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Superior Court of California
County of Los Angeles

MAK 03 2016

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6

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

9 DAVE JONES, INSURANCE
10 COMMISSIONER OF THE STATE OF
11 CALIFORNIA,

12 Applicant,

13 vs.

14 MISSION INSURANCE COMPANY, A
15 CALIFORNIA CORPORATION,,

16 Respondent

17 Consolidated with Case Numbers

18 C 576 324; C 576 416;
C 576 323; C 576 325; C 629709

CASE NO. C 572 724

Honorable John L. Segal

**THE INSURANCE COMMISSIONER'S
UPDATED STATUS CONFERENCE
REPORT AND UPDATED CLOSING
PLAN**

Department 50

Action Filed: October 31, 1985

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28 THE INSURANCE COMMISSIONER'S UPDATED STATUS CONFERENCE REPORT AND UPDATED
CLOSING PLAN - 1

1 Dave Jones, Insurance Commissioner of the State of California, in his capacity as
2 Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company
3 Trust and the Enterprise Insurance Company Trust ("Insurance Commissioner"), hereby
4 submits this Status Report and advises the Court as follows:

5 **The Status of the Case**

6 This status report updates prior status reports on the insolvency of Mission
7 Insurance Company, Mission National Insurance Company and Enterprise Insurance Company.
8 Each of these large property and casualty insurers entered conservation on October 31, 1985 and
9 entered liquidation on February 23, 1987. Since that time, the Insurance Commissioner as
10 Liquidator has adjusted the claims and marshaled the assets, with the assistance of a staff of
11 former personnel of the insurance companies and of employees of the Insurance
12 Commissioner's Conservation and Liquidation Office. Over 166,000 proof of claim forms went
13 out in this matter, and over one billion dollars in assets were collected in this matter. Each
14 policyholder of the companies holding an approved claim has been approved for a distribution
15 of one hundred cents on the dollar of the principal amount of her, his or its approved claim(s).
16 The distributions have resulted in over a billion dollars being paid to claimants.

17
18 The Court approved a rehabilitation plan in 1990 in which the insurance
19 company corporations were transferred, while all liabilities were transferred to liquidating trusts
20 for administration with the Insurance Commissioner as Trustee. Covanta Holding Corporation
21 is the ultimate parent company of the now-transferred insurance companies. The Insurance
22 Commissioner is now Trustee of the Mission Insurance Company Trust, the Mission National
23 Insurance Company Trust, and the Enterprise Insurance Company Trust, which administer the
24 remaining assets and claims of each of the trusts. Mission Insurance Company Trust and
25 Enterprise Insurance Company Trust continue to have outstanding general creditor obligations,
26 while Mission National Insurance Company Trust has outstanding interest obligations.

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I. Developments

Enterprise Insurance Company Trust, Mission National Insurance Company Trust and Mission Insurance Company Trust obtained a closing order in 2006. The trusts have distributed substantial assets, but each trust has substantial assets which have not been distributed. Additional assets continue to be collected. The trusts have been waiting to make their final distributions until further events take place. Substantial collections and activities have taken place since the last status report. These events and the developments and progress in resolving the remaining issues are set forth below.

1. New developments in the effort to secure a super-priority release from the United States Department of Justice

The Insurance Commissioner as Trustee applied for a release in 2011 from any superpriority claims from the United States Department of Justice. In past status reports, the Insurance Commissioner described how the Insurance Commissioner submitted a request for a super-priority release and how the Insurance Commissioner had responded to requests for further information with a submission of the requested further information. Prior status reports advised that Enterprise Insurance Company Trust obtained its release, but the request for a release by Mission Insurance Company Trust and Mission National Insurance Company Trust remain pending.

Since the last status report, the United States Department of Justice filed two proofs of claims seeking payment for alleged policy liabilities owed to the Environmental Protection Agency.

After the Insurance Commissioner as Trustee applied to the United States Department of Justice for a release, the United States Department of Justice and the United States Environmental Agency reviewed policy lists provided by the Liquidator. Initially, the review effort included a substantial number of sites. This effort was reduced to fewer sites and policies. In 2014 the DOJ/EPA then requested documents related to 55 policies. The Liquidator

1 retrieved, reviewed, scanned and copied over 2,500 policy related documents. The Liquidator
2 also reviewed 180 related Proofs of Claim relating to those 55 policies. The DOJ/EPA
3 reviewed the policy documents, and, in 2015, filed two proofs of claim against Mission
4 Insurance Company and one proof of claim against Mission National Insurance Company)
5 seeking payment for alleged policy liabilities owed to the Environmental Protection Agency by
6 two policyholders. All three proofs of claim are for substantial policy limits.

7
8 Counsel for the Insurance Commissioner, the Conservation and Liquidation
9 Office, counsel for the United States Department of Justice and counsel for the United States
10 Environmental Agency held several significant discussions related to those two claims
11 throughout much of 2015 after the filing of these proofs of claim. These discussions have not
12 yet resulted in a resolution of those claims, but are expected to continue.

13 In addition, during 2015, the United States Department of Justice advised that a
14 renewed effort to seek out additional claims was underway. Discussions to seek to resolve the
15 issues as to the initial two proof of claims were placed on hold as between October and
16 December 2015, as the Department of Justice, acting on behalf of the EPA, requested copies of
17 policies related to ten additional policyholders. The Liquidator complied and provided copies
18 of 38 policies. The DOJ has since advised that it will file proofs of claim arising from claims
19 related to two of those policyholders. The United States Department of Justice advised that it
20 had ruled out claims against all of the other policyholders for which policies were requested but
21 one. The Department of Justice continues to review the policies of one policyholder and has
22 advised that it will communicate further as to these policies in the near future. Thus, as of the
23 filing of this report, two proofs of claims have been filed, the Department of Justice advises it
24 expects to file two more, and one matter is pending review. The Department of Justice counsel
25 also advised that their policy review will not involve any further policies or sites.

26 The proof of claims deadline in these estates was September 12, 1987. The
27 United States takes the position based on certain cases that bar dates do not affect it, while the

1 Insurance Commissioner, based upon other authority in this area, takes the position that bar
2 dates do matter, particularly in a matter pertinent to the alleged policy liabilities of the company.
3 Further, the Conservation and Liquidation Office and the undersigned counsel have conducted
4 an extensive preliminary analysis of the underlying facts and the coverage aspects of the sites
5 identified by the United States.

6 The United States appears in this matter as a third party claimant against Mission
7 and Mission National insureds rather than an insured in its own right. The actual insureds' rights
8 were already resolved years ago, and principles of res judicata and collateral estoppel may bar
9 any effort by one asserting assignee or other derivative status to seek to revisit these losses.

10 In addition, significant issues of policy coverage and policy allocation impose
11 substantial hurdles to any party seeking to assert a claim now. The various deadlines imposed
12 by this Court may also raise a hurdle to any claim.

13 This status report is not the time or the place to litigate those issues, though. This
14 report sets forth status. The status is that working together, the Insurance Commissioner's
15 counsel, the Conservation and Liquidation Office, the United States Department of Justice, and
16 the Environmental Protection Agency have continued discussions as to possible issues with
17 regard to a federal release. Proofs of claims may soon follow to further frame the remaining
18 issues. Should the proofs of claims be delayed, the Insurance Commissioner will address the
19 issues either with this Court or through an appropriate action to determine rights. The resolution
20 of any claims of the United States or the receipt of a release from the United States is a step
21 needed to resolve one of the last barriers to closing. The Insurance Commissioner's
22 Conservation and Liquidation Office remains committed to try to get this process finalized.

23
24 **2. The Trusts are advised that Covanta reached a resolution of its tax audit**

25 Mission Insurance Company Trust, Mission National Insurance Company Trust
26 and Enterprise Insurance Company Trust are part of the Covanta Holding Corporation

1 consolidated tax return. The Insurance Commissioner previously advised the Court that a tax
2 review for the tax years 2004-2009 was underway.

3 Covanta Holding Corporation has filed documents with the Securities Exchange
4 Commission advising that it has resolved the audit with the Internal Revenue Service. This
5 settlement appears to be under circumstances that should not affect the insurance companies.
6 Thus, this hurdle to closing appears resolved.

7 This Court has already approved a rehabilitation plan implementation agreement,
8 in which Covanta Holding Corporation agreed to indemnify the Insurance Commissioner as
9 Trustee as to certain tax issues. Since the last report, the Insurance Commissioner has obtained
10 from Covanta a written agreement ensuring that any potential tax issues arising from certain
11 corporate changes contemplated by Covanta will fall within the indemnity. The most recent
12 Covanta 10-K filed February 26, 2016, advises:

13
14 The IRS audited our tax returns for the years 2004 through 2009, a period which
15 included both years in which NOLs generated in prior years were utilized and years in
16 which losses giving rise to additional NOLs were reported. During the year ended
17 December 31, 2015, we settled with the IRS resulting in substantially all of the NOLs
18 remaining available to offset consolidated taxable income. As a result, during the year
19 ended December 31, 2015, we recognized \$93 million of income tax benefit.

20 Based on the foregoing, the audit appears to be completed.

21 Asset Collections

22 The approved proof of claim of the Trustee in the Universale Ruck liquidation in
23 Switzerland generated a distribution of \$ 2,709,948, allocated as follows:

24 Mission Insurance Company Trust: \$ 655, 455

25 Mission National Insurance Company Trust \$ 1,989,186

26 Enterprise Insurance Company Trust \$ 65,307

27 The substantial proof of claim approved in favor of the Mission trusts in the
28 Centaur Insurance Company matter in Illinois has not yet resulted in any distributions, due to
that estate's ongoing dialogue with the United States Department of Justice.

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The Distribution as to Enterprise

An asset distribution as to Enterprise was completed, and a distribution declaration filed. Enterprise has its federal release.

II. Financial Status of the Trusts

Attached as Exhibit "A" is a statement of assets and liabilities for the Trusts. The Trustee continues to hold a substantial sum of money in reserve for unknown and unexpected contingencies. Because interested parties have posed questions about the inter-company obligations of the Trusts, a page has been added to address that.

The Insurance Commissioner does not include a timeline with this filing, because the time line would just continue to be reset until the federal issues set forth above are resolved. The trusts have final distributions to make once the federal issues, including any tax issues, and any remaining collection and distribution issues are resolved. A federal release/waiver issue also affects one of the material assets of the Mission Insurance Company Trust, because the Insurance Commissioner as Trustee has an approved multi-million dollar proof of claim against Centaur Insurance Company, but distributions on this proof of claim have been delayed by the Centaur rehabilitator pending its pursuit of a federal release. If the federal issues reach a resolution, then the Insurance Commissioner will file a motion to make further distributions.

III. Further Events:

John Hancock Life Insurance Company has filed an interpleader in San Francisco County regarding sums due on an insurance annuity for which Mission Insurance Company is the beneficiary. The Insurance Commissioner's counsel is in dialogue with counsel for that insurer and the family of the third party claimant about this matter, and will file any necessary pleadings if a resolution cannot be reached.

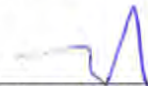
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Conclusion:

The IRS issues appear to be resolved, but the federal non-tax claims process remains in progress, with progress being made, but additional challenges arising. The new John Hancock suit will require further negotiation or proceedings.

Respectfully submitted,

WISENER*NUNNALLY*ROTH, LLP



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Exhibit “A”

CONSOLIDATED: Mission Ins Cos
STATEMENT OF ASSETS AND LIABILITIES
As of December 31, 2015

	672	170	540	
	<u>Mission</u>	<u>Mission National</u>	<u>Enterprise</u>	<u>TOTAL</u>
ASSETS				
Participation in pooled investments, at market	111,593,900	32,410,000	-	144,003,900
Accrued investment income	312,400	90,700	-	403,100
Recoverable from reinsurers	20,685,300	2,473,200	-	23,158,500
Receivable from affiliates	23,816,400	-	-	23,816,400
Other receivable	-	(9,600)	-	(9,600)
Total Available Assets	156,408,000	34,964,300	-	191,372,300
LIABILITIES				
Secured claims	1,173,300	1,886,800	-	3,060,000
Accrued administrative expenses	77,580,200	15,867,000	-	93,447,200
Claims against policies, including guaranty associations, before distributions	846,832,600	596,098,500	-	1,442,931,000
Early access and other Class 2 distributions California and Federal claims having preference	-	-	(39,700)	(39,700)
Payable to affiliates	78,724,300	36,075,900	-	114,800,200
All other claims	119,714,200	(19,237,800)	(12,075,600)	88,400,800
Total Estimated Liabilities	277,192,000	130,838,500	-	408,030,400
NET ASSETS (DEFICIENCY)	(120,784,000)	(95,874,200)	-	(216,658,100)

	<u>Mission</u>	<u>Mission National</u>	<u>Enterprise</u>	<u>TOTAL</u>
ADMIN EXPENSES				
Legal expenses	161,400	61,300	-	222,700
Consultants and temps	12,800	5,600	2,100	20,500
Office expenses	180,100	-	410,000	590,100
Allocated overhead expenses	328,200	121,200	14,500	463,900
	682,500	188,100	426,600	1,297,200

Conservation Date	10/31/1985	11/26/1985	11/26/1985
Target Close Date	2016	2016	2015
Assets as % of Liabilities	56%	27%	-1%

CONSOLIDATED: Mission Ins Cos
STATEMENT OF ASSETS AND LIABILITIES
As of December 31, 2015

	672	170	540		
	Mission	Mission National	Enterprise	TOTAL	
ASSETS detail					
Cash and Investments					
12001	Participation in Pooled Investment	111,593,905	32,410,014	0	144,003,919
	Cash and Investments	111,593,905	32,410,014	0	144,003,919
13015	Accrued Int & Div Receivable	312,432	90,715	-	403,147
Reinsurance Receivable					
13001	Rein Recoverable-Paid	41,722,289	5,837,477	-	47,559,766
13003	Allow For Uncoll Rein Receivable	(21,036,998)	(3,364,281)	-	(24,401,279)
	Reinsurance Receivable	20,685,291	2,473,196	-	23,158,487
Receivable from affiliates					
13012.EIC	Receivable from Enterprise	-	13,487,859	-	13,487,859
13012.HAIC	Receivable from Holland America	39,649,980	-	-	39,649,980
13012.1	Allowance for Receivable from Affiliates	(15,833,536)	(13,487,859)	-	(29,321,395)
	Receivable from Affiliates Net of Allowance	23,816,444	-	-	23,816,444
Other Receivables					
13018	Other Receivables	-	14,345	-	14,345
13019	Allow Uncoll Acct-Other Rec	-	(23,915)	-	(23,915)
	Other Receivable	-	(9,570)	-	(9,570)
Total Available Assets					
	156,408,072	34,964,355	0	191,372,427	
LIABILITIES detail					
Secured Claims					
22001	Unclaimed Funds Payable	1,173,252	1,886,786	-	3,060,037
	Secured Claims	1,173,252	1,886,786	-	3,060,037
Class 1: Payables and Accrued Expenses					
25001	Due To/From Intercompany Acct	1	1	(1)	2
26001	Fed Income Tax Payable Post Liq	77,580,230	15,866,986	-	93,447,216
	Class 1 Liabilities	77,580,231	15,866,987	(1)	93,447,218
Class 2: Losses, Reserves and non-IGA Claims					
28001	Loss & ALAE Reserve	-	110,872,815	-	110,872,815
28006	Liability Due to GAs	661,199,259	284,717,623	-	945,916,882
29001	Other Class 2 Payable	185,633,302	200,508,039	-	386,141,341
	Class 2 Liabilities before Distributions	846,832,561	596,098,477	-	1,442,931,038
Early Access and Other Class 2 Distributions					
28007	Advances to Guaranty Associations	(661,199,259)	(337,936,554)	-	(999,135,813)
41005	Class 2 Distributions	(177,960,427)	(159,300,375)	(120,573,414)	(457,834,216)
41012	Distributions on Behalf of Domiciliary	(7,672,875)	(2,614,935)	-	(10,287,810)
41010	Distribution Clearing	-	-	132,688,697	132,688,697
	Early access and other Class 2 distributions	(846,832,560)	(499,851,864)	12,115,283	(1,334,569,141)
Class 3, 5 & 6: Calif and Federal claims					
27003	Premium Tax Payable - Class 3	111,132	-	-	111,132
41002	Class 3-6 Distributions	(111,132)	-	(39,680)	(150,813)
	Class 3, 5 & 6 Liabilities	-	-	(39,680)	(39,680)

CONSOLIDATED: Mission Ins Cos
STATEMENT OF ASSETS AND LIABILITIES
As of December 31, 2015

	672	170	540	
	Mission	Mission National	Enterprise	TOTAL
Class 7: Payable to Affiliates				
30002.MIC Payable to Mission	-	22,778,042	-	22,778,042
30002.MNIC Payable to Mission National	21,729,091	-	-	21,729,091
30002.EIC Payable to Enterprise	40,205,805	-	-	40,205,805
30002.HAIC Payable to Holland America	11,543,156	-	-	11,543,156
30002.MRC Payable to Mission Re	5,246,200	-	-	5,246,200
30002.INT Interest Payable to Affiliates	-	13,297,901	-	13,297,901
Class 7 Payable to Affiliates	<u>78,724,251</u>	<u>36,075,943</u>	<u>-</u>	<u>114,800,193</u>
Class 7: All Other Claims				
30001 Accounts Payable-Pre Liquidation	-	-	-	-
30005 Reinsurance Payable	383,122,808	5,396,962	-	388,519,771
30008 Other Class 7 Liabilities	2,255,708	2,442,517	-	4,698,225
41006 Class 7 Distributions	(265,664,289)	(27,077,326)	(12,075,603)	(304,817,218)
Class 7 Liabilities	<u>119,714,227</u>	<u>(19,237,847)</u>	<u>(12,075,603)</u>	<u>88,400,777</u>
Total Estimated Liabilities	<u>277,191,961</u>	<u>130,838,481</u>	<u>(1)</u>	<u>408,030,442</u>
NET ASSETS (DEFICIENCY)	<u>(120,783,889)</u>	<u>(95,874,126)</u>	<u>1</u>	<u>(216,658,015)</u>
Distributions this period				
28007 Advances to Guaranty Associations	-	-	(119,667,564)	(119,667,564)
41005 Class 2 Distributions	-	-	119,667,564	119,667,564
YTD Distributions	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

CONSOLIDATED: Mission Ins Cos
STATEMENT OF OPERATIONS
For Twelve Months Ended December 31, 2015

	672	170	540		
	Mission	Mission National	Enterprise	TOTAL	
REVENUES					
54003	Miscellaneous Income	4,040	1	68,510	72,551
	TOTAL REVENUES	4,040	1	68,510	72,551
EXPENSES					
Legal					
62001	DOI Legal	2,853	-	42	2,896
62003	Other Legal Expense	158,551	61,294	-	219,845
	Total Legal Expenses	161,404	61,294	42	222,740
Consultants and Contractors					
63002	Accounting & Auditing	4,953	3,715	2,145	10,813
63005	Temporary Help Expense	4,923	1,915	-	6,838
	Total Consultant Expenses	12,751	5,630	2,145	20,526
Office Expenses					
65002	Postage	12	-	-	12
65015	Storage Rent	177,827	34	3	177,864
65016	Record Retrieval	2,184	-	-	2,184
65019	Delivery	33	6	9	48
65028	Miscellaneous Expense	-	-	409,969	409,969
	Total Office Expenses	180,055	40	409,981	590,077
70002	Allocated Expenses	328,231	121,204	14,456	463,891
	<i>Direct Admin Exp only</i>	<i>354,211</i>	<i>66,964</i>	<i>412,168</i>	<i>833,343</i>
	Total Admin Expenses	682,442	188,168	426,624	1,297,234
65023	Bad Debt Expense	(549,438)	(1,795,759)	-	(2,345,197)
Taxes and Other Expenses					
83003	Debt Forgiveness-Court Ordered	-	-	(24,044,699)	(24,044,699)
	Taxes and Other Expenses	-	-	(24,044,699)	(24,044,699)
	TOTAL EXPENSES	133,004	(1,607,591)	(23,618,075)	(25,092,662)
INVESTMENTS					
53001	Interest Earned-Taxable	1,824,622	526,923	1,186	2,352,731
53004	Dividends Earned	59	-	-	59
	Total Investment Income	1,824,681	526,923	1,186	2,352,790
68001	Investment Expense	(99,341)	(28,527)	(115)	(127,983)
68003	Interest Expense	(3,871)	(1,209)	(45)	(5,125)
	Total Investment Expenses	(103,212)	(29,736)	(160)	(133,108)
82001	LT Realized Gn/Ls-Pool	(540,296)	(156,238)	(361)	(696,895)
82002	ST Realized Gn/Ls-Pool	(356,648)	(123,054)	1,926	(477,776)
82005	Mark to Market-Pool	201,135	70,907	(787)	271,254
	Net G/L on Securities	(695,810)	(208,385)	777	(903,417)
	NET INVESTMENT INCOME	1,025,659	288,802	1,803	1,316,265
	NET INCOME (LOSS)	896,695	1,896,394	23,688,389	26,481,478

PROOF OF SERVICE: By REGULAR MAIL
(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 245 Cedar Sage Drive, Suite 240, Garland, Texas 75040.

On this date, I served the foregoing document described as **THE INSURANCE COMMISSIONER'S UPDATED STATUS CONFERENCE REPORT AND UPDATED CLOSING PLAN** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

Sent via FIRST CLASS MAIL 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 March 3, 2016 at Garland, Texas.



Glynis Malone

New York Liquidation Bureau
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