

EXHIBIT A

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

IN THE MATTER OF)
STATEWIDE INSURANCE COMPANY) C.A. No. 18668NC
IN REHABILITATION)

PLAN OF REHABILITATION OF STATEWIDE INSURANCE COMPANY

Receiver:

The Honorable Matthew Denn,
Insurance Commissioner of the
State of Delaware, in his capacity
as Receiver of Statewide Insurance
Company in Rehabilitation

Deputy Receiver:

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I. Summary of Rehabilitation

With the consent of its Board of Directors, Statewide Insurance Company, a Delaware domiciled insurer, was declared in hazardous financial condition and placed into rehabilitation proceedings on February 8, 2001, by the Court of Chancery of the State of Delaware in and for New Castle County in the proceedings docketed at *In the Matter of Statewide Insurance Company in Rehabilitation*, C.A. No. 18668NC, pursuant to 18 Del. C. § 5905. The Insurance Commissioner was appointed as the Receiver to take steps to attempt to rehabilitate Statewide's impaired financial condition. The Receiver appointed Mr. George J. Piccoli to act as the Deputy Receiver of Statewide.

Pursuant to the Rehabilitation Order, the Receiver was directed to immediately take possession and control of the property, assets, business and affairs of Statewide and to attempt to rehabilitate the same pursuant to the provisions of Chapter 59 of the Delaware Insurance Code, 18 Del. C. ch. 59.

The Receiver was authorized by the Rehabilitation Order to take such actions as the nature of this cause and the interests of the policyholders, creditors and stockholders of Statewide and the public may require.

The Receiver was vested by the Rehabilitation Order with title to all property, contracts and rights of action of Statewide and

was authorized to deal with the property, business and affairs of Statewide and to sue and defend for the Company or for the benefit of Statewide's policyholders, shareholders and creditors in courts and tribunals, agencies or arbitration panels of this State and other states in the name of the Insurance Commissioner of the State of Delaware, or in the name of Statewide.

The Rehabilitation Order vested the Receiver with the right, title and interest in and to all funds recoverable under treaties and agreements of reinsurance entered into by Statewide as the ceding insurer, and all reinsurance companies involved with Statewide were enjoined and restrained from making any settlements with any claimant or policyholder of Statewide other than through the Commissioner as Receiver, except as permitted by certain cut-through agreements or endorsements, as specified in the Rehabilitation Order.

Prior to the entry of the Rehabilitation Order, Statewide entered into certain reinsurance contracts under which Statewide ceded to SCOR Reinsurance Company ("SCOR") and SCOR agreed to assume and reinsure Statewide for certain losses arising out of insurance written by or on behalf of Statewide. On January 28, 2002, this Court approved a reinsurance commutation agreement (the "Stop Loss Commutation Agreement") between the Receiver and SCOR

under which the parties' rights and obligations under four Stop Loss Reinsurance Contracts between the parties were fully and finally settled. On September 6, 2005, this Court approved a second reinsurance commutation agreement (the "Automobile Quota Share Commutation Agreement"), under which all remaining rights and obligations between Statewide and SCOR were settled. As a result of the two commutation agreements, Statewide no longer has any reinsurance to collect and no longer has any obligations to its reinsurer.

Statewide's reinsurance recoverables constituted Statewide's major asset. Therefore, the estate has essentially now liquidated all of its assets, with the exception of one insurance subrogation case by Statewide against an individual. It is anticipated that the open subrogation case will be resolved in the near future.

In addition, the Receiver has resolved most of Statewide's policyholder or third party tort claims, either by settlement or through resolved litigation. Currently, the Receiver is aware of only two open or known potential policyholder claims, third party tort claims, or subrogation claims by other insurers.

The Receiver is also aware of other claims against Statewide, particularly claims of vendors and other creditors that would

qualify as general creditors if Statewide were in liquidation proceedings.

At this time, there are not sufficient assets to pay all of Statewide's debts in full. One option available to the Receiver is to seek to have the Court declare Statewide insolvent and order the company liquidated. That option would not only invoke the priority statute found at 18 *Del. C.* § 5918(e), but it would necessarily invoke the participation of the Delaware Insurance Guaranty Association ("DIGA").

Involvement of DIGA for an estate that is nearly completed would add an additional layer of administrative expense that the Receiver deems unnecessary and burdensome to this small estate at this stage. If DIGA's involvement was triggered by the entry of a liquidation order, it is likely that those creditors that would qualify as general creditors would receive a smaller distribution than under the Receiver's proposal.

The Receiver anticipates that the estate will have sufficient assets, either under the proposed Plan of Rehabilitation or under a liquidation order, to pay the approved policyholder and third party tort/subrogation claims in full. Therefore, the essential difference between the proposed Plan of Rehabilitation and a

liquidation order would be the involvement of DIGA and the additional expense necessitated by its involvement.

The priority statute at 18 *Del. C.* § 5918(e) specifically applies to liquidation proceedings. Not all of the priorities in that statute are expressly applicable to a rehabilitation proceeding. Although the priority statute provides guidance for rehabilitation proceedings, there are situations where it is appropriate to deviate from those priorities. For instance, the purpose of the priority statute is to protect an insurer's policyholders. In liquidation, policyholders have protection from subrogation, contribution and indemnity claims through the guaranty statute. In a rehabilitation, the guaranty fund is not available to pay policyholder claims. Therefore, the Receiver has proposed that claims for subrogation, contribution and indemnity against a Statewide insured will be classified with the Policy Claims (Class 2) under the Plan of Rehabilitation. Further, there are priority classes that are not applicable to Statewide, such as employee wage claims, surplus note claims, and late-filed claims. Therefore, the Receiver is proposing a modified distribution priority plan for this estate.

II. Definitions

"Allowed Claim" shall mean all or that part of a Claim which the Court allows pursuant to 18 *Del. C.* § 5917.

"Bar Date" shall mean the date by which all Claims must be asserted against Statewide, by filing with the Receiver a Proof of Claim and supporting documentation. For this Plan of Rehabilitation, the Bar Date shall be February 28, 2006.

"Claim" shall mean an assertion of a right to share in a distribution of Statewide's General Assets.

"Claimant" shall mean any person or entity asserting a Claim.

"Claim Valuation Date" shall mean the date as of which the rights and liabilities of the parties shall be fixed. Under this Plan, the Claim Valuation Date shall be February 28, 2006.

"Contingent Claim" shall mean all or that part of any Claim as to which liability of Statewide has not been established as of the Bar Date. The term "Contingent Claim" shall include, but not be limited to, incurred but not reported losses.

"Court" shall mean the Court of Chancery of the State of Delaware in and for New Castle County.

"Deputy Receiver" shall mean Mr. George J. Piccoli, in his official capacity as the Deputy Receiver of Statewide, appointed

by the Receiver, and his successors, if any, in that official capacity.

"File with the Receiver," "filed with the Receiver," or **"filing with the Receiver"** with respect to any Claim, notice, objection or other document shall mean actual receipt by the Receiver.

"General Assets" shall mean all of Statewide's real property or personal property, regardless of whether such property has been mortgaged, pledged, deposited as security or otherwise encumbered.

"General Creditors" shall mean any person or entity to whom Statewide is or may be indebted for any obligation, other than an obligation arising out of the terms and conditions of an insurance policy or contract issued by Statewide.

"Insurance Code" shall mean the Delaware Insurance Code, title 18 of the *Delaware Code*.

"Notice of Determination" shall mean a written notice of the Receiver's recommendation concerning whether a Claim should be allowed or denied in whole or in part.

"Plan of Rehabilitation" shall mean this Plan as approved by the Court in the Rehabilitation Proceedings for Statewide.

"Proof of Claim" shall mean a written statement meeting the requirements of 18 Del. C. § 5917. A Proof of Claim form is appended hereto as Exhibit 1.

"Receiver" shall mean the Honorable Matthew Denn, Insurance Commissioner of the State of Delaware, in his official capacity as the Court-appointed receiver of Statewide, and his predecessor and successors in office. No action taken by the Receiver, his Deputy or any assistant, consultant, attorney or other agent of the Receiver under this Plan of Rehabilitation shall constitute an action of the State of Delaware, Department of Insurance. The Receiver may act through an appointed deputy receiver or other authorized agents.

"Rehabilitation Order" shall mean the Stipulated Rehabilitation and Injunction Order entered by the Court on February 8, 2001, and docketed as Docket No. 3 in the Rehabilitation Proceedings.

"Rehabilitation Proceedings" shall mean the proceedings docketed as *In the Matter of Statewide Insurance Company in Rehabilitation*, C.A. No. 18668NC, in the Court of Chancery of the State of Delaware in and for New Castle County.

"Statewide" shall mean Statewide Insurance Company, a Delaware domiciled insurance company, which is the subject of the Rehabilitation Proceedings.

III. Background

A. **Company History**

Statewide was incorporated in the State of Delaware on April 25, 1995. Statewide, which was the wholly owned subsidiary of Statewide Insurance Holding Company, was licensed by the Delaware Insurance Department to transact property and casualty insurance business in the State of Delaware. Statewide was not licensed to transact insurance business in any other state. Statewide primarily issued private passenger automobile insurance policies.

Prior to the entry of the Rehabilitation Order, Statewide had ceased issuing insurance policies, and has not issued or renewed any policies since that time. At the time of the entry of the Rehabilitation Order, Statewide had approximately 270 open claims. An additional 20 claims were filed during the rehabilitation.

B. **Current Financial Condition**

As of June 30, 2005, Statewide had assets of \$236,791. Statewide's reserves on the open and potential policyholder and subrogation claims are confidential, to avoid prejudice to the

estate's ability to negotiate and settle or litigate those claims. However, the policy limits on the policies at issue in those two claims total \$115,000. In addition to those claims, the Receiver has notice of approximately \$208,000 in claims of vendors and other entities that would qualify as general creditors. In addition, the Receiver needs to reserve funds to pay for the remaining administrative expenses of the estate. Therefore, the Receiver has determined that Statewide's assets are likely to be sufficient to pay all of the policyholder and other insurers' subrogation claims in full, but will not be sufficient to pay the general creditors in full.

C. Rehabilitation Efforts to Date

The Receiver has commuted all of Statewide's reinsurance treaties and has collected all of the outstanding reinsurance recoverables, along with a portion of the reserves and incurred but not reported losses on Statewide's business.

The Receiver believes that most of the claims of policyholders and third parties against insurance policies issued by Statewide have been resolved through settlements or final judgments. The only open claim is a subrogation claim made by another insurance company. A second, potential claim involves underinsured coverage

under the insured's policy. Statewide has denied that claim. The Receiver is unaware of any other potential claims.

Since the inception of the receivership, the Receiver has closed almost 300 policyholder and third party claims against insurance policies issued by Statewide. During the rehabilitation, the Receiver also resolved litigation between Statewide and Zutz Management, Inc. ("Zutz"). That settlement, which was approved by the Court on July 22, 2002 (Docket No. 8), provided that Zutz Management would retain its claim as a general creditor under certain conditions, including a requirement that no other general creditor, other than certain policy-related claims, be afforded a higher priority than Zutz in a rehabilitation context. That settlement also provided that Zutz would not need to file a proof of claim form, but that the claim would be deemed a timely-filed, allowed general creditor claim in the agreed amount of \$39,362.26.

IV. Run-Off as Alternative to Liquidation

Based upon the Receiver's projections, Statewide has sufficient assets to pay the policyholder and third party/subrogation claims against insurance policies in full. However, Statewide is not projected to have sufficient assets to pay other claims in full. Therefore, Statewide is insolvent.

One option available to the Receiver is to petition the Court for an Order of Liquidation. However, the Receiver has not elected to pursue that option at this time for the reasons set forth below. It is not the Receiver's intention to continue the operations of Statewide after the conclusion of the Rehabilitation Proceedings. In most such cases, it would be appropriate to place the company into liquidation proceedings. However, due to the small size of the Statewide estate, the resolution of most of its policy claims, and the small number of remaining policy claims and general creditor claims, the Receiver believes that a more appropriate approach would be to run-off Statewide in the Rehabilitation Proceedings using a Plan of Rehabilitation that includes a bar date for filing claims against the estate.

V. Role of Delaware Insurance Guaranty Association

A liquidation would trigger the involvement of the Delaware Insurance Guaranty Association ("DIGA"). DIGA would be required to take possession of the open policy claim file and adjust that claim to its conclusion, as well as to handle other potential policy claims filed in the estate. DIGA would also be required to expend funds collected from other insurers and, where necessary, assess other insurers for the costs of claim payments and loss

adjustment expenses. DIGA would have a claim against the estate for its reasonable, approved administrative expenses. DIGA would also be subrogated against the estate to the extent of claim payments made by DIGA.

DIGA is not obligated to cover subrogation claims or other claims by insurers. 18 Del. C. § 4205(6)(b)(3). Therefore, DIGA would not have any involvement with the only open claim. Some of DIGA's administrative expenses would duplicate the administrative expenses of the Receiver. Further, if additional claims were filed, DIGA would take possession of the claim files concerning the claims of policyholders and third parties against the Statewide policies, and may retain its own claims adjusters and attorneys to adjust and settle or litigate the policy claims.

A stay of up to one hundred and twenty (120) days pursuant to 18 Del. C. § 4218 would likely be required to allow DIGA time to take possession of the files, become familiar with the files, and prepare for a defense or other resolution of the claims.

Currently, there is only one known potential policyholder claim. The Receiver estimates that, if necessary, the estate would be able to resolve this policy claim without adding the additional administrative expense of the guaranty association to the estate's expenses.

The Statewide estate is an extremely small estate and even a small amount of duplication in the administrative expenses could have a significant effect on the amount of assets available to pay policy claims or, particularly, general creditor claims.

DIGA would not have any involvement with or obligation to pay the subrogation or general creditor claims in a liquidation proceeding. Therefore, the subrogation and general creditor claimants would not benefit from DIGA's involvement at this stage. In fact, DIGA's administrative expenses are likely to only decrease the amount of funds available to pay general creditor claims after the policy claims are satisfied.

VI. Bar Date in Rehabilitation

While the Receiver does not believe that it is appropriate at this time to place Statewide into liquidation proceedings, in order to move toward the eventual closure of the Rehabilitation Proceedings, the Receiver believes that it is necessary to have the Court order a deadline for the submission of Claims against the estate.

Bar dates are authorized in insurer liquidations in Delaware pursuant to 18 *Del. C.* §§ 5917 and 5929. Bar dates are not specifically prohibited in rehabilitation proceedings by the

Delaware Insurance Code. In fact, the provisions of 18 *Del. C.* § 5917, which applies to all delinquency proceedings under Chapter 59 of Title 18 of the *Delaware Code*, specifically provides for the filing of claims with the Receiver "on or before the last date for filing as specified in this chapter." Therefore, the statute contemplates the use of bar dates in rehabilitation proceedings where it is deemed appropriate.

The provisions of 18 *Del. C.* § 5929(b) do require that a bar date in a liquidation proceeding shall not be less than six months after the entry of the order of insolvency. However, no specific limitations are placed on rehabilitation proceedings. The Court does have the authority pursuant to 18 *Del. C.* § 5902(a) to "make all necessary or proper orders to carry out the purposes of" Chapter 59 of Title 18 of the *Delaware Code*. Therefore, the imposition of a bar date in a rehabilitation proceeding is left to the sound discretion of the Court, upon the recommendation of the Receiver.

Despite the lack of specific time limitations on bar dates in rehabilitation proceedings, the Receiver's request here is consistent with the statute. The Bar Date in the Plan of Rehabilitation is well after the first six months of the receivership. Statewide was placed into its Rehabilitation

Proceedings on February 8, 2001. Therefore, almost five years will have elapsed between the entry of the Rehabilitation Order and the Bar Date. More than ample time has already elapsed for Claimants to have disclosed their Claims to the Receiver. However, to provide the remaining Claimants with an additional opportunity to submit their Claims to the Receiver, this Plan of Rehabilitation provides an additional period of time, until February 28, 2006, for Claimants to file Proofs of Claim with the Receiver.

ANY AND ALL CLAIMS NOT FILED WITH THE RECEIVER ON OR BEFORE FEBRUARY 28, 2006, SHALL BE BARRED FROM THE ESTATE AND SHALL NOT RECEIVE ANY DISTRIBUTIONS FROM THE GENERAL ASSETS OF THE ESTATE OF STATEWIDE.

The Receiver has already resolved numerous policyholder or third party tort Claims through settlements or litigation and made payments to the Claimants. Under the Plan of Rehabilitation, any Claim that has been fully resolved through the issuance of a final settlement and release, the entry of a final, nonappealable judgment, or payment in full of all sums demanded or a compromised amount on or before December 31, 2005, and has been paid the amount due or the amount required by the settlement, compromise or judgment by the Receiver on or before December 31, 2005, shall not

be required to file a Proof of Claim. All such Claim payments shall have been deemed allowed in the Policyholder Level Class (Class 2), and fully satisfied. All policyholder claims not resolved and paid on or before December 31, 2005, all Federal Government priority claims and all claims of general creditors, except Zutz, shall be required to file with the Receiver a Proof of Claim on or before the Bar Date or their claims will be barred from distributions from the estate's assets. Zutz has been deemed to have filed a timely proof of claim pursuant to the April 26, 2002, settlement agreement between the Receiver and Zutz, which agreement was approved by the Court on July 22, 2002.

VII. Injunction and Release

Pursuant to 18 *Del. C.* § 5904, the Court has the authority to grant injunctive or other relief necessary to "prevent interference with the Commissioner or the proceeding or waste of the assets of the insurer or the commencement or prosecution of any actions or the obtaining of preferences, judgments, attachments or other liens or the making of any levy against the insurer or against its assets or any part thereof."

The Plan of Rehabilitation continues the injunctions contained in the Rehabilitation Order in paragraphs 13, 14, 15 and 16.

Paragraph 13 of the Rehabilitation Order concerning transaction of Statewide's business provides:

Statewide, its officers, directors, stockholders, agents, servants and employees and all other persons having notice of these proceedings or of this Order are hereby prohibited from transacting any business of, or on behalf of, Statewide or selling, transferring, destroying, wasting, encumbering or disposing of any of the Assets, without the prior written permission of the Receiver or until further Order of this Court.

Paragraph 14 of the Rehabilitation Order concerns the disposition of Statewide's assets:

All banks, brokerage houses, agents, reinsurers, or other companies or persons, either having in their possession Assets or possible Assets (including, without limitation, books or records) of Statewide, or having notice of these proceedings or of this Order, are hereby enjoined and restrained from disposing of, selling, wasting, encumbering, transferring or destroying any such Assets or possible Assets (including, without limitation, books or records of Statewide). This prohibition includes, without limitation, Assets, possible Assets, books or records pertaining to any business transaction between Statewide and any of said parties. No actions concerning, involving, or relating to such Assets, possible Assets, books or records may be taken by any of the aforesaid persons or entities enumerated herein, without the prior written consent of the Receiver, or until further Order of this Court.

Paragraphs 15 and 16 of the Rehabilitation Order address litigation or other claims against Statewide. Paragraph 15 provides:

All officers, directors, stockholders, agents, servants and employees of Statewide, and all other persons and companies having notice of these proceedings or of this Order, are hereby enjoined and restrained from instituting or further prosecuting any action at law or in equity or in other proceedings against Statewide, the Commissioner as Receiver, the Deputy Receiver(s) or the Designees in connection with their duties as such, or from obtaining preferences, judgments, attachments or other like liens or encumbrances, or foreclosing upon or making of any levy against Statewide or the Assets, or exercising any right adverse to the right of Statewide to or in the Assets, or in any way interfering with the Receiver, the Deputy Receiver(s) or the Designees either in their possession and control of the Assets, books and records of Statewide or in the discharge of their duties hereunder.

Paragraph 16 specifically requires that any claim against the Receiver, Deputy Receiver or Assets be brought in the Rehabilitation Proceedings:

All persons and companies are hereby enjoined and restrained from asserting any claim against the Commissioner as Receiver of Statewide, or against the Deputy Receiver(s) or the Designees in connection with their duties as such, or against the Assets, except insofar as such claims are brought in the rehabilitation proceedings of Statewide.

With respect to proceedings against Statewide's insureds, the Rehabilitation Order contained a 180 day stay during which parties to lawsuits were

enjoined and restrained from proceeding with any pretrial conference, trial, application for judgment or proceedings on judgment or settlements and any such action at law, in equity, special or other proceedings in which Statewide is obligated to defend a party insured or any other person it is legally obligated to defend by virtue of its insurance contract...

The Rehabilitation Order did not specifically enjoin litigation directly against Statewide's insureds. After the expiration of the 180 day stay, where appropriate, Statewide resumed the defense of its insureds in litigation filed against the insureds.

However, under the Plan of Rehabilitation, all claims against either Statewide or its insureds for benefits under Statewide's policies would be required to be brought in the Rehabilitation Proceedings. Therefore, the Plan of Rehabilitation further provides that all persons are enjoined and restrained from pursuing any claim for policy benefits directly against an insured of Statewide up to the amount of such insured's policy limits. That relief is designed to protect Statewide's policyholders from a third party's attempt to circumvent the Rehabilitation Proceedings by pursuing a claim directly against the policyholder

rather than filing a claim against Statewide in the Statewide Rehabilitation Proceedings. That relief is also consistent with the defense and indemnification protections which might be afforded to the policyholders in liquidation proceedings under the Delaware Insurance Guaranty Association Act, 18 Del. C. ch. 42.

Any payment made to a Claimant on an Allowed Claim pursuant to this Plan of Rehabilitation shall be deemed payment in full, without diminution, of Statewide's obligation to such Claimant, and shall constitute a full and final settlement of Statewide's obligations on the underlying Claim, and a full and complete release and discharge of Statewide, the Receiver, the Deputy Receiver, and all assistants, clerks, attorneys, accountants and consultants employed by any of them, of any and all claims, of any kind or description whatsoever, whether arising at law or in equity, known or unknown, arising out of or relating to the underlying Claim, these Rehabilitation Proceedings and this Plan of Rehabilitation. To avoid a person or entity from obtaining a preference by filing an action directly against an insured or other person or entity to whom Statewide owes a defense or indemnification under an insurance policy or contract, this Plan of Rehabilitation specifically enjoins and restrains all persons and entities from proceeding with a claim against an insured or

other person or entity to whom Statewide owes a defense or indemnification under an insurance policy or contract issued by Statewide to the extent of the limits of liability of the Statewide policy. Nothing herein is intended to revive an expired statute of limitations as to any such claims.

VIII. Defense and Indemnification of Policyholders

Pursuant to both the Rehabilitation Order and the Plan of Rehabilitation, actions against Statewide, the Receiver, the Deputy Receiver and their assistants, attorneys, accountants and consultants are barred except to the extent such claims are brought in the Rehabilitation Proceedings. Actions directly against the policyholder for the policy benefits will be enjoined upon the entry of the Court's Order approving the Plan of Rehabilitation.

Upon the Court's approval of the Plan of Rehabilitation, all actions directly against Statewide's insureds for benefits under a Statewide policy in a court proceeding, arbitration or other proceeding outside of the Rehabilitation Proceedings shall be dismissed and the underlying claims are to be pursued in the Rehabilitation Proceedings, subject to the proof of claim filing requirements and the other requirements of the Plan of

Rehabilitation and the Rehabilitation Order. Statewide's obligation to provide a defense or indemnification to its insureds in matters outside of the Rehabilitation Proceedings will cease upon the entry of the Court's Order approving the Plan of Rehabilitation. The Receiver shall continue to retain counsel to represent the policyholder in matters outside of the Rehabilitation Proceedings for the purpose of obtaining a dismissal of such matters as to Statewide and its insured, as appropriate. The Receiver shall continue to provide to its insureds a defense and indemnification, where appropriate, as to claims for policy benefits filed in the Rehabilitation Proceedings.

IX. Underinsured Claims and Statute of Limitations

Some of Statewide's personal automobile insurance policies included coverage for underinsured claims arising out of the uninsured vehicle coverage requirements of 18 *Del. C.* § 3902(a).¹ The Delaware Supreme Court has held that the statute of limitations for a dispute between an insurer and its own insured for underinsured coverage is the three-year limitations period in 10 *Del. C.* § 8106 for actions based in contract, but that the cause of action does not begin to accrue until the alleged breach of contract occurs. See *Allstate Ins. Co. v. Spinelli*, 443 A.2d 1286 (Del. 1982).

The uninsured coverage offered by Statewide did include coverage for "underinsured" tortfeasors. However, the claims of Statewide's insureds against such tortfeasors should have been

¹ Section 3902(a) of Title 18 of the *Delaware Code* reads as follows:

(a) No policy insuring against liability arising out of the ownership, maintenance or use of any motor vehicle shall be delivered or issued for delivery in this State with respect to any such vehicle registered or principally garaged in this State unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured or hit-and-run motor vehicles for bodily injury, sickness or disease, including death, or personal property damage resulting from the ownership, maintenance or use of such uninsured or hit-and-run vehicle. Except, that no such coverage shall be required in or supplemental to a policy where rejected in writing, on a form furnished by the insurer describing the coverage being rejected, by an insured named therein, or upon any renewal of such policy unless the coverage is then required in writing by the named insured. The coverage herein required may be referred to as "uninsured vehicle coverage."

filed no later than early 2003. Over two years have elapsed since such suits should have been filed. The Receiver is aware of only one potential claim by a Statewide insured concerning the "underinsured" provisions of the policy, although suit was not filed and no claim has been brought in the Rehabilitation Proceedings to date.

In contrast to the statutes of limitations, the Court of Chancery has jurisdiction in insurer delinquency proceedings to establish a bar date, as is noted above. Without such a bar date, the Receiver's ability to close the estate would be hindered by the delay in submission of underinsured and other claims. An unreasonably lengthy delay in resolving such claims would delay the Receiver's distributions to other creditors.

Therefore, this Plan provides that the Bar Date of February 28, 2006, shall supersede any applicable statutes of limitations for any claims for which the statutes of limitations have not already expired, including but not limited to the statute of limitations set forth in 10 *Del. C.* § 8106 for contract claims.

While the Bar Date will also supersede other statutes of limitations, such as the two-year statute of limitations for suits based upon claims for alleged personal injuries under 10 Del. C. §8119,² due to the fact that Statewide's open policies were all cancelled in September 2000, prior to the entry of the Rehabilitation Order, the Receiver does not anticipate that the statute of limitations for any third party claim will be affected by the Bar Date. However, if there are third-party or other claims for which an applicable statutes of limitations have not yet expired, the Bar Date will supersede those statutes of limitations as well.

X. Priority Classes in Rehabilitation

The priority of distribution of Statewide's General Assets under this Plan of Rehabilitation shall be in accordance with the order in which each class of claims is herein set forth. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class

² Section 8119 of Title 10 of the *Delaware Code* reads as follows: "No action for the recovery of damages upon a claim for alleged personal injuries shall be brought after the expiration of 2 years from the date upon which it is claimed that such alleged injuries were sustained; subject, however, to the provisions of § 8127 of this title."

shall receive any payment. No subclasses shall be established within any class. No claim by a shareholder, policyholder or other creditor shall be permitted to circumvent the priority classes through the use of equitable remedies. The order of distributions shall be:

A. Class 1: Receiver's Administrative Expenses

The Receiver shall pay out of the General Assets all costs and expenses of Statewide's administration. The Receiver shall report all disbursements to the Court in an Accounting on a semi-annual basis in a format consistent with the format used for filing prior accountings in the Rehabilitation Proceedings. These costs and expenses, which must be expressly approved or authorized by the Receiver, shall include but not be limited to:

1. the Receiver's actual and necessary costs of taking possession of the insurer, preserving or recovering the assets of the insurer, and otherwise complying with Chapter 59 of the Delaware Insurance Code;

2. reasonable compensation for all services rendered at the request of and on behalf of the Receiver, or his appointed Deputy Receiver, in the Rehabilitation Proceedings by the receivership's employees and its retained attorneys, accountants, actuaries, claims adjusters, expert witnesses and other consultants; and

3. all expenses incurred by the Delaware Insurance Department in supervising the Rehabilitation Proceedings of Statewide.

Consistent with Chapter 59 of the Delaware Insurance Code and the Rehabilitation Order, the Receiver may appoint or employ, or continue the appointment and employment of, consultants, assistants, accountants, and attorneys to assist him in the rehabilitation of Statewide and the implementation and effectuation of this Plan of Rehabilitation. The Receiver shall pay the compensation of all such consultants, assistants, accountants and attorneys, including the compensation of the Deputy Receiver and his staff, out of the General Assets, and shall report such payments to the Court in the semi-annual Accounting. The Designees shall continue to be entitled to the immunity established under the Rehabilitation Order.

B. Class 2: Policy Claims

The following claims shall be included in Class 2, "Policy Claims," if a Proof of Claim is deemed filed or is timely filed by the Bar Date: Claims by policyholders, beneficiaries and insureds, including the federal or any state or local government if such government is a named policyholder, beneficiary or insured under the policy, arising from and within the coverage of and not

in excess of the applicable limits of insurance policies and insurance contracts issued by the company; liability claims, including liability claims of the federal or any state or local government, against insureds which claims are within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, including claims for reasonable attorney's fees incurred by the policyholder to defend against the liability claim if such attorney's fees are covered under the policy, but only to the extent covered; policyholder's claims for refunds of unearned premium, and claims of insurers, insurance pools or underwriting associations for contribution, indemnity or subrogation, equitable or otherwise; provided, however, that this Class shall not include claims arising under reinsurance contracts, including any claims for reinsurance premiums due. Under this Plan of Rehabilitation, subrogation, contribution or indemnity claims of other insurers or their insureds against Statewide are specifically included in Class 2, "Policy Claims" to protect the Statewide insureds from direct suit by such other insurers. Claims alleging tortious conduct, such as a breach of the duty of good faith and fair dealing, or other claims alleging extra-contractual remedies are expressly excluded from this Class, and such claims, if any, would

be considered claims in Class 4 ("general creditors") under this Plan of Rehabilitation.

Under this Plan of Rehabilitation, interest shall not be allowed or paid on Class 2 claims, except that the value assigned to Class 2 claims arising from valid judgments entered on or before December 31, 2005, other than judgments by default or collusion, may include prejudgment and post-judgment interest through December 31, 2005, if such interest is required by law or contract.

This Class shall also include the policyholder, third party tort and insurer subrogation claims that the Receiver has resolved through settlements or litigation and paid on or before December 31, 2005. However, as all of those claims will have been fully satisfied before the Bar Date, those claims will not be included in distribution plans that the Receiver files after the Bar Date.

C. Class 3: Federal Government Priority Claims

The following claims shall be included in Class 3, "Federal Government Priority Claims," if a Proof of Claim is timely filed by the Bar Date: taxes owed to the United States and other debts owed to the United States which by the laws of the United States are entitled to priority over the claims in Classes 4 and 5 below

and which claims of the United States are not already included in Class 2 above.

The Receiver does not anticipate that there will be any claims that qualify for this class. However, as a precautionary measure, the Receiver has included this class of claims to conform this Rehabilitation Plan to the ruling of the Supreme Court of the United States in *U.S. Dep't of Treas. v. Fabe*, 508 U.S. 491 (1993), and the ensuing related cases.

D. Class 4: General Creditor Claims

The following claims shall be included in Class 4, "General Creditor Claims," if a Proof of Claim is deemed filed or is timely filed by the Bar Date: Claims of general creditors including, but not limited to, claims of ceding and assuming insurers in their capacity as such. This class shall include any Claims of the federal or any state or local government to the extent such claims are not otherwise included in Classes 2 or 3 above. Pursuant to a settlement agreement, approved by the Court on July 22, 2002, the Proof of Claim for Zutz has already been deemed filed and, therefore, is timely filed. All other general creditors will be required to file a proof of claim on or before the Bar Date of February 28, 2006.

E. Class 5: Stockholder Claims

The following claims shall be included in Class 5, "Stockholder Claims," without the requirement of filing a Proof of Claim: The claims of shareholders or other owners arising out of such capacity.

XI. Notice of Plan, Bar Date and Claim Process

The Receiver shall have mailed copies of the Petition for Approval of this Plan, the Plan of Rehabilitation, the Order to Show Cause, the form of Order Approving Plan of Rehabilitation, a separate notice of the Bar Date (in the form appended hereto as Exhibit 2), and a proof of claim form (Exhibit 1 hereto) to all creditors with open or known potential claims as of the filing of the Petition for Approval of this Plan of Rehabilitation, and to the Delaware Insurance Guaranty Association. Proof of mailing shall be confirmed by United States Postal Service Form 3606, Certificate of Bulk Mailing.

A summary notice, substantially in the form appended hereto as Exhibit 3, concerning the Petition for Approval of the Plan of Rehabilitation, the Plan of Rehabilitation, the Bar Date and the proof of claim process shall also have been mailed by first class mail, with proof of mailing on United States Postal Form 3606,

Certificate of Bulk Mailing, to all known creditors with open claims as of the entry of the Rehabilitation Order and to all State Insurance Departments.

Notice of the Plan, the Bar Date and the proof of claim process shall also have been published once each in the *News Journal* and the *Delaware State News*, substantially in the form of the Legal Notice appended hereto as Exhibit 4.

XII. **Claim Determination Process**

A. **Settlements with Claimants**

Whenever possible, the Receiver and his assistants have negotiated or will negotiate settlements of Claims. Such settlements shall take into account the amount of the policy limits already exhausted on a particular policy so that the aggregates of a given policy are not exceeded. All such claims shall be valued as of the Claim Valuation Date.

B. Claims Not Amenable to Settlement

If a Claimant who has filed a timely Proof of Claim is not amenable to settling a Claim within a reasonable period of time, the Receiver shall issue to such Claimant a Notice of Determination containing the Receiver's recommendation as to the priority classification and value to be assigned to such claim. The Notice of Determination shall advise the Claimant of the right to a hearing before the Court on the Claim. The notice shall provide that the Claimant must file a notice of appeal with the Receiver within thirty days of the mailing of the notice of the Deputy Receiver's determination of the priority classification and/or value to be assigned to the unresolved claim. At the hearing before the Court, the Claimant shall have the burden of proving the value and priority of the Claim. All such claims shall be valued as of the Claim Valuation Date.

XIII. Distribution of Assets and Estate Closure

A. Availability of Assets

All settlements of claims between a Creditor and the Receiver or other allowance of Claims by the Court are subject to the availability of assets. Claims filed pursuant to this Plan of Rehabilitation will not share in any distribution of assets unless and until all reasonable administrative expenses and claims of a higher priority under this Plan of Rehabilitation are paid and a sufficient reserve established for the payment of future reasonable administrative expenses necessary to conclude the estate. The

stockholders or shareholders of Statewide will not share in any distribution of the assets unless and until all administrative expenses and higher priority claims are satisfied in full. The Receiver does not anticipate that any distribution will be made to stockholders.

B. Distribution Plan and Closure Plan

Once the value of all of the claims against the estate or a sufficient number of claims to warrant a final distribution has been established, the Receiver will provide the Court with a distribution plan. The plan or plans of distribution will identify the value assigned to each claim, by each level of priority. The Receiver will also determine the amount of assets available for distribution after deducting the reasonable administrative expenses already incurred and taking into account the reasonable administrative expenses estimated to be incurred by the estate. The amount available after deducting the incurred and anticipated administrative expenses and the incurred taxes will be referred to as the "Net Assets Available."

The Receiver will then determine the amount to be distributed to the creditors pursuant to this Plan of Rehabilitation in the distribution. Allowed claims will not be entitled to any distribution of assets from the estate unless and until all incurred and estimated administrative expenses have been or will be paid, and the full value of all allowed higher priority claims have been satisfied in full. Upon the completion of the collection and liquidation of the assets and the distribution of all available

assets, the Receiver shall submit a petition to close the estate and discharge the Receiver from any further duties.

XIV. Powers of the Receiver

Pursuant to the Rehabilitation Order and this Plan of Rehabilitation, the Receiver shall have the power to exercise, pursue or avail himself of any lawful right, power or remedy as is necessary or proper to implement this Plan of Rehabilitation, including but not limited to the power:

- (1) to reserve or utilize General Assets to:
 - (a) pay the administrative costs and expenses of Statewide's receivership;
 - (b) meet Statewide's obligations under this Plan of Rehabilitation;
 - (c) make investments as the Receiver deems appropriate and prudent;
- (2) to acquire, sell, transfer, abandon or otherwise dispose of or deal with the General Assets upon such terms and conditions as are reasonable;
- (3) to execute, acknowledge and deliver any documents or instruments necessary or proper to effectuate any transaction;

(4) to enter into such contracts as the Receiver deems necessary or proper to implement this Plan of Rehabilitation, and to affirm, modify or disavow any contracts to which Statewide is or may be a party; and

(5) to institute and pursue, either in Statewide's name or in the Receiver's name, any and all suits and other legal proceedings and remedies before the Court or in any other jurisdiction, and to assert all available claims and defenses.

XV. Ban on Issuance of New Policies of Insurance

Upon the entry of this Plan of Rehabilitation, and throughout the Rehabilitation Proceedings, Statewide shall neither issue nor renew any policies or contracts of insurance, nor assume any reinsurance risks, liabilities or obligations.

XVI. Possibility of Future Liquidation Proceedings

The Receiver recognizes that this Plan of Rehabilitation is contingent upon the Court's approval, and is based upon certain assumptions and estimates concerning the available funds to distribute to the classes of creditors. While the Receiver does not anticipate the need for the entry of an Order of Liquidation,

the circumstances that the Receiver believes warrant the implementation of this Plan of Rehabilitation could change. Therefore, nothing herein shall preclude the Receiver from subsequently seeking to have the Court enter an appropriate Order of Liquidation.

XVII. Conflicts with Rehabilitation Order

If the Plan of Rehabilitation is deemed in any respect to be in conflict with the Rehabilitation Order, the terms of the Plan of Rehabilitation shall prevail. If any matter covered in the Rehabilitation Order is not covered herein, the Rehabilitation Order shall apply.

XVIII. Effect of Delaware Insurance Code

To the extent not inconsistent with the terms of this Plan of Rehabilitation and the Rehabilitation Order, the provisions of the Delaware Insurance Code shall apply to this Plan of Rehabilitation.

XIX. Jurisdiction over Enforcement

The Court shall retain exclusive original jurisdiction to enforce the terms and provisions of this Plan of Rehabilitation, as well as the provisions of the Rehabilitation Order.

XX. Contact Information

The address, telephone number, and facsimile number of the Receiver and his staff are:

Statewide Insurance Company in Rehabilitation
841 Silver Lake Boulevard
Suite 205
Dover, Delaware 19904
Telephone Number: (302) 735-1800
Facsimile Number: (302) 735-5565

Please note that proofs of claim may NOT be filed by facsimile.

The original proof of claim with supporting documentation MUST be submitted to the Receiver on or before the Bar Date of February

28, 2006.