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

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

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

18 DAVE JONES, INSURANCE  
COMMISSIONER OF THE STATE OF  
19 CALIFORNIA,

20 Applicant,

21 v.

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

23 Respondents.  
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Case No. CPF-16-515183

Reservation No. 06150718-15

**APPLICATION FOR ORDER  
APPROVING FINANCIAL REPORT  
AND EXPENSES OF  
ADMINISTRATION; FINANCIAL  
REPORT ON STATUS OF  
CASTLEPOINT NATIONAL  
INSURANCE COMPANY  
CONSERVATION AND  
LIQUIDATION; MEMORANDUM OF  
POINTS AND AUTHORITIES**

**Date: July 18, 2017**

**Time: 9:30 a.m.**

**Dept: 302**

**Judge: Hon. Harold E. Kahn**

ELECTRONICALLY

**FILED**

*Superior Court of California,  
County of San Francisco*

**06/16/2017**

**Clerk of the Court**

BY: VANESSA WU

Deputy Clerk

1                   **NOTICE OF APPLICATION FOR ORDER APPROVING FINANCIAL REPORT**  
2                   **AND EXPENSES OF ADMINISTRATION**

3                   PLEASE TAKE NOTICE that on July 18, 2017, at 9:30 a.m., or as soon thereafter as may  
4 be heard in the above-entitled Court, located at 400 McAllister Street, San Francisco, CA 94103,  
5 Dave Jones, Insurance Commissioner (“Commissioner”) of the State of California, as the  
6 statutory Liquidator of the estate of CastlePoint National Insurance Company (“CastlePoint”),  
7 will submit the accompanying Financial Report on the status of CastlePoint to the Court. Based  
8 on this Report, the Commissioner hereby applies to the Court for an Order determining that the  
9 expenses of administration paid in the conduct of the CastlePoint estate during the Conservation  
10 Period (from the issuance of the Court’s Order Appointing Insurance Commissioner As  
11 Conservator and Restraining Orders on July 28, 2016, through the effective date of the Court’s  
12 Liquidation Order, April 1, 2017) are reasonable, appropriate and necessary, and are approved  
13 and ratified.

14                   This Motion is made pursuant to the Commissioner’s authority under California Insurance  
15 Code sections 1035 and 1036, on the grounds that: (1) The Commissioner has the authority to fix  
16 the administrative costs and the legal fees paid to counsel incurred in the conduct of CastlePoint’s  
17 conservation, subject to approval of the Court, Cal. Ins. Code §§ 1035, 1036, and;  
18 (2) The administrative costs and legal fees fixed by the Commissioner, as laid out in the  
19 Commissioner’s Financial Report and the accompanying Declaration of Joseph Holloway In  
20 Support Of Commissioner’s Application For Order Approving And Ratifying Financial Report  
21 And Expenses Of Administration (“Holloway Decl.”), are reasonable, necessary, and appropriate,  
22 and should therefore be ratified and approved.

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Dated: June 16, 2017

XAVIER BECERRA  
Attorney General of California

*Marguerite Stricklin/HBA*

By: \_\_\_\_\_  
MARGUERITE C. STRICKLIN  
Deputy Attorney General

Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the  
State of California

Dated: June 16, 2017

THOMAS J. WELSH  
PATRICK B. BOCASH  
Orrick, Herrington & Sutcliffe LLP

*Thomas J. Welsh*

By: \_\_\_\_\_  
THOMAS J. WELSH

Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the  
State of California

1                   **INSURANCE COMMISSIONER’S FINANCIAL REPORT ON STATUS OF**  
2                   **CASTLEPOINT NATIONAL INSURANCE COMPANY CONSERVATION**

3                   CastlePoint was placed into conservation on July 28, 2016 (the “Conservation Date”). On  
4                   September 13, 2016, the Court approved the Commissioner’s Conservation and Liquidation Plan  
5                   for CastlePoint (the “Plan”), and the Commissioner undertook to implement the provisions of the  
6                   Plan. Under the Plan, CastlePoint entered into a number of Conservation Transaction  
7                   Agreements, which, among other things, brought \$200 million (net certain advances) of  
8                   additional liquidity into the estate and provided for runoff administration services through  
9                   AmTrust Financial Services, Inc. and National General Holdings Corp. From the Conservation  
10                  Date through April 1, 2017<sup>1</sup> (the “Conservation Period”), the Commissioner oversaw the  
11                  administration and payment of claims while simultaneously working with state insurance  
12                  guaranty associations (“IGAs”) to prepare for the expected transition of claims administration  
13                  responsibilities to the IGAs upon liquidation.

14                  The purpose of this Financial Report is to update the Court on the costs and legal fees paid  
15                  by the Commissioner during the Conservation Period. During the relevant period, the  
16                  Commissioner accomplished the following tasks: 1) placed CastlePoint into conservation,  
17                  2) consolidated the ledgers of all ten Tower Group Insurance companies that were merged with  
18                  and into CastlePoint, 3) negotiated and closed the Conservation Plan and numerous related  
19                  agreements, 4) took over management of the company and paid \$338 million in claims,  
20                  5) obtained the release of \$54.4 million in California Worker’s Compensation deposits,  
21                  6) collected approximately \$70 million in reinsurance and an additional \$30 million in  
22                  miscellaneous assets for the estate, 7) prepared and distributed quarterly financial information to  
23                  all state insurance departments and affected IGAs, 8) coordinated and transferred approximately  
24                  6,000 claim data files from 11 third party administrators to affected IGAs in preparation for  
25                  liquidation, and 9) agreed to and pre-funded workers’ compensation indemnity and pharmacy  
26                  benefits for all injured workers during the transition of claim files from the Liquidator to the  
27

28                  <sup>1</sup> The Court entered its Liquidation Order For CastlePoint National Insurance Company on March 30, 2017. The  
                    Order became effective on April 1, 2017 (the “Liquidation Date”).

1 IGAs. Holloway Decl., ¶ 4.

2 Over the Conservation Period, the CastlePoint estate paid expenses totaling \$7,891,381.  
3 Holloway Decl., ¶ 7, Ex. A. Of that total, \$3,438,993 was paid in payroll<sup>2</sup> and benefits to  
4 CastlePoint employees, while \$2,596,600 was paid to the California Conservation & Liquidation  
5 Office (“CLO”) for professional services (of which \$1,234,032 are for legal fees paid to Orrick  
6 for legal services related to the negotiation, documentation, court approval and implementation of  
7 the Plan, as well as legal support during the Conservation Period). *Id.* Other significant sources  
8 of fees paid to CLO include CLO claims administration (\$405,791), management expenses  
9 (\$270,263), and INS Consultants (\$200,933). A full breakdown of all expenses paid during the  
10 conservation period can be found in Exhibit A to the Holloway Declaration.

11 The Court’s July 28, 2016 Order Appointing Conservator and Restraining Orders  
12 (“Conservation Order”), authorizes the Commissioner, as Conservator, to fix and pay the  
13 administrative expenses of the conservation from the assets of CastlePoint, subject to the Court’s  
14 oversight and approval. *See* Conservation Order, ¶¶ 11-12, 18, 25. These provisions were  
15 entered pursuant to California Insurance Code sections 1035 and 1036, which grant the  
16 Commissioner the power to fix all administrative costs (§ 1035) and the compensation of outside  
17 attorneys (§ 1036), with the approval of the Court, and to have those expenses paid by the  
18 conservation/liquidation estate. The administrative costs and legal fees incurred by the  
19 Commissioner were necessary to the efficient and orderly administration of CastlePoint during  
20 the Conservation Period. These expenses were specifically anticipated and provided for under the  
21 Plan.

22 Based on the foregoing, and the attached Points and Authorities, the Commissioner  
23 respectfully requests that the Court approve and ratify the expenses of administration paid by the  
24 Commissioner prior to the Liquidation Date, as set forth in the Holloway Declaration and its  
25 accompanying exhibits. At the hearing on this Status Report and Application, the Commissioner,

26 \_\_\_\_\_  
27 <sup>2</sup> As of the Conservation Date, July 28, 2016, CastlePoint had 26 employees and an annual payroll of \$3.93 million.  
28 Since then, the Conservator has reduced the number of employees and payroll costs. As of March 31, 2017, only 10  
CastlePoint employees remained, and annual payroll had been cut to \$1.85 million. Holloway Decl., ¶ 6. Page 2 of  
Exhibit A to the Holloway Declaration (labelled Exhibit II), shows the general reduction in payroll during the  
Conservation Period.

1 through counsel, will be prepared to answer any questions that the Court may have regarding the  
2 Plan or the expenses of administration incurred to date.

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5 Dated: June 16, 2017

XAVIER BECERRA  
Attorney General of California

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8 By: Marguerite Stricklin / HBA  
MARGUERITE C. STRICKLIN  
Deputy Attorney General

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10 Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the  
11 State of California

12  
13 Dated: June 16, 2017

THOMAS J. WELSH  
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Orrick, Herrington & Sutcliffe LLP

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16 By: Thomas J. Welsh  
THOMAS J. WELSH

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18 Attorneys for Applicant Dave Jones,  
Insurance Commissioner of the  
19 State of California

1 **MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF COMMISSIONER’S**  
2 **MOTION FOR ORDER APPROVING FINANCIAL REPORT AND**  
3 **EXPENSES OF ADMINISTRATION**

4 California Insurance Code Sections 1035 and 1036 require the Commissioner to seek  
5 approval of the Court for the payment of administrative costs (§ 1035) and legal fees (§ 1036)  
6 from the assets of CastlePoint. Specifically, section 1035 provides that “all expenses of taking  
7 possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the  
8 business and property of [CastlePoint], shall be fixed by the commissioner, subject to the  
9 approval of the court, and shall be paid out of the assets of [CastlePoint] to the department.” (Cal.  
10 Ins. Code § 1035.) Similarly, section 1036 states that “compensation of any counsel outside of  
11 California state service who is employed . . . to represent the commissioner as receiver shall be  
12 fixed by the commissioner, subject to the approval of the court [and] [c]ompensation of counsel  
13 representing the commissioner . . . shall be paid from the assets of [CastlePoint].” (Cal. Ins. Code  
14 § 1036.)

15 The Commissioner is vested with substantial discretion to conduct the liquidation of an  
16 insolvent insurer subject to the limitation “that the exercise of discretion be neither arbitrary nor  
17 improperly discriminatory.” (See *In re Executive Life Ins. Co.* (1995) 32 Cal.App.4th 344, 356  
18 (citing *Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d 307, 329).) His decisions as to  
19 matters concerning an insolvent insurer are reviewed by the Court on an abuse of discretion  
20 standard. (*In re Executive Life, supra*, 32 Cal.App.4th at 358.) The expenses and professional  
21 fees incurred by the Commissioner during the Conservation Period were typical for a receivership  
22 of this size and complexity, and were necessary, reasonable, and appropriate to secure the  
23 CastlePoint estate and to protect its creditors to the fullest extent possible. Holloway Decl., ¶ 8.

24 Accordingly, the Commissioner respectfully requests that the Court approve and ratify the  
25 expenses of administration incurred during the Conservation Period.  
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Dated: June 16, 2017

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By: Marguerite Stricklin / ~~HBT~~  
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Dated: June 16, 2017

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