

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x **Index No.: 451807/2018**

In the Matter of

AFFIRMATION

the Liquidation of

CUATRO LLC.

-----x

Melvin Browning, an attorney licensed to practice law in the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney employed by the New York Liquidation Bureau (the “NYLB”), the organization that acts as the staff of Linda A. Lacewell, Superintendent of Financial Services of the State of New York as liquidator (the “Liquidator”) of Cuatro LLC (“Cuatro”), and submit this affirmation upon information and belief, the sources of which are the Cuatro files maintained by the NYLB and conversations I have had with the employees of the Liquidator, in support of the Liquidator’s motion for an order (i) approving a procedure for judicial review of the Liquidator’s recommended classifications and adjudications of claims in this proceeding (“Adjudication Procedures”) and (ii) appointing a referee (“Referee”) to hear and report on any objections to the Liquidator’s classifications and determinations of claims.

2. By this Court’s order, entered August 6, 2018, (the “Liquidation Order”), Cuatro was placed into liquidation under Article 74 of the New York Insurance Law (the “Liquidation Proceeding”) and the Liquidator was vested with all powers and authority expressed or implied by New York Insurance Law (“Insurance Law”) Article 74 and directed to liquidate Cuatro’s business and affairs in accordance with those statutes. The Liquidator is responsible, for among

other things, the handling of claims against the estate.

3. Claims against the estate fall into one of the categories, known as classes of claim, set forth in Insurance Law Section 7434, and summarized below:

Class One – Administrative Claims

Claims with respect to the actual and necessary costs and expenses of administration incurred by the Liquidator;

Class Two – Claim and Related Costs

All claims under policies including claims of the federal, state or local government for losses incurred, third-party claims, claims for unearned premiums, and all claims of the security fund guaranty associations, but excluding claims arising under reinsurance contracts;¹

Class Three – Federal and Government Claims

Claims of the federal government, except those stated above in Class two;

Class Four – Employee Claims

Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law;

Class Five – State and Local Government Claims

Claims of state and local governments, except those stated above in Class two;

Class Six – General Creditor Claims

Claims of general creditors, including, but not limited to, claims under reinsurance contracts;

¹ The claims of (i) Cuatro policyholders for reimbursement of medical expenses (“Members”) and (ii) health care professionals, providers and facilities that provided health care services to Members (“Providers”) are Class two claims in the Liquidation Proceeding. Most claims in the estate are Provider claims.

Class Seven – Late Filed Claims

Claims filed late or any other claims other than claims under Class eight or Class nine below;

Class Eight – Section 1307 Loans

Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307; and

Class Nine – Shareholder Claims

Claims of shareholders or other owners in their capacity as shareholders.

4. When claims are classified, the Liquidator advises claimants of the classification. A copy of the template letter to be used by the Liquidator is attached hereto as Exhibit A (“Classification Letter”). When claims are adjudicated, the Liquidator reviews each claim and determines the amount to be allowed or disallowed. A notice of determination (“NOD”) is then issued to the claimant. Classification Letters and NODs may be issued together. Either or both are subject to objection under the Adjudication Procedure. Templates of the NODs for allowance and disallowance are attached hereto as Exhibit B. The NODs may contain additional claim information for Providers, such as Member names and dates of service, as necessary.

THE ADJUDICATION PROCEDURE

5. The Liquidator proposes that this Court adopt the following Adjudication Procedure:

- a. This Adjudication Procedure shall apply to disputes arising out of the issuance of a Classification Letter and/or NOD to a claimant.
- b. References to “claimant” shall mean those individuals or entities with the legal standing to maintain a claim against Cuatro. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or expand any right of

an individual or entity under applicable law or any provision of an insurance policy or contract.

- c. The Liquidator shall serve either or both a NOD or Classification Letter, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the Liquidation Proceeding. Service of the NOD and/or Classification Letter will be made by first class mail, or such other form of communication as may have been agreed to by the Liquidator and the claimant in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Classification Letter and NOD may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Liquidator.
- d. The Classification Letter shall advise each claimant of the following:
 - i. The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
 - ii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
 - iii. The claimant has the right to object to the Classification Letter, and may do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing of the Classification Letter, as set forth in the Classification Letter;
 - iv. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;
 - v. The court-appointed Referee will thereafter hear and report on the validity of the claimant's objections; and
 - vi. Either the claimant or the Liquidator may move before the court overseeing the Liquidation Proceeding ("Supervising Court"), on notice, for an order confirming or denying the Referee's report.
- e. The NOD shall advise each claimant of the following:
 - i. The Liquidator's determination of the specific class of claim under Insurance

- Law Section 7434 in which the claim falls;
- ii. The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;
 - iii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;
 - iv. The claimant has the right to object to the NOD, and may do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the NOD, as expressly set forth in the NOD;
 - v. Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to this Court for approval and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined;
 - vi. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference. If the objection is not resolved, the Referee will set a date for a hearing;
 - vii. The court-appointed Referee will thereafter hear and report on the validity of the claimant's objections; and
 - viii. Either the claimant or the Liquidator may move before the Supervising Court, on notice, for an order either confirming or denying the Referee's report.
- f. In the event that a claimant requests a hearing, the Liquidator will contact the claimant in writing at the address set forth on the Classification Letter or NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such Classification Letter or NOD) to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the Classification Letter or NOD is forfeited and the Classification Letter or NOD is deemed accepted.

- g. If a claimant fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a dismissal of the objection and deem the Classification Letter or NOD to be accepted.
- h. The Liquidator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with New York Insurance Law Section 7602(g) and 7428(b).
- i. In the event the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by the Order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the Adjudication Procedure until it receives the required notice.
- j. To the extent anything contained herein is inconsistent with the contracts and policies governing the claims, the Adjudication Procedure shall govern.

THE APPOINTMENT OF A REFEREE

6. The Liquidator respectfully requests that this Court appoint a Referee to hear and take evidence on any objections raised by claimants in accordance with the Adjudication Procedure, and to report the Referee's findings to the Supervising Court. Either the claimant or the Liquidator may move before this Court, on notice, for an order confirming or denying the Referee's report.

7. The Liquidator further respectfully requests that the Referee be paid an hourly rate of \$200 as a loss adjustment expense of the Cuatro estate.

8. In addition, in order to reduce administrative expenses, the Liquidator respectfully requests that the Referee be directed to conduct all hearings at the place of business of the Superintendent of Financial Services as Liquidator of Cuatro, currently located at 180 Maiden Lane in the Borough of Manhattan in the City, County and State of New York.

MISCELLANEOUS

9. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving: (i) a return date (the "Return Date") for a hearing (the "Hearing") on the Liquidator's application to be held before this Court at least forty-five (45) days after the date of issuance of the Order to Show Cause; (ii) the form of notice to be given to Cuatro policyholders, creditors and others interested in the affairs of Cuatro regarding the Liquidator's application and the Hearing (the "Notice"), a copy of which is attached hereto as Exhibit C; and (iii) the method of service of the Notice, i.e., by posting on the Internet web page maintained by the NYLB at <http://www.nylb.org> after the entry of the Order to Show Cause and at least fifteen (15) days before the Return Date.

10. There has been no previous application for the relief requested herein.

WHEREFORE, it is respectfully requested that this Court enter an order: (i) approving the Adjudication Procedure and granting the relief requested herein; (ii) appointing a Referee to hear and report on any objections to the Liquidator's classifications and determinations of claims, and (iii) granting the Liquidator such other and further relief as this Court may deem just and proper.

Dated: New York, New York
September 27, 2019



Melvin Browning

L 23981

Exhibit A



**New York
Liquidation Bureau**

Linda A. Lacewell
Superintendent as Receiver

DATE

Name & Address

Re: CUATRO LLC
Liquidator No.: -

Dear Sir or Madam:

On August 6, 2018, by order of the Supreme Court, State of New York, Cuatro LLC was placed into liquidation and the Superintendent of Financial Services of the State of New York and her successors in office were appointed Liquidator and vested with title to all its assets and property.

As a claimant in the proceeding, we have assigned the above captioned liquidator number to your claim.

Please be advised that your claim is deemed a Class ___ claim, meaning each class before you must be paid in full before your claim will be considered for review and allowance.

Pursuant to New York Insurance Law Section 7434, the priority of distribution of claims shall be in accordance with the order in which each class of claims is set forth below:

- Class One** Claims with respect to the actual and necessary costs and expenses of administration incurred by the Liquidator.
- Class Two** All claims under policies including claims of the federal, state or local government for losses incurred, third-party claims, claims for unearned premiums, and all claims of the security fund guaranty associations, but excluding claims arising under reinsurance contracts.
- Class Three** Claims of the federal government, except those stated above in Class two.
- Class Four** Claims for wages owing to employees of an insurer for services rendered within one year before the commencement of the proceeding, not exceeding one thousand two hundred dollars to each employee and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law.

- Class Five** Claims of state and local governments, except those stated above in Class two.
- Class Six** Claims of general creditors, including, but not limited to, claims under reinsurance contracts.
- Class Seven** Claims filed late or any other claims other than claims under Class eight or Class nine below.
- Class Eight** Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307.
- Class Nine** Claims of shareholders or other owners in their capacity as shareholders.

We are currently marshalling assets and determining liabilities and cannot at this time predict if any assets will be available for distribution to Class ____ claimants.

It is suggested you provide us with any supporting documentation relative to your claim for evaluation at a future date, if assets permit.

Please refer to the above captioned liquidator number when corresponding with us regarding this matter.

If you accept the Liquidator's classification, you are not required to take any further action.

If you object to the Liquidator's classification, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing this letter by U.S. mail at the address below:

**Creditor and Ancillary Operations Division
New York Liquidation Bureau
180 Maiden Lane
New York, NY 10038-4925
Attn: Receiver Administration, 14th Floor**

If you make a timely written objection, the Liquidator will contact you to attempt to resolve the objection. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection is not resolved, the referee will set a date for a hearing. The referee will hear and report to the supervising court on the validity of your objection. Either you or the Liquidator may move before the supervising court, on notice, for an order either confirming or denying the referee's report.

If you have any questions, please do not hesitate to contact me at 212-341-6592 or cberardi@nylb.org.

Very truly yours,

Cynthia Berardi
Receiver Administration
Creditor & Ancillary Operations

Name & Address

ACKNOWLEDGEMENT OF RECEIPT

____ I hereby acknowledge receipt of the _____ Classification Letter as a claimant. By signing this Acknowledgement of Receipt, I understand and **agree** to the content of the Classification Letter.

____ I object to the classification of my claim. My reason for objection is _____

I request that Cuatro LLC in Liquidation (“Touchstone”) mail future correspondence to:

____ Same address as above

____ New address

This Acknowledgement of Receipt must be completed, signed and returned to Cuatro.

Date _____

Claimant/Authorized Representative
(Please Sign)

(Please Print Name)

Exhibit B

Claimant Name
Claimant Address
Claimant Address
Attn:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X
In the Matter of

Notice of Determination
of Allowance

the Liquidation of

Index No.: 451807/2018

CUATRO LLC
-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York as liquidator (“Liquidator”) of Cuatro LLC hereby gives notice that the claim set forth below has been examined and she will recommend to the Court that it be allowed in the amount set forth below. You will be entitled to share in distributions of assets, if any, pursuant to New York Insurance Law (“Insurance Law”) Article 74, to be made by the Liquidator based on the amount allowed.

If you accept the Liquidator’s recommendation, you are not required to take any further action. However, if you fail to disclose, in writing, to the Liquidator any payment you receive on this claim from any other source, the NOD is voidable and the amount allowed may be adjusted at the Liquidator’s discretion. The recommendation will be presented to the supervising court for approval and your rights, pursuant to Article 74 of the Insurance Law, will be fully and finally determined.

If you object to the Liquidator’s recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division
New York Liquidation Bureau
180 Maiden Lane
New York, NY 10038-4925
Attn: Objection Unit, 14th Floor**

If you make a timely written objection, the Liquidator will contact you to attempt to resolve the objection. If the objection is resolved, the Liquidator will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection is not resolved, the referee will set a date for a hearing. The referee will hear and report to the supervising court on the validity of your objection. Either you or the Liquidator may move before the supervising court, on notice, for an order confirming or denying the referee’s report.

If you have any questions concerning this notice, you may contact Receiver Ops at (212) 341-6728 or ReceiverOps@nylb.org.

Dated:
New York, New York

Linda A. Lacewell
Superintendent of Financial Services
of the State of New York
as Liquidator of
Cuatro LLC

Claimant:
Liq No.:
Policy No.
Claim No.
Amount Allowed:

Notice of Determination and Acknowledgement

ACKNOWLEDGMENT OF RECEIPT

_____ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

_____ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is _____

I request the Superintendent of Financial Services of the State of New York as liquidator of Cuatro LLC ("Liquidator") mail future correspondence to:

_____ Same address as above
_____ New address _____

Acknowledgment of Receipt must be completed, signed and returned to the Liquidator in order to be eligible for future distributions, if any, as directed by the Supervising Court.

Date _____

Claimant
(Please Sign)

(Please Print Name)

Claimant Name
Claimant Address
Claimant Address
Attn:

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----X

In the Matter of

Notice of Determination
of Disallowance

the Liquidation of

Index No.: 451807/2018

CUATRO LLC

-----X

Linda A. Lacewell, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Cuatro LLC. hereby gives notice that the claim set forth below has been examined and that he will recommend to the Court that the claim be disallowed for the reason(s) set forth below.

If you accept the Liquidator's recommendation, you are not required to take any further action. The recommendation will be presented to the supervising court for approval and your rights, pursuant to Article 74 of the New York Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division
New York Liquidation Bureau
180 Maiden Lane
New York, NY 10038-4925
Attn: Objection Unit, 14th Floor**

If you make a timely written objection, the Liquidator staff will contact you to attempt to resolve the objection. If the objection is resolved, the Liquidator will seek allowance of the agreed amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection is not resolved, the referee will set a date for a hearing. The referee will hear and report to the supervising court on the validity of your objection. Either you or the Liquidator may move before the supervising court, on notice, for an order confirming or denying the referee's report.

The Liquidator reserves the right to raise any other reasons in support of his denial of your claim(s) as further defenses arise during litigation.

If you have any questions concerning this notice you may contact Receiver Ops at (212) 341-6728 or ReceiverOps@nylb.org.

Dated:
New York, New York

Linda A. Lacewell
Superintendent of Financial Services
of the State of New York
as Liquidator of
Cuatro LLC

Claimant Name:
Liq Claim No.:
Policy No.
Co. Claim No.
Amount Recommended for Disallowance:
Reason for Disallowance:

Claimant Name
Claimant Address
Claimant Address

Attn:

Notice of Determination and Acknowledgement

ACKNOWLEDGMENT OF RECEIPT

_____ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

_____ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is _____

I request the Superintendent of Financial Services of the State of New York as liquidator of Cuatro LLC mail future correspondence to:

_____ Same address as above

_____ New address _____

Date _____

Claimant
(Please Sign)

(Please Print)

Exhibit C

**IN THE MATTER OF THE LIQUIDATION OF
CUATRO LLC
Supreme Court, County of Queens
Index No.: 700126/2018**

NOTICE

The Superintendent of Financial Services of the State of New York and her successors in office were appointed liquidator ("Liquidator") of Cuatro LLC ("Cuatro") and, as such, have been directed to take possession of Cuatro's property and liquidate its business and affairs pursuant to Article 74 of the New York Insurance Law ("Insurance Law"). The Liquidator has, pursuant to Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent ("Special Deputy"), as her agent to liquidate the business of Cuatro. The Special Deputy carries out his duties through the New York Liquidation Bureau, 180 Maiden Lane, New York, New York 10038. The Liquidator has submitted the Supreme Court of the State of New York, County of New York ("Court") an application seeking an order: (i) approving a procedure for judicial review of the Liquidator's recommended classifications and adjudications of claims in the Cuatro proceeding; and (ii) appointing a referee to hear and report on any objections to the Liquidator's classifications and determinations of claims.

A hearing is scheduled on the application for the ___ day of _____, 201___, at ___:___m., before the Court at the Courthouse, Courtroom ___, 60 Centre Street, New York, New York ("Return Date"). If you wish to object to the application, you must serve a written statement setting forth your objections and all supporting documentation ("Answering Papers") upon the Liquidator at least seven (7) days prior to the Return Date and the original Answering Papers must be filed with the Court on or before the Return Date. Service on the Liquidator shall be made at the following address:

Superintendent of Financial Services of the State of New York as
Liquidator of Cuatro LLC
180 Maiden Lane, 14th Floor
New York, New York 10038
Attention: General Counsel

The application is available for inspection at the above address and on the website maintained by the New York Liquidation Bureau at <http://www.nylb.org>. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6728 or ReceiverOps@nylb.org.

Dated: _____

LINDA A. LACEWELL
Superintendent of Financial Services of the State
of New York as Liquidator of Cuatro LLC

Index No. 451807

Year 2018

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

In the Matter of

the Liquidation of

CUATRO LLC.

**ORDER TO SHOW CAUSE AND AFFIRMATION
FOR AN ORDER APPROVING THE PROCEDURE
FOR THE SUPERINTENDENT'S ADJUDICATION OF CLAIMS**

JOHN PEARSON KELLY

Attorney for Superintendent of Financial Services of the State of New York as Liquidator

Office and Post Office Address, Telephone

New York Liquidation Bureau
180 Maiden Lane
New York, NY 10038-4925
(212) 341-6755
Fax (212) 608-3398

ATTORNEY CERTIFICATION

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: September 27, 2019
New York, New York


Melvin Browning

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a
duly entered in the office of the clerk of the within named court on the day of 20

NOTICE OF SETTLEMENT

that an order
settlement to the HON.

of which the within is a true copy will be presented for
one of the judges of the within named court, at
20 at

, on

Dated:

Yours, etc.

JOHN PEARSON KELLY

Attorney for Superintendent of Financial
Services of the State of New York as
Liquidator

Office and Post Office Address, Telephone
New York Liquidation Bureau
180 Maiden Lane
New York, NY 10038-4925
(212) 341-6755
Fax (212) 608-3398