



Receivership & Insolvency (E) Task Force

Call for Comment – UT Special Deputy Receiver

The Receivership & Insolvency (E) Task Force solicits comment from regulators and interested parties in order to complete its new charge approved on March 18, 2009 by the Financial Condition (E) Committee relating to:

Identifying and recommending possible solutions to address timing and collection concerns with reinsurance recoverables held by insurers in receivership.

All comments must be received by the end of the business day **June 10, 2009**, and should be sent electronically to the attention of David Vacca (NAIC Staff) at dvacca@naic.org. The request is as follows:

1. Please provide specific examples of the types of routine issues or delays that can arise in the collection of reinsurance recoverables held by insurers in receivership, as well as whether there are possible related solutions to address timing and collection concerns. Such recommendations could impact both receivers and reinsurers with regard to administrative processes, best practices and/or new statutory requirements.

Response:

The following is a list of excuses provided to the SDR of Wasatch Crest Mutual Insurance Company by a large multi-national reinsurer on a single workers comp cession billing.

- We didn't receive the billing
- The billing apparently has been misplaced, please resend
- We were not on the risk
- Our computers are down
- The individual working that file is no longer with us
- Please document consumption of the underlying layer
- We will wire the funds next week
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- We will wire the funds next week
- We will look into why you didn't receive the wire.

This behavior pattern persisted for the first 5 years of the estate.

The late payment pattern required the intervention of the Insurance Commissioner personally which has resulted in more timely but not necessarily prompt payment.

I collected reinsurance for Southern American Ins. Co. in liquidation for a number of years and the pattern above was common but more often related to arguments over how APH allocations were made rather than "the dog ate my homework" types of excuses.

In attempting to encourage reinsurers to pay outstanding debts, we tried to pass legislation imposing interest on 60 day past-due balances several years ago. The RAA objected saying that there were legitimate reasons that such balances were not being paid and that reinsurers

needed time to investigate whether the claims were actually owed. The legislator sponsoring the bill agreed that this seemed to make sense but did agree to impose statutory interest on past-due bills after 180 days. This provision has been replaced by the enactment of Utah's version of IRMA which triggers interest on payment that is delinquent by 60 days ((UCA 31A-27a-512(4)(c)).

Since the estates currently open in Utah are operating under the pre-IRMA statute, I do not know if this new "interest" section will have any salutary effect, but I believe that the laundry list of excuses noted above will continue with certain reinsurers notwithstanding any interest penalty that might be threatened or imposed.

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