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9 Harry W. Low, in his capacity as Statutory Conservator and
10 Liquidator of First Capital Life Insurance Company

ORIGINAL FILED
JUN 05 2003
LOS ANGELES
SUPERIOR COURT

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

13 INSURANCE COMMISSIONER OF THE
14 STATE OF CALIFORNIA,

15 Applicant,

16 v.

17 FIRST CAPITAL LIFE INSURANCE
18 COMPANY, a California corporation, and
19 DOES 1 through 1000, inclusive,

20 Respondent.

CASE NO. BS 007549

**COMMISSIONER'S DECLARATION
OF COMPLIANCE PURSUANT TO
ORDER: (1) APPROVING FINAL
ACCOUNTING; (2) APPROVING
ALL ADMINISTRATIVE EXPENSES
AND ATTORNEYS' FEES
INCURRED THROUGH CLOSURE
AND RESOLUTION OF THE
ESTATE; (3) APPROVING FINAL
DISTRIBUTION PLAN; (4)
DISSOLVING FIRST CAPITAL AND
DISCHARGING COMMISSIONER
AS CONSERVATOR; AND (5)
ESTABLISHING PROCEDURES FOR
DISMISSING AND TERMINATING
PROCEEDINGS**

23 Dept: 35
24 Judge: Hon. Alexander H. Williams III

25 The Commissioner's Verified Application For Order (1) Approving Final
26 Accounting; (2) Approving All Administrative Expenses and Attorneys' Fees Incurred Through
27 Closure and Resolution of the Estate, (3) Approving Final Distribution Plan; (4) Dissolving First
28

1 Capital and Discharging Commissioner as Conservator, and (5) Establishing Procedures for
2 Dismissing and Terminating Proceedings ("Application") was heard on June 2, 2002. The
3 Application was granted and on June 2, 2002, the Court entered its Order Granting
4 Commissioner's Verified Application For Order: (1) Approving Final Accounting;
5 (2) Approving all Administrative Expenses and Attorneys' Fees Incurred Through Closure and
6 Resolution of the Estate; (3) Approving Final Distribution Plan; (4) Dissolving First Capital and
7 Discharging Commissioner as Conservator; and (5) Establishing Procedures For Dismissing and
8 Terminating Proceedings ("Estate Closing Order"), a copy of which is attached hereto as
9 Exhibit A. The Commissioner has now fully complied with the Estate Closing Order and submits
10 this Declaration of Compliance pursuant to Paragraph 8 thereof.

11 The Commissioner declares as follows:

12 1. The Commissioner has paid all incurred but unpaid expenses of
13 administration of the estate as "Class One" claims under Insurance Code section 1033(a)(1),
14 including:

15 (a) The incurred but unpaid invoices of Orrick, Herrington & Sutcliffe, LLP,
16 the Commissioner's counsel of record, and Morgan Lewis & Bockius, special
17 Pennsylvania claims counsel to the Commissioner, all as set forth in the Application
18 and/or as approved in the Estate Closing Order; and

19 (b) The Closing Budget of the Commissioner's Conservation & Liquidation
20 Office in the amount of \$50,000;

21 2. On or about March 21, 2003, the Commissioner finally obtained from the
22 State Controller's Office a check in the amount of \$242,168.09, which represents the \$178,610.90
23 premium tax refund allowed to the estate by the Board of Equalization in June 2002, plus interest
24 in the amount of \$63,557.19. The collection of this amount, and the final distribution described
25 in paragraph 3 below, constituted the final material administrative acts that the Commissioner
26 was obligated to undertake in his capacity as liquidator of First Capital.

27 3. The Commissioner has made a final distribution to the FCH Liquidation
28 Trust, the holder of the FC Group Claim and the sole remaining allowed creditor of First Capital,

1 in the amount of \$254,906.00, on or about May 23, 2003. The unused portion of the Attorneys'
2 Fees Reserve authorized by the Estate Closing Order has been included in the foregoing
3 distribution.

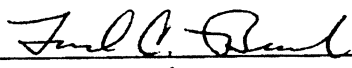
4 4. The Commissioner has caused a certified copy of the Estate Closing Order
5 to be filed with the Secretary of State's Office to effect the final dissolution of the corporation.

6 5. Contemporaneously with the filing of this Declaration of Compliance, the
7 Commissioner is causing to be filed a Request for Dismissal of this action with prejudice.

8 6. The Commissioner believes he has fully complied with the Estate Closing
9 Order and requests that this action be dismissed with prejudice to thereby give effect to the
10 discharge of the Commissioner as Conservator herein.

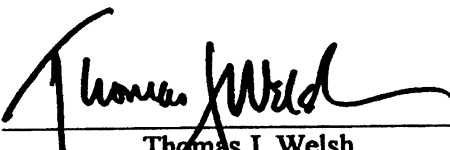
11
12 DATED: May 28, 2003

13 JOHN GARAMENDI
14 INSURANCE COMMISSIONER OF THE
15 STATE OF CALIFORNIA

16 By: 
17 Fred A. Buck
18 Special Deputy Insurance Commissioner

19 DATED: May 29, 2003

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28 By: 
Thomas J. Welsh
Attorneys for California Insurance Commissioner
Harry W. Low, in his capacity as statutory
Conservator of First Capital Life Ins. Co.

1 **PROOF OF SERVICE BY MAIL**

2 I am a citizen of the United States, more than eighteen years old and not a party to
3 this action. My place of employment and business address is 400 Capitol Mall, Suite 3000,
4 Sacramento, California 95814-4407.

5 On May 30, 2003, I served the following documents:

- 6 • **COMMISSIONER'S DECLARATION OF COMPLIANCE REGARDING ORDER:
7 (1) APPROVING FINAL ACCOUNTING; (2) APPROVING ALL
8 ADMINISTRATIVE EXPENSES AND ATTORNEYS' FEES INCURRED
9 THROUGH CLOSURE AND RESOLUTION OF THE ESTATE; (3) APPROVING
10 FINAL DISTRIBUTION PLAN; (4) DISSOLVING FIRST CAPITAL AND
DISCHARGING COMMISSIONER AS CONSERVATOR; AND
11 (5) ESTABLISHING PROCEDURES FOR DISMISSING AND TERMINATING
PROCEEDINGS**

- 11 • **REQUEST FOR DISMISSAL**

12 by placing a true copy of this paper in an enveloped addressed to

13 **SEE ATTACHED SERVICE LIST**

14 and then sealing the envelope, affixing adequate first-class postage and depositing it in the United
15 States mail at Sacramento, California.

16 Executed on May 30, 2003 at Sacramento, California.

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

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20 _____
21 Susan L. Langley
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SERVICE LIST

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