

1 Robert H. Nunnally, Jr, SBN 134151  
2 WISENER★NUNNALLY★GOLD, LLP  
3 625 West Centerville Road, Suite 110  
4 Garland, Texas 75041  
5 (972) 840-9080  
6 Facsimile: (972) 840-6575

7 Attorneys for Insurance Commissioner

8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF LOS ANGELES**  
11

12 JOHN GARAMENDI, Insurance )  
13 Commissioner of the State of California, )

14 Applicant, )

15 vs. )

16 MISSION INSURANCE COMPANY, a )  
17 California corporation, )

18 Respondent. )

19 \_\_\_\_\_ )  
20 Consolidated with Case Numbers )

21 C 576 324; C 576 416; )  
22 C 576 323; C 576 325; C 629 709 )  
23 \_\_\_\_\_ )

Case No. C 572 724

Honorable John Shepard Wiley Jr.

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION TO  
AUTHORIZE CLOSING  
PROCEDURES**

Hon. John Shepard Wiley Jr.

Action Filed: October 31, 1985

Department: 50

Old Hearing Date: November 8, 2005

Final Hearing Date: December 30, 2005

Hearing Time: 8:30 a.m.

1 PLEASE TAKE NOTICE THAT the Court has entered that order which is attached as  
2 Exhibit "A" to this Notice, and set the hearings and deadlines more particularly described in that  
3 order. The Court further set December 30, 2005 at 8:30 a.m., or as soon thereafter as the matter may  
4 be heard for the final hearing on the motion, in Department 50, as set forth in the attached Exhibit  
5 "A".

6 Those who wish to review the Motion to Authorize Closing Procedures for Mission National  
7 Insurance Company Trust and the Motion to Authorize Closing Procedures for Mission Insurance  
8 Company Trust, previously filed with the Court and served upon the service list, may  
9 obtain a copy by visiting <http://www.caclo.org>.

10  
11 Respectfully submitted,

12 WISENER★NUNNALLY★GOLD, LLP

13  
14 

15 Robert H. Nunnally, Jr.  
16 625 West Centerville Road, Suite 110  
17 Garland, Texas 75041  
18 (972) 840-9080  
19 Facsimile: (972) 840-6575  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 ROBERT H. NUNNALLY, JR.  
 State Bar Number 134151  
 2 HAROLD B. GOLD  
 State Bar Number 93848  
 3 WISENER ♦ NUNNALLY ♦ GOLD, LLP  
 625 West Centerville Road, Suite 110  
 4 Garland, Texas 75041  
 (972) 840-9080  
 5 Facsimile (972) 840-6575  
 6 Attorneys for Insurance Commissioner  
 7  
 8  
 9

**ORIGINAL FILED**  
 NOV 16 2005  
 LOS ANGELES  
 SUPERIOR COURT

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF LOS ANGELES**

12	JOHN GARAMENDI, Insurance	)	Case No. C 572 724
	Commissioner of the State of California,	)	
13		)	Honorable John Shepard Wiley Jr.
	Applicant,	)	
14		)	<del>PROPOSED</del> ORDER WHICH
	vs.	)	<b>AUTHORIZES CLOSING PROCEDURE</b>
15		)	<b>FOR MISSION INSURANCE</b>
	MISSION INSURANCE COMPANY, a	)	<b>COMPANY TRUST AND MISSION</b>
16	California corporation,	)	<b>NATIONAL INSURANCE COMPANY</b>
		)	<b>TRUST</b>
17	Respondent.	)	
		)	Hon. John Shepard Wiley Jr.
18		)	Department: 50
		)	Action filed: October 31, 1985
19	Consolidated with Case Numbers	)	Hearing date: November 8, 2005
		)	Hearing time: 8:30 a.m.
20	C 576 324; C 576 416;	)	
	C 576 323; C 576 325; C 629 709	)	Date of Final Hearing December 30, 2005
21		)	at 8:30 a.m.
22		)	
23		)	
24		)	
25		)	
26		)	
27		)	
28		)	

1                   On the 8<sup>th</sup> day of November, 2005, the Court considered the Insurance  
2 Commissioner's Motion to Authorize Closing Procedure for Mission Insurance Company Trust and  
3 the Insurance Commissioner's Motion to Authorize Closing Procedures for Mission National  
4 Insurance Company Trust (the "Motion"). The Court considered the pleadings and papers on file, the  
5 response filed in opposition by Covanta Holding Corporation ("Covanta") and the reply to that  
6 response, and the argument of counsel at the hearing on the Motion.

7                   The Court GRANTS the Motion and orders as follows:

- 8                   1. The Court sets December 30, 2005 at 8:30 a.m., or as soon thereafter as the  
9 matter may be heard, at Department 50 of the Los Angeles Superior Court, 111 North Hill Street,  
10 Los Angeles, California, for the consideration of the matters raised in the Insurance  
11 Commissioner's Motion. The Court will consider the relief requested by the Insurance  
12 Commissioner, including, but not limited to the requests for an order or orders which:
- 13 a. settles and approves the accounting of the Insurance Commissioner;
  - 14 b. affirms the distribution of Covanta shares pro rata to all unpaid creditors, on such schedule as  
15 may be devised in connection with the hearing;
  - 16 c. settles the final accounts of the Insurance Commissioner and discharges the Insurance  
17 Commissioner as Trustee and as Liquidator as to the accounts;
  - 18 d. authorizes the closing of the Mission Insurance Company case, subject to this Court's  
19 continuing jurisdiction should further unanticipated collections be received after the date of closing,  
20 which will necessitate a further distribution;
  - 21 e. authorizes the Insurance Commissioner to take such steps as are necessary and appropriate to  
22 close the proceedings by the final date set by the Court;
  - 23 f. discharges the Liquidator and Trustee, and the Insurance Commissioner as well as the  
24 Conservation and Liquidation Office, its employees and agents, and the Liquidator and Trustee's  
25 agents, employees, attorneys and deputies.
  - 26 g. authorizes the Trustee to maintain the records of Mission Insurance Company Trust and Mission  
27 National Insurance Company Trust for three years, after which such records may be destroyed in  
28 the Trustee's discretion;

1 h. enter an order that the Trustee and Liquidator, the Conservation and Liquidation Office, the  
2 California Department of Insurance and their officers, employees, deputies, agents and attorneys,  
3 shall have no liability of any kind or nature arising from the activities prior to or during the  
4 liquidation of Mission Insurance Company and the Mission Insurance Company Trust, Mission  
5 National Insurance Company and the Mission National Insurance Company Trust.

6 i. authorizes the Insurance Commissioner to immediately destroy a group of old computer data  
7 tapes no longer used by the trusts but kept in storage at trust expense; and

8 j. to implement document retention policies which permit the eventual destruction of such other  
9 records as the Insurance Commissioner may determine appropriate; and

10 k. makes such other related orders regarding the closing of the cases as the Court may determine  
11 appropriate, including any instructions as to closing matters such as matters relating to Covanta.

12 In connection with this Motion, the Court is advised that the Insurance Commissioner will  
13 request that the trusts remain open for the collection of such additional funds and distributions as  
14 may be received by the Trusts for a period of some years after the Order. The Insurance  
15 Commissioner will request the Court to retain jurisdiction over these proceedings, and enter an  
16 order closing these proceedings, subject to re-opening these proceedings for a subsequent further  
17 distribution. In connection with the closing procedures, the Insurance Commissioner will request  
18 that this Court authorize the Insurance Commissioner to authorize the withholding of a substantial  
19 reserve from the early 2006 distribution, in order to ensure that all contingencies are adequately  
20 reserved against. The Insurance Commissioner anticipates a further distribution will be required,  
21 in some years, for which this Court is requested to retain continuing jurisdiction. The Court will  
22 consider the Insurance Commissioner's requested relief and reserve and whether to make orders  
23 respecting approving this relief and reserve.

24 The Court may also consider such other motions relating to closing as are presented at the  
25 hearing on December 30, 2005.

26 The Court authorizes publication of the order setting the final distribution motion in  
27 national publications and California newspapers, as well as the Insurance Commissioner's website.

28

1 The Court approves expenditure of the costs involved in such publications, estimated to exceed  
2 three hundred thousand dollars (\$300,000).

3 Any response or opposition, with supporting evidence, as to the Motion shall be filed on or  
4 before December 16, 2005, and a copy of such response or opposition shall be served by expedited  
5 service upon the service list. The Insurance Commissioner shall file any replies and supporting  
6 evidence on or before December 23, 2005, and shall serve a copy of such replies by expedited  
7 service on the service list.

8 On or before November 30, 2005, the Insurance Commissioner shall file a motion regarding  
9 the approval of a final accounting referenced in paragraph 1(a) above, with supporting evidence,  
10 and shall serve a copy of such motion by expedited service upon the service list. Any response or  
11 opposition, with supporting evidence, to said motion shall be filed on or before December 16, 2005,  
12 and a copy of such response or opposition shall be served with expedited service upon the service  
13 list. The Insurance Commissioner shall file any replies, with supporting evidence, on or before  
14 December 23, 2005, and a copy of such response or opposition shall be served with expedited  
15 service upon the service list.

16 Covanta has raised issues in its Opposition to the Motion that Covanta and the Insurance  
17 Commissioner are attempting to resolve. If these issues are not resolved by the parties, Covanta  
18 intends to present the issues to the Court for resolution. Nothing in this Order shall prejudice  
19 Covanta's ability to present these issues to the Court in an appropriate manner for proper resolution.  
20 Accordingly, notwithstanding anything above, a further status conference is set for December 9,  
21 2005 at 8:30 a.m. in Department 50, and Covanta and the Insurance Commissioner shall file a joint  
22 status report on December 7, 2005. If the parties do not resolve through discussion the issues  
23 Covanta asserts, and Covanta believes presenting these issues to the Court in an adequate manner  
24 for resolution will require proceedings beyond December 30, 2005, Covanta shall (i) identify the  
25 issues, (ii) the proceedings it believes are necessary to adequately present the issues for resolution  
26 (including discovery, if any), (iii) the time frame it believes will be necessary for the Court to  
27 resolve the issues, and (iv) the extent to which the above relief and orders the Insurance  
28 Commissioner intends to seek from the Court (set forth in paragraphs 1(a) through 1(k) above)

1 could nonetheless be granted on December 30, 2005 without prejudicing the adequate presentation  
2 of said issues by Covanta to the court for resolution. The Commissioner may set forth his contrary  
3 position on such matters to the extent the Commissioner disagrees with Covanta's position  
4 regarding timing and procedures for resolution of said issues and the matter should be presented to  
5 the Court at the status conference set for December 9, 2005.

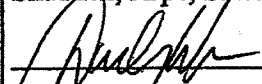
6  
7 Signed this 10 day of November, 2005.

8  
9 **JOHN SHEPARD WILEY JR.**

10 Judge of the Superior Court

11 Approved:

12 Skadden, Arps, Slate, Meagher & Flom, LLP

13  \_\_\_\_\_

14 Darrel J. Hieber

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28





New York Liquidation Bureau  
Attn: Mission - Nicholas L. Cremonese  
123 William Street  
New York, New York 10038-3889

John Horner  
Conservation & Liquidation Office  
P.O. Box 26894  
San Francisco, CA 94126

Robb Canning, Vice President  
Guy Carpenter  
One State Street, Suite 1500  
Hartford, CT 06103

John C. Craft, Esq.  
Lathrop & Gage Law Offices  
2345 Grand Blvd. Suite 2800  
Kansas City, MO. 64108-2612

Pamela Webster, Esq.  
Buchalter, Nemer, A Professional Corporation  
1000 Wilshire Blvd., 15<sup>th</sup> Floor  
Los Angeles, CA 90017

Jean L. Bertrand, Esq.  
Morgenstein & Jubelirer  
One Market Plaza, Spear St., 32d Fl  
San Francisco, CA 94105

General Counsel  
GAF Corporation  
1361 Alps Road  
Wayne, NJ 07470

Eric Lipsitt, Esq.  
Howard & Howard Attorneys, PC  
39400 Woodward Ave Ste 101  
Bloomfield Hills, MI 48304

Mohsen Sultan  
Conservation & Liquidation Office  
P.O. Box 26894  
San Francisco, CA 94126

Dean Hansell, Esq.  
LeBoeuf, Lamb, Greene & MacRae  
725 S. Figueroa, Suite 3100  
Los Angeles, CA 90017-5404

C. Guerry Collins, Esq.  
Lord, Bissell & Brook  
300 South Grand Avenue, 8<sup>th</sup> Floor  
Los Angeles, CA 90071

Lawrence Mulryan  
California Insurance Guarantee  
700 N. Brand Blvd. #12TH-FL  
Glendale, CA 91203-1247

Mark Egerman, Esq.  
9401 Wilshire Boulevard #500  
Beverly Hills, CA 90212

Stephan Mills, Esq.  
Zemanek & Mills  
11845 W. Olympic Blvd, Suite 625  
Los Angeles, CA 90064

Keith Wenzel  
Missouri Department of Insurance  
P.O. Box 690  
Jefferson City, MO 65102

Phillip A. Chambers, Esq.  
Foxley & Co.  
P.O. Box 1843  
Grand Junction, CO 81501

Jack Horn, Esq.  
California Dept. of Insurance  
45 Fremont Street, 24<sup>th</sup> Floor  
San Francisco, CA 94105

Jennifer A. Brennan  
Gilbert Heintz & Randolph LLP  
1100 New York Ave., NW, Ste 700  
Washington, DC 20005-3987

Bradley J. Bening  
Willoughby, Stuart & Bening  
50 West San Fernando, Suite 400  
San Jose, CA 95113

Wendy L. Feng  
Covington & Burling  
One Front Street  
San Francisco, CA 94111

Michael L. Cioffi  
Blank Rome, LLP  
PNC Center 201 East Fifth St., Ste. 1700  
Cincinnati, OH 45202

Stephen A. Marshall  
Sonnenschein Nath & Rosenthal, L.L.P.  
1221 Avenue of the Americas  
24<sup>th</sup> Floor  
New York, NY 10020-1089

Richard D. Milone  
Gilbert Heintz & Randolph LLP  
1100 New York Avenue, NW  
Suite 700  
Washington, DC 20005

Amy Fink, Esq.  
Howrey, Simon, Arnold & White, L.L.P.  
550 S. Hope St., 14<sup>th</sup> Floor  
Los Angeles, CA 90071

Burton C. Allyn, IV, Esq.  
JOHNS & ALLYN  
1010 B Street, Suite 350  
San Rafael, CA 94901

Christine Balthazar, Esq.  
LAW OFFICES OF  
CHRISTINE BALTHAZAR  
40 Old Ranch Road  
Novato, CA 94947

Vernon K. Jones  
29518 Rd. 156  
Visalia, CA 93295

Lawrence James Less  
Less & Weaver Attorneys At Law  
Sutter Plaza 1388 Sutter St., Suite 800  
San Francisco, CA. 94109-5453

Jordan Stanzler, Esq.  
Stanzler, Funderburk, & Castellon, L.L.P.  
180 Montgomery St. Suite 1700  
San Francisco, CA. 94104

Robert M. Mason, III, Esq.  
Bergman & Dacey, Inc.  
10880 Wilshire Blvd., Suite 900  
Los Angeles, CA. 90024

Stanley H. Shure, Esq.  
Morgan, Lewis & Bockius, L.L.P.  
300 South Grand Ave. 22<sup>nd</sup> Floor  
Los Angeles, CA. 90071-3132

John E.V. Pieski, Esq.  
Suite 400 Kane Building  
116 North Washington Avenue  
Scranton, PA 18501-0234

Monika P. Lee, Esq.  
Heller Ehrman White & McAuliffe LLP  
333 Bush Street  
San Francisco, CA. 94104-2878

David DeGroot, Esq.  
Sheppard, Mullin, Richter & Hampton, LLP  
Four Embarcadero Center, 17<sup>th</sup> Floor  
San Francisco, CA. 94111

David P. Schack  
Kirkpatrick & Lockhart, L.L.P.  
10100 Santa Monica Blvd., 7<sup>th</sup> Floor  
Los Angeles, CA. 90067

David G. Stone  
Neal, Gerber & Eisenberg, LLP  
2 N. LaSalle Street, Suite 2200  
Chicago, IL 60602

Helen L. Duncan, Esq.  
Fulbright & Jaworski  
555 S. Flower St.  
41<sup>st</sup> Floor  
Los Angeles, CA 90071

Maureen M. Michail, Esq.  
Daniels, Fine, Israel & Schonbuch, L.L.P.  
1801 Century Park East, Ninth Floor  
Los Angeles, CA. 90067

Darrel J. Hieber  
Skadden, Arps, Slate, Meagher & Flom, LLP  
300 South Grand Avenue  
Los Angeles, California 90071