

IN THE DISTRICT COURT OF LANCASTER COUNTY, NEBRASKA

STATE OF NEBRASKA, ex rel.)
L. TIM WAGNER,)
DIRECTOR OF INSURANCE OF)
THE STATE OF NEBRASKA,)
)
Petitioner,)
)
vs.)
)
FAR WEST INSURANCE COMPANY,)
)
Respondent.)

Case No. CI 01 4133

**AMENDED ORDER APPROVING
LIQUIDATOR'S APPLICATION TO
MODIFY APPROVED AMOUNT OF
CERTAIN PREVIOUSLY APPROVED
UNDISPUTED CLAIMS AND TO
MAKE DISTRIBUTIONS
THEREON(PURSUANT TO
APPLICATION NO. 39)**

This matter came on for consideration on Application No. 39 of the Director of Insurance for the State of Nebraska, Ann M. Frohman, acting as Liquidator of Far West Insurance Company pursuant to the Insurers Supervision, Rehabilitation and Liquidation Act ("Act"), NEB. REV. STAT. § 44-4801 *et seq.*, for an Order approving the Liquidator's application to modify the approved amount of certain previously approved undisputed Class 3 claims, to make distributions thereon, and to make distributions of other similarly situated Class 3 claims, subject to periodic reporting to the Court. Application No. 39 is supported by the Affidavit of Michael J. FitzGibbons, which states the factual basis for said modification and distribution.

The Court finds that the claimants covered in the Liquidator's Application No. 39 are Class 3 Policyholder claimants under NEB. REV. STAT. §44-4842(3), as it existed on November 9, 2001, the date of Far West's Order of Liquidation, Declaration of Insolvency, and Injunction herein. The

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Court further finds that priority classification is appropriate for distributions in this liquidation by reason of NEB. REV. STAT. §44-4818(2), whereby the rights and liabilities of the insurer, its creditors and others are fixed as of the date of the Order of Liquidation herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. The approved claims covered by Application No. 39 are hereby modified as requested therein and as listed on Schedules 1, 2 and 3 attached to Application No. 39.

2. Pursuant to NEB. REV. STAT. §44-4844, the Liquidator is AUTHORIZED AND ORDERED to pay claim distributions as listed on Schedules 1, 2 and 3 attached to Application No. 39.


3. The Liquidator is further AUTHORIZED AND ORDERED to pay claim distributions on any similarly situated Class 3 claims which have been approved by the Court and which have either confirmed the claim or are exempt from the Liquidator's confirmation process, and the Liquidator shall report to the Court on the payment of such claim distributions not less often than quarterly.

4. As a condition to making any distribution to any claimant hereunder, the Liquidator is authorized to require the affected claimant to represent in writing to the Liquidator, by endorsement of the claims distribution check or otherwise, under penalties of perjury, that (a) the claimant is the holder of the claim free and clear of any rights or claims of third parties created by the claimant, (b) the claimant has not made any transfer, assignment or pledge of such claim, (c) the claimant has not received any payment on such claim from any other source, and (d) the claimant has not released the claim in whole or in part. The Liquidator may reduce or withhold payment to any claimant as appropriate to the extent such claimant no longer holds such claim, or has

transferred, assigned or pledged such claim, has released the claim, or has received payment on such claim from any other source, and if any such situations exist, the Liquidator shall make a supplemental report to the Court, and, as necessary, an application to modify or disallow the affected claims.

5. The Court's original Order on Application No. 39, entered February 26, 2009, containing minor typographical errors, is vacated and replaced with this Order.

DATED: March 6, 2009.



John A. Colborn, District Judge

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