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County Of Los Angeles

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DAVE JONES, Insurance Commissioner of  
the State of California,

Applicant,

vs.

MISSION INSURANCE COMPANY, a  
California corporation, et al

Respondent.

Case No. C 572 724

Honorable Teresa A. Beaudet

NOTICE OF MOTION AND  
MOTION TO APPROVE  
AGREEMENTS WITH THE  
UNITED STATES; MEMORANDUM  
OF POINTS AND AUTHORITIES;  
DECLARATION OF  
MICHELE VASS

June 22, 2017 at 8:30 a.m.

Department: 50

Consolidated with Case Numbers

C 576 324; C 576 416;  
C 576 323; C 576 325; C 629709

111 North Hill St., Floor 5 Room 508  
Los Angeles, CA 90012

Filed: October 31, 1985  
RESERVATION ID: 161222183260

NOTICE OF MOTION AND MOTION TO APPROVE AGREEMENTS WITH THE UNITED  
STATES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF  
MICHELE VASS

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1 Please take notice that on the 22nd day of June, 2017, at the hour of 8:30 a.m., or as soon  
2 thereafter as the matter may be heard, Dave Jones, Insurance Commissioner of the State of  
3 California, in his capacity as Trustee of the Mission Insurance Company Trust, the Mission  
4 National Insurance Company Trust and the Enterprise Insurance Company Trust ("Insurance  
5 Commissioner"), will appear in Department 50 of the Los Angeles Superior Court, Stanley Mosk  
6 Courthouse, 111 North Hill St., Los Angeles, CA 90012, and present a motion to approve  
7 agreements with the United States.

8 Mission Insurance Company Trust and Mission National Insurance Company Trust have  
9 previously paid the principal amount of all claims which are policyholder priority under  
10 California Insurance Code Section 1033. The trusts each have substantial assets, as reflected by  
11 the attached Declaration of Michele Vass.

12 In July 2011, the Insurance Commissioner as Trustee applied for a release from the  
13 United States Department of Justice of any potential priority claims of the United States (*i.e.*, a  
14 release from any claims that the United States is entitled to be paid in priority to other creditors  
15 under the Federal Priority Statute, 31 U.S.C. § 3713). In response and as previously reported,  
16 the United States Department of Justice provided to counsel for the Insurance Commissioner on  
17 December 5, 2013 lists of insureds and environmental sites that the United States Environmental  
18 Protection Agency titled as "reservation of rights lists" as to "potential" claims by the  
19 Environmental Protection Agency.

20 After a process in which the Trusts and the Environmental Protection Agency analyzed  
21 hundreds of potential claims against the Trusts, the Environmental Protection Agency and the  
22 United States Department of Justice advised counsel for the Insurance Commissioner as Trustee  
23 that four matters gave rise to claims for a total claimed amount of at least \$81,000,000. The  
24 Insurance Commissioner as Trustee, through counsel, and the United States Department of  
25 Justice and the Environmental Protection Agency, communicating through counsel, went through  
26 a detailed analysis and negotiation period to resolve the four matters to avoid the time and  
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1 expense of likely protracted litigation; and, finally, to obtain releases from the United States from  
2 any potential Federal Priority Statute claims.

3 After this analysis and negotiation period, the parties entered into the agreements  
4 attached as Exhibits A, B, and C to the Declaration of Michele Vass. These agreements are  
5 expressly subject to and conditioned upon this Court's approval. One of these agreements, the  
6 Settlement Agreement attached as Exhibit A, specifies that it shall be subject to a period of  
7 public comment following publication of notice of this agreement in the *Federal Register*. This  
8 requirement is in keeping with Department of Justice regulations codified at 28 C.F.R. § 50.7  
9 and Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability  
10 Act. 42 U.S.C. § 9622(i). Accordingly, in connection with this Motion the United States shall  
11 publish a notice in the *Federal Register* that the Settlement Agreement has been submitted to the  
12 Court and solicit public comment for a period of thirty (30) days. At the end of the public  
13 comment period, the United States shall inform counsel for the Insurance Commissioner whether  
14 the public comments disclose facts or considerations indicating that it is not in the public interest  
15 for the United States to proceed with the agreement.

16 The relief requested in this motion will be the approval of three agreements with the  
17 United States as well as authority to make the distributions and take the steps reasonably  
18 required to consummate the agreements. The proposed payment to be made by the Mission  
19 Insurance Company Trust is \$23,750,000. The proposed payment to be made by the Mission  
20 National Insurance Company Trust is \$4,850,000. The motion will be based upon the pleadings  
21 and papers on file, the Declaration of Michele Vass and its attached Exhibits, and the  
22 accompanying memorandum of points and authorities. The effect of the Court's approval will be  
23 to clear a major final obstacle to the distribution of substantial cash payments to the approved  
24 general creditors of Mission Insurance Company Trust and of substantial interest payments to the  
25 approved policyholder and general creditor claimants against Mission National Insurance  
26 Company Trust without the extended delay and cost of protracted litigation.



1 Wherefore, premises considered, this Court is requested to order that:

- 2 A. The agreements with the United States attached as Exhibits "A", "B", and "C" are  
3 approved;
- 4 B. The Insurance Commissioner as Trustee may make the payments to the United States  
5 set forth in the Agreements and take such other steps as are reasonably required to  
6 effectuate the agreements; and
- 7 C. Grant all other just and equitable relief.
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10 Respectfully submitted,

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Prior to distributing the funds reserved for unknown contingencies, in September of 2011, the Insurance Commissioner as Trustee requested a Federal Priority Statute , 31 U.S.C. § 3713, release as to Mission Insurance Company Trust and Mission National Insurance Company Trust. While a similar request for such a release as to Enterprise Insurance Company Trust resulted in a rapid resolution, the process for Mission Insurance Company Trust and Mission National Insurance Company Trust took much longer.

California Insurance Code Section 1037 provides the Insurance Commissioner as liquidator with the authority to do acts as are “necessary or expedient to collect, conserve, or protect” the assets of the insurer. Section 1037 concludes with a statement of broad general powers on the part of the Insurance Commissioner. California Insurance Code Section 1020 authorizes this Court to make such orders as may be required to prevent interference with the proceedings. The Commissioner in exercising his or her discretion as a liquidator is vested with broad discretion, subject to statutory limitations and “the requirement that exercise of discretion

1 be neither arbitrary nor improperly discriminatory.” *In re Executive Life Ins. Co.*, (1995) 32 Cal.  
2 App. 4th 344, 356 38 Cal. Rptr. 2d 453.

3 In this matter, the United States asserts that it has claims against Mission Insurance  
4 Company Trust and Mission National Insurance Company Trust. The United States further  
5 asserted that its claims were entitled to the Federal Priority Statute, 31 U.S.C. 3713, priority and  
6 that in particular the provisions of 31 U.S.C. 3713(b) apply, which provide “(b) A representative  
7 of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the  
8 person or estate before paying a claim of the Government is liable to the extent of the payment  
9 for unpaid claims of the Government.” The United States and the Insurance Commissioner as  
10 Trustee dispute many issues pertaining to the United States claims, including but not limited to,  
11 the bar date provisions of California Insurance Code Section 1021-1024 and the application of  
12 the Federal Priority Statute, 31 U.S.C. 3713. However, the Insurance Commissioner as Trustee  
13 and the United States have determined that a settlement is in the best interest of the approved  
14 claimants in this matter and agree to resolve the issues at hand for \$28,600,000, payable in the  
15 manner and for the purposes set forth in the agreement for which approval is now sought.

16 The Insurance Commissioner as Trustee engaged in a detailed review of the four claims  
17 asserted by the United States. After, the parties engaged in an extensive documentation and  
18 negotiation period. The result of this negotiation is that rather than engage in expensive and  
19 protracted litigation that would prevent the distribution of substantial assets to claimants and  
20 closure of the Mission Insurance Company Trust and Mission National Insurance Company  
21 Trust estates, the parties entered into an agreement by which the United States EPA would  
22 release Mission National Insurance Company Trust and Mission Insurance Company Trust from  
23 the claims asserted by the EPA. The United States would further enter into agreements to release  
24 any claims arising under the Federal Priority Statute.

25 The proposed agreements are that Mission Insurance Company Trust and Mission  
26 National Insurance Company Trust shall receive a release from the EPA and will also receive  
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1 releases from Federal Priority Statute liability from the United States Department of Justice, and  
2 in return, if the Court approves, the trusts shall make cash payments to the EPA. The proposed  
3 payment to be made by the Mission Insurance Company Trust is \$23,750,000. The proposed  
4 payment to be made by the Mission National Insurance Company Trust is \$4,850,000.

5       Following the approval of these agreements, both Mission Insurance Company Trust and  
6 Mission National Insurance Company Trust will have substantial assets remaining. The  
7 Insurance Commissioner as Trustee intends to file a motion to approve a further substantial  
8 distribution from the cash assets. Certain non-cash assets, including reinsurance and affiliate  
9 recoverables may generate additional funds (though this is not a certainty). If these assets  
10 generate additional funds, then further distributions will be ordered.

11       The Declaration of Michele Vass attaches the three agreements for which approval is  
12 sought as Exhibits A, B, and C. One agreement is a release agreement with the EPA. The other  
13 two agreements are releases by the United States of Federal Priority Statute liability. All three  
14 agreements are conditioned upon this Court's approval. The Declaration of Michele Vass sets  
15 forth the amount of assets currently held by the Mission Insurance Company Trust and the  
16 Mission National Insurance Company Trust, each of which is substantially in excess of the funds  
17 required to fund the settlement with the United States. *See* Exhibit D to her Declaration. Ms.  
18 Vass further describes the claims asserted by the United States (including the claims as Exhibits  
19 E, F-1, F-2, G and H) and the process of adjusting these claims. [Vass Declaration, page 11, line  
20 3 through page 13, line 6]. Ms. Vass sets forth the agreed resolution reflected in the agreements  
21 which are Exhibits "A", "B", and "C" and sets forth her recommendation that the agreements be  
22 approved. Ms. Vass explains in paragraph 1 of her declaration her substantial experience as a  
23 claims representative. [Vass Declaration, Page 9, lines 4-14.] She explains in Page 9, lines 15-26  
24 paragraph 2 that the Insurance Commissioner as Trustee requested a release from Federal  
25 Priority Statute liability in 2011. She explains in Page 11, line 3 through Page 13, line 26,  
26  
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1 Paragraphs 6-11 of her Declaration that the United States, after an information exchange process,  
2 asserted that it was entitled to over \$81,000,000 in payments pursuant to four claims.  
3 She explains that extensive analysis and negotiation followed, resulting in the current agreements  
4 pursuant to which the Mission Insurance Company Trust would pay \$23,750,000 and Mission  
5 National Insurance Company Trust would pay \$4,850,000 in return for a release.

6 These matters present thorny issues of not only state-federal pre-emption and reverse pre-  
7 emption under the McCarran-Ferguson Act (15 U.S.C. 1011 et seq.), but also complex and  
8 palpable coverage and allocation issues as to the underlying policies, the enforceability and  
9 validity of properly established bar dates and claims in issue. The Insurance Commissioner's  
10 determination to compromise these issues based upon a discounted figure is reasonable and an  
11 appropriate exercise of his discretion. This Court is respectfully requested to approve the  
12 agreements.

13 Conclusion:

14 The Court is requested to:

- 15 A. Approve entry into the agreements with the United States attached to Ms. Vass'  
16 Declaration;  
17 B. Authorize the Insurance Commissioner as Trustee to make the payments and take those  
18 other steps reasonably necessary to perform the agreements;  
19 C. and grant all other just and equitable relief.

20 Respectfully submitted,

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3. I attach as Exhibits "A" and "B" and "C" true and correct copies of the agreements which the Insurance Commissioner as Trustee requests this Court to approve.

4. I attach as Exhibit "D" and incorporate herein by reference recent balance sheets for Mission Insurance Company Trust and Mission National Insurance Company Trust, respectively. These balance sheets were prepared by the accounting department of the Conservation and Liquidation Office. The asset portion of these balance sheets includes estimated recoveries for reinsurance and affiliate matters. These are estimates only, as the actual recoveries may materially vary from the estimates as to the receivables. These balance sheets are maintained in a systematic manner in the ordinary course of business of the Conservation and Liquidation Office, and are prepared by accounting professionals at the Conservation and Liquidation Office in an effort to ensure their accuracy. Entries are made into these balance sheets periodically on or about the time that the events depicted in the balance sheets occur. I am one of the persons qualified to attest to these business records because as a Claims Manager I am entitled to request of the Conservation and Liquidation Office accounting section for a current balance sheet to be distributed to me. These exhibit D depict the cash on hand and possibility of further recoveries, as well as the unpaid liabilities of the trusts.

5. Mission Insurance Company Trust has made payment of the principal amount of all approved policyholder-priority proofs of claims, and has made a substantial dividend on general creditor proofs of claims. Mission National Insurance Company Trust has paid the principal of policyholder and general creditor proofs of claims, and has secured court approval for and paid a partial interest payment on these approved policyholder priority proofs of claims. However, both Mission Insurance Company Trust and Mission National Insurance Company Trust held substantial reserves in case of any adverse unforeseen developments. One issue that arose was whether a federal tax audit involving the holding company of Mission Insurance Company and Mission National Insurance Company might create any issues for the Mission



1 Insurance Company Trust and the Mission National Insurance Company Trust. But that audit  
2 was resolved by the parent company without adverse implications for the trusts.

3 6. The United States indicated reasonably soon after the request that a release would  
4 be issued as to Enterprise Insurance Company Trust. This Court approved entry into a release  
5 agreement with the United States as to Enterprise Insurance Company Trust. The process as to  
6 Mission Insurance Company Trust and Mission National Insurance Company Trust proved more  
7 detailed. We reviewed over nine hundred complex environmental claims files to address  
8 questions raised by the United States Department of Justice. We worked over the time from  
9 2011 to 2015 to exchange substantial documentation about potential claims by the United States.

10 7. In 2015, the United States Department of Justice advised that it intended to file  
11 two proofs of claims, arising from claims having to do with the Franklin Smelting and Slag  
12 site(s) in Pennsylvania, and having to do with the USR/Safety Light site in New Jersey. We  
13 asked the United States Department of Justice to advise us of all of the potential sites in issue, so  
14 that we could embark upon a global effort to either negotiate a resolution or resolve them  
15 through a claims rejection. The United States in 2016 advised us that it had completed its  
16 evaluation process, and that it intended to file two more proofs of claim. These claims were for  
17 the Linnton Plywood site in Oregon and the CleanCare site [Lilyblad] in Washington state.

18 8. I attach as Exhibits "E", "F-1", "F-2" "G", and "H" true and correct copies of the  
19 first page of each of the proofs of claims. I omitted the details attached with the proofs of claims  
20 so as to keep this Declaration at a manageable length. As the attached exhibits show, the United  
21 States made claims aggregating over \$ 81,000,000. All of the claims were claims by the United  
22 States Environmental Protection Agency ("EPA") against Mission or Mission National insureds.  
23 All claims asserted that the EPA embarked on substantial clean-up activities at each site resulting  
24 in substantial clean-up expenses. In three of these cases, the United States had obtained a  
25 substantial judgment against the Mission or Mission National insured.



9. The United States' effort to file a proof of claim presented a number of issues, including, without limitation, the following:

a. whether the United States was entitled to pursue a late claim, in light of its assertion that the state statutory bar date could not impact it, as contrasted with the effect of the McCarran-Ferguson Act;

b. whether the resolution of the insureds' proof of claim resolved the claims of third party claimant the EPA;

c. whether the United States had properly applied principles of allocation, trigger, coverage, policy exclusions (including the qualified pollution exclusion and non-cumulation clauses) and exhaustion in asserting its claims; and

d. whether the conduct of the insureds had waived all or part of the claims.

10. John Battle and I, as the CLO claims professionals involved in this matter, working with counsel, analyzed and evaluated the claims asserted by the United States. Through counsel, we requested substantial documentation as to each claim. We also conducted our own investigation of information about each of the sites in issue, including without limitation obtaining publicly-available EPA records about the claims. We requested that our counsel analyze the coverage and state/federal issues.

11. At the conclusion of a lengthy documentation, analysis and negotiation process, we reached agreed figures with the EPA which are now reflected in Exhibit “A”. These figures are a reasonable resolution of the claims of the United States, for each of the following reasons:

A. The claims present numerous issues regarding not only policy coverage but also state-federal pre-emption and reverse pre-emption issues. The settlement amount is a reasonable resolution of those issues without the expense and time consumption of likely protracted litigation.

B. The settlement will permit further distributions to claimants who have awaited their distributions for decades;


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1 C. The settlements will resolve an uncertainty that could have given rise to over \$81,000,000 in  
2 asserted claims by the United States. Although the Insurance Commissioner as Trustee disputes  
3 that the claims have a value in excess of \$81,000,000, if the Court disagreed, then the resulting  
4 payment would reduce the amount available to other claimants.

5 D. The agreements preserve the positions of the parties without an admission or concession, so  
6 that if the issue of super-priority arises again, this matter will not be precedent for either side.

7 12. In light of the matters I discuss above in my declaration, I recommend that the  
8 agreements with the United States be approved.

9  
10 I make this Declaration on May 9, 2017 at San Francisco, California and  
11 hereby declare the foregoing facts to be true and correct under the penalty of perjury of the laws  
12 of the State of California.

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14 Michele Vass  
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## EXHIBIT "A"

## MISSION INSURANCE AND MISSION NATIONAL INSURANCE SETTLEMENT AGREEMENT

This is a settlement agreement ("Settlement Agreement") between Dave Jones, Insurance Commissioner of the State of California, in his capacity as Trustee (the "Insurance Commissioner" or the "Trustee") of the Mission Insurance Company Trust and the Mission National Insurance Company Trust (the "Mission Trusts"), and the United States Department of the Interior ("DOI"), Environmental Protection Agency ("EPA"), and National Oceanic and Atmospheric Agency ("NOAA") (collectively referred to as "the Federal Claimants"), acting by and through the United States Department of Justice ("DOJ") (each a "Party," and collectively the "Parties"), as to the claims resolved by this Settlement Agreement. The Parties have agreed to reach a compromise to avoid the expense and time of litigation and to facilitate the timely closing of the Mission Trusts estates, without admission of liability and without admission of the ultimate validity or invalidity of any of the Parties' positions or arguments.

As part of this compromise, the Trustee agrees to pay the Federal Claimants \$28,600,000 (twenty-eight million, six hundred thousand dollars) (the "Settlement Amount") on behalf of the Mission Trusts to resolve the Federal Claimants' claims against the Mission Insurance Company and Mission National Insurance Company, in the manner and through the mechanism following and conditioned upon court approval provided herein, in full compromise of all claims of the Federal Claimants against the Mission Trusts, as provided in Paragraphs 9-11 of this Settlement Agreement.

### **I. Recitals**

1. Mission Insurance Company and Mission National Insurance Company (the "Mission Companies") were placed into liquidation on February 24, 1987 by the Superior Court of the State of California, County of Los Angeles (the "Mission Liquidation Court"). On April 20, 1990, a Final Order of Rehabilitation was entered as to the Mission Companies pursuant to which the Mission Companies' estates were converted into Trusts and the Insurance Commissioner was appointed Trustee of or given authority to act on behalf of each of the Mission Trusts.

2. The Federal Claimants assert claims pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607, against the following parties (collectively, the "Insured Parties"):

- a. Franklin Smelting and Refining Company, et al. ("Franklin") concerning their liability at the Franklin Smelting Superfund Site and the Franklin Slag Superfund Site in Philadelphia, PA;
- b. Lilyblad Petroleum Inc. ("Lilyblad") concerning its liability at the CleanCare Corporation Superfund Site in Tacoma, WA;
- c. Linnton Plywood Association ("LPA") concerning its liability at the Portland Harbor Superfund Site in Portland, OR, and;



- d. United States Radium Corp. and USR Industries Inc., et al. (collectively "USR") concerning their liability at the Safety Light Corporation Superfund Site in Bloomsburg, PA.

3. The Federal Claimants filed proofs of claims asserting a right to recover pursuant to Section 1026 of the California Insurance Code based on the Insured Parties' liability under CERCLA Section 107 ("Proofs of Claims"). The Proofs of Claims, which seek coverage pursuant to insurance policies issued by the Mission Companies, are as follows:

POC No. V00001 and V00003	: Franklin	Filed 05/18/2015
POC No. V00005 and V00006	: LPA	Filed 03/02/2016
POC No. V0004	: Lilyblad	Filed 03/02/2016
POC No. V00002	: USR	Filed 08/03/2015

4. The Trustee and the California Conservation and Liquidation Office dispute the claims for coverage and the right of the Federal Claimants to assert and file the Proofs of Claims at this time. The Federal Claimants dispute the contention that the Proofs of Claims were filed late and assert that the claims for coverage are meritorious.

5. This Settlement Agreement is intended as a resolution, as provided in Paragraphs 10-12 of this Settlement Agreement, of all liabilities and obligations of the Mission Trusts to the Federal Claimants enumerated herein, including without limitation the Proofs of Claims, and of all other rights of the Federal Claimants arising from all policies issued by the Mission Companies to the Insured Parties whether listed in this Settlement Agreement or otherwise, past, present or future, known or unknown, vested or contingent. The Federal Claimants warrant that they hold the right to settle all liabilities and obligations of the Mission Trusts to the Federal Claimants referenced herein.

6. The known policies pursuant to which the Proofs of Claims are resolved are all policies which provide or may provide coverage in whole or in part to Insured Parties against whom the Federal Claimants have or may have a claim pursuant to Section 107 of CERCLA, including, without limitation:

a. The following policies issued to Franklin Smelting and Refining Company, et al.:

- Policy No. M 855631, Policy Term: 10/01/79 – 10/01/80, Policy Limits: \$9,000,000
- Policy No. M 865578, Policy Term: 10/01/80 – 10/01/83, Policy Limits: \$10,000,000
- Policy No. MN 028395, Policy Term: 10/01/83 – 10/01/84, Policy Limits: \$10,000,000
- Policy No. MN 034371, Policy Term: 10/01/84 – 10/01/85, Policy Limits: \$10,000,000

b. The following policy issued to Lilyblad Petroleum Inc.:

- Policy No. MN 022527, Policy Term: 03/01/83 – 03/01/85, Policy Limits: \$10,000,000

c. The following policies issued to Linnton Plywood Association:

- Policy No. M 831351, Policy Term: 07/01/75 – 04/23/76, Policy Limits: \$2,000,000
- Policy No. M 831351, Policy Term: 04/23/76 – 04/23/77, Policy Limits: \$5,000,000
- Policy No. M 831351, Policy Term: 04/23/77 – 04/23/78, Policy Limits: \$5,000,000
- Policy No. M 841396, Policy Term: 04/23/78 – 04/23/79, Policy Limits: \$5,000,000
- Policy No. M 850306, Policy Term: 04/23/79 – 04/23/80, Policy Limits: \$5,000,000
- Policy No. CIP 004 49 58, Policy Term: 04/23/85 – 04/23/86, Policy Limits: \$500,000
- Policy No. MN 047675, Policy Term: 04/23/85 – 04/23/86, Policy Limits: \$1,000,000

d. The following policies issued to United States Radium Corp. and USR Industries Inc., et al.:

- Policy No. M 848172, Policy Term: 02/05/79 – 01/01/80, Policy Limits: \$4,000,000
- Policy No. M 857831, Policy Term: 01/01/80 – 01/01/81, Policy Limits: \$4,000,000
- Policy No. M 871497, Policy Term: 01/01/81 – 01/01/82, Policy Limits: \$10,000,000

## **II. Claim Allowance and Covenant Not to Sue**

### **7. Settlement Amount**

The Federal Claimants shall receive a settlement payment in the aggregate amount of \$28,600,000 (twenty-eight million, six hundred thousand dollars) as follows:

\$23,750,000 (twenty-three million, seven hundred and fifty thousand dollars) against Mission Insurance Company Trust

\$4,850,000 (four million, eight hundred and fifty thousand dollars) against Mission National Insurance Company Trust.

Mission National Insurance Company Trust and Mission Insurance Company Trust are each liable only for their respective payment. The payments set forth in this Settlement Agreement

shall be several and not joint and several liabilities. The payment of the Settlement Amount to the Federal Claimants shall not be cited by any of the Parties in the future as a precedent, or as a basis for the treatment or priority of any claims in any subsequent insurance company receivership or rehabilitation proceeding. The Mission Trusts do not concede by this Settlement Agreement that the Proofs of Claims were timely filed or are otherwise valid or meritorious. Likewise, by agreeing to the compromise in this Settlement Agreement the Federal Claimants do not concede the validity or merit of any challenge to the Proofs of Claims by the Mission Trusts.

8. The Federal Claimants and the Mission Trusts consent to the allocation of the Settlement Amount as follows:

- a. \$11,914,658.58 shall be with respect to the liability of Franklin at the Franklin Smelting Superfund Site and the Franklin Slag Superfund Site in Philadelphia, PA.
- b. \$284,543.96 shall be with respect to the liability of Lilyblad at the CleanCare Corporation Superfund Site in Tacoma, WA.
- c. \$9,287,198.56 shall be with respect to the liability of LPA at the Portland Harbor Superfund Site in Portland, OR. This amount shall be divided between EPA and DOI and NOAA as follows: \$6,965,398.92 to EPA, and \$2,321,799.64 to DOI and NOAA.
- d. \$7,113,598.90 shall be with respect to the liability of USR at the Safety Light Corporation Superfund Site in Bloomsburg, PA.

The total amount received by EPA with respect to the CleanCare Corporation Superfund Site shall be deposited in the Hazardous Substance Superfund. The total amounts received by EPA with respect to all remaining sites shall be deposited in corresponding special accounts established by EPA within the Hazardous Substance Superfund pursuant to Section 122(b)(3), 42 U.S.C. § 9622(b)(3), to be retained and used to conduct or finance response actions at or in connection with the respective Sites, or to be transferred to the Hazardous Substance Superfund. The total amount received by EPA with respect to the Franklin Smelting Superfund Site and the Franklin Slag Superfund Site may be deposited in the special account for the Franklin Slag Superfund Site. The payment received on account of each potentially responsible party shall reduce the liability of any other potentially responsible parties for the respective Sites by the amount of the payment in accordance with Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2).

9. The Trustee shall seek the approval of the Mission Liquidation Court allowing the Mission Insurance Company Trust and the Mission National Insurance Company Trust to each make a cash distribution to the United States for its respective settlement obligation. Cash distributions to the Federal Claimants pursuant to this Settlement Agreement shall be made in accordance with instructions to be provided to the Trustee by the United States. At the time of any cash distribution pursuant to this Settlement Agreement, the Trustee shall transmit written confirmation of such distribution to the United States at the addresses specified below, and email confirmation of such distribution to the EPA Cincinnati Finance Office at [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov). Confirmations to the U.S. Department of Justice and EPA shall reference DOJ Case Number 90-11-3-10711 and the following Site/Spill ID Numbers for each of

the five Sites: 1. Franklin Slag Superfund Site D378 and Franklin Smelting Superfund Site B328, 2. CleanCare Corp. Superfund Site 106W, 3. Portland Harbor Superfund Site 103R, 4. Safety Light Corp. Superfund Site 03DG. The confirmation to the Department of the Interior shall reference "Natural Resource Damages for the Portland Harbor Superfund Site" and NRDAR Account No. 14X5198:

Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044  
Ref. DOJ File No. 90-11-3-10711

Manuel Ronquillo  
Attorney-Advisor  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
Mailcode: 2272A

Department of the Interior  
Office of Restoration and Damage Assessment  
Attn: NRDAR Fund Manager  
1849 C Street, N.W.  
Mailstop 3548  
Washington, DC 20240

10. The Federal Claimants' Covenant Not to Sue

a. In consideration of the execution of the Settlement Agreement, and effective upon approval of this Settlement Agreement by the Mission Liquidation Court, the United States, on behalf of the Federal Claimants, covenants not to file a civil action against the Insurance Commissioner, the California Department of Insurance, the California Conservation and Liquidation Office and the Mission Trusts with respect to all liabilities and obligations to the Federal Claimants arising under CERCLA under policies issued by the Mission Companies to the Insured Parties, whether such liabilities and obligations are known or unknown, reported or unreported, and whether currently existing or arising in the future. As used in this paragraph and Paragraph 11, the terms Insurance Commissioner, the California Department of Insurance, the California Conservation and Liquidation Office and the Mission Trusts shall include their respective subsidiaries, affiliates, parent companies, successors and assigns, and their respective officers, directors, and employees.

b. The Federal Claimants waive the benefits of California Civil Code Section 1542, which provides:



A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

c. The United States specifically reserves, and this Settlement Agreement, including the provisions of Paragraph 10.a, is without prejudice to (a) any action seeking to impose criminal liability, (b) any action based on the failure to meet a requirement of this Settlement Agreement, (c) any claim of the Federal Claimants based on the liability of any Insured Party under any statute other than CERCLA, and (d) any claim of any federal agency or department, other than NOAA, DOI, and EPA.

d. The covenant set forth in Paragraph 10.a extends only to the persons set forth in Paragraph 10.a and does not extend to any other person. The United States expressly reserves all claims, demands, and causes of action, either judicial or administrative, past, present, or future, in law or equity, which it may have against all other persons, firms, corporations, or entities for any matter arising at or relating in any manner to the Sites or claims addressed herein. Further, nothing in this Settlement Agreement diminishes the right of the United States, pursuant to Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), to enter into any settlement that gives rise to contribution protection for any person not a party to this Settlement Agreement. This Settlement Agreement resolves a portion of the liability of the Insured Parties, within the meaning of Section 113(f) of CERCLA, 42 U.S.C. § 9613(f), for response costs at the respective sites to the extent of the Federal Claimants' cash recovery under this Settlement Agreement with respect to each site.

#### 11. The Trustee's Covenant Not to Sue

In consideration of the execution of this Settlement Agreement and the approval by the Mission Liquidation Court, the Insurance Commissioner, the California Department of Insurance, the California Conservation and Liquidation Office and the Mission Trusts covenant not to sue the United States or any department or agency thereof, with respect to any liabilities and obligations to the Federal Claimants under any of the Insured Parties' Policies, whether such liabilities and obligations are known or unknown, reported or unreported, and whether currently existing or arising in the future, including, but not limited to, (a) any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established pursuant to 26 U.S.C. § 9507, (b) any claim under Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, (c) any claims arising out of response activities at any of the Sites, and (d) any claim to recover all or any part of the settlement amount set forth in Paragraph 7 of this Settlement Agreement. The Insurance Commissioner, the California Department of Insurance, the California Conservation and Liquidation Office and the Mission Trusts do not waive the right, if any, to sue any other carrier of the Insured Parties for indemnity or contribution as to the sums paid under this Settlement Agreement.

12. Upon approval of this Settlement Agreement by the Mission Liquidation Court, the Federal Claimants' Proofs of Claims shall be fully resolved and terminated, with prejudice, with each Party bearing its own costs and fees in connection with the Proofs of Claims and the negotiation and performance of this Settlement Agreement.

### **III. Remedies**

13. In the event of a breach of the Settlement Agreement, the Parties shall have all rights and remedies available at common law or by applicable statute. The Parties reserve all rights and arguments concerning the appropriate forum to hear disputes arising from or related to the Settlement Agreement.

### **IV. Condition Precedent, Court Approval and Public Comment**

14. This Settlement Agreement is subject to a condition that the United States and the Trustee shall enter into and obtain court approval for a super-priority release under 31 U.S.C. § 3713 on terms mutually acceptable to both sides, which the parties anticipate to submit for court approval at the same time as this Settlement Agreement. The Trustee shall recommend this Settlement Agreement for approval to the Mission Liquidation Court. The Trustee advises the Federal Claimants that this Settlement Agreement will be submitted to the Mission Liquidation Court, and the Parties agree that approval of the Mission Liquidation Court is a condition precedent to the effectiveness of this Settlement Agreement, including the covenants set forth in Paragraphs 10-11, and to the payment of any amounts to Federal Claimants. If the Mission Liquidation Court approves the Trustee's recommendation and enters a final order thereon, the Trustee shall pay the Federal Claimants the full amount set forth above, \$28,600,000, within 30 days of entry of the final order. An order shall be a "final order" for this purpose when it is final without the possibility of appeal. For clarification, by way of example, if the order is appealed to the Court of Appeal, the time for payment shall arise thirty days after the final order by the appellate court affirming the approval order.

15. This Settlement Agreement shall be subject to a period of public comment following publication of notice of this Settlement Agreement in the Federal Register. The Federal Claimants reserve the right to withdraw or withhold their consent if the comments regarding this Settlement Agreement disclose facts or considerations which indicate that the Settlement Agreement is not in the public interest. After the conclusion of the public comment period, the Federal Claimants will promptly notify the Trustee in writing whether they consent to the Settlement Agreement and continue to seek its approval by the Mission Liquidation Court.

16. If for any reason (a) this Settlement Agreement is withdrawn or consent is withheld by the Federal Claimants as provided in Paragraph 15, or (b) the Mission Liquidation Court voids or fails to enter a final order approving this Settlement Agreement, then: (i) this Settlement Agreement shall be null and void, and the Parties hereto shall not be bound under this Settlement Agreement or under any documents executed in connection herewith; (ii) the Parties shall have no liability to one another arising out of or in connection with this Settlement Agreement or under any documents executed in connection herewith; and (iii) this Settlement Agreement and any documents prepared in connection herewith shall have no residual or probative effect or value.

17. The Parties contemplate that this Settlement Agreement will be submitted for approval by the Mission Liquidation Court along with a super-priority release between the United States and the Trustee. The execution and approval of this Settlement Agreement shall be a condition precedent to the super-priority release by the United States.

**V. General**

18. The Trustee and the Federal Claimants further acknowledge that this Settlement Agreement is made solely for the consideration specified herein, without reliance on any statement, warranties, or representations by the Trustee, the Mission Trusts, its agents or representatives, or by the Federal Claimants or their agents or representatives, other than any representations or warranties contained herein. This is not an agreement of the State of California to pay any sums, but instead creates only obligations on the part of Mission Insurance Company Trust and Mission National Insurance Company Trust.

19. All Parties understand and agree that this Settlement Agreement is a compromise in settlement of disputed liabilities and obligations, made to avoid the expense and time of litigation and to facilitate the timely closing of the Mission Trusts estates, without admission of liability and without admission of the ultimate validity or invalidity of any of the Parties' positions or arguments.


20. This Settlement Agreement shall constitute the entire agreement between the Parties and may not be altered, amended, modified or otherwise changed in any respect or particular whatsoever, except by written amendment duly executed by an authorized representative of each of the Parties.

21. This Settlement Agreement may be executed and delivered in multiple counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts shall together constitute but one and the same instrument and agreement.


IN WITNESS WHEREOF, The Trustee, acting on behalf of the Mission Trusts, and the Federal Claimants execute the Settlement Agreement by their duly authorized officers or representatives.

Claimant: THE UNITED STATES DEPARTMENT OF THE INTERIOR, ENVIRONMENTAL PROTECTION AGENCY, AND NATIONAL OCEANIC AND ATMOSPHERIC AGENCY

UNITED STATES OF AMERICA

By:   
Bruce S. Gelber  
Deputy Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

Date: April 3, 2017

By:   
John Sither  
Senior Attorney  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, DC 20044-7611  
(202) 514-5484  
[john.sither@usdoj.gov](mailto:john.sither@usdoj.gov)

Date: April 27, 2017




IN WITNESS WHEREOF, The Trustee, acting on behalf of the Mission Trusts, and the Federal Claimants execute the Settlement Agreement by their duly authorized officers or representatives.

Claimant: THE UNITED STATES DEPARTMENT OF THE INTERIOR, ENVIRONMENTAL PROTECTION AGENCY, AND NATIONAL OCEANIC AND ATMOSPHERIC AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY


By:

  
Lawrence Starfield  
Acting Assistant Administrator  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Date:

3/9/17

By:

  
Manuel Ronquillo  
Attorney-Advisor  
Office of Site Remediation Enforcement  
Office of Enforcement and Compliance Assurance  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Date:

3/9/17

IN WITNESS WHEREOF, The Trustee, acting on behalf of the Mission Trusts, and the Federal Claimants execute the Settlement Agreement by their duly authorized officers or representatives.

THE INSURANCE COMMISSIONER AS TRUSTEE OF MISSION INSURANCE  
COMPANY TRUST AND MISSION NATIONAL INSURANCE COMPANY TRUST

By: David E. Wilson Date: May 1, 2017  
David E. Wilson  
Special Deputy Insurance Commissioner, and not individually, signing on behalf of  
the Insurance Commissioner of the State of California as Trustee of the Mission Insurance  
Company Trust and the Mission National Insurance Company Trust, and not as an  
obligation of the State of California

Conservation and Liquidation Office  
100 Pine Street, Suite 2600  
San Francisco, CA 94111

Mailing Address: Conservation and Liquidation Office  
P.O. Box 26894  
San Francisco, CA 94126-6894

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## EXHIBIT "B"

## RELEASE AGREEMENT

This Release Agreement is being entered into by the United States and David E. Wilson, Special Deputy Insurance Commissioner ("Special Deputy"), acting on behalf of Dave Jones ("Trustee"), Insurance Commissioner of the State of California as Trustee of the Mission Insurance Company Trust and as former Liquidator of Mission Insurance Company (Mission Insurance Company Trust and Mission Insurance Company shall be referred to collectively as "Mission").

### I. PARTIES

The parties to this Release Agreement are the United States and the Special Deputy acting on behalf of the Trustee (collectively, the "Parties"). The Special Deputy also makes this agreement on behalf of the California Conservation and Liquidation Office ("CCLO").

### II. RECITALS

1. The United States Department of the Interior, the Environmental Protection Agency, and the National Oceanic and Atmospheric Agency, acting by and through the United States Department of Justice, have entered into a settlement agreement with the Trustee which provides for Mission to pay \$23,750,000 (the "Settlement Amount").

2. This Release Agreement is contingent upon payment of the Settlement Amount, and will be effective only after payment has been made.

3. The Parties do not intend this Release Agreement to release any possible claims the United States may have or may acquire against anyone for tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, or reimbursement liabilities and penalties arising under 42 U.S.C. § 1395y(b).



4. Except for the express terms of this Release Agreement, the Parties do not intend to create, enhance, diminish, defeat or otherwise affect such claims, if any, as the United States may have against the Special Deputy, the Trustee, the CCLO, or Mission.

5. The Parties understand that this Release Agreement is subject to the approval of the Superior Court of Los Angeles County, California ("Court"), which is supervising the liquidation of Mission.

6. The United States enters into this Release Agreement in reliance upon the information contained in the David E. Wilson declaration dated July 6, 2011, attached as Exhibit A to this Release Agreement ("First Declaration") and the David E. Wilson declaration dated March 30, 2012, attached as Exhibit B ("Second Declaration").

### **III. AGREEMENT**

1. Subject to the exclusions in the immediately following paragraph and effective only after the United States receives the Settlement Amount, the United States hereby releases and discharges the Special Deputy, the Trustee, the CCLO, and Mission from any and all liability under 31 U.S.C. § 3713(b) in connection with Mission's liquidation.

2. Notwithstanding any other provision to this Release Agreement, the United States does not release the Special Deputy, the Trustee, the CCLO, and Mission for:

- (a) any claim arising under any criminal law;
- (b) any criminal, civil, or administrative claim, right or defense arising under Title 26, U.S. Code (Internal Revenue Code);
- (c) any claim or action arising under 31 U.S.C. § 3729 *et seq.* (False Claims Act), 31 U.S.C. § 3801 *et seq.* (Program Frauds Civil Remedies Act), 42 U.S.C. § 1320a-7a (Civil

Monetary Penalties statute), 29 U.S.C. Ch. 18 (Employee Retirement Income Security Program) or 42 U.S.C. § 1395y(b) (Medicare as Secondary Payer);

(d) any claim arising under any other statute or common law principle governing pension benefit, fraudulent conveyance or any other form of fraud; or

(e) any obligation created by this Release Agreement.

3. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of Mission's records in accordance with the orders of the Court, during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of Mission, the Special Deputy, the Trustee, and the CCLO as shall be reasonably necessary to determine the existence and amount of claims the United States may have against Mission, or to determine the Special Deputy's and the Trustee's compliance with the terms of this Release Agreement. No documents, books, or records of the estate, the Special Deputy, the Trustee, or the CCLO may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of additional destruction. If the Special Deputy or the Trustee does not request approval from the Court, he or she must obtain prior written authorization from the United States before destruction of any documents, books, or records of Mission, the Special Deputy (as it pertains to Mission), or the Trustee. The parties recognize that the Court has already approved the transfer of claims and policy records to Covanta Holding Corporation. The Special Deputy or Trustee shall instruct Covanta Holding Corporation to make such records available if the United States wishes to review those records. Following the expiration of three years from Court approval of this Release Agreement and to


the extent permissible under federal law, Covanta may destroy the records without prior approval.

4. Except for the express undertakings of the Special Deputy, the Trustee, and the United States in this Release Agreement, nothing in this Release Agreement shall be construed:

- (a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;
- (b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;
- (c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Special Deputy, the Trustee, or the CCLO; or
- (d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Special Deputy, the Trustee, or the CCLO.

5. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court and the time for appeals of any such approval has expired. The Parties further agree to cooperate with each other in seeking prompt approval of this Release Agreement from the Court, including, but not limited to, making the necessary witnesses available for testimony considered necessary or appropriate to provide the Court with an adequate record upon which to approve this Release Agreement.

Dated: 5/4/17

  
By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice  
Attorney for the United States

David E. Wilson, acting on behalf Dave Jones, Insurance Commissioner of the State of California, as Trustee of the Mission Insurance Company Trust, and not individually

Dated: May 1, 2017

David E Wilson  
By: David E. Wilson  
In his capacity as Special Deputy  
Insurance Commissioner



1 ROBERT H. NUNNALLY, JR.  
2 State Bar Number 134151  
3 Wisener ★ Nunnally ★ Gold, L.L.P  
4 625 West Centerville Road, Suite 110  
5 Garland, Texas 75041  
6 972) 840-9080  
7 Fax (972) 840-6575  
8 Attorneys for Insurance Commissioner

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES

11 DAVE JONES, Insurance Commissioner of  
12 the State of California,

13 Applicant,

14 vs.

15 MISSION INSURANCE COMPANY, a  
16 California corporation,

17 Respondent.

Case No. C 572 724

Honorable John Shepard Wiley Jr.

DECLARATION OF DAVID E. WILSON  
REGARDING FEDERAL CLAIMS

Department: 50  
Court: Stanley Mosk Courthouse  
111 North Hill St., Floor 5 Room 508  
Los Angeles, CA 90012

Filed: October 31, 1985

18 Consolidated with Case Numbers

19 C 576 324; C 576 416;  
20 C 576 323; C 576 325; C 629709

21  
22  
23 I, David Wilson, hereby make the following declaration under the penalty of perjury of the laws  
24 of the State of California, and attest:

25 1. I am David Wilson. I am over the age of eighteen years. I am competent to be a  
26 witness. I have personal knowledge of the facts to which I attest. I acquired my personal  
27 knowledge in my role as Special Deputy Insurance Commissioner and Chief Executive Officer  
28

David E. Wilson Declaration Regarding Federal Claims

1 of the Insurance Commissioner's Conservation and Liquidation Office. If called upon to testify, I  
2 could and would do so.

3 2. On February 24, 1987, the Superior Court of Los Angeles County, California ("The  
4 Liquidation Court") issued its orders of liquidation in Case Number C 572 724, as to Mission  
5 Insurance Company, Mission National Insurance Company and Enterprise Insurance Company. I  
6 attach a true and correct copy of the orders of liquidation as Exhibits "A", "B" and "C" to this  
7 Declaration.

8 3. The bar date for the filing of proofs of claims was set at September 12, 1987. I attach a  
9 true and correct copy of the proof of claim form utilized in connection with the initial bar date.

10 4. I attach as Exhibit "D" a true and correct copy of the Final Order of Rehabilitation  
11 entered on April 25, 1990. This order authorized the creation of the Mission Insurance Company  
12 Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company  
13 Trust.

14 5. I attach as Exhibit "E" a true and correct copy of the Order Approving Insurance  
15 Commissioner's Final Liquidation Dividend Plan, Establishing Final Claims Bar Date for  
16 Contingent, Unliquidated, and/or Undetermined Claims and Related Orders and Setting Hearing  
17 Date entered on December 28, 1994. This order set August 18, 1995 as the final dividend claims  
18 bar date, by which contingent and undetermined claims must be updated.

19 6. I attach as Exhibit "F" a true and correct copy of the Order Approving Insurance  
20 Commissioner's Amended Final Liquidation Dividend Plan entered on January 9, 1997. This  
21 order reaffirmed the August 18, 1995 final dividend claims bar date.

22 7. I attach as Exhibit "G" a true and correct copy of the Order Granting Section 1025  
23 Motion to Set Valuation Date entered on October 7, 2003. This order set December 31, 2003 as  
24 the last date by which unliquidated or undetermined claims filed by insureds, guaranty  
25 associations or third party claimants that asserted that a policyholder class priority should be  
26 afforded their claims.

27 8. I attach as Exhibit "H" a true and correct copy of the Order Granting Motion to Set  
28 Section 1025 Liquidation Date for General Creditor and Other Non-Policyholder Claims for

David E. Wilson Declaration Regarding Federal Claims

1 Distribution, which was entered on June 25, 2004. This order set a deadline of August 2, 2004  
2 for the liquidation of non-policyholder claims.

3 9. I attach as Exhibit "I" the Order which authorizes Distribution and Closure of  
4 Enterprise Insurance Company Trust, entered on September 24, 2004. I attach as Exhibit "J" the  
5 Order to Re-Open Proceedings on Enterprise Insurance Company Trust, which authorized the re-  
6 opening of the Enterprise Insurance Company Trust to permit distribution of additional sums  
7 collected.

8 9. I attach as Exhibit "K" the Order which Authorizes the Distribution and Closure of  
9 Case as to Mission Insurance Company Trust and Mission National Insurance Company Trust,  
10 which was entered on January 24, 2006. This order authorized the distribution of funds to  
11 policyholders and to general creditors, and the maintenance of additional funds in the trust, to be  
12 distributed at a later time.

13 10. The Conservation and Liquidation Office claims staff conducted a search of the  
14 claims filed in the Mission Insurance Company, Mission National Insurance Company, and  
15 Enterprise Insurance Company liquidations. The search sought to locate claims by federal  
16 agencies. I attach as Exhibit "L" a spreadsheet prepared by the claims staff, which outlines each  
17 such claim located, and the ultimate disposition of the claim. Based upon the work done by the  
18 claims staff, as well as the orders of the Court, I am informed and believe that no federal claims  
19 exist against Mission Insurance Company Trust, Mission National Insurance Company Trust, or  
20 Enterprise Insurance Company Trust.

21 11. The Mission Insurance Company Trust, the Mission National Insurance Company  
22 Trust and the Enterprise Insurance Company Trust operate as trusts operating under closing  
23 orders from the Los Angeles Superior Court, holding assets in reserve against unknown and  
24 unexpected liabilities.

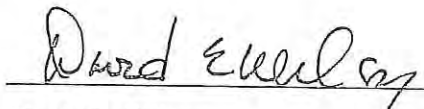
25 12. The trusts wish to distribute their remaining assets held in reserve to the approved  
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David E. Wilson Declaration Regarding Federal Claims

1 policyholders and creditors.

2 I hereby declare the foregoing facts to be true and correct under  
3 the penalty of perjury of the laws of the State of California on this  
4 6 day of <sup>July</sup> ~~May~~, 2011.

5  
6 Executed at San Francisco, California

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9 David E. Wilson

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David E. Wilson Declaration Regarding Federal Claims



1 ROBERT H. NUNNALLY, JR.  
2 State Bar Number 134151  
3 Wisener \*Nunnally \* Gold, L.L.P  
4 625 West Centerville Road, Suite 110  
5 Garland, Texas 75041  
6 972) 840-9080.  
7 Fax (972) 840-6575

8 Attorneys for Insurance Commissioner

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES

11 DAVE JONES, Insurance Commissioner of  
12 the State of California,

13 Applicant,

14 vs.

15 MISSION INSURANCE COMPANY, a  
16 California corporation,

17 Respondent.

18 Consolidated with Case Numbers

19 C 576 324; C 576 416;  
20 C 576 323; C 576 325; C 629709

Case No. C 572 724

SUPPLEMENTAL  
DECLARATION OF DAVID E. WILSON  
REGARDING FEDERAL CLAIMS FOR  
MISSION INSURANCE COMPANY TRUST  
AND MISSION NATIONAL INSURANCE  
COMPANY TRUST

Department: 50  
Court: Stanley Mosk Courthouse  
111 North Hill St., Floor 5 Room 508  
Los Angeles, CA 90012

Filed: October 31, 1985

21  
22  
23 I, David Wilson, hereby make the following declaration under the penalty of perjury of the laws  
24 of the State of California, and attest:

- 25 1. I am David Wilson. I am over the age of eighteen years. I am competent to be a  
26 witness. I have personal knowledge of the facts to which I attest. I acquired my  
27 personal knowledge in my role as Special Deputy Insurance Commissioner and Chief  
28

David E. Wilson Supplemental Declaration Regarding Federal Claims

1 Executive Officer of the Insurance Commissioner's Conservation and Liquidation  
2 Office. If called upon to testify, I could and would do so. I make this supplemental  
3 claims affidavit regarding Medicare issues, relying upon the information provided to  
4 me by the claims staff at the California Conservation and Liquidation Office My  
5 declaration is based upon information and belief as to the information provided by my  
6 claims staff.

- 7 2. Mission Insurance Company and Mission National Insurance Company underwrote  
8 property and casualty insurance business, including workers' compensation. This  
9 insurance included general liability and automobile liability policies which would  
10 provide coverage for some forms of tort liability. This insurance may have included  
11 personal injury protection coverage, which would provide limited payment for  
12 medical expenses as well. Mission Insurance Company and Mission National  
13 Insurance Company did not underwrite group health plans or other accident and  
14 health insurance.
- 15 3. Mission Insurance Company Trust and Mission National Insurance Company Trust,  
16 were not themselves the original insurers. They were instead liquidating grantor trusts  
17 created to handle the administration of the liquidation of Mission Insurance Company  
18 and Mission National Insurance Company. In my initial declaration, I attached the  
19 relevant orders regarding this transfer. A question arises as to whether the trusts are  
20 "RREs" at all in light of MMSEA Section 111 Medicare Secondary Payer Mandatory  
21 Reporting-Liability Insurance (including Self-insurance) No Fault Insurance, and  
22 Workers' Compensation User Guide, version 3.2, issued August 17, 2011. Page 29 of  
23 that Guide provides that the entity in liquidation is the RRE.  
24 However, even if the trusts were determined to be "the entity in liquidation", the  
25 trusts have made no payments after October 31, 2011. Thus, it is my understanding  
26 that as to Mission Insurance Company Trust and Mission National Insurance  
27 Company Trust the Insurance Commissioner has fully complied with all reporting  
28

1 requirements of 42 U.S.C. § 1395y(b)(7) and (8), and all program instructions issued  
2 thereunder (presently found at <http://www.cms.gov/MandatoryInsRep/>).

- 3 4. A substantial majority of the proofs of claims approved against Mission Insurance  
4 Company and Mission National Insurance Company were proofs of claims filed by  
5 corporate insureds seeking reimbursement for a variety of matters, including in  
6 particular for property damage. In a follow-up to my initial declaration, the CLO  
7 claims and IT staff generated a claims table which has been provided to illustrate the  
8 claimants. Property and casualty insurance guaranty associations also constitute a  
9 substantial portion of the claimants, as they sought reimbursement for settlements  
10 they had made with insureds and third party claimants. In these matters, the guaranty  
11 associations were the entities responsible for payment to covered claimants, and they  
12 then pursued reimbursement on a statutory subrogation basis from Mission Insurance  
13 Company Trust and Mission National Insurance Company Trust.
- 14 5. The CLO claims staff has reviewed the relatively few individual proof of claim  
15 approvals to ascertain if payments made pursuant to those policies related to items or  
16 services paid for by the Medicare program. . The staff reviewed each of the claims  
17 approvals in which a claim of an individual was approved, The claims staff advises  
18 me that after this review, no indications were found of any Medicare secondary payer  
19 issues. The claims staff has not located any files in which Mission Insurance Company  
20 Trust or, Mission National Insurance Company Trust have failed to reimburse  
21 Insurance Commissioner the United States pursuant to 42 U.S.C. § 1395y(b)(2)(B)  
22 for any Medicare payments that were made for items and services on behalf of  
23 Medicare beneficiaries whose medical care should have been paid for by the  
24 Insurance Company or whose medical care was, or should have been, paid for  
25 pursuant to policies issued by the Insurance Company.

- 26 7. I attach a spreadsheet of the individual claims approvals (previously provided in the claims  
27 table, but split out here to include just the individual claimants) as Exhibit "A". No claims  
28

1 payments have been made since 2008 to the individual claimants.

2 I hereby declare the foregoing facts to be true and correct under  
3 the penalty of perjury of the laws of the State of California on this  
4 30<sup>th</sup> day of March, 2012

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6 Executed at San Francisco, California

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9 David E. Wilson  
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Company	Liq No	Insured	POC Claimant	City	State	Claimed Amount	Approved Amount	Class
3	G08860	BAKER EQUIPMENT WINKLER	ALDAZ, JESUS	OAKLAND	CA	5,000.00	5,000.00	P
3	K84330	BELTRAN CORP	CORRIGAN, MARY ANNA	BALTIMORE	MD	150,000.00	133,000.00	P
3	K84320	BELTRAN CORP	CORRIGAN, KELLY	BALTIMORE	MD	150,000.00	150,000.00	P
3	K84310	BELTRAN CORP	KAREN LAWHORNE	PONTE VEDRA BEACH	FL	22,000,000.00	4,350,000.00	P
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3	U14658	CONSOLIDATED PLUMBING & HEATING	JAMES D. HARTSON	WALTHAM	MN	711,394.34	711,394.34	P
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3	T32430	DIAMOND CONCRETE INC	KAREN BARTAY MERRITT	CHARLOTTE	NC	1,346,129.00	1,346,129.00	P
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3	A76210	HOLMAN-WILLIAMS MOTOR CO. (C)	POULSON, M.D., DON E.	SALEM	OR	98.00	98.00	P
3	A48620	HOME TRANSPORTATION	STEVEN M. MARZEC	MT. PROSPECT	IL	525,415.92	225,415.92	P
3	D82600	LONGYEAR COMPANY	JO CHRISTISON	GOLCONDA	NV	25,000.00	25,000.00	P
3	G07760	MAC BEE CORP	HOWARD, JESSIE	CHICAGO	IL	3,937,249.00	3,937,249.00	P
3	L53320	RESTAURANT BALALAIKA	KALINER, NADIA	DENVER	CO	112,851.24	12,851.24	P
3	Z10747	SPECIALTIES CO	JACQUELYN ALSTON	HOUSTON	TX	283,417.50	33,417.50	P
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## EXHIBIT "C"

## RELEASE AGREEMENT

This Release Agreement is being entered into by the United States and David E. Wilson, Special Deputy Insurance Commissioner ("Special Deputy"), acting on behalf of Dave Jones ("Trustee"), Insurance Commissioner of the State of California as Trustee of the Mission National Insurance Company Trust and as former Liquidator of Mission National Insurance Company (Mission National Insurance Company Trust and Mission National Insurance Company shall be referred to collectively as "Mission National").

### I. PARTIES

The parties to this Release Agreement are the United States and the Special Deputy acting on behalf of the Trustee (collectively, the "Parties"). The Special Deputy also makes this agreement on behalf of the California Conservation and Liquidation Office ("CCLO").

### II. RECITALS

1. The United States Department of the Interior, the Environmental Protection Agency, and the National Oceanic and Atmospheric Agency, acting by and through the United States Department of Justice, have entered into a settlement agreement with the Trustee which provides for Mission National to pay \$4,850,000 (the "Settlement Amount").

2. This Release Agreement is contingent upon payment of the Settlement Amount, and will be effective only after payment has been made.

3. The Parties do not intend this Release Agreement to release any possible claims the United States may have or may acquire against anyone for tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, or reimbursement liabilities and penalties arising under 42 U.S.C. § 1395y(b).

4. Except for the express terms of this Release Agreement, the Parties do not intend to create, enhance, diminish, defeat or otherwise affect such claims, if any, as the United States may have against the Special Deputy, the Trustee, the CCLO, or Mission National.

5. The Parties understand that this Release Agreement is subject to the approval of the Superior Court of Los Angeles County, California ("Court"), which is supervising the liquidation of Mission National.

6. The United States enters into this Release Agreement in reliance upon the information contained in the David E. Wilson declaration dated July 6, 2011, attached as Exhibit A to this Release Agreement ("First Declaration") and the David E. Wilson declaration dated March 30, 2012, attached as Exhibit B ("Second Declaration").

### **III. AGREEMENT**

1. Subject to the exclusions in the immediately following paragraph and effective only after the United States receives the Settlement Amount, the United States hereby releases and discharges the Special Deputy, the Trustee, the CCLO, and Mission National from any and all liability under 31 U.S.C. § 3713(b) in connection with Mission National's liquidation.

2. Notwithstanding any other provision to this Release Agreement, the United States does not release the Special Deputy, the Trustee, the CCLO, and Mission National for:

- (a) any claim arising under any criminal law;
- (b) any criminal, civil, or administrative claim, right or defense arising under Title 26, U.S. Code (Internal Revenue Code);
- (c) any claim or action arising under 31 U.S.C. § 3729 *et seq.* (False Claims Act), 31 U.S.C. § 3801 *et seq.* (Program Frauds Civil Remedies Act), 42 U.S.C. § 1320a-7a (Civil

Monetary Penalties statute), 29 U.S.C. Ch. 18 (Employee Retirement Income Security Program) or 42 U.S.C. § 1395y(b) (Medicare as Secondary Payer);

(d) any claim arising under any other statute or common law principle governing pension benefit, fraudulent conveyance or any other form of fraud; or

(e) any obligation created by this Release Agreement.

3. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of Mission National's records in accordance with the orders of the Court, during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of Mission National, the Special Deputy, the Trustee, and the CCLO as shall be reasonably necessary to determine the existence and amount of claims the United States may have against Mission National, or to determine the Special Deputy's and the Trustee's compliance with the terms of this Release Agreement. No documents, books, or records of the estate, the Special Deputy, the Trustee, or the CCLO may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of additional destruction. If the Special Deputy or the Trustee does not request approval from the Court, he or she must obtain prior written authorization from the United States before destruction of any documents, books, or records of Mission National, the Special Deputy (as it pertains to Mission National), or the Trustee. The parties recognize that the Court has already approved the transfer of claims and policy records to Covanta Holding Corporation. The Special Deputy or Trustee shall instruct Covanta Holding Corporation to make such records available if the United States wishes to review those records. Following the expiration of three years from Court

approval of this Release Agreement and to the extent permissible under federal law, Covanta may destroy the records without prior approval.

4. Except for the express undertakings of the Special Deputy, the Trustee, and the United States in this Release Agreement, nothing in this Release Agreement shall be construed:

(a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;

(b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;

(c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Special Deputy, the Trustee, or the CCLO; or

(d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Special Deputy, the Trustee, or the CCLO.

5. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court and the time for appeals of any such approval has expired. The Parties further agree to cooperate with each other in seeking prompt approval of this Release Agreement from the Court, including, but not limited to, making the necessary witnesses available for testimony considered necessary or appropriate to provide the Court with an adequate record upon which to approve this Release Agreement.

Dated: 5/4/17

Sharon C. Williams  
By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice  
Attorney for the United States



David E. Wilson, acting on behalf Dave Jones, Insurance Commissioner of the State of California, as Trustee of the Mission National Insurance Company Trust, and not individually

Dated: May 1, 2017

David E. Wilson  
By: David E. Wilson  
In his capacity as Special Deputy  
Insurance Commissioner

1 ROBERT H. NUNNALLY, JR.  
2 State Bar Number 134151  
3 Wisener ★ Nunnally ★ Gold, L.L.P  
4 625 West Centerville Road, Suite 110  
5 Garland, Texas 75041  
6 972) 840-9080  
7 Fax (972) 840-6575

8 Attorneys for Insurance Commissioner

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 FOR THE COUNTY OF LOS ANGELES

11 DAVE JONES, Insurance Commissioner of  
12 the State of California,

13 Applicant,

14 vs.

15 MISSION INSURANCE COMPANY, a  
16 California corporation,

17 Respondent.

) Case No. C 572 724

) Honorable John Shepard Wiley Jr.

) DECLARATION OF DAVID E. WILSON  
) REGARDING FEDERAL CLAIMS

) Department: 50  
) Court: Stanley Mosk Courthouse  
) 111 North Hill St., Floor 5 Room 508  
) Los Angeles, CA 90012

) Filed: October 31, 1985

18 Consolidated with Case Numbers

19 C 576 324; C 576 416;  
20 C 576 323; C 576 325; C 629709

21  
22  
23 I, David Wilson, hereby make the following declaration under the penalty of perjury of the laws  
24 of the State of California, and attest:

25 1. I am David Wilson. I am over the age of eighteen years. I am competent to be a  
26 witness. I have personal knowledge of the facts to which I attest. I acquired my personal  
27 knowledge in my role as Special Deputy Insurance Commissioner and Chief Executive Officer  
28

David E. Wilson Declaration Regarding Federal Claims

1 of the Insurance Commissioner's Conservation and Liquidation Office. If called upon to testify, I  
2 could and would do so.

3 2. On February 24, 1987, the Superior Court of Los Angeles County, California ("The  
4 Liquidation Court") issued its orders of liquidation in Case Number C 572 724, as to Mission  
5 Insurance Company, Mission National Insurance Company and Enterprise Insurance Company. I  
6 attach a true and correct copy of the orders of liquidation as Exhibits "A", "B" and "C" to this  
7 Declaration.

8 3. The bar date for the filing of proofs of claims was set at September 12, 1987. I attach a  
9 true and correct copy of the proof of claim form utilized in connection with the initial bar date.

10 4. I attach as Exhibit "D" a true and correct copy of the Final Order of Rehabilitation  
11 entered on April 25, 1990. This order authorized the creation of the Mission Insurance Company  
12 Trust, the Mission National Insurance Company Trust and the Enterprise Insurance Company  
13 Trust.

14 5. I attach as Exhibit "E" a true and correct copy of the Order Approving Insurance  
15 Commissioner's Final Liquidation Dividend Plan, Establishing Final Claims Bar Date for  
16 Contingent, Unliquidated, and/or Undetermined Claims and Related Orders and Setting Hearing  
17 Date entered on December 28, 1994. This order set August 18, 1995 as the final dividend claims  
18 bar date, by which contingent and undetermined claims must be updated.

19 6. I attach as Exhibit "F" a true and correct copy of the Order Approving Insurance  
20 Commissioner's Amended Final Liquidation Dividend Plan entered on January 9, 1997. This  
21 order reaffirmed the August 18, 1995 final dividend claims bar date.

22 7. I attach as Exhibit "G" a true and correct copy of the Order Granting Section 1025  
23 Motion to Set Valuation Date entered on October 7, 2003. This order set December 31, 2003 as  
24 the last date by which unliquidated or undetermined claims filed by insureds, guaranty  
25 associations or third party claimants that asserted that a policyholder class priority should be  
26 afforded their claims.

27 8. I attach as Exhibit "H" a true and correct copy of the Order Granting Motion to Set  
28 Section 1025 Liquidation Date for General Creditor and Other Non-Policyholder Claims for

David E. Wilson Declaration Regarding Federal Claims

1 Distribution, which was entered on June 25, 2004. This order set a deadline of August 2, 2004  
2 for the liquidation of non-policyholder claims.

3 9. I attach as Exhibit "I" the Order which authorizes Distribution and Closure of  
4 Enterprise Insurance Company Trust, entered on September 24, 2004. I attach as Exhibit "J" the  
5 Order to Re-Open Proceedings on Enterprise Insurance Company Trust, which authorized the re-  
6 opening of the Enterprise Insurance Company Trust to permit distribution of additional sums  
7 collected.

8 9. I attach as Exhibit "K" the Order which Authorizes the Distribution and Closure of  
9 Case as to Mission Insurance Company Trust and Mission National Insurance Company Trust,  
10 which was entered on January 24, 2006. This order authorized the distribution of funds to  
11 policyholders and to general creditors, and the maintenance of additional funds in the trust, to be  
12 distributed at a later time.

13 10. The Conservation and Liquidation Office claims staff conducted a search of the  
14 claims filed in the Mission Insurance Company, Mission National Insurance Company, and  
15 Enterprise Insurance Company liquidations. The search sought to locate claims by federal  
16 agencies. I attach as Exhibit "L" a spreadsheet prepared by the claims staff, which outlines each  
17 such claim located, and the ultimate disposition of the claim. Based upon the work done by the  
18 claims staff, as well as the orders of the Court, I am informed and believe that no federal claims  
19 exist against Mission Insurance Company Trust, Mission National Insurance Company Trust, or  
20 Enterprise Insurance Company Trust.

21 11. The Mission Insurance Company Trust, the Mission National Insurance Company  
22 Trust and the Enterprise Insurance Company Trust operate as trusts operating under closing  
23 orders from the Los Angeles Superior Court, holding assets in reserve against unknown and  
24 unexpected liabilities.

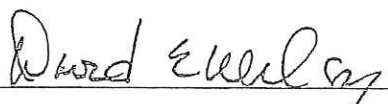
25 12. The trusts wish to distribute their remaining assets held in reserve to the approved  
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David E. Wilson Declaration Regarding Federal Claims

1 policyholders and creditors.

2 I hereby declare the foregoing facts to be true and correct under  
3 the penalty of perjury of the laws of the State of California on this  
4 6 day of ~~May~~<sup>July</sup>, 2011.

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6 Executed at San Francisco, California

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9 David E. Wilson

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David E. Wilson Declaration Regarding Federal Claims



1 ROBERT H. NUNNALLY, JR.  
2 State Bar Number 134151  
3 Wisener \*Nunnally \* Gold, L.L.P  
4 625 West Centerville Road, Suite 110  
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16 California corporation,

17 Respondent.

18 Consolidated with Case Numbers

19 C 576 324; C 576 416;  
20 C 576 323; C 576 325; C 629709

Case No. C 572 724

SUPPLEMENTAL  
DECLARATION OF DAVID E. WILSON  
REGARDING FEDERAL CLAIMS FOR  
MISSION INSURANCE COMPANY TRUST  
AND MISSION NATIONAL INSURANCE  
COMPANY TRUST

Department: 50  
Court: Stanley Mosk Courthouse  
111 North Hill St., Floor 5 Room 508  
Los Angeles, CA 90012

Filed: October 31, 1985

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23 I, David Wilson, hereby make the following declaration under the penalty of perjury of the laws  
24 of the State of California, and attest:

- 25 1. I am David Wilson. I am over the age of eighteen years. I am competent to be a  
26 witness. I have personal knowledge of the facts to which I attest. I acquired my  
27 personal knowledge in my role as Special Deputy Insurance Commissioner and Chief  
28

David E. Wilson Supplemental Declaration Regarding Federal Claims

1 Executive Officer of the Insurance Commissioner's Conservation and Liquidation  
2 Office. If called upon to testify, I could and would do so. I make this supplemental  
3 claims affidavit regarding Medicare issues, relying upon the information provided to  
4 me by the claims staff at the California Conservation and Liquidation Office My  
5 declaration is based upon information and belief as to the information provided by my  
6 claims staff.

- 7 2. Mission Insurance Company and Mission National Insurance Company underwrote  
8 property and casualty insurance business, including workers' compensation. This  
9 insurance included general liability and automobile liability policies which would  
10 provide coverage for some forms of tort liability. This insurance may have included  
11 personal injury protection coverage, which would provide limited payment for  
12 medical expenses as well. Mission Insurance Company and Mission National  
13 Insurance Company did not underwrite group health plans or other accident and  
14 health insurance.
- 15 3. Mission Insurance Company Trust and Mission National Insurance Company Trust,  
16 were not themselves the original insurers. They were instead liquidating grantor trusts  
17 created to handle the administration of the liquidation of Mission Insurance Company  
18 and Mission National Insurance Company. In my initial declaration, I attached the  
19 relevant orders regarding this transfer. A question arises as to whether the trusts are  
20 "RREs" at all in light of MMSEA Section 111 Medicare Secondary Payer Mandatory  
21 Reporting-Liability Insurance (including Self-insurance) No Fault Insurance, and  
22 Workers' Compensation User Guide, version 3.2, issued August 17, 2011. Page 29 of  
23 that Guide provides that the entity in liquidation is the RRE.
- 24 However, even if the trusts were determined to be "the entity in liquidation", the  
25 trusts have made no payments after October 31, 2011. Thus, it is my understanding  
26 that as to Mission Insurance Company Trust and Mission National Insurance  
27 Company Trust the Insurance Commissioner has fully complied with all reporting  
28

1 requirements of 42 U.S.C. § 1395y(b)(7) and (8), and all program instructions issued  
2 thereunder (presently found at <http://www.cms.gov/MandatoryInsRep/>).

3 4. A substantial majority of the proofs of claims approved against Mission Insurance  
4 Company and Mission National Insurance Company were proofs of claims filed by  
5 corporate insureds seeking reimbursement for a variety of matters, including in  
6 particular for property damage. In a follow-up to my initial declaration, the CLO  
7 claims and IT staff generated a claims table which has been provided to illustrate the  
8 claimants. Property and casualty insurance guaranty associations also constitute a  
9 substantial portion of the claimants, as they sought reimbursement for settlements  
10 they had made with insureds and third party claimants. In these matters, the guaranty  
11 associations were the entities responsible for payment to covered claimants, and they  
12 then pursued reimbursement on a statutory subrogation basis from Mission Insurance  
13 Company Trust and Mission National Insurance Company Trust.

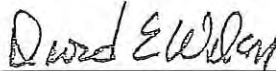
14 5. The CLO claims staff has reviewed the relatively few individual proof of claim  
15 approvals to ascertain if payments made pursuant to those policies related to items or  
16 services paid for by the Medicare program. . The staff reviewed each of the claims  
17 approvals in which a claim of an individual was approved, The claims staff advises  
18 me that after this review, no indications were found of any Medicare secondary payer  
19 issues. The claims staff has not located any files in which Mission Insurance Company  
20 Trust or, Mission National Insurance Company Trust have failed to reimburse  
21 Insurance Commissioner the United States pursuant to 42 U.S.C. § 1395y(b)(2)(B)  
22 for any Medicare payments that were made for items and services on behalf of  
23 Medicare beneficiaries whose medical care should have been paid for by the  
24 Insurance Company or whose medical care was, or should have been, paid for  
25 pursuant to policies issued by the Insurance Company.

26 7. I attach a spreadsheet of the individual claims approvals (previously provided in the claims  
27 table, but split out here to include just the individual claimants) as Exhibit "A". No claims  
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1 payments have been made since 2008 to the individual claimants.

2 I hereby declare the foregoing facts to be true and correct under  
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3	K84310	BELTRAN CORP	KAREN LAWHORNE	PONTE VEDRA BEACH	FL	22,000,000.00	4,350,000.00	P
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3	N85250	DIAMOND CONCRETE INC	KAREN BARTAY MERRITT	CHARLOTTE	NC	2,000,000.00	1,529,932.00	P
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## EXHIBIT “D”

**CONSOLIDATED: Mission Ins Cos**  
**STATEMENT OF ASSETS AND LIABILITIES**  
As of March 31, 2017

	672 Mission	170 Mission National	TOTAL
<b>ASSETS</b>			
Participation in pooled investments, at market	113,143,100	33,665,700	146,808,800
Accrued investment income	314,300	93,500	407,700
Recoverable from reinsurers	20,788,400	2,610,000	23,398,400
Receivable from affiliates	23,816,400	-	23,816,400
Other receivable	13,400	-	13,400
<b>Total Available Assets</b>	<b>158,075,600</b>	<b>36,369,200</b>	<b>194,444,700</b>
<b>LIABILITIES</b>			
Secured claims	24,923,300	6,736,800	31,660,000
Accrued administrative expenses	-	-	-
Claims against policies, including guaranty associations, before distributions	846,832,600	596,098,500	1,442,931,000
Early access and other Class 2 distributions	(846,832,600)	(499,851,900)	(1,334,569,100)
California and Federal claims having preference	-	-	(39,700)
Payable to affiliates	78,724,300	36,075,900	114,800,200
All other claims	119,714,200	(19,237,800)	88,400,800
<b>Total Estimated Liabilities</b>	<b>223,361,800</b>	<b>119,821,500</b>	<b>343,183,200</b>
<b>NET ASSETS (DEFICIENCY)</b>	<b>(65,286,200)</b>	<b>(83,452,300)</b>	<b>(148,738,500)</b>

	Mission	Mission National	TOTAL
<b>ADMIN EXPENSES</b>			
Legal expenses	9,800	2,400	12,200
Consultants and temps	3,500	2,500	6,000
Office expenses	41,400	-	41,400
Allocated overhead expenses	68,400	27,200	95,600
	<b>123,100</b>	<b>32,100</b>	<b>155,200</b>



**CONSOLIDATED: Mission Ins Cos**  
**STATEMENT OF ASSETS AND LIABILITIES**  
As of March 31, 2017

		672	170	
		Mission	Mission National	TOTAL
<b>ASSETS detail</b>				
Cash and Investments				
12001	Participation in Pooled Investment	113,143,113	33,665,694	146,808,807
	Cash and Investments	113,143,113	33,665,694	146,808,807
13015	Accrued Int & Div Receivable	314,263	93,450	407,713
Reinsurance Receivable				
13001	Rein Recoverable-Paid	41,473,730	5,083,148	46,556,878
13003	Allow For Uncoll Rein Receivable	(20,685,291)	(2,473,196)	(23,158,487)
	Reinsurance Receivable	20,788,439	2,609,953	23,398,392
Receivable from affiliates				
13012.EIC	Receivable from Enterprise	-	13,487,859	13,487,859
13012.HAIC	Receivable from Holland America	39,649,980	-	39,649,980
13012.1	Allowance for Receivable from Affiliates	(15,833,536)	(13,487,859)	(29,321,395)
	Receivable from Affiliates Net of Allowance	23,816,444	-	23,816,444
Other Receivables				
13018	Other Receivables	13,411	-	13,411
	Other Receivable	13,411	-	13,411
<b>Total Available Assets</b>		<b>158,075,670</b>	<b>36,369,096</b>	<b>194,444,766</b>
<b>LIABILITIES detail</b>				
Secured Claims				
21005	Other Secured Liabilities	23,750,000	4,850,000	28,600,000
22001	Unclaimed Funds Payable	1,173,252	1,886,786	3,060,037
	Secured Claims	24,923,252	6,736,786	31,660,037
Class 1: Payables and Accrued Expenses				
25001	Due To/From Intercompany Acct	1	1	2
	Class 1 Liabilities	1	1	2
Class 2: Losses, Reserves and non-IGA Claims				
26001	Loss & ALAE Reserve	-	110,872,815	110,872,815
28006	Liability Due to GAs	661,199,259	284,717,623	945,916,882
29001	Other Class 2 Payable	185,633,302	200,508,039	386,141,341
	Class 2 Liabilities before Distributions	846,832,561	596,098,477	1,442,931,038
Early Access and Other Class 2 Distributions				
28007	Advances to Guaranty Associations	(661,199,259)	(337,936,554)	(999,135,813)
41005	Class 2 Distributions	(177,960,427)	(159,300,375)	(457,834,216)
41012	Distributions on Behalf of Domiciliary	(7,672,875)	(2,614,935)	(10,287,810)
	Early access and other Class 2 distributions	(846,832,560)	(499,851,864)	(1,334,569,141)
Class 3, 5 & 6: Calif and Federal claims				
27003	Premium Tax Payable - Class 3	111,132	-	111,132
41002	Class 3-6 Distributions	(111,132)	-	(150,813)
	Class 3, 5 & 6 Liabilities	-	-	(39,680)

**CONSOLIDATED: Mission Ins Cos**  
**STATEMENT OF ASSETS AND LIABILITIES**  
As of March 31, 2017

	672	170	
	Mission	Mission National	TOTAL
Class 7: Payable to Affiliates			
30002.MIC Payable to Mission	-	22,778,042	22,778,042
30002.MNIC Payable to Mission National	21,729,091	-	21,729,091
30002.EIC Payable to Enterprise	40,205,805	-	40,205,805
30002.HAIC Payable to Holland America	11,543,156	-	11,543,156
30002.MRC Payable to Mission Re	5,246,200	-	5,246,200
30002.INT Interest Payable to Affiliates	-	13,297,901	13,297,901
Class 7 Payable to Affiliates	78,724,251	36,075,943	114,800,193
Class 7: All Other Claims			
30001 Accounts Payable-Pre Liquidation	-	-	-
30005 Reinsurance Payable	383,122,808	5,396,962	388,519,771
30008 Other Class 7 Liabilities	2,255,708	2,442,517	4,698,225
41006 Class 7 Distributions	(265,664,289)	(27,077,326)	(304,817,218)
Class 7 Liabilities	119,714,227	(19,237,847)	88,400,777
Total Estimated Liabilities	223,361,731	119,821,495	343,183,226
NET ASSETS (DEFICIENCY)	(65,286,061)	(83,452,399)	(148,738,459)

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EXHIBIT “E”



STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

P.O. BOX 76869, LOS ANGELES, CALIFORNIA 90076-0869 • (213) 389-9500

LIQUIDATOR OF MISSION NATIONAL INSURANCE COMPANY

Please check company claim is against:

- ( ) Enterprise Insurance Company  
(x) Mission Insurance Company  
(x) Mission National Insurance Company  
( ) Mission Reinsurance Corporation  
( ) Holland America Insurance Company

DATE OF NOTICE: UNKNOWN  
DATE OF LOSS: UNKNOWN  
LIQUIDATOR CLAIM NO.: UNKNOWN  
FORMER CLAIM NO.: UNKNOWN  
JURISDICTION STATE: UNKNOWN  
POLICY NO.: M855631, M865578, MN028395 & MN034371

PROOF OF CLAIM

(PLEASE PRINT) TOTAL AMOUNT OF CLAIM: \$ 39,000,000 (MIC -\$19M; MNIC-\$20M)

BRIEF EXPLANATION OF CLAIM: The U.S. Environmental Protection Agency has incurred/will incur past/future response costs in connection with affiliated facilities at the Franklin Smelting Site and Franklin Slag Site. The Franklin Smelting facility was owned and operated by the Insureds. who had excess policies with Mission Insurance Company. See Attachment I. (use additional pages if necessary).

\* NOTE: \* Please supply any SUPPORTING DOCUMENTS such as contracts, bills, court judgements, police reports, etc., if they were not previously supplied. Available Upon Request

SOCIAL SECURITY NO. OR TAX I.D. NO.:

UNITED STATES ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY

NAME: John Sither, Senior Attorney

U.S. DEPARTMENT OF JUSTICE -ENRD

Please provide address corrections.

ADDRESS: P.O. BOX 7611 WASHINGTON DC 20044-7611  
CITY STATE ZIP

TELEPHONE NO.: (202) 514-5484

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.  
UNITED STATES ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY

John Sither

SIGNATURE OF CLAIMANT

8/3/2015  
DATE

Mail the completed form and supporting documents to: The Insurance Commissioner as Liquidator, P.O. Box 76869, Los Angeles, California 90076-0869. Notify the Liquidator, in writing, of all changes of address.

REFERENCE: INSURED NAME: SEE ATTACHMENT I

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EXHIBIT “F-1”

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

P.O. BOX 76869, LOS ANGELES, CALIFORNIA 90076-0869 \* (213) 389-9500

LIQUIDATOR OF MISSION NATIONAL INSURANCE COMPANY

Please check company claim is against:

- ( ) Enterprise Insurance Company  
(x) Mission Insurance Company  
(x) Mission National Insurance Company  
( ) Mission Reinsurance Corporation  
( ) Holland America Insurance Company

DATE OF NOTICE: UNKNOWN  
DATE OF LOSS: UNKNOWN  
LIQUIDATOR CLAIM NO.: UNKNOWN  
FORMER CLAIM NO.: UNKNOWN  
JURISDICTION STATE: OREGON  
POLICY NO.: M83151, M841396, M850306,  
CIP 0044958, MN047675

PROOF OF CLAIM

(PLEASE PRINT) TOTAL AMOUNT OF CLAIM: \$ 23,500,000

BRIEF EXPLANATION OF CLAIM: Response Costs and Natural Resource Damages that have been / will be incurred as result of the release of hazardous substances from the facility owned and operated by the insured, Linnton

Plywood Association, in Portland, Oregon. See attachments.

(use additional pages if necessary).

\* NOTE: \*

Please supply any SUPPORTING DOCUMENTS such as contracts, bills, court judgements, police reports, etc., if they were not previously supplied. Available Upon Request

SOCIAL SECURITY NO. OR TAX I.D. NO.:

UNITED STATES ON BEHALF OF EPA, NOAA, and DOI

NAME: John Sither, Senior Attorney

Please provide  
address  
corrections.

U.S. DEPARTMENT OF JUSTICE -ENRD

ADDRESS: P.O. BOX 7611

WASHINGTON

CITY

DC

STATE

20044-7611

ZIP

TELEPHONE NO.: (202 ) 514-5484

UNLESS NOTED HEREIN, I ALONE AM ENTITLED TO FILE THIS CLAIM, NO OTHERS HAVE AN INTEREST THEREIN, THE CLAIM IS UNSECURED, NO PAYMENTS HAVE BEEN MADE THEREON, THE SUM CLAIMED IS JUSTLY OWING AND THERE IS NO OFFSET.

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

c/o John Sither

SIGNATURE OF CLAIMANT

(as to EPA)

April 8, 2016

DATE

Mail the completed form and supporting documents to: The Insurance Commissioner as Liquidator, P.O. Box 76869, Los Angeles, California 90076-0869. Notify the Liquidator, in writing, of all changes of address.

FINAL DATE FOR FILING IS: SEPTEMBER 12, 1987

REFERENCE: INSURED NAME: Linnton Plywood Association

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EXHIBIT “F-2”



STATE OF CALIFORNIA

## DEPARTMENT OF INSURANCE

P.O. BOX 76869, LOS ANGELES, CALIFORNIA 90076-0869 \* (213) 389-9500

LIQUIDATOR OF MISSION NATIONAL INSURANCE COMPANY

Please check company claim is against:

- ( ) Enterprise Insurance Company  
(x) Mission Insurance Company  
(x) Mission National Insurance Company  
( ) Mission Reinsurance Corporation  
( ) Holland America Insurance Company

DATE OF NOTICE: UNKNOWN  
DATE OF LOSS: UNKNOWN  
LIQUIDATOR CLAIM NO.: UNKNOWN  
FORMER CLAIM NO.: UNKNOWN  
JURISDICTION STATE: OREGON  
POLICY NO.: M83151, M841396, M850306,  
CIP 0044958, MN047675

### PROOF OF CLAIM

(PLEASE PRINT) TOTAL AMOUNT OF CLAIM: \$ 23,500,000

BRIEF EXPLANATION OF CLAIM: Response Costs and Natural Resource Damages that have been / will be incurred  
as result of the release of hazardous substances from the facility owned and operated by the insured, Linnton  
Plywood Association, in Portland, Oregon. See attachments.

(use additional pages if necessary).

**\* NOTE: \***

Please supply any SUPPORTING DOCUMENTS such as contracts, bills, court judgements, police reports, etc., if they were not previously supplied. Available Upon Request

SOCIAL SECURITY NO. OR TAX I.D. NO.: \_\_\_\_\_

UNITED STATES ON BEHALF OF EPA, NOAA, and DOI

NAME: John Sither, Senior Attorney

Please provide  
address  
corrections. →

U.S. DEPARTMENT OF JUSTICE -ENRD

ADDRESS: P.O. BOX 7611 WASHINGTON DC 20044-7611  
CITY STATE ZIP

TELEPHONE NO.: (202 ) 514-5484

UNLESS NOTED HEREIN, I ALONE AM ENTITLED TO FILE THIS CLAIM, NO OTHERS HAVE AN INTEREST THEREIN, THE CLAIM IS UNSECURED, NO PAYMENTS HAVE BEEN MADE THEREON, THE SUM CLAIMED IS JUSTLY OWING AND THERE IS NO OFFSET.

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

c/o John Sither

SIGNATURE OF CLAIMANT

(AS TO NOAA)

APRIL 8, 2016

DATE

Mail the completed form and supporting documents to: The Insurance Commissioner as Liquidator, P.O. Box 76869, Los Angeles, California 90076-0869. Notify the Liquidator, in writing, of all changes of address.

FINAL DATE FOR FILING IS: SEPTEMBER 12, 1987

REFERENCE: INSURED NAME: Linnton Plywood Association



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## EXHIBIT “G”

STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

P.O. BOX 76869, LOS ANGELES, CALIFORNIA 90076-0869 \* (213) 389-9500

LIQUIDATOR OF MISSION NATIONAL INSURANCE COMPANY

Please check company claim is against:

- ( ) Enterprise Insurance Company  
(x) Mission Insurance Company  
( ) Mission National Insurance Company  
( ) Mission Reinsurance Corporation  
( ) Holland America Insurance Company

DATE OF NOTICE: UNKNOWN  
DATE OF LOSS: UNKNOWN  
LIQUIDATOR CLAIM NO.: UNKNOWN  
FORMER CLAIM NO.: UNKNOWN  
JURISDICTION STATE: UNKNOWN  
POLICY NO.: M848172, M857831 & M871497

PROOF OF CLAIM

(PLEASE PRINT) TOTAL AMOUNT OF CLAIM: \$ 18,000,000

BRIEF EXPLANATION OF CLAIM: The U.S. Environmental Protection Agency has incurred/will incur past/future response costs in connection with facilities at the Safety Light Corporation Superfund Site. The facilities were owned and operated by the Insureds, who had excess policies with Mission Insurance Company. See Attachment 1. (use additional pages if necessary).

\* NOTE: \* Please supply any SUPPORTING DOCUMENTS such as contracts, bills, court judgments, police reports, etc., if they were not previously supplied. Available upon Request

SOCIAL SECURITY NO. OR TAX I.D. NO.:

UNITED STATES ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY

NAME: John Sither, Senior Attorney

US. DEPARTMENT OF JUSTICE -ENRD

Please provide address corrections.

ADDRESS: P.O. BOX 7611 WASHINGTON DC 20044-7611

CITY

STATE

ZIP

TELEPHONE NO.: ( 202 ) 514-5484

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.  
UNITED STATES ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY

c/o John Sither

SIGNATURE OF CLAIMANT

DATE

Mail the completed form and supporting documents to: The Insurance Commissioner as Liquidator, P.O. Box 76869, Los Angeles, California 90076-0869. Notify the Liquidator, in writing, of all changes of address.

REFERENCE: INSURED NAME: UNITED STATES RADIUM CORPORATION (M848172 & M857831)  
USR INDUSTRIES, INC; SAFETY LIGHT CORPORATION (M871497)

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## EXHIBIT “H”



STATE OF CALIFORNIA

DEPARTMENT OF INSURANCE

P.O. BOX 76869, LOS ANGELES, CALIFORNIA 90076-0869 \* (213) 389-9500

LIQUIDATOR OF MISSION NATIONAL INSURANCE COMPANY

Please check company claim is against:

- ( ) Enterprise Insurance Company  
( ) Mission Insurance Company  
(x) Mission National Insurance Company  
( ) Mission Reinsurance Corporation  
( ) Holland America Insurance Company

DATE OF NOTICE: UNKNOWN  
DATE OF LOSS: UNKNOWN  
LIQUIDATOR CLAIM NO.: UNKNOWN  
FORMER CLAIM NO.: UNKNOWN  
JURISDICTION STATE: Washington  
POLICY NO.: MN022527, MN022527

PROOF OF CLAIM

(PLEASE PRINT) TOTAL AMOUNT OF CLAIM: \$ 740,895

BRIEF EXPLANATION OF CLAIM: Response Costs that have been incurred as result of the release of hazardous substances from the facility owned and operated by the insured, Lilyblad Petroleum, Inc., in Tacoma, Washington. See attachments.

(use additional pages if necessary).

\* NOTE: \* Please supply any SUPPORTING DOCUMENTS such as contracts, bills, court judgements, police reports, etc., if they were not previously supplied. Available Upon Request

SOCIAL SECURITY NO. OR TAX I.D. NO.:

UNITED STATES ON BEHALF OF ENVIRONMENTAL PROTECTION AGENCY

NAME: John Sither, Senior Attorney

U.S. DEPARTMENT OF JUSTICE -ENRD

Please provide  
address  
corrections.

ADDRESS: P.O. BOX 7611 WASHINGTON DC 20044-7611  
CITY STATE ZIP

TELEPHONE NO.: ( 202 ) 514-5484

UNLESS NOTED HEREIN, I ALONE AM ENTITLED TO FILE THIS CLAIM, NO OTHERS HAVE AN INTEREST THEREIN, THE CLAIM IS UNSECURED, NO PAYMENTS HAVE BEEN MADE THEREON, THE SUM CLAIMED IS JUSTLY OWING AND THERE IS NO OFFSET.

I DECLARE, UNDER PENALTY OF PERJURY, THAT THE ABOVE INFORMATION IS TRUE AND CORRECT.

By John Sither

SIGNATURE OF CLAIMANT

DATE

Mail the completed form and supporting documents to: The Insurance Commissioner as Liquidator, P.O. Box 76869, Los Angeles, California 90076-0869. Notify the Liquidator, in writing, of all changes of address.

FINAL DATE FOR FILING IS: SEPTEMBER 12, 1987

REFERENCE: INSURED NAME: Lilyblad Petroleum, Inc.

**PROOF OF SERVICE: By U.S. MAIL and FEDERAL EXPRESS**  
**(Code Civ. Proc., ' ' 1013, 2015.5)**

STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 245 Cedar Sage Drive, Suite 240, Garland, Texas 75040.

On this date, I served the foregoing document described as **NOTICE OF MOTION AND MOTION TO APPROVE AGREEMENTS WITH THE UNITED STATES; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF MICHELE VASS** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

**Sent via U.S. MAIL to:**  
The Attached List

And

**Sent via FEDERAL EXPRESS to:**  
John W. Sither, Senior Attorney  
Environmental Enforcement Section  
ENRD Mailroom, Rm 2121  
601 D. Street, NW  
Washington, DC 20004

Sharon C. Williams, Esq.  
United States Department of Justice  
1100 L St., N.W.  
Room 10016  
Washington, D.C. 20005

I am readily familiar with my employer's practices of collection and processing correspondence for mailing with the U.S. Postal Service and the above-referenced correspondence will be deposited with the U.S. Postal Service on the same date as stated below, following the ordinary course of business. I am readily familiar with my employer's practices of collection and processing correspondence for mailing with Federal Express and the above-referenced correspondence will be deposited with Federal Express on the same date as stated below, following ordinary course of business.

  X   (State)     I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

\_\_\_\_ (Federal)   I declare that I am employed by the office of a member of the bar of this court at whose direction the service was made.

Executed on May 10 at Garland, Texas.

  
\_\_\_\_\_  
Braedon Jones



New York Liquidation Bureau  
Attn: Mission - Nicholas L. Cremonese  
110 William Street  
New York, New York 10038-3889

Dwain Dent, Esq.  
The Dent Law Firm  
1120 Penn St.  
Ft. Worth, TX 76102

Robb Canning  
Guy Carpenter & Company, LLC  
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New York, NY 10036

John C. Craft, Esq.  
Lathrop & Gage Law Offices  
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Kansas City, MO. 64108-2612

Pamela Webster, Esq.  
Buchalter, Nemer, A Professional Corporation  
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Los Angeles, CA 90017

Jean L. Bertrand, Esq.  
Morgenstein & Jubelirer  
One Market Plaza, Spear St., 32d Fl  
San Francisco, CA 94105

General Counsel  
GAF Corporation  
1361 Alps Road  
Wayne, NJ 07470

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Conservation & Liquidation Office  
P.O. Box 26894  
San Francisco, CA 94126

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Los Angeles, CA 90067

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Los Angeles, CA 90071

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California Insurance Guarantee Assn  
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Glendale, CA 91203

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11845 W. Olympic Blvd, Suite 625  
Los Angeles, CA 90064

Jack Hom, Esq.  
California Dept. of Insurance  
45 Fremont Street, 24th Floor  
San Francisco, CA 94105

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1100 New York Ave., NW, Ste 700  
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New York, NY 10020-1089

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Clapp Moroney Bellagamba & Vucinich  
1111 Bayhill Dr., Ste 300  
San Bruno, CA 94111

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Visalia, CA 93295

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Palo Alto, CA 94303-3222

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Bergman & Dacey, Inc.  
10880 Wilshire Blvd., Suite 900  
Los Angeles, CA 90024

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Morgan, Lewis & Bockius LLP  
One Market, Spear Street Tower  
San Francisco, CA 94105-1126

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Sheppard, Mullin, Richter & Hampton, LLP  
Four Embarcadero Center, 17th Floor  
San Francisco, CA 94111

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Chicago, IL 60602

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Newport Beach, CA 92663

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Bradenton, FL 34212

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Lathrop & Gage L.C.  
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Kansas City, MO 64108-2684

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Barger & Wolen LLP  
633 W. 5th Street, 47th Floor  
Los Angeles, California 90071

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St. Paul Travelers Companies, Inc.  
One Tower Square  
Hartford, CT 06101

David P. Schack  
Barnes & Thornburg, L.L.P.  
2029 Century Park E, Ste. 300  
Los Angeles, CA 90067