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Response from Paragon Strategic Solutions Inc, an interested party.

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

Paragon Strategic Solutions Inc. has provided services to administer reinsurance for liquidated insurance companies since our founding in 1994. We have been hired by state departments of insurance as well as designated providers of liquidation services to insurance departments. We have worked with lines of business covered by all 50 guarantee associations and surplus lines with no association coverage. We are experienced with foreign and domestic reinsurance markets that are both solvent and insolvent themselves. Against this background we identify the following issues and propose some possible solutions for discussion.

In order for a reinsurance recovery to take place the reinsurer needs to receive a bill that includes the supporting documentation that the reinsurance contract calls for. In order to generate an accurate and adequately supported bill the following are needed:

- Reinsurance contracts
- Premium data
- Historic loss data
- Previously settled balances

The first billing after liquidation is the one that takes the longest to generate because what has been previously billed and settled is many times unclear. Insurance companies sometimes do not send bills that document the inception to date loss and premium positions. Incremental billings are sent that reflect the increase in paid loss and LAE since the last quarterly or monthly billing. Insurance company records may not clearly reflect what has actually been settled.

State insurance department personnel or designated providers of liquidation services are charged with a wide range of functions in a liquidation centering first on securing assets and notifying policy holders. In the first hour and days of liquidation, reinsurance is not a top priority. On-site personnel may not have the necessary understanding of reinsurance to know what to secure or how to obtain needed information from remaining company staff.

Our position is that employees charged with supervision after insolvency need to be more knowledgeable about reinsurance and need to act quickly to secure the necessary documents and records. If a liquidator realizes that there is a lack of knowledge or the necessary staffing level to secure reinsurance data and documents or administer reinsurance, more prompt action may be required to augment the staff by bringing in reinsurance professionals who can determine what has been collected and what needs to be billed. A long delay in resuming reinsurance recoverable billings diminishes cash flow and unsettles the reinsurance markets.

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Historically the first billing after liquidation is scrutinized more any other billing the reinsurer has received. In most cases the markets have not received a bill for months or years. The markets may take this opportunity to request proof that they received all the reinsurance premium due them before they pay additional losses. They may request loss documentation that is mandated by the reinsurance agreement that they had not received previously from the insurance company now in liquidation.

Review of the reinsurance contracts and historical billings and settlements by experienced reinsurance accountants may uncover conflicting contract interpretation between the reinsurance markets, intermediaries, and insurance company. These issues take time and perseverance to resolve. Reinsurers faced with millions in unpaid recoverable balances due a liquidated estate sometimes take a hard legal stance against payment. There are certainly times with a reinsurer has a valid dispute. Although never assured of quick or complete collection success, reinsurance professionals experienced in handling these disputes can advance the issues faster and more credibly than those with less industry knowledge or experience.

Issue	Possible Solution
1. Knowledge level and focus of state insurance department liquidation personnel or designated liquidation service providers may not be at the necessary level in the specialized area of reinsurance billing and collection to immediately capture what is needed to understand and re-start billing of reinsurance recoverables. The focus at the onset of a company takeover has not traditionally been on reinsurance, but rather on securing tangible company assets and notifying policyholders.	Increase staffing levels of areas responsible for the administration of insolvent insurance companies to include individuals with greater knowledge of all aspects of reinsurance administration. Treat reinsurance as a valued asset during the first days of takeover, just like cash, investments, buildings, and IT hardware. Select service providers with specialized reinsurance knowledge if that is the state's method of handling insolvencies. There is a need to understand data in company systems as it relates to reinsurance, thus the need for personnel with knowledge that spans these two areas; IT and reinsurance.
2. Getting data transferred to the guarantee associations is slow and delays reinsurance collections.	Increase the number of employees with IT and data knowledge working with liquidated estates.
3. Lack of data and records, such as signed reinsurance agreements, inception to date premium and loss data, and previously settled balances slows the resumption of reinsurance billings.	During state examinations of insurance companies, include testing of key records associated with reinsurance. Are treaties signed? Does billing documentation conform to standards defined in the reinsurance contract? Can the company supply records that support an inception to date position for a treaty for both premium paid to the reinsurer and indemnity and paid LAE recovered from reinsurance?

Issue	Possible Solution
4. Disputed contract interpretation. If the sum to be recovered is large and the parties are unable to agree, arbitration is usually the next course of action. Reinsurers sometimes offer a very small percent of the billed recoverable, an amount that the liquidator may be induced to accept, when faced with possible arbitration.	Continue regulatory efforts for uniformity of contract language, the use of plain English in reinsurance agreements, and the inclusion of sample calculations to demonstrate how layers of reinsurance are intended to fit together, the treatment of LAE, role of catastrophe funds, etc. Devise a simpler, less costly method of dispute resolution to try, as the first attempt, to solve disputes. Arbitration can and should always remain an option.
5. Slow pay of undisputed balances	Obtain greater regulatory support to collect undisputed balances. Some, but not all, states have statutes that can be used to demand valid payments from reluctant reinsurers. These statutes carry penalties for non-compliance.
6. Slow or unresponsive intermediaries. Intermediaries with no active business with an insurance company sometimes do not fulfill their contractual obligations to service business. Because of business consolidations old records may reside on legacy systems that are not converted after companies merge. Liquidators are sometimes unable to obtain needed information or service. The industry has grown to accept this lack of performance as unavoidable. The lack of service is even more apparent when consolidations have happened in the UK or Europe.	Devise a way to share information about unresponsive intermediaries or reinsurers across states and liquidated estates through a committee or centralized board. This board could be sponsored by the NAIC. All affected insolvencies could take their settlement issues with a particular intermediary or reinsurer to the board. The purpose would be to make the industry as a whole aware of unresponsive parties and see the total amount of unsettled reinsurance recoverables being held by a particular market or intermediary. Individually an estate is unable to collect a balance of $25,000, but if 20 estates band together the issue becomes more visible. An entity with quasi regulatory authority would be more likely to have success in advancing collections.
7. Markets that simply will not pay valid claims because they know there is no action the liquidator can take to force payment.	See response to No. 6

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Issue	Possible Solution
8. While a reinsurer and a liquidated estate are in commutation discussions, the reinsurer sometimes refuses to make settlement on open paid loss balances, citing the desire to make one single commutation settlement. There is usually considerable delay in finalizing the commutation.	Refer the unsettled reinsurance recoverable balance to the proposed board (No. 6) or take legal action, if permitted (No. 5).