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Attorneys for Intervenors NOLHGA and CLHIGA

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JOHN GARAMENDI, as Insurance  
Commissioner of the State of  
California and as Conservator,  
Rehabilitator and Liquidator of  
Executive Life Insurance Company,

Plaintiff,

v.

ALTUS FINANCE S.A., et al.,

Defendants.

Case No. CV-99-02829 RGK (CWx)  
consolidated for trial purposes with  
Case No.: CV-01-01339 RGK (CWx)

**[PROPOSED] JUDGMENT**

Trial Date: October 17, 2012  
Judge: Hon. R. Gary Klausner  
Courtroom: 850

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1           1.     Based on the jury verdicts after the trials in 2005 and 2012, the  
2     Fed. R. Civ. P. 52 Findings of Fact and Conclusions of Law re Restitution filed on  
3     November 21, 2005 (Dkt. No. 3494), which are hereby reinstated, the Ninth Circuit  
4     opinion filed on August 25, 2008, the Final Pretrial Conference Order that was  
5     signed by all parties and lodged with the Court on September 20, 2012 (Dkt. No.  
6     4173), and the Order re Restitution Award filed herein on February 26, 2013  
7     (Dkt. No. 4330), it is hereby ORDERED and ADJUDGED that the Judgment for  
8     restitution entered on February 13, 2006 (Dkt. No. 3573), which was vacated with  
9     leave to reinstate by the Ninth Circuit, is reinstated *nunc pro tunc* as of the date that  
10    prior Judgment was originally entered, *i.e.*, February 13, 2006. Accordingly, it is  
11    further ORDERED and ADJUDGED that, effective as of February 13, 2006,  
12    judgment is entered for the Plaintiff, California Insurance Commissioner, as  
13    Conservator, Liquidator, and Rehabilitator of the Estate of Executive Life Insurance  
14    Company, and against defendant Artemis S.A., as stated in the prior Judgment, for  
15    a total judgment of \$241,092,020.

16           2.     It is further ORDERED and ADJUDGED that, as stated in the prior  
17    Judgment, given the unusual history of this case, especially the verdicts returned by  
18    the jury, neither Artemis S.A. nor the California Insurance Commissioner, as  
19    Conservator, Liquidator, and Rehabilitator of the Estate of Executive Life Insurance  
20    Company, shall be deemed the “prevailing party” as to the claims between them,  
21    and neither such party shall be awarded costs against the other.

22           3.     It is further ORDERED and ADJUDGED that, as stated in the prior  
23    Judgment, Artemis S.A. is responsible to pay to the California Insurance  
24    Commissioner, as Conservator, Liquidator, and Rehabilitator of the Estate of  
25    Executive Life Insurance Company, the sum of \$131,092,020 (the “Net Artemis  
26    Judgment Obligation”), which is equal to the Judgment of \$241,092,020 entered  
27    above less a credit of \$110,000,000 reflecting the payment to the Commissioner  
28    made pursuant to the Court’s Amended Order Approving Payment Instructions for

1 Transfer to the California Insurance Commissioner, in his Capacity as Conservator,  
2 Rehabilitator, and Liquidator of Executive Life Insurance Company of California,  
3 of \$110,000,000 Contributed by Defendant Artemis S.A. Pursuant to Its Final  
4 Settlement Agreement with the United States, dated May 5, 2004 (Dkt. No. 1726).  
5 The Net Artemis Judgment Obligation is for restitution and does not include any  
6 punitive damages component. Post-judgment interest shall accrue on the Net  
7 Artemis Judgment Obligation, pursuant to 28 U.S.C. § 1961, from the date of the  
8 prior Judgment of restitution, *i.e.*, February 13, 2006.

9 4. As stated in the prior Judgment, at such time as this Judgment becomes  
10 final and not subject to further appeal, any portion of this Judgment that remains  
11 unsatisfied may be satisfied, to the extent necessary or possible, with the funds then  
12 in the USAO/Artemis Settlement Account, in accordance with the terms of the  
13 Final Settlement Agreement Between the United States Attorney's Office and  
14 Artemis S.A., Francois Pinault, Patricia Barbizet, Marie-Christine de Percin, and  
15 Emmanuel Cuff, dated December 15, 2003 (the "USAO/Artemis Settlement  
16 Agreement"). Nothing in this Judgment shall be deemed to modify or abrogate any  
17 of the terms of the USAO/Artemis Settlement Agreement.

18 5. The Net Artemis Judgment Obligation is the several and individual  
19 obligation of Artemis S.A. and, as previously ruled in the Order Denying Motion of  
20 the Artemis Defendants for an Offset dated February 1, 2006 (Dkt. No. 3554), is  
21 not subject to any offset for any amount heretofore or hereafter recovered by the  
22 Commissioner from any other Defendant in this action or any other entity, whether  
23 by way of settlement or otherwise.

24 Dated: \_\_\_\_\_

25  
26 The Honorable R. Gary Klausner  
United States District Judge

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DATED: March 5, 2013

Respectfully submitted,  
SHARTSIS FRIESE LLP

By: /s/Charles R. Rice  
CHARLES R. RICE

Attorneys for Plaintiff  
INSURANCE COMMISSIONER

DATED: March 5, 2013

ROTHGERBER, JOHNSON & LYONS  
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By: /s/Franklin D. O'Loughlin  
FRANKLIN D. O'LOUGHLIN

Attorneys for Intervenors  
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DATED: March 5, 2013

Respectfully submitted,  
SHARTSIS FRIESE LLP

By: CHARLES R. RICE

Attorneys for Plaintiff  
INSURANCE COMMISSIONER

DATED: March 5, 2013

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