

**ENTERED**  
JAN 17 2014  
FRANKLIN CIRCUIT COURT  
SALLY JUMP, CLERK

**COMMONWEALTH OF KENTUCKY  
FRANKLIN CIRCUIT COURT  
DIVISION II  
CIVIL ACTION NOS. 13-CI-1282, 13-CI-1286 and 13-CI-1297  
CONSOLIDATED**

**SHARON P. CLARK, in her capacity as  
COMMISSIONER  
KENTUCKY DEPARTMENT OF INSURANCE**

**PETITIONER**

**vs.**

**PROCEDURAL ORDER**

**KENTUCKY SCHOOL BOARD INSURANCE  
TRUST PROPERTY AND LIABILITY FUND**

**RESPONDENTS**

**AND**

**KENTUCKY SCHOOL BOARD INSURANCE TRUST  
WORKERS' COMPENSATION FUND**

**AND**

**KENTUCKY LEAGUE OF CITIES**

**AND**

**KENTUCKY EMPLOYERS' MUTUAL INSURANCE**

\* \* \* \* \*

Motion having been made and the Court being otherwise sufficiently advised,

**IT IS HEREBY ORDERED:**

1. That the procedures to be followed for the consideration of the assessment plans filed with the Petition for Rehabilitation for the Kentucky School Board Insurance Trust Property and Liability Fund and the Petition for Rehabilitation for the Kentucky School Board Insurance Trust Workers' Compensation Fund are set forth in this Order;

2. That all group members of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund, including members assessed under both Funds, Intervenor, and all others interested in the Rehabilitation of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund may show cause on March 12, 2014, commencing at 9:00 a.m. (EST), or as soon thereafter as counsel may be heard, in the Franklin Circuit Court as to why a Final Order should not be entered approving the assessment plans for both Funds;

3. That on or before January 21, 2014, the Rehabilitator shall cause a copy of the notice in the form attached as Exhibit 1 to be sent by regular mail to all members of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund who may be subject to an assessment, to all excess carriers of the Kentucky School Boards Insurance Trust Property and Liability Fund and the Kentucky School Boards Insurance Trust Workers' Compensation Fund, and sent by regular mail or electronic mail to counsel representing the Intervenor in this action and to be published in the *Louisville Courier-Journal*, the *Lexington Herald Leader*, the *Cincinnati Enquirer*, the *Paducah Sun*, and the *Bowling Green Daily News*;

4. That the hearing provided for in paragraph 2 of this Order and compliance with the notice requirements set forth in paragraph 3 of this Order constitute fair, adequate, and proper notice, including any notice that may be required by the Kentucky Rules of Civil Procedure to all current and former group members of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund, all creditors, all assessed group members of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund, the public at large, and anyone interested in the rehabilitation of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund, necessary to provide adequate due process to any person affected by the Final Order referenced in paragraph 2 of this Order. The hearing is intended to allow all interested persons to present their views in support of or in opposition to the matters before the Court without the need to employ counsel. The Court, in its discretion, will determine whether presentations should be heard from witnesses under oath and subject to cross-examination;

5. The persons wishing to support or object to the entry of the Final Order referenced in paragraph 2 of this Order, must do so in writing by filing a Statement of Position with the Clerk of the Franklin Circuit Court no later than February 28, 2014 and by serving a copy of any Statement of Position by regular mail to the following:

Peter F. Ervin  
La Tasha Buckner

Public Protection Cabinet  
Office of Legal Services  
Capitol Tower Plaza  
500 Mero Street, 5<sup>th</sup> Floor  
Frankfort, Kentucky 40601

Shaun T. Orme  
General Counsel  
Kentucky Department of Insurance  
215 West Main St.  
Frankfort, KY 40601

Janet A. Craig  
Gregory P. Parsons  
Stites & Harbison, PLLC  
250 West Main Street  
Suite 2300  
Lexington, KY 40507-1758

R. Temple Juett, General Counsel  
Kentucky League of Cities  
100 E. Vine Street, Suite 800  
Lexington, KY 40507

Justin D. Clark  
Stoll Kennon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202

Paul C. Harnice  
Stoll Kennon Ogden PLLC  
201 W. Main Street  
P.O. Box 5130  
Frankfort, KY 40601

Michael A. Owsley  
Sarah Payne-Jarboe  
ENGLISH, LUCAS, PRIEST & OWSLEY  
1101 College Street, P.O. Box 770  
Bowling Green, KY 42102-0770

6. Any person who fails to timely file and serve a written Statement of Position as required may be denied the right to appear at the scheduled hearing.

7. Written replies to any Statement of Position must be filed and served by March 5, 2014.

SO ORDERED this 17<sup>th</sup> day of January, 2014

**Signature on file with  
original document**

  
Thomas D. Wingate, Judge  
Franklin Circuit Court  
Division II

Tendered by:

**Signature on file with  
original document**

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Peter F. Ervin  
La Tasha Buckner  
Public Protection Cabinet  
Office of Legal Services  
Capitol Tower Plaza  
500 Mero Street, 5<sup>th</sup> Floor  
Frankfort, Kentucky 40601  
(502) 564-7760

And

Shaun T. Orme  
General Counsel  
Kentucky Department of Insurance  
215 West Main St.  
Frankfort, KY 40601  
(502) 564-6032

*Counsel for the Rehabilitator*

## NOTICE

### TO: ALL INTERESTED PERSONS AND ASSESSED GROUP MEMBERS OF THE KENTUCKY SCHOOL BOARD INSURANCE TRUST PROPERTY AND LIABILITY FUND AND THE KENTUCKY SCHOOL BOARD INSURANCE TRUST WORKERS' COMPENSATION FUND

This Notice is given in accordance with the 1/17/2014 Order of the Honorable Thomas D. Wingate, Judge of the Franklin Circuit Court ("Court") presiding over *Sharon P. Clark v. Kentucky School Board Insurance Trust, et al.*, Civil Action Nos., 13-CI-1282, 13-CI-1286, and 13-CI-1297, Consolidated (The "Rehabilitation").

#### HEARING TO APPROVE ASSESSEMENT PLANS

The Court has scheduled a hearing for 9:00 a.m. (EST) on Wednesday, March 12, 2014 in the courtroom of the Franklin Circuit Court, 222 St. Clair Street, Frankfort, KY 40601.

At that time, the Court will consider whether a Final Order should be entered approving the Rehabilitation and the appropriate assessment plans on behalf of the Kentucky School Board Insurance Trust Property and Liability Fund and the Kentucky School Board Insurance Trust Workers' Compensation Fund.

#### Purpose of the Notice

This Notice is given to you because your rights may be affected by the assessment plans adopted by the Court. This Notice shall not be interpreted as an expression of any opinion by the Court concerning the merits, fairness or reasonableness of the proposed assessment plans attached to the Petitions for Rehabilitation. The assessments ultimately adopted by the Court may be higher or lower than those proposed.

This Notice is to further advise you of:

1. The necessity that you decide what steps, if any, should be taken in order to protect whatever rights you may have with respect to any of the subject matters of this Rehabilitation;
2. A separate claim filed by the Kentucky League of Cities Insurance Services Association against the Funds seeking to recover the sum of \$8,000,000, plus interest, for repayment of two surplus notes executed by the Kentucky School Boards Insurance Trust (\$5,500,000 to the Workers' Compensation Fund and \$2,500,000 to the Property and Liability Fund). If the Kentucky League of Cities Insurance Services Association obtains a judgment for recovery under the surplus notes, then the assessment under the assessment plans proposed by the Rehabilitator would be increased proportionally to satisfy that judgment; and

3. Terms of the proposed Loss Portfolio Transfer between the Rehabilitator and Kentucky Employers Mutual Insurance a summary of which is attached as Exhibit A hereof, a complete copy of which may be furnished on request of any interested party.

Any person, including any assessed member wishing up to object to the approval of the assessment plans or to the claim filed by the Kentucky League of Cities Insurance Services Association, should file a Statement of Position and appear at the hearing to object since, upon approval of the assessment plans, those objections or claims related thereto, will be barred.

Receipt of this notice does not necessarily mean that you have a claim or will have a future claim against anyone.

Appearance at the Hearing

If you propose to take any position at the hearing, you must file a written **STATEMENT OF POSITION** with the Clerk of the Franklin Circuit Court whose office is located at 222 St. Clair Street, Frankfort, KY 40601. The **STATEMENT OF POSITION** must be received by the Clerk no later than 4:30 p.m. (EST) on February 28, 2014.

Do not send your Statement of Position directly to Judge Wingate.

A copy of your **STATEMENT OF POSITION** must also be mailed or delivered simultaneously to:

**Peter F. Ervin  
La Tasha Buckner  
Public Protection Cabinet  
Office of Legal Services  
Capitol Tower Plaza  
500 Mero Street, 5<sup>th</sup> Floor  
Frankfort, Kentucky 40601**

**Shaun T. Orme  
General Counsel  
Kentucky Department of Insurance  
215 West Main St.  
Frankfort, KY 40601**

**Janet A. Craig  
Gregory P. Parsons  
Stites & Harbison, PLLC  
250 West Main Street  
Suite 2300  
Lexington, KY 40507-1758**

**R. Temple Juett, General Counsel  
Kentucky League of Cities  
100 E. Vine Street, Suite 800  
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**Justin D. Clark  
Stoll Kennon Ogden PLLC  
2000 PNC Plaza  
500 West Jefferson Street  
Louisville, KY 40202**

**Paul C. Harnice  
Stoll Kennon Ogden PLLC  
201 W. Main Street  
P.O. Box 5130  
Frankfort, KY 40601**

**Michael A. Owsley  
Sarah Payne-Jarboe  
ENGLISH, LUCAS, PRIEST & OWSLEY  
1101 College Street, P.O. Box 770  
Bowling Green, KY 42102-0770**

**IF YOUR STATEMENT OF POSTION IS NOT TIMELY FILED WITH THE  
CLERK BY FEBRUARY 28, 2014, YOU MAY NOT BE ENTITLED TO BE HEARD AT  
THE HEARING.**

***Signature on file with  
original document***

**Thomas D. Wingate, Judge  
Franklin Circuit Court**

## EXHIBIT A

The Rehabilitator has determined it to be in the best interests of KSBIT's policyholders, dependent injured worker claimants, and the public to identify a financially sound and capable insurer to whom certain of KSBIT Workers' Compensation Fund's assets and liabilities could be transferred. KEMI is the largest provider of workers' compensation insurance in Kentucky, and has agreed to enter into a loss portfolio transaction ("LPT Agreement") with the Rehabilitator, subject to certain terms and conditions.

Under the LPT Agreement, the Commissioner, as Rehabilitator, will transfer to KEMI, *inter alia*: all binders, contracts, certificates, and other obligations of workers' compensation coverage issued by KSBIT Workers' Compensation Fund to its members prior to June 30, 2013, together with the liability to pay all losses covered by the contracts of coverage to all KSBIT Workers' Compensation Fund members; all rights, title, and interests of KSBIT and KSBIT Workers' Compensation Fund in all excess insurance policies and policies of reinsurance related to the KSBIT Workers' Compensation Fund; and, all financial records, contract records, litigation files, claim files, correspondence, and other information of KSBIT and KSBIT Workers' Compensation Fund related to contracts of coverage, transferred claims, and excess insurance policies.

In consideration for KEMI's acceptance of the contracts of coverage and the attendant liabilities, the Rehabilitator will pay or transfer to KEMI the amount of \$35,000,000 (the "Transfer Payment"). Pursuant to KSBIT Workers' Compensation Fund's Self-Insurance Agreement with its members, and pursuant to KRS 304.50-055, the Rehabilitator will assess KSBIT Workers' Compensation Fund members, in a manner that is fair and equitable and as approved by the Court, an aggregate amount necessary to pay the Transfer Payment to KEMI.

To secure the payment of the Transfer Payment, and because the proposed assessment plan allows for installment payments, the Rehabilitator, Kentucky Department of Education, and Kentucky Finance and Administration Cabinet have agreed to a memorandum of understanding respecting the intercept of state funds to pay the assessments owed but not timely paid by any individual school board, all as discussed in the proposed assessment plans.

The amount to be paid or transferred to KEMI for its acceptance of KSBIT Workers' Compensation Fund's liabilities and obligations is to cover the believed value of those liabilities and obligations. The proposed assessment does not include a stated or intended profit to KEMI.

In addition to the matters set forth on the Notice to which this Exhibit is attached, the on March 12, 2014, at 9:00 a.m., Franklin Circuit Court will hear evidence relating to and consider whether the LPT Agreement is fair, reasonable, and in the best interests of KSBIT's policyholders, dependent injured worker claimants, and the public.

To request a copy of the proposed LPT Agreement, please contact Justin D. Clark, Stell Keenon Ogden PLLC, 2000 PNC Plaza, Louisville, Kentucky 40202, Telephone: (502) 333-6000.