

1 ROB BONTA  
Attorney General of California  
2 LISA W. CHAO  
Supervising Deputy Attorney General  
3 CAROLINE C. LAM  
Deputy Attorney General  
4 State Bar No. 298045  
300 South Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6224  
6 Facsimile: (916) 731-2144

ELECTRONICALLY  
**FILED**

Superior Court of California,  
County of San Francisco

**10/13/2025**  
Clerk of the Court

BY: ERNALYN BURA  
Deputy Clerk

7 CYNTHIA J. LARSEN (State Bar No. 123994)  
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: clarsen@orrick.com

11 Attorneys for Applicant Ricardo Lara,  
Insurance Commissioner of the State of California  
12 in his Capacity as Liquidator of  
CastlePoint National Insurance Company  
13

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

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 CITY AND COUNTY OF SAN FRANCISCO

17 INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA,

18 Applicant,

19 v.

20 CASTLEPOINT NATIONAL INSURANCE  
COMPANY, and DOES 1-50, inclusive,

21 Respondents.  
22  
23  
24

Case No. CPF-16-515183

**INSURANCE COMMISSIONER'S  
NOTICE OF APPLICATION AND  
APPLICATION FOR ORDER  
AUTHORIZING FOURTH EARLY  
ACCESS DISTRIBUTION TO STATE  
INSURANCE GUARANTY FUNDS AND  
APPROVING 2024 FINANCIAL  
REPORT, FINANCIAL STATEMENT,  
AND EXPENSES OF  
ADMINISTRATION; MEMORANDUM  
OF POINTS AND AUTHORITIES IN  
SUPPORT THEREOF**

**Date: November 6, 2025**

**Time: 9:00 a.m.**

**Dept: 301**

**Judge: Hon. Christine Van Aken**

1 TO EACH PARTY AND ATTORNEY OF RECORD IN THIS ACTION:

2 PLEASE TAKE NOTICE that on November 6, 2025, at 9:00 a.m., in Department 301 of  
3 the San Francisco Superior Court, 400 McAllister Street, San Francisco, California 94102, before  
4 the Honorable Christine Van Aken, the Insurance Commissioner of the State of California, as the  
5 statutory and Court-appointed Liquidator (“Commissioner”) of CastlePoint National Insurance  
6 Company (“CastlePoint” or “CastlePoint estate”), will and does hereby apply to the Court for an  
7 order granting the within application (“Application”).

8 The Application seeks an order of the Court granting: (1) authorization for the  
9 Commissioner’s fourth early access distribution to state insurance guaranty funds in the amount  
10 of approximately \$15,009,672 in assets of the CastlePoint estate, representing a partial  
11 distribution of funds for which they could assert a claim against the Commissioner, as itemized in  
12 Exhibit A (“Proposed 2025 Distributions to State Insurance Guaranty Funds from the CastlePoint  
13 Estate”) attached to the Declaration of Joseph Holloway in support of this Application  
14 (“Holloway Decl.”); and (2) approval of the Commissioner’s 2024 financial report for the  
15 CastlePoint estate, including the financial statement for the CastlePoint estate attached to the  
16 Holloway Declaration as Exhibit B, and the expenses of administration of the CastlePoint estate  
17 for 2024 as reflected in Exhibit B in the amount of \$3,933,100 (Holloway Decl., ¶ 5, Ex. B.).

18 This Application is made pursuant to California Insurance Code sections 1010 et seq.,  
19 including but not limited to sections 1016, 1035, 1035.5, 1036, 1037, and related provisions of  
20 Part 2, Chapter 1, Article 14 of the Insurance Code and pursuant to the Liquidation Order for  
21 CastlePoint dated March 30, 2017 (“Liquidation Order”) and upon the Commissioner’s broad  
22 authority and discretion thereunder to manage the CastlePoint estate and conduct its liquidation.  
23 This Application is made upon the grounds that the Commissioner, in his capacity as the  
24 liquidator of CastlePoint, has demonstrated that his proposal to make a fourth early access  
25 distribution of CastlePoint assets to state insurance guaranty funds pursuant to Insurance Code  
26 section 1035.5, as described above, is a lawful and appropriate exercise of his discretion and  
27 should be approved and authorized. In addition, the Commissioner has demonstrated that the  
28 CastlePoint financial report and financial statement for 2024, and the 2024 expenses of

1 administration of the CastlePoint estate incurred by the Commissioner, constitute a lawful and  
2 appropriate exercise of his discretion to secure and manage the CastlePoint estate and its  
3 liquidation and should be approved.

4 This Application is based on this Notice, the Application itself, the Commissioner's  
5 memorandum of points and authorities in support hereof, and the Holloway Declaration in  
6 support of this Application and the exhibits thereto, the pleadings, records and files in this action,  
7 and such oral argument and additional evidence as may be received by the Court, including at the  
8 hearing on the Application.

9 Dated: October 13, 2025

ROB BONTA  
ATTORNEY GENERAL OF CALIFORNIA  
LISA W. CHAO  
SUPERVISING DEPUTY ATTORNEY GENERAL  
CAROLINE C. LAM  
DEPUTY ATTORNEY GENERAL

CYNTHIA J. LARSEN  
ORRICK, HERRINGTON & SUTCLIFFE LLP

15  
16 By:   
CYNTHIA J. LARSEN

17 Attorneys for Applicant Ricardo Lara,  
18 Insurance Commissioner of the State of  
19 California in his capacity as Liquidator of  
20 CastlePoint National Insurance Company

1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION**  
2 **FOR ORDER AUTHORIZING FOURTH EARLY ACCESS DISTRIBUTION TO STATE**  
3 **INSURANCE GUARANTY FUNDS AND APPROVING FINANCIAL REPORT,**  
4 **FINANCIAL STATEMENT, AND EXPENSES OF ADMINISTRATION FOR 2024**

5 **I.**

6 **INTRODUCTION AND BACKGROUND**

7 CastlePoint National Insurance Company (“CastlePoint” or “CastlePoint estate”) was  
8 placed into conservation on July 28, 2016 (the “Conservation Date”) and the Commissioner was  
9 appointed as its statutory Conservator.<sup>1</sup> From the Conservation Date through March 31, 2017 (the  
10 “Conservation Period”), the Commissioner, as Conservator, oversaw the administration of the  
11 CastlePoint estate while simultaneously working with state insurance guaranty funds to prepare for  
12 the transition of claims administration responsibilities to the funds upon liquidation.<sup>2</sup> The Court  
13 entered a Liquidation Order for CastlePoint on March 30, 2017, and the Liquidation Order became  
14 effective on April 1, 2017 (“Liquidation Date”).

15 The Commissioner was appointed as liquidator of CastlePoint by the Court on  
16 March 30, 2017, pursuant to Insurance Code sections 1011 and 1016, respectively. As  
17 liquidator, the Commissioner was directed to liquidate and wind up the business affairs of  
18 CastlePoint in accordance with the applicable provisions of the Insurance Code. (Liquidation  
19 Order ¶ 4.)

20 The purpose of this Application is to obtain the Court’s authorization for the

---

21 <sup>1</sup> On September 13, 2016, the Court approved the Commissioner’s *Plan of Conservation & Liquidation for*  
22 *CastlePoint National Insurance Company* (the “Plan”), and the Commissioner undertook to implement the provisions  
23 of the Plan. Under the Plan, CastlePoint entered into a number of Conservation Transaction Agreements, which,  
24 among other things, brought \$200 million (net of certain advances) of additional liquidity into the estate and provided  
25 for runoff administration services through AmTrust North America, Inc. (collectively with AmTrust Financial  
26 Services, Inc., “AmTrust”) and National General Management Corp. (“National General”). The Plan also ordered and  
27 preserved the statutory claim priorities contained in Insurance Code section 1033(a) under which expenses of  
28 administration have the highest (Class 1) priority, followed by claims for policy benefits, which are entitled to the  
second-highest (Class 2) priority. (Plan at pp. 10-11; Ins. Code § 1033(a)(1)-(2).) The Plan transactions also  
established continuous claims administration services for CastlePoint from AmTrust and National General. In 2019  
the Commissioner transitioned the accounting functions for the estate from legacy CastlePoint employees in New  
Jersey to the CLO office in San Francisco.

<sup>2</sup> On January 12, 2017, the Commissioner filed with the Court a *Conservator’s Report to the Court Concerning the*  
*Conservation of CastlePoint* (“Conservator’s Report”), along with accompanying exhibits on January 18, 2017, to  
advise the Court and interested parties of material activities undertaken by the Conservator during the Conservation  
Period and to lay out, at a high level, the Conservator’s expectations for the orderly liquidation of CastlePoint.

1 Commissioner’s proposed fourth early access distribution of approximately \$15,009,672 to state  
2 insurance guaranty funds due to payments made by them for which the CastlePoint estate is  
3 obligated. The factual and legal bases for the fourth early access distribution are set forth below in  
4 Section II. Section III hereof demonstrates that the 2024 financial statement for the CastlePoint  
5 estate shows that it has ample funds to make the distribution for which authorization is sought at  
6 the current time. Section IV contains the Commissioner’s report to the Court on the status and  
7 finances of the CastlePoint estate and its liquidation and requests the Court’s approval of the  
8 Commissioner’s financial report, financial statement and expenses of administration of the  
9 CastlePoint estate for 2024. Section IV sets forth legal authorities authorizing the relief sought by  
10 the Commissioner in his Application.

11 **II.**  
12 **PROPOSED FOURTH EARLY ACCESS DISTRIBUTION TO STATE INSURANCE**  
13 **GUARANTY FUNDS**

14 The Commissioner as liquidator was directed in the Liquidation Order entered pursuant to  
15 Insurance Code section 1016 “to liquidate and wind up the business of CastlePoint and act in all  
16 ways and exercise all powers necessary for the purpose of carrying out this Order and the  
17 liquidation provisions of the Insurance Code, Insurance Code sections 1010 *et seq.*” (Liquidation  
18 Order, paragraph 6.) The Commissioner currently projects that the final distribution of all assets  
19 of the CastlePoint estate and completion of the CastlePoint liquidation will not occur until the  
20 year 2030 and that there will not be adequate estate funds to permit distribution to any priority  
21 class set forth in Insurance Code section 1033 having a distribution priority lower than Class 2.  
(Holloway Decl., ¶¶ 10-11.)

22 Insurance Code section 1035.5, subdivision (a), provides that the Commissioner, in his  
23 role as liquidator, may apply for and obtain Court approval of a proposal to disburse the insurer’s  
24 assets to state insurance guaranty funds. (Ins. Code, § 1035.5, subd. (a).) Such proposed  
25 distributions are to be in “amounts estimated at least equal to the payment made or to be made by  
26 the associations for which such associations could assert a claim against the commissioner”  
27 pursuant to the provisions of Insurance Code section 1035.5, subdivision (c). (Holloway Decl.,  
28 ¶ 7.)

1 By Order dated September 15, 2022, the Court approved a first early access distribution  
2 to state insurance guaranty funds in the amount of \$60,028,780 in net assets of the CastlePoint  
3 estate and the Commissioner expeditiously distributed the approved amount. By Order dated  
4 November 6, 2023 the Court subsequently approved a second early access distribution to state  
5 guaranty funds in the amount of \$30,075,159 in net assets of the CastlePoint estate. The  
6 Commissioner expeditiously distributed this amount. By Order dated December 9, 2024, the  
7 Court thereafter approved a third early access distribution to the state insurance guaranty fund in  
8 the amount of \$16,438,395 (as well as the first interim distribution to CastlePoint policyholders  
9 on their allowed claim in the amount of \$3,561,587). The Commission expeditiously distributed  
10 these amounts.

11 The Commissioner now has concluded that the CastlePoint estate possesses sufficient  
12 assets to make a fourth early access distribution of \$15,009,672 to 29 state insurance guaranty  
13 funds or similar entities, after reserving for amounts described in Insurance Code section 1035.5,  
14 subdivision (b)(1). (Holloway Decl., ¶¶ 8-11, Ex. B.)

15 With respect to reserving required by Insurance Code section 1035.5, subdivision (b)(1),  
16 the Commissioner’s proposal for a fourth distribution to the state insurance guaranty funds  
17 contains appropriate provisions for the payment of administrative costs, for the payment of the  
18 claims of secured creditors to the extent of the value of security held, and for claims falling within  
19 the priorities established in Insurance Code section 1033, subdivision (a)(1)-(4). After reserving  
20 for payment of such liabilities, the CastlePoint estate has ample funds to make a fourth early  
21 access distribution to insurance guaranty funds in the total amount of \$15,009,672, as established  
22 by the 2024 financial statement attached as Exhibit B to the Holloway Declaration, discussed in  
23 detail in Section III hereof.

24 The appropriate amount to be distributed at this time to each state guaranty fund fwas  
25 determined by the Commissioner in the following manner. The Commissioner calculated the  
26 “ultimate loss” to each state guaranty fund, which consists of the amounts paid by the guaranty  
27 fund on behalf of policyholders, as well as claims reserves and administrative expenses. The  
28 Commissioner has then applied a “maximum cap” for the distribution of a uniform percentage of

1 each guaranty fund’s ultimate loss. Statutory releases of funds from the CastlePoint estate to state  
2 guaranty funds, as well as statutory deposits of CastlePoint to be released to state guaranty funds,  
3 were then offset, along with any premium or other credits where appropriate, pursuant to  
4 Insurance Code section 1035.5, subdivision (d)<sup>3</sup>. (Holloway Decl., ¶ 11.) Utilizing this  
5 methodology, the Commissioner proposes to distribute and pay each of the 29 guaranty funds the  
6 amounts set forth in Exhibit A. If closure of the CastlePoint estate is delayed, the Commissioner  
7 may seek approval of additional such early access distributions when such liabilities and  
8 contingencies become known and are quantified. (Holloway Decl., ¶ 11.)

9 In accordance with Insurance Code section 1035.5, subdivision (b)(4), with respect to the  
10 state insurance guaranty funds receiving a distribution, the Commissioner has already requested  
11 and received from each fund an executed “early access agreement” (EA Agreement) to return the  
12 distributed assets as required to pay claims of secured creditors and claims falling within the  
13 priorities established in Insurance Code section 1033, subdivisions (a)(1) and (a)(2). (Holloway  
14 Decl., ¶ 12.) A true and correct copy of the template EA Agreement required to be signed by all  
15 state guaranty funds receiving a distribution is attached to the Holloway Declaration as Exhibit C.  
16 In accordance with the requirements of Insurance Code section 1035.5, subdivision (e), notice as  
17 required therein of the Commissioner’s Application was given to the insurance guaranty funds  
18 and insurance commissioners of each of the states at least thirty days prior to the submission of  
19 the Application to the Court. (Holloway Decl., ¶ 12.)

20 In summary, the Commissioner has satisfied the requirements of Insurance Code section  
21 1035.5 for distributions of estate assets to state insurance guaranty funds. Thus the distributions  
22 set forth in Exhibit A to the Holloway Declaration are a lawful and appropriate exercise of the  
23 Commissioner’s discretion and he requests that they be approved.

24  
25  
26  
27  
28 <sup>3</sup> There are no statutory deposits in certain states. Accordingly, for those states, the Commissioner will distribute the applicable amounts without applying an Insurance Code section 1035.5, subdivision (d) offset for statutory deposits.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**III.**

**THE 2024 FINANCIAL STATEMENT OF THE CASTLEPOINT ESTATE  
DEMONSTRATES THAT IT CONTAINS AMPLE FUNDS FOR THE DISTRIBUTION  
FOR WHICH APPROVAL IS SOUGHT**

A review of the 2024 Financial Statement of the CastlePoint estate shows that the CastlePoint estate contains ample funds to make the distribution for which approval is sought and that it is thus within the sound discretion of the Commissioner and should be approved.

Specifically, the CastlePoint estate had no accrued administrative expenses as of year-end 2024, and it has liability for secured claims in the amount of \$105,500. (See Holloway Decl., ¶ 10; Ex. B (Statement of Assets and Liabilities, page 1). As of December 31, 2024, the Commissioner has retained a total of \$191,386,900 in readily available funds, consisting of cash and cash equivalents, participation in pooled investments, and non-pooled short-term investments. (See Holloway Decl., ¶ 10, Ex. B.) The Net Assets shown in Exhibit B have not materially changed since year-end 2024. (Holloway Decl., ¶ 10.)

As shown in Exhibit A to the Holloway Declaration, under the Commissioner's proposed fourth early access distribution, a total of 29 guaranty funds would receive, after the offset of statutory credits under Insurance Code section 1035.5, subdivision (d), an aggregate amount of \$15,009,672 in amounts paid on claims under CastlePoint policies and related loss adjustment expenses. (See Holloway Decl., ¶ 10, Ex. A) (setting forth the amounts, with applicable offsets, to be paid by the Commissioner to 29 state guaranty funds.) The Commissioner's contemplated distribution to these state insurance guaranty funds would result in the pro rata payment to each guaranty fund of a uniform percentage of paid losses and loss adjustment expenses. Subtracting the amount of the proposed distribution to state insurance guaranty funds of \$15,009,672, and the above total amount of \$105,500, representing the CastlePoint estate's secured claims liability, from the cash assets in the estate of \$191,386,900, it is clear that the remaining cash assets in the estate in the amount of \$191,281,400 are more than sufficient to cover both higher priority secured claims and administrative costs. (See Holloway Decl., ¶ 10, Ex. B, Statement of Cash Flows.)

1 IV.

2 **PROPOSED APPROVAL OF THE FINANCIAL REPORT, FINANCIAL STATEMENT,**  
3 **AND EXPENSES OF ADMINISTRATION FOR 2024**

4 **A. Overview of Approval Process**

5 Shortly after the Liquidation Order was entered by the Court, the Commissioner filed an  
6 Application for Order Approving Financial Report and Expenses of Administration that set forth  
7 a financial report and a report on the expenses incurred by the Commissioner during the  
8 Conservation Period, which the Court granted on July 18, 2017. The Commissioner subsequently  
9 sought and received approval by Order dated June 7, 2018, for the financial report and expenses  
10 of administration for the 2017 liquidation period (which covered the Liquidation Date through the  
11 end of 2017).

12 In June 2019, the Commissioner filed an Application for Order Approving Financial Report,  
13 Expenses of Administration, and Estate Administration Matters (“2018 Application”), which sought  
14 approval for the financial report and expenses incurred by the Commissioner in 2018, along with  
15 the request for approval of certain routine estate administration matters for the efficient and  
16 orderly handling of the estate. The 2018 Application was granted by Order of this Court on  
17 August 13, 2019.

18 In June 2020, the Commissioner filed his Amended Application for Order Approving  
19 Financial Report and Expenses of Administration (“2019 Application”), which sought approval  
20 for the financial report and expenses incurred by the Commissioner in 2019 as well as certain  
21 estate administration matters to enhance the efficiency and orderly handling of the estate. The  
22 2019 Application was approved by Order of the Court on June 17, 2020.

23 In December 2021, the Commissioner filed his Application for Order Approving Financial  
24 Report and Expenses of Administration concerning the 2020 financial report and expenses of  
25 administration (“2020 Application”). The 2020 application was approved by Order of the Court  
26 on December 20, 2021. In August 2022, the Commissioner filed his application for Order  
27 Authorizing Early Access Distribution and Wilkie Settlement Agreement. That Application was  
28 approved by Order of the Court on September 15, 2022.

1 On October 11, 2023, the Commissioner filed his Application for Order Approving  
2 Second Early Access Distribution to State Guaranty Funds and his financial report and expenses  
3 of administration concerning 2021 and 2022. That application was approved by the Court on  
4 November 6, 2023.

5 On November 8, 2024, the Commissioner filed his Application for Order Authorizing first  
6 Interim Distribution on Allowed Class Two Policyholder Claims and Third Early Access  
7 Distribution Estate Insurance Guaranty Funds, and approving final report, financial statement,  
8 and expenses of administration for 2023. That application was approved by the Court on  
9 December 9, 2024.

10 In addition to seeking authorization for a fourth early access distribution to state insurance  
11 guaranty funds, the Commissioner now seeks approval of his 2024 financial report, financial  
12 statement and expenses of administration for the CastlePoint estate.

13 **B. Castlepoint Estate Liquidation Activities During 2024**

14 Since early 2019, all remaining liquidation activities have been assigned to the staff of the  
15 Commissioner's Conservation and Liquidation Office in San Francisco ("CLO") and, as of  
16 March 31, 2019, the CastlePoint home office in New Jersey was closed. (Holloway Decl., ¶ 13.)  
17 During 2024 the Commissioner and CLO conducted the following actions, among others:

- 18 1. Continued to open and/or re-open claim files for state guaranty associations, now  
19 totaling over 3,275 claim files since the Liquidation Date through December 31, 2024;
- 20 2. Billed \$2.8 million of reinsurance recoverables in 2024;
- 21 3. Collected for the CastlePoint estate reinsurance balances of approximately \$2.4  
22 million in 2024;
- 23 4. Collected for the CastlePoint estate miscellaneous recoveries in 2024 of  
24 approximately \$250,000 thousand;
- 25 5. Planned and executed a complex early access distribution in a total amount of  
26 approximately \$16.5 million in net assets of the CastlePoint estate to state insurance guaranty  
27 funds, as well as a distribution of approximately \$3.5 million in net assets of the CastlePoint  
28 estate on allowed policyholder claims;

1           6.       Filed on behalf of the CastlePoint estate the tax return for the 2023 tax years and  
2 finalized the 2023 audits; and

3           7.       Secured an additional addendum to the administrative services agreements with  
4 AmTrust and National General through December 31, 2025.

5           In addition to the above activities, the Commissioner and his staff and counsel also  
6 applied for Court authorization in 2024 for a complex interim policyholder distribution and a  
7 third early access distribution to state guaranty funds to satisfy amounts which the guaranty funds  
8 paid but for which the CastlePoint estate was liable, together totaling approximately \$20 million  
9 in net assets of the CastlePoint estate, as described above. The Commissioner obtained an Order  
10 from the Court granting such authorization. (Holloway Decl., ¶¶ 14-15.)

11       **C.       Financial Statement and Expenses of Administration**

12           The 2024 Financial Statement of the CastlePoint liquidation estate was prepared under the  
13 direction of Joseph Holloway as Chief Executive Officer of the CLO and Liquidation Manager of  
14 CastlePoint, and consists of the following subparts: Statement of Assets and Liabilities; Statement  
15 of Changes in Net Assets in Liquidation; and Statement of Cash Flows. In addition, a Statement  
16 of Income and Expenses (Monthly) is attached to the Financial Statement. (Holloway Decl., ¶ 17,  
17 Ex. B.)

18           The Financial Statement reflects the following expenses of administration. For 2024, the  
19 CastlePoint estate incurred and paid expenses totaling \$3,933,100. (Holloway Decl., ¶ 18; Ex. B,  
20 Statement of Income and Expenses.) Of that total, \$297,277 was paid for various office expenses.  
21 (Ibid.) Also of that expenses total, \$475,601 was paid for professional fees, including legal,  
22 consultants, and contractor expenses, but not including CLO personnel. (Holloway Decl., ¶ 18;  
23 Exhibit B, Statement of Income and Expenses.) Within that total for professional fees, \$44,464  
24 was paid to Orrick for legal services in connection with the liquidation during 2024, \$427,207  
25 was paid for other necessary consultants and contractors other than attorneys. (Ibid.) Additionally,  
26 \$3,933,100 was paid to the CLO, which included amounts for services allocated to the  
27 CastlePoint estate attributable to the CLO's Accounting, Claims, Information Technology,  
28 Reinsurance, Estate Trust and Executive Departments. (Ibid.) A full breakdown of all expenses

1 incurred during 2024 related to the liquidation is attached as part of Exhibit B to the Holloway  
2 Declaration. (Holloway Decl., Ex. B.)

3 The Court’s Liquidation Order authorizes the Commissioner, acting as Liquidator, to fix  
4 and pay the administrative expenses of the liquidation from the assets of CastlePoint, subject to  
5 the Court’s oversight and approval as specified. (See Liquidation Order, ¶¶ 3, 19.) These  
6 expenses were incurred pursuant to Insurance Code sections 1035 and 1036, which grant the  
7 Commissioner the power to fix all administrative costs (§ 1035) and the compensation of outside  
8 attorneys (§ 1036), with the approval of the Court, and to have those expenses paid by the  
9 liquidation estate. The Commissioner believes that the expenses incurred were necessary to the  
10 efficient and orderly administration of CastlePoint during 2020 for the continuing liquidation of  
11 CastlePoint. (Holloway Decl., ¶ 19.) As discussed in more detail below, the expenses incurred were  
12 a lawful and appropriate exercise of the Commissioner’s discretion and should be approved.

13 V.

14 **DISCUSSION**

15 **A. The Relief The Commissioner Seeks Is Authorized By Law**

16 **1. The Proposed Early Access Distribution to State Insurance Guaranty Funds**  
17 **is within the Commissioner’s Authority and Discretion and Should be**  
18 **Authorized.**

19 Pursuant to Insurance Code section 1016, the Court may enter a liquidation order  
20 appointing the Commissioner as liquidator and ordering the “winding up and liquidation of the  
21 business of the insurer.” (Ins. Code, § 1016, subd. (a).) The Court entered such an Order herein on  
22 March 30, 2017, appointing the Commissioner as liquidator with broad powers and discretion to  
23 carry out the process of liquidation and winding up of the CastlePoint estate. Specifically, the  
24 Court directed the Commissioner “to liquidate and wind up the business of CastlePoint and to act  
25 in all ways and exercise all powers necessary for the purposes of carrying out this Order and the  
26 liquidation provisions of the Insurance Code, Insurance Code sections 1010 *et seq.*” (Liquidation  
27 Order, ¶ 15.) The Liquidation Order further provided in paragraph 15 that “The Liquidator is  
28 authorized, in his discretion, without permission of the Court and without notice, to pay or defer  
payment of some or all claims, expenses, liabilities, and/or obligations of CastlePoint, in whole or

1 part, accruing prior and/or subsequent to his appointment as Liquidator.”

2 Insurance Code section 1035.5 provides as follows:

3 Notwithstanding the provisions of Article 14 (commencing with Section 1010), with  
4 regard only to those insurers subject to this article:

5 (a) Within 120 days of the issuance of an order directing the winding up and  
6 liquidation of the business of an insolvent insurer under Section 1016, the commissioner  
7 shall make application to the court for approval of a proposal to disburse the insurer’s  
8 assets, from time to time as such assets become available, to the California Insurance  
9 Guarantee Association, or the California Life and Health Insurance Guarantee Association,  
10 and to any entity or person performing a similar function in another state.

11 (b) The proposal shall at least include the following provisions for:

12 (1) Reserving amounts for the payment of expenses of administration  
13 and the payment of claims of secured creditors (to the extent of the value of the  
14 security held) and claims falling within the priorities established in paragraphs (1) to  
15 (4), inclusive, of subdivision (a) of Section 1033.

16 (2) Disbursement of the assets marshaled to date and subsequent  
17 disbursements of assets as they become available.

18 (3) Equitable allocation of disbursements to each of the associations  
19 entitled thereto.

20 (4) The securing by the commissioner from each of the associations  
21 entitled to disbursements pursuant to this section of an agreement to return to the  
22 commissioner such assets previously disbursed as may be required to pay claims  
23 of secured creditors and claims falling within the priorities established in  
24 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033 in accordance  
25 with the priorities. No bond shall be required of any association.

26 (5) A full report to be made by the association to the commissioner  
27 accounting for all assets so disbursed to the association, all disbursements made  
28 therefrom, any interest earned by the association on the assets, and any other  
matter as the court may direct.

(c) The commissioner’s proposal shall provide for disbursements to the  
associations in amounts estimated at least equal to the claim payments made or to be made  
by the associations for which such associations could assert a claim against the  
commissioner, and shall further provide that if the assets available for disbursement from  
time to time do not equal or exceed the amount of the claim payments made or to be made  
by the associations, then disbursements shall be in the amount of available assets. The  
reserves of the insolvent insurer on the date of the order of liquidation shall be used for  
purposes of determining the pro rata allocation of funds among eligible associations.

(d) The commissioner shall offset the amount disbursed to any entity or person  
performing a function in any other state similar to that function performed by the  
California Insurance Guarantee Association, or the California Life and Health Insurance  
Guarantee Association, by the amount of any statutory deposit, premiums, or any other  
asset of the insolvent insurer held in that state.

1 (e) Notice of such application shall be given to the associations in and to the  
2 commissioners of insurance of each of the states. Any such notice shall be deemed to have  
3 been given when deposited in the United States certified mails, first-class postage prepaid,  
4 at least 30 days prior to submission of such application to the court. Action on the  
5 application may be taken by the court provided the above required notice has been given  
6 and provided further that the commissioner's proposal complies with paragraphs (1) and  
7 (4) of subdivision (b).

8 As explained in the Holloway Declaration and Exhibits A through C thereto, the proposal  
9 for early access partial distributions to state insurance guaranty funds for which the Commissioner  
10 seeks court approval in this application fully satisfies the statutory provisions of Insurance Code  
11 section 1035.5. (See generally Holloway Decl., ¶¶ 10-12.) First, the Commissioner retains readily  
12 available assets of CastlePoint in the amount of at least \$191,281,400 to fund the estate's  
13 administrative expenses and claims of secured creditors, together totaling only \$105,500 at year  
14 end 2024, and these remaining available assets are more than sufficient to fund such future  
15 expenses. (See Ins. Code, § 1035.5, subd. (b)(1).) Secondly, the Commissioner proposes to  
16 disburse, on a pro rata basis, to each of the guaranty funds eligible for a distribution, funds which  
17 the Commissioner has determined to be the "available assets" of the estate, pursuant to Insurance  
18 Code section 1035.5, subdivisions (b)(2) and (c). Third, the proposal provides for an equitable  
19 allocation of certain assets to the state insurance guaranty funds, pursuant to Insurance Code  
20 section 1035.5, subdivision (b)(3). Fourth, disbursement of the assets will be subject to an  
21 agreement by each of the state insurance guaranty funds to, if necessary, return assets previously  
22 disbursed to pay claims of secured creditors, pursuant to Insurance Code section 1035.5,  
23 subdivision (b)(4). Fifth, disbursements of the assets will also be subject to an agreement by each  
24 of the state insurance guaranty funds to make a full report to the Commissioner accounting for all  
25 assets disbursed to each fund, all disbursements made therefrom, and any interest earned by the  
26 guaranty fund on the assets, as required by Insurance Code section 1035.5, subdivision (b)(5).  
27 Finally, the Commissioner will offset the amount disbursed to any state insurance guaranty fund  
28 by the amount of any statutory deposit, premiums, or any other asset that CastlePoint held in that  
state, pursuant to Insurance Code section 1035.5, subdivision (d). Notice of this application has  
been given in accordance with the provisions of Insurance Code section 1035.5, subdivision (e).

1 (See Holloway Decl., ¶¶ 11-12.)

2 Furthermore, in addition to satisfying the statutory provisions provided for under the  
3 Insurance Code, the Commissioner’s proposal for a distribution to state insurance guaranty funds  
4 falls within the scope of his broad statutory discretion. The California Legislature has afforded to  
5 the Commissioner, acting in his capacity as the statutory and court-appointed liquidator of an  
6 insolvent insurer, substantial discretion under the Insurance Code to fashion appropriate procedures  
7 necessary to carry out his statutory duties. (*Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805,  
8 824-825; *Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d 307, 329.) As the Court-  
9 appointed liquidator of CastlePoint, the Commissioner has the express authority to, among other  
10 things, take such actions as he deems necessary to “carry on and conduct the business and affairs”  
11 of the Company. (Ins. Code, § 1037, subd. (a).) Insurance Code section 1037, subdivisions (a) and  
12 (b) provide, in pertinent part, as follows:

13           Upon taking possession of the property and business of any person in any  
14 proceeding under this article, the commissioner, exclusively and except as otherwise  
15 expressly provided by this article, either as conservator or liquidator . . . [s]hall have  
16 authority . . . to carry on and conduct the business and affairs of that person or so much  
17 thereof as to him . . . may seem appropriate . . . [and also] [s]hall have authority to  
compound, compromise or in any other manner negotiate settlements of claims against  
that person upon such terms and conditions as the commissioner shall deem to be most  
advantageous to the estate of the person being administered . . . or otherwise dealt with  
under this article.

18 Section 1037 further provides the Commissioner, as the appointed liquidator of CastlePoint, with  
19 unspecified “[g]eneral powers” which shall not be construed to exclude:

20           in any manner his . . . right to perform and to do such other acts not herein  
21 specifically enumerated, or otherwise provided for, which the commissioner may deem  
22 necessary or expedient for the accomplishment or in aid of the purpose of such  
proceedings.

23 (See *Carpenter v. Pacific Mut. Life Ins. Co.*, *supra*, 10 Cal.2d 307 [seizure of insurance company  
24 by Commissioner may lawfully be made without court order and trial court had power to ratify and  
25 confirm Commissioner’s actions]; *Garris v. Carpenter* (1939) 33 Cal.App.2d 649 [Commissioner  
26 exercises very broad judgment and discretion in performance of duties].) Judicial approval of the  
27 Commissioner’s proposal will ensure that the conduct of the business and the winding down of  
28 CastlePoint are conducted efficiently and in the best interests of its policyholders and creditors.



1 the net assets of the CastlePoint estate to the state insurance guaranty funds or similar entities as  
2 itemized in exhibit A to the Holloway Declaration in the amounts specified therein, provided that  
3 prior to any such distribution, the state insurance guaranty fund in question has executed and  
4 delivered to the Commissioner an agreement, substantially in the form set forth in Exhibit C to the  
5 Holloway Declaration, to return the distributed assets as required to pay claims of secured  
6 creditors and claims falling within the priorities established in Insurance Code section 1033,  
7 subdivisions (a)(1) and (a)(2);

8 2. Approving the Commissioner's 2024 financial report, financial statement, and  
9 expenses of administration of the CastlePoint estate; and

10 3. Authorizing the Commissioner to take any and all action necessary to carry out the  
11 Order requested herein.

12 Dated: October 13, 2025

13 ROB BONTA  
14 ATTORNEY GENERAL OF CALIFORNIA  
15 LISA W. CHAO  
16 SUPERVISING DEPUTY ATTORNEY GENERAL  
17 CAROLINE C. LAM  
18 DEPUTY ATTORNEY GENERAL

19 CYNTHIA J. LARSEN  
20 ORRICK, HERRINGTON & SUTCLIFFE LLP

21 By:   
22 CYNTHIA J. LARSEN

23 Attorneys for Applicant Ricardo Lara,  
24 Insurance Commissioner of the State of  
25 California in his capacity as Liquidator of  
26 CastlePoint National Insurance Company