

STATE OF WISCONSIN : CIRCUIT COURT :

DANE COUNTY

In the Matter of the Rehabilitation of:

**SEGREGATED ACCOUNT OF
AMBAC ASSURANCE CORPORATION**

**Case No. 10 CV 1576
Hon. Richard G. Niess**

REHABILITATOR'S UPDATED PRETRIAL REPORT

Dated: January 2, 2018.

MICHAEL BEST & FRIEDRICH LLP

Ann Ustad Smith Bar No. 1003243
John D. Finerty, Jr. Bar No. 1018183
Justin M. Mertz Bar No. 1056938
Kimberly A. Streff Bar No. 1106358
100 E. Wisconsin Ave., Suite 3300
Milwaukee, Wisconsin 53202
Telephone: 414.271.6560
Facsimile: 414.277.0656
Email: jdfinerty@michaelbest.com

*Attorneys for the Commissioner of
Insurance of the State of Wisconsin, as the
Court Appointed Rehabilitator of the
Segregated Account of Ambac Assurance
Corporation*

I. SUMMARY

The Rehabilitator respectfully submits this updated schedule related to the January 4, 2018 hearing to consider confirmation of the Second Amended Plan (the “**Confirmation Hearing**”). The following Pretrial Report contains updates to the Summary of Issues, Witness List, Exhibit List, and Proposed Schedule for the Confirmation Hearing.

Because the COFINA Bondholders’ objections have been resolved and withdrawn, with prejudice, the only remaining issue is the MHPI Projects’ objection to Article 6.13 of the Second Amended Plan.

II. ISSUES BEFORE THE COURT

A. THE MHPI PROJECTS’ OBJECTION

The MHPI Projects object to certain language in the Second Amended Plan. The parties submitted additional briefing on Article 6.13 of the Second Amended Plan, which is on file with the Court. The issue is whether the scope of the injunction provisions in Article 6.13 may cure alleged defaults that might exist on insurance policies within Ambac’s General Account. Article 6.13 proposes to cure any defaults that would have occurred due to the filing of this Rehabilitation Proceeding. The Rehabilitator submits that such a provision is not only permissible, but an integral method to support Ambac’s durability on a going-forward basis.

B. FORMAT OF THE MHPI PROJECTS’ OBJECTION

The Rehabilitator suggests that the MHPI Objection be resolved by oral argument of the parties at the Confirmation Hearing; this legal issue may be decided on the written submissions and thus without any cross-examination of any of the Rehabilitator’s witnesses. However, the parties stipulated at the Pretrial Conference to allow the MHPI Projects one (1) hour of cross-examination of the Rehabilitator’s Expert Witness, limited to the subject matter of their

objection. The Rehabilitator has therefore structured the schedule accordingly.¹

III. THE REHABILITATOR'S LIST OF WITNESSES

The Rehabilitator reserves the right to call the following witnesses at the Confirmation Hearing:

1. ***Daniel J. Schwartzer.*** Mr. Schwartzer is the Special Deputy Commissioner of the Segregated Account of Ambac Assurance Corporation, appointed pursuant to Wis. Stat. § 645.33(1). He will be called to testify regarding his general oversight of the Rehabilitation, claims payment in the Segregated Account, reconciliations of deferred amounts, investment guidelines, financial position of AAC, commutations, approval of claims, analysis and assessment of various options to exit the Segregated Account from rehabilitation, discussions with various creditor constituencies, the Consensual Transaction, the Second Amended Plan and its supporting documents, the analysis of Puerto Rico's Title III filing and natural disaster recovery efforts and their effect on AAC, and stability and long term durability of AAC as part of the Second Amended Plan, and the Rehabilitator's conclusion to support the Consensual Transaction and file its Motion.
2. ***Dennis M. McGettigan.*** Mr. McGettigan is a principal member of Gordian Group, LLC. He has acted as the primary financial advisor to the Rehabilitator throughout this Rehabilitation proceeding. He will be called to testify regarding the background of the Consensual Transaction and his involvement of the financial decision making process and meetings leading up to the Confirmation Hearing, his conclusions regarding the consideration paid to Deferred Amount holders and General Account Senior Surplus Notes holders under the Second Amended Plan, the durability of AAC including its ability to pay policy claims in full on a timely basis following consummation of the Second Amended Plan, the impact of Puerto Rico's Title III filing and recovery efforts on AAC, and any other matter discussed within or relied upon in his Expert Report dated September 22, 2017, as updated on December 11, 2017, filed with the Court.
3. ***Rebuttal Witnesses.*** The Rehabilitator reserves the right to call any rebuttal witnesses as may be necessary.

¹ In general, the Stipulation reached at the Pretrial Conference limited the cross examination of Mr. McGettigan in time and in scope to the objections on file; affidavits filed were admitted in lieu of testimony. (Dec. 14 Hrg. Tran. pp. 129-131.)

IV. LIST OF EXHIBITS

The Rehabilitator reserves the right to use the following exhibits at the Confirmation

Hearing:

1. The Second Amended Plan of Rehabilitation, dated September 22, 2017.
2. The Amended Disclosure Statement Accompanying the Second Amended Plan of Rehabilitation, dated September 22, 2017, including its exhibits.
3. The December 11, 2017 Addendum to The Second Amended Disclosure Statement, including its exhibits.
4. The Affidavit of Daniel J. Schwartzter in Support of Confirmation of the Second Amended Plan of Rehabilitation, including its exhibits.
5. The Expert Report of Dennis M. McGettigan, including all exhibits, attached as Exhibit C to the Affidavit of Daniel J. Schwartzter.
6. The Update to Expert Report of Dennis M. McGettigan, Regarding Ambac Assurance Corporation and the Segregated Account of Ambac Assurance Corporation, dated December 11, 2017, including all updated exhibits.
7. Any document that has been previously filed in the Rehabilitation proceeding.
8. Any demonstrative exhibit.
9. Any rebuttal exhibit.

V. PROPOSED CONFIRMATION HEARING SCHEDULE²

January 4, 2018.

- | | |
|-------------------|--|
| <i>8:30 a.m.</i> | Appearances; procedural matters; confirmation of the order of proof; update to the Court; statement of the issues; outline of Rehabilitator's case-in-chief. |
| <i>8:45 a.m.</i> | The Rehabilitator's case in chief: direct examination of the Special Deputy Commissioner, Daniel J. Schwartzter. |
| <i>10:45 a.m.</i> | Break |

² Given the limited objection at this point, the Rehabilitator anticipates the Confirmation Hearing may conclude on January 4 after allowing for oral argument on MHPI Projects' Objection and summations.

11:00 a.m. The Rehabilitator's case in chief (con't): direct examination of the Rehabilitator's Expert, Dennis M. McGettigan.

12:00 p.m. Break

1:00 p.m. The Rehabilitator's case in chief (con't): direct examination of the Rehabilitator's Expert, Dennis M. McGettigan.

3:00 p.m. MHPI Projects' cross-examination.

4:00 p.m. Rehabilitator's redirect and rebuttal arguments.

4:30 p.m. Rehabilitator's Summation of Proposed Plan and closing arguments related to Article 6.13.

5:00 p.m. MHPI Projects' closing arguments related to Article 6.13.

5:15 p.m. Rehabilitator's reply, if any, related to Article 6.13.

5:30 p.m. Court rulings, if any; Confirmation Hearing concludes.

Dated at Milwaukee, Wisconsin this 2nd day of January, 2018.

MICHAEL BEST & FRIEDRICH LLP

Electronically signed by John D. Finerty, Jr.

Ann Ustad Smith Bar No. 1003243
John D. Finerty, Jr. Bar No. 1018183
Justin M. Mertz Bar No. 1056938
Kimberly A. Streff Bar No. 1106358

100 E. Wisconsin Ave., Suite 3300
Milwaukee, Wisconsin 53202
Telephone: 414.271.6560
Facsimile: 414.277.0656
Email: jdfinerty@michaelbest.com

*Attorneys for the Commissioner of
Insurance of the State of Wisconsin, as the
Court Appointed Rehabilitator of the
Segregated Account of Ambac Assurance
Corporation*