

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

SUPREME JUDICIAL COURT
FOR SUFFOLK COUNTY
NO. SJ-2000-0394

_____)
LINDA L. RUTHARDT, as she is)
Commissioner of Insurance of the)
Commonwealth of Massachusetts)
Plaintiff,)
)
v.)
)
NEW ENGLAND FIDELITY INSURANCE)
COMPANY,)
Defendant.)
_____)

PERMANENT RECEIVER'S FIRST STATUS REPORT

I, Linda L. Ruthardt, Massachusetts Commissioner of Insurance, in my capacity as Permanent Receiver (the "Receiver") of New England Fidelity Insurance Company ("New England Fidelity"), hereby submit this status report, which will summarize the steps taken to date in the liquidation of New England Fidelity.

1. Engagement of Consultants: Upon my appointment, I immediately took possession of the property and assets of New England Fidelity. Special Deputy Receiver Kevin McAdoo was on site at New England Fidelity's offices in West Springfield, Massachusetts, as he deemed necessary to oversee operations, until the closure of that facility. In order to provide support to Mr. McAdoo, I engaged the services of American Patriot Group

Inc. ("APG")^{1/}. The services of APG are being charged to New England Fidelity on the basis of their actual cost. APG will be indemnified by New England Fidelity except with respect to their gross negligence or willful misconduct.

2. Staffing: As of September 1, 2000 (immediately prior to the inception of this proceeding), New England Fidelity's operations were staffed by thirty-seven employees of its parent company, LADD Financial Group, Inc. ("LADD"). New England Fidelity and LADD were parties to a management agreement, whereby LADD had provided all necessary services, and "passed through" all expenses attendant to such services to New England Fidelity. In order to assure the continued availability of such services, employment with New England Fidelity was offered to all of the employees of LADD, with the exception of two senior officers. Prior to the inception of this proceeding (but with the approval of the Massachusetts Division of Insurance), LADD had implemented an Employee Retention and Severance Program, which was effective August 1, 2000. The purpose of the program was to induce the continued employment of the NEFIC staff. Under the Program, retention bonuses were paid to all employees at the rate of 3.0% of salary per month. In addition, severance pay equal to four weeks of salary was paid to each employee upon elimination of his

^{1/} APG is a wholly owned subsidiary of the American Mutual Liability Insurance Company, in Liquidation ("AMLICO"). By virtue of my appointment as Permanent Receiver of AMLICO, I also control the operations of APG.

or her position. In order to be eligible for severance pay, the employee had to remain employed until his or her position was eliminated (but the severance benefit was waived if the employee was removed for cause). The operation of the West Springfield facility and the positions of all NEFIC employees were terminated on March 31, 2001. All remaining functions of this proceeding are now being coordinated by the Special Deputy Receiver and APG.

3. Cancellation of Book of Business: Pursuant to the Court's September 20, 2000 Injunction and Order Appointing Receiver, all policies of insurance issued by New England Fidelity were canceled upon ninety days written notice. Upon the November 15, 2000 effective date of the Court's Order of Liquidation and Appointment of Permanent Receiver ("the Liquidation Order"), the statutory obligations of the Massachusetts Insurers Insolvency Fund ("MIIF") to refund unearned insurance premiums to policyholders were triggered. The process of refunding these amounts to former policyholders has now been completed by MIIF. The total amount of unearned premiums refunded by MIIF was approximately \$3,757,000.

4. Claim Processing: The entry of the Liquidation Order also triggered MIIF's statutory obligation to pay "covered claims" under policies of insurance issued by New England Fidelity. New England Fidelity's claim files have therefore been transferred to MIIF for adjustment and consideration of payment as "covered claims". As of May 4, 2001, MIIF has reported total

payments of losses and loss adjustment expenses of approximately \$3,627,000 attributable to "covered claims" under New England Fidelity policies. There are approximately 3,700 remaining open claims which continue to be adjusted by MIIF.

5. Liquid Assets: As of April 30, 2001, New England Fidelity had liquid assets under my control as Receiver of approximately \$6,700,000. In addition, there is approximately \$3,000,000 on deposit at the First Massachusetts Bank, N.A. (formerly The Springfield Institution for Savings) (the "Bank"). These funds are the proceeds of a loan by the Bank to LADD, which were contributed by LADD to the surplus of New England Fidelity, and investment earnings thereon. The Bank is restricting access to these funds. My counsel made demand of the Bank for the release of these funds, which demand was declined. I have therefore filed suit against the Bank, seeking to compel the release of these funds.

6. Marshalling of other assets: Among the other assets which are continuing to be marshalled are reinsurance recoveries, claim subrogation recoveries, and unearned agents' commissions. From the inception of this proceeding through April 30, 2001, salvage and subrogation recoveries totalling approximately \$750,000 were collected. As a result of the cancellation of New England Fidelity's entire book of business, unearned agents' commissions of approximately \$900,000 have been billed. The collection of these balances from former agents is an important

objective for 2001. Until December 31, 1999, NEFIC had both quota share and excess of loss reinsurance programs in force with General Reinsurance Company. Modest reinsurance recoveries are expected to be available under this program. NEFIC's reinsurance program in effect for January 1, 2000 and subsequent exposures was previously commuted by NEFIC, since it did not result in any real transfer of insurance risk to the reinsurer.

7. Proof of Claim Procedure and Claim Bar Date: I am presently preparing a recommendation for submission to the Court concerning the process for submission of claims, and expect to make a filing within the next ninety days.

8. Guaranty Fund Early Access Distributions:
G.L. c. 175, § 180C obligates me to submit a plan for the distribution of assets to MIIF. I anticipate filing an Early Access Distribution Plan within the next sixty days.

Respectfully submitted,

Linda L. Ruthardt
Permanent Receiver

Dated: June __, 2001

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