

Report for Special Master’s Status Conference

April 29, 2019

R-561 Capson Physicians Insurance Company

SDR: CANTILO & BENNETT, L.L.P.
Primary Responsible Person: Joseph N. West
Estate Counsel: Greg Pierce and Christopher Fuller
Receiver’s Counsel: Liz Solka and James Kennedy
RLO Analyst: Kathy Gartner

Background on Receivership

Date of Permanent Injunction (Rehabilitation): February 11, 2019
Date of Appointment of SDR: February 11, 2019
Claims Filing Deadline: N/A to rehabilitation
States Where Licensed: TX, AL, AK, AZ, AR, D.C., ID, IL, IN, KY, LA, MD, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, WA, WV, WI
Lines of Business: medical malpractice
Texas Guaranty Association Triggered: N/A
Early Access Distributions: N/A

Overview of Capson Physicians Insurance Company

Capson Physicians Insurance Company (“CPIC” or the “Company”) is a Texas domiciled property and casualty company, with headquarters in Austin, Texas. It sold exclusively medical malpractice insurance policies. It was licensed and active in 25 jurisdictions. Approximately 25% of its premiums were written in Texas followed by West Virginia (~15%), Louisiana (~10%), Oklahoma (~7%), New Mexico (~7%), and Nevada (~7%).

CPIC is owned by its parent company, Capson Corp (“Corp”), which is also headquartered in Austin, Texas. CPIC has no employees, no offices, and no FF&E. CPIC entered into a Services Agreement with Corp, under which Corp was responsible for managing all functions of CPIC. Additionally, CPIC had two affiliates also owned by Corp, Capson Physicians Insurance Agency (“Agency”) and Capson Healthcare Services, Inc. (“Tech”). Neither Agency nor Tech had any separate operations.

The SDR is currently marketing CPIC and its block of business.

Assets and Liabilities

CPIC did not file an annual statement for 2018. The SDR is reviewing the financial condition of CPIC, and will file a financial report with the court in accordance with Tex. Ins. Code § 443.016.

Status and Activity Since Filing of Delinquency Proceeding [First Report to Special Master]

The Agreed Order Appointing Rehabilitator and Permanent Injunction (Rehabilitation Order) was entered on February 11, 2019. The SDR was appointed effective February 11, 2019. The SDR began the receivership takeover process on February 12, 2019, when the SDR and estate subcontractors met with representatives from CPIC and Corp at the CPIC office in Austin. Takeover team members have been present at those offices since that date. The SDR has continued to direct the activities of the remaining employees conducting the business of CPIC under the Services Agreement. Approximately 50% of the CPIC staff, including all claims personnel have resigned to pursue other employment.

Mr. Maury Magids was the president of CPIC (as well as Corp and its other subsidiaries, Agency and Tech) and oversaw all day-to-day operations of CPIC (as well as Corp). Mr. Magid's death on February 11, 2019, complicated the takeover and subsequent operations of the Company.

The SDR focused initial activities on gaining a clear picture of the financial status of CPIC as of December 31, 2018, and seeking to interest third parties in potential transactions to take over the Company or its claims liabilities. The SDR continues to negotiate with multiple parties to assume some or all the policyholder liabilities of the Company. These negotiations continue in conjunction with discussions between the SDR and Corp on various other issues.

Financial Institutions: The Rehabilitation Order was delivered to all identified financial institutions. All CPIC's cash and liquid assets have been secured. All financial institutions have complied with the Rehabilitation Order and the SDR's directives.

Defense Counsel: All defense counsel were notified of the receivership and instructed to inform relevant courts and opposing counsel of the automatic stay. Although most proceedings have either formally or informally enforced the stay, a few courts have refused to recognize and accord comity to the stay. The SDR is working on an ad hoc basis to deal with the few proceedings where courts have not enforced the stay.

CPIC Policies: CPIC continues to offer renewal policies and to process requests for renewals. All parties receiving renewal notices are informed of the receivership. The number of cancellations began rapidly rising during March 2019. Few insureds have chosen to renew.

Additionally, in 2016, CPIC entered into a "fronting" arrangement with Granite State Insurance Company ("GSIC"). Under this arrangement, Agency was to market/underwrite GSIC policies, with CPIC 100% reinsuring the GSIC policies. In reality, CPIC conducted all operations relating to the issuance and handling of the GSIC policies. On February 21, 2019, GSIC instructed that no new policies should be sold under this arrangement. Subsequently, GSIC amended its instruction to allow renewals to the extent required to comply with the obligation to provide at least 90 days notice prior to non-renewing a policy. The SDR is currently negotiating with GSIC to end the fronting arrangement and turnover all further management and claims handling relating to the GSIC policies to GSIC.

Vendors: All known CPIC vendors were provided with notice of the Rehabilitation Order.

IT: Virtually all of CPIC's records are maintained in electronic format, but CPIC did not control its IT or data. CPIC was managed by Corp employees and its IT and data were outsourced to third-party vendors using Corp computers. The SDR has backed up and is in possession of all data relating to CPIC's operations. The SDR has contacted the third-party IT service providers and those service providers are cooperating with the SDR in maintaining CPIC's data.

Reinsurance: Milford Consulting and Tharp & Associates have been retained to advise the SDR on reinsurance and to oversee monthly reporting to the intermediary and reinsurers.

Claims: Claims handling has transitioned to estate subcontractors. The SDR and its claims team worked extensively with CPIC claims personnel prior to their resignations to obtain knowledge of the claims systems and data, and is currently working with insurance defense counsel employees in reviewing the approximately two-hundred-fifty-two (252) claims pending against CPIC insureds and/or GSIC insureds.

Guaranty Associations: Since CPIC is in rehabilitation, no guaranty funds have been triggered. Both TPCIGA and the National Conference of Insurance Guaranty Funds were notified of the status of CPIC following entry of the Rehabilitation Order.

Regulatory Action: CPIC's license has been, or will be, suspended in West Virginia and Washington. Regulators from New Mexico have also sought information regarding the status of CPIC's operations and finances to determine whether they will take action against CPIC. The SDR does not anticipate further regulatory action until at least May 2019.

Asset Recovery Activity:

All cash and securities have been secured.

Statutory Deposits: CPIC had statutory deposits in Texas (\$1,907,000) and New Mexico (\$330,000). All statutory deposits remain in place.

FF&E: CPIC did not own or lease any FF&E including any IT Equipment.

Real Estate: CPIC did not own or lease any real property.

CPIC is a wholly owned subsidiary of Corp, and the SDR is pursuing payment of amounts owed by Corp.

All reinsurers have been notified of the receivership and instructed to direct payments to the SDR. Reinsurance reporting has continued since receivership and is now handled by the SDR's subcontractors.

All E&O, D&O, and professional liability insurance policies have been reviewed and expiration/claim extension deadlines noted.

General Legal Activities

Litigation: No first party lawsuits involving CPIC exist. With respect to lawsuits against CPIC insureds, most courts have honored the automatic stay. However, one court in New Mexico, one court in Illinois, and one court in Oklahoma have refused to honor the automatic stay. With respect to the Oklahoma proceeding, defense counsel and the SDR's counsel were able to convince the plaintiff's counsel to voluntarily agree to continue all proceedings until after expiration of the automatic stay. Counsel in the New Mexico proceeding are renewing their request to the court to honor the stay. The Illinois court has refused to honor the stay.

Conclusion

Summary of Major Achievements

Completed takeover of CPIC
Secured all financial assets.

Obtained stays of proceedings against insureds in all but a small handful of courts.

Established SDR web site (www.capsonsd.com).

Secured all IT data.

Updated CPIC financial information to December 31, 2018, to market CPIC to third parties.

Created "data room" for interested parties to review financial information in anticipation of making "firm offers" for the purchase of all or part of CPIC's business.

Identified key-man life insurance in the total amount of \$15 million and completed an investigation into those policies indicating they were property of CPIC.

Obtained order approving Application for Approval of Fees and Expenses.

Obtained order approving Application to Require Electronic Service for Pleadings and Notices.

Notified reinsurers of receivership and continued monthly reporting on treaties.

Notified all vendors of receivership.

Created in-house claims adjusting program to replace exiting employees of CPIC.

Estate Goals to achieve prior to next Status Conference

Complete marketing of CPIC.

Negotiate termination of GSIC fronting arrangement.

Negotiate service contract with subcontractors to supplement claims personnel.

Submit recommendation to Receiver regarding plan of rehabilitation and/or application for liquidation.

Estate Closing Date of Receivership: TBD

Identification of Factors Affecting Closing Date and Final Distribution: TBD