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BILL LOCKYER
Attorney General
W. DEAN FREEMAN
Lead Supervising Deputy Attorney General
MARK P. RICHELSON
Supervising Deputy Attorney General
LISA W. CHAO
Deputy Attorney General
State Bar No. 198536
300 South Spring Street, Room 1702
Los Angeles, California 90013
Telephone: (213) 897-2481
Fax: (213) 897-5775
Attorneys for Insurance Commissioner of the State of California

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
AUG 05 2003
ALAN SLATER, Clerk of the Court
K. Growsky
BY K. GROWSKY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,

Applicant,

v.

PACIFIC NATIONAL INSURANCE
COMPANY, a California corporation,

Respondent.

Case No.: 03CC01065

**[PROPOSED] ORDER APPOINTING
INSURANCE COMMISSIONER AS
LIQUIDATOR AND RESTRAINING
ORDERS**

Application Filed: May 14, 2003

Date: August 1, 2003
Time: 9:00 a.m.
Dept.: C15

Judge: HON. JOHN M. WATSON

The verified Application of the Insurance Commissioner of the State of California
("Commissioner") for an Order Appointing Commissioner as Liquidator of Pacific National
Insurance Company ("Respondent") came on regularly for hearing in Department C15 of the
Orange County Superior Court, Judge John M. Watson presiding.

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RECEIVED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUL 10 2003

ALAN SLATER, Clerk of the Court

1 **GOOD CAUSE APPEARING FROM THE COMMISSIONER'S VERIFIED**
2 **APPLICATION, THIS COURT MAKES THE FOLLOWING FINDINGS:**

- 3 1. Respondent is insolvent.
- 4 2. It would be futile for the Commissioner to continue to proceed as Conservator of
5 Respondent.
- 6 3. Respondent does not meet the requirements for issuance to it of a Certificate of
7 Authority.
- 8 4. There exist sufficient factual and legal grounds for the Commissioner to liquidate
9 and wind up the business of Respondent in a manner consistent with the provisions of this Order.

10 **WHEREFORE, GOOD CAUSE APPEARING, THIS COURT MAKES THE**
11 **FOLLOWING ORDERS** (For all purposes in the findings and order, the term "Respondent,"
12 wherever used and used in whatever context or reference, shall mean Respondent Pacific
13 National Insurance Company and shall mean for all purposes, wherever used and in whatever
14 context or reference, Pacific Automobile Insurance Company):

15 1. The Commissioner's status as Conservator is terminated, and he is appointed as
16 Liquidator of Respondent, as set forth in Insurance Code §1016, and directed as Liquidator to
17 liquidate and wind up the affairs of Respondent, to conduct the business of Respondent, or so
18 much as thereof may seem appropriate, to pay or defer payment of all proper claims and
19 obligations against Respondent accruing prior to or subsequent to his appointment as Liquidator
20 of Respondent and to act in all ways and exercise all powers necessary for the purpose of
21 carrying out such order;

22 2. The Liquidator is authorized to assume or reject, or to modify, any executory
23 contracts, including without limitation, any lease, rental or utilization contract or agreement
24 (including any schedule to any such contract or agreement), and any license or other arrangement
25 for the use of computer software or business information systems, to which Respondent is a party
26 or as to which Respondent agreed to accept an assignment of such contract; the Liquidator is
27 directed to effect any such assumption or rejection or modification of any executory contract not
28 later than 120 days of the date of entry of this Order, unless such date is extended by application

1 to and further order of this Court; all executory contracts that are not expressly assumed by the
2 Liquidator shall be deemed rejected; any party to a contract that is rejected by the Liquidator
3 pursuant to this order shall be permitted to file a proof of claim against the liquidation estate,
4 which claim shall be treated in accordance with Insurance Code §1010, et seq.;

5 3. The Liquidator is authorized to take possession of all the assets of Respondent
6 including books, records and property, both real and personal, accounts, safe deposit boxes,
7 rights of action, and all such assets as may be in the name of Respondent, wheresoever situated;

8 4. The Liquidator is vested with title to, and is authorized to take possession of, all
9 property (both real and personal) and assets of Respondent, and assets which may be in the name
10 of Respondent, including accounts, deposits, securities, contracts, rights of action books, records,
11 safe deposit boxes, and other assets of every type and nature, and including both those presently
12 in Respondent's possession and those which may be discovered hereafter, wheresoever situated,
13 and the Liquidator is authorized to deal with the same in his own name as Liquidator or in the
14 name of Respondent, and to enjoin all persons from interfering with the Liquidator's possession
15 and title thereto;

16 5. The Liquidator shall have all the powers of the directors, officers and managers of
17 Respondent, whose authorities are suspended except as such powers may be redelegated by the
18 Liquidator;

19 6. The Liquidator is authorized to terminate compensation arrangements with
20 employees, to enter into new compensation arrangements with employees, including
21 arrangements containing retention incentives, and the Liquidator is authorized to hire employees
22 on such terms and conditions as he deems reasonable;

23 7. Except upon the express authorization of the Liquidator, Respondent, its officers,
24 directors, agents and employees are enjoined from transacting any of the business of Respondent,
25 whether in the State of California or elsewhere, or from disposing of, using, transferring, selling,
26 assigning, canceling, alienating, hypothecating or concealing in any manner or any way, or
27 assisting any person in any of the foregoing, of the property or assets of Respondent or property
28 or assets in the possession of Respondent, of any nature or kind, including claims or causes of

1 action, until further order of this Court and further, such persons are enjoined from obstructing or
2 interfering with the Liquidator's conduct of his or her duties as Liquidator;

3 8. All persons are enjoined from instituting or prosecuting or maintaining any action
4 at law or suit in equity, including but not limited to actions or proceedings to compel discovery
5 or production of documents or testimony and matters in arbitration, except in matters before the
6 California Workers Compensation Appeals Board or equivalent administrative boards or
7 organizations performing such functions in other states seeking only benefits covered by
8 workmen's compensation policies issued by Respondent, against Respondent or against the
9 Liquidator, and from attaching, executing upon, redeeming of or taking any other legal
10 proceedings against any of the property or assets of Respondent, and from doing any act
11 interfering with the conduct of said business by the Liquidator, except upon order from this
12 Court obtained after reasonable notice to the Liquidator;

13 9. Respondent and all officers, directors, agents and employees of Respondent are
14 directed to deliver to, and immediately make available to, the Liquidator all assets, books,
15 records, accounts, records, information, computers, tapes, discs, writings, other recordings of
16 information, equipment and other property of Respondent, wheresoever situated, in said persons
17 custody or control and further, the aforesaid shall disclose verbally, or in writing if requested by
18 the Liquidator, the exact whereabouts of the foregoing items if such items are not in the
19 possession custody or control of said persons;

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

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1 11. All funds, assets, and accounts, including certificates of deposit, bank accounts,
2 and mutual fund shares, of Respondent, in various financial depository institutions, including
3 banks, savings and loan associations, industrial loan companies, mutual funds or stock
4 brokerages, wheresoever situated, are vested in the Liquidator and subject to withdrawal upon his
5 order only. This order does not convert funds held in a fiduciary capacity to general assets of the
6 Liquidator;

7 12. All persons who maintain records for Respondent, pursuant to written contract or
8 any other agreement, shall maintain such records and shall deliver to the Liquidator such records
9 upon his request;

10 13. All persons having possession of any lists of policyholders or escrow holders of
11 Respondent shall deliver all such lists to the Liquidator; and all persons are enjoined from using
12 any such lists or any information contained therein without the consent of the Liquidator;

13 14. All agents of Respondent and all brokers who have done business with
14 Respondent, are directed to make all remittances of all funds collected, including but not limited
15 to premiums, unearned premiums, and unearned commissions, by them or in their hands directly
16 to the Liquidator. This obligation to remit collected funds is continuing in nature;

17 15. The Liquidator is authorized to maintain or initiate such equitable or legal actions
18 or proceedings in this or other states as may appear to him necessary to carry out his functions as
19 Liquidator;

20 16. The Liquidator is authorized to appoint and employ special deputies, estate
21 managers, other professionals, clerks and assistants and to give each of them such power and
22 authority as he may deem necessary, and the Liquidator is authorized to compensate these
23 persons from the assets of Respondent as he may deem appropriate;

24 17. The Liquidator is authorized to divert, take possession of and secure all mail of
25 Respondent, in order to screen such mail, and to effect a change in the rights to use any and all
26 post office boxes and other mail collection facilities used by Respondent;

27 18. Respondent and its officers, directors, agents, servants, employees, successors,
28 assigns, affiliates, and other persons or entities under their control and all persons or entities in

1 concert or participation with Respondent, and each of them, are directed to turn over to the
2 Liquidator all records, documentation, charts and/or descriptive materials of all funds, assets,
3 property (owned beneficially or otherwise), and all other assets of Respondent wherever situated,
4 and all books and records of accounts, title documents and other documents in their possession or
5 under their control, which relate, directly or indirectly to assets or property owned or held by
6 Respondent or to the business or operations of Respondent;

7 19. Except with leave of court issued after a hearing in which the Liquidator has
8 received reasonable notice, all persons are enjoined from obtaining preferences, judgments,
9 attachments or other liens, or making any levy against Respondent or its assets or property, and
10 from executing or issuing or causing the execution or issuance of any court attachment,
11 subpoena, replevin, execution or other process for the purpose of impounding or taking
12 possession of or interfering with or creating or enforcing a lien upon any property or assets
13 owned or in the possession of Respondent or the Liquidator, wheresoever situated, and from
14 doing any act interfering with the conduct of said business by the Liquidator;

15 20. Except with leave of court issued after a hearing in which the Liquidator has
16 received reasonable notice, all persons are enjoined from accelerating the due date of any
17 obligation or claimed obligation; exercising any right of set-off; taking, retaining, retaking or
18 attempting to retake possession of any real or personal property; withholding or diverting any
19 rent or other obligation; declaring an act of default or providing a notice of default under any
20 contract; doing any act or other thing whatsoever to interfere with the possession of or
21 management by the Liquidator of the property and assets, owned or controlled by Respondent or
22 in the possession of Respondent or in any way interfering with the Liquidator or to interfere in
23 any manner during the pendency of this proceeding with the exclusive jurisdiction of this Court
24 over Respondent;

25 21. All persons are enjoined from waste of assets of Respondent;

26 22. Any and all provisions of any agreement entered into by and between any third
27 party and Respondent, including by way of illustration, but not limited to, the following types of
28 agreements (as well as any amendments, assignments, or modifications thereto): financial

1 guarantee bonds, promissory notes, loan agreements, security agreements, deeds of trust,
2 mortgages, indemnification agreements, subrogation agreements, subordination agreements,
3 pledge agreements, assignments of rents or other collateral, financial statements, letters of credit,
4 leases, insurance policies, guaranties, escrow agreements, management agreements, real estate
5 brokerage and rental agreements, servicing agreements, attorney agreements, consulting
6 agreements, easement agreements, license agreements, franchise agreements, or employment
7 contracts that provide in any manner that selection, appointment or retention of a conservator,
8 liquidator, receiver or trustee by any court, or entry of any order such as hereby made, shall be
9 deemed to be, or otherwise operate as a breach, violation, event of default, termination, event of
10 dissolution, event of acceleration, insolvency, bankruptcy, or liquidation shall be stayed, and the
11 assertion of any and all rights and remedies relating thereto shall also be stayed and barred,
12 except as otherwise ordered by this Court, and this Court shall retain jurisdiction over any cause
13 of action that has arisen or may otherwise arise under any such provision;

14 23. The Liquidator is authorized, pursuant to Insurance Code §1037, subsection (g),
15 to invest and reinvest all assets in a manner he deems to be in the best interest of the creditors of
16 the estate, including investing and reinvesting assets through an investment pool consisting
17 exclusively of assets from other estates for which the Insurance Commissioner is the liquidator.
18 To the extent that the Liquidator invests and reinvests through such an investment pool, such
19 investments and re-investments may exceed \$100,000. Further, the Liquidator may make
20 investments or reinvestments other than in such an investment pool that are in excess of
21 \$100,000, but not exceeding \$2,000,000 per investment or reinvestment, without prior approval
22 if such investments or reinvestments are made pursuant to the investment guidelines of the
23 Liquidator's Conservation & Liquidation Office, a true and correct copy of which is attached
24 hereto as Exhibit A and incorporated herein by this reference. The Liquidator shall file quarterly
25 reports of such investments in excess of \$100,000 (other than investments or reinvestments in an
26 investment pool) with the Court, with notice to all persons on the service list, such reports to be
27 filed within 60 days of the end of each quarter;

28 24. The Liquidator is authorized to pay as expenses of administration all expenses

1 heretofore incurred by the Commissioner as Conservator which are presently unpaid, and the
2 Liquidator is authorized to pay, upon presentation, the full amount of any checks or drafts which
3 have been issued by him, in his capacity as Conservator, and which are outstanding;

4 25. The Liquidator is authorized to pay for his costs in bringing and maintaining this
5 action, and such other actions as are necessary to carry out his functions as Liquidator (including
6 reasonable costs of operating Respondent such as direct and allocated direct costs, direct and
7 allocated general and administrative costs and overhead, and all other allocated costs), out of the
8 funds and assets of Respondent; and if there are insufficient funds, to pay for his costs out of the
9 Insurance Fund;

10 26. The Liquidator is authorized, pursuant to Insurance Code §1037, subsection (d),
11 to dispose of any property of Respondent by any commercially reasonable method, including, but
12 not limited to, sales at public auctions or sales in bulk to the high bidder (provided at least three
13 (3) independent dealers in the kind of property sold are given notice of the opportunity to bid);

14 27. All insurance policies issued by Respondent shall be terminated and canceled
15 effective thirty (30) days following the issuance of this order, and the Liquidator shall notify
16 promptly all policyholders and all bail bond or other surety agents of such policy termination and
17 cancellation by First Class Mail at the last known address of such policyholders;

18 28. All prior injunctions and other orders of this Court, except to the extent expressly
19 modified herein, are reaffirmed and remain in full force and effect; all powers and authority
20 granted to the Liquidator under this order are in addition to and not in limitation of the powers of
21 the Liquidator under the Insurance Code and any other statutory or applicable case law;

22 29. The rights and liabilities of claimants, creditors, shareholders, policyholders,
23 escrow holders and all other persons interested in the assets of Respondent, including the State of
24 California, are fixed as of the date of the entry of this order;

25 30. Any and all claims against Respondent (except those policyholder claims already
26 pending against Respondent, which are hereby deemed filed with the Liquidator, who shall
27 maintain a list of such claims), including those which in any way affect or seek to affect any of
28 the assets of Respondent, wherever or however such assets may be owned or held, must be filed

1 by no later than July 30, 2004, (the "Claims Bar Date"), together with proper proof thereof, in
2 accordance with the provisions of Insurance Code §1010, et seq., including but not limited to
3 Insurance Code §1023, and any claim not filed by the Claims Bar Date is conclusively deemed
4 forever waived.

5
6
7 Date:

8/5/03

JOHN M. WATSON

JUDGE OF THE SUPERIOR COURT

EXHIBIT "A"

INSURANCE COMMISSIONER of the
STATE of CALIFORNIA
CONSERVATION & LIQUIDATION OFFICE
INVESTMENT GUIDELINES

Objectives

To maintain safety of principal and to maximize available yield while assuming a minimum of risk through a balance of quality and diversification within the investment portfolio.

A. Safety

Quality

None of the Portfolio will be invested in fixed income securities rated below investment grade quality by Standard & Poor's, Moody's or by another nationally recognized statistical rating organization. Unrated securities may not be held. The minimum average market value weighted credit quality of securities in the Portfolio will be AA- by Standard & Poor's and Aa3 by Moody's or their equivalent.

Commercial Paper will be rated no less than A1 by Standard & Poor's or P1 by Moody's.

Sectors

Permitted investments for the Portfolio shall include:

1. Fixed income securities and other fixed income obligations of any type which may be issued or guaranteed by (i) the U.S. and the agencies, instrumentalities, and political sub-divisions of the U.S., and (ii) U.S. corporations, trusts and special purpose entities. Such securities must be traded on exchanges or in over the counter markets in the U.S.. No emerging markets' securities are allowed.
2. Repurchase agreements.

Restrictions on permitted investments

None of the Portfolio may be invested in foreign securities and in securities not denominated in U.S. dollars. Manager may not elect to hedge currency and/or interest rate exposure. No speculative currency positions are permitted.

All repurchase agreements will be transacted with counterparties approved by the Manager in accordance with its policies and procedures and terms and conditions set forth in the applicable Investment Management Agreement and any applicable Master Repurchase Agreement(s).

No investment in interest only ("IO"), principal only ("PO"), or inverse floater CMOs are permitted. The manager should only accept reasonable prepayment risk, consistent with the stated objectives of their respective funds.

Derivatives, or financial investments containing derivatives, are not permitted, defined as options, forwards, futures and swaps.

Investment transactions (i) which result in leverage or short sales and/or (ii) with affiliates of the Manager, are not permitted.

Diversification

No more than 5 % of the Portfolio will be invested in the securities of any one issuer, other than those securities issued or guaranteed by the U.S. government, its agencies, and instrumentalities and refunded municipal issues (all of which may be held without limit). For the purposes of this guideline, asset backed and mortgage-related securities (not issued by the U.S. Government, its agencies or instrumentalities), issued by trusts and other special purpose entities, will be limited to no more than 5 percent per issue, in addition to a common originator limit of no more than 20 percent.

B. Maturity

Portfolio duration will be maintained within a range of (+/-) six months of the index under normal market conditions. There will be no restriction on the duration of any single security. Duration will be calculated adjusting for

any optionality in securities as well as adjusting for the expected prepayment level of mortgage-backed security pools.

C. Calculation of Returns

Returns will be calculated in compliance with the Association for Investment Management and Research standards.

D. General

All percentage restrictions on Portfolio holdings will initially be evaluated at the time of purchase. At any time thereafter, concentrations in eligible portfolio investments will not exceed the prescribed limit by more than one percent.

Notwithstanding any provision to the contrary, Manager will not be required to sell any particular holding because a rating of a security is downgraded subsequent to purchase. However, Manager is required to notify the client in the event of a downgrade below investment grade. In the event a security is split rated, the lower rating will apply with respect to all portfolio percentage and quality restrictions.

Investment personnel who will have input into or control over any investment decision on behalf of the Commissioner are required, if they have a beneficial interest in that security, to disclose in writing their beneficial interest and receive written authority from the Commissioner before an investment decision is made.

E. Benchmark

The benchmark for the Portfolio will be the Lehman 1-3 Gov/Credit A or better, (the "Index"). The objective of the Portfolio will be to maintain safety of principal and maximize available yield while assuming a minimum of risk through a balance of quality and diversification within the portfolio.