

1 XAVIER BECERRA
Attorney General of California
2 ANNE MICHELLE BURR
Supervising Deputy Attorney General
3 MARGUERITE C. STRICKLIN (State Bar No. 103161)
Deputy Attorney General
4 1515 Clay Street, 20th Floor
Oakland, California 94612-0550
5 Telephone: (510) 879-0986
Facsimile: (510) 622-2270
6 Email: Marguerite.Stricklin@doj.ca.gov

7 THOMAS J. WELSH (State Bar No. 142890)
ORRICK, HERRINGTON & SUTCLIFFE LLP
8 400 Capitol Mall, Suite 3000
Sacramento, California 95814-4497
9 Telephone: (916) 447-9200
Facsimile: (916) 329-4900
10 Email: tomwelsh@orrick.com

11 Attorneys for Applicant Dave Jones,
Insurance Commissioner of the State of California
12 in his Capacity as Liquidator of
CastlePoint National Insurance Company

**EXEMPT from filing fees per Govt.
Code § 6103**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 CITY AND COUNTY OF SAN FRANCISCO

17 DAVE JONES, INSURANCE
18 COMMISSIONER OF THE STATE OF
CALIFORNIA,

19 Applicant,

20 v.

21 CASTLEPOINT NATIONAL INSURANCE
22 COMPANY, and DOES 1-50, inclusive,

23 Respondents.

Case No. CPF-16-515183

Reservation No. 05020607-10

**NOTICE OF APPLICATION AND
APPLICATION FOR ORDER
APPROVING FINANCIAL REPORT
AND EXPENSES OF
ADMINISTRATION; FINANCIAL
REPORT ON STATUS OF
CASTLEPOINT NATIONAL
INSURANCE COMPANY IN
LIQUIDATION; MEMORANDUM OF
POINTS AND AUTHORITIES**

**Date: June 7, 2018
Time: 9:30 a.m.
Dept: 302
Judge: Hon. Harold E. Kahn**

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
05/07/2018
Clerk of the Court
BY: EDNALEEN ALEGRE
Deputy Clerk

1 **NOTICE OF APPLICATION AND APPLICATION FOR ORDER APPROVING**
2 **FINANCIAL REPORT AND EXPENSES OF ADMINISTRATION**

3 PLEASE TAKE NOTICE that on June 7, 2018, at 9:30 a.m., or as soon thereafter as may
4 be heard before the Honorable Harold Kahn in Department 302 of the above-entitled Court, Dave
5 Jones, Insurance Commissioner (“Commissioner”) of the State of California, as the statutory
6 Liquidator of the estate of CastlePoint National Insurance Company (“CastlePoint”), will and
7 hereby does apply to the Court for an Order granting the Commissioner’s *Application for Order*
8 *Approving Financial Report and Expenses of Administration* (“Application”) on the grounds that
9 the expenses of administration paid in the conduct of the CastlePoint estate during the 2017
10 Liquidation Period (from the effective date of the Court’s Liquidation Order, April 1, 2017, to
11 December 31, 2017) were reasonable, appropriate and necessary.

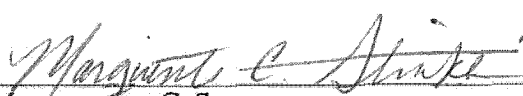
12 The Application is based upon California Insurance Code sections 1035 and 1036, the
13 Financial Report (as defined below) on the status of CastlePoint that the Commissioner submits to
14 the Court for approval and ratification, the *Declaration of Joseph Holloway In Support Of*
15 *Application For Order Approving Financial Report And Expenses Of Administration* (“Holloway
16 Decl.”), the additional supporting documents filed with the Application, and any statements or
17 arguments that may be made in support of the Application at the hearing on this matter.
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19 The Court is located at 400 McAllister Street, San Francisco, California 94103.
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Dated: May 7, 2018

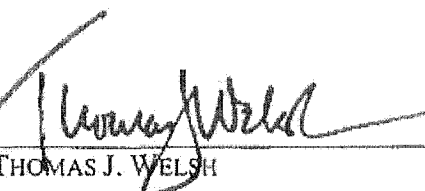
XAVIER BECERRA
Attorney General of California

By: 
MARGUERITE C. STRICKLIN
Deputy Attorney General

Attorneys for Applicant Dave Jones,
Insurance Commissioner of the
State of California

Dated: May 7, 2018

THOMAS J. WELSH
Orrick, Herrington & Sutcliffe LLP

By: 
THOMAS J. WELSH

Attorney for Applicant Dave Jones,
Insurance Commissioner of the
State of California

1 **INSURANCE COMMISSIONER’S FINANCIAL REPORT ON STATUS OF**
2 **CASTLEPOINT NATIONAL INSURANCE COMPANY IN LIQUIDATION**

3 CastlePoint was placed into conservation on July 28, 2016 (the “Conservation Date”). On
4 September 13, 2016, the Court approved the Commissioner’s Conservation and Liquidation Plan
5 for CastlePoint (the “Plan”), and the Commissioner undertook to implement the provisions of the
6 Plan. Under the Plan, CastlePoint entered into a number of Conservation Transaction
7 Agreements, which, among other things, brought \$200 million (net of certain advances) of
8 additional liquidity into the estate and provided for runoff administration services through
9 AmTrust North America, Inc. and National General Holdings Corp. From the Conservation Date
10 through March 31, 2017 (the “Conservation Period”), the Commissioner oversaw the
11 administration and payment of claims while simultaneously working with state insurance
12 guaranty associations (“IGAs”) to prepare for the transition of claims administration
13 responsibilities to the IGAs upon liquidation. On January 12, 2018, the Commissioner filed a
14 *Conservator’s Report*, along with accompanying exhibits on January 18, 2018, to advise the
15 Court and interested parties of material activities undertaken by the Conservator during the
16 Conservation Period and to lay out, at a high level, the Conservator’s expectations for the orderly
17 liquidation of CastlePoint. Consistent with the *Conservator’s Report*, upon the application of the
18 Commissioner the Court entered its Liquidation Order for CastlePoint on March 30, 2017, and the
19 Liquidation Order became effective on April 1, 2017 (“Liquidation Date”).

20 Shortly thereafter, the Commissioner filed an *Application for Order Approving Financial*
21 *Report and Expenses of Administration* that set forth a financial report and a report on the
22 expenses incurred by the Commissioner during the Conservation Period. On July 18, 2017, the
23 Court issued an Order granting the Commissioner’s Application and approving the financial
24 report and Conservation Period expenses.

25 The purpose of this current Application and accompanying documents, including the
26 report titled “CastlePoint National Insurance Company in Liquidation Selected Financial
27 Information and Analysis” as of December 31, 2017 (“Financial Report”), is to update the Court
28

1 on the costs and legal fees paid by the Commissioner from the Liquidation Date through
2 December 31, 2017 (the “2017 Liquidation Period”). Holloway Decl., ¶ 7, Ex. A, ¶ 8, Ex. B.

3 During the 2017 Liquidation Period, a portion of the liquidation activities have been
4 conducted at the home office of CastlePoint in New Jersey, with oversight by the Liquidator, to
5 preserve the institutional knowledge held by the legacy employees of CastlePoint located in New
6 Jersey and New York. The remaining liquidation activities have been transferred to and assigned
7 to the staff of the Commissioner’s Conservation and Liquidation Office in San Francisco (“CLO”
8 or “CACLO”). Holloway Dec., ¶ 5.

9 During the 2017 Liquidation Period, the CLO and/or the CastlePoint home office have
10 accomplished the following tasks, among others:

- 11 1. transferred 5,977 open insurance claims to 47 state IGAs, and also pre-paid two
12 months of indemnity benefits (i.e., wage replacement benefits) payable to injured
13 workers covered under CastlePoint’s workers’ compensation policies.¹ This pre-
14 funding ensured that there would be no disruption in injured workers’ receipt of these
15 vital insurance benefits during the transition of the claim files to the IGAs;
- 16 2. opened 195 new claims and re-opened 1,595 previously closed claims in liquidation
17 and assigned them to the appropriate state IGA;
- 18 3. recovered \$40 million in connection with collateral posted by CastlePoint with certain
19 Lloyd’s syndicates;
- 20 4. recovered \$21 million in reinsurance receivables from CastlePoint’s reinsurers;
- 21 5. transferred the investment management responsibility for \$295 million of
22 CastlePoint’s invested assets to New England Asset Management, which will realize a
23 2018 annualized savings of \$254,000;
- 24 6. commissioned an independent review of CastlePoint’s financial statements (i.e.
25 balance sheets and reconciliation of cash receipts and disbursements during the 2017
26

27 ¹ For claims in New York, the Commissioner pre-funded indemnity payments for four months because of the
28 volume of claims in that state and the longer statutory process for the New York Liquidation Bureau to obtain funds
necessary to take over claim payments.

1 Liquidation Period) based on “agreed upon audit procedures” to be performed for the
2 period of March 31, 2017 through December 31, 2017;

3 7. commenced the process of replicating the CastlePoint reinsurance calculator for use at
4 the CLO to process reinsurance billings in the future;

5 8. mailed out 40,813 proof of claim forms (“POCs”), of which 1,295 POCs have been
6 filed or deemed filed; and

7 9. transferred \$226 million of California Workers’ Compensation statutory deposits to
8 the California Insurance Guarantee Association, as required by California law, in the
9 form of an Early Access Distribution, representing the present value of California
10 reserves at the Liquidation Date.

11 Holloway Decl., ¶ 6.

12 Over the 2017 Liquidation Period, the CastlePoint estate paid expenses totaling
13 \$4,984,415. Holloway Decl., ¶ 7, Ex. A, ¶ 9. Of that total, \$1,726,260 was paid in payroll² and
14 benefits to CastlePoint employees, while \$2,426,794 was paid to the CLO for professional
15 services (of which \$362,828 are for legal fees paid to Orrick for legal services related to legal
16 support during the 2017 Liquidation Period). *Id.* Other significant sources of fees paid to the
17 CLO include for CLO claims administration (\$842,385), management expenses (\$277,232), and
18 INS Consultants (\$293,825). A full breakdown of all expenses paid during the 2017 Liquidation
19 Period can be found in Exhibit A to the Holloway Declaration.

20 The Court’s Liquidation Order authorizes the Commissioner, acting as Liquidator, to fix
21 and pay the administrative expenses of the liquidation from the assets of CastlePoint, subject to
22 the Court’s oversight and approval as specified. *See* Liquidation Order, ¶¶ 3, 15-18. These
23 provisions were entered pursuant to California Insurance Code sections 1035 and 1036, which
24 grant the Commissioner the power to fix all administrative costs (§ 1035) and the compensation

25 _____
26 ² As of the Conservation Date, July 28, 2016, CastlePoint had 26 employees and an annual payroll of \$3.93 million.
27 Since then, the Liquidator has reduced the number of employees and payroll costs. As of March 31, 2017, only 10
28 CastlePoint employees remained and annual payroll had been cut to \$1.85 million. As of March 31, 2018, only 7
employees remain and the annual payroll has been cut to \$1.35 million. Holloway Decl. ¶7, Ex. A, ¶ 11. Page 4 of
Exhibit A to the Holloway Declaration (labelled Chart IV), shows the general reduction in payroll through the
Conservation Period and extending into and past the 2017 Liquidation Period.

1 of outside attorneys (§ 1036), with the approval of the Court, and to have those expenses paid by
2 the conservation/liquidation estate. The Commissioner believes that the administrative costs and
3 legal fees incurred were necessary to the efficient and orderly administration of CastlePoint
4 during the 2017 Liquidation Period.

5 Based on the foregoing, and the attached Memorandum of Points and Authorities, the
6 Commissioner respectfully requests that the Court approve and ratify the Financial Report and the
7 expenses of administration paid by the Commissioner during the 2017 Liquidation Period, as set
8 forth in the Holloway Declaration and its accompanying exhibits. At the hearing on this
9 Application, the Commissioner, through counsel, will be prepared to answer any questions that
10 the Court may have regarding the status of the liquidation or the expenses of administration
11 incurred to date.

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13 Dated: May 7, 2018

XAVIER BECERRA
Attorney General of California

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17 By: 

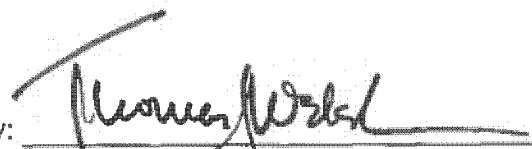
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19 Attorneys for Applicant Dave Jones,
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20 State of California

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Dated: May 7, 2018

THOMAS J. WELSH
Orrick, Herrington & Sutcliffe LLP

By: 
THOMAS J. WELSH

Attorney for Applicant Dave Jones,
Insurance Commissioner of the
State of California

1 **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF APPLICATION**
2 **FOR ORDER APPROVING FINANCIAL REPORT AND**
3 **EXPENSES OF ADMINISTRATION**

4 California Insurance Code Sections 1035 and 1036 require the Commissioner to seek
5 approval of the Court for the payment of administrative costs (§ 1035) and legal fees (§ 1036)
6 from the assets of CastlePoint. Specifically, section 1035 provides that “all expenses of taking
7 possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the
8 business and property of [CastlePoint]...shall be fixed by the commissioner, subject to the
9 approval of the court, and shall be paid out of the assets of [CastlePoint] to the department.” (Cal.
10 Ins. Code § 1035.) Similarly, section 1036 states that “compensation of any counsel outside of
11 California state service who is employed...to represent the commissioner as receiver shall be
12 fixed by the commissioner, subject to the approval of the court. Compensation of counsel
13 representing the commissioner as receiver shall be paid from the assets of [CastlePoint].” (Cal.
14 Ins. Code § 1036.)

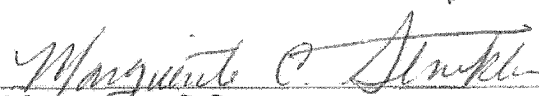
15 The Commissioner is vested with substantial discretion to conduct the liquidation of an
16 insolvent insurer subject to certain statutory limitations and the limitation “that the exercise of
17 discretion be neither arbitrary nor improperly discriminatory.” (*In re Executive Life Ins. Co.*
18 (1995) 32 Cal.App.4th 344, 356 (citing *Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d
19 307, 329).) His decisions as to matters concerning an insolvent insurer are reviewed by the Court
20 on an abuse of discretion standard. (*In re Executive Life, supra*, 32 Cal.App.4th at 358.) The
21 expenses and professional fees incurred by the Commissioner during the 2017 Liquidation Period
22 were typical for a receivership of this size and complexity, and were necessary, reasonable, and
23 appropriate to secure and manage the CastlePoint estate and to protect its creditors to the fullest
24 extent possible. Holloway Decl., ¶ 10.

25 Accordingly, the Commissioner respectfully requests that the Court approve and ratify the
26 Financial Report and the expenses of administration incurred during the 2017 Liquidation Period.
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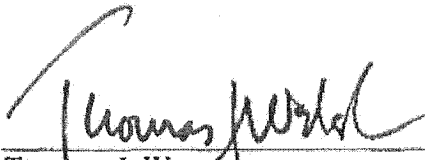
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Dated: May 7, 2018

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