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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 17 **FOR THE COUNTY OF LOS ANGELES**

19 INSURANCE COMMISSIONER OF THE  
 STATE OF CALIFORNIA,

20 Applicant,

21 v.

22 GOLDEN STATE MUTUAL LIFE  
 23 INSURANCE COMPANY, a California  
 corporation,

24 Respondent.

Case No. BS123005  
 Assigned to Hon. Ann I. Jones, Dept. 86

**[APPLICATION NO. 3 – HISTORICAL  
 MATERIALS]**

**MEMORANDUM OF POINTS AND  
 AUTHORITIES IN SUPPORT OF  
 APPLICATION FOR ORDERS  
 AUTHORIZING LIQUIDATOR TO  
 ENTER ARCHIVAL MATERIALS  
 AGREEMENT AND TRANSFER  
 MATERIALS TO UCLA LIBRARY**

[Filed with Notice, Evidence, Proposed Order]

Date: March 28, 2011  
 Time: 9:30 a.m.  
 Dept: 86

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I.

**INTRODUCTION**

This Memorandum supports the application by the Insurance Commissioner as Liquidator (“Liquidator”) of Golden State Mutual Life Insurance Company (“Golden State”) seeking Court approval to enter into the Archival Materials Agreement (“Agreement”) with University of California, Los Angeles (UCLA) Library and to transfer to the UCLA Library all of Golden State’s right, title and interest in certain historical materials owned by Golden State and identified in the Agreement (“GSM Archival Collection”). A copy of the Agreement is attached hereto as Exhibit 1.

Specifically, the Liquidator requests that the Court issue the following Orders:

1. An Order authorizing the Liquidator to enter into the Archival Materials Agreement with the UCLA Library and to transfer to the UCLA Library all of Golden State’s right, title and interest in the materials identified as the GSM Archival Collection; and
2. An Order authorizing the Liquidator to take any and all actions necessary to accomplish the purposes of the Orders requested above.

The GSM Archival Collection is identified and described in Exhibit A to the Agreement, and consists of approximately 123 boxes of documents, photographs, albums, tapes, recordings and memorabilia relating to Golden State and its founders, officers, employees, history, policies, corporate records, advertising materials, annual reports and statements, and many other materials of interest to the public. The GSM Archival Collection is a historically significant collection of materials relating to African American history in Los Angeles and the history of Golden State, which was founded in 1925 and became the largest African American owned insurance company in the western United States.

In furtherance of his statutory duties, the Liquidator (when he was Golden State’s Conservator) commenced a Request for Proposals (“RFP”) process dated June 25, 2010, in which persons and entities interested in purchasing the Golden State’s art collection, removable murals and/or historical materials were required to submit proposals to the Conservator for the purchase of said items. The UCLA Library and four others submitted proposals concerning Golden State’s

1 historical materials. In furtherance of its proposal and at its own cost, the UCLA Library  
2 provided a team of trained and experienced cataloging professionals, who listed, reviewed, boxed,  
3 and readied Golden State's historical materials for transfer, which is now referenced as the 123  
4 box GSM Archival Collection, at an estimated cost to UCLA of at least \$20,000.

5 The UCLA Library's proposal stated that it would become the caretaker in perpetuity of  
6 the GSM Archival Collection, review and archive the materials, bear the expenses of transporting  
7 to and maintaining the materials at the UCLA Library, develop a plan for the preservation and  
8 public accessibility of the materials, and add the materials to its existing archives of historical  
9 materials concerning Golden State. In 1986 Golden State made a substantial donation of  
10 historical materials to UCLA which the UCLA Library has cataloged and made available to the  
11 public for research purposes. The other four proposals did not provide sufficient information on  
12 how the bidders would transfer, preserve, maintain or provide public access to the collection, and  
13 offered very small amounts for the collection, ranging from \$1 to \$2,000.

14 Court approval of this application should be granted because the Liquidator's selection of  
15 the UCLA Library's proposal, the entry into the GSM Archival Agreement and the transfer to the  
16 UCLA Library of all of Golden State's right, title and interest in the GSM Archival Collection,  
17 best complies with the RFP, is within the Liquidator's discretion, is geared toward preserving  
18 Golden State's estate value and is in the best interests of Golden State's creditors due to cost  
19 savings for the following reasons:

20 1. None of the proposals provided any significant economic value to Golden State  
21 which exceeded the costs the Conservator (now Liquidator) would have had to incur to manage  
22 and transfer the collection to a buyer;

23 2. The terms of the Agreement and transfer of the GSM Archival Collection to the  
24 UCLA Library are consistent with the historic value and importance of the GSM Archival  
25 Collection and ensures the long-term preservation and public access to the collection;

26 3. The UCLA Library is a leading academic library, part of the University of  
27 California, and has an enormous research collection with appropriate facilities and resources to  
28

1 complete the Agreement and ensure the long-term preservation and public access to the  
2 collection;

3 4. In 1986 Golden State made a substantial donation of historical materials to UCLA  
4 which the UCLA Library has cataloged and made available to the public for research purposes.  
5 Acceptance of the UCLA Library's proposal will permit the current GSM Archival Collection to  
6 merge into the Library's existing archive of Golden State materials;

7 5. The UCLA Library's proposal benefits Golden State's estate and creditors because  
8 (1) the UCLA Library has previously, at its cost, reviewed and indexed the GSM Archival  
9 Collection, and (2) the UCLA Library has agreed to bear the cost and responsibility of  
10 transferring, preserving and providing public access to the collection, thereby eliminating the  
11 potential of such expenses to Golden State's estate. The cost savings to Golden State from the  
12 UCLA Library proposal outweighs the small amounts offered by the other proposals; and

13 6. The other four proposals submitted to the Conservator through the RFP process are  
14 not superior to the UCLA Library proposal, not geared toward perserving Golden State's estate  
15 value and not in the best interests of Golden State's creditors, because the other proposals do not  
16 provide sufficient payment to Golden State to reimburse the anticipated expenses if it were to  
17 review, index and transfer the collection to the bidder (where here the UCLA Library is paying  
18 these costs); do not provide sufficient information on how the bidders would transfer, preserve or  
19 maintain the collection, or provide public access to the collection; and one of the proposals does  
20 not comply with the RFP nor provide any assurance that the purchase price would be paid, the  
21 collection would be transferred and the transaction would be completed.

22 To avoid duplication of facts which may not be pertinent to this application, the Liquidator  
23 incorporates by this reference in this application and this Memorandum the pleadings, documents  
24 and evidence submitted with the Liquidator's Application No. 1 entitled Application For  
25 Liquidator To Sell Two Murals To Smithsonian National Museum Of African American History  
26 And Culture, filed concurrently with this application and scheduled for hearing on the same date.

27 Where applicable, "Conservator" is used for actions taken by the Insurance Commissioner  
28 during his time as Golden State's Conservator, and "Liquidator" is used for actions taken by the

1 Insurance Commissioner as Liquidator and for actions assumed by the Liquidator as the  
2 Conservator's successor. For instance, the Conservator's RFP process is now assumed by the  
3 Liquidator. Golden State also is referred to at times as "GSM".

4 **II.**

5 **PERTINENT FACTUAL BACKGROUND**

6 **A. Orders Appointing Conservator and Liquidator of Golden State.**

7 On September 30, 2009, this Court ordered and appointed the Insurance Commissioner to  
8 serve as Conservator of Golden State ("Conservator"). (Order Appointing Conservator, Exhibit  
9 2.) Golden State was conserved because as of June 30, 2009, Golden State was financially  
10 impaired pursuant to Insurance Code § 988 and deemed to be operating in a hazardous financial  
11 condition in that its reported paid-in capital and surplus of assets in excess of liabilities was  
12 \$1,650,693 instead of the required \$5,000,000. Golden State could no longer continue its  
13 operations without conservation because it lacked sufficient paid-in capital and surplus to ensure  
14 policyholder safety. (Declaration of David E. Wilson ("Wilson Dec."), ¶¶ 6-7.)

15 The Order Appointing Conservator directed the Insurance Commissioner as Conservator  
16 to conduct the business of Golden State or so much thereof as the Conservator may deem  
17 appropriate, and authorized him to sell, transfer or otherwise dispose of Golden State's personal  
18 property at its reasonable market value; provided, however, for personal property sales where the  
19 market value of the property involved exceeds \$20,000, Court approval of the sale is necessary.  
20 (Order Appointing Conservator, ¶¶ 1, 7 and 8, Exhibit 2; see also Insurance Code § 1037(d).)

21 Thereafter, on January 28, 2011, this Court terminated the Insurance Commissioner's  
22 status as Conservator and ordered and appointed the Insurance Commissioner to serve as  
23 Liquidator of Golden State. (Order of Liquidation, Exhibit 3.) The Insurance Commissioner was  
24 appointed Liquidator because Golden State is insolvent in that, as of September 30, 2010, Golden  
25 State's estimated liabilities of \$9,291,895 exceed its estimated remaining assets of \$5,721,154 by  
26 over \$3 million (\$5,721,154 in assets - \$9,291,895 in liabilities = -\$3,570,741). (Wilson Dec., ¶¶  
27 8-9.)

1 The Order of Liquidation directs the Insurance Commissioner to liquidate and wind up the  
2 business of Golden State, and, just as with the Order Appointing Conservator, authorized him to  
3 sell, transfer or otherwise dispose of Golden State’s personal property at its reasonable market  
4 value; provided, however, for personal property sales where the market value of the property  
5 involved exceeds \$20,000, Court approval of the sale is necessary. (Order of Liquidation, ¶¶ 1, 2  
6 and 8, Exhibit 3; see also Insurance Code § 1037(d).)

7 **B. Golden State’s Historical Materials.**

8 Golden State was founded in 1925 and became the largest African American owned  
9 insurance company in the western United States. Over this time, Golden State accumulated a  
10 significant collection of historical materials including documents, photographs, albums, tapes,  
11 recordings and memorabilia relating to African American history in Los Angeles and the history  
12 of Golden State and its founders, officers, employees, history, policies, corporate records,  
13 advertising materials, annual reports and statements, and many other matters of interest to the  
14 public. (Wilson Dec., ¶ 10.)

15 **C. Conservator’s Request for Proposals.**

16 On June 25, 2010, the Conservator commenced a RFP process in which persons and  
17 entities interested in purchasing Golden State’s art collection, removable murals and/or historical  
18 materials were required to submit proposals to the Conservator. (Wilson Dec., ¶ 11; and RFP,  
19 Exhibit 4.) All prospective bidders were required to submit proposals in a specified format by  
20 July 30, 2010, and were subject to strict financial and disclosure requirements to ensure the  
21 successful completion of any sales. Specifically, in pertinent part, the RFP required the  
22 following:

23 **III. INFORMATION FOR BIDDERS**

24 **A. Request for Proposal Deadline**

25 All proposals for the purchase of GSM’s art and/or historical materials, in whole or  
26 in individual items, must be in writing, comply with the instructions and  
27 requirements set forth herein including payment of 25% of the proposed purchase  
28 price for each item, and be received by GSM by 4:00 p.m., PST, Thursday, July  
30, 2010....  
....



1                    **IV. INSTRUCTIONS FOR SUBMITTING PROPOSALS AND**  
2                    **PROPOSAL CONTENT REQUIREMENTS**

3                    **Each proposal/bid must be submitted on the form provided.** Additional pages  
4                    may be attached if necessary. Proposals must be complete in all aspects. A  
5                    proposal may be rejected if it is conditional or incomplete in any respect. The  
6                    following must be submitted with your proposal:

- 7                    1. Name, address and telephone number of bidder or bidders. For business  
8                    entities, the following must be provided:
- 9                    a. Official registered name (Corporate, D.B.A., Partnership, etc.),  
10                    address, main telephone number, facsimile numbers and e-mail  
11                    address.
  - 12                    b. Contact person, title, address (if different from above address) and  
13                    direct telephone number and e-mail address.
  - 14                    c. Person authorized to contractually bind the bidding organization for  
15                    any proposal submitted pursuant to the RFP.
- 16                    2. Identification of each item to be purchased by use of the attached  
17                    inventory.
- 18                    3. Purchase offer amount for each item to be purchased.
- 19                    4. Any additional terms or conditions requested by the bidder.
- 20                    5. **Payment of 25% of the proposed purchase price for each item, payable**  
21                    **to “Golden State Mutual Life Insurance Company in Conservation.”**  
22                    This payment will be (i) returned to unsuccessful bidders after the selection  
23                    of a winning bidder, or (ii) retained by GSM if the bidder is selected as the  
24                    winning bidder and the transaction is not consummated within the time  
25                    required due to an act or omission within the control of the bidder, or (iii)  
26                    returned to the selected bidder if the transaction is not consummated due to  
27                    an act or omission within the control of GSM or the Conservator, or (iv)  
28                    applied to the purchase price. All interest earned on the payment will be  
                     retained by the Conservator to partially cover the expenses of the RFP  
                     process.
6. Disclosure of any relationships, current or past, with GSM or the  
                     Conservator or their staff or representatives. The Conservator considers it  
                     to be a potential conflict of interest if a bidder or any of its personnel have  
                     current and/or prior business transactions or relationships with GSM, the  
                     Conservator or their staff or representatives, and therefore requires  
                     disclosure of any such transactions or relationships. In addition, the  
                     Conservator considers it a potential conflict of interest for a bidder to use  
                     any of the persons or firms, or any of the persons working for the persons  
                     or firms, listed below, regardless of the location of their offices, in  
                     connection with any aspect of this RFP, which are currently advising the  
                     Conservator on the RFP or other matters affecting GSM. Potential bidders  
                     are required to obtain a written waiver or consent from the Conservator  
                     with respect to any conflicts that exist or arise in connection with the RFP  
                     process prior to submission of a proposal.... (RFP, Exhibit 4.)

1 The RFP also advised bidders that by submitting a proposal the bidder acknowledges and  
2 agrees to the Conservator's broad powers and authorities:

3 THE CONSERVATOR IS UNDER NO AFFIRMATIVE OBLIGATION TO  
4 SELL GSM'S ART OR HISTORICAL MATERIALS OR ANY PART  
5 THEREOF, AND MAY, IN HIS SOLE DISCRETION, REJECT ANY OR ALL  
6 BIDS RECEIVED, IN WHOLE OR IN PART; CONTINUE OR DISCONTINUE  
7 THIS REQUEST FOR PROPOSALS WITHOUT LIABILITY TO ANY BIDDER  
8 OR POTENTIAL BIDDER; REQUEST CLARIFICATION, ADDITIONAL  
9 INFORMATION AND/OR NEW BIDS FROM SOME OR ALL BIDDERS;  
10 MAKE COUNTER OFFERS TO SOME OR ALL BIDS; ACCEPT BIDS BASED  
11 UPON FACTORS OTHER THAN THE HIGHEST PRICE; SELECT ONE OR  
12 MORE BIDS SUBJECT TO FURTHER NEGOTIATIONS AND/OR  
13 APPROVAL OF THE LOS ANGELES SUPERIOR COURT; AND/OR TAKE  
14 ANY OTHER ACTION THAT THE CONSERVATOR DEEMS  
15 APPROPRIATE.

16 ...

17 **V. DISCLAIMERS, DISCLOSURES AND GENERAL TERMS**

18 4. By submitting a proposal for the purchase of GSM's art or historical  
19 materials, each bidder acknowledges and agrees that the Conservator is under no  
20 affirmative obligation to sell, transfer or otherwise dispose of GSM's art or  
21 historical materials or any part thereof, and may, at his sole discretion:

- 22 • Reject any or all bids received, in whole or in part, and/or continue or
- 23 • discontinue this RFP process without liability to any bidder or potential
- 24 • bidder;
- 25 • Request clarification, additional information and/or new bids and/or
- 26 • proposals from some or all bidders;
- 27 • Make counter offers to some or all bids;
- 28 • Accept bids based upon factors other than the highest price;
- Select one or more bids subject to further negotiations and/or approval of
- the Los Angeles Superior Court;
- Respond to bids with additional conditions and requirements, even if such
- have not been stated herein;
- Accept more than one bid in order to place the entire collection;
- Seek any requisite court approval(s); and/or
- Take any other action that the Conservator deems appropriate.

5. The Conservator hereby disclaims having any obligations to bidders or  
others with respect to the manner or process through which this RFP is conducted,  
and each bidder, by its submission of a proposal, hereby acknowledges and agrees  
that it shall have no rights, claims or other actions against the Conservator, GSM,  
or any of their respective consultants, representatives, staff or professional  
advisors, based on the manner or process through which this RFP is conducted or  
the results thereof. (RFP, Exhibit 4.)

26 On August 9, 2010, due to continuing interest in the art collection, murals and historical  
27 materials, the Conservator extended the deadline to submit proposals to August 31, 2010.  
28 (Wilson Dec., ¶ 12; and Letter from Conservator dated August 9, 2010, Exhibit 5.)

1 On October 14, 2010, in conclusion of his efforts to evaluate and clarify proposals, the  
2 Conservator advised all bidders and all known prospective bidders to “remove any contingencies  
3 imposed by them on their proposals and ensure that their proposals fully comply with the RFP’s  
4 instructions including, without limitation, payment of 25% of the proposed purchase price for  
5 each item by no later than October 29, 2010.” (Wilson Dec., ¶ 13; and Letter dated October 14,  
6 2010, Exhibit 6.)

7 **D. Selection Criteria.**

8 As stated in the RFP, all proposals and prospective bidders were subject to strict financial  
9 and disclosure requirements to ensure the successful completion of any sales, and were evaluated  
10 based upon several factors including without limitation, (1) financial aspects of the proposal,  
11 including purchase price and terms of payment; (2) size, financial strength and professional  
12 reputation of bidder; (3) amount of the collection bidder is willing to purchase; and (4) intended  
13 use and disposition of the items purchased. (Wilson Dec., ¶ 14.) Specifically, the RFP stated the  
14 Selection Consideration as follows:

15 **B. Selection Consideration**

16 All proposals submitted in the required format will be given consideration by the  
17 Conservator who, in his sole discretion, will decide whether to accept or reject any  
18 particular proposal. Factors that may be considered by the Conservator in  
19 selecting a proposal include, without limitation, the following, presented in no  
20 particular order of significance:

- 21 • Financial aspects of the proposal, including purchase price and terms of  
22 payment;
- 23 • Size, financial strength and professional reputation of bidder;
- 24 • Amount of the Collection bidder is willing to purchase; and
- 25 • Intended use and disposition of the items purchased. (RFP, Exhibit 4.)

26 **E. The UCLA Library’s Proposal.**

27 The UCLA Library submitted a proposal concerning Golden State’s historical materials.  
28 In furtherance of its proposal and at its own cost, the UCLA Library provided a team of trained  
and experienced cataloging professionals, who listed, reviewed, boxed, and readied the 123 box  
collection for transfer, which is now referenced as the GSM Archival Collection, at an estimated  
cost to UCLA of at least \$20,000. The GSM Archival Collection is identified and described in

1 Exhibit A to the Agreement, and consists of approximately 123 boxes of documents, photographs,  
2 albums, tapes, recordings and memorabilia relating to Golden State and its founders, officers,  
3 employees, history, policies, corporate records, advertising materials, annual reports and  
4 statements, and many other materials of interest to the public. (Wilson Dec., ¶ 15; UCLA  
5 Proposal, Ex. 7; and Agreement, Ex 1; Declaration of Gary E. Strong (“Strong Dec.”), ¶ 14-15.)

6 The UCLA Library’s proposal stated that it would become the caretaker in perpetuity of  
7 the GSM Archival Collection, review and archive the materials, bear the expenses of transporting  
8 to and maintaining the materials at the UCLA Library, develop a plan for the preservation and  
9 public accessibility of the materials, and add the materials to its existing archives of historical  
10 materials concerning Golden State. In 1986 Golden State made a substantial donation of  
11 historical materials to UCLA which the UCLA Library has cataloged and made available to the  
12 public for research purposes. (UCLA Proposal, Exhibit 7; and Strong Dec., ¶ 7-14.)

13 On February 4, 2011, the Conservator entered into an Archival Materials Agreement with  
14 the UCLA Library (“Agreement”). The Agreement is contingent upon written approval by this  
15 Court. (Wilson Dec., ¶ 16; and Archival Materials Agreement, Exhibit 1.)

16 **F. Other Proposals.**

17 The other four proposals submitted to the Conservator concerning Golden State’s  
18 historical materials included (1) a proposal with a purchase price of \$1 for the “bust of William  
19 Nickerson Jr. and all the historical materials and artifacts”, (2) a similar proposal with a purchase  
20 price of \$300 for the William Nickerson Jr. bust and \$900 for certain historical materials, (3) a  
21 proposal to purchase the materials for \$2,000 with the stated goal “to merge the Historical  
22 Materials with the archives previously donated to the UCLA Library”, and (4) a proposal to  
23 purchase all of Golden State’s art collection, two removable murals and historical materials for an  
24 unknown amount stated as “TBD” (meaning “to be determined”), and without the required 25%  
25 deposit. (Wilson Dec., ¶ 17.)

26 **G. Notice Of This Application.**

27 The Liquidator has provided written notice of this application to all persons and entities  
28 known to him that may have a substantial, unsatisfied claim that may be affected by the this

1 application and any Court Orders pertaining thereto, regardless of whether the persons or entities  
2 are a party to this action or have appeared in it, in compliance with California Rules of Court Rule  
3 3.1184(c). Said persons and entities include the UCLA Library, the four other bidders who  
4 submitted proposals for Golden State’s historical materials, the Building owner Community  
5 Impact Development II, LLC, Pension Benefit Guaranty Corporation, National Organization of  
6 Life and Health Insurance Guaranty Associations, the Certificate of Contribution holders, and  
7 several persons and community groups who have contacted the Conservator or have otherwise  
8 expressed interest in Golden State’s historical materials. Such persons and entities are listed on  
9 the Service List attached at the end of the Notice for this Application. (Weiss Dec., ¶ 3; and Proof  
10 of Service.)

11 **III.**

12 **ARGUMENT**

13 There is good cause for the Court to authorize the Liquidator to enter the Archival  
14 Materials Agreement and to transfer the GSM Archival Collection to the UCLA Library.

15 **A. The Transfer Is Consistent With The Conservator’s And Liquidator’s Authorities**  
16 **And Discretion Under The Court’s Orders, The Insurance Code And Case Law.**

17 First, the Order Appointing Conservator directed the Insurance Commissioner as  
18 Conservator to conduct the business of Golden State or so much thereof as the Conservator may  
19 deem appropriate, and authorized him to sell, transfer or otherwise dispose of Golden State’s  
20 personal property at its reasonable market value; provided, however, for personal property sales  
21 where the market value of the property involved exceeds \$20,000, Court approval of the sale is  
22 necessary. (Order Appointing Conservator, ¶¶ 1, 7 and 8, Exhibit 2; see also Insurance Code §  
23 1037(d) [quoted below].) Similarly, the Order Appointing Liquidator directs the Insurance  
24 Commissioner to liquidate and wind up the business of Golden State, and, just as with the Order  
25 Appointing Conservator, authorized him to sell, transfer or otherwise dispose of Golden State’s  
26 personal property at its reasonable market value; provided, however, for personal property sales  
27 where the market value of the property involved exceeds \$20,000, Court approval of the sale is  
28

1 necessary. (Order of Liquidation, ¶¶ 1, 2 and 8, Exhibit 3; see also Insurance Code § 1037(d)  
2 [quoted below].)

3 Here, Court approval is requested in accordance with the RFP and due to the volume and  
4 historical significance of documents and materials involved (approximately 123 boxes).

5 Second, the transfer is consistent with the Conservator’s and Liquidator’s authorities  
6 under the Insurance Code, which grants broad powers to the Insurance Commissioner as  
7 conservator and liquidator of insurance companies to sell, transfer or otherwise dispose of the  
8 insurer’s property “upon such terms and conditions as the commissioner may deem proper.”  
9 Most notably, Insurance Code § 1037, entitled “Powers of commissioner as conservator or  
10 liquidator,” provides in pertinent part:

11 Upon taking possession of the property and business of any person in any  
12 proceeding under this article, the commissioner, exclusively and except as  
13 otherwise expressly provided by this article, either as conservator or liquidator:

14 (a) [Conservation of assets; conduct of business.] Shall have authority to  
15 collect all moneys due that person, and to do such other acts as are necessary or  
16 expedient to collect, conserve, or protect its assets, property, and business, and to  
17 carry on and conduct the business and affairs of that person or so much thereof as  
18 to him or her may seem appropriate.

19 . . . .

20 (d) [Acquisition and disposition of property.] Shall have authority without  
21 notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon,  
22 or otherwise dispose of or deal with, any real or personal property of that person at  
23 its reasonable market value, or, in cases other than acquisition, sale, or transfer on  
24 the basis of reasonable market value, upon such terms and conditions as the  
25 commissioner may deem proper. However, no transaction involving real or  
26 personal property shall be made where the market value of the property involved  
27 exceeds the sum of twenty thousand dollars (\$20,000) without first obtaining  
28 permission of the court, and then only in accordance with any terms that court may  
prescribe.

. . . .

(f) [Lawsuits, execution of instruments.] May, for the purpose of executing  
and performing any of the powers and authority conferred upon the commissioner  
under this article, in the name of the person affected by the proceeding or in the  
commissioner's own name, . . . execute, acknowledge and deliver any and all  
deeds, assignments, releases and other instruments necessary and proper to  
effectuate any sale of any real and personal property or other transaction in  
connection with the administration, liquidation, or other disposition of the assets of  
the person affected by that proceeding; . . . .

. . . .

1 [General powers.] The enumeration, in this article, of the duties, powers  
2 and authority of the commissioner in proceedings under this article shall not be  
3 construed as a limitation upon the commissioner, nor shall it exclude in any  
4 manner his or her right to perform and to do such other acts not herein specifically  
5 enumerated, or otherwise provided for, which the commissioner may deem  
6 necessary or expedient for the accomplishment or in aid of the purpose of such  
7 proceedings.

6 Third, California case law supports the broad grant of powers accorded the Insurance  
7 Commissioner to transfer an insurer's assets when he is conserving, rehabilitating, and/or  
8 liquidating insurance companies. For instance, in *In Re Executive Life Insurance Company*  
9 (1995) 32 Cal.App.4th 344, the Court of Appeal noted that:

10 The Commissioner is an officer of the state (*Caminetti v. Pac.*  
11 *Mutual L. Ins. Co.* (1943) 22 Cal.2d 344, 354 [139 P.2d 908]) who, when  
12 he or she is a conservator, exercises the state's police power to carry  
13 forward the public interest and to protect policyholders and creditors of the  
14 insolvent insurer. (*Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d  
15 307, 330-331 [74 P.2d 761].)

14 (*In Re Executive Life, supra*, at p. 356.) The Court then went on to explain that:  
15 In exercising this power, the Commissioner is vested with broad discretion.  
16 (*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p.  
17 402.) This discretion is subject to statutory limitations (see *id.* at p. 409) and the  
18 requirement that the exercise of discretion be neither arbitrary nor improperly  
19 discriminatory. (*Carpenter v. Pacific Mut. Life Ins. Co., supra*, 10 Cal.2d at p.  
20 329.) The Commissioner as conservator of the insolvent insurer is also a trustee for  
21 the benefit of all creditors and other persons interested in the insolvency estate.  
22 ([Insurance Code] § 1057.)

20 (*In Re Executive Life, supra*, at p. 356.)

21 The Court concluded that:

22 . . . The trial court reviews the Commissioner's actions under the abuse of  
23 discretion standard. (*Commercial Nat. Bank v. Superior Court, supra*, 14  
24 Cal.App.4th 393, 398): was the action arbitrary, i.e. unsupported by a rational  
25 basis, or is it contrary to specific statute, a breach of the fiduciary duty of the  
26 conservator as trustee, or improperly discriminatory?

25 (*In Re Executive Life, supra*, at p. 358.)

1 **B. The Transfer Is Rational, Geared Toward Preserving Golden State’s Estate Value**  
2 **And In The Best Interests Of Golden State’s Creditors.**

3 The Liquidator recommends the UCLA Library’s proposal because it best satisfied the  
4 RFP’s selection criteria and it is fair, rational and in the best interests of Golden State’s creditors.  
5 The Liquidator’s recommendation is based on the following:

6 First, none of the proposals submitted provided any significant economic value to Golden  
7 State which exceeded the costs the Conservator (now Liquidator) would have had to incur to  
8 manage and transfer the collection to a buyer. The GSM Archival Collection is a historically  
9 significant collection of documents, photographs, albums, tapes, recordings, memorabilia and  
10 other materials relating to African American history in Los Angeles and the history of Golden  
11 State, which was founded in 1925 and became the largest African American owned insurance  
12 company in the western United States. (Strong Dec., ¶ 4-15; and Wilson Dec., ¶¶ 10-19.)

13 Second, the terms of the Agreement and transfer of the GSM Archival Collection to the  
14 UCLA Library are consistent with the historic value and importance of the GSM Archival  
15 Collection and ensures the long-term preservation and public access to the collection. In the  
16 Agreement, the UCLA Library has agreed to “make the GSM Archival Collection available to  
17 researchers and to the broader community, preserving and providing the broadest possible access  
18 to and use of the archival materials for the benefit of present and future generations,” has agreed  
19 to “cooperate with community groups to ensure that the legacy of Golden State Mutual Life  
20 Insurance Company is preserved,” and has agreed to “explore opportunities for grant funding to  
21 digitize and describe the collections to enhance access and discovery of the records.” (Strong  
22 Dec., ¶ 4-15; Wilson Dec., ¶¶ 10-20; Agreement, Exhibit 1.)

23 Third, the UCLA Library is a leading academic library, part of the University of  
24 California, and has an enormous research collection with appropriate facilities and resources to  
25 complete the Agreement and ensure the long-term preservation and public access to the  
26 collection. (Strong Dec., ¶ 4-15; and Wilson Dec., ¶¶ 10-21.)

27 Fourth, in 1986 Golden State made a substantial donation of historical materials to UCLA  
28 which the UCLA Library has cataloged and made available to the public for research purposes.



1 Acceptance of the UCLA Library’s proposal will permit the current GSM Archival Collection to  
2 merge into the Library’s existing archive of Golden State. (Strong Dec., ¶ 7-14; and Wilson Dec.,  
3 ¶¶ 10-22.)

4 Fifth, the UCLA Library’s proposal benefits Golden State’s estate and creditors because  
5 (1) the UCLA Library has previously, at its cost, reviewed and indexed the GSM Archival  
6 Collection, and (2) the UCLA Library has agreed to bear the cost and responsibility of  
7 transferring, preserving and providing public access to the collection, thereby eliminating the  
8 potential of such expenses to Golden State’s estate. Although the other proposals offered small  
9 amounts of money for the materials, the UCLA Library provided more value to Golden State in  
10 connection with the materials. The UCLA Library provided a team of trained and experienced  
11 cataloging professionals, who listed, reviewed, boxed, and readied the 123 box collection for  
12 transfer, and has agreed to bear the expenses of transporting to and maintaining the materials at  
13 the UCLA Library. The cost savings to Golden State outweighs the small amounts offered.  
14 (Strong Dec., ¶ 15; and Wilson Dec., ¶¶ 10-23.)

15 Sixth, the other four proposals submitted to the Conservator through the RFP process are  
16 not superior to the UCLA Library proposal. The proposals with a \$1 and \$900 purchase price for  
17 the William Nickerson Jr. bust and historical materials do not provide sufficient information on  
18 how the bidders would transfer, preserve or maintain the collection, or provide public access to  
19 the collection, and does not provide sufficient payment to Golden State to reimburse the  
20 anticipated expenses if he were to review, index and transfer the collection to the bidder (where  
21 here the UCLA Library is paying these costs). The proposal to purchase the collection for \$2,000  
22 with the stated goal “to merge the Historical Materials with the archives previously donated to the  
23 UCLA Library” also does not provide sufficient information on how the bidder would transfer,  
24 preserve or maintain the collection, or provide public access to the collection, and does not  
25 provide sufficient payment to Golden State to review, index and transfer the collection to the  
26 bidder for eventual transfer to the UCLA Library would exceed the \$2,000 payment (where again  
27 the UCLA Library is paying these costs). Finally, the proposal for the purchase of Golden State’s  
28 art collection, removable murals and historical materials for an unknown amount stated as

1 “TBD”, without specifying a purchase price and without the 25% deposit, does not comply with  
2 the RFP and does not provide any assurance that the purchase price would be paid, the collection  
3 would be transferred and the transaction would be completed. (Wilson Dec., ¶¶ 10-24.)

4 In sum, the transfer of the GSM Archival Collection to the UCLA Library is fair, rational  
5 and in the best interest of Golden State’s creditors; and therefore, should be approved by the  
6 Court.

7 IV.

8 CONCLUSION

9 There is good cause for the Court to grant this application and authorize the Liquidator to  
10 enter into the Archival Materials Agreement with the UCLA Library and to transfer to the UCLA  
11 Library all of Golden State’s right, title and interest in the materials identified as the GSM  
12 Archival Collection. Accordingly, the Liquidator requests that the Court grant this application  
13 and issue the following orders:


14 1. An Order authorizing the Liquidator to enter into the Archival Materials  
15 Agreement with the UCLA Library and to transfer to the UCLA Library all of Golden State’s  
16 right, title and interest in the materials identified as the GSM Archival Collection; and

17 2. An Order authorizing the Liquidator to take any and all actions necessary  
18 to accomplish the purposes of the Orders requested above.

19 DATE: February 22, 2011

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