

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: PART 35

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Index No.: 451834/2020

In the Matter of

the Liquidation of

AFFIRMATION

ONETITLE NATIONAL GUARANTY COMPANY, INC.

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Holly Sutton, an attorney at law, duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau (“NYLB”), which serves as the staff of Adrienne A. Harris, Superintendent of Financial Services of the State of New York (“Superintendent”) in her capacity as liquidator (“Liquidator”) of OneTitle National Guaranty Company, Inc. (“OneTitle”). I submit this affirmation upon information and belief, based on my review of the OneTitle files maintained by the NYLB and the conversations I have had with employees of the Liquidator, in support of the Liquidator’s application for an order substantially in the form of the proposed order annexed hereto as Exhibit “1”, approving the Liquidator’s report on the status of and request to close the OneTitle liquidation proceeding, and the financial transactions detailed in the report (“Closing Report”). A copy of the Closing Report is annexed hereto as Exhibit “2”.

Activities in Furtherance of Winding Down the OneTitle Estate

2. During the pendency of the liquidation proceeding, the Liquidator has: (i) taken possession of OneTitle’s business and assets; (ii) transferred all electronic data to the Liquidator’s control; (iii) reviewed all of OneTitle’s executory contracts; (iv) reviewed claims asserted against OneTitle policies; (v) reviewed OneTitle’s liabilities; and (vi) taken other steps necessary to wind down OneTitle’s affairs.

3. The Liquidator moved before this Court recommending disallowance of eight claims of former OneTitle policyholders for the return of premiums as such claims are not allowable for title insurance under applicable law. By order dated July 15, 2022, this Court granted the Liquidator's motion and disallowed those eight claims (NYSCEF Doc. No. 42).

4. The Liquidator reviewed documents and reached agreement to settle an additional eight claims of former OneTitle policyholders at reduced amounts (collectively, "Class Two Claims"), and recommended allowance of two claims of general creditors (collectively, "Class Six Claims"). The Liquidator moved before this Court to approve the allowed claims, and by order dated September 16, 2022, this Court granted the Liquidator's motion and approved the allowance of the Class Two Claims and the Class Six Claims (NYSCEF Doc. No. 54).

5. Based on the current financial status of the estate, the Liquidator anticipates being able to pay all allowed claims and have a surplus left over. Upon the closing of the liquidation proceeding, all assets left over after payment of administrative expenses, the Class Two Claims and the Class Six Claims will be distributed to OneTitle Holdings, LLC, OneTitle's sole shareholder ("Holdings").

Proposed Notice

6. The Liquidator proposes that notice of the Order to Show Cause and its supporting papers be given by: (i) overnight delivery to OneTitle Holdings, LLC, at 80 Broad Street, Suite 301, New York, NY, 10004, and c/o its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, DE, 19808, and c/o B. Lance Sauerteig, 7060 Lions Head Lane, Boca Raton, FL 33496, at least _____ days before the Return Date; and (ii) posting this Order on the Internet web page maintained by the NYLB at <https://www.nylb.org/home.htm>, under Legal and Estate Notices, at least 15 days prior to the Return Date.

7. No previous application for the relief sought herein has been made to this or any other court or judge thereof.

WHEREFORE, it is respectfully requested that the Court grant an order substantially in the form of the proposed order annexed hereto as Exhibit "1": (i) approving the Closing Report and the financial transactions delineated therein; (ii) authorizing the continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the liquidation proceeding; (iii) authorizing the Liquidator to distribute OneTitle's assets, consistent with the priorities set forth in Insurance Law section 7434, to those former policyholders and creditors of OneTitle with allowed claims and, upon the closing of the liquidation proceeding, to distribute to Holdings as the Class Nine shareholder all assets remaining after payment of administrative expenses and allowed claims; (iv) terminating and closing the liquidation proceeding; (v) authorizing the Liquidator to receive and disburse, without further application to this Court, any receipts that are received after the termination of the liquidation proceeding; (vi) authorizing the Liquidator, after termination of the liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the OneTitle estate; and (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding.

Dated: New York, New York
October 11, 2022



Holly Sutton

Exhibit 1 – Proposed Order

At IAS Part 35 of the Supreme Court of the State of New York, County of New York, at the Courthouse located at 60 Centre Street, New York, New York, on the ___ day of _____, 2022.

P R E S E N T:

HON. CAROL R. EDMEAD, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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In the Matter of

Index No.: 451834/2020

the Liquidation of

ORDER

ONETITLE NATIONAL GUARANTY COMPANY, INC.

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Upon the motion of the Superintendent of the Department of Financial Services of the State of New York, as liquidator (“Liquidator”) of OneTitle National Guaranty Company, Inc. (“OneTitle”), for an order, *inter alia*: (i) approving the Liquidator’s report on the status of and request to close the OneTitle liquidation proceeding (the “Closing Report”) and the financial transactions detailed in the Closing Report, annexed as Exhibit “2” to the affirmation of Holly Sutton; (ii) authorizing the continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the liquidation proceeding; (iii) authorizing the Liquidator to distribute OneTitle’s assets, consistent with the priorities set forth in Insurance Law section 7434, to those former policyholders and creditors of OneTitle with allowed claims and, upon the closing of the liquidation proceeding, to distribute to OneTitle Holdings, LLC, as the Class Nine shareholder, all assets remaining after payment of administrative expenses and allowed claims; (iv) terminating and closing the liquidation proceeding; (v) authorizing the Liquidator to receive and disburse, without further application to this Court,

any receipts that are received after the termination of the liquidation proceeding; (vi) authorizing the Liquidator, after termination of the liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the OneTitle estate; and (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding;

NOW, on the motion of the Liquidator, and no opposition having been filed with the Court, it is:

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

ORDERED, that the Closing Report and the financial transactions detailed in such report are approved; and it is further

ORDERED, that continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the OneTitle liquidation proceeding, is authorized; and it is further

ORDERED, that the Liquidator is authorized to distribute OneTitle's assets, consistent with the priorities set forth in Insurance Law section 7434, to those former policyholders and creditors of OneTitle with allowed claims and, upon the closing of the liquidation proceeding, to distribute to OneTitle Holdings, LLC, as the Class Nine shareholder, all assets remaining after payment of administrative expenses and allowed claims; and it is further

ORDERED, that the liquidation proceeding is terminated and closed; and it is further

ORDERED, that the Liquidator's receipt and disbursement, without further application to this Court, of any receipts that are received after the termination of the liquidation proceeding, is authorized; and it is further

ORDERED, that the Liquidator, after termination of the liquidation proceeding and without further order of this Court, is authorized to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the OneTitle estate; and it is further

ORDERED, that the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, are released and discharged from any and all liability arising from their acts or omissions in connection with the liquidation proceeding.

E N T E R

J.S.C.

Exhibit 2 – Closing Report

**REPORT ON THE STATUS OF AND REQUEST TO CLOSE THE LIQUIDATION
PROCEEDING OF ONETITLE NATIONAL GUARANTY COMPANY, INC.**

INTRODUCTION

Adrienne A. Harris, Superintendent of the Department of Financial Services of the State of New York (“Superintendent”), as liquidator (“Liquidator”) of OneTitle National Guaranty Company, Inc. (“OneTitle”), has appointed David Axinn as Special Deputy Superintendent and Agent of the Liquidator and other Agents to carry out through her staff at the New York Liquidation Bureau the responsibilities of the Liquidator.

OneTitle was placed into liquidation under Article 74 of the New York Insurance Law (“Insurance Law”) on October 6, 2020, by order of the Supreme Court of the State of New York, New York County (the “Court”) (NYSCEF Doc. No. 14) (“Liquidation Order”). The Liquidator submits this report to apprise the Court of the status of the liquidation proceeding (“Closing Report”) and to respectfully request that the Court enter an order substantially in the form of the proposed order annexed as Exhibit “1” to the accompanying affirmation of Holly Sutton, *inter alia*, approving the Closing Report and the financial transactions detailed herein and terminating and closing the OneTitle liquidation proceeding.

BACKGROUND

OneTitle and Its Consent to Liquidation

OneTitle was incorporated in the State of New York on April 1, 2013, obtained a license as an insurer on December 24, 2013, and commenced business on February 18, 2014. OneTitle was authorized to transact title insurance as set forth in paragraph 18 of Insurance Law section 1113(a) and was licensed to operate in New York State only. The company underwrote title insurance for owners and mortgagees across New York State as a primary insurer. OneTitle is a

wholly owned subsidiary of OneTitle Holdings, LLC (“Holdings”), a Delaware limited liability company and holder of 100 percent of the shares of OneTitle.

In April 2020, Holdings and OneTitle’s Board of Directors advised that OneTitle began unwinding business operations in 2018. They advised that OneTitle had not written any new business since 2019, had no source of income, had limited capital, was unable to maintain its mandatory statutory surplus, and that OneTitle’s Board of Directors unanimously consented to the entry of an order of liquidation pursuant to Insurance Law Article 74.

Bar Date and Description of Classes of Creditors

The Liquidation Order, dated October 6, 2020, required presentment to the Liquidator of all claims of creditors and claimants against OneTitle, other than the Liquidator’s claims for administrative expenses, by six months of the date of entry of the Liquidation Order, i.e., April 6, 2021 (the “Bar Date”). By setting a Bar Date, the Court allowed sufficient time for any creditor or claimant to assert any type of claim against OneTitle.

The priority of distribution of assets from a liquidating insurer is set forth in Insurance Law section 7434, which provides that all members of a senior class be paid in full before the members of the next class may receive any payment. Section 7434(a)(1) provides in pertinent part:

Upon the recommendation of the Superintendent, and under the direction of the court, distribution payments shall be made in a manner that will assure the proper recognition of priorities and a reasonable balance between the expeditious completion of the liquidation and the protection of unliquidated and undetermined claims...No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies.

The classes of claims, as provided for in the prioritization scheme established by Insurance Law section 7434, are as follows:

Class One – Administrative Claims

Claims with respect to the actual and necessary costs and expenses of administration incurred by the Liquidator;

Class Two – Claim and Related Costs

All claims under policies including claims of the federal, state or local government for losses incurred, third-party claims, claims for unearned premiums, and all claims of the security fund guaranty associations, but excluding claims arising under reinsurance contracts;

Class Three – Federal and Government Claims

Claims of the federal government, except those stated above in Class Two;

Class Four – Employee Claims

Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law;

Class Five – State and Local Government Claims

Claims of state and local governments, except those stated above in Class Two;

Class Six – General Creditor Claims

Claims of general creditors, including, but not limited to, claims under reinsurance contracts;

Class Seven – Late Filed Claims

Claims filed late or any other claims other than claims under Class Eight or Class Nine below;

Class Eight – Section 1307 Loans

Claims for advanced or borrowed funds made pursuant to Insurance Law section 1307; and

Class Nine – Shareholder Claims

Claims of shareholders or other owners in their capacity as shareholders.

CURRENT STATUS OF CLAIMS PRESENTED

Eighteen claims were submitted to the Liquidator in the liquidation proceeding in accordance with the Liquidation Order. Because the Bar Date has passed, no additional claims may be presented to the Liquidator.

Eight of the claims submitted by former OneTitle policyholders were for the return of title insurance premiums. The Liquidator reviewed these claims and determined that claims for the return of title insurance premiums are not allowable claims as a matter of law. The Liquidator

provided notice of its determination to recommend disallowance of these claims and no claimant objected. Having received no objections, the Liquidator made an application before this Court recommending that the claims for return of premiums be disallowed. By order dated July 15, 2022, this Court granted the Liquidator's application and disallowed the eight claims seeking return of premiums (NYSCEF Doc. No. 42).

Ten other claims were filed with the Liquidator, including eight claims of former OneTitle policyholders (collectively, "Class Two Claims"), and two claims of general creditors of OneTitle (collectively, "Class Six Claims"). The Liquidator reviewed documents and reached agreement to settle the Class Two Claims at reduced amounts, and recommended allowance of the Class Six Claims. The Liquidator moved before this Court to approve the allowed claims, and by order dated September 16, 2022, this Court granted the Liquidator's motion approving allowance of the Class Two Claims and the Class Six Claims (NYSCEF Doc. No. 54).

The only liabilities against the estate are the Liquidator's administrative costs of the liquidation proceeding and the allowed Class Two Claims and Class Six Claims. The Liquidator believes the estate has sufficient funds to pay the administrative claim and the Class Two Claims and Class Six Claims in full, and that there will be funds left over after those claims are paid. Holdings is the 100 percent shareholder of OneTitle. After payment of the administrative expenses of the liquidation proceeding and the Class Two Claims and Class Six Claims, any remaining assets will be paid to Holdings as the Class Nine shareholder under Insurance Law section 7434 upon the closing of the estate. Given that all creditors will be paid in full, there is no further action that the Liquidator needs to take to close the estate.

Reinsurance Claims

Before being placed in liquidation, OneTitle purchased reinsurance from Fidelis Insurance (“Fidelis”), policy #B03911R1601911, to provide reinsurance to certain OneTitle policies, and provide holders of those policies with a direct right against Fidelis for their covered losses in excess of \$250,000. Fidelis is a United Kingdom company, and the Liquidator engaged in discussions with Fidelis about, *inter alia*, Fidelis employing a claims representative in the United States in the event a OneTitle policyholder asserts a reinsurance claim after the liquidation proceeding is closed. Fidelis has appointed Solomon & Siris, P.C., a law firm in Garden City, New York, to handle any potential claims policyholders may have under the Fidelis policy, with Stuart Siris of Solomon & Siris serving as the point of contact for any questions concerning the policy. Notice of the reinsurance was provided to policyholders by posting the Notice to Policyholders of OneTitle National Guarantee Company, Inc., Concerning Potential Reinsurance on January 7, 2022, on the NYLB website and by filing it on the docket (NYSCEF Doc. No. 23).

FINANCIAL REPORT

OneTitle’s financial books and records were closed on September 30, 2022 (the “Closing Date”). OneTitle’s Statement of Assets and Liabilities, and the Statement of Changes of Cash and Invested Assets for the Period October 6, 2020 (Liquidation Date) to September 30, 2022 (Closing Date) are attached hereto as Exhibit “A”.

A. As of the Closing Date

As of the Closing Date, OneTitle’s records reflect total assets in the amount of \$159,013, and total liabilities in the amount of \$24,994.

1. Disbursement of Assets

As of the Closing Date, the Liquidator had incurred and paid \$73,613 in administrative expenses, consisting of: \$38,053 for salaries of the Liquidator’s staff and related payroll taxes;

\$22,955 for professional fees (e.g., accountants to prepare financial statements and other consultants for litigation support); \$7,326 for rent and related expenses; \$4,952 for general and administrative expenses (e.g., insurance, office equipment and supplies, printing, postage and telephone services); and \$327 for employee relations and welfare.

2. Assets

As of the Closing Date, OneTitle's records reflect total assets in the amount of \$159,013, consisting of unrestricted cash.

3. Liabilities

As of the Closing Date, OneTitle's records reflect total liabilities of \$24,994, consisting of \$8,926 in Class One administrative expenses, \$10,950 in Class Two policyholder claims, and \$5,118 in Class Six creditor claims.

4. Distribution to Claimants

No distribution of assets has been made yet to any class of claimant other than Class One. Upon closing the liquidation proceeding, all monies left over after payment of the administrative expenses of the proceeding and the allowed Class Two Claims and Class Six Claims will be distributed to Holdings as the Class Nine shareholder.

RELIEF SOUGHT

The Liquidator submits this Closing Report to report that the affairs of the OneTitle liquidation proceeding have been completed and that it is in the best interests of the estate to close the liquidation proceeding at this time under the terms and conditions outlined herein. Accordingly, the Liquidator respectfully requests that the Court issue an order:

1. Approving the Closing Report and the financial transactions detailed herein;
2. Authorizing the continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the liquidation proceeding;

3. Authorizing the Liquidator to distribute OneTitle's assets, consistent with the priorities set forth in Insurance Law section 7434, to those former policyholders and creditors of OneTitle with allowed claims and, upon the closing of the liquidation proceeding, to distribute to Holdings as the Class Nine shareholder all assets remaining after payment of administrative expenses and allowed claims;
4. Terminating and closing the liquidation proceeding;
5. Authorizing the Liquidator to receive and disburse, without further application to this Court, any receipts that are received after the termination of the liquidation proceeding;
6. Authorizing the Liquidator, after termination of the liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the OneTitle estate; and
7. Releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys, and employees, from any and all liability arising from their acts or omissions in connection with the liquidation proceeding.

Dated: New York, New York
October 11, 2022

David Axinn

David Axinn
Special Deputy Superintendent and
Agent of Adrienne A. Harris
Superintendent of the Department of
Financial Services of the State of New York
as Liquidator of OneTitle National Guaranty
Company, Inc.

Exhibit A – Financial Reports

ONE TITLE NATIONAL GUARANTY COMPANY, INC. IN LIQUIDATION
STATEMENT OF ASSETS (Note 1)

	<u>September 30, 2022</u>
Assets	
Cash-Unrestricted	\$ 159,013
Total Assets	\$ 159,013

Note 1: The Statement of Assets is unaudited and was prepared on Management's best estimates. Asset amounts are subject to change.

ONE TITLE NATIONAL GUARANTY COMPANY, INC. IN LIQUIDATION
STATEMENT OF LIABILITIES

	<u>September 30, 2022</u>
Class I - Administrative Claims:	\$ 8,926
Class II - Claims and Related Costs:	10,950
Class III - Federal Government Claims:	-
Class IV - Employee Claims:	-
Class V - State and Local Government Claims:	-
Class VI - General Creditors:	5,118
Class VII - Late Filed Claims:	-
Class VIII - Section 1307 (Shareholder) Loans:	-
Class IX - Share Holder Claims:	-
Total Liabilities	24,994
Assets over Liabilities	134,019
Total Liabilities and Deficit of Assets over Liabilities	\$ 159,013

ONE TITLE NATIONAL GUARANTY COMPANY, INC. IN LIQUIDATION

Statement of Changes in Cash and Invested Assets

For the Period October 6, 2020 to September 30, 2022

	As Of
	September 30, 2022
Cash at Liquidation October 6, 2020	\$ 232,626
Disbursements:	
Salaries & Related Payroll Taxes	38,053
Professional Fees	22,955
Rent and Related Expenses	7,326
General & Administrative Fees	4,952
Employee Relations and Welfare	327
Total Disbursements	73,613
Cash and Invested Assets at August 31, 2022	\$ 159,013