STATE OF VERMONT
WASHINGTON COUNTY, SS

VT SUPERIOR COURT
WASHINGTON UNIT
CIVIL

2018 OCT 31 A 11:10

COMMISSIONER OF THE DEPARTMENT OF FINANCIAL REGULATION PLAINTIFF, v. ELITE TRANSPORTATION RISK RETENTION GROUP, INC., RESPONDENT.	SUPERIOR COURT DOCKET NO. 175-3-18 Wncv

LIQUIDATOR'S SECOND STATUS REPORT

I, J. David Leslie, Special Deputy Liquidator, hereby submit this second status report concerning the liquidation of Elite Transportation Risk Retention Group, Inc. ("ETRRG" or the "Company").

1. On March 15, 2018, the Commissioner of the Department of Financial Regulation ("Commissioner") filed an *ex parte* Petition for Seizure Order pursuant to 8 V.S.A. § 7042(b), seeking, among other things, authorization to take possession and control of ETRRG. The petition was based in part on the Commissioner's conclusion that ETRRG's liabilities plus the legally required capital reserve exceeded its assets such that the Company was insolvent. The Court granted the Commissioner's petition by entering the requested order ("Seizure Order") on March 29, 2018. Following entry of the Seizure Order, the Commissioner further investigated the Company's condition, concluded that rehabilitation would be futile, and filed a Petition for Order of Liquidation on April 20, 2018 which was assented to by ETRRG's Board of Directors. On May 15, 2018, the Court entered its Order of Liquidation ("Liquidation Order") that, among

other things, appointed the Commissioner as Liquidator ("Liquidator"), authorized him to appoint a special deputy liquidator, approved the Plan of Liquidation, and ordered that the Liquidator provide creditors and others with notice of the Liquidation Order and a claim filing deadline no less than 120 days after the date of the Liquidation Order. See Order of Liquidation ¶¶ 1, 5, 6, and 7. The Liquidator appointed me to serve as Special Deputy Liquidator on May 15, 2018.

2. <u>The Liquidator's First Status Report.</u> On July 16, 2018, I submitted the Liquidator's First Status Report describing, among other things, the establishment of a claim filing deadline (May 15, 2019), the provision of notice to potential creditors of ETRRG, the consolidation of ETRRG's assets and administration, and next steps in the Liquidation. A copy of the Liquidator's First Status Report was publicly posted on ETRRG's former website – www.etrrg.com.

3. <u>Receipt of Proofs of Claim.</u> The Liquidator's First Status Report advised that, as of July 12, 2018, 14 completed proofs of claim had been received and acknowledged. As of October 26, 2018, the Liquidator has received and acknowledged 97 proofs of claim. (Incomplete proofs of claim were returned to their senders with instructions for resubmission.)

4. <u>ETRRG Assets</u>. As discussed in the Liquidator's First Status Report, ETRRG's 2017 Annual Statement showed total cash and invested assets of $5.3 million as well as letters of credit in the amount of $1.8 million. When the Seizure Order entered, the Commissioner drew on the letters of credit in their full amount which, in the event, totaled more than $2.4 million. All of ETRRG's cash and invested assets have since been consolidated in Vermont (People's United Bank). An investment strategy was then agreed with People's United whereupon assets not needed for operating expenses were invested. As of October 26, 2018, $0.5 million is held in

the cash account and $7.3 million in the investment account for a total of approximately $7.8 million. Of this total amount, approximately $0.6 million is held in escrow to secure members' obligations to fund amounts within their coverage deductible. To the extent not required for that purpose, the Liquidator will recommend that those escrowed amounts be returned/credited to the respective member providing the particular escrowed funds.

5. Consolidation of administrative functions. The Liquidator has consolidated most ETRRG administrative functions with Risk Services, a large captive management organization. The Liquidator continues to review ETRRG's pre-liquidation structures and opportunities to increase the efficiency of administration.

6. ETRRG's Tax Litigation. While the Seizure Order was in place, the Company requested authorization from the Commissioner to file a complaint against the Internal Revenue Service seeking payment of $1.3 million in tax refunds alleged to be wrongfully withheld. The Commissioner authorized filing of the complaint to avoid running of the statute of limitations. The matter is presently pending in the United States District Court for the District of Vermont (No. 5:18-CV-00077). Initially, the parties agreed to extend the Internal Revenue Service's deadline to respond to the complaint. That answer was recently filed but the parties have agreed to seek a stay while the matter is further considered by the U.S. Department of Justice and Internal Revenue Service.

7. Collection of Assessments. The Company's shareholder agreements contemplated that the board of directors could assess members for additional funds under certain circumstances. In three rounds between July of 2016 and December of 2017, ETRRG invoiced its members for assessments totaling approximately $5.1 million. In aggregate, members paid approximately $2.7 million in assessments leaving $2.4 million in receivables. Given the

materiality of the issue and its implications for ETRRG's claims-paying ability, the Liquidator carefully evaluated the process by which historical assessments were established and allocated among the members. The Liquidator concluded that these assessments had not been made in accordance with the terms of the shareholder agreements and were thus uncollectible. Further, we evaluated the Liquidator's powers to assess members/shareholders for ETRRG's capital insufficiency and concluded that, with the Court's approval, such assessments might be made.

8. <u>The Liquidator's September 27, 2018 Report to ETRRG Members.</u> After review of the available ETRRG records and obtaining estimates from two separate consulting actuaries, the Liquidator prepared a memorandum titled "Liquidator's Report: Financial Condition, Collectability of Outstanding Assessments and Options" ("Report") that was circulated to the members on September 27, 2018. The Report (attached hereto as Exhibit A) was distributed to ETRRG's members in order to describe the Liquidator's conclusions regarding the Company's financial condition, explain why historical assessments are uncollectible, and present a plan that will be submitted to the Court to remedy the inequities created by the historical assessments and their partial collection. The Report also provides an example, using current actuarial projections, of how the proposed plan would work in operation. Essentially, the Liquidator's plan would apply the Company's shareholder agreement by determining the operating deficit for each policy year, imposing an assessment equal to that deficit, and allocating the resulting assessment for such years with a deficit based on the members' proportionate share of premium for the policy year. The effect of the plan would be to place the members in a position as close as possible to that contemplated by their pre-Liquidation shareholder agreements.

9. Liquidator's Conference with Members. The Report sets forth the Liquidator's understanding of the facts, analysis of the situation, and intentions going forward.[1] In circulating the Report to the members, the Liquidator hoped to prompt correction of any factual misunderstandings, solicit views from the affected parties, and generally operate as transparently as possible. The Liquidator therefore asked that the members review the Report and raise questions within twenty days, after which a conference call would occur for members to offer comments and discuss the issues presented. A number of members raised questions during the twenty day period and the conference call with ETRRG members took place on October 19, 2018. Almost all ETRRG members participated in the conference call. Since the Report is only intended as a description of the proposed plan (and illustration, using current actuarial estimates), the members were not asked to take a position. The members did, however, ask productive questions and offer candid feedback. In general, the Liquidator continues to believe that the plan described in the Report is the best way to deal with ETRRG's insolvency and address the inequities arising from the historical assessment program.

10. Next Steps. The Liquidator will determine claims against ETRRG as they are submitted. (The goal will be to reach consensus with claimants where reasonably possible so as to minimize or avoid disputes requiring adjudication. ETRRG's assets will be managed in a prudent and conservative manner in the meantime.) When that process is completed (after running of the deadline for filing claims -- May 15, 2019) the Liquidator will submit those determination to the Court for approval. The Liquidator's intention is to integrate the "determined" value of claim obligations into the type of plan described in the attached Report, consult with ETRRG's members, and then submit a formal assessment proposal for the Court's

[1] The Liquidator's proposed plan would impose assessments based on ETRRG's actual results. Those results will not be known until all claims have been filed and determined (i.e. after the May 15, 2019 claim filing deadline). As a result, the Liquidator is not asking the Court or the members to take any action at this point.

consideration in conjunction with a motion to approve claim determinations and authorize a distribution of assets to creditors.

Dated this 24th day of October, 2018,

J. David Leslie
Special Deputy Liquidator

Subscribed and sworn before me
this 24th day of October, 2018

Notary Public
My commission expires:

DEBRA A. BOTELLIO
Notary Public
COMMONWEALTH OF MASSACHUSETTS
My Commission Expires
February 14, 2025

Exhibit A

Elite Transportation Risk Retention Group, Inc.
("ETRRG" or the "Company")

Liquidator's Report: Financial Condition, Collectability of Outstanding Assessments and Options

September 27, 2018

Summary

Analysis of ETRRG's available assets and unpaid claim liabilities indicates that a substantial distribution might be made to members respecting their claims under policies. It would be inequitable, however, to do so without first adjusting for the Company's unsupportable member assessment practices. Specifically, ETRRG members from earlier years have been improperly assessed. It would compound that unfairness to simply use their capital contributions and assessment payments to fund the claims of members insured in more recent highly unprofitable years who have paid little or no assessments. To address these problems, the Liquidator proposes to request authorization from the supervising court to reallocate the historical assessments in a manner consistent with the terms of the Shareholders' Agreement and to make additional assessments based on estimated losses for 2015, 2016 and 2017, offsetting each member's assessments against amounts that would otherwise have been distributed from ETRRG's estate. (No additional cash would be sought from members for such assessments.) In this way, ETRRG's members are put in the most equitable relative position possible under the circumstances and the economic loss because of ETRRG's insolvency is fairly shared among members.

Financial Condition.

The two critical components to an assessment of ETRRG's financial condition are its liabilities (principally outstanding claim liabilities) and assets. As shown in Table 1, below, ETRRG assessed members with coverage effective during policy years 2012 – 2016 in three rounds (once in 2016 and twice in 2017) for a total of $5.1 million.

Table 1 -- Historical Policy Year Premium Assessments

	2012	2013	2014	2015	2016	2017	Total
August 2016	$ 451,508	1,492,131	321,131	--	--	--	2,264,770
June 2017	--	258,869	88,315	33,531	--	--	380,714
December 2017	--	454,338	1,598,133	2,664	373,766	--	2,428,902
Total	$ 451,508	2,205,338	2,007,579	36,195	373,766	n/a	5,074,386

Members paid $2.7 million in respect of these assessments before entry of the Liquidation Order. If they are supportable, the outstanding assessments -- $2.4 million -- would substantially increase the estate's assets and could be collected (in large part) through offsets against member claims, reducing the degree of ETRRG's insolvency.

Subsequent to entry of the liquidation order, the Liquidator requested ETRRG's long-standing consulting actuary -- Casualty Actuarial Consultants, Inc. ("CAC") -- to estimate ETRRG's ultimate loss and allocated loss adjustment expense obligations as well as its historical income/loss by policy year. (Such an annual analysis of policy year income/loss should have been the basis for determining whether a dividend or an assessment was appropriate for each policy year.) CAC delivered a draft report on 7/3/18.

In its preliminary report, CAC noted that premium data for the period 2005 - 2011 was problematic because the available records of "by-member" premium did not sum to the total premium reported on

the Company's audited financial statements.[1] With that significant caveat, CAC's draft estimates showed a net loss of $4.3 million for the 2005 – 2011 period. For the period 2012 – 2017, when more reliable data is available, CAC was able to estimate that the total loss for those six policy years was $11.77 million.[2] CAC's analysis of policy year losses is presented, in comparison with ETRRG's historical assessments, in Table 2, below.

Table 2 -- Historical Assessments v. CAC's Estimated Policy Year Loss

	2012	2013	2014	2015	2016	2017	Total
Historical Assessment	$ 451,508	2,205,338	2,007,579	36,195	373,766	--	5,074,386
CAC Estimate	25,238	1,820,143	2,171,807	1,143,940	3,216,037	3,397,002	11,774,168
Under/(Over) Assessment	$ (426,270)	(385,195)	164,228	1,107,745	2,842,271	3,397,002	6,699,782

In recognition that certain ETRRG members have expressed criticism to the Liquidator concerning past management and board decisions, the Liquidator engaged Merlinos & Associates, Inc. ("Merlinos") (an actuarial consulting firm that has done a significant amount of work for insurance regulators and therefore has high credibility within the insurance regulatory community) to review CAC's 7/3/18 report. The Liquidator also asked that Merlinos review the source materials and offer an independent estimate of the income/loss by policy year. Merlinos produced its report on 8/22/18. For the period 2005 – 2011, Merlinos relied on audited financial statement premium (rather than the "by-member" premium used by CAC) and found modest net income for those years. For the period 2012 – 2017, the Merlinos report shows a total loss of $11.54 million. Merlinos' estimate of policy year losses is presented, in comparison with ETRRG's historical assessments, in Table 3, below.

Table 3 -- Historical Assessments v. Merlinos' Estimated Policy Year Losses

	2012	2013	2014	2015	2016	2017	Total
Historical Assessment	$ 451,508	2,205,338	2,007,579	36,195	373,766	--	5,074,386
Merlinos Estimate	662,710	2,244,964	2,356,529	1,404,638	2,372,734	2,499,492	11,541,067
Under/(Over) Assessment	$ 211,202	39,626	348,950	1,368,443	1,998,968	2,499,492	6,466,681

CAC and Merlinos used different techniques but both actuaries' estimates fall within a similar reasonable range. The CAC and Merlinos estimates of ETRRG's policy year income/loss for the period 2012 - 2017 are quite close although they differ by policy year; the Merlinos estimate of total income/loss for the period is 1.98% ($233,101) lower. The actuaries' analysis for the period 2005 – 2011 is also close after adjusting for differences in the premium data used.[3]

Using the Merlinos estimate of outstanding loss and allocated loss adjustment expense liability for all years net of reinsurance ($12.4 million) and adding a very conservative administrative expense estimate placeholder ($1 million) generates total estimated estate liabilities of $13.4 million. ETRRG's available

[1] During its thirteen years of operation, ETRRG has had three independent auditors, three claim administrators and two captive mangers. The current auditor, program manager, and captive manager have been unable to reconcile the various data sources.

[2] Policy year 2018 was not included because operations were wound-down early in the year with all exposures off the books by early April. In addition, data for 2018 is "green" so the range of outcomes makes any estimate subject to considerable variability.

[3] CAC relied upon a "bordereau" file that presents premium on a by-member basis. The "bordereau" shows $5.9 million less premium than was reported in ETRRG's audited financial statements. CAC's calculations of a $4.3 million loss for the period 2005-2011 becomes a $1.6 million gain (consistent with Merlinos' findings) if "bordereau" data is replaced with premium from the audited financial statements.

cash and invested assets (all of which are now within the control of the Liquidator) total $7.2 million. This leaves a deficit of $6.3 million.[4] That computation, however, does not address the impact of historical assessments and the partial payment of those assessments by some former members. For the reasons described in the following section of this Report, the historical assessments were unsupported as to amount and their application to particular policy years and individual members is problematic.

Outstanding Assessments

ETRRG's organizational documents contemplated an annual evaluation of income/loss by policy year. To the extent there was income for a policy year then a dividend might be declared. On the other hand, if a policy year generated a loss, then an assessment could be made. The Shareholder Agreement specifies that such assessments should be allocated among members in proportion to their premium for the policy year. (See Exhibit A, containing relevant excerpts from the Shareholder Agreement.)

Review of ETRRG's records does not reflect annual evaluation of policy year income/loss and the determination of assessments does not appear to have been driven by a policy year actuarial analysis. Instead, the amount of the premium assessments appears to have been based on the capital needs of ETRRG at the time of the assessment (due to the disallowance of certain assets or otherwise) rather than the income/loss for particular policy years. This means that the decisions as to whether to impose an assessment (and in what amount) were not made on a consistent and uniform basis from one policy year to the next. See, supra, Tables 2 and 3.[5] Further, once an assessment was determined to be necessary and fixed as to amount, the method used to allocate it to individual members was inconsistent with the terms of the Shareholder Agreement. (See Exhibit A). The improper methodology tended to advantage then-current members over former members and produced substantial distortions. To illustrate the materiality of these distortions, a detailed calculation for policy year 2014 (showing the difference between the historical allocation and a premium-proportional allocation) is attached as Exhibit B.

Because of the issues described above in calculating and then allocating assessments among members, the outstanding assessments are likely uncollectible and cannot be offset. The opposite approach -- unwinding the historical assessments rather than completing them -- is similarly impractical because ETRRG has insufficient assets to pay its policy-level obligations and the liquidation statutes do not permit the return of premium assessments unless all higher priority claims are paid in full.

Options

Normally a liquidator marshals the assets, determines the liabilities (after the deadline for submitting claims occurs) and -- based on the ratio of assets to determined liabilities and mindful of the creditor priorities set by law -- recommends a distribution percentage. Allowed claims are then paid on that

[4] See Exhibit C which contains, among other things, a simplified estate balance sheet.

[5] The Company's historical assessment for policy year 2012 appears generally adequate as to amount given that it falls between Merlinos' and CAC's 2018 estimates of loss for the period. Similarly, though the initial historical assessments on policy years 2013 and 2014 were inadequate, after two further rounds of assessments the cumulative total for each year is consistent with Merlinos' and CAC's estimates of those policy years' losses. The Company's assessments for 2015 and 2016 did not meaningfully address ETRRG's large losses for those policy years.

basis and the proceeding is closed. An illustration of the by-member impacts of such an approach (i.e. conducting the liquidation on a "status quo" basis) is attached as Exhibit C.

Here, the question is whether steps should be taken to address the inequities described above since certain members were charged (and paid) assessments at different levels relative to other members and in a manner inconsistent with the Shareholder Agreement. That said, it must also be recognized that no members actually paid as much as they would have if the "proper" amounts had been assessed and collected. (See Exhibit D). This is a crucial point because ETRRG's policy year losses for 2012 – 2017 were of such a magnitude that they exhausted the available capital and caused insolvency. The members of a RRG are expected by law to operate the RRG in a way that maintains its solvency, not "self-liquidate" through inadequate premium and assessments.

Some ETRRG members have advocated that the Liquidator file suit against the Company's former officers and directors based upon asserted misconduct (with the idea of triggering D&O coverage) or other individuals and organizations for similar reasons. Based upon our investigation, it appears that fingers can be pointed in almost every direction but that no actionable claims have actually been described. Bottom line, <u>all</u> members between 2012 and 2017 appear to have paid less (in most cases, considerably less) than was necessary to support the solvent operations of ETRRG.

Under these circumstances, the Liquidator proposes (with the supervising court's approval and pursuant to the Shareholder Agreement) to: i) reallocate each of the historical assessments in proportion with policy year premium; and, ii) impose "break even" assessments for policy years 2015, 2016, and 2017 in the manner contemplated by the Shareholder Agreement (i.e. assessments in the amount necessary for each year to produce a $0 profit/loss) and allocate them in the manner contemplated by the Shareholder Agreement. Detailed calculations are presented as Exhibit E. The Liquidator would credit members with amounts previously paid in respect of the historical assessments and offset the remainder of the amounts owed against the relevant members' policy-related claims. (No additional cash would be sought from members for such assessments.) The final amount recoverable through such offsets is uncertain as both Merlinos and CAC anticipate that ETRRG has significant losses incurred but not reported for policy years 2018 and prior. To illustrate the mechanics of the Liquidator's proposal, however, a table modeling potential financial results for each member is attached as Exhibit F and a table correlating those results to the "status quo" is attached as Exhibit G.

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We ask that you review this Report and raise any questions you may have within the next twenty days. At that point, a conference call will be scheduled so members may offer any comments they may wish on the Liquidator's proposed course of action. After giving due consideration to those comments, the Liquidator will then report to the supervising court and submit his recommendation.

J. David Leslie
Special Deputy Liquidator

Exhibit A

Excerpts from
<u>Third Amended and Restated Shareholder Agreement for Elite Transportation Risk Retention Group, Inc.</u>

7.6.2 <u>Premium Assessments</u>. At the conclusion of each policy year, the Board shall determine whether to assess the Policyholders for additional premium, and shall make any such assessment, in accordance with the formula set forth in Appendix B hereto.

Appendix B
Calculation of Premium Assessments

Should it become necessary to assess members additional premium for a particular year, the formula will be based on their relative premium size as follows:

<u>Member's Audited Premium</u> x Group Total Premium	Total assessment required	=	Member's portion owed

Exhibit B - Historical Assessment Allocation Method vs. Premium-Proportional Allocation

ETRRG assessed a total of $2,007,579 with regard to policy year 2014. The amount of the assessment allocated to each member is shown below in the "Historical Assessment" column.

The Shareholder Agreement requires that all premium assessments be allocated in proportion to "relative premium size" for the policy year. (See Exhibit A). The members' 2014 premium is presented below both in terms of dollars – "2014 Premium ($)" – and as a percentage of ETRRG's total policy year premium – "2014 Premium (%)". The historical assessment of $2,007,579 is allocated to each member in proportion to their policy year premium in the "Premium-Proportional Allocation ($)" column.

The final column in the table subtracts the premium-proportional allocation from the historical allocation. Positive numbers indicate over-assessments while negative numbers indicate under-assessments.

Member	Historical Assessment ($)	2014 Premium ($)	2014 Premium (%)	Premium-Proportional Allocation ($)	Over/(Under) Allocation ($)
A&S Services Group LLC	541,215	993,839	16.9%	339,516	201,699
Bulls Eye Express Inc.	25,093	46,079	0.8%	15,741	9,352
Calex Express Inc.	134,428	453,940	7.7%	155,075	(20,648)
Clark Transfer Inc.	89,406	282,594	4.8%	96,540	(7,134)
Fox Transportation Inc.	41,545	140,104	2.4%	47,862	(6,318)
Frock Bros. Trucking	77,954	262,891	4.5%	89,809	(11,855)
H.M. Kelly Inc.	43,381	146,296	2.5%	49,978	(6,597)
Hoffman Transport Inc.	94,820	319,769	5.4%	109,240	(14,419)
Indian Valley Bulk Carriers	72,155	243,328	4.1%	83,126	(10,971)
J.P. Donmoyer Inc.	70,896	130,186	2.2%	44,474	26,421
Metropolitan Trucking Inc.	375,842	1,187,954	20.2%	405,830	(29,988)
Paul Miller Trucking Inc.	105,297	332,820	5.7%	113,698	(8,401)
Pleasant Trucking Inc.	64,700	224,541	3.8%	76,708	(12,008)
Star Freight Inc.	10,650	634,486^	10.8%	216,754	(206,103)
Zimmerman Truck Lines Inc.	260,198	477,804	8.1%	163,228	96,970
Total	**2,007,579**	**5,876,631**	**100.0%**	**2,007,579**	--

^ Star Freight purchased a 16 month policy from ETRRG effective on 9/1/14. Though this policy became effective in 2014, it appears the Company's historical assessment calculations pro-rated the policy premium, assigning some to 2014 and the remainder to 2015. This had the effect of shifting significant Star Freight premium from the 2014 policy year (subject to a $2M historical assessment) to the 2015 policy year (subject to a $36,195 historical assessment)

Exhibit C – Impacts of a "Status Quo" Liquidation

Member	Outstanding Incurred Losses[1]	LOCs Drawn & Capital Contributed	Paid Assessments[2]	Priority Class 3 Distribution[3]	Estimated Member Impact[4]
A&S Services Group LLC	$ (1,356,963)	$ (510,791)	$ (534,560)	$ 942,065	$ (1,460,249)
Bolus Freight Systems	(774,818)	(137,264)	(11,580)	537,914	(385,748)
Bulls Eye Express Inc.	(70,036)	(64,000)	-	48,622	(85,414)
Calex Express Inc.	(1,482,423)	(179,414)	(161,120)	1,029,165	(793,792)
Clark Transfer Inc.	(471,049)	(74,756)	(98,884)	327,024	(317,666)
Finster/Elite Express	(2,035,884)	(220,113)	(3,085)	1,413,402	(845,680)
Fox Transportation Inc.	(442,878)	(55,731)	(53,085)	307,466	(244,228)
Frock Bros. Trucking	(544,746)	(83,000)	(102,424)	378,187	(351,983)
Grocery Haulers	(829,050)	-	-	575,564	(253,486)
H&H Transportation Co. Inc.	(313,691)	(93,772)	-	217,778	(189,685)
H.M. Kelly Inc.	(367,627)	(36,699)	(97,366)	255,223	(246,468)
Hoffman Transport Inc.	(704,700)	(152,188)	(235,780)	489,234	(603,433)
Indian Valley Bulk Carriers	(947,430)	(82,912)	(97,175)	657,749	(469,769)
Inter-Coastal, Inc.	(147,534)	(77,454)	-	102,424	(122,563)
J.P. Donmoyer Inc.	(119,305)	(175,000)	(267,999)	82,827	(479,477)
Kinard Trucking Inc.	(110,552)	-	(24,347)	76,750	(58,149)
Metropolitan Trucking Inc.	(4,160,497)	(323,499)	(373,050)	2,888,405	(1,968,641)
Paul Miller Trucking Inc.	(2,085,594)	(103,700)	(202,205)	1,447,913	(943,586)
Pleasant Trucking Inc.	(256,056)	(90,625)	(95,231)	177,766	(264,146)
Road Scholar Transport Inc.	(955,782)	(172,568)	(2,454)	663,547	(467,257)
Star Freight Inc.	(1,623,631)	(161,694)	(23,258)	1,127,198	(681,385)
Trans Tech Leasing Inc.	(90)	-	(5,578)	62	(5,606)
Zimmerman Truck Lines Inc.	(289,089)	(200,000)	(289,902)	200,698	(578,292)
	$ (20,089,424)	$ (2,995,180)	$ (2,679,083)	$ 13,946,983	$ (11,816,704)

Simplified Estate Balance Sheet[5]

Estate Assets	
Cash & Invested Assets	$ 7,241,296
Reinsurance Receivable	7,705,687
Total Assets	14,946,983
Estate Liabilities	
Class 1 Claims	$ 1,000,000
Class 3 Claims	20,089,424
Total Liabilities	21,339,424
Capital & Surplus	$ (6,252,441)

Priority Class 1	
Available Assets	$ 14,946,983
Class 1 Claims	1,000,000
Distribution %	100%
Priority Class 3	
Available Assets	$ 13,946,983
Class 3 Claims	20,089,424
Distribution %	69%

[1] "Outstanding Incurred Losses" references members' anticipated insured exposure (i.e. case reserves for all policy years and Merlinos' estimate of claims incurred but not reported, presented net of deductibles) for the period 2005-2018.

[2] Amounts paid by current and former members in respect of the Company's historical assessments.

[3] Based on the figures presented in the "Simplified Estate Balance Sheet", $13.9M would be available to pay priority class 3 (i.e. policy-related) claims. If ETRRG receives a total of $20.1M in policy-related claims (see note 1, supra), then the Liquidator would anticipate a 69% priority class 3 distribution. "Priority Class 3 Distribution" is therefore 69% of each member's "Outstanding Incurred Losses".

[4] "Estimated Member Impact" is the sum of the other columns and a rough estimate of the financial impact on each member of ETRRG's insolvency.

[5] "Cash & Invested Assets" reflects ETRRG's current account balances, less approximately $600,000 held in escrow to secure the payment of deductibles. "Reinsurance Receivable" is the Merlinos estimate of estate recoveries. "Class 1 Claims" is a conservative placeholder for the expense of administering the liquidation. Claims falling to lower priority classes would receive no distribution and are therefore omitted.

Exhibit D - <u>"Proper" Assessments vs. Historical Assessment Payments</u>

The Liquidator asked Merlinos to estimate the Company's profit/loss for each policy year. (See Table 3 on p. 2). To operate on a "break even" basis, ETRRG would have needed to assess its members for the total amount of the loss in each policy year. Taking Merlinos' loss estimates as the "proper" assessment for each year, allocating those assessments in proportion to premium (as required by the Shareholder Agreement) and adding together the assessments for each policy year produces the figures shown for each member in the "Proper Assessments (Policy Years 2012-17)" column of the following table. In every case, this amount is greater than the relevant member's historical assessment payments.

Member	"Proper" Assessments[1] (Policy Years 2012-17)	Historical Assessment Payments
A&S Services Group LLC	$ 1,048,776	$ 534,560
Bolus Freight Systems, Inc.	381,925	11,580
Bulls Eye Express Inc.	130,068	--[2]
Calex Express Inc.	971,649	161,120
Clark Transfer Inc.	601,569	98,884
Finster/Elite Express	478,963	3,085
Fox Transportation Inc.	284,646	53,085
Frock Bros. Trucking	536,564	102,424
Grocery Haulers	159,294	--[3]
H&H Transportation Co. Inc.	239,503	--[4]
H.M. Kelly Inc.	291,307	97,366
Hoffman Transport Inc.	707,332	235,780
Indian Valley Bulk Carriers	514,566	97,175
Inter-Coastal, Inc.	59,126	--[5]
J.P. Donmoyer Inc.	382,306	267,999
Kinard Trucking Inc.	25,490	24,347
Metropolitan Trucking Inc.	1,936,119	373,050
Paul Miller Trucking Inc.	820,645	202,205
Pleasant Trucking Inc.	425,594	95,231
Road Scholar Transport Inc.	408,575	2,454
Star Freight Inc.	667,577	23,258
Trans Tech Leasing Inc.	5,840	5,578
Zimmerman Truck Lines Inc.	463,631	289,902
Total	$ 11,541,067	$ 2,679,083

[1] Using CAC's estimate of 2012-17 policy year losses would produce assessments totaling $11.7 million. (See Table 2 at p. 1).

[2] Bulls Eye Express, Inc. was assessed prior to liquidation but did not make any payment.

[3] Grocery Haulers appears to have been excluded from prior assessments because it had a "pass through" relationship with ETRRG (deductibles were set equal to the reinsurance retention). Grocery Haulers was a "policyholder" however, within the meaning of the Shareholder Agreement and it is not clear that its unique relationship excuses it from participation in policyholder assessments.

[4] H&H Transportation was an ETRRG policyholder in 2016 but, for unknown reasons, does not appear to have been included in the assessment for policy year 2016.

[5] Inter-Coastal, Inc., joined ETRRG in 2017 such that it was appropriately excluded from assessments on policy years 2012 – 2016.

Exhibit E - Calculation of Proposed Assessment Reallocation and "Break Even" Assessments

As described in the text of the Report, the Liquidator proposes (with the Court's approval) to reallocate the historical assessments for each policy year in accordance with the premium-proportional allocation methodology required by the Shareholder Agreement. The results of that reallocation are shown in the "Historical Assessments Reallocated by Policy Year Premium" box below. The Liquidator also proposes (with the Court's approval and pursuant to the Shareholder Agreement) to impose an assessment on those policy years that were either not assessed (2017) or materially under-assessed (2015 and 2016) prior to entry of the Liquidation Order. The calculation of the necessary amount (the difference between Merlinos' estimate of losses and any prior assessment) is shown at the bottom while the by-member premium-proportional allocation is shown in the "'Break Even' Assessments (Prem.-Prop. Alloc.)" box. For each member, the sum of the reallocated historical assessments and the proposed "break even" assessments is shown in the "Total Assessment" column at right. Each member would be credited with any prior assessment payments and the remainder would be offset against the member's allowed claims in the liquidation proceeding. No additional cash for assessments would be sought.

Member	Historical Assessments Reallocated by Policy Year Premium						"Break Even" Assessments (Prem.-Prop. Alloc.)				Total Assessment
	2012	2013	2014	2015	2016	Total	2015	2016	2017	Total	
A&S Services Group LLC	$ 37,439	407,530	339,516	4,650	-	789,134	$ 175,793	-	-	175,793	$ 964,928
Bolus Freight Systems	-	-	-	-	28,360	28,360	-	151,672	201,894	353,566	381,925
Bulls Eye Express Inc.	13,889	89,595	15,741	-	-	119,225	-	-	-	-	119,225
Calex Express Inc.	33,442	222,611	155,075	3,395	27,739	442,263	128,350	148,354	206,084	482,788	925,051
Clark Transfer Inc.	24,391	128,282	96,540	1,937	18,809	269,960	73,230	100,596	127,289	301,115	571,075
Finster/Elite Express	-	-	-	1,741	29,930	31,671	65,831	160,069	221,392	447,292	478,963
Fox Transportation Inc.	10,977	65,305	47,862	1,006	8,145	133,296	38,040	43,563	55,120	136,723	270,019
Frock Bros. Trucking	18,464	117,115	89,809	1,875	15,756	243,019	70,904	84,264	112,025	267,193	510,212
Grocery Haulers	19,398	128,514	-	-	-	147,911	-	-	-	-	147,911
H&H Transportation Co. Inc.	-	-	-	-	37,728	37,728	-	201,775	-	201,775	239,503
H.M. Kelly Inc.	9,173	58,827	49,978	1,095	9,021	128,093	41,381	48,244	59,554	149,179	277,272
Hoffman Transport Inc.	23,527	155,358	109,240	2,490	21,899	312,513	94,135	117,119	150,780	362,035	674,548
Indian Valley Bulk Carriers	17,405	111,960	83,126	1,703	14,658	228,851	64,373	78,394	118,347	261,113	489,964
Inter-coastal, Inc.	-	-	-	-	-	-	-	-	59,126	59,126	59,126
J.P. Donmoyer Inc.	40,479	265,910	44,474	-	-	350,863	-	-	-	-	350,863
Kinard Trucking Inc.	17,367	-	-	-	-	17,367	-	-	-	-	17,367
Metropolitan Trucking Inc.	128,006	-	405,830	8,913	68,654	611,402	336,985	367,171	490,144	1,194,300	1,805,702
Paul Miller Trucking Inc.	-	143,250	113,698	3,344	29,148	289,441	126,445	155,889	226,534	508,867	798,308
Pleasant Trucking Inc.	15,039	99,411	76,708	1,682	10,075	202,915	63,602	53,883	83,040	200,524	403,440
Road Scholar Transport Inc.	-	-	-	2,364	23,633	25,997	89,374	126,394	166,810	382,578	408,575
Star Freight Inc.	-	-	216,754	-	30,213	246,966	-	161,582	221,354	382,936	629,902
Trans Tech Leasing Inc.	3,979	-	-	-	-	3,979	-	-	-	-	3,979
Zimmerman Truck Lines Inc.	38,534	211,670	163,228	-	-	413,431	-	-	-	-	413,431
	451,508	2,205,338	2,007,579	36,195	373,766	5,074,386	1,368,443	1,998,968	2,499,492	5,866,903	10,941,289

	2015	2016	2017
Historical Assessment	$ 36,195	373,766	-
Merlinos' Estimated Policy Year Loss	1,404,638	2,372,734	2,499,492
Additional Assessment Necessary to "Break Even"	1,368,443	1,998,968	2,499,492

Exhibit F - Illustration of Reallocated/"Break Even" Assessment Impacts

Member	Total Assessment[1]	Prior Payments	Outstanding Incurred Losses[2]	Estimated Collections through Offset ($)	Estimated Collections through Offset (%)[3]	Status Quo[4]
A&S Services Group LLC	$ 964,928	$ 534,560	$ 1,356,963	$ 964,928	100%	68%
Bolus Freight Systems	381,925	11,580	774,818	381,925	100%	41%
Bulls Eye Express Inc.	119,225	-	70,036	70,036	59%	0%
Calex Express Inc.	925,051	161,120	1,482,423	925,051	100%	36%
Clark Transfer Inc.	571,075	98,884	471,049	569,933	99.8%	37%
Finster/Elite Express	478,963	3,085	2,035,884	478,963	100%	10%
Fox Transportation Inc.	270,019	53,085	442,878	270,019	100%	40%
Frock Bros. Trucking	510,212	102,424	544,746	510,212	100%	42%
Grocery Haulers	147,911	-	829,050	147,911	100%	--
H&H Transportation Co. Inc.	239,503	-	313,691	239,503	100%	0%
H.M. Kelly Inc.	277,272	97,366	367,627	277,272	100%	76%
Hoffman Transport Inc.	674,548	235,780	704,700	674,548	100%	75%
Indian Valley Bulk Carriers	489,964	97,175	947,430	489,964	100%	42%
Inter-coastal, Inc.	59,126	-	147,534	59,126	100%	--
J.P. Donmoyer Inc.	350,863	267,999	119,305	350,863	100%	76%
Kinard Trucking Inc.	17,367	24,347	110,552	17,367	100%	140%
Metropolitan Trucking Inc.	1,805,702	373,050	4,160,497	1,805,702	100%	61%
Paul Miller Trucking Inc.	798,308	202,205	2,085,594	798,308	100%	70%
Pleasant Trucking Inc.	403,440	95,231	256,056	351,287	87%	47%
Road Scholar Transport Inc.	408,575	2,454	955,782	408,575	100%	9%
Star Freight Inc.	629,902	23,258	1,623,631	629,902	100%	9%
Trans Tech Leasing Inc.	3,979	5,578	90	3,979	100%	140%
Zimmerman Truck Lines Inc.	413,431	289,902	289,089	413,431	100%	70%
Total	$ 10,941,289	$ 2,679,083	$ 20,089,424	$ 10,838,806	Average – 99%	Average – 53%

[1] "Total Assessment" – The sum of reallocated historical assessments and the proposed "break even" assessment – See Exhibit D

[2] "Outstanding Incurred Losses" references members' anticipated insured exposure (i.e. case reserves for all policy years and Merlinos' estimate of claims incurred but not reported, presented net of deductibles) – See Exhibit C.

[3] The best outcome would be a 100% collection from all members. The extent to which that goal can be achieved will depend on loss development (and thus the Liquidator's ability to assert offsets). These figures rely on Merlinos' current projection of Outstanding Incurred Losses.

[4] "Status Quo" – The ratio of historical assessment payments to each member's historical assessments reallocated by policy-year premium. See Exhibit E. This figure is intended to roughly measure the equity of the current situation.

Exhibit G – Comparative Impacts – "Status Quo" v. Liquidator's Proposed Assessment

Member	Outstanding Incurred Losses^	LOCs Drawn & Capital Contributed	Paid Assessments	Additional Assessments*	Priority Class 3 Distributions*	Priority Class 9 Distribution+	Estimated Member Impact	vs. Status Quo^^
A&S Services Group LLC	$ (1,356,963)	$ (510,791)	$ (534,560)	$ (430,368)	$ 1,356,963	$ 157,999	$ (1,317,719)	$ 142,529
Bolus Freight Systems	(774,818)	(137,264)	(11,580)	(370,345)	774,818	62,537	(456,652)	(70,904)
Bulls Eye Express Inc.	(70,036)	(64,000)	-	(70,036)	70,036	-	(134,036)	(48,622)
Calex Express Inc.	(1,482,423)	(179,414)	(161,120)	(763,931)	1,482,423	151,469	(952,995)	(159,203)
Clark Transfer Inc.	(471,049)	(74,756)	(98,884)	(471,049)	471,049	92,188	(552,501)	(234,835)
Finster/Elite Express	(2,035,884)	(220,113)	(3,085)	(475,878)	2,035,884	78,426	(620,650)	225,030
Fox Transportation Inc.	(442,878)	(55,731)	(53,085)	(216,934)	442,878	44,213	(281,537)	(37,309)
Frock Bros. Trucking	(544,746)	(83,000)	(102,424)	(407,788)	544,746	83,543	(509,669)	(157,687)
Grocery Haulers	(829,050)	-	-	(147,911)	829,050	24,219	(123,692)	129,794
H&H Transportation Co. Inc.	(313,691)	(93,772)	-	(239,503)	313,691	39,217	(294,059)	(104,374)
H.M. Kelly Inc.	(367,627)	(36,699)	(97,366)	(179,906)	367,627	45,401	(268,570)	(22,101)
Hoffman Transport Inc.	(704,700)	(152,188)	(235,780)	(438,768)	704,700	110,452	(716,284)	(112,851)
Indian Valley Bulk Carriers	(947,430)	(82,912)	(97,175)	(392,789)	947,430	80,228	(492,649)	(22,880)
Inter-Coastal, Inc.	(147,534)	(77,454)	-	(59,126)	147,534	9,681	(126,898)	(4,335)
J.P. Donmoyer Inc.	(119,305)	(175,000)	(267,999)	(82,864)	119,305	57,451	(468,413)	11,065
Kinard Trucking Inc.	(110,552)	-	(24,347)	-	110,552	2,844	(21,504)	36,645
Metropolitan Trucking Inc.	(4,160,497)	(323,499)	(373,050)	(1,432,652)	4,160,497	295,669	(1,833,532)	135,109
Paul Miller Trucking Inc.	(2,085,594)	(103,700)	(202,205)	(596,103)	2,085,594	130,716	(771,292)	172,294
Pleasant Trucking Inc.	(256,056)	(90,625)	(95,231)	(256,056)	256,056	5,722	(436,190)	(172,043)
Road Scholar Transport Inc.	(955,782)	(172,568)	(2,454)	(406,121)	955,782	66,901	(514,242)	(46,985)
Star Freight Inc.	(1,623,631)	(161,694)	(23,258)	(606,644)	1,623,631	103,141	(688,454)	(7,069)
Trans Tech Leasing Inc.	(90)	-	(5,578)	-	90	652	(4,927)	679
Zimmerman Truck Lines Inc.	(289,089)	(200,000)	(289,902)	(123,529)	289,089	67,696	(545,735)	32,557
	(20,089,424)	(2,995,180)	(2,679,083)	(8,168,302)	20,089,424	1,710,365	(12,132,201)	(315,497)

Simplified Estate Balance Sheet**

Estate Assets	
Cash & Invested Assets	$ 7,241,296
Reinsurance Receivable	7,705,687
Additional Assessment	8,168,302
Total Assets	23,115,286
Estate Liabilities	
Class 1 Claims	$ 1,000,000
Class 3 Claims	20,089,424
Class 4-8 Claims	250,000
Priority Class 9 Claims	11,238,806
Total Liabilities	32,578,230
Capital & Surplus	$(9,462,945)

Distribution Calculations

Priority Class 1	
Available Assets	$ 23,115,286
Class 1 Claims	1,000,000
Distribution %	100%

Priority Class 3	
Available Assets	$ 22,115,286
Class 3 Claims	20,089,424
Distribution %	100%

Priority Classes 4-8	
Available Assets	$ 2,025,861
Class 4-8 Claims	250,000
Distribution %	100%

Priority Class 9	
Available Assets	$ 1,775,861
Assessments Paid	10,838,806
Surplus Note	400,000
Distribution %	16%

Reconciliation to "Status Quo"°°

Payment of Class 3 Claims	$ 6,142,441
Additional Assessments	(8,168,302)
Member Class 9 Claims	1,710,365
Non-Member Claims	315,497
Difference	–

Please see notes on following page

__Notes to Exhibit G__

^ "Outstanding Incurred Losses" references members' anticipated insured exposure (i.e. case reserves for all policy years and Merlinos' estimate of claims incurred but not reported, presented net of deductibles). This figure is identical in Exhibit C.

* "Additional Assessments" reflects the portion of the proposed Reallocated/"Break Even" Assessment that the Liquidator projects, based on Merlinos' estimate of Outstanding Incurred Losses, could be collected through setoff against "Priority Class 3 Distributions". This projection suggests the Liquidator could collect more through the proposed assessment than is needed to pay claims in priority classes 1 through 8. Excess funds would be returned through "Priority Class 9 Distributions".

• Based on the figures presented in the "Simplified Estate Balance Sheet" and the "Distribution Calculations", $22.1M would be available to pay $20.1M of priority class 3 (i.e. policy-related) claims, permitting a 100% distribution. "Priority Class 3 Distribution" is therefore 100% of each member's "Outstanding Incurred Losses".

◊ By statute, priority class 9 includes claims relating to "[s]urplus or contribution notes, or similar obligations, and premium refunds on assessable policies…". See 8 V.S.A. § 7081. Priority class 9 claims against the estate would therefore arise from a $400,000 surplus note issued to the Company by non-member creditors as well as premium assessments paid by the members. Based on the figures presented in the "Simplified Estate Balance Sheet", $1.8 million would be available to pay $11.2M of priority class 9 claims, permitting a 16% distribution.

^^ "vs. Status Quo" subtracts the estimated member impact of a "status quo" liquidation (see Exhibit C) from the estimated member impact of a liquidation including the proposed assessments. Positive numbers reflect members that would receive a net benefit from the proposed assessments while negative numbers indicate members who are in a better position in a "status quo" liquidation. The total sums to a negative number because the proposed assessment would permit distribution to certain non-member and former-member creditors (i.e. priority class 4-8 creditors and the issuers of the surplus note) who would receive no distribution in a "status quo" proceeding. With regard to the equity of historical vs. proposed assessments, the following observations are notable:

- Though ETRRG experienced a significant loss in 2017 – Merlinos estimates $2.5M – the Company entered liquidation before policy year 2017 could be assessed. For this reason, **maintenance of the status quo tends to benefit members active in 2017.**
- The historical assessments applied to policy years 2015 and 2016 were minimal in comparison with the losses ETRRG experienced in those years. See Table 3 at p. 2. For this reason, **maintenance of the status quo tends to benefit members active in 2017.**
- Members who made significant payments in response to the historical assessments contributed funds that are available to pay all members' claims, including the claims of members who made little or no payment. For this reason, **the proposed assessments tend to benefit members who had paid a significant portion of their historical assessments** while **maintenance of the status quo tends to benefit members that had declined to make significant payment on historical assessments.**

** The "Simplified Balance Sheet" includes the same figures as the "status quo" balance sheet (Exhibit C) while adding the estimated value of collectible assessments as well a conservative $250,000 placeholder for priority class 4-8 claims (state, federal and other creditors) and the estimated value of priority class 9 claims. Exhibit G presents a lower "Capital & Surplus" figure than Exhibit C – $(9.5M) vs. $(6.3M) – because Exhibit G acknowledges priority class 4-9 claims that are not acknowledged in Exhibit C.

•• "Reconciliation to 'Status Quo'" illustrates how the proposed assessments would:

- Permit the distribution on priority class 3 claims to increase from 69% to 100%;
- Require that the members contribute (through offsets) an additional $8.2M in assessments;
- Permit the return of excess assessments with the result that all members (with one exception) pay the same percentage of their assessments; and,
- Permit payment to certain non-member creditors.