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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8

**FOR THE COUNTY OF LOS ANGELES**

9

10	DAVE JONES, Insurance Commissioner of the State of California,	) Case No. C 572 724
11		)
12	Applicant,	) Honorable John L. Segal
13	vs.	)
14	MISSION INSURANCE COMPANY, a California corporation,	) <b>THE INSURANCE COMMISSIONER'S</b>
15		) <b>STATUS CONFERENCE REPORT</b>
16		) <b>AND UPDATED CLOSING PLAN</b>
17	Respondent.	) Date: May 9, 2012
18		) Time: 8:30 a.m.
19		) Department 50
20	Consolidated with Case Numbers	)
21	C 576 324; C 576 416;	) Action Filed: October 31, 1985
22	C 576 323; C 576 325; C 629709	)
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1 Dave Jones, Insurance Commissioner of the State of California, in his capacity as  
2 Trustee of the Mission Insurance Company Trust, the Mission National Insurance  
3 Company Trust and the Enterprise Insurance Company Trust ("Insurance  
4 Commissioner"), hereby submits this Status Report and advises the Court as follows:

5 **Overview of the Case**

6 This proceeding arises from the failure of several property and casualty insurance  
7 companies. The assets of the liquidations were transferred to liquidating trusts. A closing  
8 order issued as to the proceedings, which provided for the proceedings to remain open  
9 while the trusts collect the last assets and as the various contingencies that might affect  
10 final closing occur. This report will describe the remaining issues and their progress.

11 Mission Insurance Company, Mission National Insurance Company and Enterprise  
12 Insurance Company entered conservation on October 31, 1985 and entered liquidation on  
13 February 24, 1987. In 1990, these assets and liabilities of the companies were placed into the  
14 Mission Insurance Company Trust, the Mission National Insurance Company Trust, and the  
15 Enterprise Insurance Company Trust.

16 A Closing Order for Mission Insurance Company Trust and for Mission National  
17 Insurance Company Trust was entered on January 24, 2006. A true and correct copy of this order  
18 is attached as Exhibit "A". After an initial closing, the case as to Enterprise Insurance Company  
19 Trust was re-opened to distribute more assets, and then closed once more, by that June 2006  
20 order which is attached as Exhibit "B". The trust closing orders have entered, and the trusts  
21 remain open to receive any further assets, to make any further distributions, and to hold in  
22 reserves sums necessary to ensure any possible future contingencies are handled.

23 Exhibit "C" to this report sets forth its most recent financial statement.

24 **I. Developments in the Case**

25 Covanta Holding Corporation is a corporate successor to Mission Insurance  
26 Group, the reorganized parent corporation of the companies which entered liquidation. In a past  
27 status report, the Insurance Commissioner advised that the Conservation and Liquidation Office  
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1 was notified of the following development by Covanta Holding Corporation. This quotation was  
2 from a securities filing made by Covanta:

3  
4 "Our net operating loss carryforwards ("NOLs"), which offset our consolidated  
5 taxable income, will expire in various amounts, if not used, between 2011 and 2028. The  
6 Internal Revenue Service ("IRS") has not audited any of our tax returns for any of the  
7 years during the carryforward period including those returns for the years in which the  
8 losses giving rise to the NOLs were reported. On November 10, 2010, we received a  
9 letter from the IRS indicating that the IRS has selected for examination our tax returns for  
10 the tax years 2004 to 2008. We cannot assure you that we would prevail if the IRS were  
11 to challenge the availability of the NOLs. If the IRS were successful in challenging our  
12 NOLs, it is possible that some portion of the NOLs would not be available to offset our  
13 future consolidated taxable income".

14 The issue of taxation is addressed in the Amendment to Agreement Regarding Closing  
15 which the Insurance Commissioner as Trustee entered into with Covanta, with this Court's  
16 approval, as of December 1, 2005. This agreement provides in pertinent part at Page 6, paragraph  
17 8 that:

18 "Parent shall indemnify and hold harmless the Trusts and the Trustee from any  
19 claims, demands, losses, liabilities, attorneys' fees, costs, incidental damages, actual  
20 damages or consequential damages imposed on the Trustee or the Trusts for Income  
21 Taxes the Trusts may be required to pay that are attributable to net income reportable in  
22 the Consolidated Return for taxable years beginning with the taxable year ending on  
23 December 31, 2004".

24 Covanta therefore is responsible to indemnify the Trusts for any tax matters relating to  
25 tax years 2004-2008, the years in issue in the IRS review.

26 The Mission estates are currently grantor trusts of subsidiaries of Covanta Holding  
27 Corporation ("Covanta"). As a result, the income or loss allocable to the Mission estates is  
28 included in the consolidated federal income tax return filed by Covanta. Under the Tax Sharing  
29 Agreement between the Mission estates and Covanta, Covanta is liable to pay for all federal  
30 income taxes allocable to the estates for taxable years beginning in 2004. The Insurance  
31 Commissioner awaits resolution of this outstanding issue. Covanta Holding Corporation advises  
32 that the issue remains unresolved.

33 Under 31 U.S.C. 3713(a)(1)(A), a claim of the United States Government shall be paid  
34 first when a taxpayer indebted to the government is insolvent and either (i) the debtor makes a

1 voluntary assignment of property to some other party without retaining enough property to pay  
2 all debts or (ii) an act of bankruptcy is committed. Under 31 U.S.C. 3713(b), a representative of  
3 an insolvent taxpayer paying any part of a debt of a person or estate before paying a claim of the  
4 government is liable to the extent of the payment for unpaid claims of the Government. This  
5 statutory scheme is affected by the operation of the California Insurance Code and of the  
6 McCarran-Ferguson Act, 15 U.S.C. 1011 et seq. The Insurance Commissioner lacks notice of  
7 any claims, tax or otherwise, which could give rise to federal claims. The Insurance  
8 Commissioner believes that Covanta will be required to meet, and will meet, any unexpected  
9 contingencies associated with Covanta's primary obligation for taxes due. However, as a matter  
10 of conservatism, the Insurance Commissioner has maintained assets in reserve. Consequently,  
11 the Mission Insurance Company Trust and Mission National Insurance Company Trust are  
12 currently retaining assets on account of the possibility that additional federal income taxes will  
13 be owed by the estates. In general, the statute of limitations on assessment closes three years  
14 after the tax return was filed (whether or not such return was filed on the date prescribed by  
15 law). Internal Revenue Code Section 6501. Corporate returns generally can be filed no later  
16 than September 15<sup>th</sup> for the previous taxable year for a corporate taxpayer maintaining its tax  
17 records on the basis of a calendar year (which is the case for the parties involved). In general,  
18 tax returns must be filed, despite the liquidation process, for all years ending with the taxable  
19 year in which the final distribution is made. Internal Revenue Code Section 6012.

20 IRS' selection of the 2004 through 2008 returns for review may affect the timing of  
21 closing. The Trustee will await information from Covanta as to the status of the review prior to  
22 making a further recommendation about distributions.

23 Since the last status conference, the Insurance Commissioner's counsel has been in touch  
24 with counsel for the United States Department of Justice. The Insurance Commissioner's counsel  
25 sent a letter dated September 1, 2011 to an attorney with the civil division of the United States  
26 Department of Justice. This letter sought a release of the Insurance Commissioner and the special  
27 deputy insurance commissioner from any potential civil liability under 31 U.S.C. 3713(b)  
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1 arising from the Mission matters: The Insurance Commissioner has provided further information  
2 to the United States Department of Justice since the last status report. The Insurance  
3 Commissioner hopes to obtain this release on non-tax matters, even as the audit, it is hoped,  
4 result in a closing of the tax years under review.

5 A new lawsuit remains pending relating to the Mission Insurance Company Trust. The  
6 plaintiffs Victoria Klein and Ashley Swadley, filing individually and as class representatives of  
7 the e-ferol class action, and alleging they are the assignee of CVS Revco D.S., Inc. and Retrac,  
8 Inc., joined Mission Insurance Co. and Mission Insurance Company Trust in that lawsuit  
9 captioned *Victoria Klein and Ashley Swadley v. Federal Insurance Co., et al*, Case Number CA  
10 7-03-CV-102-D, pending in the United States District Court for the Northern District of Texas,  
11 Wichita Falls Division. Plaintiffs allege in that suit that they were provided a substance called  
12 "E-ferol" by alleged insureds of Mission Insurance Company. Mission Insurance Company Trust  
13 filed a motion to dismiss pursuant to Federal Rules of Civil Procedure Rule 12(b)(6), which  
14 motion remains pending with the Court. Plaintiffs have filed a motion seeking to add the  
15 Insurance Commissioner as a party. The Insurance Commissioner asserts that this Court, rather  
16 than the Court in Wichita Falls, Texas, is the proper court, if any, for plaintiffs to seek to assert  
17 why they should be permitted to assert a claim after the September 12, 1987 bar date in this  
18 matter.

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## 21 **II. The Remaining Wind-up Tasks: Collection of the Sums due to the Trusts and**

## 22 **Distribution of the Sums Collected to the Claimants**

23 The case is in final wind-up pursuant to a closing order. This report will update status on  
24 what will be required, when it will be required, and how it will be accomplished to complete the  
25 winding-up.

### 26 **A. The Collection of Sums due to the Trusts**

27 In this case, substantial litigation to collect assets for the trusts has been completed. The  
28 Trusts now are owed sums by a number of insolvent entities, which are themselves subject to

1 various proceedings throughout the world.

2 **1. Holland-America Insurance Company Trust Claim**

3 This Missouri company is one of the affiliates of the Mission Insurance companies, and is in  
4 Receivership proceedings in Missouri. Mission Insurance Company Trust has a substantial  
5 approved claim in the Missouri receivership proceeding. A substantial interim payment was  
6 received thus far in 2010, but further payments are anticipated, assuming everything occurs as  
7 projected.

8 **Reinsurance Debtors Owe Sums to Mission Insurance Company Trust**

9 The Mission Insurance Company Trust is owed money by insurers in rehabilitation or  
10 liquidation. This report will provide an update on the status of these collections.

11 **Report on the Situation with Centaur Insurance Company**

12 Mission Insurance Company Trust holds an approved claim against Centaur Insurance  
13 Company, an Illinois insurance company in rehabilitation. The amount of the proof of claim  
14 approved is \$ 48,000,000 on behalf of the Mission Trusts:

15  
16 The following historical data about Centaur Insurance Company is taken from the Illinois  
17 Office of the Special Deputy Receiver's website, [www.osdchi.com](http://www.osdchi.com):

18 "Historical Data:

19  
20 Centaur Insurance Company, an Illinois domestic property and casualty insurance  
21 company, consented to an Agreed Order of Rehabilitation issued by the Circuit Court of Cook  
22 County, Illinois on September 4, 1987. The Rehabilitator's Second Revised Plan of  
23 Rehabilitation was entered and approved by the Supervisory Court on December 8, 2000.  
24 Centaur wrote general liability, as well as general property and casualty lines of business on a  
25 primary or excess basis. In addition, Centaur wrote assumed reinsurance. Centaur was licensed in  
26 D.C. and all states except AZ, CT, HI, KS, NH, SD, VT and WY, in which it wrote on a surplus  
27 line or non-admitted basis.

28 The Rehabilitator has paid \$116,294,637 in direct claims and related loss adjustment expenses

1 since the inception of the receivership proceedings.

2 On August 16, 1999, the Supervisory Court approved a plan for the Rehabilitator to pursue  
3 policy buy-backs with insureds. The plan has been completed; agreement was reached with 20  
4 insureds for total settlements of \$12,076,099. This resulted in a reduction in case reserves to  
5 Centaur of \$20,102,432.

6 The Rehabilitator has engaged in negotiations with Centaur's reinsurers and reinsureds,  
7 both domestic and international, resulting in numerous commutations which were approved by  
8 the Supervisory Court. On November 13, 2006, the Supervisory Court entered an order  
9 approving a one hundred percent (100%) first dividend on all claims allowed and approved by  
10 the Supervisory Court for distribution at statutory priority level 215 ILCS 5/205(1)(e). The  
11 Supervisory Court further authorized the Rehabilitator to make distributions of estate assets  
12 necessary to effectuate the first dividend on allowed and court approved claims. The Supervisory  
13 Court's approved dividend and distribution of estate assets applies to claims which have, to date,  
14 been allowed and approved in the rehabilitation proceedings as well as to claims which may in  
15 the future be allowed and approved at statutory levels 215 ILCS 5/205(1)(d) and 215 ILCS  
16 5/205(1)(e)".

17 This report indicates that Centaur Insurance Company has paid 100 percent of its  
18 policyholder-level claims thus far. The Third Quarter 2010 Rehabilitator's Statement of Changes  
19 in Cash and Invested Assets for the period of July 1, 2010 through September 30, 2010 reflect the  
20 following assets in the hands of the Centaur rehabilitation:  
21

22 "Total unencumbered cash and assets: At book value: \$ 80,275,271 at market value:  
23 \$ 80,883,497". Centaur's financial statement for year-end 2009 reflects the following text in

24 Note F LITIGATION/SETTLEMENTS:

25 "*2. Federal Priority Issues*

26 The United States government has previously asserted that insurance companies may be  
27 directly liable to the U.S. government where it has incurred a loss. The U.S. government has  
28 asserted that its right to distribution of the estate's assets in these situations is superior to that

1 of other creditors, although that position was rejected, in part, by the United States Supreme  
2 Court in the case Department of Treasury v. Fabe, decided in June 1993. The United States  
3 Government or any of its agencies may be eligible for a claim distribution on an allowed  
4 claim under the statutory asset distribution schedule, 215 ILCS 5/205(1).

5 The amount of the liability, if any, cannot be determined at this time.

6 The Receiver is reviewing federal priority claims and has undertaken discussions with the  
7 U.S. Department of Justice, or will at the appropriate time”.

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9  
10 The Trustee is unaware of any progress on this federal issue at Centaur since this report, and is  
11 advised by Centaur that this issue remains outstanding.

12  
13 Another reinsurer, Universal Ruckversicherungs, is a foreign insolvency in its final  
14 stages, is expected to make a dividend in the future, but its timing is uncertain. Future  
15 reinsurance collections could exceed ten million dollars, including a possible further collection  
16 from Holland-America Insurance Company Trust.

#### 17 18 **B. The Timing Issues Posed by the Tax Concerns**

19 The Insurance Commissioner projected that the most substantial portion of these assets  
20 will be released by the estates and distributed to creditors no later than year-end 2011, and that  
21 most of the remaining amounts will be distributed in 2012 through 2014. As of year-end 2014,  
22 the statute of limitations on assessment for federal income taxes will remain open for 2011 and  
23 later taxable years. Some assets will still need to be available in the event there is additional tax  
24 liability until the statute of limitations for 2014 has expired, but the Insurance Commissioner  
25 believes he can develop a solution whereby the assets in question can be held, so as not to  
26 prevent the estates from being closed as of year-end 2014, and hopefully even earlier.



1           Therefore, it is anticipated that the Mission and Mission National estates can be closed by  
2 year-end 2014, although as described above, it may be necessary to retain a minimal amount of  
3 assets in the unlikely event that there is additional federal income tax liability until all of the  
4 taxable years are closed for purposes of assessment by the Internal Revenue Service.

5           One unknown contingency is whether the IRS review of Covanta's tax returns for the  
6 years 2004 through 2008 may render advisable a further delay in the disbursement of reserves.  
7 The Trustee cannot recommend distribution until this issue is resolved. This review could delay  
8 the next projected distribution. Similarly, the Trustee has applied for a release from the  
9 Department of Justice from all non-tax issues. If the release is delayed, or an issue arises, this  
10 will affect the distribution date. In addition, the suit filed by the Klein plaintiffs may affect the  
11 timing.

12           The Insurance Commissioner will set the anticipated distribution date for the bulk of the  
13 remaining assets by one year in light of these concerns.

### 14                           **III. Insurance Commissioner's Time Line for Wind-up**

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16           3. April 22, 2009 [re-set from March 31, 2009 to permit expanded notice of a motion]  
17 Motion to approve an Enterprise distribution—Enterprise Insurance Company Trust has paid all  
18 of the principal amount of its policyholder claims.

19  
20           4. June 30, 2009: Actual distribution to the Enterprise creditors set forth in the April  
21 motion.

22           4. October 31, 2009—Approval will be sought to distribute all sums collected in 2009  
23 above tax and closing reserves: completed.

24  
25           5. October 31, 2010: Approval will be sought to distribute all sums collected in 2009  
26 above tax and closing reserves: completed.

27           6. October 31, 2013 (reset from October 31, 2011): Approval of the Court to distribute  
28 the vast majority of the remaining assets of the trusts shall be sought, as the tax contingencies

1 will in the main have expired. The tax review by the Internal Revenue Service may affect the  
2 timing of the projected distribution. The Commissioner will report to the Court on the timing of  
3 the IRS matters.

4 7. Final reserve distribution: Assuming that no tax or other unforeseen issues arise, a  
5 small sum will be required to be reserved for potential tax issues as to which the statute of  
6 limitations has not yet expired. This is projected to be a small fraction of the funds now being  
7 held, and current projections are that this small fraction will be distributed either to claimants or  
8 to a trust for the benefit of claimants by 2014.  
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#### 15 **IV. Financial Status of the Trusts**

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17 Attached as Exhibit "C" is a statement of assets and liabilities for the Trusts. The Trustee  
18 continues to hold a substantial sum of money in reserve for unknown and unexpected  
19 contingencies.  
20

#### 21 **Conclusion:**

22 The wind-up of this case is continuing, with the continued factor of an IRS review of the  
23 Covanta tax situation, a request to get clearance in light of the lack of any other federal claims,  
24 and a new lawsuit filed by a set of late claimants. The Court is requested to set a November 2012  
25 status conference.  
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Respectfully submitted,

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**ORIGINAL FILED**

JAN 24 2006

**LOS ANGELES  
SUPERIOR COURT**

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF LOS ANGELES**

10 JOHN GARAMENDI, Insurance  
11 Commissioner of the State of California,

12 Applicant,

13 vs.

14 MISSION INSURANCE COMPANY, a  
California corporation,

15 Respondent.  
16

17 Consolidated with Case Numbers

18 C 576 324; C 576 416;  
19 C 576 323; C 576 325; C 629709  
20

Case No. C 572 724

[PROPOSED] ORDER WHICH  
AUTHORIZES DISTRIBUTION AND  
CLOSURE OF CASE AS TO MISSION  
INSURANCE COMPANY TRUST AND  
MISSION NATIONAL INSURANCE  
COMPANY TRUST

Date: January 24, 2006

Time: 8:30 a.m.

Department: 50

Filed: October 31, 1985

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**MISSION INSURANCE COMPANY CLOSING ORDER**

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1           On the 24<sup>th</sup> day of January, 2006, this Court held the final hearing on the Motion to  
2 Authorize Closing Procedures for Mission Insurance Company Trust and the Motion to Authorize  
3 Closing Procedures as to Mission National Insurance Company Trust. . This Court also considered  
4 the Insurance Commissioner's Motion to Approve Accounting and Authorize Distributions.  
5 This Court previously granted the Insurance Commissioner's Motion to Authorize Closing  
6 Procedures, and entered its preliminary order which gave notice of this hearing.

7           The Court considered the pleadings and papers on file, including the Declaration of Mohsen  
8 Sultan and the Declaration of Raymond Minehan. The Court finds that these declarations support the  
9 relief granted herein, and that due notice was given.

10           The Court hereby GRANTS the Insurance Commissioner's Motions and ORDERS as  
11 follows:

- 12 a. The Court hereby authorizes the Insurance Commissioner to implement the distributions set forth  
13 in the motions and to administer those assets not distributed as set forth in the motion, and to  
14 accomplish the steps involved in closing the Mission Insurance Company Trust and Mission  
15 National Insurance Company Trust proceeding. This Court retains jurisdiction to approve a closing  
16 budget by subsequent motion;
- 17 b. The Court hereby authorizes the Insurance Commissioner to distribute to all approved  
18 policyholder class claimants of Mission Insurance Company Trust and Mission National Insurance  
19 Company Trust an amount sufficient to bring each approved policyholder class claimant up to one  
20 hundred percent of the principal of the approved amount of that policyholder's claims.
- 21 c. The Court hereby authorizes the Insurance Commissioner to distribute to all approved general  
22 creditor class claimants of Mission Insurance Company Trust an amount sufficient to pay thirty  
23 percent of the principal of their approved general creditor class proofs of claims.
- 24 d. The Court hereby authorizes the Insurance Commissioner to distribute to all approved general  
25 creditor class claimants of Mission National Insurance Company Trust an amount sufficient to pay  
26 one hundred percent of the principal of their approved general creditor class proofs of claims.
- 27 e. The Court hereby authorizes the remaining funds in the trust to be retained in the trust, to be  
28 distributed upon a re-opening of this case for the purpose of such distribution, as to which this Court

1 retains and reserves full jurisdiction.

2 f. The Court will consider by motion now set for February 24, 2006, whether to authorize the  
3 Insurance Commissioner to enter into, effectuate, execute, and consummate the Rehabilitation  
4 Implementation Agreement and related documents with Covanta Holding Corporation, and to  
5 execute and implement the steps set forth in those agreements.

6 g. The Court hereby authorizes the Insurance Commissioner to distribute the shares of Covanta  
7 Holding Corporation attributable to Mission Insurance Company Trust and Mission National  
8 Insurance Company Trust, to approved unpaid (or partially unpaid) claimants against Mission  
9 Insurance Company Trust and Mission National Insurance Company Trust, and authorizes use of a  
10 professional distribution firm or firms to be selected by the Insurance Commissioner to accomplish  
11 the distribution. In the event that a distribution percentage results in fractional shares being due to  
12 any claimant, then the Insurance Commissioner may distribute cash in lieu of shares as to the  
13 fractional portion of such shares, including distributions of very small amounts of fractional value.  
14 The Court finds that such a distribution will comply with the Insurance Commissioner's duty to  
15 distribute shares ratably in conjunction with the rehabilitation plan previously approved by this  
16 Court.

17 h. Upon the distribution of the remaining assets and shares, as set forth above, this Court authorizes  
18 the closing of the Mission Insurance Company and Mission National Insurance Company case,  
19 subject to this Court's continuing jurisdiction should further unanticipated collections be received  
20 after the date of closing, or funds remain in the trust, which will necessitate a further distribution.  
21 This Court retains jurisdiction in the event that the case should be re-opened for further distributions,  
22 but otherwise the case shall be administered as closed.

23 i. The Insurance Commissioner is hereby authorized to take such steps as are necessary and  
24 appropriate to close the proceedings;

25 j. The Insurance Commissioner is authorized to file a declaration within one hundred eighty days  
26 setting forth the accomplishment of the distribution. The Insurance Commissioner, his Special  
27 Deputies, the Conservation and Liquidation Office, its employees, the California Department of  
28 Insurance, and its personnel, and the Insurance Commissioner's agents and attorneys, shall be, upon

1 such filing, DISCHARGED from any and all claims, debts, liabilities, or duties to further account for  
2 the assets or liabilities of Mission Insurance Company Trust and the Mission National Insurance  
3 Company Trust through the date of the declaration, and shall have no liability of any kind or nature  
4 for such claims or debts.

5 k. The Court hereby ENJOINS PERMANENTLY all creditors, policyholders, equityholders,  
6 officers, directors and all other persons or entities of any type or nature from bringing, asserting  
7 maintaining or pursuing any claim, suit, demand, offset, proceeding, arbitration, administrative  
8 proceeding or other legal process of any kind or nature against Mission Insurance Company,  
9 Mission Insurance Trust, the Insurance Commissioner as Trustee of the Mission Insurance Company  
10 Trust, any Special Deputy Insurance Commissioners, employees of the Conservation and Liquidation  
11 Office, agents and attorneys, and personnel of the California Department of Insurance, as to any  
12 claim arising from or related to Mission Insurance Company, Mission National Insurance Company,  
13 Mission, Mission National Insurance Company Trust, and Mission Insurance Company Trust. The  
14 Court further reaffirms and makes permanent each injunction the Court has entered in this  
15 proceeding. The Court further ORDERS that the distribution of assets in accordance with this and  
16 prior orders of the Court shall constitute the sole entitlement of any claimant against Mission  
17 Insurance Company and Mission Insurance Company Trust as well as against Mission National  
18 Insurance Company Trust and Mission Insurance Company, to receive any assets in partial  
19 satisfaction of their claims;

20 l. The Court hereby authorizes the Trustee to maintain the records of Mission Insurance Company  
21 Trust for three years, after which such records, may be destroyed in the Trustee's discretion. The  
22 Trustee may earlier destroy the computer tapes which the Trustee deems to be outmoded.

23 m. In the event that further assets are collected by the Insurance Commissioner, the Insurance  
24 Commissioner may petition this Court for permission to re-open the case for further distributions.  
25 In addition, in the event that a guaranty association or ancillary receivership fails to return excess  
26 early access distributions to the Mission Insurance Company Trust, the Insurance Commissioner as  
27 Trustee of the Mission Insurance Company Trust or Mission National Insurance Company Trust may  
28 withhold such unreturned excess sums from future distributions of those trusts to the involved

1 guaranty association for the state involved, until such time as the excess sums are returned and the  
2 correct accounting reconciled.

3 n. The Court orders that the Mission Insurance Company Trust, the Mission National Insurance  
4 Company Trust and the Enterprise Insurance Company Trust shall remain in existence through  
5 December 31, 2010, to complete the tasks remaining in their wind-up, subject to earlier termination  
6 should the tasks be completed prior to that time., an order which provides that MICT, MNICT and  
7 EICT shall stay in existence.

8 o. The Insurance Commissioner as Trustee shall continue to have the right to collect all sums due to  
9 the Mission Insurance Company Trust, and Mission National Insurance Company Trust, including  
10 the right to sue to recover any such sums due. This right includes, but is not limited to, the right to  
11 collect statutory deposits, early access refunds, and reinsurance recoverables.

12 p. The Court retains jurisdiction to consider the potential entry of an order evaluating Latent  
13 Deficiency Claims for the purposes of distribution of shares of Covanta Holding Corporation  
14 pursuant to the Rehabilitation, Rorganization and Restructuring Agreement previously entered by  
15 this Court.

16 q. distributions of assets pursuant to this order shall be made to holders of approved approved proofs  
17 of claims. The Court recognizes that the Insurance Commissioner prepared a listing of claimants,  
18 attached to the Declaration of John Battle, to provide information about claimants. This listing shall  
19 not be the definitive listing, however, and the distributions shall be made to those whose claims have  
20 been approved according to their actual approved and unpaid entitlement.

21 r. The Insurance Commissioner as Trustee shall have the right to hold any assets collected, pending  
22 further distribution.

23 s. In the event that any claimant fails to claim any sum or property due to that claimant, the Insurance  
24 Commissioner is authorized to follow the California statutory unclaimed property laws, and to  
25 deliver such assets in accordance and as provided in such laws. If a state guaranty association or an  
26 ancillary receiver fails to return assets to the Insurance Commissioner on behalf of the Mission  
27 Insurance Company Trust, then the Insurance Commissioner may withhold distributions to that state  
28 guaranty association or make other appropriate adjustments to distributions to claimants in that state.



1 Further, if a distribution is owed by one Mission trust to a guaranty association, but that association  
2 or the ancillary receiver in that state has not returned early access funds due to another trust, then the  
3 Insurance Commissioner may direct the distribution to the Mission Trust to which the funds are due,  
4 to be applied to the obligation in question.

5 t. The Insurance Commissioner is authorized, in his discretion, to permit the Mission Insurance  
6 Company Trust and Mission National Insurance Company Trust to remain open for such reasons,  
7 including tax reasons, that he deems appropriate. Subject to reserving for a closing budget, and any  
8 sums he deems necessary for tax or other sufficient reasons, the Insurance Commissioner shall  
9 distribute the remaining sums in the trust to the approved policyholder class claimants, and then to  
10 general creditors, other than those sums necessary for the closing budget and reserves.

11 u. This Court shall maintain continuing jurisdiction over Mission Insurance Company Trust and  
12 Mission National Insurance Company Trust, but this order is intended to and does end active court  
13 administration of this trust, to be effective upon the filing of the declaration regarding distribution as  
14 set forth herein. This Court retains continuing jurisdiction to enforce the injunctions issued herein,  
15 and to hear and determine any issue which may arise upon a motion to re-open the case. This Court  
16 shall retain jurisdiction over this case, and the matters addressed herein, after February 24, 2006. The  
17 Insurance Commissioner may, after closing, request re-opening of this matter. This case is otherwise  
18 to be closed, effective when the distribution declaration is filed, unless the Court shall subsequently  
19 order a later date to apply. This Court's jurisdiction over this case shall not be terminated, however,  
20 and this Court shall retain the primary jurisdiction over this case.

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23 So Ordered.

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25 Signed this 24<sup>th</sup> day of January, 2006

26

**JOHN SHEPARD WILEY JR.**

27

Judge of the Superior Court

28

**ORIGINAL FILED**  
JUN 30 2006  
LOS ANGELES  
SUPERIOR COURT

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6  
7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
8 **FOR THE COUNTY OF LOS ANGELES**

9 JOHN GARAMENDI, Insurance  
10 Commissioner of the State of California,

11 Applicant,

12 vs.

13 MISSION INSURANCE COMPANY, a  
14 California corporation,

15 Respondent.

16 Consolidated with Case Numbers

17 C 576 324; C 576 416;  
18 C 576 323; C 576 325; C 629 709

Case No. C 572 724

Honorable John Shepard Wiley Jr.

**[PROPOSED] ORDER TO RE-OPEN  
PROCEEDINGS ON ENTERPRISE  
INSURANCE COMPANY TRUST**

June 30, 2006 at 8:30 a.m.

Department : 50

Filed: October 31, 1985

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1           On the 30<sup>th</sup> day of June, 2006, the Court considered the Insurance Commissioner's Motion to  
2 re-open the proceedings on Enterprise Insurance Company Trust for the limited purpose of further  
3 distribution of funds received through intercompany distributions and funds to be received from  
4 California Insurance Guarantee Association. Notice of this motion was give to the service list and to  
5 the list of interested parties.

6           The Court finds that no opposition was filed to this Order. The Court finds that the  
7 requested relief is not an abuse of discretion, and further is in the best interest of the estate. The  
8 Court accordingly GRANTS the motion. The Court re-opens the proceedings on Enterprise  
9 Insurance Company Trust as requested for the limited purpose of distributing excess funds.

10           The Court grants the motion to re-open and orders that:

- 11   A. The Court approves the re-opening of the proceedings as to Enterprise Insurance Company Trust;  
12   B. The Court approves a distribution to increase the distribution percentage on approved  
13   policyholder class claims to one hundred percent of the principal amount of such claims;  
14   C. The Court approves the Insurance Commissioner's proposal that in calculating the distribution  
15   amounts, the Insurance Commissioner may take into account any distributions of shares pursuant to  
16   the rehabilitation plan, to achieve a result that is both appropriate mathematically and consistent with  
17   the plan;  
18   D. The Insurance Commissioner shall file a declaration of compliance within one hundred eighty  
19   days of the order, whereupon the proceedings will again be closed, subject to this Court's continuing  
20   jurisdiction, and the Insurance Commissioner shall be discharged as to the sums distributed;  
21   E. The Court authorizes the inter-company approvals as to claims against Enterprise Insurance  
22   Company Trust as set forth in the Sultan Declaration.

23           This order does not alter the permanent injunction put in place in the order which authorized  
24   the closing of the Enterprise Insurance Company Trust, nor does it re-open the claims deadlines in  
25   this case. This order does not modify in any way the previous orders of this Court. This order  
26   instead merely authorizes re-opening for the sole purpose of distributing additional sums received in  
27   the case. This Court retains its jurisdiction over this case for the purpose of administering this  
28   distribution and the ultimate distribution of the remaining sums in the Enterprise Insurance

1 Company Trust.

2

3 So ordered.

4 Signed this 30 day of JUNE, 2006.

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Judge of the Superior Court

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**Mission Ins Co****STATEMENT OF ASSETS AND LIABILITIES**

As of December 31, 2011

	(Opening Balance)		Change
	Jan 1 1998	Dec 31 2011	
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	217,610	-	(217,610)
Restricted	16,455,223	580,657	(15,874,566)
Participation in pooled investments, at market	480,851,923	102,943,846	(377,908,077)
Accrued investment income	-	463,134	463,134
Statutory deposits held by other states	16,677,901	-	(16,677,901)
Recoverable from reinsurers	63,758,552	21,586,435	(42,172,117)
Receivable from affiliates, net of allowances	91,265,656	23,979,501	(67,286,155)
Deposits and other assets	256,437	-	(256,437)
<b>Total Assets</b>	<b>669,483,302</b>	<b>149,553,573</b>	<b>(519,929,729)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	1,759,360	1,759,360
Reserve for Federal Income Tax Liability	-	77,589,272	77,589,272
Claims against policies, including guaranty associations, before distributions	784,277,837	846,832,561	62,554,724
Policyholder distributions	-	(846,832,560)	(846,832,560)
California and Federal claims having preference	-	-	-
All other claims	1,024,261,559	198,438,478	(825,823,081)
<b>Total Liabilities</b>	<b>1,808,539,396</b>	<b>277,787,110</b>	<b>(1,530,752,286)</b>
<b>NET ASSETS (DEFICIENCY)</b>	<b>(1,139,056,094)</b>	<b>(128,233,537)</b>	<b>1,010,822,557</b>

Conservation & Liquidation Office

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**Mission Ins Co**

**STATEMENT OF CHANGES TO NET ASSETS**

As of December 31, 2011

	1998 to 2010	Dec 31 2011	Jan 1998 to Dec 2011
<b>Income</b>			
Reinsurance Recoveries	17,019,505	-	17,019,505
Litigation Recoveries	2,633,791	-	2,633,791
Premiums and Other Collections	7,736,713	345,012	8,081,726
Salvage/Subrogation Recoveries	773,701	-	773,701
Net Investment Income	242,255,131	1,659,004	243,914,135
	<u>270,418,841</u>	<u>2,004,017</u>	<u>272,422,858</u>
<b>Operating Expenses</b>			
Legal and Professional	8,853,704	62,026	8,915,730
General and Administrative	13,857,855	188,870	14,046,725
Allocated Expenses	7,693,728	217,534	7,911,262
Loss (Gain) on Disposition of Assets	(2,975,024)	-	(2,975,024)
	<u>27,430,263</u>	<u>468,429</u>	<u>27,898,693</u>
<b>Losses and Other Expenses</b>			
Incurred Losses and Claims Expense	76,379,310	47,675	76,426,985
Court-ordered Debt Forgiveness	(915,746,819)	-	(915,746,819)
Provision for Federal Income Taxes	78,933,754	-	78,933,754
	<u>(760,433,755)</u>	<u>47,675</u>	<u>(760,386,080)</u>
<b>NET INCOME (LOSS)</b>	<u>1,003,422,333</u>	<u>1,487,912</u>	<u>1,004,910,245</u>
Adjustments to assets and liabilities	5,911,248	1,063	5,912,311
<b>Changes to Net Assets</b>	<u>1,009,333,581</u>	<u>1,488,975</u>	<u>1,010,822,557</u>

Conservation & Liquidation Office  
**Mission National Ins Co**  
**STATEMENT OF ASSETS AND LIABILITIES**  
As of December 31, 2011

	(Opening Balance)		Change
	Jan 1 1998	Dec 31 2011	
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	102,520	-	(102,520)
Participation in pooled investments, at market	232,119,932	22,913,833	(209,206,099)
Accrued investment income	-	103,027	103,027
Statutory deposits held by other states	1,947,958	-	(1,947,958)
Recoverable from reinsurers	13,739,903	5,119,864	(8,620,039)
Receivable from affiliates, net of allowances	(23,054,953)	-	23,054,953
Other receivable	-	89,329	89,329
<b>Total Assets</b>	<b>224,855,360</b>	<b>28,226,053</b>	<b>(196,629,307)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	1,886,786	1,886,786
Reserve for Federal Income Tax Liability	-	15,870,142	15,870,142
Claims against policies, including guaranty associations, before distributions	354,972,480	596,098,477	241,125,997
Policyholder distributions	-	(499,851,864)	(499,851,864)
All other claims	14,177,008	16,838,096	2,661,088
<b>Total Liabilities</b>	<b>369,149,488</b>	<b>130,841,636</b>	<b>(238,307,852)</b>
<b>NET ASSETS (DEFICIENCY)</b>	<b>(144,294,128)</b>	<b>(102,615,583)</b>	<b>41,678,545</b>

Conservation & Liquidation Office  
 170 **Mission National Ins Co**  
**STATEMENT OF CHANGES TO NET ASSETS**  
**As of December 31, 2011**

	1998 to 2010	Jun 30 ytd 2011	Jan 1998 to Jun 2011
<b>Income</b>			
Reinsurance Recoveries	(2,348,254)	-	(2,348,254)
Litigation Recoveries	943,000	-	943,000
Premium and Other Collections	205,509	15	205,524
Salvage/Subrogation Recoveries	236,868	-	236,868
Net Investment Income	111,686,634	366,273	112,052,907
	<u>110,723,758</u>	<u>366,288</u>	<u>111,090,046</u>
<b>Operating Expenses</b>			
Legal and Professional	1,388,119	22,341	1,410,460
General and Administrative	122,996	190	123,186
Allocated Expenses	5,923,448	48,143	5,971,591
Loss (Gain) on Disposition of Assets	(7,868,879)	-	(7,868,879)
	<u>(434,316)</u>	<u>70,674</u>	<u>(363,642)</u>
<b>Losses and Other Expenses</b>			
Incurred Losses and Claims Expense	130,446,976	(258,756)	130,188,220
Court-ordered Debt Forgiveness	(75,397,352)	-	(75,397,352)
Provision for Federal Income Taxes	17,442,781	-	17,442,781
	<u>72,492,405</u>	<u>(258,756)</u>	<u>72,233,649</u>
<b>NET INCOME (LOSS)</b>	<u><b>38,665,669</b></u>	<u><b>554,370</b></u>	<u><b>39,220,039</b></u>
Adjustments to assets and liabilities	2,458,506	-	2,458,506
<b>Changes to Net Assets</b>	<u><b>41,124,175</b></u>	<u><b>554,370</b></u>	<u><b>41,678,545</b></u>



**Enterprise Ins Co****STATEMENT OF ASSETS AND LIABILITIES**

As of December 31, 2011

	(Opening Balance)		
	Jan 1	Dec 31	
	1998	2011	Change
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	29,771,800	-	(29,771,800)
Participation in pooled investments, at market	-	7,213,177	7,213,177
Accrued investment income	-	32,418	32,418
Recoverable from reinsurers	299,581	-	(299,581)
Receivable from affiliates, net of allowances	40,108,050	-	(40,108,050)
Other receivable	848,164	-	(848,164)
<b>Total Assets</b>	<b>71,027,595</b>	<b>7,245,595</b>	<b>(63,782,000)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	661,189	661,189
Reserve for Federal Income Tax Liability	341,083	579,343	238,260
Claims against policies, including guaranty associations, before distributions	75,391,507	120,573,416	45,181,909
Policyholder distributions	-	(120,573,414)	(120,573,414)
All other claims	18,008,695	30,780,906	12,772,211
<b>Total Liabilities</b>	<b>93,741,285</b>	<b>32,021,441</b>	<b>(61,719,844)</b>
<b>NET ASSETS (DEFICIENCY)</b>	<b>(22,713,690)</b>	<b>(24,775,846)</b>	<b>(2,062,156)</b>

540 Conservation & Liquidation Office  
**Enterprise Ins Co**  
 STATEMENT OF CHANGES TO NET ASSETS  
 As of December 31, 2011

	1998 to 2010	Jun 30 ytd 2011	Jan 1998 to Jun 2011
<b>Income</b>			
Litigation Recoveries	205,000	-	205,000
Premium and Other Collections	2,105,701	148,364	2,254,065
Salvage/Subrogation Recoveries	7,402	-	7,402
Net Investment Income	8,333,443	114,370	8,447,814
	<u>10,651,547</u>	<u>262,734</u>	<u>10,914,281</u>
<b>Operating Expenses</b>			
Legal and Professional	507,439	4,976	512,415
General and Administrative	16,386	469	16,855
Allocated Expenses	1,685,623	27,274	1,712,897
Loss (Gain) on Disposition of Assets	(594,494)	-	(594,494)
	<u>1,614,954</u>	<u>32,719</u>	<u>1,647,673</u>
<b>Losses and Other Expenses</b>			
Incurred Losses and Claims Expense	10,649,839	-	10,649,839
Provision for Federal Income Taxes	672,454	-	672,454
	<u>11,322,293</u>	<u>-</u>	<u>11,322,293</u>
<b>NET INCOME (LOSS)</b>	<u>(2,285,700)</u>	<u>230,016</u>	<u>(2,055,684)</u>
Adjustments to assets and liabilities	(6,472)	-	(6,472)
<b>Changes to Net Assets</b>	<u>(2,292,171)</u>	<u>230,016</u>	<u>(2,062,156)</u>

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**PROOF OF SERVICE: By U.S. Mail**  
**(Code Civ. Proc., §§ 1013, 2015.5)**

STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 625 West Centerville Road, Suite 110, Garland, Texas 75041.

On this date, I served the foregoing document(s) described as **Insurance Commissioner's Status Conference Report and Updated Closing Plan** by placing a copy thereof enclosed in sealed envelope(s) addressed as follows:

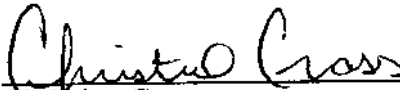
See attached service list

I am readily familiar with my employer's practices of collection and processing correspondence for mailing with the U.S. Postal Service and the above-referenced correspondence will be deposited with the U.S. Postal Service on the same date as stated below, following the ordinary course of business.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

(Federal) I declare that I am employed by the office of a member of the bar of this court at whose direction the service was made.

Executed on April 17, 2012 at Garland, Texas.

  
\_\_\_\_\_  
Christine Cross

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