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12 Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the State of California **EXEMPT from filing fees per Govt.**  
13 in his Capacity as Conservator of **Code § 6103**  
CastlePoint National Insurance Company

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

17  
18 DAVE JONES, INSURANCE  
COMMISSIONER OF THE STATE OF  
19 CALIFORNIA,  
20 Applicant,  
21 v.  
22 CASTLEPOINT NATIONAL INSURANCE  
COMPANY, and DOES 1-50, inclusive,  
23 Respondents.  
24

Case No. CPF-16-515183  
**[PROPOSED] LIQUIDATION ORDER  
FOR CASTLEPOINT NATIONAL  
INSURANCE COMPANY**  
[Hearing date and time set by Court Order  
of January 26, 2017]  
**Date: March 30, 2017**  
**Time: 2:00 p.m.**  
**Dept: 302**  
**Judge: Hon. Harold E. Kahn**

1 The Court has reviewed the Application For Order Of Liquidation For CastlePoint  
2 National Insurance Company (“Application”) and supporting documents and evidence submitted  
3 by Insurance Commissioner Dave Jones as Conservator of CastlePoint National Insurance  
4 Company (“CastlePoint”), as well as all papers filed in opposition and reply to the Application.  
5 On March 30, 2017, the Court held a hearing on the Application at which it heard argument from  
6 the Commissioner and other interested parties.

7 Having considered the Application, the memorandum and declarations in support of or in  
8 opposition to the Application, and all other documents and evidence submitted, and having heard  
9 and considered the arguments presented to the Court, and upon good cause shown, the court  
10 hereby finds that CastlePoint is statutorily and legally insolvent and that it would be futile for the  
11 Commissioner to proceed as Conservator of CastlePoint and, therefore, sufficient grounds exist in  
12 accordance with Insurance Code section 1016 for entry of this order of liquidation of CastlePoint.

13 **THEREFORE, IT IS HEREBY ORDERED:**

- 14 1. The Application is GRANTED;
- 15 2. CastlePoint is hereby found to be insolvent;
- 16 3. The Commissioner’s status as Conservator of CastlePoint is terminated. The  
17 Insurance Commissioner is appointed Liquidator of CastlePoint as set forth in Insurance Code  
18 section 1016, with (1) David E. Wilson to serve as the Special Deputy Insurance Commissioner in  
19 charge of the CastlePoint liquidation and (2) Joseph Holloway, Jr., to serve as Liquidation  
20 Manager for Special Deputy Insurance Commissioner Wilson (hereinafter, collectively with the  
21 Commissioner, the “**Liquidator**”);
- 22 4. The Liquidator is directed to liquidate and wind up the business of CastlePoint and  
23 to act in all ways and exercise all powers necessary for the purpose of carrying out this Order and  
24 the liquidation provisions of the Insurance Code, Insurance Code sections 1010 *et seq*;
- 25 5. Title to all of the assets of CastlePoint, wherever situated and including any and all  
26 assets held in the names of any company that is a predecessor by merger with CastlePoint,<sup>1</sup> shall

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28 <sup>1</sup> The other insurers that previously merged with and into CastlePoint or are otherwise predecessor to CastlePoint are: Tower Insurance Company of New York, Tower National Insurance Company, Hermitage Insurance Company, CastlePoint Florida Insurance Company, North East Insurance Company, Massachusetts Homeland Insurance

1 be and hereby are vested in the Liquidator, in his official capacity as such, including without  
2 limitation real and personal property, deposits, certificates of deposit, bank accounts, mutual  
3 funds, securities, contracts, rights of actions, books, records and other assets of any and every  
4 type and nature, wherever situated, presently in CastlePoint's possession and/or those which may  
5 be discovered hereafter;

6           6.       All funds and assets (including without limitation deposits, certificates of deposit,  
7 bank accounts, securities, and mutual fund shares of CastlePoint) in various financial depository  
8 institutions (including without limitation banks, savings and loan associations, industrial loan  
9 companies, mutual funds and/or stock brokerages) wherever situated, are subject to withdrawal  
10 only upon direction or order by the Liquidator;

11           7.       The Liquidator is authorized to collect all moneys due to CastlePoint, and to do  
12 such other acts as are necessary or expedient to collect, protect and liquidate CastlePoint's assets,  
13 property and business;

14           8.       The Liquidator is authorized to collect all debts due and claims belonging to  
15 CastlePoint and to have the authority to sell, compound, compromise, or assign, for the purpose  
16 of collection upon such terms and conditions as the Liquidator deems best, any bad or doubtful  
17 debts;

18           9.       The Liquidator is authorized to compromise or in any other manner negotiate  
19 settlements of claims against CastlePoint upon such terms and conditions as the Liquidator shall  
20 deem to be in the best interests of CastlePoint;

21           10.      The Liquidator is authorized to collect all reinsurance due to CastlePoint and to  
22 sell, compromise and negotiate commutation settlements, or assign its rights to reinsurance, upon  
23 such terms and conditions as the Liquidator deems to be in the best interest of CastlePoint.

24 Commutation settlements greater than five million dollars shall require court approval.

25 Commutation settlements of five million dollars or less shall be reported to the Court in status  
26 reports filed by the Liquidator;

27 \_\_\_\_\_  
28 Company, Preserver Insurance Company, York Insurance Company of Maine, CastlePoint Insurance Company and  
Kodiak Insurance Company.

1           11.     The Liquidator is authorized, without permission of the Court and without notice,  
2 to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of  
3 or deal with, any real or personal property of CastlePoint at its reasonable market value, or, in  
4 cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such  
5 terms and conditions as the Liquidator may deem proper and to be in accordance with the  
6 Liquidator's authority under the Insurance Code;

7           12.     The Liquidator is authorized, for the purpose of executing and performing any of  
8 the powers and authority conferred upon the Liquidator under Insurance Code sections 1010 *et*  
9 *seq.*, in the name of CastlePoint or in the Liquidator's own name, to initiate, prosecute and/or  
10 defend any and all suits and other legal proceedings, legal or equitable, and to execute,  
11 acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary  
12 and proper to effectuate any sale of any real and personal property or other transaction in  
13 connection with the administration, liquidation or other disposition of the assets of CastlePoint, in  
14 this or other states as may appear to him necessary to carry out his functions as Liquidator;

15           13.     The Liquidator is authorized to divert, take possession of and secure all mail of  
16 CastlePoint and to effect a change in the rights to use any and all post office boxes and other mail  
17 collection facilities used by CastlePoint;

18           14.     The Liquidator is authorized, without permission of the Court and without notice,  
19 to invest and reinvest, in such manner as the Liquidator may deem suitable for the best interests  
20 of the policyholders and/or creditors of CastlePoint, such portions of the funds and assets of  
21 CastlePoint in his possession as do not exceed the amount of the reserves required by law to be  
22 maintained by CastlePoint as reserves for insurance policies, and which funds and assets are not  
23 immediately distributable to creditors upon such terms and conditions as the Liquidator may  
24 deem proper and to be in accordance with the Liquidator's authority under the Insurance Code;  
25 provided, however, the investment or reinvestment to be made does not exceed the sum of one  
26 hundred thousand dollars (\$100,000), except that the Liquidator, without permission of the court  
27 and without notice, may make investments or reinvestments in excess of \$100,000, but not  
28 exceeding \$5,000,000 per investment or reinvestment, if such investments or reinvestments are

1 part of CastlePoint's existing investments or are made pursuant to the investment guidelines of  
2 the Commissioner's Conservation & Liquidation Office (including investments and reinvestments  
3 through an investment pool consisting exclusively of assets from conserved and/or liquidating  
4 estates);

5 15. The Liquidator is authorized, in his discretion, without permission of the Court and  
6 without notice, to pay or defer payment of some or all claims, expenses, liabilities and/or  
7 obligations of CastlePoint, in whole or in part, accruing prior and/or subsequent to his  
8 appointment as Liquidator;

9 16. The Liquidator is authorized to appoint, employ and compensate under his hand  
10 and official seal, legal counsel, as his agents, and to employ special deputies, clerks and/or  
11 assistants, and to give to each of them those powers that the Liquidator deems necessary;

12 17. The Liquidator is authorized to fix the costs of employing special deputy  
13 commissioners, legal counsel, clerks, and/or assistants, and all expenses of taking possession of,  
14 conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and  
15 property of CastlePoint, and he is authorized to pay such costs out of the assets of CastlePoint in  
16 such manner as the Liquidator may deem proper and in accordance with the Liquidator's  
17 authority under the Insurance Code. If there are insufficient funds to pay such costs, then the  
18 Liquidator may pay such costs out of the Insurance Fund pursuant to Insurance Code section  
19 1035(a);

20 18. The Liquidator is authorized to terminate compensation arrangements with  
21 employees, to enter into new compensation arrangements with employees (including  
22 arrangements containing retention incentives), and to hire employees on such terms and  
23 conditions as he deems reasonable, provided, however, that the Liquidator shall continue to honor  
24 any such compensation arrangements with employees he approved or authorized in his prior  
25 capacity as Conservator;

26 19. The Liquidator is vested with all the powers of the directors, officers and managers  
27 of CastlePoint, whose authorities are suspended except as such powers may be re-delegated by  
28 the Liquidator;

1 **Injunctions and Other Orders**

2 20. Except upon the express authorization of the Liquidator, all persons (including  
3 without limitation CastlePoint and its officers, directors, agents, servants, and employees) are  
4 enjoined from the transaction of CastlePoint’s business or disposition of its property (including  
5 without limitation disposing of, using, transferring, selling, assigning, canceling, alienating,  
6 hypothecating or concealing in any manner or any way), or assisting any person in any of the  
7 foregoing, until further order of this Court. All persons are enjoined from obstructing or  
8 interfering with the Liquidator's conduct of his duties as Liquidator;

9 21. All persons are enjoined from instituting, prosecuting or maintaining any action at  
10 law or suit in equity (including without limitation actions or proceedings to compel discovery or  
11 production of documents or testimony, and matters in arbitration), except in matters before either  
12 the California Workers Compensation Appeals Board or equivalent administrative boards or  
13 organizations performing such functions in other states in which CastlePoint issued workers  
14 compensation policies, against CastlePoint or against the Liquidator, and from attaching,  
15 executing upon, foreclosing upon, redeeming of, making levy upon, or taking any other legal  
16 proceedings against any of the property and/or assets of CastlePoint, and from doing any act  
17 interfering with the conduct of said business by the Liquidator, except after an order from this  
18 Court entered after notice to the Liquidator of not less than 30 court days;

19 22. Except upon further order of the Court issued after a hearing in which the  
20 Liquidator has received reasonable notice, all persons are enjoined from obtaining or attempting  
21 to attain preferences, judgments, foreclosures, attachments or other liens of any kind or nature, or  
22 making any levy, against CastlePoint, its assets or property, or the Liquidator, and from executing  
23 or issuing or causing the execution or issuance of any court attachment, subpoena, replevin,  
24 execution or other process for the purpose of impounding or taking possession of or interfering  
25 with or creating or enforcing a lien upon any property or assets owned or in the possession of  
26 CastlePoint or the Liquidator, wheresoever situated, and from doing any act interfering with the  
27 conduct of said business by the Liquidator;

1           23.     Except upon further order of the Court issued after a hearing in which the  
2 Liquidator has received reasonable notice, all persons are enjoined from accelerating the due date  
3 of any obligation or claimed obligation; exercising any right of set-off; taking, retaining, retaking  
4 or attempting to retake possession of any real or personal property; withholding or diverting any  
5 rent or other obligation; doing any act or other thing whatsoever to interfere with the possession  
6 of or management by the Liquidator of the property and assets, owned or controlled by  
7 CastlePoint or in the possession of CastlePoint or in any way interfering with the Liquidator or  
8 interfering in any manner during the pendency of this proceeding with the exclusive jurisdiction  
9 of this Court over CastlePoint and its assets;

10           24.     All persons are enjoined from the sale or deed for nonpayment of taxes or  
11 assessments levied by any taxing agency of property and/or assets of CastlePoint;

12           25.     All persons are enjoined from the waste of the assets of CastlePoint;

13           26.     CastlePoint and its officers, directors, agents and employees are ordered to  
14 immediately make available to the Liquidator all assets, books, accounts, records, information,  
15 computers, tapes, discs, writings, other recordings of information, equipment and other property  
16 of CastlePoint, wherever situated, in their custody or control. They are directed to disclose to the  
17 Liquidator, on his request, the exact whereabouts of the foregoing items if such items are not in  
18 their possession, custody or control;

19           27.     CastlePoint and its officers, directors, trustees, employees or agents, and any other  
20 person, firm, association, partnership, corporate parent, holding company, affiliate or other entity  
21 in charge of any aspect of CastlePoint's affairs, either in whole or in part (including but not  
22 limited to banks, savings and loan associations, financial or lending institutions, brokers, stock or  
23 mutual associations, or any parent, holding company, subsidiary or affiliated corporation or any  
24 other representative acting in concert with CastlePoint) are ordered to cooperate with the  
25 Liquidator in the performance of his duties;

26           28.     All persons who maintain records, books, assets, accounts, tax returns,  
27 information, computers, tapes, discs, writings, other recordings of information, equipment and  
28 other property of CastlePoint, wheresoever located, pursuant to written contract or any other

1 agreement, are ordered to maintain such records and to deliver to the Liquidator such records  
2 upon his request;

3 29. The Court hereby stays any and all provisions of any agreement entered into by  
4 and between any third party and CastlePoint, that provide, in any manner, that selection,  
5 appointment or retention of a conservator, receiver or trustee, or entry of an order such as hereby  
6 made, shall be deemed to be, or otherwise operate as, a breach, violation, event of default,  
7 termination, event of dissolution, event of acceleration, insolvency, bankruptcy, or liquidation.  
8 The assertion of any and all rights and remedies relating thereto are also stayed and barred, except  
9 as otherwise ordered by this Court. This Court shall have and retain exclusive jurisdiction over  
10 any cause of action that has arisen or may otherwise arise under any such a provision;

11 30. Unless expressly superseded or amended under this Order, all restraining orders  
12 and injunctions set forth in the Court's July 28, 2016, *Order Appointing Insurance Commissioner*  
13 *as Conservator and Restraining Orders* shall remain in full force and effect.

#### 14 **Creditors and Setting of Claims Bar Date**

15 31. The rights and liabilities of claimants, policyholders, shareholders, members and  
16 all other persons interested in the assets of CastlePoint are fixed as of the effective date of entry  
17 of this Liquidation Order;

18 32. Any and all claims against CastlePoint (except those policyholder claims already  
19 pending against CastlePoint, which are hereby deemed filed with the Liquidator, who shall  
20 maintain a list of such claims), including without limitation those claims which in any way affect  
21 or seek to affect any of the assets of CastlePoint, wherever or however such assets may be owned  
22 or held, must be filed with the Liquidator no later than December 31, 2017 (the "**Claims Bar**  
23 **Date**") in accordance with the provisions of Insurance Code sections 1010 *et seq.*, (including  
24 without limitation Insurance Code section 1023). The claim must be timely filed on the form  
25 provided by the Liquidator, together with proper proofs thereof, and must be supplemented with  
26 such further information as the Liquidator requests, in accordance with Insurance Code section  
27 1023(f). **As provided in Insurance Code section 1024, any claims not filed by the Claims Bar**  
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1 **Date shall be conclusively deemed forever waived and no action may be maintained**  
2 **thereon;**

3 31. The Conservation Order shall remain in full force and effect through and including  
4 March 31, 2017, and the provisions of this Liquidation Order shall become effective on and as of  
5 April 1, 2017. This Liquidation Order is deemed final as of April 1, 2017.

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Dated: \_\_\_\_\_

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HONORABLE HAROLD E. KAHN  
JUDGE OF THE SUPERIOR COURT