

**IN THE CIRCUIT COURT OF COLE COUNTY
STATE OF MISSOURI**

CHLORA LINDLEY-MYERS, DIRECTOR)	
MISSOURI DEPARTMENT OF COMMERCE)	
AND INSURANCE,)	
)	
)	
)	
Plaintiff,)	
v.)	Case No.: 15AC-CC00224
)	
)	
LUMBERMEN’S UNDERWRITING ALLIANCE,)	
)	
)	
Defendant.)	

MOTION FOR APPROVAL OF RELEASE OF CERTAIN LETTERS OF CREDIT

COMES NOW Plaintiff Chlora Lindley-Myers, Director, Missouri Department of Commerce and Insurance, in her capacity as Liquidator (“Liquidator”) of Lumbermen’s Underwriting Alliance (“LUA” or the “Estate”), and respectfully requests that this Court enter an Order approving the release of certain letters of credit pursuant to Mo. Rev. Stat. § 375.1176.

In support of her motion, the Liquidator states the following:

1. On May 23, 2016, this Court entered a Judgment, Decree and Order of Liquidation with Finding of Insolvency (the “Liquidation Order”) against LUA. The Liquidation Order found LUA to be insolvent, terminated the rehabilitation proceeding, and placed LUA into liquidation. The Court appointed John M. Huff, who at the time was the Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, which later became the Missouri Department of Commerce and Insurance, and his successors in office, as LUA’s Liquidator. Chlora Lindley-Myers succeeded Mr. Huff as Director of the Missouri Department of Commerce and Insurance and was substituted in this action as the Liquidator.

2. Pursuant to the Order of Liquidation and the Insurers Supervision, Rehabilitation and Liquidation Act, Mo. Rev. Stat. §§ 375.1150 *et seq.* (the “Liquidation Act”), the Liquidator

acts for and on behalf of LUA and is vested by operation of law with title to all of the property, contracts, rights of action, books and records of LUA, and is administering them under the general supervision of the Court.

3. Pursuant to the Liquidation Order and the Liquidation Act, the Liquidator was directed to (a) identify, marshal and liquidate the assets of the Estate; (b) process and evaluate claims to determine the liabilities of the Estate; and (c) distribute assets to claimants of the Estate in accordance with Mo. Rev. Stat. § 375.1218.

LUA Property Insurance and Reinsurance

4. One of the lines of insurance business LUA wrote was property insurance, primarily for participants in the lumber industry. Its charter members exchanged property insurance contracts with a plan to provide insurance at absolute cost to subscribers. Over the years, LUA expanded as a specialty commercial carrier, to provide property and casualty insurance to assisted living facilities, the forest products industry and the food processing industry. LUA also was authorized to offer property insurance in Canada.

5. LUA only wrote claims-made property insurance policies. In other words, a property policy was issued for a 12-month period beginning on January 1 and ending on December 31, and only claims made during that one-year period would be covered under the policy.

6. In March 2015, while under administrative supervision, LUA ceased writing new and renewal business, such that by March 3, 2016, LUA had no active policies (property or otherwise) on its books. Thus, as all claims-made deadlines for property claims would have expired, there could be no new property claims on LUA policies after March 3, 2016.

7. Prior to receivership, LUA purchased various levels of reinsurance to limit or reduce its exposure on its property insurance policies.

8. An insurance company reinsuring its risks with a reinsurer that is licensed, accredited, or otherwise authorized to provide reinsurance according to the provisions of Mo. Rev. Stat. § 375.246, is entitled to full financial statement credit on its books for that reinsurance. If the reinsurer does not meet certain statutory requirements, then the ceding insurance company is entitled to take financial statement credit for the reserves ceded to the reinsurer only to the extent the reinsurer has posted collateral, usually in the form of a letter of credit issued by a qualified bank where the beneficiary is the ceding insurer (or the ceding insurer's receiver in the event of a liquidation). *See* Mo. Rev. Stat. § 375.246.

9. In those instances where LUA reinsured its property insurance risk with reinsurers that did not meet certain statutory requirements, LUA obtained collateral in the form of letters of credit ("LOCs") so that (a) it could treat the reinsurance as a credit on its financial statements, and (b) it could draw upon the LOCs in the event the reinsurers defaulted on their obligations.

10. LUA currently holds LOCs that were posted by six reinsurers on its property insurance policies, some of which related to U.S. insurance policies, and some of which related to LUA's Canadian insurance policies, with a total value of \$3,008,473.18:

Reinsurer	LOC Amount	Line of Business	Issuing Bank
Allied World	\$81,789.90	Property	CitiBank
Argo RE	\$203,681.68	Property	CitiBank
Catlin	\$2,201,906.00	Property	CitiBank
Hannover RE	\$65,555.44	Property	Credit Agricole
Hiscox	\$300,000.00	Property	CitiBank
R&V	\$155,540.16	Property	CitiBank

11. Pursuant to the Liquidation Order, in 2016 the Liquidator notified all persons known or reasonably expected to have claims against LUA, including all property insurance policyholders, of (a) the Liquidation Order, (b) the Proof of Claim process, and (c) the Claims Bar Date.

12. The Liquidator received Proofs of Claims related to nine property insurance claims.

13. The Liquidator has adjudicated all property claim Proofs of Claim. All of the property claim Proofs of Claim have been fully resolved, and no open property claims remain.

14. The Liquidator has collected all reinsurance available from the six reinsurers that continue to maintain LOCs.

15. Because no claims remain open, and the reserves on property insurance claims for all years is \$0.00, the LOCs are no longer necessary or appropriate. Accordingly, the Liquidator seeks approval to release the six LOCs currently held as detailed above.

16. Importantly, a release of the collateral under the reinsurance agreements does not terminate the liability of the reinsurers under those agreements, and in the highly unlikely event that claims arise against these reinsurers, then the Liquidator will seek to collect those amounts due and, where appropriate, seek the reinstatement of appropriate collateral.

Notice of Motion

17. The Liquidator shall provide written notice of this Motion to the reinsurers and issuing banks listed in paragraph 10 above.

18. The Liquidator shall post a copy of this Motion on its website: www.lumbermensunderwriting.com.

19. The Liquidator shall provide a copy of this Motion to the National Conference of Insurance Guaranty Funds for distribution to all GAs.

WHEREFORE, the Liquidator requests that the Court grant this motion and issue an Order as follows:

a) Approving the release of LOCs as set forth herein; and

b) Affirming and approving in all respects the conduct of the Liquidator, her employees, agents and counsel in connection with the release of LOCs requested by this Motion.

Respectfully submitted,

BRYAN CAVE LEIGHTON PAISNER, LLP

/s/ Jodi M. Adolf

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CERTIFICATE OF SERVICE

Pursuant to Missouri Rule of Civil Procedure 55.03(a), I hereby certify that I personally caused the signature to the original of the foregoing, which was filed this 17th day of November, 2022 using this Court's electronic filing system, which sends notification of filings to counsel of record.

/s/ Jodi M. Adolf
Attorney for Plaintiff