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F I L E D
Clerk of the Superior Court

FEB 23 2010

By: C. BANKS, Deputy

*Attorneys for Applicant, Insurance Commissioner of
the State of California*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

**INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,**

Plaintiff,

v.

**FRONTIER PACIFIC INSURANCE
COMPANY, a California corporation,**

Defendants.

Case No. GIC 774028

**FOURTEENTH STATUS CONFERENCE
REPORT**

Date: March 12, 2010
Time: 1:00 p.m.
Dept: 71
Judge: Hon. Ronald S. Prager
Trial Date: None Set
Action Filed: September 7, 2001

INTRODUCTION

Frontier Pacific Insurance Company ("FPIC"), a California domiciled property and casualty company, was conserved by the Insurance Commissioner ("Commissioner") on September 7, 2001, based on a finding that further transaction of its business would be hazardous to policyholders and creditors pursuant to Insurance Code section 1011. Subsequently, the

1 Commissioner determined that FPIC's financial condition was such that rehabilitation would be
2 futile and the Commissioner's Application for Order Appointing Commissioner as Liquidator
3 ("Liquidator") and Restraining Orders was granted on November 30, 2001 (the "Liquidation
4 Order"). Prior to the Commissioner's actions, in August 2001, its parent company, Frontier
5 Insurance Company ("FIC") of New York voluntarily entered rehabilitation under the control of
6 the New York Superintendent of Insurance, acting through the New York Liquidation Bureau
7 (the "NYLB"). As a result of FIC's rehabilitation, certain reinsurance recoverables due to FPIC
8 from FIC were not received and could therefore no longer be carried as assets on the books of
9 FPIC. An examination by the California Department of Insurance's Financial Analysis Division
10 found that based on the disallowance of the FIC reinsurance credit in the amount of \$12,842,609,
11 FPIC's surplus as regards policyholders was a negative \$5,289,995.

12 At the time of the initial case management conference in this matter on March 15, 2002, the
13 Court announced its intention to hold semi-annual status conferences in this matter so that the
14 Court could periodically be informed regarding the status of the liquidation of FPIC. For the
15 convenience of the Court, the Liquidator presented the first status report on September 13, 2002,
16 the second on March 24, 2003, the third on February 24, 2004, the fourth on September 30, 2004,
17 the fifth on April 29, 2005, the sixth on January 13, 2006, the seventh on June 9, 2006, the eighth
18 report on January 5, 2006, the ninth report on October 5, 2007, the tenth report on April 16, 2008,
19 the eleventh report on October 17, 2008, the twelfth report on April 17, 2009 and the thirteenth
20 report on November 6, 2009.

21 THE LIQUIDATION ESTATE

22 The Liquidator is continuing the process and the work required to wind down the estate's
23 operation. The Liquidator currently employs two former FPIC employees. The Liquidator
24 utilizes these employees in a number of key areas including claims processing which handles the
25 Proofs of Claim ("POC"), and interfaces with the California Insurance Guarantee Association
26 ("CIGA") and other Insurance Guarantee Associations ("IGA") with respect to IGA/Uniform
27 Data Standard records and for POC management purposes. These services are critical to the
28

1 Liquidator's efforts because they allow him to verify claim eligibility, the IGAs' claims in the
2 proceedings and to prepare and pursue reinsurance recoverables.

3 **CLAIMS**

4 The following table is presented to show the status of creditor claims processed by the
5 Liquidator:

	COUNT	AMOUNT
6 POCs mailed	308,601	
7 Returned undeliverable by Postal Service.	271,858	
8 POCs resolved:		
9 Approved (in whole or part)	32,403	\$23,250,295
10 Rejected	3,911	\$125,076,520
11 POC records remaining open as of 9/30/09.	3	
12 Remaining POC claimed amounts		\$3,759,310

13 The POC records remaining open increased by one since the last Statement since the
14 Liquidator received a late POC which he is currently reviewing.

15 **INDEMNITY ENFORCEMENT AND EARNED PREMIUM COLLECTION**

16 The Liquidator is continuing both directly and through collection agents to enforce the
17 estate's indemnity rights against bond principals and their collateral as claims against surety
18 bonds are and have been determined and to collect outstanding premiums (also, please see
19 PREMIUM AUDIT AND COLLECTION, infra).

20 **INSURANCE GUARANTY FUND OPEN CLAIMS**

21 CIGA reports paid losses, including unearned premium return of \$11,920,112.00, loss
22 adjusting expense of \$6,302,238.00, and administrative expense of \$1,202,300.00 through
23 December 31, 2009. CIGA reports loss reserves of \$803,939.00, loss adjusting expense reserves
24 of \$945,525.00 and administrative expense reserves of \$20,000.00 through December 31, 2009.
25 With credit applied for salvage and subrogation collections in the amount of \$187,489.00,
26 through December 31, 2009 total incurred is \$21,056,625.00.
27
28

1 Similarly, the NYLB reports paid losses, including unearned premium return of
2 \$2,307,007.00, loss adjusting expense of \$439,233.00, and administrative expense of
3 \$858,322.00, through September 30, 2009. The NYLB reports loss reserves of \$25,000.00 and
4 loss adjusting expense reserves of \$6,372.00 through September 30, 2009 for a reported total
5 incurred as \$3,635,934.00.

6 **MARSHALING AND DISPOSITION OF SURETY BOND COLLATERAL**

7 FPIC and its agents (including its parent, FIC) held collateral in various forms as security
8 for the issuance of surety bonds, including large numbers of bail bonds. The Liquidator has
9 finalized and released to the appropriate parties, those which secured obligations which have
10 expired. All items of collateral associated with bail bonds have been returned, except those
11 associated with forfeited bonds. As for those outstanding unliquidated obligations, the Liquidator
12 is making suitable arrangements to effect release to the appropriate parties, including
13 escheatment. The Liquidator has reached an agreement with the NYLB on a procedure for the
14 disposition of collateral securing joint or several obligations of FPIC and FIC.

15 **PREMIUM AUDIT AND COLLECTION**

16 One of the Liquidator's main focuses has been the reconciliation, resolution and collection
17 of all outstanding premium monies due the estate. The process of reconciling FPIC agent
18 accounts with the accounts maintained by the NYLB is largely complete. The Liquidator is
19 continuing to work with the NYLB to collect outstanding premiums due to the estate.

20 **REINSURANCE**

21 The Liquidator is reconciling and collecting on the many group reinsurance programs that
22 were historically maintained by FPIC's former parent company, FIC, which is currently under
23 rehabilitation by the NYLB.

24 National Indemnity Company ("NICO"), FPIC's largest reinsurer, was presented a billing
25 by the Liquidator in 2005. Movement on this billing had been delayed due to FPIC's
26 involvement in another group reinsurance treaty, under which NICO had been substituted as the
27 reinsurer pursuant to a novation. NICO asserts that this latter treaty created joint and several
28 liability in FPIC for premiums due by FIC, which NICO asserts as a setoff against its obligations

1 to FPIC under their other reinsurance agreements. FPIC disputes this characterization, since the
2 contracts provide otherwise. The Liquidator is pursuing collection of these billings.

3 Although FPIC disputes NICO's legal position, FPIC sought a letter from FIC's
4 Rehabilitator directing NICO to release any claim it can allegedly assert against FPIC for FIC's
5 premium obligation. FIC refused to provide such a letter of direction and NICO continues to
6 assert a setoff against any additional amounts owed to FPIC under the reinsurance treaties in
7 question. Consequently, FPIC and NICO are in the process of commencing an arbitration
8 proceeding to resolve all issues under the reinsurance contracts. Both FPIC and NICO have
9 designated their party appointed arbitrators and are in the process of selecting an umpire. It is
10 expected that a panel will have been selected by the end of March 2010, with an organizational
11 meeting scheduled for April 2010.

12 In addition to the NICO program, other reinsurance treaties are being reviewed, billed and
13 collected by the Liquidator. As of 4th Quarter 2009, the Liquidator's best estimate to date
14 determines the net reinsurance asset remaining is \$28,595,757.

15 Of the remaining reinsurance assets, FIC owes over \$19 million to FPIC. FIC has been in
16 rehabilitation for over 8 ½ years. The NYLB asserts that it cannot make any payment on its
17 reinsurance obligations to FPIC until such time that it has satisfied all policy claims. However,
18 FIC is currently insolvent in excess of \$90 million and its assets continue to dissipate.
19 Consequently, the Liquidator has filed a petition in the New York Supreme Court overseeing
20 FIC's rehabilitation for an order of liquidation to permit the orderly distribution of FIC's assets
21 and to determine to what extent, if any, FIC can satisfy its reinsurance obligations to FPIC.

22 FINANCE

23 Attached as Exhibit 1 to this report is an unaudited financial statement for the liquidation
24 estate as of December 31, 2009. The statement is subject to adjustment as additional data is
25 obtained and analyzed.

26 LEGAL

27 As previously noted, the Liquidator instituted an action for declaratory relief against
28 National Indemnity Insurance Company entitled Steve Poizner, Insurance Commissioner for the

1 State of California in his capacity as Liquidator of Frontier Pacific Insurance Company vs.
2 National Indemnity Company, San Diego Superior Court, Case No. 37-2008-00080104-CU-MC-
3 CTL. NICO removed the case to the United States District Court for the Southern District of
4 California, where it was assigned Case No. 08 CV 772 L. Upon NICO's application, the court
5 granted its request to stay the proceeding pending completion of arbitration.

6 In view of the foregoing, as discussed under the Reinsurance portion of this Statement, the
7 Liquidator has commenced arbitration with NICO seeking recovery of all amounts due from
8 NICO and filed a petition in New York seeking an order liquidating FIC.

9 From time to time the Liquidator is made aware, by service or otherwise, of post-liquidation
10 lawsuits in which FPIC is named as a party defendant or cross-defendant. On each occasion, the
11 Liquidator has notified the opposing party of the existence of the order of liquidation entered in
12 this proceeding and the applicable restraining orders it contains. No application for relief from
13 the restraining orders is pending as of the date of this report. It has not become necessary for the
14 Liquidator to seek an order re contempt to prevent any matter from proceeding..

15 Dated: February 22, 2010

Respectfully Submitted,

16 EDMUND G. BROWN JR.
17 Attorney General of California
18 FELIX E. LEATHERWOOD
19 Supervising Deputy Attorney General
20 LESLIE BRANMAN SMITH
21 Deputy Attorney General



22 TIM NADER
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24 *Attorneys for Applicant, Insurance*
25 *Commissioner of the State of California*

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EXHIBIT A

656 Frontier Pacific Ins Co
STATEMENT OF ASSETS AND LIABILITIES
As of December 31, 2009

	Dec 31 <u>2008A</u>	Dec 31 <u>2009A</u>
ASSETS		
Cash and cash equivalents:		
Restricted	347,500	339,100
Participation in pooled investments, at market	16,444,400	16,585,700
Accrued investment income	114,400	96,300
Statutory deposits held by other states	2,313,900	2,314,800
Recoverable from reinsurers	46,737,600	46,737,600
Salvage and subrogation recoverable	131,100	61,400
Receivable from affiliates	1,248,000	1,287,200
Deposits and other assets	71,000	71,000
Total Available Assets	<u>67,407,900</u>	<u>67,493,100</u>
LIABILITIES		
Secured claims	397,400	356,100
Reserve for Federal income tax	394,400	2,281,900
Claims against policies, including guaranty associations, before distributions	53,653,800	53,908,900
California and Federal claims having preference	165,100	165,100
Payable to affiliates	381,600	381,600
All other claims	22,128,300	22,128,300
Total Estimated Liabilities	<u>77,120,600</u>	<u>79,221,900</u>
NET ASSETS (DEFICIENCY)	<u><u>(9,712,700)</u></u>	<u><u>(11,728,800)</u></u>

	<u>2008</u>	<u>2009 vtd</u>
ADMIN EXPENSES		
Legal expenses	74,100	188,300
Consultants and temps	124,400	58,100
Office expenses	67,800	75,000
Allocated overhead expenses	649,600	658,700
	<u>915,900</u>	<u>980,100</u>

F I L E D
Clerk of the S...

DECLARATION OF SERVICE BY U.S. MAIL

FEB 23 2010

Case Name: **Insurance Commissioner of the State of CA v. Frontier Pacific Insurance**
No.: **GIC774028**

I declare:

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 older and not a party to this matter. I am familiar with the business practice at the Office of 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 mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On February 23, 2010, I served the attached **FOURTEENTH STATUS CONFERENCE REPORT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

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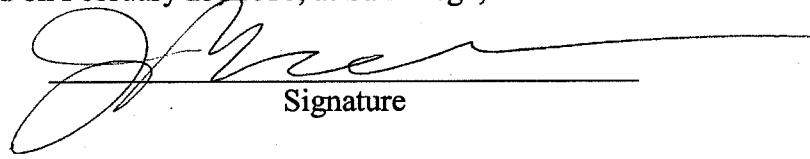
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Attn: Edward Moon, Claims Supervisor

Willard Roberts Estate Trust Officer
Conservation & Liquidation Office
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San Francisco, CA 94126-0894

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 23, 2010, at San Diego, California.

J. Grand
Declarant


Signature