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14 Attorneys for Applicant  
15 Insurance Commissioner of the State of California

16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF LOS ANGELES**  
18

19 INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA,

20 Applicant,

21 v.

22 GOLDEN STATE MUTUAL LIFE  
23 INSURANCE COMPANY, a California  
corporation,

24 Respondent.  
25  
26  
27  
28

Case No. BS123005  
Assigned to Hon. Ann I. Jones, Dept. 86

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
APPLICATION FOR ORDER  
AUTHORIZING LIQUIDATOR TO SELL  
REAL PROPERTY LOCATED AT 4801  
ALMEDA ROAD IN HOUSTON, TEXAS;  
AND DECLARATIONS OF SCOTT  
PEARCE, PETER C. KANE AND  
MICHAEL R. WEISS**

[Filed concurrently with Notice, Proposed  
Order, and Proof of Service]

Date: April 6, 2012  
Time: 9:30 a.m.  
Dept: 86

1 **I. INTRODUCTION**

2 This Application seeks the Court's approval for Applicant Insurance Commissioner of the  
3 State of California in his official statutory capacity as Liquidator ("Liquidator") of Golden State  
4 Mutual Life Insurance Company ("Golden State") to sell the real property, owned by Golden  
5 State, located at 4801 Almeda in Houston, Texas 77004 [APN: 0610940000034, 35, 36]  
6 ("Property"), to Dynasty Investments, Inc., a Texas Corporation ("Dynasty"), pursuant to the  
7 terms of a Real Estate Purchase Agreement between the Liquidator and Dynasty. The Purchase  
8 Agreement and First Amendment thereto are attached hereto as Exhibit 2.

9 Court approval of this sale should be granted for the following reasons:

- 10 1. The sale price of \$495,000 as stated on the First Amendment To Real Estate  
11 Purchase Agreement is the reasonable fair market value for the Property;
- 12 2. Dynasty is a third party purchaser not related to the Liquidator or to any person  
13 involved in Golden State's liquidation;
- 14 3. The Property was used for many years as Golden State's district office in Houston  
15 and has been listed for sale for over two years since October 2009;
- 16 4. The sale of the Property stops the further expenditure of Golden State's limited  
17 assets on property maintenance expenses including maintenance, insurance, property taxes and  
18 other costs associated with ownership and maintenance of the Property; and
- 19 5. The sale is consistent with the Liquidator's duty to marshal and monetize Golden  
20 State's remaining assets for distribution to creditors, and is consistent with the Liquidator's  
21 authority and discretion under the Court's Order of Liquidation, the Insurance Code and case law.

22 **II. FACTUAL BACKGROUND.**

23 **A. Liquidation Order.**

24 On January 28, 2011, this Court terminated the Insurance Commissioner's status as  
25 Golden State's Conservator, and ordered and appointed the Insurance Commissioner to serve as  
26 Golden State's Liquidator. (Declaration of Scott Pearce ("Pearce Dec."), ¶¶ 6-8; and Order of  
27 Liquidation, ¶¶ 1, 2, Exhibit 1.) The Order of Liquidation directs the Liquidator to liquidate and  
28 wind up the business of Golden State, and to sell, transfer or otherwise dispose of Golden State's

1 property at its reasonable market value; provided, however, Court approval is required for sales  
2 where the market value of the property involved exceeds \$20,000. (Order of Liquidation, ¶ 8,  
3 attached hereto as Exhibit 1; see also Insurance Code § 1037(d).)

4 **B. Golden State's assets to be liquidated.**

5 Currently there are two categories of Golden State's assets to be liquidated by the  
6 Liquidator: (1) real estate valued at approximately \$850,000, which includes the Property at issue  
7 here, and (2) artwork and murals whose value is estimated to be at least \$753,200. The real estate  
8 remains listed for sale and/or under contract for sale, and the sale of the artwork and murals is  
9 delayed pending resolution of a quiet title lawsuit asserted by a third party, addressing a  
10 monument designation by the City of Los Angeles, and further evaluation by the Liquidator of the  
11 value of the artwork and murals once confirmed to be Golden State's personal property. (Pearce  
12 Dec., ¶ 9; Declaration of Michael R. Weiss ("Weiss Dec."), ¶ 4.)

13 **C. Purchase Agreement for the Property.**

14 On December 22, 2011, the Liquidator on behalf of Golden State entered into a Real  
15 Estate Purchase Agreement, Subject To Liquidation Court Confirmation ("Purchase Agreement"),  
16 with the buyer Dynasty, for the sale of the Property at the sale price of \$500,000. After  
17 concluding extensive property inspections, Dynasty sought a material reduction to the purchase  
18 price. On February 16, 2012, the sale price was reduced to \$495,000 pursuant to a First  
19 Amendment To Real Estate Purchase Agreement, Subject To Liquidation Court Confirmation  
20 (made part of the Purchase Agreement). Dynasty is a third party purchaser not related to the  
21 Liquidator or to any other person involved in Golden State's liquidation. (Pearce Dec., ¶¶ 10-11;  
22 and Purchase Agreement, Exhibit 2.)

23 **D. Market Value of the Property.**

24 After taking into account the amount of time the Property remained on the open market  
25 and the continuing cost to hold the Property, the sale price of \$495,000 for the Property is the  
26 reasonable fair market value for the Property, as established in the Declaration of Peter C. Kane  
27 attached hereto. (Declaration of Peter C. Kane ("Kane Dec."), ¶¶ 7-10; and Pearce Dec., ¶ 12.)  
28

1           **E. Notice of this Application.**

2           The Liquidator is not aware of any persons or entities that may be adversely affected by  
3 this application. Nonetheless, the Liquidator has provided written notice of this application to all  
4 persons who have routinely been provided notice of the Liquidator's Court applications. Such  
5 persons include Golden State's Certificate of Contribution holders and, due to prior requests to  
6 receive copies of court filings in this matter, The National Organization of Life and Health  
7 Insurance Guaranty Associations ("NOLHGA") and its attorneys, Pension Benefit Guaranty  
8 Corporation, attorneys for Community Impact Development II, LLC, and Pitney Bowes, Inc. The  
9 above described persons and entities are listed on the Proof of Service filed concurrently  
10 herewith. (Weiss Dec., ¶ 3; and Proof of Service.)

11       **III. ARGUMENT**

12           There is good cause for the Court to authorize the sale of the Property to Dynasty.

13       **A. The Sale Is Consistent With The Liquidator's Authority Set Forth In The**  
14       **Order Of Liquidation.**

15           The Order of Liquidation directs the Liquidator to liquidate and wind up the business of  
16 Golden State, and to sell, transfer or otherwise dispose of Golden State's property at its  
17 reasonable market value with Court approval. (Order of Liquidation, ¶¶ 1, 2 and 8, Exhibit 1; see  
18 also Insurance Code § 1037(d).)

19           Here, the sale of the Property is rational, geared toward maximizing Golden State's  
20 liquidation estate value and in the best interests of Golden State's policyholders and creditors  
21 because:

22                   1.       The sale price of \$495,000 for the Property is the reasonable fair market  
23 value for the Property. As established in the Declaration of Peter Kane, in or about October 2009,  
24 Golden State commenced marketing the Property by listing it with Womack Development and  
25 Investment Realtors, Inc. The original list price was \$788,244 (\$43 psf). This listing broker  
26 produced three (3) potential sales, as follows: (a) AAA Treasurer International with a sales price  
27 of \$650,000, (b) Strode Churchwell with a sales price of \$625,000, and (c) AK Capital with a  
28 sales price of \$585,000. Due to a variety of reasons, the aforementioned contracts did not

1 advance past final inspections and were not successfully closed. After a period of time, the listing  
2 agreement with Womack Development and Investment Realtors, Inc. expired. (Kane Dec., ¶ 7;  
3 Pearce Dec., ¶¶ 10-12; and Exhibit 2.)

4       Thereafter, in or about October 2010, Golden State, through Kane Corporation (“Kane”),  
5 continued marketing the Property. Kane interviewed the previous listing broker, as well as other  
6 local Houston, Texas real estate brokers. Kane recommended the selection of McDale, Smith,  
7 Gould, Johnson, Mason & Company (n.k.a. “Mason Partners”). The Property was listed for sale  
8 with Mason Partners. The listing price recommended by the broker for the Property in October  
9 2010 was \$595,000. The Property was exposed via Mason Partners’ website, CoStar.com,  
10 LoopNet.com and several other marketing mediums used to inform and track potential buyers.  
11 The Property had many showings and generated five (5) offers to purchase ranging from  
12 \$350,000 to \$550,000. (Kane Dec., ¶ 8; Pearce Dec., ¶¶ 10-12; and Exhibit 2.)

13       On December 22, 2012, after two years on the market, the Liquidator on behalf of Golden  
14 State entered into a Purchase Agreement with the buyer Dynasty for the sale of the Property at the  
15 sale price of \$500,000. Thereafter, after concluding extensive property inspections, Dynasty  
16 sought a material price reduction to address certain issues with the Property. On February 16,  
17 2012, the sales price was reduced by \$5,000 to \$495,000. This sales price reduction was granted  
18 to induce the buyer to accept the Property in its “as is” condition and close the transaction subject  
19 to court approval. (Kane Dec., ¶ 9; Pearce Dec., ¶¶ 10-12; and Exhibit 2.)

20       Based upon the Property being exposed to the open market for approximately two years,  
21 with postings on several websites, signage on the property and numerous Property showings, it is  
22 believed that the sales price of \$495,000 for the sale of the Property to Dynasty is the reasonable  
23 fair market value for the Property. (Kane Dec., ¶ 10; Pearce Dec., ¶¶ 10-12; and Exhibit 2.)

24               2.       Dynasty is a third party purchaser not related to the Liquidator or to any  
25 other person involved in Golden State’s liquidation. (Pearce Dec., ¶ 11.)

26               3.       The Property was used for Golden State’s district office in Houston and has  
27 been listed for sale for two years since October 1, 2009. (Pearce Dec., ¶ 13.)  
28

1           4.       The sale of the Property stops the further expenditure of Golden State's  
2 limited assets on property maintenance expenses including maintenance, insurance, property taxes  
3 and any other costs associated with maintaining the Property. Currently, the Property continues  
4 to incur such monthly costs at the expense of the liquidation estate. Stopping such expenditure, in  
5 light of Golden State's liquidation and limited assets, is reasonable and in the best interests of  
6 Golden State's policyholders and creditors. (Pearce Dec., ¶ 14.)

7           **B.       The Sale Is Consistent With The Liquidator's Authorities And Discretion**  
8                   **Under The Court's Order Of Liquidation, The Insurance Code And Case**  
9                   **Law – All Of Which Grant Broad Powers To The Insurance Commissioner**  
10                  **As Liquidator Of Insurance Companies.**

11           First, pursuant to the Order of Liquidation, the Liquidator is "authorized ... to do such  
12 other acts as are necessary or expedient to collect, conserve, protect and/or liquidate Golden  
13 State's assets, property and business." (Order of Liquidation, ¶ 5, Exhibit 1.)

14           Second, Insurance Code § 1037, entitled "Powers of commissioner as conservator or  
15 liquidator," provides broad powers to the Insurance Commissioner as conservator and liquidator  
16 of insurance companies and authorizes the Liquidator to sell and dispose of Golden State's  
17 property. Section 1037 states in pertinent part:

18                   Upon taking possession of the property and business of any person in any  
19 proceeding under this article, the commissioner, exclusively and except as  
20 otherwise expressly provided by this article, either as conservator or liquidator:

21                   (a) [Conservation of assets; conduct of business.] Shall have authority to  
22 collect all moneys due that person, and to do such other acts as are necessary or  
23 expedient to collect, conserve, or protect its assets, property, and business, and to  
24 carry on and conduct the business and affairs of that person or so much thereof as  
25 to him or her may seem appropriate.

26                   ....

27                   (d) [Acquisition and disposition of property.] Shall have authority without  
28 notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon,  
or otherwise dispose of or deal with, any real or personal property of that person at  
its reasonable market value, or, in cases other than acquisition, sale, or transfer on  
the basis of reasonable market value, upon such terms and conditions as the  
commissioner may deem proper. However, no transaction involving real or  
personal property shall be made where the market value of the property involved

1 exceeds the sum of twenty thousand dollars (\$20,000) without first obtaining  
2 permission of the court, and then only in accordance with any terms that court may  
3 prescribe.

4 . . .  
5 [General powers.] The enumeration, in this article, of the duties, powers  
6 and authority of the commissioner in proceedings under this article shall not be  
7 construed as a limitation upon the commissioner, nor shall it exclude in any  
8 manner his or her right to perform and to do such other acts not herein specifically  
9 enumerated, or otherwise provided for, which the commissioner may deem  
10 necessary or expedient for the accomplishment or in aid of the purpose of such  
11 proceedings.

12 Third, California case law supports the broad grant of powers accorded the Insurance  
13 Commissioner to transfer assets when he is conserving, rehabilitating, and/or liquidating  
14 insurance companies. For instance, in *In Re Executive Life Insurance Company* (1995) 32  
15 Cal.App.4th 344, the Court of Appeal stated that:

16 The Commissioner is an officer of the state (*Caminetti v. Pac.*  
17 *Mutual L. Ins. Co.* (1943) 22 Cal.2d 344, 354 [139 P.2d 908]) who, when  
18 he or she is a conservator, exercises the state's police power to carry  
19 forward the public interest and to protect policyholders and creditors of the  
20 insolvent insurer. (*Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d  
21 307, 330-331 [74 P.2d 761].)

22 In exercising this power, the Commissioner is vested with broad discretion.  
23 (*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p.  
24 402.) This discretion is subject to statutory limitations (see *id.* at p. 409) and the  
25 requirement that the exercise of discretion be neither arbitrary nor improperly  
26 discriminatory. (*Carpenter v. Pacific Mut. Life Ins. Co.*, *supra*, 10 Cal.2d at p.  
27 329.) The Commissioner as conservator of the insolvent insurer is also a trustee for  
28 the benefit of all creditors and other persons interested in the insolvency estate.  
([Insurance Code] § 1057.)

(*In Re Executive Life*, *supra*, at p. 356.)

The Court concluded that:

. . . The trial court reviews the Commissioner's actions under the abuse of  
discretion standard. (*Commercial Nat. Bank v. Superior Court*, *supra*, 14  
Cal.App.4th 393, 398): was the action arbitrary, i.e. unsupported by a rational  
basis, or is it contrary to specific statute, a breach of the fiduciary duty of the  
conservator as trustee, or improperly discriminatory?

(*In Re Executive Life*, *supra*, at p. 358.)

1 **IV. CONCLUSION**

2 In sum, there is good cause for the Court to grant this Application. Accordingly, the  
3 Liquidator requests that the Court grant this Application and issue the following orders:

4 1. An Order authorizing the Liquidator to sell the Property to Dynasty pursuant to the  
5 terms of the Purchase Agreement; and

6 2. An Order authorizing the Liquidator to take any and all actions necessary to  
7 accomplish the purposes of the requested Order.

8 DATE: February 29, 2012

KAMALA D. HARRIS  
Attorney General of California  
FELIX E. LEATHERWOOD  
W. DEAN FREEMAN  
Supervising Deputy Attorneys General  
ELISA B. WOLFE-DONATO  
Deputy Attorney General

EPSTEIN TURNER WEISS  
A Professional Corporation

14  
15 By: 

16 MICHAEL R. WEISS  
17 Attorneys for Applicant  
18 INSURANCE COMMISSIONER OF THE  
19 STATE OF CALIFORNIA  
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**DECLARATION OF SCOTT PEARCE**

I, Scott Pearce, declare as follows:

1. I have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am the Senior Estate Trust Officer for the Insurance Commissioner's Conservation & Liquidation Office. Starting on September 30, 2009, and continuing to the present, I have been and currently am the Estate Trust Officer on behalf of the Insurance Commissioner in his Statutory Capacity as Conservator ("Conservator") and then as Liquidator ("Liquidator") of Golden State Mutual Life Insurance Company ("Golden State").

3. As the Senior Estate Trust Officer on behalf of the Conservator and now Liquidator of Golden State, I am responsible for the supervision and management of matters pertaining to the conservation and liquidation of Golden State.

4. I have read the Liquidator's Application For Order Authorizing Liquidator To Sell Real Property Located At 4801 Alameda Road In Houston, Texas, and the attached Memorandum and Declarations of Michael R. Weiss and Peter C. Kane ("Application").

5. Based on my supervision and management of matters pertaining to Golden State, my experience, review and understanding of the events related to the conservation and now liquidation of Golden State, my and my staff's review of the files and records routinely maintained in the regular and ordinary course of business and believed to be entered contemporaneously by persons having knowledge of the events recorded and whose job duties include recording them, my involvement in the sale of this Property, and my review of this Application and its supporting papers and documents, I state the following:

**Order of Liquidation for Golden State.**

6. On January 28, 2011, this Court terminated the Insurance Commissioner's status as Conservator and ordered and appointed the Insurance Commissioner to serve as Liquidator of Golden State.

7. The Insurance Commissioner was appointed Liquidator because Golden State was and remains insolvent in that, as of September 30, 2010, Golden State's estimated liabilities of

1 \$9,291,895 exceeded its estimated remaining assets of \$5,721,154 by over \$3.5 million  
2 (\$5,721,154 in assets - \$9,291,895 in liabilities = \$-3,570,741). The current estimated deficiency  
3 is \$5,946,228. Attached hereto and incorporated herein as Exhibit 1 is a true and correct copy of  
4 the Court's Order of Liquidation. The Order of Liquidation directs the Insurance Commissioner  
5 to liquidate and wind up the business of Golden State.

6 8. The December 31, 2011 financials have increased the shortfall to \$8,693,400, in  
7 that as of December 31, 2011, estimated liabilities are \$10,363,900 and remaining estimated  
8 assets are \$1,670,500.

9 **Golden State's Assets Currently to be Liquidated.**

10 9. Currently there are two categories of Golden State's assets to be liquidated by the  
11 Liquidator: (1) real estate valued at approximately \$850,000, which includes the real property,  
12 owned by Golden State, located at 4801 Almeda in Houston, Texas 77004 [APN:  
13 0610940000034, 35, 36] ("Property"), and (2) artwork and murals whose value is estimated to be  
14 at least \$753,200. The real estate remains listed for sale and/or is under contract for sale, and the  
15 sale of the artwork and murals is delayed pending resolution of a quiet title lawsuit commenced  
16 by Community Impact Development II, LLC, and a monument designation by the City of Los  
17 Angeles, and further evaluation by the Liquidator of the value of the artwork and murals once  
18 confirmed to be Golden State's personal property.

19 **Purchase Agreement for Property.**

20 10. On December 22, 2011, the Liquidator on behalf of Golden State entered into a  
21 Real Estate Purchase Agreement, Subject To Liquidation Court Confirmation ("Purchase  
22 Agreement"), with the buyer Dynasty International, Inc., a Texas Corporation ("Dynasty"), for  
23 the sale of the Property at the sale price of \$500,000. After conducting extensive property  
24 inspections, Dynasty sought a material reduction to the purchase price. On February 16, 2012, the  
25 sale price was reduced to \$495,000 pursuant to a First Amendment To Real Estate Purchase  
26 Agreement, Subject To Liquidation Court Confirmation (made part of the Purchase Agreement).  
27 A true and correct copy of the Purchase Agreement is attached hereto and incorporated herein as  
28 Exhibit 2.

11. Dynasty is a third party purchaser not related to the Liquidator or to any other person involved in Golden State's liquidation.

**Market Value of the Property.**

12. Based on my involvement in the sale of the Property and my understanding of the sale efforts and information regarding the Property, and after taking into account the amount of time the Property remained on the open market and the continuing cost to hold the Property, I believe the sale price of \$495,000 is the reasonable fair market value for the Property.

13. The Property was used for Golden State's district office in Houston and has been listed for sale for over two years since October 2009.

14. The sale of the Property stops the further expenditure of Golden State's limited assets on property maintenance expenses including maintenance, insurance, property taxes and any other costs associated with maintaining the Property. Currently, the Property continues to incur such monthly costs at the expense of the liquidation estate. Stopping such expenditure, in light of Golden State's liquidation and limited assets, is reasonable and in the best interests of Golden State's policyholders and creditors.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 27<sup>th</sup> day of February, 2012, at San Francisco, California.

  
SCOTT PEARCE

**DECLARATION OF PETER C. KANE**

I, Peter C. Kane, declare as follows:

1. I have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am a real estate consultant and have been actively engaged in the real estate and real estate “turnaround” profession since 1984. I am the chief executive officer of Kane Corporation. Kane Corporation (“Kane”) is a real estate “turnaround” firm specializing in solving complex operational, financial, structural, and managerial problems for some of the largest problematic real estate portfolios in the United States. Kane has provided asset analysis, acquisition management, capital enhancement, debt/equity structuring, valuation, disposition, and consultation services for a variety of clients, including without limitation life insurance companies, property and casualty insurance companies, Fortune 500 companies, savings banks, community banks, national banks, state/federal regulatory authorities, public accounting firms, attorneys, real estate service companies, and private investors.

3. I have been a licensed real estate professional since 1980, and maintain affiliations with the National Association of Realtors, California Association of Realtors, National Association of Insurance Commissioners, and International Association of Insurance Receivers.

4. Starting on September 30, 2009, Kane has been retained by the Insurance Commissioner of the State of California, in his capacity as Conservator (“Conservator”) and then as Liquidator (“Liquidator”) of Golden State Mutual Life Insurance Company (“Golden State”), to provide, and has provided, real estate consulting services including real estate asset analyses, valuation, marketing, disposition and sales services concerning Golden State’s real estate mortgage portfolio and real estate holdings throughout the country.

5. I have read the Liquidator’s Application For Order Authorizing Liquidator To Sell Real Property Located At 4801 Alameda Road In Houston, Texas, 77004, and the attached Memorandum and Declarations of Scott Pearce and Michael R. Weiss (“Application”). I make this declaration in support of said Application.

6. Based on the above described consulting services provided by Kane, my review of

1 this Application and its supporting papers and documents, I state the following:

2 7. In or about October 2009, Golden State commenced marketing the real property  
3 located at 4801 Almeda in Houston, Texas 77004 [APN: 0610940000034, 35, 36] ("Property") by  
4 listing it with Womack Development and Investment Realtors, Inc. The original list price was  
5 \$788,244 (\$43 psf). This listing broker produced three (3) potential sales, as follows:

6 a. AAA Treasurer International - \$650,000

7 b. Strode Churchwell - \$625,000

8 c. AK Capital - \$585,000

9 Due to a variety of reasons, the aforementioned contracts did not advance past final inspections  
10 and were not successfully closed. After a period of time, the listing agreement with Womack  
11 Development and Investment Realtors, Inc. expired.

12 8. In or about October 2010, Golden State, through Kane, continued marketing the  
13 Property. Kane interviewed the previous listing broker, as well as other local Houston, Texas real  
14 estate brokers. Kane recommended the selection of McDale, Smith, Gould, Johnson, Mason &  
15 Company (n.k.a. "Mason Partners"). The Property was listed for sale with Mason Partners. The  
16 listing price recommended by the broker for the Property in October 2010 was \$595,000. The  
17 Property was exposed via Mason Partners' website, CoStar.com, LoopNet.com and several other  
18 marketing mediums used to inform and track potential buyers. The Property had many showings  
19 and generated five (5) offers to purchase ranging from \$350,000 to \$550,000.

20 9. On December 22, 2011, the Liquidator on behalf of Golden State entered into a  
21 Real Estate Purchase Agreement, Subject To Liquidation Court Confirmation ("Purchase  
22 Agreement"), with the buyer Dynasty International, Inc., a Texas Corporation ("Dynasty"), for  
23 the sale of the Property at the sale price of \$500,000. After concluding extensive property  
24 inspections, Dynasty sought a material price reduction to address certain issues with the Property.  
25 On February 16, 2012, the sales price was reduced by \$5,000 to \$495,000. This sales price  
26 reduction was granted to induce the buyer to accept the Property in its "as is" condition and close  
27 the transaction subject to court approval. The adjustment in the sales price to \$495,000 is  
28 reflected in the First Amendment To Real Estate Purchase Agreement, Subject To Liquidation

1 Court Confirmation (made part of the Purchase Agreement). A true and correct copy of the  
2 Purchase Agreement is attached hereto and incorporated herein as Exhibit 2.

3 10. Based upon the Property being exposed to the open market for approximately two  
4 years, with postings on several websites, signage on the property and numerous Property  
5 showings, I believe the sales price of \$495,000 for the sale of the Property to Dynasty is the  
6 reasonable fair market value for the Property. The Property continues to incur monthly costs at  
7 the expense of the liquidation estate including taxes, insurance, utilities and periodic repairs.

8 I declare under penalty of perjury under the laws of the State of California that the  
9 foregoing is true and correct.

10 Executed on this 29 day of February, 2012, at Atherton, California.

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13 PETER C. KANE  
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**DECLARATION OF MICHAEL R. WEISS**

I, Michael R. Weiss, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am an attorney licensed to practice law in the State of California, and am a partner with the law firm Epstein Turner Weiss, A Professional Corporation. I and Epstein, Turner Weiss have been retained by the Insurance Commissioner of the State of California, in his capacity as Conservator (“Conservator”) and then as Liquidator (“Liquidator”) of Golden State Mutual Life Insurance Company (“Golden State”), to provide legal services concerning Golden State. I make this declaration in support of the Liquidator’s Application For Order Authorizing Liquidator To Sell Real Property Located At 4801 Almeda in Houston, Texas 77004 [APN: 0610940000034, 35, 36] (“Application”).

3. The Liquidator has provided written notice of this Application to all persons and entities known to the Liquidator or his staff that may have a substantial, unsatisfied claim that may be affected by this application and any Court Orders pertaining thereto, regardless of whether the persons or entities are a party to this action or have appeared in it, in compliance with California Rules of Court Rule 3.1184(c). Said persons and entities include the Pension Benefit Guaranty Corporation, National Organization of Life and Health Insurance Guaranty Associations and its attorneys, and Certificate of Contribution holders. Additionally, due to prior requests to receive copies of court filings in this matter, the Liquidator has provided notice of this application to Community Impact Development II, LLC, and Pitney Bowes, Inc. The above described persons and entities are listed on the Proof of Service filed concurrently herewith. To maintain confidentiality, the names and addresses of Certificate of Contribution Holders are not listed on the Proof of Service.

4. As the Court is aware, the Golden State murals are the subject of a quiet title lawsuit filed by Community Impact Development (“CID”) in which CID seeks ownership of the murals. The murals also are the subject of a monument designation by the City of Los Angeles,

1 which has caused Golden State to file a petition for writ of mandate proceeding. Therefore the  
2 sale of the murals is delayed pending final determination of these actions.

3 I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct.

5 Executed on this 29<sup>th</sup> day of February, 2012, at Los Angeles, California.

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8 MICHAEL R. WEISS  
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# **EXHIBIT 1**

ORIGINAL FILED

JAN 28 2011

RECEIVED

LOS ANGELES  
SUPERIOR COURT

DEC 21 2010

DEPT86

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15 Insurance Commissioner of the State of California

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 FOR THE COUNTY OF LOS ANGELES

18  
19 INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA,

20 Applicant,

21 v.

22 GOLDEN STATE MUTUAL LIFE  
23 INSURANCE COMPANY, a California  
corporation,

24 Respondent.

Case No. BS123005  
Assigned to Hon. Ann I. Jones, Dept. 86

~~[PROPOSED]~~ ORDER OF LIQUIDATION  
AND ORDERS AND INJUNCTIONS IN  
AID OF LIQUIDATION FOR GOLDEN  
STATE MUTUAL LIFE INSURANCE  
COMPANY

Date: January 28, 2011  
Time: 9:30 a.m.  
Dept: 86

1 On January 28, 2011, in Department 86 of the above-entitled Court, the Honorable Ann I.  
2 Jones, Judge Presiding (the "Court"), the Court held the hearing on the Court's Order to Show  
3 Cause and the Motion For Order Of Liquidation And Orders And Injunctions In Aid Of  
4 Liquidation For Golden State Mutual Life Insurance Company, filed by Applicant Steve Poizner,  
5 Insurance Commissioner of the State of California, in his capacity as Conservator ("Conservator")  
6 of Golden State Mutual Life Insurance Company in Conservation ("Golden State"). Deputy  
7 Attorney General Marta L. Smith and attorney Michael R. Weiss appeared on behalf of the  
8 Conservator. Other appearances, if any, are noted in the record.

9 The Court, having read and considered the Conservator's Notice of Order to Show Cause  
10 and Motion, Memorandum of Points and Authorities in support of the Motion, the Declarations of  
11 David E. Wilson and Michael R. Weiss, and all documents and evidence submitted, and having  
12 heard and considered the arguments presented to the Court, and upon good cause shown,

13 IT IS HEREBY ORDERED that the Conservator's Motion is granted and that:

14 **A. Liquidation, Administration and Operation**

15 1. As of September 30, 2010, Golden State is insolvent and remains insolvent today,  
16 and it would be futile for the Commissioner to proceed as Conservator; and therefore, sufficient  
17 grounds exist in accordance with Insurance Code § 1016 for entry of an order of liquidation of  
18 Golden State. (Insurance Code § 1016.)

19 2. The Commissioner's status as Conservator is terminated, he is appointed  
20 Liquidator of Golden State as set forth in Insurance Code § 1016, and he is directed as Liquidator  
21 to liquidate and wind up the business of Golden State and to act in all ways and exercise all  
22 powers necessary for the purpose of carrying out this Order. (Insurance Code § 1016.)

23 3. Title to all of the assets of Golden State, wheresoever situated, shall remain vested  
24 in the Commissioner, now as Liquidator, or his successor in office, in his official capacity as  
25 such, including without limitation real and personal property, deposits, certificates of deposit,  
26 bank accounts, mutual funds, securities, contracts, rights of actions, books, records and other  
27 assets of any and every type and nature, wheresoever situated, presently in Golden State's  
28

1 possession and/or those which may be discovered hereafter. (Insurance Code §§ 1011, 1016 and  
2 1037 General Powers.)

3 4. All funds and assets, including without limitation deposits, certificates of deposit,  
4 bank accounts, securities, and mutual fund shares of Golden State, in various financial depository  
5 institutions, including without limitation banks, savings and loan associations, industrial loan  
6 companies, mutual funds and/or stock brokerages, wheresoever situated, are subject to withdrawal  
7 only upon direction or order by the Liquidator. (Insurance Code §§ 1011, 1016 and 1037 General  
8 Powers.)

9 5. The Liquidator is authorized to collect all moneys due to Golden State, and to do  
10 such other acts as are necessary or expedient to collect, conserve, protect and/or liquidate Golden  
11 State's assets, property and business. (Insurance Code § 1037(a).)

12 6. The Conservator is authorized to collect all debts due and claims belonging to  
13 Golden State and to have the authority to sell, compound, compromise, or assign, for the purpose  
14 of collection upon such terms and conditions as the Liquidator deems best, any bad or doubtful  
15 debts. (Insurance Code § 1037(b).)

16 7. The Liquidator is authorized to compound, compromise or in any other manner  
17 negotiate settlements of claims against Golden State upon such terms and conditions as the  
18 Liquidator shall deem to be most advantageous to the estate of Golden State. (Insurance Code §  
19 1037(c).)

20 8. The Liquidator is authorized, without permission of the court and without notice,  
21 to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of  
22 or deal with, any real or personal property of Golden State at its reasonable market value, or, in  
23 cases other than acquisition, sale, or transfer on the basis of reasonable market value, upon such  
24 terms and conditions as the Liquidator may deem proper, provided the market value of the  
25 property involved does not exceed the sum of twenty thousand dollars (\$20,000). (Insurance  
26 Code § 1037(d).)

27 9. The Liquidator is authorized to transfer to a trustee or trustees, under a voting trust  
28 agreement, the stock of Golden State heretofore or hereafter issued to the Liquidator in

1 connection with a rehabilitation or reinsurance agreement, or any other proceeding under  
2 Insurance Code § 1010 *et seq.* (Insurance Code § 1037(e).)

3 10. The Liquidator is authorized, for the purpose of executing and performing any of  
4 the powers and authority conferred upon the Liquidator under Insurance Code § 1010 *et seq.*, in  
5 the name of Golden State or in the Liquidator's own name, to initiate, prosecute and/or defend any  
6 and all suits and other legal proceedings, legal or equitable, and to execute, acknowledge and  
7 deliver any and all deeds, assignments, releases and other instruments necessary and proper to  
8 effectuate any sale of any real and personal property or other transaction in connection with the  
9 administration, liquidation or other disposition of the assets of Golden State, in this or other states  
10 as may appear to him necessary to carry out his functions as Liquidator. (Insurance Code §  
11 1037(f) and 1037 General Powers.)

12 11. The Liquidator is authorized to divert, take possession of and secure all mail of  
13 Golden State and to effect a change in the rights to use any and all post office boxes and other  
14 mail collection facilities used by Golden State. (Insurance Code §§ 1011 and 1037 General  
15 Powers.)

16 12. The Liquidator is authorized, without permission of the court and without notice,  
17 to invest and reinvest, in such manner as the Liquidator may deem suitable for the best interests of  
18 the policyholders and/or creditors of Golden State, such portions of the funds and assets of  
19 Golden State in his possession as do not exceed the amount of the reserves required by law to be  
20 maintained by Golden State as reserves for life insurance policies, annuity contracts,  
21 supplementary agreements incidental to life business, and reserves for non-cancelable disability  
22 policies, and which funds and assets are not immediately distributable to creditors, provided the  
23 investment or reinvestment to be made does not exceed the sum of one hundred thousand dollars  
24 (\$100,000), except that the Liquidator, without permission of the court and without notice, may  
25 make investments or reinvestments in excess of \$100,000, but not exceeding \$5,000,000 per  
26 investment or reinvestment, if such investments or reinvestments are part of Golden State's  
27 existing investments or are made pursuant to the investment guidelines of the Commissioner's  
28 Conservation & Liquidation Office including investments and reinvestments through an

1 investment pool consisting exclusively of assets from conserved and/or liquidating estates.  
2 (Insurance Code § 1037(g) and General Powers.)

3 13. The Liquidator is authorized, in his discretion, without permission of the court and  
4 without notice, to pay or defer payment of some or all claims, expenses, liabilities and/or  
5 obligations of Golden State, in whole or in part, accruing prior and/or subsequent to his  
6 appointment as Liquidator. (Insurance Code §§ 1011 and 1037 General Powers.)

7 14. The Liquidator is authorized to appoint and employ under his hand and official  
8 seal, special deputy commissioners and/or legal counsel, as his agents, and to employ clerks  
9 and/or assistants, and to give to each of them those powers that the Liquidator deems necessary.  
10 (Insurance Code §§ 1035(a) and 1036.)

11 15. The Liquidator is authorized to fix the costs of employing special deputy  
12 commissioners, legal counsel, clerks, and/or assistants, and all expenses of taking possession of,  
13 conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and  
14 property of Golden State, subject to the approval of the court, and to pay such costs out of the  
15 assets of Golden State to the Liquidator and others including without limitation expenses, expense  
16 allocations, administrative costs, administrative overhead, and costs incurred and/or allocated by  
17 the Conservation & Liquidation Office, and if there are insufficient funds to pay such costs, then  
18 to pay such costs out of the Insurance Fund pursuant to Insurance Code § 1035. (Insurance Code  
19 §§ 1035(a), 1036 and 1037 General Powers.)

20 16. The Liquidator is authorized to assume or reject, or to modify, any executory  
21 contract, including without limitation, any lease, rental or utilization contract or agreement  
22 (including any schedule to any such contract or agreement), and any license or other arrangement  
23 for the use of computer software of business information systems, to which Golden State is a  
24 party or as to which Golden State agrees to accept an assignment of such contract, not later than  
25 120 days of the date of the Order Appointing Conservator, unless such date is extended by  
26 application to and further order of this Court, and if not expressly assumed by the Conservator  
27 within that time then such executory contract is deemed rejected. (Insurance Code § 1037  
28 General Powers.)

1        17.     The Liquidator is authorized to terminate compensation arrangements with  
2 employees, to enter into new compensation arrangements with employees including arrangements  
3 containing retention incentives, and to hire employees on such terms and conditions as he deems  
4 reasonable. (Insurance Code § 1037 General Powers.)

5        18.     The Liquidator is vested with all the powers of the directors, officers and managers  
6 of Golden State, whose authorities are suspended except as such powers may be re-delegated by  
7 the Liquidator. (Insurance Code § 1037 General Powers.)

8            **B.     Injunctions and Other Orders**

9        19.     Except upon the express authorization of the Liquidator, all persons are hereby  
10 enjoined, including without limitation Golden State and its officers, directors, agents, servants,  
11 and employees, from the transaction of Golden State's business or disposition of its property  
12 including without limitation from disposing of, using, transferring, selling, assigning, canceling,  
13 alienating, hypothecating or concealing in any manner or any way, or assisting any person in any  
14 of the foregoing, of the property or assets of Golden State or property or assets in the possession  
15 of Golden State, of any nature or kind, including without limitation claims or causes of action,  
16 until further order of this Court and further, enjoining such persons from obstructing or interfering  
17 with the Liquidator's conduct of his or her duties as Liquidator. (Insurance Code §§ 1011, 1020  
18 and 1037.)

19        20.     All persons are enjoined from instituting or prosecuting or maintaining any action  
20 at law or suit in equity including without limitation actions or proceedings to compel discovery or  
21 production of documents or testimony, and matters in arbitration, and from obtaining or  
22 attempting to attain preferences, judgments, foreclosures, attachments or other liens of any kind  
23 or nature, against Golden State, its assets, or the Liquidator, and from attaching, executing upon,  
24 foreclosing upon, redeeming of, making levy upon, or taking any other legal proceedings against  
25 any of the property and/or assets of Golden State, and from doing any act interfering with the  
26 conduct of said business by the Liquidator, except after an order from this Court obtained after  
27 reasonable notice to the Liquidator. (Insurance Code §§ 1011, 1020 and 1037 General Powers.)  
28

1           21. All persons are enjoined from the sale or deed for nonpayment of taxes or  
2 assessments levied by any taxing agency of property and/or assets of Golden State. (Insurance  
3 Code § 1020(f).)

4           22. Except with leave of court issued after a hearing in which the Liquidator has  
5 received reasonable and statutory notice, all persons are enjoined from accelerating the due date  
6 of any obligation or claimed obligation, exercising any right of set-off, taking, retaining, retaking  
7 or attempting to retake possession of any real or personal property, withholding or diverting any  
8 rent or other obligation, and doing any act or other thing whatsoever to interfere with the  
9 possession of or management by the Liquidator of the property and assets, owned or controlled,  
10 by Golden State or in the possession of Golden State or in any way interfering with the Liquidator  
11 or interfering in any manner during the pendency of this proceeding with the exclusive  
12 jurisdiction of this Court over Golden State. (Insurance Code §§ 1020 and 1037 General Powers.)

13           23. All persons are enjoined from the waste of the assets of Golden State. (Insurance  
14 Code § 1020.)

15           24. Golden State and all officers, directors, agents and employees of Golden State are  
16 ordered to deliver to, and immediately make available to, the Liquidator all assets, books,  
17 accounts, records, information, computers, tapes, discs, writings, other recordings of information,  
18 equipment and other property of Golden State, wheresoever situated, in said person's custody or  
19 control and further, and are directed the aforesaid to disclose verbally, or in writing if requested  
20 by the Liquidator, the exact whereabouts of the foregoing items if such items are not in the  
21 possession, custody or control of said persons. (Insurance Code §§ 1011, 1016, 1020 and 1037  
22 General Powers.)

23           25. Golden State and all officers, directors, trustees, employees or agents of Golden  
24 State, or any other person, firm, association, partnership, corporate parent, holding company,  
25 affiliate or other entity in charge of any aspect of Golden State's affairs, either in whole or in part,  
26 and including but not limited to banks, savings and loan associations, financial or lending  
27 institutions, brokers, stock or mutual associations, or any parent, holding company, subsidiary or  
28 affiliated corporation or any other representative acting in concert with Golden State, are ordered



1 to cooperate with the Liquidator in the performance of his or her duties. (Insurance Code § 1037  
2 General Powers.)

3 26. All persons who maintain records for Golden State, pursuant to written contract or  
4 any other agreement, are ordered to maintain such records and to deliver to the Liquidator such  
5 records upon his request. (Insurance Code §§ 1020 and 1037 General Powers.)

6 27. All agents of Golden State, and all brokers who have done business with Golden  
7 State, are ordered to make all remittances of all funds collected by them or in their hands directly  
8 to the Liquidator. (Insurance Code §§ 1020 and 1037 General Powers.)

9 28. All persons having possession of any lists of policyholders, escrow holders,  
10 mortgages or mortgagees of Golden State are ordered to deliver such lists to the Liquidator and all  
11 persons are enjoined from using any such lists or any information contained therein without the  
12 consent of the Liquidator. (Insurance Code §§ 1020 and 1037 General Powers.)

13 29. Golden State and its officers, directors, agents, servants, employees, successors,  
14 assigns, affiliates, and other persons or entities under their control and all persons or entities in  
15 concert or participation with Golden State, and each of them, are ordered to turn over to the  
16 Liquidator all records, documentation, charts and/or descriptive materials of all funds, assets,  
17 property (owned beneficially or otherwise), and all other assets of Golden State wherever situated,  
18 and all books and records of accounts, title documents and other documents in their possession or  
19 under their control, which relate, directly or indirectly, to assets or property owned or held by  
20 Golden State or to the business or operations of Golden State. (Insurance Code §§ 1020 and 1037  
21 General Powers.)

22 30. Any and all provisions of any agreement entered into by and between any third  
23 party and Golden State, including by way of illustration, but not limited to, the following types of  
24 agreements (as well as any amendments, assignments, or modifications thereto), are stayed, and  
25 the assertion of any and all rights and remedies relating thereto are also stayed and barred, except  
26 as otherwise ordered by this Court, and this Court shall retain jurisdiction over any cause of action  
27 that has arisen or may otherwise arise under any such provision: financial guarantee bonds,  
28 promissory notes, loan agreements, security agreements, deeds of trust, mortgages,

1 indemnification agreements, subrogation agreements, subordination agreements, pledge  
2 agreements, assignments of rents or other collateral, financial statements, letters of credit, leases,  
3 insurance policies, guaranties, escrow agreements, management agreements, real estate brokerage  
4 and rental agreements, servicing agreements, attorney agreements, consulting agreements,  
5 easement agreements, license agreements, franchise agreements, or employment contracts that  
6 provide in any manner that selection, appointment or retention of a conservator, receiver or trustee  
7 by any court, or entry of any order such as hereby made, shall be deemed to be, or otherwise  
8 operate as, a breach, violation, event of default, termination, event of dissolution, event of  
9 acceleration, insolvency, bankruptcy, or liquidation. (Insurance Code §§ 1020 and 1037 General  
10 Powers).

11 C. **Creditors and Setting of Claims Bar Date**

12 31. The rights and liabilities of claimants, policyholders, shareholders, members and  
13 all other persons interested in the assets of Golden State are fixed as of the date of entry of this  
14 Order. (Insurance Code § 1019.)

15 32. Any and all claims against Golden State, including without limitation those claims  
16 which in any way affect or seek to affect any of the assets of Golden State, wherever or however  
17 such assets may be owned or held, must be filed no later than December 31, 2011 (the "Claims  
18 Bar Date"), together with proper proofs thereof, in accordance with the provisions of Insurance  
19 Code § 1010 *et seq.* including without limitation Insurance Code § 1023. The proof of claim must  
20 be timely filed on the form provided by the Liquidator, together with proper proofs thereof, and  
21 must be supplemented with such further information as the Liquidator requests, in accordance  
22 with Insurance Code § 1023(f). Except for persons deemed to have filed claims against Golden  
23 State in accordance with the provisions of Insurance Code § 1010 *et seq.* including without  
24 limitation Insurance Code § 1024 and § 1025.5, any claims not filed by the Claims Bar Date shall  
25 be conclusively deemed forever waived. (Insurance Code § 1024.)

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1           33.    For such other and further relief as may be proper or necessary.

2           34.    The Liquidator is authorized to take any and all action necessary to accomplish the  
3 purposes of this Order and the Orders requested herein.

4 DATED: 1-28-11

**ANN I. JONES**

THE HONORABLE ANN I. JONES  
Los Angeles Superior Court Judge

## **EXHIBIT 2**

**REAL ESTATE PURCHASE AGREEMENT, SUBJECT TO LIQUIDATION  
COURT CONFIRMATION**

THIS REAL ESTATE PURCHASE AGREEMENT, SUBJECT TO LIQUIDATION COURT CONFIRMATION ("*Agreement*") is entered into as of the date signed by the last of the parties hereto (the "*Effective Date*") by and between **GOLDEN STATE MUTUAL LIFE INSURANCE COMPANY, IN LIQUIDATION**, a California Corporation ("*Seller*"), and **DYNASTY INVESTMENTS, INC.**, a Texas Corporation, AND/OR ASSIGNS, ("*Buyer*").

Buyer agrees to purchase from Seller all of Seller's right, title and interest in and to that certain real property located at **4801 Almeda Road, City of Houston, County of Harris, TX 77004 (APN: 0610940000034, 35, 36)** more particularly described on Exhibit A attached hereto and by this reference incorporated herein and all fixtures, buildings, and improvements thereon (the "*Property*"), on the following terms and conditions:

**ARTICLE 1. PURCHASE PRICE**

SECTION 1.01. The purchase price for the Property shall be the sum of **Five Hundred Thousand and No/100ths Dollars (\$500,000.00)** payable by Buyer to Seller as follows:

- (a)       \$5,000       To be deposited by the Buyer in escrow with the Title Company within three (3) business days after the Effective Date (the "*Initial Deposit*")
- (b)       \$495,000     Balance due at Closing.
- (d)       \$500,000     Total Purchase Price

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**ARTICLE 2. ESCROW**

SECTION 2.01. OPENING ESCROW AND CLOSING. An escrow shall be opened at **Charter Title Company, 11 Greenway Plaza, Suite 120, Houston, Texas 77046 Attn: Cameron Franz** herein referred to as the "*Title Company*", to consummate the purchase of the Property pursuant to this Agreement. The closing of the sale and conveyance of title on the terms and conditions hereof (the "*Closing*") will take place commencing at 10:00 A.M. at the office of the Title Company, or at such other time and/or location as the parties agree, on the date (the "*Closing Date*") that is the later of either (a) the thirtieth (30th) day after the expiration of the Due Diligence Term, or (b) the tenth (10th) day after satisfaction or waiver of the conditions set forth in Section 2.02 below; *provided* that if such date is not a business day, on the next succeeding business day.

SECTION 2.02. CONDITIONS OF CLOSING. The Closing of sale and conveyance of title to the Buyer and the respective obligations of Buyer and Seller to consummate the transactions contemplated under this Agreement are conditioned on:

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(a) Liquidator and Court Confirmation of this sale as follows:

1. Seller shall have accepted this Agreement by executing below in the space provided. When this Agreement has been accepted in this manner, it shall constitute a binding obligation upon the Buyer to purchase and Seller to sell the Property on the terms and conditions as set forth herein.
2. Seller shall petition the Superior Court of the State of California, in and for the County of Los Angeles, in connection with Case Number BS 123005 (hereinafter "*Court*") for confirmation of this Agreement no later than thirty (30) days after the date of Buyer's acceptance or waiver of the conditions set forth in Sections 2.02(c) and (e) below. In connection with such petition, a Court hearing for Confirmation will be set for a date no sooner than twenty-five (25) days after the date the petition is submitted.
3. The Court shall have entered a Final Order that approves this Agreement and the transactions contemplated hereunder. As used in this Agreement the term "*Final Order*" shall mean an order of the Court as to which the time for appeal has expired without a notice of appeal having been filed or, if a notice of appeal has been filed; as to which no stay pending appeal has been entered.

(b) No domestic or foreign, federal, state, county, parish, municipal or other local court, agency, department, legislative body, commission, council, board or other administrative or governmental body shall have issued any order, writ, judgment, injunction, decree, determination or award that directs that the transactions contemplated hereunder not be consummated.

(c) The conveyance to Buyer of title by Special Warranty Deed free of liens, encumbrances, easements, restrictions, rights and conditions of record or known to Seller, other than the following (each a "*Permitted Encumbrance*"):

1. Current property taxes and current bond(s) or improvement assessment(s), if any;
2. Matters not in the public record which would be disclosed by a survey or physical inspection of the Property; and
3. Covenants, conditions, restrictions, easements, and other matters of record, if any, unless disapproved by Buyer in writing within twenty (20) days of receipt of a current commitment for issuance of an ALTA owner's policy in the amount of the Purchase Price issued by the Title Company, together with legible copies of all documents referenced therein (collectively, the "*Title Commitment*"), which shall be furnished at Seller's expense. Any matter shown on such Title Commitment and not objected to by Buyer shall be a Permitted Encumbrance hereunder. Seller will have five (5) days after receipt of Buyer's objections to cure such objections. If Buyer's objections are not cured within such 5-day period, Buyer will have

the option to either: (a) terminate this Agreement, in which case the Deposit shall be refunded to Buyer; or (b) waive the objections and proceed to Closing, in which case such matters shall be Permitted Encumbrances. Seller shall furnish the Title Commitment to Buyer within ten (10) days after Seller's acceptance.

At the Closing, Seller shall cause the Title Company to irrevocably commit to issue an owner's policy of title insurance in the form a "marked up" Title Commitment or a proforma showing title to the Property vested in Buyer subject only to the Permitted Encumbrances. Seller shall pay the portion of the title insurance premium applicable to a standard form ALTA owner's policy prescribed by the Texas State Board of Insurance. Buyer shall pay the portion of the premium attributable to extended coverage and the cost of any endorsements required by Buyer. References to an ALTA owner's policy shall include the policy form approved for use in Texas per applicable state law.

- (d) Buyer shall furnish concurrently with the execution and return of this Agreement, financial statements and/or information indicating Buyer's ability to perform its obligations hereunder (the "*Confidential Information*"). Seller and its representatives agree to keep the Confidential Information, that such information will be used solely for the purpose of evaluating a possible transaction with Buyer, that the Confidential Information will be kept confidential, and that neither Seller nor its representatives will disclose any of the Confidential Information to any other person or entity in any manner whatsoever. If this Agreement is terminated for any reason, Seller shall promptly cause the Confidential Information and all copies of the same to be returned to Buyer.
- (e) The purchase of the Property is contingent upon a **sixty (60) day due diligence and feasibility period** (hereinafter referred to as the "*Due Diligence Term*") which shall commence upon the Effective Date.

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During the Due Diligence Term, Buyer may complete physical and geological inspections of the Property and improvements thereon, including but not limited to, taking soil borings as desired, obtaining engineering studies, and such other matters relating to the Property as Buyer deems appropriate, so as to ensure that the Property is acceptable in its "As-Is" condition. Such inspection shall be at Buyer's sole cost and expense. Buyer will indemnify, defend, and hold Seller harmless from and against any claims for injury or death to persons, damage to property or other losses, actual damages or claims, including, without limitation, claims of any tenants, and including, in each instance, reasonable attorneys' fees and litigation costs, arising out of any action of any person or firm entering the Property on Buyer's behalf as aforesaid, which indemnity shall expressly survive Closing or the earlier expiration or termination of this Agreement.

BUYER IS PURCHASING THE PROPERTY "AS IS, WHERE IS" IN ITS PRESENT CONDITION. BUYER HAS THE OPPORTUNITY TO INSPECT THE PROPERTY AS PROVIDED HEREIN. SELLER MAKES NO

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REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO, HEREBY DISCLAIMS, AND SHALL HAVE NO LIABILITY FOR; (A) THE CONDITION OF THE PROPERTY OR ANY BUILDINGS, STRUCTURES OR IMPROVEMENTS THEREON OR THE SUITABILITY OF THE PROPERTY FOR HABITATION OR FOR BUYER'S INTENDED USE, (B) ANY APPLICABLE BUILDING, ZONING OR FIRE LAWS OR REGULATIONS OR WITH RESPECT TO THE EXISTENCE OF OR COMPLIANCE WITH ANY REQUIRED PERMITS, IF ANY, OF ANY GOVERNMENTAL AUTHORITY; (C) THE AVAILABILITY OR EXISTENCE OF ANY WATER, SEWER OR UTILITIES, ANY RIGHTS THERETO, OR ANY WATER, SEWER OR UTILITY DISTRICTS; (D) ACCESS TO ANY PUBLIC OR PRIVATE SANITARY SEWER OR UTILITY SYSTEMS; OR (E) THE PRESENCE OF ANY HAZARDOUS SUBSTANCES AT THE PROPERTY OR IN ANY IMPROVEMENTS ON THE PROPERTY, INCLUDING WITHOUT LIMITATION ASBESTOS OR UREA-FORMALDEHYDE, OR THE PRESENCE OF ANY ENVIRONMENTALLY HAZARDOUS WASTES OR MATERIALS ON OR UNDER THE PROPERTY. BUYER ACKNOWLEDGES THAT BUYER IS GIVEN THE OPPORTUNITY UNDER THIS AGREEMENT TO FULLY INSPECT THE PROPERTY AND BUYER ASSUMES THE RESPONSIBILITY AND RISKS OF ALL DEFECTS AND CONDITIONS AT THE PROPERTY, INCLUDING WITHOUT LIMITATION, SUCH DEFECTS AND CONDITIONS, IF ANY, THAT CANNOT BE OBSERVED BY CASUAL INSPECTION.

During the term of this Agreement and at any time following the expiration or earlier termination thereof, upon Seller's request, Buyer shall provide Seller with copies of any third party reports or surveys obtained by Buyer during the Due Diligence Term and any extensions thereof at no cost to the Seller.

Prior to the end of the Due Diligence Term, the Buyer must accept the Property in its "As Is" condition. Said acceptance must be delivered to the Seller in writing reflecting that all contingencies set forth in this subsection (e) have been removed. If for any reason during Due Diligence Term, Buyer finds the Property unacceptable, in Buyer's sole and absolute discretion, Buyer must advise Seller in writing and the Agreement thereupon shall be terminated and all monies deposited shall be returned to Buyer. Upon Buyer's acceptance of the Property in its "As-Is" condition and Buyer's acceptance or waiver of the title matters in Section 2.02(c), Seller shall submit a petition to the Court for confirmation of this Agreement as provided in Section 2.02(a)(2).

**SECTION 2.03. FAILURE OF CONDITIONS.** If any condition specified in Section 2.02 above is not satisfied or waived within one hundred fifty (150) days after the Effective Date, then Seller may, at any time thereafter, elect to terminate this Agreement by giving written notice to Buyer and the Title Company. The Title Company shall be, and is hereby, irrevocably instructed by Seller on receipt of such notice from either party, to immediately refund to Buyer all monies and instruments deposited by Buyer in escrow pursuant to this Agreement.

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SECTION 2.04. PRORATIONS. The following prorations shall be made between Buyer and Seller at Closing: property taxes, rents, assessments, homeowner's/association dues (if applicable), and N/A.

SECTION 2.05. BONDS AND ASSESSMENTS. Any bonds or improvement assessments which are a lien on the Property shall, at Closing, be paid/assumed by Buyer, except any past due/delinquent amounts shall be paid by Seller at Closing.

SECTION 2.06. BROKERS' COMPENSATION AND DISPOSITION FEES. If Buyer is confirmed as the purchaser of the Property and thereafter performs in accordance with this Agreement, any and all compensation and disposition fees due to real estate or other brokers shall be paid by Seller at Closing based upon the confirmed sales price or, if no overbidding occurs, as follows:

4% of the accepted price to **Mason Partners**, who represents Seller; and

2% of the accepted price to **McAlpine Interests**, who represents Buyer.

Seller and Buyer each warrant that they have dealt with no other real estate brokers in connection with this transaction except those brokers stated above.

SECTION 2.07. EXPENSES OF ESCROW. The expenses of the escrow described in this section shall be paid in the following manner:

- (a) The cost of recording any deeds or other instruments required to convey title of the Property to Buyer as described in Section 2.02 of this Agreement shall be paid by Buyer.
- (b) Any escrow fee charged by the Title Company shall be paid as follows 50% by Seller and 50% by Buyer.

SECTION 2.08. POSSESSION. Possession of the Property shall be delivered to Buyer upon Closing.

SECTION 2.09. TITLE. Title shall vest as follows: to Buyer, or to any entity owned or controlled by Buyer or a nominee, with Buyer remaining liable for the Purchase Price and any and all duties and obligations of the Buyer until the Close of Escrow, which shall be designated in writing by Buyer no later than five (5) days prior to the Closing.

### ARTICLE 3. MISCELLANEOUS

SECTION 3.01. DEFAULT BY Buyer. Should Buyer fail to complete said purchase as herein provided by reason of any default of Buyer, Seller shall be released from its obligation to sell the Property to Buyer and Seller shall retain the Deposit, as liquidated damages for such default as Seller's sole and exclusive remedy hereunder.

SECTION 3.02. TIME. Time is of the essence in the performance of this Agreement.

(JL)  
Daw

SECTION 3.03. MODIFICATIONS. All modifications or extensions shall be in writing signed by all parties.

SECTION 3.04. LAND USE RESTRICTIONS. Buyer shall satisfy itself through sources of information, other than the Seller or real estate brokers, or salespersons of such brokers in this transaction, whether any public or private action in the form of a vote, initiative, referendum, local ordinance, law, or other measure presently in force or contemplated by a governing or other body may halt entirely or otherwise restrict Buyer's use of the Property for improvement or other use, and Buyer acknowledges that it has not relied on any advice or representations by the Seller or real estate representatives in this transaction for such independent information to any extent.

SECTION 3.05. NOTICES. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either party hereto, or the Title Company, shall be in writing and shall be deemed duly served and given when (a) personally delivered to any of the parties, to whom it is directed; (b) by deposit in the United States mail as first-class certified mail, return receipt requested, postage paid; (c) by overnight nationwide commercial courier service; or (d) by telecopy transmission with a confirmation copy to be delivered by duplicate notice in accordance with any of clauses (a) through (c) above, in each case, to the party intended to receive the same at the following address(es):

If to Buyer:

Dynasty Investments, Inc.  
2500 Bayport Boulevard  
Seabrook, TX 77586  
FAX:

If to Seller at:

Golden State Mutual Life Insurance Company, in Liquidation  
425 Market Street, 23<sup>rd</sup> Floor  
San Francisco, CA 94105  
Attn: Scott D. Pearce, Senior Estate Trust Officer  
FAX: (415) 676-5002

With copy to:

Golden State Mutual Life Insurance Company, In Liquidation  
c/o Kane Corporation  
67 Selby Lane, Suite 100  
Atherton, CA 94027-3926  
Attn: Peter C. Kane  
FAX: (650) 369-9106



If to the Title Company at:

Charter Title Company  
11 Greenway Plaza, Suite 120  
Houston, TX 77046  
Attn: Cameron Franz  
FAX: (713) 850-1514

Notice delivered in accordance with the foregoing shall be effective (x) when delivered, if delivered personally or by receipted-for telex, telecopier or facsimile transmission, (y) on the next business day after being delivered in the United States (properly addressed and all fees paid) for overnight delivery service to a courier (such as Federal Express) which regularly provides such service and regularly obtains executed receipts evidencing delivery, or (z) five (5) days after being deposited (properly addressed and stamped for first-class delivery) in a daily serviced United States mail box. Either party, Buyer or Seller, may change its address for the purposes of this section by giving written notice of such change to the other party in the manner provided in this section.

SECTION 3.06. DISCLAIMER OF WARRANTIES. The parties acknowledge that this transaction is entered into by them in full reliance on their own independent investigations, and not on any statements, representations, or agreements made by the other party, or by the broker(s), if any herein, or any salesperson(s) of such broker. It is also agreed by both parties that no statements, representations, or agreements made by either party, the broker(s), or any salesperson(s) of such broker(s), are valid unless such statements, representations or agreements are reduced to writing and made a part hereof. Seller expressly makes no warranties regarding the suitability of the Property for any purpose and Buyer acknowledges that all real property and improvements, if any, thereon are taken in an "As Is" Condition including all known and unknown defects.

Buyer: ( JL ) Seller: ( Dew ).

SECTION 3.07. ATTORNEY'S FEES. Should any litigation be commenced between the parties hereto concerning the Property, this Agreement, or the rights and duties of either in relation thereto, the party, Buyer or Seller, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees and expenses in such litigation which shall be determined by the Court in such litigation or in a separate action brought for that purpose.

SECTION 3.08. ENTIRE AGREEMENT. This instrument contains the entire Agreement between Buyer and Seller respecting the Property, and any agreement or representation respecting the Property or the duties of either Buyer or Seller in relation thereto not expressly set forth in this instrument is null and void.

SECTION 3.09. COUNTERPARTS; FACSIMILE SIGNATURES. This Agreement may be executed in any number of counterparts and all counterparts shall be deemed to constitute a single agreement. The execution of one counterpart by any party shall have the same force and effect as if that party had signed all other counterparts. The

*Dew*

signatures to this Agreement may be executed on separate pages and when attached to this Agreement shall constitute one complete document. This Agreement may be signed by facsimile, and each facsimile copy so signed shall be deemed an original hereof.


**SECTION 3.10. GOVERNING LAW; VENUE.** This Agreement is governed by and construed in accordance with the laws of the State of California. Buyer hereby waives any defense it may have based on *forum non conveniens*. As a material part of the consideration for this Agreement, and with the understanding that Seller would not enter into this Agreement without such agreement, Buyer hereby irrevocably submits to the jurisdiction of the State of California in any such action.

**SECTION 3.11. OTHER TERMS.** Buyer will have utilities (gas, water, electric) turned on at the property. Seller agrees to reimburse Buyer the cost of turning on these utilities not to exceed \$300.00 at closing or upon the termination of the contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year shown opposite their signatures below.

**BUYER:**


**DYNASTY INVESTMENTS, INC.**

By:   
Name: JASON LIEM  
Title: PRESIDENT

Date: DEC 20, 2011

**SELLER:**

**GOLDEN STATE MUTUAL LIFE INSURANCE  
COMPANY, IN LIQUIDATION, a California  
corporation**

By:   
Name: David E. Wilson  
Title: Special Deputy Insurance Commissioner

Date: 12 / 22 / 11

**FIRST AMENDMENT TO  
REAL ESTATE PURCHASE AGREEMENT, SUBJECT TO LIQUIDATION  
COURT CONFIRMATION**

This First Amendment to Real Estate Purchase Agreement, Subject to Liquidation Court Confirmation (this "Amendment") is entered into effective as of February 16, 2012, by GOLDEN STATE MUTUAL LIFE INSURANCE COMPANY, IN LIQUIDATION, a California corporation ("Seller"), and DYNASTY INVESTMENTS, INC., a Texas corporation ("Buyer").

**RECITALS**

As of December 22, 2011, Seller and Buyer entered into that certain Real Estate Purchase Agreement, Subject to Liquidation (the "Original Contract") with respect to the property located at 4801 Almeda Road, Houston, Harris County, Texas 77004, as more fully identified in the Original Contract (the "Property").

Seller and Buyer wish to provide for certain amendments to the Original Contract.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Seller and Buyer agree as follows:


1. Defined Terms. All capitalized terms used herein that are not defined herein shall have the meaning given to such terms in the Original Contract.
2. Amendment. Article 1 of the Original Contract is hereby amended by reducing the total purchase price for the Property to Four Hundred Ninety-Five Thousand and No/100ths Dollars (\$495,000.00). The balance due at closing from the Buyer will be \$495,000.00 *less* the Initial Deposit of \$5,000.00.
3. Full Force and Effect. Except as amended in this Amendment, the terms and conditions of the Original Contract shall remain unchanged and in full force and effect.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties execute this Amendment to be effective as of the date first above written.

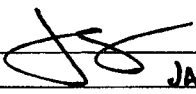
SELLER:

GOLDEN STATE MUTUAL LIFE  
INSURANCE COMPANY, IN  
LIQUIDATION, a California corporation

By:   
Name: David E. Wilson  
Title: CEO/Special Deputy Insurance Commissioner

BUYER:

DYNASTY INVESTMENTS, INC.

By:   
Name: JASON LIEM  
Title: PRESIDENT