

1 KAMALA D. HARRIS  
Attorney General of the State of California  
2 JOYCE E. HEE (State Bar No. 88610)  
Supervising Deputy Attorney General  
3 ANNE MICHELLE BURR (State Bar No. 158302)  
Deputy Attorney General  
4 455 Golden Gate, Suite 11000  
San Francisco, California 94102-7004  
5 Telephone: (415) 703-1403  
Facsimile: (415) 703-5480  
6 Email: AnneMichelle.Burr@doj.ca.gov

ENDORSED  
FILED  
San Francisco County Superior Court

JUL 08 2014

CLERK OF THE COURT  
BY: GINA GONZALES  
Deputy Clerk

7 THOMAS J. WELSH (State Bar No. 142890)  
ORRICK, HERRINGTON & SUTCLIFFE LLP  
8 400 Capitol Mall, Suite 3000  
Sacramento, California 95814-4497  
9 Telephone: (916) 447-9200  
Facsimile: (916) 329-4900  
10 Email: tomwelsh@orrick.com

11 Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the State of California  
12 in his Capacity as Conservator of Majestic Insurance  
Company  
13

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

17 DAVE JONES, INSURANCE  
18 COMMISSIONER OF THE STATE OF  
CALIFORNIA,  
19 Applicant,  
20  
v.  
21 MAJESTIC INSURANCE COMPANY, and  
22 DOES 1-50, inclusive,  
23 Respondents.  
24  
25

Case No. CPF-11-511261

~~PROPOSED~~ ORDER APPROVING  
CONSERVATOR'S PROPOSAL TO  
DISBURSE ASSETS TO APPROVED  
CREDITOR AND TO APPROVE  
SPECIAL PUBLICATION NOTICE  
RELATING TO "GREAT WESTERN"  
POLICIES

Date: July 8, 2014 (Res # 060414-04)  
Time: 9:30 a.m.  
Dept.: 302

1 California Insurance Commissioner Dave Jones (“Conservator”), as Conservator of  
2 Majestic Insurance Company (“Majestic”), has applied for an Order approving the Conservator’s  
3 Application to disburse assets to Majestic’s approved Insurance Code section 1033(a)(9) creditor,  
4 and to publish notice to any potential claimants under insurance policies issued in California by  
5 Majestic between 1982 and 1984, when Majestic operated under the name “Great Western  
6 Insurance Company” (the “Great Western Policies”). The Court having considered the  
7 Conservator’s Application and the Declarations of David E. Wilson, Kevin McGrath and Stephen  
8 Ungar in support thereof, and good cause appearing:

9 **IT IS ORDERED that:**

- 10 1. The Conservator is authorized to distribute and/or assign to the Embarcadero  
11 Liquidating Trust, the sole allowed Class 9 Creditor under Insurance Code section  
12 1033(a)(9) (the “Class 9 Creditor”), or to Lloyd T. Whitaker, the duly appointed  
13 liquidating trustee thereof (the “Liquidating Trustee”), certain non-cash assets of  
14 Majestic, consisting of all rights, claims and causes of action that Majestic or its  
15 conservation estate has or may have against any former directors, officers,  
16 employees, agents, consultants, affiliates, or subsidiaries of Majestic or any one or  
17 more of its affiliates, arising from, relating to or in connection with his, her or its  
18 relationship with Majestic, including but not limited to those for breach of  
19 fiduciary duty, aiding and abetting breach of fiduciary duty, and gross negligence  
20 (“the D&O Claims”), by executing any assignments or other documents the  
21 Conservator determines are reasonable and necessary to vest the Class 9 Creditor  
22 or the Liquidating Trustee with full authority to prosecute the D&O Claims;
- 23 2. The Conservator is authorized to publish the form of notice set forth in his  
24 Application (the “Great Western Notice”) in up to three newspapers of general  
25 circulation in California; and
- 26 3. The Conservator is authorized, if no newly reported claims potentially subject to  
27 coverage under the Great Western Policies are received within forty-five (45) days  
28 following the last publication of the Great Western Notice, to distribute and pay a

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

total of \$5,000,000.00 to the Class 9 Creditor or the Liquidating Trustee as a section 1033(a)(9) claimant. If, in the Conservator's sole judgment, newly reported claims create a reasonable risk of liability under the Great Western Policies in excess of the \$1,000,000.00 available under Majestic's reinsurance agreement with Technology Insurance Company, Inc., an affiliate of AmTrust Financial Service, Inc., the Conservator shall not distribute any cash to the Class 9 Creditor without further order of the Court following the submission of a modified distribution plan; and

- 4. The Conservator is authorized to take any and all actions necessary to accomplish the purposes of this Order.

Dated: JUL 08 2014 2014

ERNEST H. GOLDSMITH  
Judge of the Superior Court

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOYCE E. HEE  
Supervising Deputy Attorney General  
3 ANNE MICHELLE BURR  
Deputy Attorney General  
4 State Bar No. 158302  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, California 94102-7004  
Telephone: (415) 703-1403  
6 Fax: (415) 703-5480  
E-mail: [AnneMichelle.Burr@doj.ca.gov](mailto:AnneMichelle.Burr@doj.ca.gov)

7  
8 *Attorneys for Applicant*  
9 *Dave Jones, Insurance Commissioner of the State of*  
*California in his Capacity as Conservator of*  
*Majestic Insurance Company*

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF SAN FRANCISCO

12 CIVIL DIVISION

13  
14  
15 DAVE JONES, INSURANCE  
COMMISSIONER OF THE STATE OF  
CALIFORNIA

Case No. CPF-11-511261

**DECLARATION OF SERVICE**

16 Applicant,

17  
18 v.

19 MAJESTIC INSURANCE COMPANY, and  
DOES 1-50, inclusive,

20 Respondents.  
21

1 DECLARATION OF SERVICE

2 Case Name: Dave Jones, Insurance Commissioner of the State of California v. Majestic  
Insurance Company, and Does 1-50-inclusive

3 No.: CPF-11-511261  
4

5 I declare:

6 I am employed in the Office of the Attorney General, which is the office of a member of the  
California State Bar, at which member's direction this service is made. I am 18 years of age or  
7 older and not a party to this matter; my business address is: 455 Golden Gate Avenue, Suite  
11000, San Francisco, CA 94102-7004. I am familiar with the business practice at the Office of  
8 the Attorney General for collection and processing of correspondence for mailing with the United  
States Postal Service. In accordance with that practice, correspondence placed in the internal  
9 mail collection system at the Office of the Attorney General is deposited with the United States  
Postal Service with postage thereon fully prepaid that same day in the ordinary course of  
business.

10 On July 8, 2014, I served the attached:

11 **ORDER APPROVING CONSERVATOR'S PROPOSAL TO DISBURSE ASSETS TO  
12 APPROVED CREDITOR AND TO APPROVE SPECIAL PUBLICATION NOTICE  
13 RELATING TO "GREAT WESTERN" POLICIES**

14 by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system  
at the Office of the Attorney General at 455 Golden Gate Avenue, Suite 11000, San Francisco,  
CA 94102-7004, addressed as follows:

15 SEE ATTACHED SERVICE LIST  
16

17 I declare under penalty of perjury under the laws of the State of California the foregoing is true  
18 and correct and that this declaration was executed on July 8, 2014, at San Francisco, California.

19 \_\_\_\_\_  
20 Elza Moreira  
21

22 \_\_\_\_\_  
23 Signature  
24  
25  
26  
27  
28

**SERVICE LIST**

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

Linda J. Clark  
Hiscock & Barclay, LLP  
50 Beaver Street  
Albany, NY 12207  
*Attorney for Former Members of Group Self-  
Insurance Workers' Compensation Trust  
Administered by an Affiliate of Majestic  
Insurance Company*

Robert K. Edmunds  
Buchanan Intersoll & Rooney, LLP  
One America Plaza  
600 West Broadway, Suite 1100  
San Diego, CA 92101  
*Attorneys for Xtium, LLC*

David R. Pfalzgraf, Jr.  
Daniel E. Sarzynski  
Charles D.J. Case  
Rupp, Baase, Pfalzgraf, Cunningham &  
Coppola LLC  
1600 Liberty Building  
Buffalo, NY 14202  
*Attorneys for New York State Workers'  
Compensation Board*

Abe M. Rychik  
Katz & Rychik P.C.  
30 Broad Street, 8th Floor  
New York, New York 10004  
*Attorneys for Remco Maintenance LLC*

Karl Belgum  
Nixon Peabody, LLP  
One Embarcadero Center  
18<sup>th</sup> Floor  
San Francisco, CA 94111-3600  
*Attorneys for Contractors Access Program of  
California*

Robert N. Berg, Esq.  
Michelman & Robinson LLP  
455 Market Street, Suite 1420  
San Francisco, CA 94105  
*Attorneys for Majestic USA Capital, Inc. Inc.,  
Majestic Capital, Ltd., Compensation Risk  
Managers, LLC, Compensation Risk Managers  
of California, LLC, Eimar, LLC and  
Embarcadero Insurance Holdings, Inc.*

Craig S. Bloomgarden  
Manatt, Phelps & Phillips, LLP  
11355 West Olympic Boulevard  
Los Angeles, CA 90064-1614  
*Attorney for New York State Workers'  
Compensation Board*

Glen A. Van Dyke  
Van Dyke Law Group  
12277 Soaring Way, Suite 206  
Truckee, CA 96161  
*Attorney for Mark Tanner Construction, Inc.,  
Doc Gelso Construction, Inc., Mt. Lincoln  
Construction, Inc. and Sierra Paint &  
Chemical, Inc.*

Laszlo Komjathy, Jr.  
Attorney IV  
California Department of Insurance  
45 Fremont Street, 24th Floor  
San Francisco, CA 94105  
*Attorney for the Conservator*