

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

*AMENDED

HON. GEOFFREY D. WRIGHT

PRESENT: _____
Justice

PART 47

Re: Drivers Insurance Co.

INDEX NO. 452965/15

MOTION DATE _____

MOTION SEQ. NO. 1

The following papers, numbered 1 to _____, were read on this motion to/for _____

Notice of Motion/Order to Show Cause — Affidavits — Exhibits _____ No(s). _____

Answering Affidavits — Exhibits _____ No(s). _____

Replying Affidavits _____ No(s). _____

Upon the foregoing papers, it is ordered that this motion is granted AS set forth and all relief is granted AS set forth in the attached order

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

Dated: 1/21/16

GEOFFREY D. WRIGHT, J.S.C.
AJSC

- 1. CHECK ONE: ... [X] CASE DISPOSED ... [] NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: ... MOTION IS: [] GRANTED [] DENIED [] GRANTED IN PART [] OTHER
3. CHECK IF APPROPRIATE: ... [] SETTLE ORDER [] SUBMIT ORDER [] DO NOT POST [] FIDUCIARY APPOINTMENT [] REFERENCE

At IAS Part 47 of the Supreme Court of the State of New York, County of New York, at the courthouse, 80 Centre Street, in County, City and State of New York, on the 21st day of January, 2016.

P R E S E N T :

HON. GEOFFREY D. WRIGHT, J.S.C.

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In the Matter of

the Liquidation of

DRIVERS INSURANCE COMPANY.

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Index No. 452965/15

**ORDER APPROVING THE
PROCEDURE FOR
THE LIQUIDATOR'S
ADJUDICATION OF CLAIMS
AND APPOINTING REFEREE**

Upon the December 23, 2015, affirmation of Lauren M. Reber, an attorney with the New York Liquidation Bureau (the "NYLB"), the organization that carries out the duties of Shirin Emami, Acting Superintendent of Financial Services of the State of New York in his capacity as liquidator ("Liquidator") of Drivers Insurance Company ("Drivers"), and its attachments and upon all other papers previously submitted and all proceedings heretofore had herein;

NOW, on the application of the Liquidator, and after due deliberation having been had thereon, it is

ORDERED, that the application is granted; and it is further

ORDERED, that the procedure for judicial review of the Liquidator's adjudication and classification of claims in this proceeding ("Procedure") is approved; and it is further

ORDERED, that the Procedure is required for the orderly administration of the Drivers estate and will enable the Liquidator to resolve claims on an ongoing basis while providing due process to all claimants who object to a classification letter ("Classification Letter") or a notice of determination ("NOD") regarding their claims that are or are deemed timely filed in the liquidation proceeding, and it is further

ORDERED, that

1. The Procedure is as follows:

- a) The Liquidator shall serve either or both a NOD or Classification Letter, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the liquidation proceeding. Service of the NOD and/or Classification Letter will be made by first class mail to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative.
- b) The Classification Letter advises each claimant of the following:
 - (i) The Liquidator's determination of the specific class of claim under New York Insurance Law ("Insurance Law") Section 7434 in which the claim falls;
 - (ii) No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
 - (iii) The claimant has the right to object to the Classification Letter, and can do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the Classification Letter, as expressly set forth in the Classification Letter;
 - (iv) If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
 - (v) The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
 - (vi) Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming the Referee's report.
- c) The NOD advises each claimant of the following:
 - (i) The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
 - (ii) The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;

- (iii) No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;
 - (iv) The claimant has the right to object to the NOD, and can do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing of the NOD, as expressly set forth in the NOD;
 - (v) Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to this Court for approval and the claimant's right to share in distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined;
 - (vi) If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
 - (vii) The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
 - (viii) Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming the Referee's report.
- d) The Liquidator shall move, ex parte, at least seventy-five (75) days (or a lesser period if agreed upon by the claimant) after the date of the NOD, for an order approving the Liquidator's recommendations for adjudication of all claims for which no objections are timely received.
- e) In the event that a claimant requests a hearing pursuant to item (c)(vi), the Liquidator will contact the claimant in writing at the address set forth on the NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such NOD) to schedule a pre-hearing conference ("Scheduling Notice"). If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the NOD is forfeit and the NOD is deemed accepted as set forth in item (c)(iii).
- f) If a claimant neglects its claim and fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a denial of the claimant's objection.

2. In the event that the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by this Order, it shall not affect the validity of the

allowance/disallowance but shall entitle the party that did not receive timely notice to toll its further obligations under the Procedure until it receives the required notice.

3. In the course of conducting the liquidation, the Liquidator shall consider claims, issue Classification Letters and/or NODs and participate in hearings in respect of Class Two claims before those of any other class of claims and unless and until it is reasonably determined that funds shall be available to make distributions to any class of claim below Class two, the Liquidator is authorized to defer adjudicating or scheduling a hearing related to any claim below Class Two.

4. The Liquidator is authorized to settle claims in his sole discretion, at any time during the adjudication process, without the necessity of receiving a report from the referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with the dictates of Insurance Law Section 7428(b).

5. Disputed claims and objections filed by claimants in the within proceeding which have not been settled or compromised are referred to:

NAME: *Avi Naveh*

ADDRESS: *175 Varck Street, 3rd Floor, New York, NY 10014*

PHONE NO.: *646-881-4471*

as Referee to hear and take evidence on the factual issues raised by said objections and report thereon with all convenient speed.

6. The Referee shall be paid a fee based on an hourly rate of \$200 as a loss adjustment expense of the Drivers estate.

7. The Referee appointed to hear and report on objections shall conduct those hearings at the place of business of the Superintendent as Liquidator, namely 110 William Street, Borough of Manhattan, City, County and State of New York.

