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5

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
7 **FOR THE COUNTY OF LOS ANGELES**  
8

9 STEVE POIZNER, Insurance  
Commissioner of the State of California,  
10  
11 Applicant,

12 vs.

13 MISSION INSURANCE COMPANY, a  
California corporation,  
14 Respondent.

15 \_\_\_\_\_  
Consolidated with Case Numbers

16 C 576 324; C 576 416;  
17 C 576 323; C 576 325; C 629709  
18 \_\_\_\_\_

) Case No. C 572 724

)  
)  
) Honorable John Shepard Wiley Jr

) NOTICE OF MOTION AND MOTION TO  
) APPROVE DISTRIBUTION AND  
) ACCOUNTING AS TO MISSION  
) INSURANCE COMPANY TRUST,  
) ENTERPRISE INSURANCE COMPANY  
) TRUST AND MISSION NATIONAL  
) INSURANCE COMPANY TRUST;  
) DECLARATION OF EDWARD HAHN

) Date: January 13, 2010 at 8:30 a.m.

) Department: 50

)  
Filed: October 31, 1985

1 Please take notice that on the 13<sup>th</sup> day of January, 2010 at the hour of 8:30 a.m., or as soon  
2 thereafter as the matter may be heard, Steve Poizner, Insurance Commissioner of the State of  
3 California, in his capacity as Trustee of the Mission Insurance Company Trust, the Enterprise  
4 Insurance Company Trust, and the Mission National Insurance Company Trust, shall appear in  
5 Department 50 of the Los Angeles Superior Court, and present his Motion to Approve Distribution  
6 and Accounting.

7 The motion requests approval of the accounting of the Mission Insurance Company Trust  
8 and the Mission National Insurance Company Trust, and an order which discharges the Insurance  
9 Commissioner as to the matters to which the accounting relates. This motion deals with the time  
10 period from the third quarter of 2005 through the third quarter of 2009, since this Court last heard a  
11 motion to approve an accounting. The motion is supported by the Declaration of Edward Hahn, as  
12 well as the pleadings and papers on file in this action.

13 Wherefore, premises considered, this Court is requested to issue an order which:  
14 approves the accounting, and discharges the Insurance Commissioner, individually and as Insurance  
15 Commissioner and Trustee, as the funds referenced in the accounting.  
16 and awards all other just and equitable relief

17 Respectfully submitted,

18 Wisener Nunnally\*Gold, LLP

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20 \_\_\_\_\_  
21 Robert H. Nunnally, Jr.  
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23 Garland, Texas 75041  
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1 **Memorandum of Points and Authorities**

2 Memorandum of Points and Authorities

3 Mission Insurance Company, Enterprise Insurance Company and Mission National Insurance  
4 Company were placed into liquidation along with other Mission affiliates on February 24, 1987.

5 The proof of claims deadline pursuant to California Insurance Code Section 1024 ran on September  
6 12, 1987. The deadline to amend timely proofs of claim was August 18, 1995. The companies have  
7 each distributed one hundred cents on the dollars in principal to approved policyholder creditors.

8 Mission National Insurance Company Trust has also distributed one hundred cents on the dollar of  
9 the principal amount of general creditor claims, and a partial payment of interest to policyholder-  
10 class approved claims. All three companies expect to make further distributions as the final assets  
11 are collected. The trusts continue to collect assets, and hold substantial reserves until dates in which  
12 contingencies might arise, including tax matters, have passed.

13 In 2005, the Insurance Commissioner sought and obtained an approval of an accounting as to  
14 matters through the third quarter of 2005. The Insurance commissioner now seeks approval of an  
15 accounting as to matters through the third quarter of 2009. The Declaration of Edward Hahn  
16 provides the details of the financials and expenditures.

17 California Insurance Code Section 1037 provides that the Insurance Commissioner shall  
18 have the right and duty to manage the liquidation of an insurance company as liquidator. Here, the  
19 Court has previously authorized the creation of the Mission Insurance Company Trust and the  
20 Mission National Insurance Company Trust. The Insurance Commissioner's discretion in the  
21 handling of these matters is broad. *Low v. Golden Eagle Ins. Co.*, (2002) 104 Cal. App. 4th 306; 128  
22 Cal. Rptr. 2d 423. Even a less deferential standard of review, however, would support  
23 the relief requested here—to discharge the Insurance Commissioner based on the accounting  
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provided. The Court is requested to approve this accounting.

Respectfully submitted,

Wisener\*Nunnally\*Gold, LLP  
  
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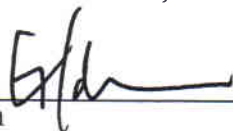
**Declaration of Edward Hahn**

I, Edward Hahn, make this Declaration in San Francisco, California, under the penalty of perjury of the laws of the State of California and show:

1. I am Edward Hahn. I am over the age of eighteen years. I am competent to be a witness. I have personal knowledge of the events to which I attest. I acquired my personal knowledge in my role as an employee of the California Conservation and Liquidation Office (“CLO”). I am one of the persons who prepares the regular accounting statements for the CLO as to the Mission Insurance Company Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company Trust. I have a Master’s in Business Administration from the University of California at Berkeley and over ten years’ experience in dealing with accounting matters for insurance companies in liquidation. I am familiar with the records to which I attest, which are business records of the CLO.

2. I attach as Exhibit “A” a true and correct copy of the financial statements for the Mission Insurance Company Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company Trust. The expenditures by the trusts are set forth therein.

I hereby execute this declaration under the penalty of perjury of the laws of the State of California in San Francisco, California, on the 14<sup>th</sup> day of December, 2009.

  
\_\_\_\_\_  
Edward Hahn

**Mission Ins Co**

## STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2009

	(Opening Balance)		
	Jan 1	Sep 30	
	1998	2009	Change
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	217,610	-	(217,610)
Restricted	16,455,223	580,764	(15,874,459)
Participation in pooled investments, at market	480,851,923	92,832,728	(388,019,195)
Accrued investment income	-	451,726	451,726
Statutory deposits held by other states	16,677,901	-	(16,677,901)
Recoverable from reinsurers	63,758,552	58,554,821	(5,203,731)
Receivable from affiliates, net of allowances	91,265,656	79,798,066	(11,467,590)
Deposits and other assets	256,437	-	(256,437)
<b>Total Available Assets</b>	<b>669,483,302</b>	<b>232,218,105</b>	<b>(437,265,197)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	1,852,188	1,852,188
Reserve for Federal Income Tax Liability	-	77,583,880	77,583,880
Claims against policies, including guaranty associations, before distributions	784,277,837	846,832,561	62,554,724
Policyholder distributions	-	(846,629,597)	(846,629,597)
All other claims	1,024,261,559	256,851,568	(767,409,991)
<b>Total Estimated Liabilities</b>	<b>1,808,539,396</b>	<b>336,490,600</b>	<b>(1,472,048,796)</b>
<b>NET ASSETS (DEFICIENCY)</b>	<b>(1,139,056,094)</b>	<b>(104,272,495)</b>	<b>1,034,783,599</b>

Conservation & Liquidation Office

**Mission Ins Co**

STATEMENT OF CHANGES TO NET ASSETS  
As of September 30, 2009

	1998 to 2005	2006	2007	2008	Sep 30 ytd 2009	Jan 1998 to Sep 2009
<b>INCOME</b>						
Premium Collections	472,918	131,269	11,309	1,078,326	86,219	1,780,042
Reinsurance Recoveries	17,019,505	-	-	-	-	17,019,505
Litigation Recoveries	2,633,791	-	-	-	-	2,633,791
Salvage/Subrogation Recoveries	634,571	139,129	-	-	-	773,701
Net Investment Income	200,716,053	12,744,164	14,993,417	3,581,199	5,362,361	237,397,194
<b>Total Income</b>	<b>221,476,839</b>	<b>13,014,562</b>	<b>15,004,726</b>	<b>4,659,526</b>	<b>5,448,580</b>	<b>259,604,233</b>
<b>OPERATING EXPENSES</b>						
Legal and Professional	8,080,930	232,048	150,524	207,795	55,686	8,726,983
General and Administrative	12,846,899	240,785	173,564	157,742	165,842	13,584,832
Allocated Expenses	4,912,170	672,615	329,669	960,666	365,706	7,240,826
Loss on Disposition of Fixed Assets	(2,955,299)	(19,725)	-	-	-	(2,975,024)
Total Operating Expenses	22,884,700	1,125,723	653,757	1,326,203	587,233	26,577,616
<b>Net Income after Operating Expenses</b>	<b>198,592,139</b>	<b>11,888,840</b>	<b>14,350,969</b>	<b>3,333,323</b>	<b>4,861,347</b>	<b>233,026,617</b>
<b>LOSSES AND OTHER EXPENSES</b>						
Incurred Losses and Claims Expense	(818,943,872)	(8,738,180)	(4,513,352)	861,293,259	5,958,229	35,056,083
Court-ordered Debt Forgiveness	-	-	-	(915,746,819)	-	(915,746,819)
Provision for Federal Income Taxes	81,353,524	(2,419,770)	-	-	-	78,933,754
Losses and Other Expenses	(737,590,349)	(11,157,950)	(4,513,352)	(54,453,559)	5,958,229	(801,756,982)
<b>Changes to Net Assets</b>	<b>936,182,488</b>	<b>23,046,790</b>	<b>18,864,321</b>	<b>57,786,882</b>	<b>(1,096,882)</b>	<b>1,034,783,599</b>

170 Conservation & Liquidation Office  
**Mission National Ins Co**  
 STATEMENT OF ASSETS AND LIABILITIES  
 As of September 30, 2009

	(Opening Balance)		
	Jan 1	Sep 30	
	1998	2009	Change
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	102,520	-	(102,520)
Participation in pooled investments, at market	232,119,932	21,593,925	(210,526,007)
Accrued investment income	-	104,335	104,335
Statutory deposits held by other states	1,947,958	-	(1,947,958)
Recoverable from reinsurers	13,739,903	10,414,089	(3,325,814)
Receivable from affiliates, net of allowances	(23,054,953)	-	23,054,953
Other receivable	-	126,066	126,066
<b>Total Available Assets</b>	<b>224,855,360</b>	<b>32,238,415</b>	<b>(192,616,945)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	1,886,786	1,886,786
Reserve for Federal Income Tax Liability	-	15,867,476	15,867,476
Claims against policies, including guaranty associations, before distributions	354,972,480	596,098,477	241,125,997
Policyholder distributions	-	(499,606,732)	(499,606,732)
All other claims	14,177,008	16,838,096	2,661,088
<b>Total Estimated Liabilities</b>	<b>369,149,488</b>	<b>131,084,103</b>	<b>(238,065,385)</b>
 <b>NET ASSETS (DEFICIENCY)</b>	 <b>(144,294,128)</b>	 <b>(98,845,688)</b>	 <b>45,448,440</b>



**Mission National Ins Co**

STATEMENT OF CHANGES TO NET ASSETS  
As of September 30, 2009

	1998 to 2005	2006	2007	2008	Sep 30 Ytd 2009	Jan 1998 to Sep 2009
<b>INCOME</b>						
Premium Collections	60,506	38,471	-	49,348	-	148,324
Reinsurance Recoveries	(2,348,254)	-	-	-	-	(2,348,254)
Litigation Recoveries	943,000	-	-	-	-	943,000
Salvage/Subrogation Recoveries	98,752	501	137,615	-	-	236,868
Net Investment Income	97,081,952	4,326,752	7,154,651	1,192,941	1,110,704	110,867,001
<b>Total Income</b>	<b>95,835,956</b>	<b>4,365,724</b>	<b>7,292,266</b>	<b>1,242,289</b>	<b>1,110,704</b>	<b>109,846,939</b>
<b>OPERATING EXPENSES</b>						
Legal and Professional	1,173,099	73,499	38,960	47,611	8,916	1,342,084
General and Administrative	96,554	15,159	4,387	2,312	3,301	121,712
Allocated Expenses	5,026,757	231,733	110,824	347,783	101,679	5,818,776
Loss on Disposition of Fixed Assets	(7,868,911)	32	-	-	-	(7,868,879)
Total Operating Expenses	(1,572,501)	320,423	154,170	397,705	113,896	(586,307)
<b>Net Income after Operating Expenses</b>	<b>97,408,458</b>	<b>4,045,301</b>	<b>7,138,095</b>	<b>844,584</b>	<b>996,808</b>	<b>110,433,247</b>
<b>LOSSES AND OTHER EXPENSES</b>						
Incurred Losses and Claims Expense	(81,382,495)	(29,783,878)	(44,009,260)	278,048,558	66,452	122,939,377
Court-ordered Debt Forgiveness	-	-	-	(75,397,352)	-	(75,397,352)
Provision for Federal Income Taxes	1,575,795	15,866,986	-	-	-	17,442,781
Losses and Other Expenses	(79,806,700)	(13,916,892)	(44,009,260)	202,651,206	66,452	64,984,807
<b>Changes to Net Assets</b>	<b>177,215,158</b>	<b>17,962,193</b>	<b>51,147,355</b>	<b>(201,806,622)</b>	<b>930,356</b>	<b>45,448,440</b>

**Enterprise Ins Co**

## STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2009

	(Opening Balance)		
	Jan 1	Sep 30	
	1998	2009	Change
<b>ASSETS</b>			
Cash and cash equivalents:			
Unrestricted	29,771,800	194,611	(29,577,189)
Participation in pooled investments, at market	-	1,397,985	1,397,985
Accrued investment income	-	7,815	7,815
Recoverable from reinsurers	299,581	-	(299,581)
Receivable from affiliates, net of allowances	40,108,050	-	(40,108,050)
Other receivable	848,164	-	(848,164)
<b>Total Available Assets</b>	<b>71,027,595</b>	<b>1,600,411</b>	<b>(69,427,184)</b>
<b>LIABILITIES</b>			
Unclaimed Funds and Other Secured Claims	-	653,840	653,840
Reserve for Federal Income Tax Liability	341,083	579,449	238,366
Claims against policies, including guaranty associations, before distributions	75,391,507	120,573,416	45,181,909
Policyholder distributions	-	(120,573,414)	(120,573,414)
All other claims	18,008,695	30,780,906	12,772,211
<b>Total Estimated Liabilities</b>	<b>93,741,285</b>	<b>32,014,197</b>	<b>(61,727,088)</b>
 <b>NET ASSETS (DEFICIENCY)</b>	 <b>(22,713,690)</b>	 <b>(30,413,786)</b>	 <b>(7,700,096)</b>

Conservation & Liquidation Office

**Enterprise Ins Co**

STATEMENT OF CHANGES TO NET ASSETS  
As of September 30, 2009

	1998 to 2005	2006	2007	2008	Sep 30 ytd 2009	Jan 1998 to Sep 2009
<b>INCOME</b>						
Premium Collections	14,996	420,705	32,262,135	1,669,826	-	34,367,661
Litigation Recoveries	205,000	-	-	-	-	205,000
Salvage/Subrogation Recoveries	7,402	-	-	-	-	7,402
Net Investment Income	6,914,925	928,563	155,538	69,836	234,074	8,302,936
<b>Total Income</b>	<b>7,142,323</b>	<b>1,349,268</b>	<b>32,417,673</b>	<b>1,739,662</b>	<b>234,074</b>	<b>42,883,000</b>
<b>OPERATING EXPENSES</b>						
Legal and Professional	434,319	19,289	6,291	360	39,726	499,986
General and Administrative	5,814	632	108	7	4,102	10,663
Allocated Expenses	1,397,377	89,904	25,670	15,764	119,543	1,648,257
Loss on Disposition of Fixed Assets	(593,393)	(1,100)	-	-	-	(594,494)
Total Operating Expenses	1,244,117	108,725	32,069	16,131	163,371	1,564,412
<b>Net Income after Operating Expenses</b>	<b>5,898,206</b>	<b>1,240,543</b>	<b>32,385,604</b>	<b>1,723,531</b>	<b>70,704</b>	<b>41,318,588</b>
<b>LOSSES AND OTHER EXPENSES</b>						
Incurred Losses and Claims Expense	27,211,848	(11,892,427)	35,563,623	(2,613,407)	76,593	48,346,229
Provision for Federal Income Taxes	93,128	579,326	-	-	-	672,454
Losses and Other Expenses	27,304,976	(11,313,101)	35,563,623	(2,613,407)	76,593	49,018,684
<b>Changes to Net Assets</b>	<b>(21,406,770)</b>	<b>12,553,644</b>	<b>(3,178,019)</b>	<b>4,336,938</b>	<b>(5,889)</b>	<b>(7,700,096)</b>

**PROOF OF SERVICE: By FEDERAL EXPRESS**  
**(Code Civ. Proc., §§ 1013, 2015.5)**

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STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 625 West Centerville Road, Suite 110, Garland, Texas 75041.

On this date, I served the foregoing document described as **NOTICE OF MOTION AND MOTION TO APPROVE DISTRIBUTION AND ACCOUNTING AS TO MISSION INSURANCE COMPANY TRUST, ENTERPRISE INSURANCE COMPANY TRUST AND MISSION NATIONAL INSURANCE COMPANY TRUST; DECLARATION OF EDWARD HAHN** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

Sent via FEDERAL EXPRESS to:  
The Attached List

I am readily familiar with my employer's practices of collection and processing correspondence for mailing with the U.S. Postal Service and the above-referenced correspondence will be deposited with the U.S. Postal Service on the same date as stated below, following the ordinary course of business.

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

(Federal) I declare that I am employed by the office of a member of the bar of this court at whose direction the service was made.

Executed on December 15, 2009 at Garland, Texas.

  
\_\_\_\_\_  
Belinda Jones