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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. 1 - MURALS]

**NOTICE OF APPLICATION AND
 APPLICATION FOR ORDERS
 AUTHORIZING LIQUIDATOR TO SELL
 TWO MURALS TO SMITHSONIAN
 NATIONAL MUSEUM OF AFRICAN
 AMERICAN HISTORY AND CULTURE**

[Filed concurrently with Memorandum,
 Evidence and Proposed Order]

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

1 **TO: (1) THE LOS ANGELES SUPERIOR COURT;**
2 **(2) GOLDEN STATE MUTUAL LIFE INSURANCE COMPANY;**
3 **(3) ALL PERSONS AND ENTITIES KNOWN TO THE CONSERVATOR TO**
4 **HAVE A SUBSTANTIAL UNSATISFIED CLAIM THAT MAY BE AFFECTED**
5 **BY THE REQUESTED COURT ORDERS; AND**
6 **(4) ALL INTERESTED PARTIES,**

7 **PLEASE TAKE NOTICE** that on March 28, 2011, at 9:30 a.m., or as soon thereafter as
8 the parties may be heard, in Department 86 of the Los Angeles Superior Court for the State of
9 California, County of Los Angeles, located at 111 N. Hill Street, Los Angeles, California 90012
10 (“Court”), Applicant Insurance Commissioner of the State of California, in his capacity as
11 Liquidator (“Liquidator”) of Golden State Mutual Life Insurance Company (“Golden State”), will
12 and hereby does apply to the Court and submit this application for the following Court Orders:

- 13 1. An Order authorizing the Liquidator to sell two removable murals owned by
14 Golden State to the Smithsonian National Museum of African American History and Culture in
15 Washington D.C. (“Smithsonian”), pursuant to the terms of the Murals Sale Agreement by and
16 between the Liquidator and the Smithsonian;
- 17 2. An Order confirming that the Murals are the property of Golden State and that they
18 may be sold free and clear of any claims of adverse claimants and/or creditors; and
- 19 3. An Order authorizing the Liquidator to take any and all actions necessary to
20 accomplish the purposes of the Orders requested above.

21 The murals are identified as (1) *“The Negro in California History: Exploration and*
22 *Colonization”*, by Charles Alston, and (2) *“The Negro in California History: Settlement &*
23 *Development”*, by Hale Woodruff (collectively, “Murals”).

24 **Grounds for Application**

25 In furtherance of his statutory duties, the Liquidator (when he was Golden State’s
26 Conservator) commenced a Request for Proposals (“RFP”) process dated June 25, 2010, in which
27 persons and entities interested in purchasing Golden State’s Murals, art collection and/or
28 historical materials were required to submit proposals to the Conservator for the purchase of the

1 Murals. As stated in the RFP, all proposals and prospective bidders were subject to strict
2 financial and disclosure requirements to ensure the successful completion of any sales, and were
3 evaluated based upon several factors including without limitation, (1) financial aspects of the
4 proposal, including purchase price and terms of payment; (2) size, financial strength and
5 professional reputation of bidder; (3) amount of the collection bidder is willing to purchase; and
6 (4) intended use and disposition of the items purchased.

7 As part of the RFP process, and in order to estimate the liquidation value of the Murals,
8 the Conservator commissioned and received an Appraisal Report from a Certified Appraiser,
9 which estimated the liquidation value of the Murals. Liquidation value is defined by the
10 Appraisers Association of America as “the price realized in a sale situation under forced or
11 limiting conditions and under time constraints.” The Appraisal Report estimated the liquidation
12 value of the Murals at \$350,000 per Mural for a total of \$700,000 for both Murals.

13 The Smithsonian and five others submitted proposals for the purchase of the Murals. The
14 Smithsonian’s proposal has a purchase price for the two Murals of \$750,000, includes a letter
15 from the Smithsonian’s Director confirming that the Smithsonian has authorized the funds to
16 purchase the Murals, and details the intended use and disposition of the Murals, stating that the
17 Smithsonian intends to display the Murals as signature pieces in its new National Museum of
18 African American History and Culture (“NMAAHC Museum”), to be located on The National
19 Mall, Constitution Avenue, NW, between 14th and 15th Street, in the shadow of the Washington
20 Monument and in view of all major sites representing the Nation’s history.

21 The other proposals submitted to the Conservator for the purchase of the Murals included
22 (1) a proposal with a purchase price of \$1 million without the required 25% deposit and
23 contingent upon the bidder undertaking a 12-month capital campaign to raise the \$1,000,000
24 purchase price, (2) a proposal with a purchase price of \$750,000 from an art gallery on behalf of
25 an individual purchaser for a private collection, (3) a proposal with a purchase price of \$600,000,
26 also without the 25% deposit and contingent upon the bidder’s identification of funding for the
27 purchase, (4) a proposal with a purchase price of \$350,000, without the 25% deposit, and (5) a
28

1 proposal for the purchase of the Murals and the entire art collection without specifying a purchase
2 price and without the 25% deposit.

3 The Liquidator will appear and seek the Orders requested herein authorizing the sale of the
4 Murals to the Smithsonian on the grounds that the sale of the Murals to the Smithsonian is within
5 the Liquidator's discretion, is geared toward maximizing Golden State's estate value and is in the
6 best interests of Golden State's creditors for the following reasons and other reasons discussed in
7 the application and supporting documents:

8 1. The sale of the Murals to the Smithsonian best complies with the RFP;

9 2. The Smithsonian's proposed purchase price of \$750,000 in total for the two Murals
10 exceeds the liquidation value of the Murals and is equal to the price offered by the other highest
11 priced proposal that complied with the RFP;

12 3. The Smithsonian's size, financial strength and reputation are excellent, thereby
13 providing assurance that the sale will timely close after Court approval;

14 4. The terms of sale are consistent with the historical importance of the Murals, as the
15 Smithsonian intends to display the Murals as signature pieces in its new NMAAHC Museum;

16 5. By selling the Murals to the Smithsonian the Murals will be placed in an optimal
17 environment to ensure the long-term preservation and public display of the Murals;

18 6. Golden State's creditors will benefit from the payment of the \$750,000 purchase
19 price for the Murals in that receipt of the sale's proceeds will increase the money available for
20 distribution to Golden State's creditors in accordance with claim priority set forth in Insurance
21 Code § 1033;

22 7. The other five proposals submitted to the Conservator through the RFP process are
23 not superior to the Smithsonian's proposal. The proposal with a \$1 million purchase price
24 without the required 25% deposit and contingent upon the bidder undertaking a 12-month capital
25 campaign to raise the \$1,000,000 purchase price, did not provide any assurance that the money
26 would be paid and the transaction would be completed, exposing Golden State to the potential of
27 extended delays in monetizing its assets and the potential of wasting Golden State's limited assets
28 if the Liquidator recommends the sale and the sale is not completed. The proposal with a

1 purchase price of \$750,000 from an art gallery is on behalf of a private collector. The proposal
2 with a purchase price of \$600,000, also without the 25% deposit and contingent upon the bidder's
3 identification of funding for the purchase, is less than the \$750,000 offered by the Smithsonian
4 and does not provide any assurance that the purchase price would be paid and the transaction
5 would be completed. Similarly, the proposal with a purchase price of \$350,000, also without the
6 25% deposit, is substantially below the \$750,000 offered by the Smithsonian. Finally, the
7 proposal for the purchase of the Murals and the entire art collection without specifying a purchase
8 price and without the 25% deposit, does not comply with the RFP and does not provide any
9 assurance that the purchase price would be paid and the transaction would be completed;

10 8. Continuing to hold the Murals in hope of getting a better price over time amounts
11 to speculation in the art market, which is inconsistent with prudent management of the assets of
12 Golden State in liquidation; and

13 9. The claim to ownership of the Murals by the building owner, Community Impact
14 Development II, LLC ("CID"), is without merit. As set forth in the Orders requested above, this
15 application requests that the Court confirm that Golden State is the owner of the Murals.

16 This application is based on this Notice, the Memorandum of Points and Authorities, the
17 Evidence and the declarations of David E. Wilson and Michael R. Weiss filed concurrently with
18 this Notice, the pleadings and papers on file in this action, all documents and other evidence
19 submitted in this action, and on such oral and/or documentary evidence and/or arguments which
20 may be presented at the hearing on this application.

21 **Copies of Liquidator's Application and Supporting Evidence and Documents**

22 Copies of the Liquidator's Notice, Memorandum, Evidence and Proposed Order
23 supporting this application can be reviewed and downloaded at the Insurance Commissioner's
24 Conservation & Liquidation Office's website at
25 www.caclo.org/GoldenStateMutual/RFPsSaleApplications. You also can call the Conservation &
26 Liquidation Office's toll-free telephone number 1-877-595-2379, ext. 5016, for assistance and to
27 request that a copy of the application and supporting documents be mailed to you.
28

1 **Response or Opposition to Application**

2 Any response or opposition to this application shall be filed with the Court and served by
3 mail or e-mail to Golden State's attorney Michael R. Weiss, with supporting evidence, on or
4 before March 15, 2011. The Liquidator shall file any replies, with supporting evidence, on or
5 before March 21, 2011. The address for Golden State's attorney Michael R. Weiss for service is:


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14 No action is required on your part if you do not oppose the Liquidator's application to sell
15 the Murals to the Smithsonian.

16 DATE: February 22, 2011

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18 Attorney General of California
19 FELIX LEATHERWOOD
20 W. DEAN FREEMAN
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22 MARTA L. SMITH
23 Deputy Attorney General

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26 By: 
27 MICHAEL R. WEISS
28 Attorneys for Applicant
 INSURANCE COMMISSIONER OF THE
 STATE OF CALIFORNIA