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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **FOR THE COUNTY OF LOS ANGELES**

18
19 INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,

20 Applicant,

21 v.

22 GOLDEN STATE MUTUAL LIFE
23 INSURANCE COMPANY, a California
corporation,

24 Respondent.
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Case No. BS123005
Assigned to Hon. Ann I. Jones, Dept. 86

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
APPLICATION FOR ORDERS
AUTHORIZING LIQUIDATOR TO SIGN
AND ENTER AGREEMENT WITH
PENSION BENEFIT GUARANTY
CORPORATION TO TERMINATE
GOLDEN STATE'S RETIREMENT PLAN
AND APPOINT TRUSTEE**

[Filed concurrently with Notice and Proposed
Order]

Date: June 2, 2011
Time: 9:30 a.m.
Dept: 86

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 This Application seeks the Court's approval for Applicant Insurance Commissioner of the
 5 State of California in his capacity as Liquidator ("Liquidator") of Golden State Mutual Life
 6 Insurance Company ("Golden State") to sign and enter an agreement ("Agreement") with the
 7 Pension Benefit Guaranty Corporation ("PBGC") to terminate Golden State's Retirement Plan as
 8 of December 31, 2010, to appoint the PBGC as the Plan's trustee, and to have the Plan's records,
 9 assets and property delivered to the PBGC. This Application also seeks Court Orders that these
 10 approvals do not establish, determine or control the priority of PBGC's claim or claims, if any,
 11 against Golden State and that PBGC's claim or claims, if any, against Golden State are to be
 12 determined in accordance with the statutory claim priority and asset distribution procedures set
 13 forth in Insurance Code § 1010 *et seq.* including Insurance Code § 1033.

14 This Application arises out of the PBGC's January 25, 2011, Notice of Determination that
 15 Golden State's Retirement Plan will be unable to pay benefits to members when due. The
 16 financial records indicate that as of September 30, 2010, Golden State's Retirement Plan is
 17 deficient in the approximate amount of \$5,090,000, that Golden State's Retirement Plan will be
 18 unable to pay benefits to members when due, that the Plan needs to be terminated and that the
 19 PBGC should be appointed as the Plan's trustee. Under these circumstances, to avoid the expense
 20 and delay of litigation, the termination and appointment of trustee should be accomplished with
 21 the least expense to Golden State's remaining assets – which is for the Court to authorize the
 22 Liquidator to sign and enter into the Agreement proposed by the PBGC and attached hereto as
 23 Exhibit 1 which accomplishes the termination and appointment of trustee.

24 The requested Court Orders that the Plan's termination, the execution of the Agreement,
 25 the appointment of the PBGC as trustee and the plan's termination date of December 31, 2010, do
 26 not establish the PBGC's claim priority and that the PBGC's claim or claims must be
 27 administrated consistent with all other creditors in accordance with Insurance Code § 1010 *et seq.*
 28 including Insurance Code § 1033, are necessary because the PBGC has selected December 31,

2010, as the Plan's termination date, but all rights and liabilities of Golden State's creditors including the PBGC are fixed as of January 28, 2011. Thus, there is a potential claim date "fixing" dispute between the Liquidator and the PBGC. Rather than dispute the PBGC's selected termination date at this time and incur litigation expenses, the Liquidator requests that this Court order that the Agreement and termination date does not establish, determine or control claim priority.

The requested Orders are within the Liquidator's and the Court's broad discretion pursuant to the provisions of the Order of Liquidation, Insurance Code §§ 1019 and 1037, and California case law addressing the Insurance Code provisions.

Accordingly, the Court should grant this Application and issue the following orders:

1. An Order authorizing the Liquidator to sign and enter into the Agreement attached hereto as Exhibit 1 in which Golden State's Retirement Plan is terminated as of December 31, 2010, the PBGC is appointed the Plan's trustee, and the Plan's records, assets and property are conveyed and delivered to the PBGC;

2. An Order that the termination of Golden State's Retirement Plan, the Agreement and the Plan's termination date of December 31, 2010, do not establish, determine or control the priority of PBGC's claim or claims, if any, against Golden State;

3. An Order that the PBGC's claim or claims, if any, against Golden State are to be determined in accordance with the statutory claim priority and asset distribution procedures set forth in Insurance Code § 1010 *et seq.* including Insurance Code § 1033; and

4. An Order authorizing the Liquidator to take any and all actions necessary to accomplish the purposes of the Orders requested above.

II.

PERTINENT FACTUAL BACKGROUND

A. Golden State's Retirement Plan.

In 1956, Golden State established the Retirement Plan of the Golden State Mutual Life Insurance Company ("Retirement Plan" or "Plan") to provide retirement income benefits for its

employees. (Wilson Dec., ¶ 6.) The Retirement Plan is covered by the Employee Retirement Income Security Act of 1974 ("ERISA"). (29 U.S.C. § 1302.)

As of September 30, 2010, the estimated fair value of the assets held in Golden State's Retirement Plan is \$8,460,000, and the estimated liability of the Plan if it is terminated is \$13,550,000. Accordingly, Golden State's Retirement Plan is deficient in the approximate amount of \$5,090,000 (\$13,550,000 in liability less \$8,460,000 in assets). This deficiency is a liability against Golden State's remaining assets. (Wilson Dec., ¶¶ 7-11.)

For clarification and consistency with the Motion for Order of Liquidation granted by the Court on January 28, 2011, in that Motion the Liquidator estimated the Retirement Plan's deficiency to be approximately \$5,260,000, which is the difference between the estimated liability of \$13,550,000 if the plan is terminated as of September 30, 2010, and the fair value of the plan's assets of \$8,460,000 as of September 30, 2010, plus early retirement subsidies of \$170,000. The early retirement subsidies of \$170,000 are not included in the Plan's deficiency to be transferred to the PBGC because the subsidies are believed to be Priority 7 unsecured general creditor claims against Golden State pursuant to Insurance Code § 1033(a)(7). (Wilson Dec., ¶ 9(d).)

B. Order Appointing Liquidator of Golden State.

On January 28, 2011, this Court terminated the Insurance Commissioner's status as Conservator and ordered and appointed the Insurance Commissioner to serve as Liquidator of Golden State. (Order of Liquidation, Exhibit 3.) The Insurance Commissioner was appointed Liquidator because Golden State is insolvent in that, as of September 30, 2010, Golden State's estimated liabilities of \$9,291,895 exceed its estimated remaining assets of \$5,721,154 by over \$3 million (\$5,721,154 in assets - \$9,291,895 in liabilities = \$-3,570,741). (Wilson Dec., ¶¶ 12-13.)

The Order of Liquidation directs the Insurance Commissioner to liquidate and wind up the business of Golden State, and authorizes him to sell, transfer or otherwise dispose of Golden State's property at its reasonable market value; provided, however, for transfers where the market value of the property involved exceeds \$20,000, Court approval of the transfer is necessary. (Order of Liquidation, ¶¶ 1, 2 and 8, Exhibit 3; see also Insurance Code § 1037(d). Specifically, the Order of Liquidation states:

8. The Liquidator is authorized, without permission of the court and without notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any real or personal property of Golden State at its reasonable market value, or, in cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such terms and conditions as the Liquidator may deem proper, provided the market value of the property involved does not exceed the sum of twenty thousand dollars (\$20,000). (Insurance Code § 1037(d).)

(Order of Liquidation, ¶ 8, Exhibit 3.)

C. PBGC's Notice of Determination regarding Golden State's Retirement Plan.

On January 25, 2011, the PBGC issued a Notice of Determination that under the Employee Retirement Income Security Act of 1974 ("ERISA") Golden State's Retirement Plan will be unable to pay benefits when due, the Plan must be terminated in order to protect the interests of the Plan's participants, and the PBGC intends to proceed to have the Plan terminated, have the PBGC appointed as statutory trustee, and have December 31, 2010 established as the Plan's termination date. Specifically, the Notice of Determination states:

PLEASE TAKE NOTICE that the Pension Benefit Guaranty Corporation ("PBGC") has determined under section 4042(a)(2), of the Employee Retirement Income Security Act of 1974, *as amended* ("ERISA"), 29 U.S.C. § 1342(a)(2), that the Retirement Plan of Golden State Mutual Life Insurance Company ("Plan") will be unable to pay benefits when due. PBGC has further determined, under ERISA § 4042(c), 29 U.S.C. § 1342(c), that the Plan must be terminated in order to protect the interests of the Plan's participants. Accordingly, the PBGC intends to proceed under ERISA § 4042, 29 U.S.C. § 1342, to have the Plan terminated and PBGC appointed as statutory trustee, and under ERISA § 4048, 29 U.S.C. § 1348, to have December 31, 2010, established as the Plan's termination date. (Notice of Determination, Exhibit 4.)

Also on January 25, 2011, the PBGC issued a letter to Golden State's Liquidator advising the Liquidator of its Notice of Determination and that the Retirement Plan's termination and PBGC trusteeship can be accomplished either by the Agreement which is the subject of this Application or by order of a United States District Court. (Wilson Dec., ¶ 14, Letter, Exhibit 4.)

D. PBGC's Federal Statutory Scheme.

The PBGC is a United States Government corporation created under ERISA which administers a self-financing pension plan termination insurance program, in which the PBGC guarantees the payment of vested retirement plan benefits subject to certain limitations. (ERISA, 29 U.S.C. § 1302.) The PBGC was created to encourage the continuation and maintenance of

1 voluntary private defined benefit pension plans, provide timely and uninterrupted payment of
 2 pension benefits to participants and beneficiaries, and keep pension insurance premiums
 3 established by the PBGC at the lowest level necessary for the PBGC to carry out its operations.
 4 (29 U.S.C. § 1302(a)(1), (2), (3).)

5 The PBGC may institute proceedings in United States District Court to terminate a plan,
 6 be appointed the plan's trustee and establish a termination date whenever the PBGC determines,
 7 among other things, that the plan has not met the minimum funding standard required or the plan
 8 will be unable to pay benefits to plan members when due. (29 U.S.C. § 1342.) In addition, the
 9 PBGC and the plan administrator/employer may agree to the plan termination, appointment of the
 10 PBGC as trustee and termination date. (29 U.S.C. § 1342.) If the PBGC and plan administrator
 11 can not agree to the above, the United States District Court determines the issues. (29 U.S.C. §§
 12 1342 and 1348.)

13 Upon termination of a plan, ERISA imposes liens for liability upon employers who cause
 14 the PBGC to be liable on its guaranty, and establishes liens against the employer's assets, if any.
 15 (29 U.S.C. §§ 1342 and 1348.)

16 **E. Notice Of This Application.**

17 The Liquidator has provided written notice of this application to all persons and entities
 18 known to him that may have a substantial, unsatisfied claim that may be affected by this
 19 application and any Court Orders pertaining thereto, regardless of whether the persons or entities
 20 are a party to this action or have appeared in it, in compliance with California Rules of Court Rule
 21 3.1184(c). Said persons and entities include the PBGC, members of Golden State's Retirement
 22 Plan, National Organization of Life and Health Insurance Guaranty Associations and its attorneys,
 23 and Certificate of Contribution holders. In addition, notice of this application was provided to
 24 Community Impact Development II, LLC and Pitney Bowes, Inc. due to requests to receive
 25 copies of court filings. The above described persons and entities are listed on the Proof of Service
 26 filed concurrently herewith. To maintain confidentiality, the names and addresses of the members
 27 of Golden State's Retirement Plan are not listed on the Proof of Service. (Weiss Dec., ¶ 3; and
 28 Proof of Service filed with the Notice for this Application.)

1 III.

2 ARGUMENT

3 A. Good Cause Exists For The Court To Authorize The Liquidator To Sign And Enter
 4 Into An Agreement With The PBGC Providing That Golden State's Retirement Plan
 5 Is Terminated As Of December 31, 2010, The PBGC Is Appointed The Plan's
 6 Trustee, And The Plan's Records, Assets And Property Are Conveyed And Delivered
 7 To The PBGC.

8 The financial records available to the Liquidator indicate that Golden State's Retirement
 9 Plan as of September 30, 2010, is deficient in the approximate amount of \$5,090,000, that GSM's
 10 Retirement Plan will be unable to pay benefits to members when due, that the Plan needs to be
 11 terminated and that the PBGC should be appointed as the Plan's trustee. Under these
 12 circumstances, to avoid the expense and delay of litigation, the termination and appointment of
 13 trustee should be accomplished with the least expense to Golden State's remaining assets – which
 14 is for the Court to authorize the Liquidator to sign and enter into the Agreement proposed by the
 15 PBGC and attached hereto as Exhibit 1. (Wilson Dec., ¶ 15.)

16 Further, the appointment of the PBGC as the Plan's trustee will serve to preserve Golden
 17 State's remaining assets because the Plan's administrative expenses will no longer be incurred by
 18 Golden State.

19 B. Good Cause Exists For The Court To Order (1) That The Termination Of The Plan,
 20 The Agreement And The Plan Termination Date Of December 31, 2010, Does Not
 21 Establish, Determine Or Control The Priority Of PBGC's Claim Or Claims, If Any,
 22 Against Golden State, And (2) That PBGC's Claim Or Claims, If Any, Against
 23 Golden State Are To Be Determined In Accordance With The Statutory Claim
 24 Priority And Asset Distribution Procedures Set Forth In Insurance Code § 1010.

25 On January 28, 2011, upon the issuance of the Court's Order of Liquidation, for purposes
 26 of claim administration, § 1019 fixed the *rights and liabilities* of the insolvent insurer and of its
 27 creditors, policyholders, shareholders, members and all other persons interested in the insurer's
 28 assets including the PBGC as of the date of liquidation. Section 1019 states:

Upon the issuance of an order of liquidation under section 1016, the rights and liabilities of any such person [i.e., the insolvent insurer] and of creditors, policyholders, shareholders and members, and all other persons interested in its assets, including the State of California, shall, unless otherwise directed by the court, be fixed as of the date of the entry of the order in the office of the clerk of the county wherein the application was made.

Any payments to creditors are to be made subject to the claim priority and asset distribution procedures set forth in Insurance Code § 1010 *et seq.* including Insurance Code § 1033. Unsecured creditor claims are generally Priority 7 claims. Specifically, the distribution priorities established in Insurance Code § 1033 provide that funds available are distributed in the following order:

- (1) Expense of administration.
- (2) All claims of the California Insurance Guarantee Association or the California Life and Health Insurance Guarantee Association, and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims under insurance and annuity policies or contracts, including funding agreements, of an insolvent insurer that are not covered claims.
- (3) Claims having preference by the laws of the United States.
- (4) Unpaid charges due under the provisions of Section 736.
- (5) Taxes due to the State of California.
- (6) Claims having preference by the laws of this state.
- (7) Claims of creditors not included in paragraphs (1) to (6), inclusive.
- (8) Certificates of contribution, surplus notes, or similar obligations, and premium refunds on assessable policies.
- (9) The interests of shareholders or other owners in any residual value in the estate.

Here, however, the PBGC has selected December 31, 2010, as the Plan's termination date – which is before January 28, 2011. It is believed the PBGC selected December 31, 2010, because that is the last day of employment for any of Golden State's employees. Rather than dispute the termination date with the PBGC and thereby incur the expense of litigation to Golden State's remaining assets, the Liquidator requests that the Court authorize the termination of the Plan as of December 31, 2010, and that the December 31, 2010, termination date will not establish, determine or control the priority of PBGC's claim or claims, if any, against Golden State, and (2) that PBGC's claim or claims, if any, against Golden State are to be determined in accordance with the statutory claim priority and asset distribution procedures set forth in

Insurance Code § 1010 *et seq.* including Insurance Code § 1033. This Order allows the Plan to be terminated and the PBGC appointed as trustee as required by the PBGC, and does not cause Golden State to unnecessarily expend its limited remaining assets on litigation.

The requested Court Orders are authorized and consistent with the Liquidator's authorities and the Liquidator's and the Court discretion under the Court's prior orders, the Insurance Code and California case law, as discussed below.

C. The Orders Requested Herein Are Consistent With The Liquidator's Authorities And Discretion Under The Court's Orders, The Insurance Code And Case Law.

First, the Order of Liquidation directs the Insurance Commissioner to liquidate and wind up the business of Golden State, and authorizes him to transfer or otherwise dispose of Golden State's property at its reasonable market value; provided, however, for transfers where the market value of the property involved exceeds \$20,000, Court approval of the transfer is necessary. (Order of Liquidation, ¶¶ 1, 2 and 8, Exhibit 5; see also Insurance Code § 1037(d) [quoted below].)

Second, the transfers requested herein are consistent with the Liquidator's authorities under the Insurance Code, which grants broad powers to the Insurance Commissioner as conservator and liquidator of insurance companies to sell, transfer or otherwise dispose of the insurer's property "upon such terms and conditions as the commissioner may deem proper." Most notably, Insurance Code § 1037, entitled "Powers of commissioner as conservator or liquidator," provides in pertinent part:

Upon taking possession of the property and business of any person in any proceeding under this article, the commissioner, exclusively and except as otherwise expressly provided by this article, either as conservator or liquidator:

(a) [Conservation of assets; conduct of business.] Shall have authority to collect all moneys due that person, and to do such other acts as are necessary or expedient to collect, conserve, or protect its assets, property, and business, and to carry on and conduct the business and affairs of that person or so much thereof as to him or her may seem appropriate.

....
(d) [Acquisition and disposition of property.] Shall have authority without notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any real or personal property of that person at

its reasonable market value, or, in cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such terms and conditions as the commissioner may deem proper. However, no transaction involving real or personal property shall be made where the market value of the property involved exceeds the sum of twenty thousand dollars (\$20,000) without first obtaining permission of the court, and then only in accordance with any terms that court may prescribe.

....

(f) [Lawsuits, execution of instruments.] May, for the purpose of executing and performing any of the powers and authority conferred upon the commissioner under this article, in the name of the person affected by the proceeding or in the commissioner's own name, . . . execute, acknowledge and deliver any and all deeds, assignments, releases and other instruments necessary and proper to effectuate any sale of any real and personal property or other transaction in connection with the administration, liquidation, or other disposition of the assets of the person affected by that proceeding; . . .

....

[General powers.] The enumeration, in this article, of the duties, powers and authority of the commissioner in proceedings under this article shall not be construed as a limitation upon the commissioner, nor shall it exclude in any manner his or her right to perform and to do such other acts not herein specifically enumerated, or otherwise provided for, which the commissioner may deem necessary or expedient for the accomplishment or in aid of the purpose of such proceedings.

Third, California case law supports the broad grant of powers accorded the Insurance Commissioner to transfer assets when he is conserving, rehabilitating, and/or liquidating insurance companies. For instance, in *In Re Executive Life Insurance Company* (1995) 32 Cal.App.4th 344, the Court of Appeal noted that:

The Commissioner is an officer of the state (*Caminetti v. Pac. Mutual L. Ins. Co.* (1943) 22 Cal.2d 344, 354 [139 P.2d 908]) who, when he or she is a conservator, exercises the state's police power to carry forward the public interest and to protect policyholders and creditors of the insolvent insurer. (*Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d 307, 330-331 [74 P.2d 761].)

(*In Re Executive Life*, *supra*, at p. 356.) The Court then went on to explain that:

In exercising this power, the Commissioner is vested with broad discretion. (*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p. 402.) This discretion is subject to statutory limitations (see *id.* at p. 409) and the requirement that the exercise of discretion be neither arbitrary nor improperly discriminatory. (*Carpenter v. Pacific Mut. Life Ins. Co.*, *supra*, 10 Cal.2d at p.

329.) The Commissioner as conservator of the insolvent insurer is also a trustee for the benefit of all creditors and other persons interested in the insolvency estate. ([Insurance Code] § 1057.)

(*In Re Executive Life, supra*, at p. 356.)

The Court concluded that:

... The trial court reviews the Commissioner's actions under the abuse of discretion standard. (*Commercial Nat. Bank v. Superior Court, supra*, 14 Cal.App.4th 393, 398): was the action arbitrary, i.e. unsupported by a rational basis, or is it contrary to specific statute, a breach of the fiduciary duty of the conservator as trustee, or improperly discriminatory?

(*In Re Executive Life, supra*, at p. 358.)

IV.

CONCLUSION

In sum, there is good cause for the Court to grant this application. Accordingly, the Liquidator requests that the Court grant this application and issue the following orders:

1. An Order authorizing the Liquidator to sign and enter into the Agreement attached hereto as Exhibit 1 providing that (a) Golden State's Retirement Plan is terminated as of December 31, 2010, (b) the PBGC is appointed the Plan's trustee, and (c) the Plan's records, assets and property are conveyed and delivered to the PBGC;

2. An Order that the termination of Golden State's Retirement Plan, the Agreement and the Plan's termination date of December 31, 2010, do not establish, determine or control the priority of PBGC's claim or claims, if any, against Golden State including, without limitation, for purposes of Insurance Code § 1033;

3. An Order that the PBGC's claim or claims, if any, against Golden State are to be determined in accordance with the statutory claim priority and asset distribution procedures set forth in Insurance Code § 1010 *et seq.* including Insurance Code § 1033; and

4. An Order authorizing the Liquidator to take any and all actions necessary to accomplish the purposes of the Orders requested above.

1 DATE: April 12, 2011

KAMALA D. HARRIS
Attorney General of California
FELIX LEATHERWOOD
W. DEAN FREEMAN
Supervising Deputy Attorneys General
MARTA L. SMITH
Deputy Attorney General

6 EPSTEIN TURNER WEISS
A Professional Corporation

8 By: 

9 MICHAEL R. WEISS
Attorneys for Applicant
10 INSURANCE COMMISSIONER OF THE
11 STATE OF CALIFORNIA
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DECLARATION OF DAVID E. WILSON

I, David E. Wilson, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am the Chief Executive Officer and Special Deputy Insurance Commissioner of the Insurance Commissioner's Conservation & Liquidation Office ("CLO"). I have more than 30 years of experience in the accounting, health care, and insurance industries, and have a Bachelor of Arts in Accounting. From 1973 to 1989, I served in several managerial positions with Ernst & Young, rising from a staff accountant to become partner in 1986. From 1989 to 1991, I was the senior vice president and Chief Financial Officer of Rocky Mountain Health Care Corporation, a \$3 billion claim processing management company for numerous companies and HMOs including Blue Cross and Blue Shield of Colorado, Blue Shield of New Mexico, Blue Cross and Blue Shield of Nevada, and Rocky Mountain Life Insurance Company. Thereafter, until 2005 when I became the CEO of the CLO, I was president of D.E. Wilson & Associates Inc., a national insurance consulting firm working with troubled insurance organizations.

3. Starting on September 30, 2009, and continuing to the present, I have been and currently am the Special Deputy Insurance Commissioner on behalf of the Insurance Commissioner in his Statutory Capacity as Conservator ("Conservator") and now Liquidator ("Liquidator") of Golden State Mutual Life Insurance Company ("Golden State"). As the Special Deputy Insurance Commissioner, I am responsible for the supervision and management of all matters pertaining to the conservation of Golden State. Since September 30, 2009, when the Conservator assumed control of Golden State, I and the Conservator's staff have, among other items, managed Golden State's day-to-day operations, commenced marshalling Golden State's assets, commenced reducing Golden State's expenses and liabilities, and carried out the Conservator's numerous duties. I am very familiar with the business operations and financial condition of Golden State and events leading up to the proposed orders of liquidation for Golden State through my extensive involvement in its operations in my role as CEO of the CLO.

4. I have read the Liquidator's Application For Orders Authorizing Liquidator To Sign And Enter Agreement With Pension Benefit Guaranty Corporation To Terminate Golden State's Retirement Plan And Appoint Trustee, Memorandum and Declaration of Michael R. Weiss.

5. Based on my supervision and management of all matters pertaining to Golden State, my experience in the accounting, health care, and insurance industries, my review and understanding of the events related to the conservation and now liquidation of Golden State, my and my staff's review of the files and records routinely maintained in the regular and ordinary course of business and believed to be entered contemporaneously by persons having knowledge of the events recorded and whose job duties include recording them, and my review of this application and its supporting papers and documents, I state the following:

Golden State's Retirement Plan, Assets and Liability.

6. I am informed and believe that in 1956, Golden State established the Retirement Plan of the Golden State Mutual Life Insurance Company ("Retirement Plan" or "Plan") to provide retirement income benefits for its employees.

7. Based upon Golden State's financial records provided to me by my staff, as of September 30, 2010, the estimated fair value of the assets held in Golden State's Retirement Plan is \$8,460,000, and the estimated liability of the Plan if it is terminated is \$13,550,000. Accordingly, Golden State's Retirement Plan is deficient in the approximate amount of \$5,090,000 (\$13,550,000 in liability less \$8,460,000 in assets). This deficiency is a liability against Golden State's remaining assets.

Retained Assets and Liabilities for Administration by Golden State's Estate.

8. As of September 30, 2010, assets retained by Golden State total approximately \$5,721,154 and include the following:

- a. Cash and cash equivalents of \$3,090,716;
- b. Prepaid deposit held of \$75,000;
- c. Receivable due from reinsurers of approximately \$253,807;
- d. Reinsurance recoverable due from Long Term Disability reinsurer of

approximately \$35,471;

e. Real estate valued at approximately \$1,512,960; and

f. Artwork and murals whose value is at least \$753,200.

9. As of September 30, 2010, liabilities retained by Golden State currently are estimated to be at least approximately \$9,291,895 and include the following estimates of possible claims which may be asserted:

a. Amounts withheld for accounts of others of \$712,113, which includes amounts owed to IA American and amounts deposited pursuant to the Liquidator's Request for Proposals process for the purchase of Golden State's murals and art collection described below;

b. Unclaimed funds of \$282,444;

c. Accrued liabilities of \$630,802;

d. Pension Plan liability of \$5,260,000, which is the difference between the estimated liability of \$13,550,000 if the Plan is terminated as of September 30, 2010, and the fair value of the Plan's assets of \$8,460,000 as of September 30, 2010, plus early retirement subsidies of \$170,000;

e. Obligations under Certificates of Contribution including accrued interest of \$2,406,536; and

f. Non-contractual liability to Golden State's policyholders as mutual owners of Golden State, who retain their § 1033 priority 9 rights.

10. The above estimates of potential liabilities which may be asserted against Golden State are not an admission that a particular liability or amount of the liability is actually due. Instead, the above estimates are listed only to establish the amount of possible liabilities which may be asserted against Golden State.

11. Attached hereto and incorporated herein as Exhibit "2" is a true and correct copy of the Balance Sheet for Golden State as of September 30, 2010.

Order of Liquidation for Golden State.

12. On January 28, 2011, this Court terminated the Insurance Commissioner's status as

1 Conservator and ordered and appointed the Insurance Commissioner to serve as Liquidator of
2 Golden State ("Liquidator"). Attached hereto and incorporated herein as Exhibit "3" is a true and
3 correct copy of the Order of Liquidation.

4 13. The Insurance Commissioner was appointed Liquidator because Golden State is
5 insolvent in that, as of September 30, 2010, Golden State's estimated liabilities of \$9,291,895
6 exceed its estimated remaining assets of \$5,721,154 by over \$3 million (\$5,721,154 in assets -
7 \$9,291,895 in liabilities = \$-3,570,741).

8 **PBGC's Notice of Determination**

9 14. Attached hereto and incorporated herein as Exhibit "4" is a true and correct copy
10 of the Notice of Determination and proposed Agreement dated January 25, 2010, received from
11 the Pension Benefit Guaranty Corporation.

12 15. The financial records available to me indicate that Golden State's Retirement Plan
13 is deficient in the approximate amount of \$5,090,000, that the Plan will be unable to pay benefits
14 to members when due, that the Plan needs to be terminated and that the PBGC should be
15 appointed as the Plan's trustee. Under these circumstances, to avoid the expense and delay of
16 litigation, the termination and appointment of trustee should be accomplished with the least
17 expense to Golden State's remaining assets – which is for the Court to authorize Golden State's
18 Liquidator to sign and enter into the Agreement proposed by the PBGC and attached hereto as
19 Exhibit 1.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 Executed on this 5th day of April, 2011, at San Francisco, California.

23
24 
25 DAVID E. WILSON
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DECLARATION OF MICHAEL R. WEISS

I, Michael R. Weiss, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am an attorney licensed to practice law in the State of California, and am a partner with the law firm Epstein Turner Weiss, A Professional Corporation. I and Epstein, Turner Weiss have been retained by the Insurance Commissioner of the State of California, in his capacity as Conservator ("Conservator") and then as Liquidator ("Liquidator") of Golden State Mutual Life Insurance Company ("Golden State"), to provide legal services concerning Golden State. I make this declaration in support of the Liquidator's Application For Orders Authorizing Liquidator To Sign And Enter Agreement With Pension Benefit Guaranty Corporation To Terminate Golden State's Retirement Plan And Appoint Trustee ("Application").

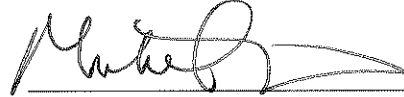
3. I and my staff provided written notice of this Application and the hearing date on the Application, by mailing a copy of the Notice of the Application to all persons and entities known to me, the Liquidator and the Liquidator's staff that may have a substantial, unsatisfied claim that may be affected by the Application and any Court Orders pertaining to the Application, regardless of whether the persons or entities are a party to this action or have appeared in it, in compliance with California Rules of Court Rule 3.1184(c). Said persons and entities include the PBGC, members of Golden State's Retirement Plan, National Organization of Life and Health Insurance Guaranty Associations and its attorneys of record, and Certificate of Contribution holders. In addition, notice of this application was provided to Community Impact Development II, LLC and Pitney Bowes, Inc. due to requests to receive copies of court filings. The above described persons and entities are listed on the Proof of Service filed concurrently herewith. To maintain confidentiality, the names and addresses of the members of Golden State's Retirement Plan are not listed on the Proof of Service filed with the Notice for this Application.)

//

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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on this 12th day of April, 2011, at Los Angeles, California.

4 
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6 MICHAEL R. WEISS
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EXHIBIT 1

**AGREEMENT FOR APPOINTMENT OF
TRUSTEE AND TERMINATION OF PLAN**

This is an AGREEMENT between the Pension Benefit Guaranty Corporation ("PBGC") and Golden State Mutual Life Insurance Company.

RECITALS:

- A. PBGC is a United States government agency established by Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§1301-1461 ("ERISA").
- B. Golden State Mutual Life Insurance Company ("Company") is a mutual life insurance company organized under the laws of California, with its principal place of business located in Los Angeles, California.
- C. The Company maintains the Retirement Plan of Golden State Mutual Life Insurance Company ("Plan") to provide retirement benefits for certain of its employees. The Plan was established effective January 1, 1956.
- D. The Plan is an employee pension benefit plan to which 29 U.S.C. § 1321(a) applies and is not exempt under 29 U.S.C. § 1321(b). The Plan is therefore covered by Title IV of ERISA.
- E. Upon information and belief, the Company is the administrator of the Plan within the meaning of 29 U.S.C. §§ 1002(16) and 1301(a)(1).

F. On September 30, 2009, the State of California placed Golden State Mutual into conservation because of its hazardous financial condition. As of January 28, ²⁰¹¹~~2010~~, the liquidation of the Company is expected to commence.

G. On December 31, 2010, the Company was a contributing sponsor of the Plan within the meaning of 29 U.S.C. § 1301(a)(13).

H. PBGC has issued to the Insurance Commissioner on behalf of the Company and Plan, a Notice of Determination stating that under 29 U.S.C. § 1342(a) the Plan will be unable to pay benefits when due and that the Plan should be terminated under 29 U.S.C. § 1342(c).

NOW THEREFORE, the parties agree:

1. The Plan is terminated under 29 U.S.C. § 1342(c).
2. The Plan termination date is December 31, 2010, under 29 U.S.C. § 1348.
3. PBGC is appointed trustee of the Plan under 29 U.S.C. § 1342 (c).
4. The Insurance Commissioner, the Company, and any other person having possession or control of any records, assets or other property of the Plan shall convey and deliver to PBGC any such records, assets or property in a timely manner. PBGC reserves all its rights to pursue such records, assets, and other property by additional means, including but not limited to issuance of administrative subpoenas under 29 U.S.C. § 1303.

5. PBGC will have, with respect to the Plan, all of the rights and powers of a trustee specified in ERISA or otherwise granted by law.

The persons signing this Agreement are authorized to do so. The Agreement will take effect on the date the last person signs below.

INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA ON BEHALF OF
AND IN HIS STATUTORY CAPACITY AS LIQUIDATOR OF GOLDEN STATE
MUTUAL LIFE INSURANCE COMPANY, AND NOT INDIVIDUALLY

Dated: _____ By: _____

David E. Wilson, Special Deputy Insurance Commissioner and not individually

PENSION BENEFIT GUARANTY CORPORATION

Dated: _____ By: _____
Auditor

EXHIBIT 2

GOLDEN STATE MUTUAL LIFE INSURANCE COMPANY IN CONSERVATION

Statement of Net Assets Available in Liquidation As of September 30, 2010

Assets

Cash and cash equivalents	\$ 3,090,716
Deposits	75,000
Recoverable from reinsurers	253,807
Reinsurance recoverable LTD	35,471
Real estate	1,512,960
Works of art	753,200
Total assets	<u>5,721,154</u>

Liabilities and Net Assets

Liabilities:

Amounts withheld for account of others	\$ 712,113
Unclaimed funds	282,444
Accrued liabilities	630,802
Pension liability	5,260,000
Certificates of contribution	2,406,536
Total liabilities	<u>9,291,895</u>
Deficiency in net assets in liquidation	<u>\$ (3,570,741)</u>

See accompanying notes to financial statements.

EXHIBIT 3

ORIGINAL FILED

JAN 28 2011

RECEIVED

LOS ANGELES
SUPERIOR COURT

DEC 21 2010

DEPT86

EDMUND G. BROWN JR.
Attorney General of California
FELIX LEATHERWOOD
W. DEAN FREEMAN
Supervising Deputy Attorneys General
MARTA L. SMITH, State Bar No. 101955
Deputy Attorney General
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MICHAEL R. WEISS, State Bar No. 180946
EPSTEIN TURNER WEISS
A Professional Corporation
633 W. Fifth Street, Suite 3330
Los Angeles, California 90071
Telephone: (213) 861-7487
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Email: mrw@epsteinturnerweiss.com

Attorneys for Applicant
Insurance Commissioner of the State of California

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,

Applicant,

v.

GOLDEN STATE MUTUAL LIFE
INSURANCE COMPANY, a California
corporation,

Respondent.

Case No. BS123005

Assigned to Hon. Ann I. Jones, Dept. 86

~~PROPOSED~~ ORDER OF LIQUIDATION
AND ORDERS AND INJUNCTIONS IN
AID OF LIQUIDATION FOR GOLDEN
STATE MUTUAL LIFE INSURANCE
COMPANY

Date: January 28, 2011

Time: 9:30 a.m.

Dept: 86

1 On January 28, 2011, in Department 86 of the above-entitled Court, the Honorable Ann I.
2 Jones, Judge Presiding (the "Court"), the Court held the hearing on the Court's Order to Show
3 Cause and the Motion For Order Of Liquidation And Orders And Injunctions In Aid Of
4 Liquidation For Golden State Mutual Life Insurance Company, filed by Applicant Steve Poizner,
5 Insurance Commissioner of the State of California, in his capacity as Conservator ("Conservator")
6 of Golden State Mutual Life Insurance Company in Conservation ("Golden State"). Deputy
7 Attorney General Marta L. Smith and attorney Michael R. Weiss appeared on behalf of the
8 Conservator. Other appearances, if any, are noted in the record.

9 The Court, having read and considered the Conservator's Notice of Order to Show Cause
10 and Motion, Memorandum of Points and Authorities in support of the Motion, the Declarations of
11 David E. Wilson and Michael R. Weiss, and all documents and evidence submitted, and having
12 heard and considered the arguments presented to the Court, and upon good cause shown,

13 IT IS HEREBY ORDERED that the Conservator's Motion is granted and that:

14 A. **Liquidation, Administration and Operation**

15 1. As of September 30, 2010, Golden State is insolvent and remains insolvent today,
16 and it would be futile for the Commissioner to proceed as Conservator; and therefore, sufficient
17 grounds exist in accordance with Insurance Code § 1016 for entry of an order of liquidation of
18 Golden State. (Insurance Code § 1016.)

19 2. The Commissioner's status as Conservator is terminated, he is appointed
20 Liquidator of Golden State as set forth in Insurance Code § 1016, and he is directed as Liquidator
21 to liquidate and wind up the business of Golden State and to act in all ways and exercise all
22 powers necessary for the purpose of carrying out this Order. (Insurance Code § 1016.)

23 3. Title to all of the assets of Golden State, wheresoever situated, shall remain vested
24 in the Commissioner, now as Liquidator, or his successor in office, in his official capacity as
25 such, including without limitation real and personal property, deposits, certificates of deposit,
26 bank accounts, mutual funds, securities, contracts, rights of actions, books, records and other
27 assets of any and every type and nature, wheresoever situated, presently in Golden State's
28

1 possession and/or those which may be discovered hereafter. (Insurance Code §§ 1011, 1016 and
2 1037 General Powers.)

3 4. All funds and assets, including without limitation deposits, certificates of deposit,
4 bank accounts, securities, and mutual fund shares of Golden State, in various financial depository
5 institutions, including without limitation banks, savings and loan associations, industrial loan
6 companies, mutual funds and/or stock brokerages, wheresoever situated, are subject to withdrawal
7 only upon direction or order by the Liquidator. (Insurance Code §§ 1011, 1016 and 1037 General
8 Powers.)

9 5. The Liquidator is authorized to collect all moneys due to Golden State, and to do
10 such other acts as are necessary or expedient to collect, conserve, protect and/or liquidate Golden
11 State's assets, property and business. (Insurance Code § 1037(a).)

12 6. The Conservator is authorized to collect all debts due and claims belonging to
13 Golden State and to have the authority to sell, compound, compromise, or assign, for the purpose
14 of collection upon such terms and conditions as the Liquidator deems best, any bad or doubtful
15 debts. (Insurance Code § 1037(b).)

16 7. The Liquidator is authorized to compound, compromise or in any other manner
17 negotiate settlements of claims against Golden State upon such terms and conditions as the
18 Liquidator shall deem to be most advantageous to the estate of Golden State. (Insurance Code §
19 1037(c).)

20 8. The Liquidator is authorized, without permission of the court and without notice,
21 to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of
22 or deal with, any real or personal property of Golden State at its reasonable market value, or, in
23 cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such
24 terms and conditions as the Liquidator may deem proper, provided the market value of the
25 property involved does not exceed the sum of twenty thousand dollars (\$20,000). (Insurance
26 Code § 1037(d).)

27 9. The Liquidator is authorized to transfer to a trustee or trustees, under a voting trust
28 agreement, the stock of Golden State heretofore or hereafter issued to the Liquidator in

1 connection with a rehabilitation or reinsurance agreement, or any other proceeding under
2 Insurance Code § 1010 *et seq.* (Insurance Code § 1037(e).)

3 10. The Liquidator is authorized, for the purpose of executing and performing any of
4 the powers and authority conferred upon the Liquidator under Insurance Code § 1010 *et seq.* in
5 the name of Golden State or in the Liquidator's own name, to initiate, prosecute and/or defend any
6 and all suits and other legal proceedings, legal or equitable, and to execute, acknowledge and
7 deliver any and all deeds, assignments, releases and other instruments necessary and proper to
8 effectuate any sale of any real and personal property or other transaction in connection with the
9 administration, liquidation or other disposition of the assets of Golden State, in this or other states
10 as may appear to him necessary to carry out his functions as Liquidator. (Insurance Code §
11 1037(f) and 1037 General Powers.)

12 11. The Liquidator is authorized to divert, take possession of and secure all mail of
13 Golden State and to effect a change in the rights to use any and all post office boxes and other
14 mail collection facilities used by Golden State. (Insurance Code §§ 1011 and 1037 General
15 Powers.)

16 12. The Liquidator is authorized, without permission of the court and without notice,
17 to invest and reinvest, in such manner as the Liquidator may deem suitable for the best interests of
18 the policyholders and/or creditors of Golden State, such portions of the funds and assets of
19 Golden State in his possession as do not exceed the amount of the reserves required by law to be
20 maintained by Golden State as reserves for life insurance policies, annuity contracts,
21 supplementary agreements incidental to life business, and reserves for non-cancelable disability
22 policies, and which funds and assets are not immediately distributable to creditors, provided the
23 investment or reinvestment to be made does not exceed the sum of one hundred thousand dollars
24 (\$100,000), except that the Liquidator, without permission of the court and without notice, may
25 make investments or reinvestments in excess of \$100,000, but not exceeding \$5,000,000 per
26 investment or reinvestment, if such investments or reinvestments are part of Golden State's
27 existing investments or are made pursuant to the investment guidelines of the Commissioner's
28 Conservation & Liquidation Office including investments and reinvestments through an

1 investment pool consisting exclusively of assets from conserved and/or liquidating estates.
2 (Insurance Code § 1037(g) and General Powers.)

3 13. The Liquidator is authorized, in his discretion, without permission of the court and
4 without notice, to pay or defer payment of some or all claims, expenses, liabilities and/or
5 obligations of Golden State, in whole or in part, accruing prior and/or subsequent to his
6 appointment as Liquidator. (Insurance Code §§ 1011 and 1037 General Powers.)

7 14. The Liquidator is authorized to appoint and employ under his hand and official
8 seal, special deputy commissioners and/or legal counsel, as his agents, and to employ clerks
9 and/or assistants, and to give to each of them those powers that the Liquidator deems necessary.
10 (Insurance Code §§ 1035(a) and 1036.)

11 15. The Liquidator is authorized to fix the costs of employing special deputy
12 commissioners, legal counsel, clerks, and/or assistants, and all expenses of taking possession of,
13 conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and
14 property of Golden State, subject to the approval of the court, and to pay such costs out of the
15 assets of Golden State to the Liquidator and others including without limitation expenses, expense
16 allocations, administrative costs, administrative overhead, and costs incurred and/or allocated by
17 the Conservation & Liquidation Office, and if there are insufficient funds to pay such costs, then
18 to pay such costs out of the Insurance Fund pursuant to Insurance Code § 1035. (Insurance Code
19 §§ 1035(a), 1036 and 1037 General Powers.)

20 16. The Liquidator is authorized to assume or reject, or to modify, any executory
21 contract, including without limitation, any lease, rental or utilization contract or agreement
22 (including any schedule to any such contract or agreement), and any license or other arrangement
23 for the use of computer software of business information systems, to which Golden State is a
24 party or as to which Golden State agrees to accept an assignment of such contract, not later than
25 120 days of the date of the Order Appointing Conservator, unless such date is extended by
26 application to and further order of this Court, and if not expressly assumed by the Conservator
27 within that time then such executory contract is deemed rejected. (Insurance Code § 1037
28 General Powers.)

1 17. The Liquidator is authorized to terminate compensation arrangements with
2 employees, to enter into new compensation arrangements with employees including arrangements
3 containing retention incentives, and to hire employees on such terms and conditions as he deems
4 reasonable. (Insurance Code § 1037 General Powers.)

5 18. The Liquidator is vested with all the powers of the directors, officers and managers
6 of Golden State, whose authorities are suspended except as such powers may be re-delegated by
7 the Liquidator. (Insurance Code § 1037 General Powers.)

8 **B. Injunctions and Other Orders**

9 19. Except upon the express authorization of the Liquidator, all persons are hereby
10 enjoined, including without limitation Golden State and its officers, directors, agents, servants,
11 and employees, from the transaction of Golden State's business or disposition of its property
12 including without limitation from disposing of, using, transferring, selling, assigning, canceling,
13 alienating, hypothecating or concealing in any manner or any way, or assisting any person in any
14 of the foregoing, of the property or assets of Golden State or property or assets in the possession
15 of Golden State, of any nature or kind, including without limitation claims or causes of action,
16 until further order of this Court and further, enjoining such persons from obstructing or interfering
17 with the Liquidator's conduct of his or her duties as Liquidator. (Insurance Code §§ 1011, 1020
18 and 1037.)

19 20. All persons are enjoined from instituting or prosecuting or maintaining any action
20 at law or suit in equity including without limitation actions or proceedings to compel discovery or
21 production of documents or testimony, and matters in arbitration, and from obtaining or
22 attempting to attain preferences, judgments, foreclosures, attachments or other liens of any kind
23 or nature, against Golden State, its assets, or the Liquidator, and from attaching, executing upon,
24 foreclosing upon, redeeming of, making levy upon, or taking any other legal proceedings against
25 any of the property and/or assets of Golden State, and from doing any act interfering with the
26 conduct of said business by the Liquidator, except after an order from this Court obtained after
27 reasonable notice to the Liquidator. (Insurance Code §§ 1011, 1020 and 1037 General Powers.)
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1 21. All persons are enjoined from the sale or deed for nonpayment of taxes or
2 assessments levied by any taxing agency of property and/or assets of Golden State. (Insurance
3 Code § 1020(f).)

4 22. Except with leave of court issued after a hearing in which the Liquidator has
5 received reasonable and statutory notice, all persons are enjoined from accelerating the due date
6 of any obligation or claimed obligation, exercising any right of set-off, taking, retaining, retaking
7 or attempting to retake possession of any real or personal property, withholding or diverting any
8 rent or other obligation, and doing any act or other thing whatsoever to interfere with the
9 possession of or management by the Liquidator of the property and assets, owned or controlled,
10 by Golden State or in the possession of Golden State or in any way interfering with the Liquidator
11 or interfering in any manner during the pendency of this proceeding with the exclusive
12 jurisdiction of this Court over Golden State. (Insurance Code §§ 1020 and 1037 General Powers.)

13 23. All persons are enjoined from the waste of the assets of Golden State. (Insurance
14 Code § 1020.)

15 24. Golden State and all officers, directors, agents and employees of Golden State are
16 ordered to deliver to, and immediately make available to, the Liquidator all assets, books,
17 accounts, records, information, computers, tapes, discs, writings, other recordings of information,
18 equipment and other property of Golden State, wheresoever situated, in said person's custody or
19 control and further, and are directed the aforesaid to disclose verbally, or in writing if requested
20 by the Liquidator, the exact whereabouts of the foregoing items if such items are not in the
21 possession, custody or control of said persons. (Insurance Code §§ 1011, 1016, 1020 and 1037
22 General Powers.)

23 25. Golden State and all officers, directors, trustees, employees or agents of Golden
24 State, or any other person, firm, association, partnership, corporate parent, holding company,
25 affiliate or other entity in charge of any aspect of Golden State's affairs, either in whole or in part,
26 and including but not limited to banks, savings and loan associations, financial or lending
27 institutions, brokers, stock or mutual associations, or any parent, holding company, subsidiary or
28 affiliated corporation or any other representative acting in concert with Golden State, are ordered

1 to cooperate with the Liquidator in the performance of his or her duties. (Insurance Code § 1037
2 General Powers.)

3 26. All persons who maintain records for Golden State, pursuant to written contract or
4 any other agreement, are ordered to maintain such records and to deliver to the Liquidator such
5 records upon his request. (Insurance Code §§ 1020 and 1037 General Powers.)

6 27. All agents of Golden State, and all brokers who have done business with Golden
7 State, are ordered to make all remittances of all funds collected by them or in their hands directly
8 to the Liquidator. (Insurance Code §§ 1020 and 1037 General Powers.)

9 28. All persons having possession of any lists of policyholders, escrow holders,
10 mortgages or mortgagees of Golden State are ordered to deliver such lists to the Liquidator and all
11 persons are enjoined from using any such lists or any information contained therein without the
12 consent of the Liquidator. (Insurance Code §§ 1020 and 1037 General Powers.)

13 29. Golden State and its officers, directors, agents, servants, employees, successors,
14 assigns, affiliates, and other persons or entities under their control and all persons or entities in
15 concert or participation with Golden State, and each of them, are ordered to turn over to the
16 Liquidator all records, documentation, charts and/or descriptive materials of all funds, assets,
17 property (owned beneficially or otherwise), and all other assets of Golden State wherever situated,
18 and all books and records of accounts, title documents and other documents in their possession or
19 under their control, which relate, directly or indirectly, to assets or property owned or held by
20 Golden State or to the business or operations of Golden State. (Insurance Code §§ 1020 and 1037
21 General Powers.)

22 30. Any and all provisions of any agreement entered into by and between any third
23 party and Golden State, including by way of illustration, but not limited to, the following types of
24 agreements (as well as any amendments, assignments, or modifications thereto), are stayed, and
25 the assertion of any and all rights and remedies relating thereto are also stayed and barred, except
26 as otherwise ordered by this Court, and this Court shall retain jurisdiction over any cause of action
27 that has arisen or may otherwise arise under any such provision: financial guarantee bonds,
28 promissory notes, loan agreements, security agreements, deeds of trust, mortgages,

1 indemnification agreements, subrogation agreements, subordination agreements, pledge
2 agreements, assignments of rents or other collateral, financial statements, letters of credit, leases,
3 insurance policies, guaranties, escrow agreements, management agreements, real estate brokerage
4 and rental agreements, servicing agreements, attorney agreements, consulting agreements,
5 easement agreements, license agreements, franchise agreements, or employment contracts that
6 provide in any manner that selection, appointment or retention of a conservator, receiver or trustee
7 by any court, or entry of any order such as hereby made, shall be deemed to be, or otherwise
8 operate as, a breach, violation, event of default, termination, event of dissolution, event of
9 acceleration, insolvency, bankruptcy, or liquidation. (Insurance Code §§ 1020 and 1037 General
10 Powers).

11 **C. Creditors and Setting of Claims Bar Date**

12 31. The rights and liabilities of claimants, policyholders, shareholders, members and
13 all other persons interested in the assets of Golden State are fixed as of the date of entry of this
14 Order. (Insurance Code § 1019.)

15 32. Any and all claims against Golden State, including without limitation those claims
16 which in any way affect or seek to affect any of the assets of Golden State, wherever or however
17 such assets may be owned or held, must be filed no later than December 31, 2011 (the "Claims
18 Bar Date"), together with proper proofs thereof, in accordance with the provisions of Insurance
19 Code § 1010 *et seq.* including without limitation Insurance Code § 1023. The proof of claim must
20 be timely filed on the form provided by the Liquidator, together with proper proofs thereof, and
21 must be supplemented with such further information as the Liquidator requests, in accordance
22 with Insurance Code § 1023(f). Except for persons deemed to have filed claims against Golden
23 State in accordance with the provisions of Insurance Code § 1010 *et seq.* including without
24 limitation Insurance Code § 1024 and § 1025.5, any claims not filed by the Claims Bar Date shall
25 be conclusively deemed forever waived. (Insurance Code § 1024.)

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1 33. For such other and further relief as may be proper or necessary.

2 34. The Liquidator is authorized to take any and all action necessary to accomplish the
3 purposes of this Order and the Orders requested herein.

4 DATED: 1-28-11
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ANN I. JONES

THE HONORABLE ANN I. JONES
Los Angeles Superior Court Judge

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EXHIBIT 4



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

JAN 25 2011

California Insurance Commissioner
Attn: Mr. David E. Wilson
Special Deputy Insurance Commissioner
Golden State Mutual Life Insurance Company
in Conservation
425 Market Street, 23rd Floor
San Francisco, CA 94105

EIN/PN: 950780930/001
PBGC Case Number: 21793600
Plan Name: Retirement Plan of Golden
State Mutual Life Insurance Company

Dear Mr. Wilson,

Enclosed is the Notice of Determination ("NOD") issued by the Pension Benefit Guaranty Corporation that the above-referenced pension plan (the "Plan") should be terminated under the Employee Retirement Income Security Act of 1974 ("ERISA"). As the NOD states, PBGC is proceeding to have the Plan terminated, to have PBGC appointed as the Plan's trustee, and to have December 31, 2010, established as the Plan termination date.

Termination and PBGC trusteeship can be accomplished either: (1) by agreement between PBGC and the Plan Administrator, or (2) by order of a United States District Court. We would prefer to terminate the Plan by agreement in order to avoid the expense and delay of litigation.

Therefore, enclosed for your signature are two originals of an Agreement for Appointment of Trustee and Termination of Pension Plan. This Agreement terminates the Plan, names PBGC statutory trustee of the Plan, and establishes a termination date of December 31, 2010. Please sign the two original Agreements and return them to PBGC in the enclosed self-addressed, stamped envelope within 30 days of the receipt of this letter to:


OED/TWG
Pension Benefit Guaranty Corporation
1200 K Street N.W.
Washington, DC 20005

Mr. David E. Wilson
January 25, 2011
Page 2 of 2

PBGC will then execute the Agreements and return a fully executed copy to you. If we do not receive the signed Agreements within 30 days of this letter, this matter will be referred to our Office of the Chief Counsel for commencement of court proceedings.

Please contact me if you have any questions with regard to this matter. In any correspondence, please provide the PBGC Case Number (listed at the top of this letter) and a day-time telephone number.

Sincerely,



Will Sandoval
Financial Analyst
Department of Insurance Supervision and Compliance
(202) 326-4000 Ext. 6593

Enclosures



Pension Benefit Guaranty Corporation
1200 K Street, N.W., Washington, D.C. 20005-4026

JAN 25 2011

California Insurance Commissioner
Attn: Mr. David E. Wilson
Special Deputy Insurance Commissioner
Golden State Mutual Life Insurance Company
in Conservation
425 Market Street, 23rd Floor
San Francisco, CA 94105

EIN/PN: 950780930/001
PBGC Case Number: 21793600
Plan Name: Retirement Plan of Golden
State Mutual Life Insurance Company

NOTICE OF DETERMINATION

PLEASE TAKE NOTICE that the Pension Benefit Guaranty Corporation ("PBGC") has determined under section 4042(a)(2), of the Employee Retirement Income Security Act of 1974, *as amended* ("ERISA"), 29 U.S.C. § 1342(a)(2), that the Retirement Plan of Golden State Mutual Life Insurance Company ("Plan") will be unable to pay benefits when due. PBGC has further determined, under ERISA § 4042(c), 29 U.S.C. § 1342(c), that the Plan must be terminated in order to protect the interests of the Plan's participants. Accordingly, PBGC intends to proceed under ERISA § 4042, 29 U.S.C. § 1342, to have the Plan terminated and PBGC appointed as statutory trustee, and under ERISA § 4048, 29 U.S.C. § 1348, to have December 31, 2010, established as the Plan's termination date.

PBGC has completed its decision-making process in this matter; accordingly, this determination is effective on the date it is issued.

PENSION BENEFIT GUARANTY CORPORATION

Andrea E. Schneider
Chairperson, Trusteeship Working Group

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA**)
 3 **COUNTY OF LOS ANGELES**) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the
 5 age of 18 and not a party to the within action; my business address is 633 West Fifth Street, Suite
 6 3330, Los Angeles, California 90071.

7 On **April 12, 2011**, I served the foregoing document described as
 8 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION**
 9 **FOR ORDERS AUTHORIZING LIQUIDATOR TO SIGN AND ENTER AGREEMENT**
 10 **WITH PENSION BENEFIT GUARANTY CORPORATION TO TERMINATE GOLDEN**
 11 **STATE'S RETIREMENT PLAN AND APPOINT TRUSTEE** by placing [] the original [X]
 12 a true copy thereof (**as indicated on the attached service list**) enclosed in a sealed envelope(s)
 13 addressed as follows:

10 **SEE ATTACHED SERVICE LIST**

11 [X] **By Mail.** I am readily familiar with the firm's practice of collection and processing
 12 correspondence for mailing. Under that practice, it would be deposited with the U.S.
 13 Postal Service on that same day with postage thereon fully prepaid at Los Angeles,
 14 California in the ordinary course of business. I am aware that on motion of the party
 15 served, service is presumed invalid if postal cancellation or postage meter date is more
 16 than one day after date of deposit for mailing in affidavit.

17 [] **By Fax.** I transmitted the foregoing document by telecopier transmission to the
 18 addressee(s) at the facsimile number(s) listed on the attached Service List, and received
 19 confirmation that the transmission was received at the facsimile number(s) listed on the
 20 attached Service List.

21 [] **By Personal Service.** I caused such envelope(s) to be personally delivered via messenger
 22 service to the addressee(s) indicated on the attached Service List.


23 [] **By Email.** I forwarded a copy of the above-described document(s) via e-mail to each of
 24 the individuals set forth above at the email addresses indicated therefor.

25 [] **By Federal Express.** I caused such envelope(s) to be deposited at a facility regularly
 26 maintained by FedEx at 633 West Fifth Street, Los Angeles, California 90071, with
 27 arrangements made for payment in full of the required charges, to the party(ies) listed on
 28 the attached Service List.

Executed on **April 12, 2011**, at Los Angeles, California.

[X] (State) I declare under penalty of perjury under the laws of the State of California that the
 foregoing is true and correct.

[] (Federal) I am employed by a member of the Bar of the State of California. I declare
 under penalty of perjury under the laws of the United States of America that the foregoing
 is true and correct.


 Angela Muse

Insurance Commissioner v. Golden State Mutual Life Ins. Co.

LASC Case No. BS 123005
[Dept. 86]

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