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6 Attorneys for Insurance Commissioner as Trustee

JUN 12 2020 RCVD

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **FOR THE COUNTY OF LOS ANGELES**

9 RICARDO LARA, Insurance Commissioner of
the State of California,

10 Applicant,

11 vs.

12 MISSION INSURANCE COMPANY, a
California corporation, et al

13 Respondent.

Case No. C 572 724

Honorable Teresa A. Beaudet

**NOTICE OF MOTION AND MOTION TO
EXTEND MISSION INSURANCE
COMPANY TRUST, MISSION
NATIONAL INSURANCE COMPANY
TRUST AND ENTERPRISE INSURANCE
COMPANY TRUST; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF SCOTT PEARCE**

14 Consolidated with Case Numbers

15 C 576 324; C 576 416;
16 C 576 323; C 576 325; C 629709

17 **July 17, 2020**
18 **Time: 8:30 a.m.**
19 **Department 50**

20 Action Filed: October 31, 1985

21 RESERVATION ID: 023943435418

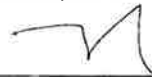
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24
25 Ricardo Lara, Insurance Commissioner of the State of California, in his capacity as
26 Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company
27 Trust, and the Enterprise Insurance Company Trust, respectfully gives notice that on July 17,

28 **NOTICE OF MOTION AND MOTION TO EXTEND MISSION INSURANCE COMPANY TRUST, MISSION
NATIONAL INSURANCE COMPANY TRUST AND ENTERPRISE INSURANCE COMPANY TRUST;
MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF SCOTT PEARCE - 1**

1 2020, at the hour of 8:30 a.m., or as soon thereafter as the matter may be heard, the Insurance
2 Commissioner of the State of California, as Trustee of the Mission Insurance Company Trust,
3 the Mission National Insurance Company Trust, and the Enterprise Insurance Company Trust
4 will move the Court for an order to extend the Mission Insurance Company Trust, the Mission
5 National Insurance Company Trust, and the Enterprise Insurance Company Trust. The motion
6 will request to extend the term of the trusts through December 31, 2022 from its current date of
7 December 31, 2020. The hearing will be held in Department 50 of the Los Angeles Superior
8 Court, 111 North Hill Street, Los Angeles, CA 90012.

9
10 The motion is supported by the Declaration of Scott Pearce. The motion requests
11 that the Court authorize the extension of the Trusts, and all other just and equitable relief.
12 Wherefore, premises considered, the Trustee requests that the Court issue its order authorizing
13 extension of Mission Insurance Company Trust, Mission National Insurance Company Trust and
14 Enterprise Insurance Company Trust through December 31, 2022, and all other just and
15 equitable relief.

16
17 Respectfully submitted,
18 WISENER NUNNALLY ROTH &
19 HIGGINS, LLP



20 Robert H. Nunnally, Jr.
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25 Attorneys for Insurance Commissioner as
26 Trustee

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **Status of the Insurance Companies' Trusts proceedings:**

3 The Insurance Commissioner files with this Motion the Declaration of Scott Pearce,
4 which sets forth the facts contained in this section.
5

6 **The Nature of the Proceedings**

7 Mission Insurance Company, Mission National Insurance Company and Enterprise
8 Insurance Company ("The Mission Companies"), three substantial property and casualty
9 insurance companies, entered conservation proceedings on October 31, 1985. They entered
10 liquidation proceedings on February 24, 1987. As part of the process of administering these
11 liquidation estates, their assets were transferred by order of this Court to the Mission Insurance
12 Company Trust, the Mission National Insurance Company Trust, and the Enterprise Insurance
13 Company Trust (the "Mission Companies' Trusts"). [Pearce Declaration page 8, lines 14-23].
14

15 **The Progress in Fixing the Claims, Valuing Assets and Making Distributions**

16 The claims process has been completed, and all proofs of claim determined. The Mission
17 Companies' Trusts liquidations resulted in substantial distributions to policyholders and
18 creditors. Each approved policyholder priority creditor of each of the Mission Companies has
19 received all the principal amount of its claim, and in the case of Mission National Insurance
20 Company Trust, a substantial interest payment. Each general creditor of Mission National
21 Insurance Company Trust has received one hundred percent of the approved principal amount of
22 its claim, and the general creditors of Mission Insurance Company Trust and Enterprise
23 Insurance Company Trust have received substantial but not one hundred percent distributions on
24 their general creditor claims. [Pearce Declaration pages 8, line 24 through page 9, line 14].
25
26

1 This Court entered its Closing Order for the eventual wind-up of these trusts, but the
2 trusts remain open to collect assets and make distributions. The Trusts have substantial
3 receivables from other companies in receiverships, which receivables may generate substantial
4 further recoveries. [Pearce Declaration page 9, line 20 through page 10, line 16].

5
6 **Progress since December 2018**

7 Since the Court granted the last extension motion to extend the Trusts' life from
8 December 31, 2018 through December 31, 2020, the Trustee has been able to further advance the
9 wind-up process.

10 In prior reports, the Trustee described that one significant asset appeared on the brink of
11 collection. That asset was a recovery on a \$ 48,000,000 approved proof of claim that the
12 Mission Companies' Trusts and their sister companies Holland-America Insurance Company
13 Trust held in the Centaur Insurance Company receivership in Illinois (Centaur).

14 The Trustee can now report that a substantial dividend of 85% of the approved proof of claim
15 has been received from the Centaur Insurance Company receivership. The Trustee anticipates
16 filing a motion later in 2020 to seek permission to make a further distribution to approved
17 creditors in light of this dividend. A further, smaller but substantial dividend from Centaur
18 (approximately 3.3421% of the approved amount) from Centaur has been announced but not yet
19 received). [Pearce Declaration, page 9, lines 14-18].

20
21
22 Two other receivables may also generate assets for further distribution. Holland-America
23 Insurance Company Trust, a sister company of the Mission Companies' Trusts in receivership in
24 Missouri, owes Mission Insurance Company Trust a substantial sum on a general creditor proof
25 of claim. While Holland-America Insurance Company Trust has paid its policyholder claims, it
26
27

1 is in the process of seeking its release from the United States.

2 Although Mission Insurance Company Trust, Mission National Insurance Company Trust
3 and Enterprise Insurance Company Trust obtained their releases some years ago, the Holland-
4 America Insurance Company Trust continues to address its federal release issues with the
5 United States. The Mission Companies' Trusts will need to stay open because this asset is
6 unlikely to be collected in 2020. The extent of the potential collection on this asset, if any, will
7 depend on the resolution by the Missouri receiver regarding matters of its federal claim issues, if
8 any, with the United States.
9

10
11 Universale Ruckversicherungs, a Swiss reinsurer in receivership, also owes money to
12 Mission Insurance Company Trust. While partial distributions have been made from that
13 receivership in the past, additional distributions appear likely. This is another reason to keep the
14 trusts in operation, so that these assets can be collected and distributed. In addition to the
15 foregoing, a dispute exists as to ownership of a \$ 200,000 death benefit connected to a structured
16 settlement. This may also generate a further collection. The situation with both of these
17 collections is set forth in the Pearce Declaration, page 9, line 21 through page 10, line 20.
18

19 This motion seeks an order extending the Trusts to complete these collections and permit
20 further distributions. The Trustee hopes that this process will be completed in 2020 or 2021.
21 However, to ensure that adequate time is allowed to ensure that the trusts can meet their tasks,
22 the motion asks to extend the trusts through 2022.
23

24 **Argument and Authorities:**

25 California Insurance Code Section 1037 grants the Insurance Commissioner as Liquidator
26 broad powers over the administration of insolvent insurance company estates. That section
27

1 provides the Insurance Commissioner as liquidator with the authority to do acts as are “necessary
2 or expedient to collect, conserve” and “protect” the assets of the insurer. Section 1037 concludes
3 with a statement of broad general powers on the part of the Insurance Commissioner. California
4 Insurance Code Section 1020 authorizes this Court to make such orders as may be required to
5 prevent interference with the proceedings. *In re Executive Life Ins. Co.*, (1995) 32 Cal. App. 4th
6 344, 38 Cal. Rptr. 2d 453.

8 Some events may happen after 2020, however, that are likely to permit further
9 distributions to claimants. Holland-America Insurance Company Trust remains in the process of
10 seeking its federal release. The vast majority of its remaining assets, if any, after it obtains such a
11 release will be owed to Mission Insurance Company Trust. This, too, may permit more
12 distributions to creditors but may not be completed by year-end 2020.

14 Further, the Mission Insurance Companies Trusts hold an approved proof of claim in the
15 receivership of Universale Ruckversicherungs. Past distributions have been received on this
16 proof of claim and at least one further distribution is expected in this matter.

18 The Insurance Commissioner as Trustee seeks to complete the wind-up, but the trusts
19 should stay in existence until their assets are collected and distributed. The Insurance
20 Commissioner as Trustee hopes to complete that process in 2020 or 2021, but requests to extend
21 the trusts to 2022 to avoid having to come back for a further extension in 2021.


22 **Conclusion:**

24 In the time since the Court last extended the trusts, the Trustee received a substantial
25 distribution from an Illinois receivership, which will permit the distribution of tens of millions of
26 dollars to claimants. The Trustee requests an extension of the trusts, as further asset substantial

1 collections are likely to occur after year-2020. The Court is respectfully requested to grant this
2 motion, and extend the trusts to December 31, 2022.

3 Respectfully submitted,
4

5 Respectfully submitted,
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7 HIGGINS, LLP

8 
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14 Attorneys for Insurance Commissioner as
15 Trustee

1 Declaration of Scott Pearce

2 I, Scott Pearce, hereby declare the following facts to be true and correct

- 3 1. I am the Senior Estate Trust Officer with the California Insurance Commissioner's
4 Conservation and Liquidation Office (CLO). I have personal knowledge of the facts to
5 which I attest, which I acquired in my day-to-day role working for the CLO in connection
6 with the Mission Insurance Company Trust, the Mission National Insurance Company
7 Trust and the Enterprise Insurance Company Trust (The Mission Companies' Trusts). If
8 called upon to testify as a witness, I could and would testify as set forth in this
9 Declaration.
10
- 11 2. In my role as Senior Estate Trust Officer, I have primary responsibility for matters
12 pertaining to the administration of the Mission Companies' Trusts.
13
- 14 3. Based upon review of this Court's orders, I attest that Mission Insurance Company,
15 Mission National Insurance Company and Enterprise Insurance Company ("The Mission
16 Companies"), three substantial property and casualty insurance companies, entered
17 conservation proceedings on October 31, 1985. They entered liquidation proceedings on
18 February 24, 1987. As part of the process of administering these liquidation estates, their
19 assets were transferred by order of this Court to the Mission Insurance Company Trust,
20 the Mission National Insurance Company Trust, and the Enterprise Insurance Company
21 Trust (the "Mission Companies' Trusts").
22
- 23 4. The proof of claim bar date expired in September 1987. The adjustment of proofs of
24 claims has been completed, and all proofs of claim determined. The Mission Companies'
25 Trusts liquidations resulted in substantial distributions to policyholders and creditors.
26
27

1 Each approved policyholder priority creditor of each of the Mission Companies has
2 received all the principal amount of its claim, and in the case of Mission National
3 Insurance Company Trust, a substantial interest payment. Each general creditor of
4 Mission National Insurance Company Trust has received one hundred percent of the
5 approved principal amount of its claim, and the general creditors of Mission Insurance
6 Company Trust and Enterprise Insurance Company Trust have received substantial but
7 not one hundred percent distributions on their general creditor claims.
8

9 5. I am aware that this Court previously granted a Closing Order for the eventual wind-up of
10 these trusts, but the trusts remain open to collect assets and make distributions. The
11 Trusts have substantial receivables from other companies in receiverships, which
12 receivables are expected to generate substantial further recoveries.
13

14 6. I am pleased to report progress since the Court granted the last extension motion to
15 extend the Trusts' life from December 31, 2018 through December 31, 2020, the Trustee
16 has collected a substantial (85%) distribution from Centaur Insurance Company in
17 receivership. I am advised by the CLO reinsurance department that a further, smaller but
18 material distribution (a further 3.3421% distribution) is expected later this year.
19

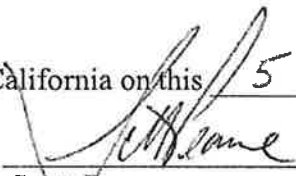
20 7. I am advised by the reinsurance department that two other receivables may also generate
21 assets for further distribution. Holland-America Insurance Company Trust, a sister
22 company of the Mission Companies' Trusts in receivership in Missouri, owes Mission
23 Insurance Company Trust a substantial sum on a general creditor proof of claim. While
24 Holland-America Insurance Company Trust has paid its policyholder claims, it is in the
25 process of seeking its release from the United States. I am informed and believe that
26
27

1 counsel for the Missouri receiver has advised that while progress has been made, thus far
2 the release issues with the Missouri company have not been resolved. Mission Insurance
3 Company is by far the most substantial approved general creditor of Holland-America
4 Insurance Company Trust. The Mission Companies' Trusts will need to stay open until
5 this asset is either collected, or until the Trustee learns that no distribution will be made
6 on this asset. The extent of the potential collection on this asset, if any, will depend on the
7 resolution by the Missouri receiver regarding matters of its federal claim issues, if any,
8 with the United States.
9

- 10
11 8. I am advised by the CLO reinsurance department that Universale Ruckversicherungs, a
12 Swiss reinsurer in receivership, also owes money to Mission Insurance Company Trust.
13 While partial distributions have been made from that receivership in the past, further
14 distributions appear likely. This is another reason to keep the trusts in operation, so that
15 these assets can be collected and distributed.
16

17
18 I hereby declare the foregoing facts to be true and correct under penalty of perjury of the laws of
19 the State of California.

20
21 Signed at San Francisco, California on this 5TH day of June 2020.

22 
23 _____
24 Scott Pearce



Journal Technologies Court Portal

Make a Reservation

CHARLES QUACKENBUSH VS. MISSION INSURANCE COMPANY

Case Number: C572724 Case Type: Civil Unlimited Category: Other Civil Petition
Date Filed: 1985-10-31 Location: Stanley Mosk Courthouse - Department 50

Reservation

Case Name: CHARLES QUACKENBUSH VS. MISSION INSURANCE COMPANY

Case Number: C572724

Type: Motion re: (Authorization of Distribution of Assets)

Status: RESERVED

Filing Party: His Commissioner of The State of Calif (Legacy Party)

Location: Stanley Mosk Courthouse - Department 50

Date/Time: 07/17/2020 8:30 AM

Number of Motions: 1

Reservation ID: 023943435418

Confirmation Code: CR-JCJSFYSQ93QAJBNMS

Fees

Description	Fee	Qty	Amount
Motion re: (name extension) *** Fees Exempted by Gov Code 6103.1 ***	60.00	1	0.00
TOTAL			\$0.00

Payment

Amount: \$0.00

Type: GOVT_EXEMPT

Account Number: n/a

Authorization: n/a

Print Receipt

Reserve Another Hearing

View My Reservations

PROOF OF SERVICE: By REGULAR MAIL
(Code Civ. Proc., ' ' 1013, 2015.5)

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STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 245 Cedar Sage Drive, Suite 240, Garland, Texas 75040.

ON THIS DATE, I SERVED THE FOREGOING DOCUMENT DESCRIBED AS **NOTICE OF MOTION AND MOTION TO EXTEND MISSION INSURANCE COMPANY TRUST, MISSION NATIONAL INSURANCE COMPANY TRUST AND ENTERPRISE INSURANCE COMPANY TRUST; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF SCOTT PEARCE**

by placing a copy thereof enclosed in sealed envelopes addressed as follows:


Sent via FIRST CLASS MAIL to:
The Attached List

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

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

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

Executed on June 8, 2020 at Garland, Texas.



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JUN 12 2020 RCVD

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6 Attorneys for Insurance Commissioner as Trustee

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

8 **FOR THE COUNTY OF LOS ANGELES**

9 RICARDO LARA, Insurance Commissioner of
the State of California,

Case No. C 572 724

10 Applicant,

Honorable Teresa A. Beaudet

11 vs.

[PROPOSED]

12 MISSION INSURANCE COMPANY, a
13 California corporation, et al

**ORDER GRANTING MOTION TO
EXTEND MISSION INSURANCE
COMPANY TRUST, MISSION
NATIONAL INSURANCE COMPANY
TRUST AND ENTERPRISE INSURANCE
COMPANY TRUST**

14 Respondent.

15 Consolidated with Case Numbers

16 C 576 324; C 576 416;
17 C 576 323; C 576 325; C 629709

**July 17, 2020
Time: 8:30 a.m.
Department 50**

Action Filed: October 31, 1985

RESERVATION ID: 023943435418

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24 On the 17th day of July, 2020, this Court heard the Motion to Extend Mission
25 Insurance Company Trust, Mission National Insurance Company Trust and Enterprise Insurance
26 Company Trust filed by the Insurance Commissioner as Trustee.

27 The Court considered the pleadings, the motion papers on file, and the supporting
28 ORDER GRANTING MOTION TO EXTEND MISSION INSURANCE COMPANY TRUST, MISSION
NATIONAL INSURANCE COMPANY TRUST AND ENTERPRISE INSURANCE COMPANY TRUST - 1

1 evidence, as well as any timely filed opposition and supporting evidence, if any.
2

3 The Court GRANTS the motion. The Court authorizes that the Mission
4 Insurance Company Trust, the Mission National Insurance Company Trust and the Enterprise
5 Insurance Company Trust shall remain in existence until at least December 31, 2022.
6

7 So Ordered.

8 Signed this _____ day of July 2020.
9

10 _____
11 Judge of the Superior Court
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PROOF OF SERVICE: By REGULAR MAIL
(Code Civ. Proc., ' ' 1013, 2015.5)

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STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 245 Cedar Sage Drive, Suite 240, Garland, Texas 75040.

ON THIS DATE, I SERVED THE FOREGOING DOCUMENT DESCRIBED AS [PROPOSED] **ORDER GRANTING MOTION TO EXTEND MISSION INSURANCE COMPANY TRUST, MISSION NATIONAL INSURANCE COMPANY TRUST AND ENTERPRISE INSURANCE COMPANY TRUST** BY PLACING A COPY THEREOF ENCLOSED IN SEALED ENVELOPES ADDRESSED AS FOLLOWS:

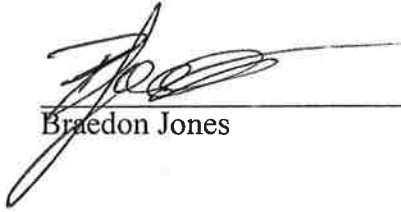
Sent via FIRST CLASS MAIL to:
The Attached List

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

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

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

Executed on June 8, 2020 at Garland, Texas.



Braedon Jones

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