

CUNFORMED COPY
OF ORIGINAL FILED
Los Angeles Superior Court

MAR 13 2012

John A. Clarke, Executive Officer/Clerk

1 KAMALA D. HARRIS
Attorney General of California
2 FELIX E. LEATHERWOOD
W. DEAN FREEMAN
3 Supervising Deputy Attorneys General
ELISA B. WOLFE-DONATO, State Bar No. 120357
4 Deputy Attorney General
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013-1256
6 Telephone: (213) 897-0633
Fax: (213) 897-5775
7 E-mail: Elisa.Wolfe@doj.ca.gov
Attorneys for Applicant
8 *Insurance Commissioner as Liquidator*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 CENTRAL DISTRICT – STANLEY MOSK COURTHOUSE
12

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

15 Applicant,

16 v.
17

18 **NATIONAL AUTOMOBILE AND**
19 **CASUALTY INSURANCE COMPANY, a**
20 **California corporation,**

21 Respondent.
22

Case No. BS 074743

**INSURANCE COMMISSIONER'S
DECLARATION OF COMPLIANCE
WITH LIQUIDATOR'S OBLIGATIONS
UNDER ORDER TO REOPEN
PROCEEDINGS FOR A LIMITED
PURPOSE**

Date: n/a
Time: n/a
Dept: 85
Judge: Honorable James C. Chalfant
Trial Date: n/a
Case Filed: March 14, 2002

23 I, BOB FERNANDEZ, declare:

24 1. I am an Estate Trust Officer ("ETO") in the California Insurance Commissioner's
25 Conservation & Liquidation Office ("CLO"), and more particularly, I am the ETO in charge of
26 the liquidation of National Automobile and Casualty Insurance Company. If called upon to
27 testify, I could and would testify competently, under oath, to the following facts as they are
28 personally known to me, except as to those matters stated on information and belief, and as to

1 those matters, I believe them to be true. The statements contained in this declaration are not all
2 within my personal knowledge, and I am informed and believe that no single officer of the CLO
3 has personal knowledge of all these matters. The statements herein are based on information
4 assembled by the authorized, duly-assigned, responsible officers and employees of the CLO, and
5 I am informed and believe that the statements based upon that information are true and correct.

6 2. As an ETO, my duties include managing and supervising the administration of
7 insurance companies conserved and liquidated by the Insurance Commissioner. I have held this
8 position for 16 years. I make this declaration in my official capacity as an ETO of the CLO, and
9 specifically as the ETO for National Automobile and Casualty Insurance Company
10 (“**NATIONAL AUTO**”) in liquidation.

11 3. On December 7, 2009, this Court entered its “Order (1) Settling and Approving Final
12 Report and Account of Liquidator; (2) Approving Final Distribution of Assets; (3) Terminating
13 Proceedings; and 4) Discharging Liquidator” (“**FINAL ORDER**”) with regard to National Auto.
14 The effect of this Final Order was, inter alia, to approve the Liquidator’s conservation and
15 liquidation activities for National Auto; authorize the disbursement of the remaining funds;
16 approve the payment of liquidation expenses; declare the estate closed, and discharge the
17 Insurance Commissioner from his obligations as the Liquidator of National Auto. This Final
18 Order also provided for the termination of this court proceeding, pending the filing of a
19 Declaration of Compliance.

20 4. It was my job to oversee the Liquidator’s compliance with this Final Order, and I did
21 so. Accordingly, on August 5, 2010, the Liquidator filed with this Court a Declaration of
22 Compliance in re Discharge of Insurance Commissioner’s Obligations as Conservator and
23 Liquidator. In said Declaration of Compliance (for which I was the declarant), I stated that,
24 pursuant to this Court’s Final Order, the Liquidator distributed funds totaling \$26.9 million to its
25 Class 2 claimants, to wit: (1) the California Insurance Guarantee Association (“**CIGA**”); (2) three
26 other insurance guarantee associations (“**IGAs**”); and (3) two approved non-IGA claimants. All
27 these claimants received 100% of their approved claim amounts, plus a portion of the interest that
28 had accrued, as contemplated by Insurance Code section 1033, subdivision (f).

1 5. About two months after the instant liquidation proceeding had terminated, the CLO
 2 received additional funds for the National Auto liquidation estate. Specifically, on October 8,
 3 2010, National Auto received a tax refund from the IRS in the amount of \$780,584. This amount
 4 needed to be distributed to the estate's Class 2 claimants, to wit, the four insurance guarantee
 5 associations and two non-IGAs. To accomplish this, the Liquidator needed to reopen the National
 6 Auto liquidation estate briefly, for the limited purpose of obtaining approval for the distribution
 7 of funds.

8 6. Therefore, on November 15, 2011, the Liquidator filed a motion to reopen the
 9 liquidation proceedings. On December 9, 2011, the Court granted the Liquidator's motion on
 10 reopen proceedings. In so doing, on that date, the Court issued an Order to: (1) Reopen
 11 Proceedings for a Limited Purpose, and (2) Approve Distribution of Tax Refund ("**REOPENING**
 12 **ORDER**").

13 7. It was my job to oversee the Liquidator's compliance with the Reopening Order, and
 14 I have done so.

15 8. Provision No. 2 of the Reopening Order authorized the Commissioner to distribute
 16 the federal tax refund proceeds of \$780,584.00 as follows:

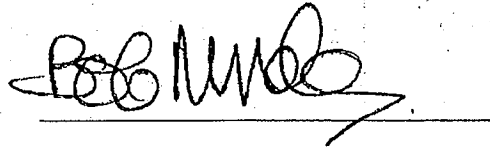
#	Payee	Authorized Distribution
1	California Insurance Guarantee Association	\$741,767.00
2	Alaska Insurance Guarantee Association	\$ 36,391.00
3	Texas Property & Casualty Insurance Guaranty Association	\$ 2,015.00
4	Washington Insurance Guaranty Association	\$ 119.00
5	McCormick Barstow & Sheppard	\$ 273.00
6	Carin L. Impionbato	\$ 19.00
	TOTAL	\$ 780,584.00

17
 18
 19
 20
 21
 22
 23
 24
 25
 26 Pursuant to this provision, on December 15, 2011, the Liquidator's CLO staff sent wire transfers
 27 and/or mailed checks of immediately-available funds from the National Auto estate, in the total
 28

1 amount of \$780,584.00, to the six payees listed above, for the respective distribution amounts.
2 The funds directed to the first five payees, listed above, were received without incident.
3 However, the \$19.00 check mailed to the sixth payee – Carin L. Impionbato – was returned to the
4 CLO as undeliverable. The CLO staff did its best to locate Ms. Impionbato but was not able to do
5 so.¹ Therefore, acting in accordance with Insurance Code section 12937, the Liquidator voided
6 this non-negotiated distribution check on January 18, 2012, and escheated this unclaimed \$19.00
7 payment to the Insurance Fund of the California Department of Insurance on February 7, 2012.
8 The CLO staff handled all paperwork and incidental obligations pertaining to this distribution of
9 funds. These actions completed the Liquidator's material obligations in connection with the
10 Reopening Order.

11 9. Provision No. 4 of the Reopening Order stated that the National Auto liquidation
12 estate shall be re-closed upon the filing of a declaration of compliance. Pursuant to this
13 provision, I am making this declaration of compliance, and understand the estate will be closed
14 concurrent with the filing of this declaration.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed on this 13 day of March, 2012, at San Francisco,
17 California.

18 

19
20 BOB FERNANDEZ
21 Estate Trust Officer
22 Declarant

23 LA2002CV0433
24
25
26

27 ¹ The CLO staff did locate one of her relatives, but this individual expressly declined to
28 cooperate.

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Insurance Commissioner v. National Automobile & Casualty Insurance Company**

Case No.: **BS 074743 (Los Angeles Superior Court)**

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; my business address is 300 South Spring Street, Suite 1702, Los Angeles, CA 90013.

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 **March 13, 2012**, I served the attached

**INSURANCE COMMISSIONER'S DECLARATION OF COMPLIANCE
WITH LIQUIDATOR'S OBLIGATIONS UNDER ORDER TO REOPEN
PROCEEDINGS FOR A LIMITED PURPOSE**

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Mail at Los Angeles, California, addressed as follows:

SEE ATTACHED SERVICE LIST

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 **March 13, 2012**, at **Los Angeles, California.**

Evelyn Mendoza
Declarant

Evelyn Mendoza
Signature

SERVICE LIST

TEXAS P&C INSURANCE GUARANTY ASSN. 9120 BURNET ROAD AUSTIN, TX 78758-5204	CALIFORNIA INSURANCE GUARANTEE ASSN. P. O. BOX 29066 GLENDALE, CA 91209-9066
ALASKA INSURANCE GUARANTEE ASSN. 1401 RUDAKOF CIRCLE ANCHORAGE, AK 99508-3108	WASHINGTON INSURANCE GUARANTY ASSN. 1720 S. BELLAIRE STREET, SUITE 201 DENVER, CO 80222-4312 (not at this address)
NEVADA DIVISION OF INSURANCE 788 FAIRVIEW DRIVE, SUITE 300 CARSON CITY, NV 89701-5491	ROGER STONE INSURANCE AGENCY 5015 BIRCH STREET, SUITE 101 NEWPORT BEACH, CA 92660-1756
ULTIMA INSURANCE SERVICES, INC. 3848 EAST COLORADO BOULEVARD, SUITE 2 PASADENA, CA 91107-3971	MICHAEL F. BROWN 60729 WILLOW CREEK LOOP BEND, OR 97702
FIRST INVESTIGATIVE CONSULTANT 2529 FOOTHILL BOULEVARD, SUITE 212 LA CRESCENTA, CA 91214-3542	KELLY PAPER ACCOUNTS RECEIVABLE 288 BREA CANYON ROAD WALNUT, CA 91789-3087
LOS ANGELES COUNTY TAX COLLECTOR P. O. BOX 54088 LOS ANGELES, CA 90054-0088	SHEPPARD, MCCORMICK B. P. O. BOX 28912 FRESNO, CA 93729-8912
RGF INSURANCE AGENCY P. O. BOX 848 EL SEGUNDO, CA 90245-0848	SFI P. O. BOX 3933 DAYTON, OH 45401-3933
AMERICAN INTERNATIONAL GROUP, INC. ATTN: ERIC S. KOBRICK 70 PINE STREET, 40TH FLOOR NEW YORK, NY 10270-0094	ENTERPRISE RENT-A-CAR 600 RUSH LANDING ROAD NOVATO, CA 94945-2487
H & B INC. C/O CESARES VISALIA SERVICE CENTER 920 E. CENTER AVENUE VISALIA, CA 93292-6508	CARLA SMITH 535 LOS ANGELES AVENUE MONROVIA, CA 91016-4228

Case Name: **Insurance Commissioner v. National Automobile & Casualty, etc.**
Case No.: **BS 074743 (Los Angeles Superior Court)**

Page 2

SERVICE LIST

ELIZABETH SMYTH 6838 OERSTED ROAD NE RIO RANCHO, NM 87144-6567	INTERNATIONAL INS. CO.- CRUM & FORSTER 305 MADISON AVENUE P. O. BOX 1973 MORRISTOWN, NJ 07960-6100
ARROW MUTUAL LIABILITY INSURANCE CO. ATTN: PETER GRAY, PRESIDENT 23 COMMONWEALTH AVENUE CHESTNUT HILL, MA 02467-1099	HOME INSURANCE COMPANY ATTN: EFRAIM ABRAMSOHN 61 BROADWAY, 6TH FLOOR NEW YORK, NY 10006-2701
HARTFORD FIRE INSURANCE CO. HARTFORD PLAZA, CALD-1-81 HARTFORD PLAZA HARTFORD, CT. 06115-0001	NEW ENGLAND REINSURANCE GROUP C/O HORIZON MANAGEMENT GROUP 150 FEDERAL SREET, 6TH FLOOR BOSTON, MA 02110-1753
FIRST STATE INSURANCE CO. C/O HORIZON MANAGEMENT GROUP 150 FEDERAL STREET, 6TH FLOOR BOSTON, MA 02110-1753	CALIFORNIA DEPARTMENT OF INSURANCE ATTN: COREY WILSON P. O. BOX 1799 SACRAMENTO, CA 95812-1799
ASSOCIATED INTERNATIONAL INS. CO. ATTN: NORMA BORRAYO 21600 OXNARD STREET, SUITE 400 WOODLAND HILLS, CA 91367-4800	COSMOPOLITAN MUTUAL C/O NEW YORK INS. DEPT, LIQUIDATION BUREAU 123 WILLIAM STREET NEW YORK, NY 10038-3804
HARBOR INSURANCE COMPANY C/O CNA, ATTN. M. MAHONEY 333 SOUTH WABASH, REINS. OPS - 23S CHICAGO, IL 60604	HIGHLANDS INS. CO. IN RECEIVERSHIP 10200 RICHMOND AVENUE, SUITE 175 HOUSTON, TX 77042-4132
INSURANCE CO. OF NORTH AMERICA C/O ACE REINSURANCE SERVICES 510 WALNUT STREET, SUITE 1000 PHILADELPHIA, PA 19106-3621	NATIONAL CASUALTY CO. ICO INDEMNITY CO. P. O. BOX 8067 WAUSAU, WI 54402-8067
NATIONAWIDE MUTUAL INSURANCE P. O. BOX 8067 400 WESTWOOD DRIVE WAUSAU, WI 54402-8067	STONEWALL INSURANCE CO. C/O CASTLEWOOD US INC. 200 METRO CENTER BLVD., SUITE 8 WARWICK, RI 02886-1753

SERVICE LIST

THE INSURANCE CORPORATION OF NEW YORK C/O TRENWICK AMERICA REINSURANCE CORP. 1499 POST ROAD, SUITE 2 FAIRFIELD, CT 06824-5940	TIG INSURANCE COMPANY 250 COMMERCIAL STREET, SUITE 5000 MANCHESTER, NH 03101-1116
REINSURANCE INSURANCE COMPANY ATTN: MELISSA COOK RANDALL & QUILTER INVESTMENT HOLDINGS, INC. One Davol Square, Suite 112 Providence, RI 02903	B.D. COOKE C/O J. JANES 2 KNOLL RISE ORPINGTON KENT, BRG6 ONX UNITED KINGDOM
ADCORP DBA: ADAMS & CORZINE 740 OAK AVENUE PARKWAY, #120 FOLSOM, CA 95630	CA DOI - ACCOUNTING SERVICES BUREAU ATTN: THUY NGO 300 CAPITOL MALL, SUITE 1400 SACRAMENTO, CA 95814-4313
COHEN DAMAGE APPRAISALS 7317 DAVENPORT ROAD GOLETA, CA 93117-2825	COMPUTER SCIENCE CORPORATION PAUL TAUBE, MS: 1A1 10301 WILSON BOULEVARD BLYTHEWOOD, SC 29016
KLINEDINST, FLIEHMAN & MCKILLOP, LLP 501 W. BROADWAY, SUITE 600 SAN DIEGO, CA 92101-3584	NATIONWIDE MUTUAL FIRE INS. CO. O C 701 - 5TH AVENUE, DEPT. 2000 DES MOINES, IA 50391-0001
PROPERTY DAMAGE APPRAISERS 484 WASHINGTON, SUITE #312 MONTEREY, CA 93940-3050	SCHUMANN RALLO & ROSENBERG, LLP 3100 BRISTOL STREET, SUITE 400 COSTA MESA, CA 92626
THORNTON, TAYLOR, BECKER & SHINN LLP ATTN: OTTO BECKER 235 PINE STREET, SUITE 1500 SAN FRANCISCO, CA 94104-2752	TRI-COUNTY APPRAISAL P. O. BOX 30173 SANTA BARBARA, CA 93130-0173
DEPARTMENT OF LABOR ATTN: NORMA MOSQUEDA 350 S. FIGUEROA STREET, SUITE 370 LOS ANGELES, CA 90071-1202	MERRILL CORPORATION ATTN: KURT NIEMEYER 4110 CLEARWATER ROAD SAINT CLOUD, MN 56301-9634

Case Name: **Insurance Commissioner v. National Automobile & Casualty, etc.**
Case No.: **BS 074743 (Los Angeles Superior Court)**

Page 4

SERVICE LIST

STATE OF CA – STATE TREASURER’S OFFICE ATTN: KIM PETELLE P. O. BOX 942809 SACRAMENTO, CA 94209-0001	AMERICAN EXPRESS P&C CO. ATTN: CHERYL A. ZURASKI 3500 PACKERLAND DRIVE DE PERE, WI 54115-9034
MISSOURI DEPARTMENT OF REVENUE ATTN: DIRECTOR OF REVENUE P. O. BOX 3375 JEFFERSON CITY, MO 65105-0001	ORANGE COUNTY TAX COLLECTOR ATTN: JOHN M.W. MOORLACH P. O. BOX 1982 SANTA ANA, CA 92702-1982
PROGRESSIVE INSURANCE ATTN: CONNIE MCHUGH P. O. BOX 43258 CLEVELAND, OH 44143-0258	NAIC P. O. BOX 873655 KANSAS CITY, MO 64187-3655
RON CARLON INSURANCE P. O. BOX 1567 PLACERVILLE, CA 95667-1567	INSURANCE INSTITUTE FOR HWY SAFETY ATTN: STEPHEN L. OESCH 1005 N. GLEBE ROAD, SUITE 800 ARLINGTON, VA 22201-5715
CONSOLI INVESTMENT SERVICE P. O. BOX 2985 ORANGE, CA 92859-0985	VERITEXT CORPORATION 3090 BRISTOL STREET, SUITE 100 COSTA MESA, CA 92626-3046
DR. SAN WAN’S MEDICAL OFFICE 408 SUNRISE AVENUE, SUITE 3 ROSEVILLE, CA 95661-4123	APPALACHIAN INSURANCE CO. ATTN: BARBARA PICARD P. O. BOX 7500 JOHNSTON, RI 02919-0750
THE TRAVELERS INDEMNITY COMPANY C/O RICHARD DUPREE, 2ND VICE PRESIDENT ONE TOWER SQUARE STREET, S206B HARTFORD, CT 06183-0001	NCCI 901 PENINSULA CORPORATE CIRCLE BOCA RATON, FL 33487-1362
ROM REINSURANCE MANAGEMENT CO., INC. ATTN: THOMAS B. MCNEMARA, SR. V.P. 75 BROAD STREET, 21ST FLOOR NEW YORK, NY 10004-2415	