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Insurance Commissioner of the State of California
in his Capacity as Liquidator of
CastlePoint National Insurance Company

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County of San Francisco

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

CITY AND COUNTY OF SAN FRANCISCO

INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA,

Applicant,

v.

CASTLEPOINT NATIONAL INSURANCE COMPANY, and DOES 1-50, inclusive,

Respondents.

Case No. CPF-16-515183

INSURANCE COMMISSIONER'S NOTICE OF APPLICATION AND APPLICATION FOR ORDER AUTHORIZING SECOND INTERIM DISTRIBUTION ON ALLOWED CLASS 2 POLICYHOLDER CLAIMS AND FIFTH EARLY ACCESS DISTRIBUTION TO STATE INSURANCE GUARANTY FUNDS AND APPROVING 2025 FINANCIAL REPORT, FINANCIAL STATEMENT, AND EXPENSES OF ADMINISTRATION; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF

Date: **September 11, 2026**
Time: **9:00 a.m.**
Dept: **301**
Judge: **Hon. Christine Van Aken**

TO EACH PARTY AND ATTORNEY OF RECORD IN THIS ACTION:

PLEASE TAKE NOTICE that on September 11, 2026, at 9:00 a.m., in Department 301 of the San Francisco Superior Court, 400 McAllister Street, San Francisco, California 94102, before the Honorable Christine Van Aken, the Insurance Commissioner of the State of California, as the statutory and Court-appointed Liquidator ("Commissioner") of CastlePoint National Insurance Company ("CastlePoint" or "CastlePoint estate"), will and does hereby apply to the Court for an order granting the within application ("Application").

The Application seeks an order of the Court granting authorization for a total distribution of approximately $16,022,842 million from the assets of the CastlePoint estate. The proposed distribution consists of the Commissioner's planned second interim distribution on allowed Class 2 policyholder claims in the amount of approximately $1,188,046, representing approximately 31 per cent of the allowed amount of each Class 2 policyholder claim; and the Commissioner's planned fifth early access distribution to 27 state insurance guaranty funds in the amount of approximately $14,834,796, representing a partial distribution of funds for which they could assert a claim against the Commissioner. These proposed distributions are itemized in Exhibit A ("Proposed Second Distribution on Allowed Class 2 Policyholder Claims ") and Exhibit B ("Proposed Fifth Early Access Distribution to State Insurance Guaranty Funds") attached to the Declaration of Joseph Holloway in support of this Application ("Holloway Decl."). In addition, the Commissioner requests that the Court approve the Commissioner's 2025 Financial Statement and Report for the CastlePoint estate (together "2025 Financial Statement") which, along with the 2025 California Department of Finance's Independent Accountant's Review Report ("2025 Department of Finance Report") for the CastlePoint estate, are attached to the Holloway Declaration as Exhibit C, and, in addition, further approve the expenses of administration of the CastlePoint estate for 2025 as reflected in Exhibit C in the amount of $4,183,524 (Holloway Decl., ¶ 5, Ex. B.).

This Application is made pursuant to California Insurance Code sections 1010 et seq., including, but not limited to, sections 1016, 1035, 1035.5, 1036, 1037, and related provisions of Part 2, Chapter 1, Article 14 of the Insurance Code and pursuant to the Liquidation Order for

CastlePoint, dated March 30, 2017 ("Liquidation Order") and the Commissioner's broad authority and discretion thereunder to manage the CastlePoint estate and conduct its liquidation. This Application is made upon the grounds that the Commissioner, in his capacity as Liquidator of CastlePoint, has demonstrated that his proposal to make a second interim distribution on allowed Class 2 policyholder claims and a fifth early access distribution of CastlePoint assets to state insurance guaranty funds pursuant to Insurance Code section 1035.5, as described above, is a lawful and appropriate exercise of his discretion and should be approved and authorized. In addition, the Commissioner has demonstrated that the 2025 Financial Statement for the CastlePoint estate, and the 2025 expenses of administration of the CastlePoint estate incurred by the Commissioner, constitute a lawful and appropriate exercise of his discretion to secure and manage the CastlePoint estate and its liquidation and should be approved.

This Application is based on this Notice, the Application itself, the Commissioner's memorandum of points and authorities in support thereof, and the Holloway Declaration in support of this Application and the exhibits thereto, the pleadings, records and files in this action, and such oral argument and additional evidence as may be received by the Court, including at the hearing on the Application.

Dated: August 17, 2026

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES

Page(s)

California Cases

Other State Statutes

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF APPLICATION FOR ORDER AUTHORIZING SECOND INTERIM DISTRIBUTION ON ALLOWED CLASS 2 POLICYHOLDER CLAIMS AND FIFTH EARLY ACCESS DISTRIBUTION TO STATE INSURANCE GUARANTY FUNDS AND APPROVING FINANCIAL REPORT, FINANCIAL STATEMENT, AND EXPENSES OF ADMINISTRATION FOR 2025

I.

INTRODUCTION AND BACKGROUND

CastlePoint National Insurance Company ("CastlePoint" or "CastlePoint estate") was placed into conservation on July 28, 2016 (the "Conservation Date") and the Commissioner was appointed as its statutory Conservator.[1] From the Conservation Date through March 31, 2017 (the "Conservation Period"), the Commissioner, as Conservator, oversaw the administration of the CastlePoint estate while simultaneously working with state insurance guaranty funds to prepare for the transition of claims administration responsibilities to the funds upon liquidation.[2] The Court entered a Liquidation Order for CastlePoint on March 30, 2017, and the Liquidation Order became effective on April 1, 2017 ("Liquidation Date").

The Commissioner was appointed as Liquidator of CastlePoint by the Court on March 30, 2017, pursuant to Insurance Code section 1016. As Liquidator, the Commissioner was directed to liquidate and wind up the business affairs of CastlePoint in accordance with the applicable provisions of the Insurance Code. (Liquidation Order ¶ 4.)

The purpose of this Application is to obtain the Court's authorization for the

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[1] On September 13, 2016, the Court approved the Commissioner's *Plan of Conservation & Liquidation for CastlePoint National Insurance Company* (the "Plan"), and the Commissioner undertook to implement the provisions of the Plan. Under the Plan, CastlePoint entered into a number of Conservation Transaction Agreements, which, among other things, brought $200 million (net of certain advances) of additional liquidity into the estate and provided for runoff administration services through AmTrust North America, Inc. (collectively with AmTrust Financial Services, Inc., "AmTrust") and National General Management Corp. ("National General"). The Plan also ordered and preserved the statutory claim priorities contained in Insurance Code section 1033(a) under which expenses of administration have the highest (Class 1) priority, followed by claims for policy benefits, which are entitled to the second-highest (Class 2) priority. (Plan at pp. 10-11; Ins. Code § 1033(a)(1)-(2).) The Plan transactions also established continuous claims administration services for CastlePoint from AmTrust and National General. In 2019, the Commissioner transitioned the accounting functions for the estate from legacy CastlePoint employees in New Jersey to the CLO office in San Francisco.

[2] On January 12, 2017, the Commissioner filed with the Court a *Conservator's Report to the Court Concerning the Conservation of CastlePoint* ("Conservator's Report"), along with accompanying exhibits on January 18, 2017, to advise the Court and interested parties of material activities undertaken by the Conservator during the Conservation Period and to lay out, at a high level, the Conservator's expectations for the orderly liquidation of CastlePoint.

Commissioner's proposed second interim distribution of approximately $1,188,046 on allowed Class 2 policyholder claims and fifth early access distribution of approximately $14,834,796 to 27 state insurance guaranty funds due to payments made by them for which the CastlePoint estate is obligated. The factual and legal bases for the second interim distribution and fifth early access distribution, together totaling approximately $16,022,842, are set forth below in Section II hereof. Section III hereof demonstrates that the 2025 Financial Statement for the CastlePoint estate shows ample funds to make the distributions for which authorization currently is sought. Section IV contains the Commissioner's report to the Court on the status and finances of the CastlePoint estate and its liquidation and requests the Court's approval of the Commissioner's 2025 Financial Statement, and expenses of administration of the CastlePoint estate for 2025. Section IV sets forth legal authorities authorizing the relief sought by the Commissioner in his Application.

II.

PROPOSED DISTRIBUTIONS TO POLICYHOLDERS AND STATE INSURANCE GUARANTY FUNDS

Pursuant to Insurance Code section 1016 and the entered Liquidation Order, the Commissioner, as Liquidator, was directed "to liquidate and wind up the business of CastlePoint and act in all ways and exercise all powers necessary for the purpose of carrying out this Order and the liquidation provisions of the Insurance Code, Insurance Code sections 1010 *et seq*." (Liquidation Order, ¶ 6.) The Commissioner currently projects that the final distribution of all assets of the CastlePoint estate and completion of the CastlePoint liquidation will not occur until the year 2030 and that there will not be adequate estate funds to permit distributions to any claims having a distribution priority lower than Class 2 as set forth in Insurance Code section 1033. (Holloway Decl., ¶¶ 10-11.)

Under the Commissioner's authority as Liquidator under Insurance Code section 1016, he is necessarily imbued with the discretion to make interim distributions. This discretion is expressly recognized in paragraph 15 of the Liquidation Order providing that "The Liquidator is authorized, in his discretion, without permission of the Court and without notice, to pay or defer payment of some or all claims, expenses, liabilities, and/or obligations of CastlePoint, in whole or part, accruing prior and/or subsequent to his appointment as Liquidator." (Liquidation Order, ¶ 15.) As discussed more fully below in Part III hereof, the CastlePoint estate has ample funds to make the proposed second interim distribution on allowed Class 2 policyholder claims.

The Commissioner is also authorized by statute to make the proposed fifth distribution to state insurance guaranty funds. Insurance Code section 1035.5, subdivision (a), provides that the Commissioner, in his role as Liquidator, may apply for and obtain Court approval of a proposal to disburse the insurer's assets to state insurance guaranty funds. (Ins. Code, § 1035.5, subd. (a).) Such proposed distributions are to be in "amounts estimated at least equal to the payment made or to be made by the associations for which such associations could assert a claim against the commissioner" pursuant to the provisions of Insurance Code section 1035.5, subdivision (c). (Holloway Decl., ¶ 7.)

By Order dated September 15, 2022, the Court approved the first early access distribution to state insurance guaranty funds in the amount of $60,028,780 in net assets of the CastlePoint estate and the Commissioner expeditiously distributed the approved amount. By Order dated November 6, 2023, the Court subsequently approved a second early access distribution to state guaranty funds in the amount of $30,075,159 in net assets of the CastlePoint estate. The Commissioner expeditiously distributed the approved amount. By Order dated December 9, 2024, the Court thereafter approved a third early access distribution to the state insurance guaranty funds in the amount of $16,438,395 (as well as the first interim distribution on allowed Class 2 claims of CastlePoint policyholders in the amount of $3,561,587). The Commissioner expeditiously distributed the approved amounts. By Order dated November 6, 2025, the Court approved a fourth early access distribution to state insurance guaranty funds in the amount of $15,009,672. The Commissioner expeditiously distributed the approved amount.

The Commissioner now has concluded that the CastlePoint estate possesses sufficient assets to make a second interim access distribution on allowed Class 2 policyholder claims in the amount of approximately $1,188,046 and a fifth early access distribution of $14,834,796 to 27 state insurance guaranty funds or similar entities, after reserving for amounts described in Insurance Code section 1035.5, subdivision (b)(1) with respect to state guaranty fund distributions. (Holloway Decl., ¶¶ 8-11, Ex. A and B.)

With respect to setting aside the required reserves as set forth in Insurance Code section 1035.5, subdivision (b)(1), the Commissioner's proposal for a fifth distribution to the state insurance guaranty funds contains appropriate provisions for the payment of administrative costs, for the payment of the claims of secured creditors to the extent of the value of security held, and for claims falling within the priorities established in Insurance Code section 1033, subdivision (a)(1)-(4). The Commissioner's determination that the estate has ample funds for the proposed state guaranty fund distribution fully takes into account the amounts the estate must reserve for payment of such liabilities, as established by the 2025 Financial Statement attached as Exhibit C to the Holloway Declaration and discussed in detail in Section III hereof.

The appropriate amount to be distributed to each state guaranty fund under the proposed fifth distribution was determined by the Commissioner in the following manner. The Commissioner calculated the "ultimate loss" to each state guaranty fund, which consists of the amounts paid by the guaranty fund on behalf of policyholders, as well as claims reserves and administrative expenses. The Commissioner then applied a "maximum cap" for the distribution of a uniform percentage of each guaranty fund's ultimate loss. Statutory releases of funds from the CastlePoint estate to state guaranty funds, as well as statutory deposits of CastlePoint to be released to state guaranty funds, were then offset, along with any premium or other credits where appropriate, pursuant to Insurance Code section 1035.5, subdivision (d)[3]. (Holloway Decl., ¶ 11.) Utilizing this methodology, the Commissioner proposes to distribute and pay each of the 27 guaranty funds the amounts set forth in Exhibit B. If closure of the CastlePoint estate is delayed, the Commissioner may seek approval of additional early access distributions when such liabilities and contingencies become known and are quantified. (Holloway Decl., ¶ 11.)

In accordance with Insurance Code section 1035.5, subdivision (b)(4), with respect to the state insurance guaranty funds receiving a distribution, the Commissioner has already requested and received from each fund an executed "early access agreement" ("EA Agreement") that

[3] There are no statutory deposits in certain states. Accordingly, for those states, the Commissioner will distribute the applicable amounts without applying an Insurance Code section 1035.5, subdivision (d) offset for statutory deposits.

requires the state insurance guaranty funds to return previously disbursed assets to pay claims of secured creditors and claims falling within the priorities established in Insurance Code section 1033, subdivisions (a)(1) and (a)(2). (Holloway Decl., ¶ 12.) A true and correct copy of the template EA Agreement required to be signed by all state guaranty funds receiving a distribution is attached to the Holloway Declaration as Exhibit D.

In accordance with the requirements of Insurance Code section 1035.5, subdivision (e), notice as required therein of the Commissioner's Application was given to the insurance guaranty funds and the insurance commissioners of each of the states at least thirty days prior to the submission of the Application to the Court. (Holloway Decl., ¶ 12; Proofs of Service signed July 16, 2026 showing service on Insurance Guaranty Funds and Insurance Commissioners.)

In summary, the Commissioner has satisfied the requirements of Insurance Code section 1035.5 to state insurance guaranty funds. Thus, the distributions set forth set forth in Exhibits A and B to the Holloway Declaration are a lawful and appropriate exercise of the Commissioner's discretion. As discussed in Section III and IV below, the CastlePoint estate contains ample funds for the distributions sought in this Application, the distributions are fully authorized by applicable law, and thus the distributions should be approved and authorized.

III.

THE 2025 FINANCIAL STATEMENT OF THE CASTLEPOINT ESTATE DEMONSTRATES THAT IT CONTAINS AMPLE FUNDS FOR THE DISTRIBUTIONS FOR WHICH APPROVAL IS SOUGHT

A review of the 2025 Financial Statement of the CastlePoint estate shows that it contains ample funds to make the distributions for which approval is sought and the requested distributions are within the sound discretion of the Commissioner and should be approved. A review of the 2025 Financial Statement, confirmed by the 2025 Department of Finance Report, both of which are attached as Exhibit C to the Holloway Declaration, compels this conclusion.

Specifically, the CastlePoint estate had no accrued administrative expenses as of year-end 2025 and had liability for secured claims in the amount of $124,800 at year-end 2025. (See Holloway Decl., ¶ 10; Ex. C (Statement of Assets and Liabilities, page 1).) As of December 31, 2025, the Commissioner retained a total of $150,539,500 in readily-available funds, consisting of cash and cash equivalents, participation in pooled investments, and non-pooled short-term investments. (See Holloway Decl., ¶ 10, Ex. C.) The Net Assets shown in Exhibit C have not materially changed since year-end 2025. (Holloway Decl., ¶ 10.)

As shown in Exhibit A to the Holloway Declaration, under the Commissioner's proposed second interim distribution on allowed Class 2 policyholder claims, the Class 2 policyholders would receive a combined amount of approximately $1,188,046. Under the proposed fifth early access distribution, a total of 27 guaranty funds would receive, after the offset of statutory credits under Insurance Code section 1035.5, subdivision (d), an aggregate amount of approximately $14,834,796 in amounts paid on claims under CastlePoint policies and related loss adjustment expenses. (See Holloway Decl., ¶ 10, Ex. A) (setting forth the amounts, with applicable offsets, to be paid by the Commissioner to 29 state guaranty funds).) The Commissioner's contemplated distribution to these state insurance guaranty funds would result in the pro rata payment to each guaranty fund of a uniform percentage of paid losses and loss adjustment expenses. Subtracting the combined amount of approximately $16,022,842 million of the proposed distributions to policyholders and state insurance guaranty funds and the above total amount of $124,800 (representing the CastlePoint estate's secured claims liability) from the cash and other readily available funds in the estate of $150,539,500, it is clear that the remaining cash and other readily available funds in the estate of over $134 million are more than sufficient to cover both the higher priority secured claims and the ongoing administrative costs of the estate. (See Holloway Decl., ¶ 10, Ex. C, 2025 Financial Statement, Statement of Cash Flows.)

IV.

PROPOSED APPROVAL OF THE FINANCIAL STATEMENT AND EXPENSES OF ADMINISTRATION FOR 2025

A. Overview of Approval Process

Shortly after the Liquidation Order was entered by the Court, the Commissioner filed an Application for Order Approving Financial Report and Expenses of Administration that set forth a financial report and a report on the expenses incurred by the Commissioner during the Conservation Period, which the Court granted on July 18, 2017. The Commissioner subsequently sought and received approval by Order dated June 7, 2018, for the financial report and expenses of administration for the 2017 liquidation period (which covered the Liquidation Date through the end of 2017).

In June 2019, the Commissioner filed an Application for Order Approving Financial Report, Expenses of Administration, and Estate Administration Matters ("2018 Application"). The 2018 Application sought approval for the financial report and expenses incurred by the Commissioner in 2018, along with the request for approval of certain routine estate administration matters for the efficient and orderly handling of the estate. The 2018 Application was granted by Order of this Court on August 13, 2019.

In June 2020, the Commissioner filed his Amended Application for Order Approving Financial Report and Expenses of Administration ("2019 Application"). The 2019 Application sought approval for the financial report and expenses incurred by the Commissioner in 2019, as well as certain estate administration matters to enhance the efficiency and orderly handling of the estate. The 2019 Application was approved by Order of the Court on June 17, 2020.

In December 2021, the Commissioner filed his Application for Order Approving Financial Report and Expenses of Administration concerning the 2020 financial report and expenses of administration ("2020 Application"). The 2020 Application was approved by Order of the Court on December 20, 2021. In August 2022, the Commissioner filed his application for Order Authorizing Early Access Distribution and Wilkie Settlement Agreement. That application was approved by Order of the Court on September 15, 2022.

On October 11, 2023, the Commissioner filed his Application for Order Approving Second Early Access Distribution to State Guaranty Funds and his financial report and expenses of administration concerning 2021 and 2022. That application was approved by the Court on November 6, 2023.

On November 8, 2024, the Commissioner filed his Application for Order Authorizing First Interim Distribution on Allowed Class Two Policyholder Claims and Third Early Access Distribution to State Insurance Guaranty Funds, and approving his financial report, financial statement, and expenses of administration for 2023. That application was approved by the Court on December 9, 2024.

On October 13, 2025, the Commissioner filed his Application for Order Authorizing Fourth Early Access Distribution to State Insurance Guaranty Funds and approving his financial report, financial statement, and expenses of administration for 2024. That application was approved by the Court on November 6, 2025.

In addition to seeking authorization in the present Application for the second interim distribution to Class 2 policyholder claims and fifth early access distribution to the state insurance guaranty funds, the Commissioner also seeks approval of his 2025 Financial Statement and expenses of administration for the CastlePoint estate.

B. <u>Castlepoint Estate Liquidation Activities During 2025</u>

Since early 2019, all remaining liquidation activities have been assigned to the staff of the Commissioner's Conservation and Liquidation Office in San Francisco ("CLO") and, as of March 31, 2019, the CastlePoint home office in New Jersey was closed. (Holloway Decl., ¶ 13.) As set forth in the Holloway Declaration, during 2025 the Commissioner and CLO conducted the following actions, among others:

1. Continued to open and/or re-open claim files for state guaranty associations, now totaling over 3,350 claim files since the Liquidation Date through December 31, 2025;

2. Billed $3.4 million of reinsurance recoverables in 2025;

3. Collected for the CastlePoint estate reinsurance balances of approximately $2.7 million in 2025;

4. Collected for the CastlePoint estate miscellaneous recoveries in 2025 of approximately $83,000;

5. Planned and executed a complex early access distribution in a total amount of approximately $15 million in net assets of the CastlePoint estate to state insurance guaranty funds;

6. Filed on behalf of the CastlePoint estate the tax return for the 2025 tax year and completed the 2024 audits in 2025; and

7. Secured an additional addendum to the administrative services agreements with

AmTrust and National General through December 31, 2026.

In addition to the above activities, the Commissioner and his staff and counsel continued to respond to remaining claims and litigation issues affecting the CastlePoint estate. (Holloway Decl., ¶¶ 14-15.)

C. Financial Statement and Expenses of Administration

The 2025 Financial Statement of the CastlePoint liquidation estate was prepared under the direction of Joseph Holloway as Chief Executive Officer of the CLO and Liquidation Manager of CastlePoint, and it consists of the following subparts: Statement of Assets and Liabilities; Statement of Changes in Net Assets in Liquidation; and Statement of Cash Flows. In addition, a Statement of Income and Expenses (Monthly) is attached to the 2025 Financial Statement. (Holloway Decl., ¶ 17, Ex. C.)

The 2025 Financial Statement reflects the following expenses of administration. For 2025, the CastlePoint estate incurred and paid expenses totaling $4,183,524. (Holloway Decl., ¶ 18; Ex. C, Statement of Income and Expenses.) Of that total, $44,940 was paid for various office expenses. (*Ibid*.) Also, $505,328 was paid for professional fees, including legal consultants, and contractor expenses, but not including CLO personnel. (Holloway Decl., ¶ 17; Exhibit C, Statement of Income and Expenses.) Within that total for professional fees, $81,980 was paid for legal services in connection with the liquidation during 2025, and $423,348 was paid for other necessary consultants and contractors other than attorneys. (*Ibid*.) Additionally, $3,633,256 was paid to the CLO, which included amounts for services allocated to the CastlePoint estate attributable to the CLO's Accounting, Claims, Information Technology, Reinsurance, Estate Trust and Executive Departments. (*Ibid*.) A full breakdown of all expenses incurred during 2025 related to the liquidation is attached as part of Exhibit C to the Holloway Declaration. (Holloway Decl., Ex. C.) The 2025 Department of Finance Report, which included an Independent Accountant's Review Report , concluded that the CLO's 2025 Financial Statement for the CastlePoint estate is in accordance with accounting principles generally accepted in the United States of America. (Holloway Decl., Ex. C, 2025 Department of Finance Report at p. 2.)

The Court's Liquidation Order authorizes the Commissioner, acting as Liquidator, to fix and pay the administrative expenses of the liquidation from the assets of CastlePoint, subject to the Court's oversight and approval as specified. (See Liquidation Order, ¶¶ 3, 19.) These expenses were incurred pursuant to Insurance Code Sections 1035 and Section 1036. Under Sections 1035 and 1036, Commissioner has the authority to set all administrative costs and the compensation of outside attorneys, respectively, and to have those expenses paid by the liquidation estate pursuant to the Court's approval. The Commissioner believes that the expenses incurred were necessary to the efficient and orderly administration of CastlePoint during 2025 and for the continuing liquidation of CastlePoint. (Holloway Decl., ¶ 19.) As discussed in more detail below, the expenses incurred were a lawful and appropriate exercise of the Commissioner's discretion and should be approved.

V.

<u>DISCUSSION</u>

A. <u>The Relief The Commissioner Seeks Is Authorized By Law</u>

1. <u>The Proposed Early Access Distribution to State Insurance Guaranty Funds is within the Commissioner's Authority and Discretion and Should be Authorized.</u>

Pursuant to Insurance Code section 1016, the Court may enter a liquidation order appointing the Commissioner as liquidator and ordering the "winding up and liquidation of the business of the insurer." (Ins. Code, § 1016, subd. (a).) The Court entered such an Order herein on March 30, 2017, appointing the Commissioner as liquidator with broad powers and discretion to carry out the process of liquidation and winding up of the CastlePoint estate. Specifically, the Court directed the Commissioner "to liquidate and wind up the business of CastlePoint and to act in all ways and exercise all powers necessary for the purposes of carrying out this Order and the liquidation provisions of the Insurance Code, sections 1010 *et seq."* (Liquidation Order, ¶ 15.) The duly entered Liquidation Order provides clear authorization for the Liquidator, in liquidating and winding up the business of CastlePoint, to make interim distributions on allowed policyholder claims. Such interim distributions constitute a statutory priority preceded only by the administrative expenses of the estate. Specifically, the Liquidation Order provides in paragraph 15 that "The Liquidator is authorized, in his discretion, without permission of the Court and without notice, to pay or defer payment of some or all claims, expenses, liabilities, and/or obligations of CastlePoint, in whole or part, accruing prior and/or subsequent to his appointment as Liquidator." (Liquidation Order, ¶ 15.)

With respect to distributions to the state insurance guaranty funds, Insurance Code section 1035.5 provides as follows:

> Notwithstanding the provisions of Article 14 (commencing with Section 1010), with regard only to those insurers subject to this article:
>
> (a) Within 120 days of the issuance of an order directing the winding up and liquidation of the business of an insolvent insurer under Section 1016, the commissioner shall make application to the court for approval of a proposal to disburse the insurer's assets, from time to time as such assets become available, to the California Insurance Guarantee Association, or the California Life and Health Insurance Guarantee Association, and to any entity or person performing a similar function in another state.
>
> (b) The proposal shall at least include the following provisions for:
>
> (1) Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors (to the extent of the value of the security held) and claims falling within the priorities established in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 1033.
>
> (2) Disbursement of the assets marshaled to date and subsequent disbursements of assets as they become available.
>
> (3) Equitable allocation of disbursements to each of the associations entitled thereto.
>
> (4) The securing by the commissioner from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the commissioner such assets previously disbursed as may be required to pay claims of secured creditors and claims falling within the priorities established in paragraphs (1) to (5), inclusive, of subdivision (a) of Section 1033 in accordance with the priorities. No bond shall be required of any association.
>
> (5) A full report to be made by the association to the commissioner accounting for all assets so disbursed to the association, all disbursements made therefrom, any interest earned by the association on the assets, and any other matter as the court may direct.
>
> (c) The commissioner's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made by the associations for which such associations could assert a claim against the commissioner, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of the claim payments made or to be made by the associations, then disbursements shall be in the amount of available assets. The reserves of the insolvent insurer on the date of the order of liquidation shall be used for purposes of determining the pro rata allocation of funds among eligible associations.
>
> (d) The commissioner shall offset the amount disbursed to any entity or person performing a function in any other state similar to that function performed by the

> California Insurance Guarantee Association, or the California Life and Health Insurance Guarantee Association, by the amount of any statutory deposit, premiums, or any other asset of the insolvent insurer held in that state.
>
> (e) Notice of such application shall be given to the associations in and to the commissioners of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days prior to submission of such application to the court. Action on the application may be taken by the court provided the above required notice has been given and provided further that the commissioner's proposal complies with paragraphs (1) and (4) of subdivision (b).

As explained in the Holloway Declaration and Exhibits A through D thereto, the proposal for early access partial distributions to state insurance guaranty funds for which the Commissioner seeks court approval in this Application fully satisfies the statutory provisions of Insurance Code section 1035.5. (See generally Holloway Decl., ¶¶ 10-12.) First, the Commissioner retains readily available assets of CastlePoint in the amount of at least $150,539,500 to fund the estate's administrative expenses and claims of secured creditors, together totaling only $124,800 at year-end 2024, and these remaining available assets are more than sufficient to fund such future expenses. (See Ins. Code, § 1035.5, subd. (b)(1).) Second, the Commissioner proposes to disburse funds on a pro rata basis to each of the eligible guaranty funds pursuant to Insurance Code section 1035.5, subdivisions (b)(2) and (c), i.e. distribute funds which the Commissioner has determined to be the "available assets" of the estate. Third, the proposal provides for an equitable allocation of certain assets to the state insurance guaranty funds, pursuant to Insurance Code section 1035.5, subdivision (b)(3). Fourth, disbursement of the assets will be subject to the terms of the EA Agreement which requires each of the state insurance guaranty funds to, if necessary, return previously disbursed assets to the estate in order to pay claims of secured creditors, pursuant to Insurance Code section 1035.5, subdivision (b)(4). Fifth, disbursements of the assets will also be subject the terms of the EA Agreement which requires each of the state insurance guaranty funds to make a full report to the Commissioner accounting for all assets disbursed to each fund, all disbursements made therefrom, and any interest earned by the guaranty fund on the assets, as required by Insurance Code section 1035.5, subdivision (b)(5). Finally, the Commissioner will offset the amount disbursed to any state insurance guaranty fund by the amount of any statutory deposit, premiums, or any other asset that CastlePoint held in that state, pursuant to Insurance

Code section 1035.5, subdivision (d). Notice of this application has been given in accordance with the provisions of Insurance Code section 1035.5, subdivision (e). (See Holloway Decl., ¶¶ 11-12.)

Furthermore, in addition to satisfying the statutory provisions provided for under the Insurance Code, the Commissioner's proposal for a distribution to state insurance guaranty funds falls within the scope of his broad statutory discretion. The California Legislature has afforded to the Commissioner, acting in his capacity as the statutory and court-appointed liquidator of an insolvent insurer, substantial discretion under the Insurance Code to fashion appropriate procedures necessary to carry out his statutory duties. (*Calfarm Ins. Co. v. Deukmejian* (1989) 48 Cal.3d 805, 824-825; *Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d 307, 329.) As the Court-appointed liquidator of CastlePoint, the Commissioner has the express authority to, among other things, take such actions as he deems necessary to "carry on and conduct the business and affairs" of the Company. (Ins. Code, § 1037, subd. (a).) Insurance Code section 1037, subdivisions (a) and (b) provide, in pertinent part, as follows:

> Upon taking possession of the property and business of any person in any proceeding under this article, the commissioner, exclusively and except as otherwise expressly provided by this article, either as conservator or liquidator . . . [s]hall have authority . . . to carry on and conduct the business and affairs of that person or so much thereof as to him . . . may seem appropriate . . . [and also] [s]hall have authority to compound, compromise or in any other manner negotiate settlements of claims against that person upon such terms and conditions as the commissioner shall deem to be most advantageous to the estate of the person being administered . . . or otherwise dealt with under this article.

Section 1037 further provides the Commissioner, as the appointed liquidator of CastlePoint, with unspecified "[g]eneral powers" which shall not be construed to exclude:

> in any manner his . . . right to perform and to do such other acts not herein specifically enumerated, or otherwise provided for, which the commissioner may deem necessary or expedient for the accomplishment or in aid of the purpose of such proceedings.

(See *Carpenter v. Pacific Mut. Life Ins. Co., supra*, 10 Cal.2d 307 [seizure of insurance company by Commissioner may lawfully be made without court order and trial court had power to ratify and confirm Commissioner's actions]; *Garris v. Carpenter* (1939) 33 Cal.App.2d 649 [Commissioner exercises very broad judgment and discretion in performance of duties].) Judicial approval of the

Commissioner's proposal will ensure that the conduct of the business and the winding down of CastlePoint are conducted efficiently and in the best interests of its policyholders and creditors.

2. **<u>The Commissioner's Expenses of Administration Constitute an Appropriate Exercise of the Commissioner's Discretion and Should be Approved, and His Request for an Order Approving the 2025 Financial Statement and Expenses of Administration Should be Granted.</u>**

The Commissioner is vested with broad discretion to conduct the liquidation of an insolvent insurer subject to certain statutory limitations and the limitation "that the exercise of discretion be neither arbitrary nor improperly discriminatory." (*In re Executive Life Ins. Co.* (1995) 32 Cal.App.4th 344, 356, citing *Carpenter v. Pacific Mut. Life Ins. Co., supra*, 10 Cal.2d at p. 329.) His decisions as to matters concerning an insolvent insurer are reviewed by the Court on an abuse of discretion standard. (*In re Executive Life,* at p. 358.)

Sections 1035 and 1036 require the Commissioner to seek approval of the Court for the payment of administrative costs and legal fees, respectively, from the assets of CastlePoint. Specifically, Section 1035, subdivision (a) provides that "all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of [CastlePoint]...shall be fixed by the commissioner, subject to the approval of the court, and shall be paid out of the assets of [CastlePoint] to the department." (Ins. Code, § 1035, subd. (a).) Similarly, Section 1036 states that "compensation of any counsel outside of California state service who is employed...to represent the commissioner as receiver shall be fixed by the commissioner, subject to the approval of the court. Compensation of counsel representing the commissioner as receiver shall be paid from the assets of [CastlePoint]." (Ins. Code, § 1036.)

The expenses and professional fees incurred by the Commissioner during 2024 were appropriate for a receivership of this size and complexity, and were necessary, reasonable, and an appropriate exercise of the Commissioner's discretion to secure and manage the CastlePoint estate and its liquidation. (Holloway Decl., ¶ 18.)

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VI.

CONCLUSION

Accordingly, the Commissioner respectfully requests that this Court issue an Order:

1. Authorizing the Commissioner to distribute a total of approximately $16,022,842 in net assets of the CastlePoint estate, consisting of approximately $1,188,046, on the allowed Class 2 policyholder claims set forth in Exhibit A to the Holloway Declaration and approximately $14,834,796 to the state insurance guaranty funds or similar entities as itemized in Exhibit B to the Holloway Declaration in the amounts specified therein, provided that prior to any such distribution, the state insurance guaranty fund in question has executed and delivered to the Commissioner an agreement, substantially in the form set forth in Exhibit D to the Holloway Declaration, to return the distributed assets as required to pay claims of secured creditors and claims falling within the priorities established in Insurance Code section 1033, subdivisions (a)(1) and (a)(2);

2. Approving the Commissioner's 2025 Financial Statement, and the 2025 expenses of administration of the CastlePoint estate; and

3. Authorizing the Commissioner to take any and all action necessary to carry out the Order requested herein.

Dated: August 17, 2026

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