

Note T - Litigation, Commitments and Contingencies

In the ordinary, regular and routine course of their business, the Company and its Insurance Subsidiaries are frequently involved in various matters of litigation relating principally to claims for insurance coverage provided. No currently pending matter is deemed by management to be material to the Company, other than as noted below.

Personnel Staffing Group Litigation

In July 2019, Protective Insurance Company (“Protective”) was named as a defendant in an action brought by a former insured, Personnel Staffing Group d/b/a MVP Staffing (“PSG”), in the U.S. District Court for the Central District of California (the “California Action”) alleging that Protective had breached its workers’ compensation insurance policy and had breached the duties of good faith and fair dealing. Protective provided workers’ compensation insurance to PSG from January 1, 2017 through June 30, 2018, which was subject to a \$500 per claim deductible to be paid by PSG. No specific damages were included in the complaint. In August 2019, Protective filed a motion to dismiss or stay the action. On April 28, 2020, Protective’s motion to dismiss the California Action was granted without prejudice on grounds that Indiana is the more appropriate forum. On May 4, 2020, PSG filed a notice of appeal in the 9th Circuit Court of Appeals, challenging the order of dismissal in the California Action.

In August 2019, Protective filed a lawsuit against PSG in Marion County Superior Court, in Indianapolis, Indiana (the “Indiana Court”) alleging breach of contract, breach of the parties’ collateral agreement, breach of the parties’ indemnity agreement, and seeking a declaratory judgment regarding PSG’s obligation to fund its ongoing claim deductible obligations and adequately collateralize Protective’s current and ongoing claims exposure pursuant to terms of the parties’ agreements (the “Indiana Action”). In October 2019, Protective amended the complaint to include allegations of misrepresentation as to source of coverage, negligent misrepresentation, fraud and racketeering and seeking injunctive relief. In November 2019, PSG filed a motion to dismiss the Indiana Action on the basis of comity with the California Action, claiming that California was the proper forum for Protective’s claims.

In February 2020, the Indiana Court issued an order dismissing the Indiana Action without prejudice; the Indiana Court declined to rule on the legal effect of the forum selection clause in the parties’ agreements, finding that any interpretation should be addressed by the court in the California Action. Following the court’s granting of Protective’s motion to dismiss in the California Action, on May 1, 2020, Protective filed a motion with the Indiana Court to re-open the Indiana Action, which was denied on September 23, 2020. On December 22, 2020, Protective moved for reconsideration of its Motion to Re-Open the Indiana Action, which the Indiana Court granted on February 5, 2021. On February 18, 2021, PSG moved for further reconsideration and for hearing, which was held on March 2, 2021. The Indiana court has taken the matter under advisement. Protective intends to vigorously pursue its claims against PSG, however, the ultimate outcome cannot be presently determined.

Pursuant to the terms of the workers’ compensation policies, Protective has a duty to adjust and pay claims arising under the policies regardless of whether PSG makes payments to Protective for deductible obligations under the policies. Under its contractual obligations to Protective, PSG is required to maintain a “loss fund” for the payment of claims, the balance of which is to remain at or above \$4,000; in addition, PSG is required to provide collateral in an amount equal to 110% of Protective’s current open case reserves on workers’ compensation claims arising under the policies.

As of December 31, 2020, Protective had approximately \$21,780 in receivables on claims arising under PSG’s workers’ compensation policies and had exhausted all collateral provided by PSG. Protective continues to pay claims settlements under the policies without reimbursement from PSG. For the past six months, the average monthly invoices have been approximately \$740. PSG’s estimated ultimate obligation under the agreements is approximately \$47,000 as of December 31, 2020 (inclusive of the \$21,780 in receivables noted above). At December 31, 2020, based on the Company’s assessment that PSG will continue to operate as a business and that the terms of the agreement with PSG will be legally enforceable, the Company believes that it will fully collect all current and future amounts due from PSG relating to this matter.

The Company included this matter in its assessment of the impact of adopting ASU 2016-13, the new guidance for measuring CECL, which is discussed in Note A. A probability-of-default methodology was applied to projected estimated cash flows to estimate the allowance for expected credit losses for this matter. The Company considered the delay in reimbursement for claims paid as well as probability of default assumptions when analyzing the credit loss related to this matter. As of January 1, 2020, in conjunction with the adoption of ASU 2016-13, the Company recorded an allowance for expected credit losses of \$15,000 (\$11,850, net of tax) as a reduction to equity. During the third quarter of 2020, the Company performed an update to its CECL allowance calculation related to the PSG matter. As noted above, there have been further delays in the litigation process, which have extended the estimated cash flow timing. As a result of these delays and an increase in the estimated ultimate obligation, the Company recorded an additional allowance of \$1,500 (\$1,185, net of tax) within other operating expenses in the condensed consolidated statement of operations in the third quarter of 2020. No additional allowance was recorded in the fourth quarter of 2020. In the event of a situation that results in no recovery from PSG, the Company would incur an estimated charge to the consolidated statement of operations of \$30,500 (\$24,095, net of tax), which represents the estimated ultimate obligation discussed above less the CECL allowance.