

RECOMMENDATION FOR THE DISPOSITION OF RECORDS

The Westmoreland Casualty Company ("Westmoreland") (In Liquidation) estate currently has the following categories of records:

- Underwriting Files including;
 - Policy Forms
 - Correspondence
 - Active policies at liquidation
 - Terminated policies
- Pre-liquidation administrative files
- Pre-liquidation files containing annual statements
- Pre-liquidation accounting files with correspondence
- Pre-liquidation accounting files containing payables
- Pre-liquidation accounting files containing tax records
- Pre-liquidation Reinsurance files – both ceded and assumed
- Pre-liquidation closed claim files
- Pre-liquidation open claim files closed post liquidation
- Pre-liquidation marketing files
- Pre-liquidation legal correspondence files
- Post-liquidation administrative files including;
 - Corporate Records
 - Personnel files
 - Corporate Insurance files
 - Correspondence files
- Post-liquidation proof of claim files

Pre-liquidation records are important in the early stages of a liquidation proceeding, as they inform the Liquidator about, *inter alia*, the company's assets and financial arrangements, the identity of policyholders and creditors, the identity and status of claims, agent and reinsurance

arrangements, and the identity and status of ongoing or contemplated litigation. These records, however, become less and less utilized as the liquidation progresses, as the Liquidator's staff creates and maintains their own records, such that the original, pre-liquidation records of the company lose, to a large extent, their usefulness in the final stages of a liquidation proceeding. Accordingly, now that the Westmoreland liquidation proceeding is nearing its conclusion, the Liquidator is recommending that most of the pre-liquidation records be destroyed, as they no longer serve any purpose and will not be required in the future to respond to any post-discharge inquiries that may be received concerning the Westmoreland liquidation proceeding. The Liquidator would, however, retain the pre-liquidation accounting files that contain tax records, as they could contain information that would possibly be needed to file the post-discharge final tax return with the IRS.

The Liquidator is also recommending that all post-liquidation files be retained until such time post discharge that she believes they are no longer needed in order to respond to any future inquiries concerning the Westmoreland liquidation, or for any other purpose, at which time the Liquidator respectfully requests that this Court grant her the discretion to destroy those records.

Finally, the Liquidator would note that certain key records of any liquidation proceeding, such as Court orders, final executed settlement agreements, legal filings, certain significant reports and memoranda, *inter alia*, are maintained in perpetuity. That will be the case with the Westmoreland estate as well.

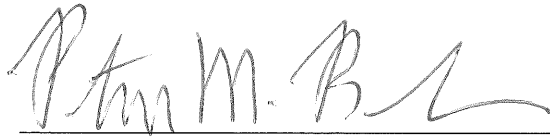
In keeping with the foregoing, the Liquidator seeks this Court's approval of the following recommendation for the disposition of Westmoreland records:

1. The Liquidator be authorized to destroy the pre-liquidation records, with the exception of the accounting files that contain tax records;

2. That the Liquidator be granted the discretion to prospectively destroy records that she believes no longer need to be retained for any post discharge purpose.

**CERTIFICATION OF COMPLIANCE
WITH PUBLIC ACCESS POLICY**

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.



Preston M. Buckman (I.D. No. 57570)
PA Office of General Counsel
Pennsylvania Insurance Department
Office of Liquidations, Rehabilitations
and Special Funds
901 North 7th Street
Harrisburg, PA 17102
(717) 886-2080

Attorney for Jessica K. Altman, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in her official capacity as
Statutory Liquidator of Westmoreland
Casualty Company

Dated: _____

6/22/20

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding, in accordance with the requirements of Pa. R.A.P. 3780, in the following manner:

Service by first-class mail, addressed as follows:

Donna J. Pankowski, District Counsel
Internal Revenue Service
1000 Liberty Avenue, Room 112
Pittsburgh, PA 15222-4003

Internal Revenue Service
Special Procedures Department
P.O. Box 12051
Philadelphia, PA 19105

Barry Miller, Executive Director
Delaware Insurance Guaranty Association
220 Continental Drive, Suite 309
Newark, DE 19713-4311

Arthur Russell, Executive Director
Mississippi Insurance Guaranty Association
713 South Pear Orchard Road, Suite 200
Ridgeland, MS 39157-4823

Sharon Williams, Deputy Director
Commercial Litigation Branch
Department of Justice, Civil Division
P.O. Box 875
Ben Franklin Station
Washington, DC 20044

Internal Revenue Service
Taxpayer Services
600 Arch Street
Philadelphia, PA 19105

John R. Spielberg, President
Maryland P&C Insurance Guaranty
Corporation
305 Washington Street, Suite 600
Towson, MD 21204-4715

Stephen F. Perrone, Executive Director
Pennsylvania P&C Insurance Guaranty
Corporation
1617 John F. Kennedy Blvd., Suite 1850
Philadelphia, PA 19103

Sue Pease, Claims Manager
Pennsylvania Workers Compensation
Security Fund
901 North 7th Street
Harrisburg, PA 17102

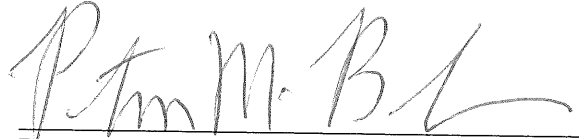
Pennsylvania Department of Revenue
ATTN: Marianne I. Rempe, Esquire
Office of Chief Counsel
Department 281061
Harrisburg, PA 17128-1061

Joseph J. Horvath, Executive Director
Pennsylvania Life & Health Insurance
Guaranty Association
290 King of Prussia Road
Radnor, PA 19087

Desiree Worsley
Louisiana Insurance Guaranty Association
2142 Quail Run Drive
Baton Rouge, LA 70808

Debbie Luera, Director of Operations
New Mexico Insurance Guaranty
Association
Integrion Group
P.O. Box 27815
Albuquerque, NM 87125

Andrew Rothseid, Principal
RunOff Re.Solve, LLC
Two Bala Plaza, Suite 300
Bala Cynwyd, PA 19004



PRESTON M. BUCKMAN (I.D. #57570)

Governor's Office of General Counsel
Pennsylvania Insurance Department
Office of Chief Counsel
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Counsel for Jessica K. Altman,
Pennsylvania Insurance Commissioner, in
her capacity as Statutory Liquidator of
Westmoreland Casualty Company (In
Liquidation)

DATED:

6/22/20