

## 19TH JUDICIAL DISTRICT COURT, EAST BATON ROUGE PARISH, LOUISIANA

DONALD W. ABSHIRE, ET AL. -versus- THE STATE OF LOUISIANA, ET AL. CIV. ACTION NO. 377,713 c/w NO. 412,265, DIV. "N" Sec. 26, THE HONORABLE RICHARD "CHIP" MOORE

## NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING REGARDING SETTLEMENT

TO: ALL PERSONS OR ENTITIES IN THE UNITED STATES WHO FILED SUIT AGAINST THE STATE OF LOUISIANA AND/OR ITS DEPARTMENT OF INSURANCE OR OFFICE OF FINANCIAL INSTITUTIONS FOR DAMAGES CAUSED BY THE STATE'S CONDUCT IN CONNECTION WITH THE FAILURE OF PUBLIC INVESTORS LIFE INSURANCE COMPANY, INC., PUBLIC INVESTORS, INC., OR MIDWEST LIFE INSURANCE COMPANY, AND WHOSE CLAIM WAS CONSOLIDATED INTO CIVIL ACTION No. 377,713 (CAPTIONED DONALD W. ABSHIRE, ET AL., VS. THE STATE OF LOUISIANA, ET AL.) OR CIVIL ACTION No. 412,265 (CAPTIONED ARTHUR A. LEWIS, ET AL., VS. THE STATE OF LOUISIANA, ET AL) IN THE ABOVE-CAPTIONED MATTER ("CLASS MEMBERS"), YOUR RIGHTS COULD BE AFFECTED.

Certain owners of financial instruments (Plaintiffs) issued by Public Investors Life Insurance Company, Inc., Public Investors, Inc., and/or Midwest Life Insurance Company filed a lawsuit against the following defendants:

- a) State of Louisiana, through the Department of Insurance (DOI),
- b) State of Louisiana, through the Office of Financial Institutions (OFI),
- c) State of Louisiana, through the Office of Risk Management Self Insurance Fund (ORM),
- d) International Insurance Company, whose rights and obligations subsequently were assumed by Westchester Fire Insurance Company,
- e) Admiral Insurance Company,
- f) Lexington Insurance Company,
- g) National Union Fire Insurance Company of Pittsburgh, PA,
- h) American Excess Insurance Association and its members, (collectively, "Defendants"), alleging that through the negligence, gross negligence, intentional conduct and/or other actions and inactions by DOI and OFI, the owners of Public Investors Life Insurance Company, Inc., Public Investors, Inc., Midwest Life Insurance Company and their affiliates were allowed to divert funds, causing the Plaintiffs to lose their investments and sustain other damages. The lawsuit has been certified as a class action by Chief Judge Donald Johnson of the 19th Judicial District Court for the State of Louisiana and is known as *Abshire, et al., v. State of Louisiana, et al.*, Case No. 377,713 c/w 412,265 ("Lawsuit"). The named Defendants other than OFI and DOI are alleged to have issued policies of insurance to the State of Louisiana that cover all or part of the losses sustained by the Plaintiffs. Defendants deny that they are liable for Plaintiffs' losses and the Defendant insurers further deny that the policies of insurance they issued provide coverage for the Plaintiffs' claims.

## SETTLEMENT WITH ALL DEFENDANTS AND YOUR RIGHTS TO OBJECT

**Proposed Settlement.** This Court has preliminarily approved a proposed settlement of the litigation (the "Settlement") between the Class and each of the Defendants. The Settlement provides for the payment of a total amount of \$5.81 Million ("Settlement Fund") to the court-appointed Claims Administrator, Rust Consulting, with the settlement funds allocated to the Defendants as follows:

- Three million and three hundred thousand dollars and no/100 (\$3,300,000.00) to be paid by the State of Louisiana;
- Six hundred thousand dollars and no/100 (\$600,000.00) to be paid by Admiral Insurance Company;
- Three hundred and sixty thousand dollars and no/100 (\$360,000.00) to be paid by Westchester Fire Insurance Company;
- One million and four hundred thousand dollars and no/100 (\$1,400,000.00) to be paid collectively by Lexington Insurance Company and National Union Fire Insurance Company of Pittsburgh, Pa.; and
- One hundred and fifty thousand dollars (\$150,000.00) to be paid by American Excess Insurance Association and its members.

The Settlement Fund shall be used for reimbursement of litigation expenses, for payment of attorneys' fees, and for distribution to the members of the Class, as

may be approved by the Court. This settlement fully resolves the claims between the Class and all Defendants to this litigation.

**Deadline for Submission of Claims.** COMPLETED CLAIM FORMS MUST BE SUBMITTED TO THE CLAIMS ADMINISTRATOR, RUST CONSULTING, NO LATER THAN **June 14, 2019**. Claim forms and other settlement-related information are available for review and download at [www.srslfp.com](http://www.srslfp.com) and/or can be obtained by contacting class counsel as described below. **IF YOU FAIL TO TIMELY SUBMIT A VALID CLAIM FORM AS DESCRIBED HEREIN, YOUR CLAIM WILL BE DISMISSED WITH PREJUDICE AND YOU WILL NOT BE ENTITLED TO SHARE IN THE PROCEEDS OF THE SETTLEMENT.**

**Hearing Regarding Settlement.** The Court has scheduled a hearing to consider final approval of the Settlement on April 29, 2019 at 9:30 a.m. (Central Standard Time), to be held before the Honorable Richard "Chip" Moore at the 19th Judicial District Courthouse in Baton Rouge, Louisiana.

**Plan of Administration.** The Court has approved an allocation plan whereby each Class member who submits a valid claim will receive a proportionate share of the net Settlement Fund (total Settlement Fund amount less litigation expenses and attorneys' fees approved by the Court) based on the value of the instrument(s) at issue in the litigation, as determined by Plaintiffs' accounting expert, Harold Asher of the accounting firm AsherMeyers, LLC in New Orleans, Louisiana, based on: (1) the policy and/or instrument documents; (2) the valuation of the policies and/or instruments by the Louisiana Office of Receivership and court liquidation and/or bankruptcy distribution orders, and (3) any additional valuation information provided by Class members in connection with the submission of claims. The valuation of instruments at issue will take into account any credits for liquidation and/or bankruptcy distributions and any other known payments.

**Object to the Settlement.** If you do not like the Settlement or any of its provisions, you may tell the Court that you object to the Settlement, the attorneys' fee request, or any other aspect of the relief requested, and the Court will consider your views. To object, you must send a letter by first-class U.S. Mail to the Court and also to legal counsel for the Class, postmarked on or before **April 5, 2019**. The Court's address is Clerk of Court, East Baton Rouge Parish, 222 St. Louis St., Baton Rouge, LA 70802. Be sure to include the case information located in the caption at the top of this notice. If you have submitted a written objection, you may (but do not have to) attend the Court hearing about the Settlement and present your objection to the Court. You may attend the hearing even if you do not file a written objection, but you will only be allowed to speak at the hearing if you file written comments in advance of the hearing.

**Getting More Information.** For more detailed information about this litigation, please refer to the papers on file in this litigation, which may be inspected at the Office of the Clerk of Court of the 19th Judicial District Court, 19th JDC Courthouse, 300 North Boulevard, Baton Rouge, LA 70801 during normal business hours. If you have any other questions or need additional information, please contact Co-Lead Class Counsel as set forth below:

John Gregory Odom  
Stuart E. Des Roches  
Odom & Des Roches, LLP  
Suite 2020, Poydras Center  
650 Poydras Street  
New Orleans, LA 70130  
Telephone: (504) 522-0077  
Facsimile: (504) 522-0078  
jodom@odrlaw.com  
stuart@odrlaw.com

David C. Raphael, Jr.  
David P. Smith  
Smith, Segura & Raphael, LLP  
3600 Jackson Street, Suite 111  
Alexandria, LA 71303  
Telephone: (318) 445-4480  
Facsimile: (318) 487-1741  
draphael@srslfp.com  
dsmith@srslfp.com

**PLEASE DO NOT WRITE OR CALL THE COURT OR THE CLERK'S OFFICE FOR INFORMATION**