

Steven A. Karrer, KS#19366
Philip R. Michael, KS#26072
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604
785-296-7847
Steve.Karrer@ks.gov
Philip.Michael@ks.gov
ATTORNEYS FOR PETITIONER

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 15**

VICKI SCHMIDT,)	
COMMISSIONER OF)	
INSURANCE,)	
<i>In her Official Capacity</i>)	
)	
Petitioner,)	Case No. 2023 CV 494
)	
vs.)	
)	
MutualAid eXchange)	
)	
Respondent.)	

SECOND CLAIMS REVIEW REPORT

COMES NOW Commissioner of Insurance, Vicki Schmidt, in her capacity as Liquidator (“**Liquidator**”) of MutualAid eXchange (“**MAX**”), by and through counsel, and pursuant to K.S.A. § 40-3642, presents to this Court the Liquidator’s Second Claims Review Report.

On August 22, 2023, this Court entered a Judgment, Decree and Order of Liquidation with Finding of Insolvency (the “**Liquidation Order**”) against MAX. The Liquidation Order and the Kansas Insurers Supervision, Rehabilitation and Liquidation Act, K.S.A. §§ 40-3605 et seq.(the

“Act”), set forth the claim adjudication procedures, and the Liquidation Order set the deadline for filing Proofs of Claim as August 23, 2024 (the “**Bar Date**”).

Liquidator’s First Claims Review Report

On October 21, 2024, this Court issued a Journal Entry, ordering that the Liquidator’s recommendations set forth in Revised Exhibit A to the Liquidator’s First Claims Review Report (“First Claims Report”), as set forth in the record of the October 8, 2024 hearing, were approved.

In the First Claims Report, the Liquidator noted that 799 Proofs of Claim had been duly filed in the MAX liquidation estate. Three additional Proofs of Claim have been filed.

Revised Exhibit A attached to the First Claims Review Report contained recommendations for 705 of the Proofs of Claim. Subsequent to the hearing, MAX sent Notice of Determination letters (“NODs”) to the 705 Proof of Claim claimants.

Liquidator’s Second Claims Review Report

The Liquidator, by and through the Special Deputy Receivers (“SDRs”), has reconsidered two Proofs of Claim submitted in the First Claims Review Report and has reviewed 25 additional Proofs of Claim and made such further investigation as necessary. The 27 Proofs of Claim are set forth in **Exhibit A**, with the proof of claim number, name and address of each claimant, the amount claims, and the Liquidator’s recommendation to either allow, allow in part and deny in part, or deny. In instances where the Liquidator recommends allowing or allowing in part, the recommend amount allowed is noted.

Reconsiderations:

After MAX sent the NOD for Proof of Claim No 1-00449 allowing the UEP claim, MAX received notice from the SGA that it paid the UEP in full. Accordingly, the Liquidator has

reconsidered the Proof of Claim and recommends denying Proof of Claim No. 1-00449. (This Proof of Claim is noted on Exhibit A in row 9).

MAX also sent a NOD for Proof of Claim No. 1-00636, denying the UEP claim. The claimant reached out to MAX and MAX investigated further. MAX determined that the SGA did not pay the UEP claim. MAX originally issued the UEP check to this policyholder on November 11, 2022. The check was never cashed prior to liquidation. The SGA did not pay the UEP because the UEP was issued nearly a year prior to liquidation. Because the stale check was never cashed and the payment was for UEP, the Liquidator recommends changing the determination for Proof of Claim 1-00636 from denied to **allowed**.

Review of Additional Proofs of Claim:

Nine¹ of the 25 of the Proofs of Claim on Exhibit A are for unearned premium (“UEP”). The Liquidator recommends denial of the Proofs of Claim for those policyholders who received a 100% refund from an SGA, because the policyholder was made whole by the SGA. For those policyholders who received a refund from an SGA that was less than 100%, the Liquidator recommends allowing the Proof of Claim in part in the amount of the UEP that the SGA did not reimburse.

Pursuant to K.S.A. § 40-3641(b), Class 2 claims include “claims for unearned premium or other premium refunds. . .” Accordingly, all allowed in part UEP claims are priority Class 2 claims.

¹ 1-00029, 1-00409, 1-00526, 1-00696, 1-00760, 1-00778, 1-00800, 1-00801 and 1-00802.

Three² of the Proofs of Claim included a UEP claim and claims for benefits under a policy. The Liquidator recommends **denying** Proof of Claim 1-00157 because both the UEP and policy claims were transferred to and paid by an SGA. The Liquidator recommends **allowing in part** Proofs of Claim 1-00200 and 1-00754 because both the UEP and policy claims were transferred to SGAs. The SGAs paid the policy claim and a portion of the UEP for each of these Proofs of Claim. The amount allowed is the amount of UEP the SGAs did not pay.

Twelve³ of the Proofs of Claim were for policy claims. The Liquidator recommends denying each these Proofs of Claim because these policy claims were all transferred to and paid by the SGAs.

The remaining Proof of Claim⁴ was for a date of loss on June 5, 2024, well after the date the policy cancelled on June 12, 2023. Thus, there is no coverage for the claim under the policy and the Liquidator recommends denial of the Proof of Claim.

The Liquidator hereby requests that the Court approve her claim recommendations.

Respectively submitted,

/s/Steven A. Karrer
Steven Karrer, KS#19366
General Counsel
Philip R. Michael, KS #26072
Lead Regulatory Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66612
785-296-7847
Steve.Karrer@ks.gov
Philip.Michael@ks.gov

² 1-00157, 1-00200 and 1-00754.

³ 1-00147, 1-00179, 1-00236, 1-00366, 1-00642, 1-00713, 1-00752, 1-00759, 1-00761, 1-00776, 1-00785, and 1-00793.

⁴ 1-00794.

Jodi M. Adolf, KS#20741
Bruce E. Baty, KS#30488
Norton Rose Fulbright US LLP
7676 Forsyth Blvd., Suite 2230
St. Louis, MO 63105
314-505-8805
jodi.adolf@nortonrosefulbright.com
bruce.baty@nortonrosefulbright.com

ATTORNEYS FOR PETITIONER
Vicki Schmidt, Commissioner of Insurance

Exhibit A

	POC NO.2	FILED BY	ADDRESS	RECOMMENDATION	AMOUNT ALLOW
1	1-00029	[Redacted]	[Redacted], IN 47117	Allowed in part	\$25.86
2	1-00147	[Redacted]	[Redacted], MO 63845	Denied	\$0.00
3	1-00157	[Redacted]	[Redacted], MO 63845	Denied	\$0.00
4	1-00179	[Redacted]	[Redacted], OK 74804	Denied	\$0.00
5	1-00200	[Redacted]	[Redacted], VA 22960	Allowed in part	\$50.00
6	1-00236	[Redacted]	[Redacted], OK 73120	Denied	\$0.00
7	1-00366	[Redacted]	[Redacted], OK 73010	Denied	\$0.00
8	1-00409	[Redacted]	[Redacted], IN 46526	Allowed in part	\$48.90
9	1-00449	[Redacted]	[Redacted], IL 62801	Denied	\$0.00
10	1-00526	[Redacted]	[Redacted], IN 46526	Allowed in part	\$42.00
11	1-00636	[Redacted]	[Redacted], AZ 85041	Allowed	\$737.36
12	1-00642	[Redacted]	[Redacted], PA 17011	Denied	\$0.00
13	1-00696	[Redacted]	[Redacted], IN 46410	Allowed in part	\$307.96
14	1-00713	[Redacted]	[Redacted], IN 46202	Denied	\$0.00
15	1-00752	[Redacted]	[Redacted], NE 68505	Denied	\$0.00
16	1-00754	[Redacted]	[Redacted], IN 46540	Allowed in part	\$21.87
17	1-00759	[Redacted]	[Redacted], OK 73068	Denied	\$0.00
18	1-00760	[Redacted]	[Redacted], IN 46928	Allowed in part	\$394.40
19	1-00761	[Redacted]	[Redacted], UT 84081	Denied	\$0.00
20	1-00776	[Redacted]	[Redacted], OK 73120	Denied	\$0.00
21	1-00778	[Redacted]	[Redacted], IN 46526	Allowed	\$19.46
22	1-00785	[Redacted]	[Redacted], OK 73072	Denied	\$0.00
23	1-00793	[Redacted]	[Redacted], AZ 86403	Denied	\$0.00
24	1-00794	[Redacted]	[Redacted], AZ 85298	Denied	\$0.00
25	1-00800	[Redacted]	[Redacted], AZ 85616	Denied	\$0.00
26	1-00801	[Redacted]	[Redacted], AZ 85616	Denied	\$0.00
27	1-00802	[Redacted]	[Redacted], UT 84333	Allowed	\$761.00