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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF MERCED

13 **INSURANCE COMMISSIONER OF THE
STATE OF CALIFORNIA,**

14 Applicant,

15 v.

17 **MERCED PROPERTY & CASUALTY
COMPANY, a California corporation,**

18 Respondent.

Case No. 18CV-04739

**SECOND STATUS REPORT OF
INSURANCE COMMISSIONER ON THE
LIQUIDATION OF MERCED
PROPERTY & CASUALTY COMPANY**

**[FILED CONCURRENTLY WITH
DECLARATION OF SCOTT PEARCE]**

Date: October 26, 2021
Time: 8:15 am
Dept: 8
Judge: Hon. Brian McCabe
Action Filed: November 30, 2018

INTRODUCTION

The Insurance Commissioner of the State of California (Commissioner), in his capacity as Liquidator of Merced Property & Casualty Company (Merced), hereby submits the following Second Status Report on the liquidation of Merced.

The purpose of this report is to provide the Court, Merced, and all other interested parties with information regarding the Commissioner's progress following his First Status Report to the court on August 7, 2019, and to discuss his anticipated steps toward completing the orderly and efficient liquidation of the estate.¹

In his First Status Report, the Commissioner included a background discussion on the general aspects of a liquidation proceeding and summarized Merced's insolvency and placement by the court into liquidation on December 3, 2018, as a result of the November 8, 2018 Camp Fire in Butte County, California, as well as the Commissioners and California Insurance Guarantee Association's (CIGA) immediate responses to the Merced liquidation. The Commissioner incorporates that discussion herein by reference. To the extent necessary to provide context, the Commissioner includes some of that same discussion in this report for the court's convenience.

COMMISSIONER'S ACTIVITIES AND OPERATIONS

I. THE CONSERVATION AND LIQUIDATION OFFICE

The Commissioner's Conservation and Liquidation Office (CLO) is located in San Francisco, California. (Declaration of Scott Pearce Supp. Commissioner's Second Status Report (Pearce Decl.), ¶ 1.) The Commissioner delegated his statutory administrative duties to liquidate the Merced estate over to the CLO and Deputy Liquidator David E. Wilson. (Liq. Order, Dec. 3, 2018, pp. 2-3; Pearce Decl., ¶¶ 2-4.) Mr. Wilson retired, and the Commissioner appointed Joseph Holloway in his stead as Special Deputy Insurance Commissioner and Chief Executive Officer of the CLO. (Pearce Decl., ¶ 4.) The California Senate confirmed Mr. Holloway's appointment as

¹ Concurrent with the filing of this report, the Commissioner has filed an application for approval of payment of liquidation fees and expenses for the period April 1, 2019, to April 30, 2021, and for approval to disburse Merced assets to the California Insurance Guarantee Association and to Merced policyholders. The Commissioner's initial application was for approval of payment of liquidation fees and expenses for the period November 15, 2018, to March 31, 2019.

1 Chief Executive Officer. (*Ibid.*) Mr. Pearce is the appointed Liquidation Manager of the Merced
2 estate. (*Id.* ¶ 5.)

3 As of September 2019, the CLO had completed the transition of the Merced estate and all
4 remaining long-term run off activities and liquidation requirements from Merced's home office in
5 Atwater, California, to the CLO's office in San Francisco. (Pearce Decl., ¶ 6.) The CLO also
6 continues to hold Merced's physical and electronic records at its office in San Francisco. (*Ibid.*)

7 **II. THE COMMISSIONER'S OPERATIONS**

8 **A. Transition of claims to CIGA and CIGA's payment of claims and expenses**

9 CIGA is statutorily obligated to pay covered claims of an insolvent insurer up to \$500,000.
10 (Ins. Code, § 1063.1, subd. (c)(7)(A).) It also pays for or furnishes loss adjustment services and
11 defenses of claimants when required by policy provisions. (*Id.* § 1063.2, subd. (a).)

12 After the court entered the December 3, 2018 Liquidation Order in this proceeding, the
13 Commissioner transitioned all of the Merced estate claims data and claims handling processes to
14 CIGA so that CIGA could make payment on Merced policyholder claims. (Pearce Decl., ¶ 7.)
15 The CLO's Claims Department has, and will continue to, provide claims handling support to
16 CIGA and to the Merced estate as warranted and for as long as the estate remains open. (*Ibid.*)

17 As of March 31, 2021, CIGA had resolved and paid the majority of Merced-related policy
18 claims and loss adjustment expenses. (Pearce Decl., ¶ 8.) Following recovery on CIGA paid
19 claims from the trust set up by the PG&E Corporation Bankruptcy proceedings, CIGA reports a
20 projected ultimate liability for Merced fire-related claims of \$26,960,183. (*Ibid.*)²

21 **B. CLO's review of policyholder claims and approval of "over-cap" claims**

22 The CLO's Claims Department has also received and reviewed 441 Proofs of Claims
23 ("POCs") filed as a result of the Merced estate's POC Form Mailing. (First Status Rep., filed
24 Aug. 7, 2019, p. 9.) As of the date of this report, the Commissioner has approved 32 POCs

25 ² As explained more fully in the Commissioner's pending application for payment of fees
26 and expenses and approval for interim disbursement of assets, CIGA reports a total liability of
27 \$82,433,389 for Merced fire-related claims. (See Index of Exhibits Supp. Applic. for Pymt of
28 Fees and Expenses & Interim Disbursement of Merced Assets (Index) Ex. F [CIGA's Statement
of Operations for Merced Property & Casualty as of March 31, 2021].) CIGA also reports that it
has recovered \$55,473,206 on claims it has paid from the trust set up by the PG&E Corporation
Bankruptcy proceedings, for a projected ultimate liability of \$26,960,183.

1 received as a result of the Camp Fire for a total of \$4,484,674 in approved “over-cap” claims
2 (claims that develop in excess of the \$500,000 statutory limit of CIGA’s coverage) and one non-
3 Camp Fire related “over-cap” claim in the amount of \$267,239 for a total approved “over-cap”
4 claim amount of \$4,751,913. (Pearce Decl., ¶ 9.)

5 The Commissioner has rejected 292 POCs as those claims are not “over-cap” claims and
6 were (or will be) handled by CIGA or the asserted claim was not covered under a Merced policy.
7 (Pearce Decl., ¶ 10.) The remaining 116 POCs, which are open and undetermined, consist
8 primarily of claims against the estate that fall in the general creditor and equity creditor classes of
9 claim priority and will be determined if there are sufficient funds to pay these claims. (Pearce
10 Decl., ¶ 10; Ins. Code, § 1033, subd. (a)(6)-(9).)

11 **C. Recovery on Reinsurance Contracts**

12 The Commissioner has thus far recovered \$11,165,000 on Merced’s reinsurance contracts,
13 including \$1,700,000 from one loss reinsurance program and \$9,465,000 from a second program.
14 (First Status Rep., Aug. 7, 2019, pp. 11-12.) The reinsurance programs have essentially been
15 exhausted except for recoveries on individual claims greater than \$1,000,000 but less than
16 \$4,000,000. (Pearce Decl., ¶ 11.) The CLO does not expect any additional recovery, but intends
17 to continue to monitor individual claims for losses greater than \$1,000,000. (*Ibid.*)

18 **D. Statement of Assets and Liabilities for the Merced estate**

19 The Statement of Assets and Liabilities for the Merced estate as of April 30, 2021, shows
20 that the Merced estate has cash balances or cash equivalent assets of \$31,170,866 as well as
21 \$84,929 in accrued investment income. (Pearce Decl., ¶¶ 12 & 13; Index Ex. D [Merced
22 Statement of Assets and Liabilities].) The Commissioner holds all of the Merced cash balances or
23 cash equivalent assets in the CLO Investment Pool. (Pearce Decl., ¶ 12.) In addition, the Merced
24 estate owns its office building in Atwater, California together with two vacant lots adjacent to the
25 Atwater building. (*Id.* ¶ 13.) The Atwater building and land are valued on Merced’s financial
26 statement at \$647,592. (Pearce Decl., ¶ 13; Index Ex. D.) In total, the Merced estate has
27 \$31,903,387 in assets, exclusive of \$157,181 in agency commissions due to the estate that have
28

1 been deemed uncollectable or have no immediate marketplace to monetize the receivable and will
2 be written off in 2021. (*Ibid.*)

3 The Statement of Assets and Liabilities reflects Class 2 liabilities (claims against policies
4 before disbursements) totaling \$31,593,941, along with \$1,769,066 in general creditor and equity
5 class claims and \$63,896 in pre-liquidation claims, for a total of \$33,426,903. (Pearce Decl., ¶ 14;
6 Index Ex. D.) Together, the assets and liabilities result in a net asset deficit of <\$1,366,335>.
7 (*Ibid.*)

8 Insurance Code sections 1035 and 1036 authorize payment of liquidation fees and expenses
9 from an insolvent estate, subject to the court's approval. Such fees and expenses for these
10 purposes are entitled to Class 1 priority status over and above all other expenses of the estate.
11 (Ins. Code, § 1033, subd. (a)(1).) Merced's Statement of Assets and Liabilities takes into account
12 payment by the Commissioner of \$1,480,769 in liquidation fees and expenses for the period April
13 1, 2019, through April 30, 2021. (Pearce Decl., ¶ 15.)

14 **III. THE COMMISSIONER'S ONGOING ACTIVITIES**

15 **A. Claim validation and resolution**

16 As explained, CIGA reports that it has resolved and paid the majority of Merced-related
17 policy claims as of March 31, 2021. (Pearce Decl., ¶ 17.) The open claims have extenuating
18 circumstances or issues that continue to delay the claims handling process, but CIGA reports that
19 it expects to resolve the open claims over the next year. (Pearce Decl., ¶ 17.) The CLO's Claims
20 Department will continue to assist CIGA by providing policy coverage confirmation and
21 documents as needed as well as addressing certain pre-liquidation claims. (*Ibid.*)

22 In addition, the CLO's Claims Department will continue to evaluate the remaining open and
23 undetermined 116 POCs submitted to it (discussed above). (Pearce Decl., ¶ 18.) The Claims
24 Department will also continue to provide assistance to any individual claimant in understanding
25 the liquidation process so long as the estate remains open and there are resources available to do
26 so. (*Ibid.*)

1 **B. Placement of Merced home office building in Atwater and adjacent lots for**
2 **sale, and retention of Merced employee as consultant**

3 After transitioning the Merced estate to the CLO's office in San Francisco in September
4 2019, the local CIGA claims unit continued to occupy a portion of Merced's office building in
5 Atwater. (Pearce Decl., ¶¶ 19-20.) CIGA vacated the building in mid-October 2020, at which
6 time the Commissioner placed the building and two adjacent vacant lots for sale on the open
7 market through a listing with a brokerage firm located in Merced. (*Id.* ¶ 20.) The properties are
8 listed at approximately \$1.6 million. (*Ibid.*) The estate has had multiple showings and received
9 two highly conditional offers from local municipal interests that were both deemed unacceptable.
10 (*Ibid.*) As of the date of this report, the estate is working with a potential buyer from the Merced
11 area who has recently conducted preliminary environmental inspections and is preparing a formal
12 offer. (*Ibid.*) Any potential sales contract will be submitted to the court for approval. (*Ibid.*)

13 As of the date the December 3, 2018 Liquidation Order was entered, Merced had 16 full-
14 time employees. (Pearce Decl., ¶ 21.) The CLO used the services of nine Merced employees
15 through March 31, 2019, to assist it in implementing the continued operational requirements of
16 the order, with two employees remaining as of August 2019. (*Ibid.*) After August 2019, the estate
17 retained one employee under a consultancy contract to provide the CLO with a local contact and
18 resource to assist with the oversight and sale of Merced's office building and vacant lots. (*Ibid.*)
19 By retaining a trusted local resource familiar with the building to help address potential building-
20 related issues, the CLO is ensuring proper local oversight at a reasonable cost. (*Ibid.*)

21 **C. Final transition of the Merced financial operations to the CLO's office in**
22 **San Francisco**

23 As stated in the Commissioner's first status report, the Commissioner expected to transfer
24 the remaining Merced financial operations to the CLO's office in San Francisco by the end of
25 August 2019. (First Status Report, Aug. 7, 2019, p. 14.) This transition was completed in
26 September 2019, and all of Merced's financial operations from Merced's Atwater office have
27 now been successfully transferred to the CLO's office in San Francisco. (Pearce Decl., ¶ 22.) As
28 such, the CLO's Finance & Accounting Department is responsible on an ongoing basis for all

1 financial aspects of the Merced estate. (*Ibid.*) It is also responsible for the reconciliation of all
2 cash receipts and disbursements of the estate, and staff prepare all entries, schedules and work
3 papers, and produce all manner of financial analysis and reports. (*Ibid.*)

4 **D. Information and Technology Department**

5 Following the complete transfer of the Merced estate to the CLO's office in San Francisco
6 in September 2019, the CLO's Information Technology (IT) Department continued to support the
7 Merced estate by providing on-going technical assistance in maintaining historical and CIGA
8 claims databases and electronic data files. (Pearce Decl., ¶ 23.) The IT Department will continue
9 this support through the final disbursement of Merced's asset to creditors and closure of the
10 estate. (*Ibid.*) The IT Department is also available to assist in any further data
11 management/reporting required for the estate to produce future reinsurance billings. (*Ibid.*)

12 Merced, as a participant in its parent entity United Heritage Financial Group, participated in
13 a shared services arrangement with the group and received certain services and support on an
14 allocated basis. (First Status Rep., Aug. 7, 2019, p. 6.) Following transfer of the Merced estate to
15 the CLO's office in San Francisco, the IT Department decommissioned all local Atwater systems
16 and infrastructure and ceased Merced's participation in the remaining components of the shared
17 services arrangement except for Merced's inclusion in the company's consolidated tax group.
18 (Pearce Decl., ¶ 24.)

19 **E. 2019 and 2020 Tax Returns**

20 Merced prepared its 2019 proforma tax return in accordance with the United Heritage
21 group's tax sharing agreement and provided the return to be included in the group's consolidated
22 October tax filing. (Pearce Decl., ¶ 25.) Merced will prepare its 2020 proforma tax return for
23 inclusion in the group's 2020 consolidated tax return. (*Ibid.*)

24 **IV. THE PG&E CORPORATION BANKRUPTCY PROCEEDINGS**

25 PG&E Corporation and its subsidiary Pacific Gas and Electric Company each filed a
26 voluntary petition for bankruptcy under chapter 11 of the Bankruptcy Code on January 29, 2019.
27 (First Status Rep., filed Aug. 7, 2019, p. 15.) As part of this proceeding, the bankruptcy court
28

1 established a PG&E Wildfire Subrogation Trust to consider and pay claims for damages caused
2 by the November 2018 Camp Fire. (Pearce Decl., ¶ 26.)

3 The Commissioner submitted a conditional and undetermined proof of claim against the
4 PG&E Subrogation Wildfire Trust. (Pearce Decl., ¶ 27.) The trust administrator considers a proof
5 of claim based upon a liquidated damages standard, which means that the Commissioner must
6 submit proof that the claim has been paid before the administrator will consider and pay the
7 claim. (*Ibid.*) As stated below, the Commissioner is seeking approval from the court to disburse
8 assets from the Merced estate to Merced policyholders for “over-cap” claims on an approximate
9 75 percentage pro rata basis. This disbursement will form the proof the Commissioner requires
10 for the trust administrator to consider and pay his claim. (*Ibid.*)

11 CIGA reports that it also submitted a claim against the PG&E Wildfire Subrogation Trust
12 for the losses and loss adjustment expenses it has paid for Merced camp fire-related claims.
13 (Pearce Decl., ¶ 28.) To submit its claim, CIGA developed a complex reporting file in compliance
14 with the bankruptcy requirements. (*Ibid.*) The Commissioner will seek to use the same reporting
15 format to submit the “over-cap” payments he intends to make. (*Ibid.*)

16 **V. THE COMMISSIONER’S INTERIM DISBURSEMENT OF ASSETS**

17 As explained more fully in the Commissioner’s application for payment of fees and
18 expenses and interim disbursement of Merced assets, the Commissioner, upon the court’s
19 approval, intends to make an interim disbursement of Merced assets to CIGA and to Merced
20 policyholders for “over-cap” claims, both of which are entitled to Class 2 priority status. (Ins.
21 Code, § 1033, subd. (a)(2).) In brief, the Commissioner proposes to make a disbursement to
22 CIGA of \$20,220,137 and to Merced policyholders of \$3,563,938 for a total disbursement of
23 \$23,784,075. (Pearce Decl., ¶ 29; Index Ex. E [Merced 1st Early Access Distribution].) The
24 disbursement represents approximately 75 percent of CIGA’s projected ultimate liability and 75
25 percent of the total approved policyholder “over-cap” claims. (*Ibid.*)

26 Following disbursement of the \$23,784,075, the Commissioner will have retained
27 \$7,386,791 from the \$31,170,866 in cash or cash equivalent assets of the Merced estate for the
28 payment of projected future administrative expenses and further disbursements as required by

1 law. (Pearce Decl., ¶ 30; Index Exs. D & E.) Also, by releasing the proposed payments to the
2 Merced policyholders on their “over-cap” claims, the Merced estate will have paid a material
3 portion of those claims. (Pearce Decl., ¶ 30.) And, as explained above, the amount paid to the
4 Merced policyholders is a liquidated claim against the PG&E Subrogation Trust, which payment
5 information will form the basis of the Commissioner’s claim in the bankruptcy proceedings. (*Id.*
6 ¶¶ 27 & 30.)

7 The Commissioner will consider additional disbursements to Class 2 claimants after
8 recovery from the trust set up by the PG&E Corporation Bankruptcy proceedings and the sale of
9 the Merced office building in Atwater and two adjacent lots are resolved and/or monetized.
10 (Pearce Decl., ¶ 31.)

11 CONCLUSION

12 Consistent with his obligations and authority set forth under the Liquidation Order, the
13 Commissioner continues to conduct a diligent and efficient liquidation of Merced. The
14 Commissioner intends to release a disbursement to the California Insurance Guarantee
15 Association and to Merced policyholders for “over-cap” claims in 2021 and will continue to file
16 ongoing Status Reports to keep the Court apprised of his ongoing operations and as support for
17 his fee and expense applications.

18 Dated: September 14, 2021

Respectfully submitted,

19 ROB BONTA
20 Attorney General of California
21 MOLLY K. MOSLEY
22 Supervising Deputy Attorney General

23 

24 DEBBIE J. VOROUS
25 Deputy Attorney General
26 *Attorneys for Applicant Insurance*
27 *Commissioner of the State of California*

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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Insurance Commissioner of the State of California
v. Merced Property & Casualty Co.**

Case No.: **18CV-04739**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On September 14, 2021, I served the attached **SECOND STATUS REPORT OF INSURANCE COMMISSIONER ON THE LIQUIDATION OF MERCED PROPERTY & CASUALTY COMPANY** by placing a true copy thereof enclosed in a sealed envelope with the **General Logistics Systems (GLS)**, addressed as follows:

Jeffrey D. Neumeyer, Esq.
Sr. Vice President, General Counsel and Corporate Secretary
United Heritage Financial Group
707 E. United Heritage Court
Meridian, ID 83642

Brad Roeber
Executive Director
California Insurance Guarantee Association
101 N. Brand Avenue, Ste. 600
Glendale, CA 91203

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 14, 2021, at Sacramento, California.

M. Garcia
Declarant


Signature

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Attorney General of California
2 MOLLY K. MOSLEY
Supervising Deputy Attorney General
3 DEBBIE J. VOROUS
Deputy Attorney General
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Attorneys for Applicant Insurance Commissioner
8 of the State of California

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF MERCED

12
13 **INSURANCE COMMISSIONER OF THE**
14 **STATE OF CALIFORNIA,**

15 Applicant,

16 v.

17 **MERCED PROPERTY & CASUALTY**
18 **COMPANY, a California corporation,**

19 Respondent.

Case No. 18CV-04739

**DECLARATION OF SCOTT PEARCE IN
SUPPORT OF SECOND STATUS
REPORT OF INSURANCE
COMMISSIONER ON THE
LIQUIDATION OF MERCED
PROPERTY & CASUALTY COMPANY**

Date: October 26, 2021
Time: 8:15 a.m.
Dept: 8
Judge: Hon. Brian McCabe
Action Filed: November 30, 2018

20
21 I, Scott Pearce, declare:

22 1. I am the Senior Estate Trust Officer of the California Insurance Commissioner's
23 Conservation and Liquidation Office (CLO). The CLO's office is located in San Francisco,
24 California.

25 2. I make this declaration in support of the second status report of the Insurance
26 Commissioner of the State of California (Commissioner) on the liquidation of Merced Property &
27 Casualty Company (Merced). The following information is true and correct and based on my
28 personal knowledge and, if called to do so, I could and would testify competently to it.

1 3. The November 2018 Camp Fire in Butte County, California rendered Merced
2 insolvent. Consequently, on November 30, 2018, the Commissioner filed an application for
3 appointment as liquidator of the Merced estate. Following a December 3, 2018 hearing on the
4 Commissioner's application, the court issued an order appointing the Commissioner as Liquidator
5 of the Merced estate. The court found that Merced was insolvent and there existed sufficient
6 grounds for the Commissioner to liquidate and wind up the business of Merced.

7 **THE CONSERVATION AND LIQUIDATION OFFICE**

8 4. The Commissioner delegated his statutory administrative duties to liquidate the
9 Merced estate over to the CLO and Deputy Liquidator David E. Wilson. (Liq. Order, Dec. 3,
10 2018, pp. 2-3.) Mr. Wilson retired, and the Commissioner appointed Joseph Holloway in his stead
11 as Special Deputy Insurance Commissioner and Chief Executive Officer of the CLO. The
12 California Senate confirmed Mr. Holloway's appointment as Chief Executive Officer.

13 5. The court appointed me as the Liquidation Manager for the Merced estate, and
14 empowered me to carry out any and all duties and exercise the authority of the Liquidator and the
15 Deputy Liquidator (now Joseph Holloway) as may be delegated by the Liquidator and Deputy
16 Liquidator. As the Liquidation Manager, I have primary responsibility for the overall
17 administration of the Merced liquidation estate, including but not limited to, matters pertaining to
18 Merced's financial reporting, claim administration, legal matters (including the submission of
19 claims in bankruptcy proceedings), reinsurance contracts, estate expenditures, and ongoing
20 activities of the liquidation. I am also responsible for the management of Merced's books and
21 records, and I have overall custody and control of them.

22 6. As of September 2019, the CLO had completed the transition of the Merced estate
23 and all remaining long-term run off activities and liquidation requirements from Merced's home
24 office in Atwater, California, to the CLO's office in San Francisco. The CLO also continues to
25 hold Merced's physical and electronic records at its office in San Francisco.

26 ///

27 ///

28 ///

THE COMMISSIONER'S OPERATIONS

Transition of claims to CIGA and CIGA's payment of claims and expenses

7. As explained in the Commissioner's first status report, one of the key operational activities following the court's entry of the Liquidation Order on December 3, 2018, was the Commissioner's transition of the Merced policyholder claims to the California Insurance Guarantee Association (CIGA) and its corresponding payment of claims and expenses. The CLO's Claims Department has (and will continue to) provide claims handling support to CIGA and to the Merced estate as warranted and for so long as the estate remains open.

8. CIGA reports that as of March 31, 2021, it had resolved and paid the majority of Merced-related policy claims and loss adjustment expenses. Attached as Exhibit F to the Index of Exhibits filed in support of the Commissioner's application for payment of fees and expenses and interim disbursement of Merced assets is a true and correct copy of a Statement of Operations I received from CIGA showing CIGA's income, expenses, and reserves as of March 31, 2021. According to CIGA's Statement of Operations, CIGA expects a projected ultimate liability for Merced-related claims of \$26,906,183.

The CLO's review of policyholder claims and approval of "over-cap" claims

9. The December 3, 2018 Liquidation Order required that the Commissioner mail a Proof of Claim form to interested parties notifying them of their right to submit a claim for recovery from the Merced estate. As a result of that mailing, the CLO's Claim Department received and reviewed 441 Proofs of Claim ("POCs") filed. As of the date of this declaration, the Merced estate has approved 32 POCs received as a result of the Camp Fire for a total of \$4,484,674 in approved "over-cap" claims (claims that develop in excess of the \$500,000 statutory limit of CIGA's coverage) and one non-Camp Fire related "over-cap" claim in the amount of \$267,239 for a total approved "over-cap" claim amount of \$4,751,913. Attached as Exhibit E to the Index of Exhibits filed in support of the Commissioner's application for payment of fees and expenses and interim disbursement of Merced assets is a true and correct copy of a spreadsheet that details the approved policyholder "over-cap" claims and proposed disbursements (discussed below).

1 10. The Commissioner has rejected 292 POCs as those claims are not “over-cap” claims
2 and were (or will be) handled by CIGA or the asserted claim was not covered under a Merced
3 policy. The remaining 116 POCs, which are open and undetermined, consist primarily of claims
4 against the estate that fall in the general creditor and equity creditor classes of claim priority set
5 forth in Insurance Code section 1033, subdivision (a)(6)-(9), and will be determined if there are
6 sufficient funds to pay these claims.

7 **Recovery on Reinsurance Contracts**

8 11. As explained in my previous declaration in support of the Commissioner’s first status
9 report, the Commissioner has thus far recovered \$11,165,000 on Merced’s reinsurance contracts,
10 including \$1,700,000 from one loss reinsurance program and \$9,465,000 from a second program.
11 The reinsurance programs have essentially been exhausted except for recoveries on individual
12 claims greater than \$1,000,000 but less than \$4,000,000. The CLO does not expect any additional
13 recovery, but intends to continue to monitor individual claims for losses greater than \$1,000,000.

14 **Statement of Assets and Liabilities for the Merced estate**

15 12. In 2019, the CLO transferred all the Merced accounts from Wells Fargo Bank to the
16 CLO’s Investment Pool, including the Merced estate cash balances or cash equivalent assets. A
17 true and correct copy of Merced’s Statement of Assets and Liabilities as of April 30, 2021, is
18 attached as Exhibit D to the Index of Exhibits filed in support of the Commissioner’s application
19 for payment of fees and expenses and interim disbursement of Merced assets.

20 13. The Statement of Assets and Liabilities shows that the Merced estate has cash
21 balances or cash equivalent assets totaling \$31,170,866 as well as \$84,929 in accrued investment
22 income. In addition, the Merced estate owns its office building in Atwater, California together
23 with two vacant lots adjacent to the Atwater building. The Atwater building and land are valued
24 on Merced’s financial statement at \$647,592. In total, the Merced estate has \$31,903,387 in
25 assets, exclusive of \$157,181 in agency commissions due the estate that have been deemed
26 uncollectable or have no immediate marketplace to monetize the receivable and will be written
27 off in 2021.

1 14. The Statement of Assets and Liabilities also reflects Class 2 liabilities, which consists
2 of claims against policies before disbursements totaling \$31,593,941, along with \$1,769,066 in
3 general creditor and equity class claims and \$63,896 in pre-liquidation claims, for a total of
4 \$33,426,903. Together, the assets and liabilities result in a net asset deficit of <\$1,366,335>.

5 15. In addition, the Statement of Assets and Liabilities reflects payment by the
6 Commissioner, subject to the court's approval, of \$1,480,769 in Merced administrative and
7 professional liquidation fees and expenses for the period April 1, 2019, through April 30, 2021
8 ("Reporting Period"). These fees and expenses were paid from the CLO Investment Pool.

9 16. Concurrent with the filing of this declaration, I filed a separate declaration in support
10 of the Commissioner's application requesting the court approve his payment of liquidation fees
11 and expenses for the Reporting Period. As explained in that declaration, the \$1,480,769 in fees
12 and expenses fall into two broad categories: 1) \$760,088 in administrative operating fees incurred
13 by the CLO (salaries, rent & overhead of the organization) and then allocated to the Merced estate
14 on a pro rata basis; and 2) \$720,681 for direct estate operating expenses (which include estate fees
15 and expenses of \$663,268 and legal fees and expenses of \$57,413).

16 **THE COMMISSIONER'S ONGOING ACTIVITIES**

17 **Claim validation and development**

18 17. As explained above, CIGA reports that it has resolved and paid the majority of
19 Merced-related policy claims as of March 31, 2021. According to CIGA, the open claims have
20 extenuating circumstances or issues that continue to delay the claims handling process, but CIGA
21 reports that it expects to resolve the open claims over the next year. The CLO's Claims
22 Department will continue to assist CIGA by providing policy coverage confirmation and
23 documents as needed as well as addressing certain pre-liquidation claims.

24 18. The CLO's Claims Department will also continue to evaluate the remaining open and
25 undetermined 116 POCs submitted to it. Additionally, the Claims Department will continue to
26 provide assistance to any individual claimant in understanding the liquidation process so long as
27 the estate remains open and there are resources available to do so.
28

Placement of Merced home office building in Atwater and adjacent lots for sale, and retention of Merced employee as consultant

19. At the time the Commissioner submitted his first status report on the liquidation of Merced, the Commissioner was in the process of transitioning all aspects of the Merced estate to the CLO's office in San Francisco, including the remaining management and administration of the estate. As noted, the Commissioner completed that transition in September 2019.

20. After transitioning the Merced estate to the CLO's office in San Francisco, the local CIGA claims unit continued to occupy a portion of Merced's office building in Atwater. CIGA vacated the building in mid-October 2020, at which time the Commissioner placed the building and two adjacent vacant lots for sale on the open market through a listing with a brokerage firm located in Merced. The properties are listed at approximately \$1.6 million. The estate has had multiple showing and received two highly conditional offers from local municipal interests that were both deemed unacceptable. As of the date of this report, the estate is working with a potential buyer from the Merced area who has recently conducted preliminary environmental inspections and is preparing a formal offer. Any potential sales contract will be submitted to the court for approval.

21. As of the date the December 3, 2018 Liquidation Order was entered, Merced had 16 full-time employees. The CLO used the services of nine Merced employees through March 31, 2019, to assist it in implementing the continued operational requirements of the Liquidation Order, with two employees remaining as of August 2019. After August 2019, the estate retained one employee under a consultancy contract to provide the CLO with a local contact and resource to assist with the oversight and sale of the Merced building and vacant lots. By retaining a trusted local resource familiar with the building to help address potential building-related issues, the CLO is ensuring proper local oversight at a reasonable cost.

Final transition of Merced's financial operations to the CLO's office in San Francisco

22. In my declaration in support of the Commissioner's first status report, I stated that the CLO's Finance & Accounting Department expected to transfer the remaining financial operations of the Merced estate to the CLO's office in San Francisco by the end of August 2019. This

1 transfer was completed in September 2019, and all of Merced's financial operations from the
2 Merced Atwater office have now been successfully transferred to the CLO's office in San
3 Francisco. The CLO's Finance & Accounting Department has been responsible on an ongoing
4 basis for all financial aspects of the Merced estate. It is also responsible for the reconciliation of
5 all cash receipts and disbursements of the estate, and staff prepare all entries, schedules and work
6 papers, and produce all manner of financial analysis and reports.

7 **Information and Technology Department**

8 23. Following the complete transfer of the Merced estate to the CLO's office in San
9 Francisco in September 2019, the CLO's Information Technology (IT) Department continued to
10 support the Merced estate by providing on-going technical assistance in maintaining historical
11 and CIGA claims databases and electronic data files. The IT Department will continue this
12 support through the final disbursement of Merced's asset to creditors and closure of the estate.
13 The IT Department is also available to assist in any further data management/reporting required
14 for the estate to produce future reinsurance billings.

15 24. Merced, as a participant in its affiliate and parent United Heritage Financial Group,
16 participated in a shared services arrangement with the group and received certain services and
17 support on an allocated basis. Following transfer of the Merced estate to the CLO's office in San
18 Francisco, the IT Department decommissioned all local Atwater systems and infrastructure and
19 ceased Merced's participation in the remaining components of the shared services arrangement
20 except for Merced's continued inclusion in the parent's consolidated tax group.

21 **2019 and 2020 Tax Returns**

22 25. Merced prepared its 2019 proforma tax return in accordance with the United
23 Heritage group's tax sharing agreement and provided the return to be included in the group's
24 consolidated October tax filing. Merced will prepare its 2020 proforma tax return for inclusion in
25 the group's 2020 consolidated tax return.

26 **PG&E CORPORATION BANKRUPTCY PROCEEDINGS**

27 26. As explained in the Commissioner's first status report, PG&E Corporation and its
28 subsidiary Pacific Gas and Electric Company each filed a voluntary petition for bankruptcy under

chapter 11 of the Bankruptcy Code on January 29, 2019. I have been informed that as part of this proceeding, the bankruptcy court established a PG&E Wildfire Subrogation Trust to consider and pay claims for damages caused by the November 2018 Camp Fire.

27. The Commissioner submitted a conditional and undetermined proof of claim against the PG&E Subrogation Wildfire Trust. The trust administrator considers a proof of claim based upon a liquidated damages standard, which means that the Commissioner must submit proof that the claim has been paid before the administrator will consider and pay the claim. As discussed below and in the Commissioner's application for payment of fees and expenses and interim disbursement of Merced assets, the Commissioner is seeking approval from the court to disburse assets from the Merced estate to Merced policyholders for "over-cap" claims. The Commissioner expects to use this disbursement as the proof required for the trust administrator to consider and pay his claim.

28. CIGA also submitted a claim against the PG&E Wildfire Subrogation Trust for the losses and loss adjustment expenses it has paid for Merced Camp Fire-related claims. To submit its claim, CIGA developed a complex reporting file in compliance with the bankruptcy requirements. The Commissioner will seek to use the same reporting format to submit the "over-cap" payments he intends to make.

THE COMMISSIONER'S INTERIM DISBURSEMENT OF ASSETS

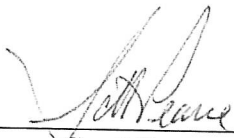
29. As noted, the Commissioner, upon the court's approval, intends to make an interim disbursement of Merced assets to CIGA and to Merced policyholders for "over-cap" claims. In brief, the Commissioner proposes to make a disbursement to CIGA of \$20,220,137 and to Merced policyholders of \$3,563,938 for a total disbursement of \$23,784,075. The disbursement represents approximately 75 percent of CIGA's projected ultimate liability and 75 percent of the total approved policyholder "over-cap" claims. (Index Exs. E & F.)

30. Following disbursement of the \$23,784,075, the Commissioner will have retained \$7,386,791 from the \$31,170,866 in cash or cash equivalent assets of the Merced estate for the payment of projected future administrative expenses and further disbursements as required by law. (Index Exs. D & E.) Also, by releasing the proposed payments to the Merced policyholders

1 on their "over-cap" claims, the Merced estate will have paid a material portion of those claims.
2 And, as explained above, the amount paid to the Merced policyholders is a liquidated claim
3 against the PG&E Subrogation Trust.

4 31. The Commissioner will consider additional disbursements to Class 2 claimants after
5 recovery from the trust set up by the PG&E Bankruptcy Corporation proceedings and the sale of
6 the Merced office building in Atwater and two adjacent lots are resolved and/or monetized.

7 I declare under penalty of perjury of the laws of the State of California that the foregoing is
8 true and correct. Executed this 14th day of September, 2021, at San Francisco, California.

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12 _____
Scott Pearce

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DECLARATION OF SERVICE BY OVERNIGHT COURIER

Case Name: **Insurance Commissioner of the State of California
v. Merced Property & Casualty Co.**
Case No.: **18CV-04739**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On September 14, 2021, I served the attached **DECLARATION OF SCOTT PEARCE IN SUPPORT OF SECOND STATUS REPORT OF INSURANCE COMMISSIONER ON THE LIQUIDATION OF MERCED PROPERTY & CASUALTY COMPANY** by placing a true copy thereof enclosed in a sealed envelope with the **General Logistics Systems (GLS)**, addressed as follows:

Jeffrey D. Neumeyer, Esq.
Sr. Vice President, General Counsel and Corporate Secretary
United Heritage Financial Group
707 E. United Heritage Court
Meridian, ID 83642

Brad Roeber
Executive Director
California Insurance Guarantee Association
101 N. Brand Avenue, Ste. 600
Glendale, CA 91203

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on September 14, 2021, at Sacramento, California:

M. Garcia
Declarant


Signature