

1 ROBERT H. NUNNALLY, JR.
State Bar Number 134151
2 WISENER NUNNALLY GOLD, LLP
625 West Centerville Road, Suite 110
3 Garland, Texas 75041
(972) 840-9080
4 FAX: 972 840 6575

5
6 Attorneys for Insurance Commissioner

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

10 JOHN GARAMENDI, Insurance
11 Commissioner of the State of 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;
19 C 576 323; C 576 325; C 629709

Case No. C 572 724

[PROPOSED] ORDER WHICH
AUTHORIZES DISTRIBUTION AND
CLOSURE OF ENTERPRISE
INSURANCE COMPANY TRUST

Date: September 24, 2004

Time: 8:30 a.m.

Department: 50

Filed: October 31, 1985

20
21
22
23
24
25
26
27
28
1
ENTERPRISE INSURANCE COMPANY CLOSING ORDER

1 On the 24th day of September, 2004, this Court held the final hearing on the Motion to
2 Authorize Closing Procedures for Enterprise Insurance Company Trust.

3 This Court previously granted the Insurance Commissioner's Motion to Authorize Closing
4 Procedures, and entered its preliminary order which gave notice of this hearing.

5 The Court hereby GRANTS the Insurance Commissioner's Motion and ORDERS as follows:

6 a. The Court hereby authorizes the Insurance Commissioner to retain and administer those assets set
7 forth in the closing budget filed with this Court and apply those sums to accomplish the steps
8 involved in closing the Enterprise Insurance Company Trust proceeding;

9 b. The Court hereby authorizes the Insurance Commissioner to distribute to all approved
10 policyholder class claimants, on a pari passu basis, the remaining assets of the Enterprise Insurance
11 Company Trust available for distribution, other than those specified herein, including the closing
12 budget;

13 c. The Court hereby authorizes the Insurance Commissioner to distribute the shares of Danielson
14 Holding Corporation attributable to Enterprise Insurance Company Trust to approved unpaid (or
15 partially unpaid) claimants against Enterprise Insurance Company Trust, whether policyholder or
16 general creditor, and authorizes use of a professional distribution firm or firms to be selected by the
17 Insurance Commissioner to accomplish the distribution. In the event that a distribution percentage
18 results in fractional shares being due to any claimant, then the Insurance Commissioner may
19 distribute cash in lieu of shares as to the fractional portion of such shares, including distributions of
20 very small amounts of fractional value. The Court finds that such a distribution will comply with the
21 Insurance Commissioner's duty to distribute shares ratably in conjunction with the rehabilitation
22 plan previously approved by this Court.

23 d. Upon the distribution of the remaining assets and shares, as set forth above, this Court authorizes
24 the closing of the Enterprise Insurance Company estate, subject to this Court's continuing
25 jurisdiction should further unanticipated collections be received after the date of closing, or funds
26 remain in the trust, which will necessitate a further distribution. This Court retains jurisdiction in the
27 event that the case should be re-opened for further distributions, but otherwise the case shall be
28 administered as closed.

- 1 e. In the event that Enterprise Insurance Company Trust is entitled to further distributions from
2 Mission Insurance Company Trust or Mission National Insurance Company Trust, the Court
3 authorizes and orders the Insurance Commissioner as Trustee of the Mission Insurance Company
4 Trust and Mission National Insurance Company to make any future distributions on general creditor
5 proof of claims to be made directly to the Enterprise Insurance Company Trust policyholder class
6 claimants. In the event that further distributions or collections due to Enterprise Insurance Company
7 Trust are received by Mission Insurance Company Trust, they may be treated in the same fashion as
8 such general creditor distributions and distributed directly to the appropriate claimants.
- 9 f. The Insurance Commissioner is hereby authorized to take such steps as are necessary and
10 appropriate to close the proceedings;
- 11 g. The Insurance Commissioner is authorized to file a declaration within sixty days setting forth the
12 accomplishment of the distribution. The Insurance Commissioner, his Special Deputies, the,
13 Conservation and Liquidation Office, and his agents shall be, upon such filing, DISCHARGED
14 from any and all claims, debts, liabilities, or duties to further account for the assets or liabilities
15 of Enterprise Insurance Company Trust, and shall have no liability of any kind or nature for such
16 claims or debts.
- 17 h. The Court hereby ENJOINS PERMANENTLY all creditors, policyholders, equityholders,
18 officers, directors and all other persons or entities of any type or nature from bringing, asserting
19 maintaining or pursuing any claim, suit, demand, offset, proceeding, a bitration, administrative
20 proceeding or other legal process of any kind or nature against Enterprise Insurance Company,
21 Enterprise Insurance Trust, the Insurance Commissioner as Trustee of the Enterprise Insurance
22 Company Trust, any Special Deputy Insurance Commissioners, employees of the Conservation and
23 Liquidation Office, agents and attorneys, and personnel of the California Department of Insurance,
24 as to any claim arising from or related to Enterprise Insurance Company and Enterprise Insurance
25 Company Trust. The Court further reaffirms and makes permanent each injunction the Court has
26 entered in this proceeding. The Court further ORDERS that the distribution of assets in accordance
27 with this and prior orders of the Court shall constitute the sole entitlement of any claimant against
28 Enterprise Insurance Company and Enterprise Insurance Company Trust to receive any assets in

1 partial satisfaction of their claims;

2 i. The Court authorizes the Insurance Commissioner as Trustee of the Enterprise Insurance Company
3 Trust to notify general creditors that other than Danielson Holding Corporation shares, they will
4 receive no cash distributions from this trust estate. The Court expressly finds that no assets other
5 than Danielson Holding Corporation shares remain for distribution to general creditors.

6 j. The Court hereby authorizes the Trustee to maintain the records of Enterprise Insurance Company
7 Trust for three years, after which such records, may be destroyed in the Trustee's discretion.

8 In the event that further assets are collected by the Insurance Commissioner, the Insurance
9 Commissioner may petition this Court for permission to re-open the case for further distributions.
10 In addition, in the event that a guaranty association fails to return excess early access distributions to
11 the Enterprise Insurance Company Trust, the Insurance Commissioner as Trustee of the Mission
12 Insurance Company Trust or Mission National Insurance Company Trust may withhold such
13 unreturned excess sums from future distributions of those trusts to the involved guaranty association,
14 and pay such sum withheld to the Enterprise Insurance Company Trust.

15 The Insurance Commissioner as Trustee shall have the right to continue to collect any assets
16 due to Enterprise Insurance Company Trust, and shall hold any such assets for further distribution.

17 In the event that any claimant fails to claim any sum or property due to that claimant, the
18 Insurance Commissioner is authorized to follow the California statutory unclaimed property laws,
19 and to deliver such assets in accordance and as provided in such laws.

20 The Insurance Commissioner is authorized, in his discretion, to permit the Enterprise
21 Insurance Company Trust to remain open for such reasons, including tax reasons, that he deems
22 appropriate. Subject to reserving for a closing budget, and any sums he deems necessary for
23 tax or other sufficient reasons, the Insurance Commissioner shall distribute the remaining sums in
24 the trust to the approved policyholder class claimants, other than those sums necessary for the
25 closing budget.

26 This Court shall maintain continuing jurisdiction over Enterprise Insurance Company Trust,
27 but this order is intended to and does end active court administration of this trust. This Court retains
28 continuing jurisdiction to enforce the injunctions issued herein, and to hear and determine any issue

1 which may arise upon a motion to re-open the case.
2
3

4 So Ordered.
5

6 Signed this 29 day of September, 2004
7

8 J. STEPHEN CZULEGER

9 Judge of the Superior Court
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28