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Los Angeles Superior Court**

MAY 29 2013

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By  Raul Sanchez, Clerk

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

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

12 Applicant,

13 vs.

14 MISSION INSURANCE COMPANY, a
15 California corporation,

16 Respondent.

) Case No. C 572 724

) Honorable John L. Segal

) **THE INSURANCE COMMISSIONER'S
STATUS CONFERENCE REPORT
AND UPDATED CLOSING PLAN**

) Date: June 13, 2013

) Time: 8:30 a.m.

) Department 50

BY FAX

17 Consolidated with Case Numbers

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

) Action Filed: October 31, 1985

1 Dave Jones, Insurance Commissioner of the State of California, in his capacity as
2 Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company
3 Trust and the Enterprise Insurance Company Trust ("Insurance Commissioner"), hereby submits
4 this Status Report and advises the Court as follows:

5 **I. Developments**

6 Enterprise Insurance Company Trust, Mission National Insurance Company Trust and
7 Mission Insurance Company Trust obtained a closing order in 2006. The trusts have distributed
8 substantial assets, but each trust has substantial assets which have not been distributed. The trusts
9 have been waiting to make their final distributions until further events take place. These events
10 and the developments and progress in resolving the remaining issues are:

11 1. **The Super-priority release:** Mission Insurance Company Trust applied for a release
12 from any super-priority claims from the United States Department of Justice. In past status
13 reports, the Insurance Commissioner described how the Insurance Commissioner submitted a
14 request for a super-priority release and how the Insurance Commissioner had responded to a
15 request for further information with a submission of further information.

16 On January 14, 2013, Sharon Williams, Esq., the attorney with the United States
17 Department of Justice handling these matters, wrote an electronic mail which requested further
18 information about eight matters. Ms. Williams subsequently in March wrote to ask for a copy of
19 a policyholder list. The Conservation and Liquidation Office worked with its claims and
20 information technology professionals to address these requests, and after an extensive project to
21 work out the relevant policy numbers for the relevant business (e.g., excluding workers'
22 compensation and other irrelevant policy prefixes), provided further information to Ms.
23 Williams. Enterprise Insurance Company Trust has already obtained its super-priority release,
24 which has been executed and court-approved.
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1 2. **The tax review of Covanta** Mission Insurance Company Trust, Mission National
2 Insurance Company Trust and Enterprise Insurance Company Trust are part of the Covanta
3 Holding Corporation consolidated tax return. The Insurance Commissioner previously advised
4 the Court that a tax review for the tax years 2004-2009 is underway. Covanta Holding
5 Corporation filed its 10-Q quarterly report on April 17, 2013, with the Securities and Exchange
6 Commission for the time period ending March 31, 2013. This Quarterly Report advised of
7 progress on the tax review. The Insurance Commissioner quotes in part from that report below:
8

9 “Federal income tax returns for Covanta Energy are closed for the years through 2003.
10 However, to the extent net operating loss carryforwards (“NOLs”) are utilized from earlier
11 years, federal income tax returns for Covanta Holding Corporation, formerly known as
12 Danielson Holding Corporation, are still open. The IRS is currently auditing our tax returns
13 for the years 2004 through 2009, which includes years during the carryforward period
14 including returns in which some of the losses giving rise to the NOLs that were reported. In
15 connection with this audit, the IRS has proposed certain adjustments to our 2008 tax return.
16 We do not believe such proposed adjustments are consistent with applicable rules, and we
17 intend to challenge them through the IRS's administrative appeals procedures. If we are
18 unsuccessful in challenging such adjustments, some portion of the NOLs would not be
19 available to offset consolidated taxable income, and/or we could be required to pay federal
20 income taxes (and potentially interest and penalties) for prior years. State income tax returns
21 are generally subject to examination for a period of three to five years after the filing of the
22 respective return. The state impact of any federal changes remains subject to examination by
23 various states for a period of up to one year after formal notification to the states. We have
24 various state income tax returns in the process of examination, administrative appeals or
25 litigation”.

26 Based on the foregoing, it appears that the audit is progressing toward a resolution, but that
27 an administrative appeal arising from the audit result may be pursued by Covanta.
28

29 3. **The E-ferol Litigation**

30 The e-ferol claimants are a set of claimants who did not timely file proofs of claim
31 as of the bar date for filing proofs of claims on September 12, 1987. They filed a lawsuit in the
32 United States District Court for the Northern District of Texas entitled Victoria Klein and Ashley
33 Swadley v. Federal Insurance Co., et al, Case Number CA 7-03-CV-102-D, pending in the
34

1 United States District Court for the Northern District of Texas, Wichita Falls Division. That
2 Court abstained in favor of this Court's jurisdiction.

3 This Court heard the e-ferol claimants' application under California Insurance Code
4 Section 1032, and issued a denial of their application on March 18, 2013. The deadline to appeal
5 will have expired by the time of this status conference. The e-ferol claimants' counsel posted the
6 following statement in a letter to the e-ferol claimants dated April 24, 2013 on the
7 www.eferol.com website:

8
9 "Based on [an] opinion by a well-respected California appellate specialist, as well as our
10 own evaluation of the case, class counsel, together with class representatives, have decided
11 not to pursue an appeal of the denial of our claims against Mission".

12 The letter goes on to advise that any individual class member would have to file an appeal by
13 May 18, 2013.

14 Based on the foregoing, the Insurance Commissioner feels it is likely that the e-ferol
15 litigation is at an end. The federal action has not yet been dismissed as to Mission Insurance
16 Company Trust and the Insurance Commissioner, but the undersigned believes that such a
17 dismissal is likely to follow.

18 **4. The collection of assets owed to the Trusts by reinsurers**

19 In past status reports, the Insurance Commissioner has reported on the status of approved
20 proofs of claims against Universale Ruck, a Swiss reinsurer in receivership, and against Centaur
21 Insurance Company, an Illinois insurance company in receivership. The Insurance Commissioner
22 can report progress on the Universale Ruck front. The Universal Ruck receivership made a
23 substantial interim distribution on the approved proofs of claims of Mission Insurance Company
24 Trust and Mission National Insurance Company Trust. Mission Insurance Company Trust
25 received a dividend of \$ 312,473 in part payment of its approved proof of claim for \$ 1,802,289,
26 while Mission National Insurance Company Trust received a dividend of \$ 937,410.01 of its
27 approved proof of claim of \$ 5,0293,337. The most recent status report to the receivership court
28 for the Centaur Insurance Company [Centaur] receivership indicates that the Environmental

1 Protection Agency (“EPA”) has asserted unliquidated claims relating to 113 different
2 environmental waste sites, and that a dialogue between the Centaur Rehabilitator, EPA and the
3 United States Department of Justice is underway. The Insurance Commissioner cannot state
4 when the Centaur Rehabilitator will make a distribution on the approved proof of claim of
5 Mission Insurance Company Trust, given this possible federal claim.

8 **II. Financial Status of the Trusts**

9 Attached as Exhibit “A” is a statement of assets and liabilities for the Trusts. The Trustee
10 continues to hold a substantial sum of money in reserve for unknown and unexpected
11 contingencies.

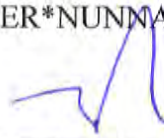
12 The Insurance Commissioner does not include a timeline with this filing, because the
13 time line would just continue to be reset until the federal issues set forth above are resolved. The
14 trusts have final distributions to make once the federal issues, including any tax issues, and any
15 remaining collection and distribution issues are resolved. A federal issue also affects one of the
16 assets of the estate, because the Insurance Commissioner has an approved multi-million dollar
17 proof of claim against Centaur Insurance Company, but distributions on this proof of claim have
18 been delayed by the Centaur rehabilitator pending its pursuit of a federal release.
19

1 **Conclusion:**

2 The wind-up of this case is continuing, with the continued factor of an IRS review of the
3 Covanta tax situation, a request to get clearance in light of the lack of any other federal claims,
4 and any issues following dismissal of the new lawsuit filed by a set of late claimants. The Court
5 is requested to set a November 2013 further status conference.
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10 Respectfully submitted,

11 WISENER*NUNNALLY*GOLD, LLP
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CONSOLIDATED: Mission Ins Cos
STATEMENT OF ASSETS AND LIABILITIES
As of March 31, 2013

	672	170	540	
	Mission	Mission National	Enterprise	TOTAL
ASSETS				
Participation in pooled investments, at market	108,936,200	24,580,400	7,429,100	140,945,700
Accrued investment income	364,900	81,100	25,000	471,100
Recoverable from reinsurers	21,269,000	4,187,400	-	25,456,400
Receivable from affiliates	23,816,400	-	-	23,816,400
Other receivable	-	33,900	-	33,900
Total Available Assets	154,386,500	28,882,800	7,454,100	190,723,500
LIABILITIES				
Secured claims	1,178,700	1,886,800	661,200	3,726,700
Accrued administrative expenses	77,580,200	15,867,000	579,300	94,026,500
Claims against policies, including guaranty associations, before distributions	846,832,600	596,098,500	120,573,400	1,563,504,500
Early access and other Class 2 distributions	(846,838,000)	(499,851,900)	(120,573,400)	(1,467,263,300)
Payable to affiliates	78,724,300	36,075,900	35,556,300	150,356,500
All other claims	119,714,200	(19,237,800)	(4,775,400)	95,701,000
Total Estimated Liabilities	277,192,000	130,838,500	32,021,400	440,051,900
NET ASSETS (DEFICIENCY)	(122,805,500)	(101,955,700)	(24,567,300)	(249,328,400)

CONSOLIDATED: Mission Ins Cos
STATEMENT OF ASSETS AND LIABILITIES
As of March 31, 2013

	672	170	540	
	<u>Mission</u>	<u>Mission National</u>	<u>Enterprise</u>	<u>TOTAL</u>
ASSETS detail				
Cash and Investments				
12001	108,936,227	24,580,369	7,429,147	140,945,744
	<u>108,936,227</u>	<u>24,580,369</u>	<u>7,429,147</u>	<u>140,945,744</u>
13015	364,942	81,146	24,989	471,077
Reinsurance Receivable				
13001	42,855,398	9,307,309	-	52,162,707
13003	(21,586,436)	(5,119,864)	-	(26,706,300)
	<u>21,268,962</u>	<u>4,187,445</u>	<u>-</u>	<u>25,456,407</u>
Receivable from affiliates				
13012.MIC	-	-	20,102,902	20,102,902
13012.EIC	-	17,518,314	-	17,518,314
13012.HAIC	39,649,980	-	-	39,649,980
13012.1	(15,833,536)	(17,518,314)	(20,102,902)	(53,454,752)
	<u>23,816,444</u>	<u>-</u>	<u>-</u>	<u>23,816,444</u>
Other Receivables				
13018	-	195,035	-	195,035
13019	-	(161,127)	-	(161,127)
	<u>-</u>	<u>33,909</u>	<u>-</u>	<u>33,909</u>
	<u>154,386,576</u>	<u>28,882,869</u>	<u>7,454,136</u>	<u>190,723,581</u>
LIABILITIES detail				
Secured Claims				
22001	1,178,701	1,886,786	661,189	3,726,675
	<u>1,178,701</u>	<u>1,886,786</u>	<u>661,189</u>	<u>3,726,675</u>
Class 1: Payables and Accrued Expenses				
25001	1	1	(1)	2
26001	77,580,230	15,866,986	579,326	94,026,542
	<u>77,580,231</u>	<u>15,866,987</u>	<u>579,325</u>	<u>94,026,544</u>
Class 2: Losses, Reserves and non-IGA Claims				
28001	-	110,872,815	-	110,872,815
28006	661,199,259	284,717,623	119,667,566	1,065,584,448
29001	185,633,302	200,508,039	905,850	387,047,191
	<u>846,832,561</u>	<u>596,098,477</u>	<u>120,573,416</u>	<u>1,563,504,454</u>
Early Access and Other Class 2 Distributions				
28007	(661,199,259)	(337,936,554)	(119,667,564)	(1,118,803,377)
41005	(177,965,876)	(159,300,375)	(905,850)	(338,172,101)
41012	(7,672,875)	(2,614,935)	-	(10,287,810)
	<u>(846,838,010)</u>	<u>(499,851,864)</u>	<u>(120,573,414)</u>	<u>(1,467,263,288)</u>
Class 3, 5 & 6: Calif and Federal claims				
27003	111,132	-	39,680	150,813
41002	(111,132)	-	(39,680)	(150,813)
	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

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STATEMENT OF ASSETS AND LIABILITIES
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	672	170	540	
	Mission	Mission National	Enterprise	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	-	20,066,797	41,795,887
30002.EIC Payable to Enterprise	40,205,805	-	-	40,205,805
30002.HAIC Payable to Holland America	11,543,156	-	10,644,646	22,187,802
30002.MRC Payable to Mission Re	5,246,200	-	4,844,861	10,091,061
30002.INT Interest Payable to Affiliates	-	13,297,901	-	13,297,901
Class 7 Payable to Affiliates	<u>78,724,251</u>	<u>36,075,943</u>	<u>35,556,304</u>	<u>150,356,497</u>
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	563,996	5,262,220
41006 Class 7 Distributions	<u>(265,664,289)</u>	<u>(27,077,326)</u>	<u>(5,339,393)</u>	<u>(298,081,008)</u>
Class 7 Liabilities	<u>119,714,227</u>	<u>(19,237,847)</u>	<u>(4,775,398)</u>	<u>95,700,983</u>
Total Estimated Liabilities	<u>277,191,961</u>	<u>130,838,481</u>	<u>32,021,422</u>	<u>440,051,865</u>
NET ASSETS (DEFICIENCY)	<u>(122,805,385)</u>	<u>(101,955,613)</u>	<u>(24,567,286)</u>	<u>(249,328,284)</u>
Distributions this period				
41005 Class 2 Distributions	<u>5,449</u>	<u>-</u>	<u>-</u>	<u>5,449</u>
YTD Distributions	<u>5,449</u>	<u>-</u>	<u>-</u>	<u>5,449</u>

PROOF OF SERVICE: By REGULAR MAIL
(Code Civ. Proc., §§ 1013, 2015.5)

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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 625 West Centerville Road, Suite 110, Garland, Texas 75041.

On this date, I served the foregoing document described as **THE INSURANCE COMMISSIONER'S STATUS CONFERENCE REPORT AND UPDATED CLOSING PLAN** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

Sent via REGULAR MAIL to:
The Attached List

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.

(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 29, 2013 at Garland, Texas.


Christine Cross

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