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**ENDORSED
FILED**
Superior Court of California
County of San Francisco

JUL 28 2016

CLERK OF THE COURT

By: ROSIE NOGUERA
Deputy Clerk

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**EXEMPT from filing fees per Govt.
Code § 6103**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 CITY AND COUNTY OF SAN FRANCISCO

17 DAVE JONES, INSURANCE
18 COMMISSIONER OF THE STATE OF
CALIFORNIA,

19 Applicant,

20 v.

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

23 Respondents.

Case No. CPF-16-515183

**ORDER APPOINTING INSURANCE
COMMISSIONER AS
CONSERVATOR AND RESTRAINING
ORDERS
~~(PROPOSED)~~**

**Date: July 28, 2016
Time: 11:00 a.m.
Dept: 302
Judge: Hon. Harold E. Kahn**

1 The Insurance Commissioner of the State of California (the "Commissioner") has filed his
2 verified Application in the above-captioned action, and has shown to the Court's satisfaction that
3 CastlePoint National Insurance Company ("CastlePoint")¹ is in such condition that its further
4 transaction of business will be hazardous to its policyholders, creditors, and the public, and good
5 cause appearing therefore;

6 WHEREFORE IT IS HEREBY ORDERED:

7 1. The Commissioner is appointed as Conservator (hereinafter the "Conservator") of
8 CastlePoint and directed to conduct the business of CastlePoint or so much thereof as he deems
9 appropriate; and he is authorized, in his discretion, to pay or defer payment of some or all proper
10 claims, expenses, liabilities, and obligations of CastlePoint, in whole or in part, accruing prior or
11 subsequent to his appointment as Conservator.

12 2. The Conservator is authorized to assume or reject, or to modify, any executory
13 contract, including without limitation, any lease, rental or utilization contract or agreement
14 (including any schedule to any such contract or agreement), and any license or other arrangement
15 for the use of computer software or business information systems, to which CastlePoint is a party
16 or as to which it agrees to accept an assignment of such contract; the Conservator is directed to
17 effect any such assumption or rejection or modification of any executory contract not later than
18 120 days after the date of the Order Appointing Insurance Commissioner As Conservator, unless
19 such date is extended by application to and further order of this Court; and all executory contracts
20 that are not expressly assumed by the Conservator shall be deemed rejected;

21 3. The Conservator is authorized to take possession of all of the assets of CastlePoint,
22 including books, records and property, both real and personal, accounts, safe deposit boxes, rights
23 of action, and all such assets as may be in the name of CastlePoint, wheresoever situated;

24 ¹ For all purposes in this Order, the term "CastlePoint," wherever used and used in whatever
25 context or reference, shall mean and refer to CastlePoint National Insurance Company, as the
26 survivor by merger with, and shall be deemed to include all of the following predecessor entities:
27 the pre-merger CastlePoint National Insurance Company, Tower Insurance Company of New
28 York, Tower National Insurance Company, Hermitage Insurance Company, Kodiak Insurance
Company, CastlePoint Florida Insurance Company, North East Insurance Company,
Massachusetts Homeland Insurance Company, Preserver Insurance Company, York Insurance
Company of Maine, and CastlePoint Insurance Company.

1 4. Title to all property and assets of CastlePoint, including deposits, securities,
2 contracts, rights of actions, books, records and other assets of every type and nature, and
3 including both those presently in CastlePoint's possession and those which may be discovered
4 hereafter, wheresoever situated, is vested in the Commissioner in his or her official capacity as
5 Conservator and/or his successor in office, in his or her official capacity as Conservator of
6 CastlePoint; the Conservator and/or his successor is authorized to deal with the same in his or her
7 own name as Conservator or in the name of CastlePoint; and, all persons are enjoined from
8 interfering with the Conservator's possession and title thereto;

9 5. The Conservator shall have all the powers of the directors, officers, and managers
10 of CastlePoint, whose authorities are suspended except as such powers may be redelegated by the
11 Conservator;

12 6. The Conservator is authorized to terminate compensation arrangements with
13 employees, to enter into new compensation arrangements with employees, including
14 arrangements containing retention incentives, and authorizing the Conservator to hire employees
15 on such terms and conditions as he deems reasonable;

16 7. Except upon the express authorization of the Conservator, CastlePoint, its officers,
17 directors, agents and employees are enjoined from transacting any of the business of CastlePoint,
18 whether in the State of California or elsewhere, or from disposing of, using, transferring, selling,
19 assigning, canceling, alienating, hypothecating, diminishing, impairing, waiving, limiting, or
20 concealing in any manner or any way, or assisting any person in any of the foregoing, of the
21 property or assets of CastlePoint or property or assets in the possession of CastlePoint, of any
22 nature or kind, including intangible assets, tax assets and attributes, claims or causes of action,
23 until further order of this Court and further, such persons are enjoined from obstructing or
24 interfering with the Conservator's conduct of his or her duties as Conservator;

25 8. All persons are enjoined from instituting, prosecuting, or maintaining any action at
26 law or suit in equity, and matters in arbitration, including but not limited to actions or proceedings
27 to compel discovery or production of documents or testimony, except in matters before either the
28 California Workers Compensation Appeals Board or equivalent administrative boards or

1 organizations performing such functions in other states in which CastlePoint issued workers
2 compensation policies, against CastlePoint or against the Conservator, and from attaching,
3 executing upon, redeeming of or taking any other legal proceedings against any of the property of
4 CastlePoint, and from doing any act interfering with the conduct of said business by the
5 Conservator, except after an order from this Court obtained after reasonable notice to the
6 Conservator;

7 9. CastlePoint and all officers, directors, agents and employees of CastlePoint shall
8 deliver to, and immediately make available to, the Conservator all assets, books, records,
9 accounts, records, tax returns, information, computers, tapes, discs, writings, other recordings of
10 information, equipment and other property of CastlePoint, wheresoever situated, in said persons
11 custody or control and, further, shall disclose verbally, or in writing if requested by the
12 Conservator, the exact whereabouts of the foregoing items if such items are not in the possession
13 custody or control of said persons;

14 10. All officers, directors, trustees, employees or agents of CastlePoint, or any other
15 person, firm, association, partnership, corporate parent, holding company, affiliate or other entity
16 in charge of any aspect of CastlePoint's affairs, either in whole or in part, and including but not
17 limited to banks, savings and loan associations, financial or lending institutions, brokers, stock or
18 mutual associations, or any parent, holding company, subsidiary or affiliated corporation or any
19 other representative acting in concert with CastlePoint, shall cooperate with the Conservator in
20 the performance of his or her duties;

21 11. The Conservator is authorized to pay all reasonable costs of taking possession of
22 and conserving CastlePoint (including but not limited to the Commissioner's pre-conservation
23 costs in examining CastlePoint's financial condition, and preparing to take possession and
24 conserve CastlePoint) out of the funds and assets of the CastlePoint;

25 12. The Conservator is authorized to pay all reasonable costs of operating CastlePoint
26 as Conservator (including direct and allocated direct costs, direct and allocated general and
27 administrative costs and overhead, and all other allocated costs) out of any and all funds and
28 assets of CastlePoint; and if there are insufficient funds, to pay for the costs out of the Insurance

1 Fund pursuant to section 1035;

2 13. All funds and assets, including certificates of deposit, bank accounts, and mutual
3 fund shares of CastlePoint, in various financial depository institutions, including banks, savings
4 and loan associations, industrial loan companies, mutual funds or stock brokerages, wheresoever
5 situated, are vested in the Conservator and subject to withdrawal upon his order only;

6 14. All persons who maintain records for CastlePoint, pursuant to written contract or
7 any other agreement, shall maintain such records and to deliver to the Conservator such records
8 upon his request;

9 15. All agents of CastlePoint, and all brokers who have done business with
10 CastlePoint, shall make all remittances of all funds collected by them or in their hands that are
11 payable to CastlePoint directly to the Conservator;

12 16. All persons having possession of any lists of policyholders or escrow holders of
13 CastlePoint shall deliver such lists to the Conservator; and all persons are enjoined from using
14 any such lists or any information contained therein without the consent of the Conservator;

15 17. The Conservator is authorized to initiate such equitable or legal actions or
16 proceedings in this or other states as may appear necessary to him to carry out his functions as
17 Conservator;

18 18. The Conservator is authorized to appoint and employ special deputies, estate
19 officers and managers, other professionals, clerks and assistants and to give each of them such
20 power and authority as he deems necessary, and the Conservator is authorized to compensate
21 these persons from the assets of CastlePoint as he deems appropriate. David E. Wilson, Special
22 Deputy Commissioner, is hereby appointed as Deputy Conservator, empowered to carry out any
23 and all duties and exercise the authority of the Conservator granted herein and in the Insurance
24 Code. Joe Holloway is hereby appointed as Conservation Manager, empowered to carry out any
25 and all duties and exercise the authority of the Conservator or the Deputy Conservator, and as
26 may be delegated by the Conservator or Deputy Conservator;

27 19. The Conservator is authorized to divert, take possession of and secure all mail of
28 CastlePoint, in order to screen such mail, and to effect a change in the rights to use any and all

1 post office boxes and other mail collection facilities used by CastlePoint;

2 20. CastlePoint and its officers, directors, agents, servants, employees, successors,
3 assigns, affiliates, and other persons or entities under their control and all persons or entities in
4 concert or participation with CastlePoint, and each of them, shall turn over to the Conservator all
5 records, documentation, charts and/or descriptive materials of all funds, assets, property (owned
6 beneficially or otherwise), and all other assets of CastlePoint whersoever situated, and all books
7 and records of accounts, title documents and other documents in their possession or under their
8 control, which relate, directly or indirectly to assets or property owned or held by CastlePoint or
9 to the business or operations of CastlePoint;

10 21. Except upon further order of the Court issued after a hearing in which the
11 Conservator has received reasonable notice, all persons are enjoined from obtaining preferences,
12 judgments, attachments or other liens, or making any levy against CastlePoint or its assets or
13 property, and from executing or issuing or causing the execution or issuance of any court
14 attachment, subpoena, replevin, execution or other process for the purpose of impounding or
15 taking possession of or interfering with or creating or enforcing a lien upon any property or assets
16 owned or in the possession of CastlePoint or the Conservator, wheresoever situated, and from
17 doing any act interfering with the conduct of said business by the Conservator;

18 22. Except upon further order of the Court issued after a hearing in which the
19 Conservator has received reasonable notice, all persons are enjoined from accelerating the due
20 date of any obligation or claimed obligation; exercising any right of set-off; taking, retaining,
21 retaking or attempting to retake possession of any real or personal property; withholding or
22 diverting any rent or other obligation; doing any act or other thing whatsoever to interfere with
23 the possession of or management by the Conservator of the property and assets, owned or
24 controlled by CastlePoint or in the possession of CastlePoint or in any way interfering with the
25 Conservator or interfering in any manner during the pendency of this proceeding with the
26 exclusive jurisdiction of this Court over CastlePoint and its assets;

27 23. Any and all provisions of any agreement entered into by and between any third
28 party and CastlePoint, including by way of illustration, but not limited to, the following types of

1 agreements (as well as any amendments, assignments, or modifications thereto)—financial
2 guarantee bonds, promissory notes, loan agreements, security agreements, deeds of trust,
3 mortgages, indemnification agreements, subrogation agreements, subordination agreements,
4 pledge agreements, assignments of rents or other collateral, financial statements, letters of credit,
5 leases, insurance policies, guaranties, escrow agreements, management agreements, real estate
6 brokerage and rental agreements, servicing agreements, attorney agreements, consulting
7 agreements, easement agreements, license agreements, tax sharing agreements, franchise
8 agreements, or employment contracts that provide in any manner that selection, appointment or
9 retention of a conservator, receiver or trustee by any court, or entry of any order such as hereby
10 made, shall be deemed to be, or otherwise shall operate as, a breach, violation, event of default,
11 termination, event of dissolution, event of acceleration, insolvency, bankruptcy, or liquidation—
12 shall be stayed, and the assertion of any and all rights and remedies relating thereto shall also be
13 stayed and barred, except as otherwise ordered by this Court, and this Court shall retain
14 jurisdiction over any cause of action that has arisen or may otherwise arise under any such
15 provision;

16 24. The Conservator is authorized to invest and reinvest CastlePoint's assets and funds
17 in such a manner as he deems suitable for the best interest of CastlePoint's creditors. However,
18 no investment or reinvestment shall be made exceeding the sum of \$100,000 without first
19 obtaining permission of this Court, except the Conservator may make investments or
20 reinvestments in excess of \$100,000, but not exceeding \$5,000,000 per investment or
21 reinvestment, without prior approval if such investments or reinvestments are made pursuant to
22 any provisions of the existing investment guidelines and investment programs of CastlePoint that
23 the Conservator determines are prudent and appropriate to continue. Such investment guidelines
24 shall be applicable only to non-pledged and or unencumbered assets in the estate;

25 25. The Conservator is authorized to pay out of the funds and assets of CastlePoint all
26 costs and fees incurred in preparing for, bringing and maintaining this action, including the
27 reasonable expenses incurred by the Regulator Group prior to the filing of this application to
28 accomplish the several mergers of affiliated insurers into CastlePoint, and for such other actions

1 and activities as are necessary to carry out his functions as Conservator. Such payments may
2 include reimbursements for third party advisory and consulting services incurred by a member of
3 the Regulator Group in preparation for conservation of CastlePoint; and,

4 26. The Conservator is authorized to pay such priority liabilities during conservation
5 as he shall determine appropriate and to immediately reserve against the full payment of such
6 expenses; and

7 27. All persons are enjoined from the waste of the assets of CastlePoint;
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10 Dated: JUL 28 2016
11

HAROLD KAHN

HONORABLE HAROLD E. KAHN
JUDGE OF THE SUPERIOR COURT