IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA, a Municipal Corporation, Petitioner, v. OCEAN RISK RETENTION GROUP, INC. Respondent.	Civil Action No.: 13-6110 2 Judge: Wright Calendar No.: 15 Next Event: Status 4/8/14 at 9:30 am

OCEAN RISK RETENTION GROUP, INC.'S MOTION FOR ORDER APPROVING (1) RETENTION OF ADDITIONAL FIRMS AND (2) DISTRIBUTION OF GENERAL ASSETS

The District of Columbia, at the request of and on behalf of Chester A. McPherson, Interim Commissioner of the District of Columbia Department of Insurance, Securities and Banking, as Liquidator of Ocean Risk Retention Group, Inc. ("Ocean"),[1] and his Special Deputy Liquidator, Robert H. Myers, Jr., by and through the Office of the Attorney General for the District of Columbia, moves this Court for an order approving (1) the retention of additional firms in connection with Ocean's liquidation and (2) the distribution of Ocean's general assets. The Petitioner requests that the Court approve the compensation for GB Group, LLC to handle claims administration during Ocean's liquidation, as well as the compensation for Rovner, Allen, Rovner, Zimmerman & Nash, PC, the law firm engaged to pursue subrogation claims on Ocean's behalf. In addition, the Petitioner requests an Order authorizing distribution of general assets of

[1] Effective *nunc pro tunc* to November 15, 2013, Chester A. McPherson was appointed as Interim Commissioner of the Department of Insurance, Securities and Banking. The Court's September 6, 2013 Emergency Consent Order of Liquidation appoints as Liquidator "the Commissioner [then William P. White] *and his successors in office* . . . ." (emphasis added). Therefore, per the Court's Order, as well as D.C. Official Code § 31-1316(a) (2001), Chester A. McPherson is now Ocean's Liquidator.

Ocean totaling $54,330.24 for the fair and reasonable compensation of the Special Deputy Liquidator and his counsel and assistants at Morris Manning & Martin, LLP for their services through October 31, 2013, in connection with Ocean's liquidation. Finally, the Petitioner requests confirmation that it may distribute Ocean's general assets for specified purposes going forward. For the reasons stated more fully in the Memorandum of Points and Authorities, incorporated herein by reference, the Petitioner therefore requests that the Court enter the attached order.

December 12, 2013

Respectfully Submitted,

IRVIN B. NATHAN
Attorney General for the District of Columbia

ELLEN A. EFROS
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Public Interest Division

/s/Stephane J. Latour
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CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of December, 2013, a copy of Ocean Risk Retention Group, Inc.'s Motion for Order Approving (1) Retention of Additional Firms, and (2) Distribution of General Assets, a copy of the supporting Memorandum of Points and Authorities, and a copy of the proposed Order was served by email upon:

Chester A. McPherson, Liquidator
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Robert H. Myers Jr.
Special Deputy Liquidator
for Ocean Risk Retention Group, Inc.
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/s/ E. Louise R. Phillips
E. LOUISE R. PHILLIPS
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF OCEAN RISK RETENTION GROUP, INC.'S MOTION FOR ORDER APPROVING (1) RETENTION OF ADDITIONAL FIRMS AND (2) DISTRIBUTION OF GENERAL ASSETS

The District of Columbia, at the request of and on behalf of Chester A. McPherson, Interim Commissioner, serving as Liquidator, and his Special Deputy Liquidator, Robert H. Myers, Jr., through their attorneys, moves this Court for an order approving (1) the retention of additional firms in connection with Ocean's liquidation and (2) distribution of Ocean's general assets, and in support thereof state the following.

I. BACKGROUND AND PROCEDURAL HISTORY

On September 6, 2013, the Court issued an Emergency Consent Order of Liquidation for Ocean, a captive insurer organized and licensed under the laws of the District of Columbia (the "District") that offered liability insurance to taxi owner-operators and to taxi fleet owners in New Jersey and Pennsylvania. The Court appointed DISB's Commissioner and his successors in office as Ocean's Liquidator. Effective *nunc pro tunc* to November 15, 2013, Chester A. McPherson was appointed as Interim Commissioner of the Department of Insurance, Securities

and Banking. Therefore, in accordance with the terms of the Court's September 6, 2013 Emergency Consent Order of Liquidation, as well as D.C. Official Code § 31-1316(a) (2001), Chester A. McPherson is now Ocean's Liquidator.

On September 24, 2013, the Court approved the Liquidator's appointment of Robert H. Myers, Jr. as Ocean's Special Deputy Liquidator, and approved the retention of his firm Morris Manning & Martin LLC for the services and rates described in their retainer.

II. APPOINTMENT OF ADDITIONAL FIRMS

The Liquidator and the Special Deputy Liquidator have the power to hire employees, agents, legal counsel, and other personnel they deem necessary to assist in the liquidation and to fix their compensation with the approval of the Court. *See* D.C. Official Code §§ 31-1319(a)(1), (2) and (4) (2001).

Pursuant to authority granted to them by the liquidation statute, the Liquidator and the Special Deputy Liquidator retained GB Group, LLC to continue to provide claims administration services to Ocean, as described in the GB Group, LLC Claim Service Agreement, executed on October 31, 2013, attached as *in camera* **Exhibit 1**. GB Group, LLC has provided claims administrative services to Ocean for several years, and the Claim Service Agreement ensures that there will be no disruption in those services. GB Group, LLC's rates are competitive with those of other providers from whom the Special Deputy Liquidator solicited bids.

Similarly, Ocean, acting through the Liquidator and the Special Deputy Liquidator, retained the law firm of Rovner, Allen, Rovner, Zimmerman & Nash, PC ("Rovner") to pursue subrogation claims on Ocean's behalf. *See* Subrogation Claim Service Agreement, attached as *in camera* **Exhibit 2**. Rovner will be paid an industry-standard contingency fee based on sums

actually collected. Rovner will be reimbursed for litigation expenses incurred in connection with a subrogation claim only when there is a recovery for that claim.

The agreements reflect the Liquidator's and the Special Deputy Liquidator's belief that the services of GB Group, LLC and Rovner are necessary for marshalling, pursuing, assessing and liquidating Ocean's assets, and that the arrangements for fee and expense reimbursement are reasonable. The Petitioner therefore requests that the Court approve the compensation for GB Group, LLC and Rovner.

III. APPLICATION FOR DISTRIBUTION OF OCEAN ASSETS

D.C. Official Code § 31-1319(a)(5) (2001) authorizes the Liquidator to "pay reasonable compensation to persons appointed, and to defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer." The Emergency Consent Order of Liquidation for Ocean states explicitly that the Commissioner as Liquidator shall be vested with the powers identified at D.C. Official Code § 31-1319 (2001).

The statutory rehabilitation and liquidation procedures also indicate that the Liquidator shall proceed under the Court's supervision. In particular, the statute indicates that the court may approve, disapprove, or modify the Liquidator's recommendations about payment of claims. *See* D.C. Official Code § 31-1341(b) (2001).

To facilitate the court's supervision of Ocean's liquidation, and to avoid any confusion about whether the Court's approval is necessary prior to payment of invoices for firms previously approved by the Court, the Liquidator requests confirmation of authority to pay from Ocean's general assets the invoices, attached as *in camera* **Exhibit 3**, for the services of the

Special Deputy Liquidator and his law firm (Morris Manning & Martin LLP) and their future invoices, as well as invoices from GB Group LLC as described below.

The Liquidator recommends that the Exhibit 3 invoices be reimbursed in full. In this regard, the Liquidator's counsel at DISB has reviewed the invoices and found both the hours and total fees and expenses incurred to be reasonable and necessary for the services provided in connection with Ocean's liquidation. Further, other states[2] have recognized the broad discretion accorded to an insurance receiver's retention of counsel and recommendation for payment of their fees. *See, e.g.*, *In re Pine Top Ins. Co.*, 686 N.E.2d 657, 663 (Ill. App. 1997) (the receiver's "decision on the rate of fees should be accorded due consideration" and a court should "analyz[e] factors and set[] forth what particular elements are accorded more weight and why when reducing or denying fees."). Notably, "[i]t is not required by the statute, nor is it practical, for the court to undertake a detailed review of the invoices before approving payment." *In re Executive Life Ins. Co.*, 32 Cal. App.4th 344, 401 (1995).

The Liquidator therefore requests confirmation of authority to reimburse the invoices in full, for a total of $54,330.24, from Ocean's general assets.

In addition, to ensure timely payment for services, the Liquidator also requests confirmation of authority to pay future Morris Manning & Martin LLP invoices from Ocean's general assets, without further order from this Court, provided that (a) the monthly total for fees and services is below $50,000; (b) prior to payment, the Liquidator's counsel at DISB confirms

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[2] The District's liquidation statute is based on a model law that has been adopted by other states. *See, e.g.*, Committee Report dated May 25, 1993, re: Bill 10-123, the Insurers Rehabilitation and Liquidation Act of 1993, available at http://dcclims1.dccouncil.us/ images/00001/CP10/ 062314506_1.PDF (indicating that the bill underpinning what became D.C. Official Code § 31-1301 et seq. was "part of a package of 13 model bills dealing with insurance matters" that were drafted by the NAIC, the National Association of Insurance Commissioners). Therefore, decisions from other states interpreting substantially similar statutes are instructive here.

that the fees and services were reasonable and necessary; (c) the Court is given regular accountings of payments from Ocean's general assets, and (d) the Court receives copies of the invoices upon demand. Should any monthly invoice exceed $50,000, the Liquidator would submit the invoice to the Court for *in camera* review prior to payment.

Finally, the Liquidator requests confirmation of authority to pay GB Group LLC fees, in accord with the Fee Schedule in Article IV(B) of the Claim Service Agreement, without further order from this Court, provided that the Court receives regular accountings of such payments.

IV. RELIEF REQUESTED

Wherefore, for the reasons discussed above, the Petitioner moves the court for the entry of an order approving the retention and compensation of firms needed to assist with Ocean's liquidation, and approving the distribution of Ocean general assets as specified herein and in the attached proposed Order.

Respectfully Submitted,

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Attorney General for the District of Columbia

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[PROPOSED] ORDER APPROVING RETENTION OF ADDITIONAL FIRMS, AND DISTRIBUTION OF OCEAN'S GENERAL ASSETS

On December __, 2013, the District of Columbia, at the request of and on behalf of the Liquidator of Ocean Risk Retention Group, Inc. ("Ocean"), filed a Motion for Order Approving (1) Retention of Additional Firms and (2) Distribution of General Assets. Upon consideration of the Motion and the entire record herein, it is by this Court this ____ day of _____, 2013, hereby

1. **ORDERED** that the retention of GB Group, LLC, for the services and rates described in their Claim Services Agreement executed on October 31, 2013, is **APPROVED**;
2. **ORDERED** that the retention of Rovner, Allen, Rovner, Zimmerman & Nash, PC, for the services and compensation described in the Subrogation Claim Service Agreement executed on November 7, 2013, is **APPROVED**;
3. **ORDERED** that the payment from Ocean's general assets are **APPROVED** as follows:
   a. Morris, Manning & Martin Invoice No. 517120 for services in September 2013 may be paid in full for a total of $25,266.79;

b. Morris, Manning & Martin Invoice No. 519700 for services in October 2013 may be paid in full for a total of $29,063.45;

c. Future Morris, Manning & Martin invoices for which the monthly total for fees and services is below $50,000 may be paid from Ocean's general assets without further order from this Court, provided that the Liquidator's counsel confirm the fees are reasonable and necessary prior to payment, the Court receives regular accountings of such payments, and the Court receives copies of all invoices upon demand, and

d. GB Group LLC fees, in accord with the Fee Schedule in Article IV(B) of the Claim Service Agreement, may be paid from Ocean's general assets without further order from this Court, provided that the Court receives regular accountings of such payments.

4. This is entered as a final Order.

Melvin R. Wright
Judge, D.C. Superior Court

cc:

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