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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. Joanne O'Donnell, Dept. 86

**MEMORANDUM IN SUPPORT OF  
LIQUIDATOR'S APPLICATION TO  
APPROVE LIQUIDATION EXPENSES**

Date: March 25, 2015  
Time: 9:30 a.m.  
Dept: 86

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1 **I. INTRODUCTION.**

2 This application seeks Court approval of the Liquidator’s expenses for the three year  
3 period from January 1, 2012 through December 31, 2014. The Liquidator is the Insurance  
4 Commissioner of the State of California (“Liquidator”) in his statutory capacity as Liquidator of  
5 Golden State Mutual Life Insurance Company (“Golden State”).

6 Golden State was a mutual life insurance company domiciled and existing under the laws  
7 of the State of California. Prior to 2009, Golden State experienced financial difficulties when its  
8 assets and investments proved inadequate to support the reserves it required to meet its  
9 obligations. On September 30, 2009, Los Angeles Superior Court Judge David P. Yaffe  
10 appointed the Insurance Commissioner to serve as Golden State’s Conservator due to Golden  
11 State’s financial impairment. Thereafter, on January 28, 2011, Los Angeles Superior Court Judge  
12 Ann I. Jones terminated the Insurance Commissioner’s status as Conservator and ordered and  
13 appointed the Insurance Commissioner to serve as Golden State’s Liquidator.

14 The Insurance Commissioner was appointed to serve as Golden State’s Liquidator because  
15 Golden State was insolvent in that, as of September 30, 2010, Golden State’s estimated liabilities  
16 exceeded its estimated remaining assets by over \$3.5 million (“Order Appointing Liquidator”).  
17 The Order Appointing Liquidator, among other things, placed Golden State into liquidation,  
18 vested title to Golden State’s assets in the Liquidator, directed the Liquidator to liquidate and  
19 wind up Golden State’s assets, liabilities and business, and provides the Liquidator with broad  
20 discretion and authorities to complete Golden State’s liquidation.

21 Golden State’s liquidation has been complex and challenging. The Liquidator’s staff has  
22 worked diligently to address and resolve the numerous issues presented by Golden State’s  
23 insolvency which necessitated its liquidation. The expenses incurred by the Liquidator necessary  
24 for Golden State’s liquidation for which approval is requested in this Application are the  
25 following:

26 For January 1, 2012 through December 31, 2012:

- 27 1. Ins. Commissioner’s CLO: \$ 429,055.00
- 28 2. Todd Donovan: \$ 40,914.30

1	3.	INS Consultants:	\$ 1,600.00
2	4.	Epstein Turner Weiss:	\$ 441,874.02
3	5.	Wisener Nunnally Gold:	\$ 4,106.51
4	6.	Larson & Rosenberger:	\$ 9,031.85
5	7.	Kane Corporation:	\$ 40,888.25
6	8.	Ervin Cohen & Jessup:	\$ 10,000.00
7	9.	Cooke's Crating:	\$ 1,018.00
8	10.	ART Movers:	\$ 8,928.00
9		Total for 2012:	\$ 987,415.93

10

11 For January 1, 2013 through December 31, 2013:

12	1.	Ins. Commissioner's CLO:	\$ 240,118.00
13	2.	Todd Donovan:	\$ 17,100.00
14	3.	Epstein Turner Weiss:	\$ 224,708.00
15	4.	Wisener Nunnally Gold:	\$ 12,771.00
16	5.	JLK Rosenberger:	\$ 9,000.00
17	6.	Kane Corporation:	\$ 33,711.00
18	7.	Cooke's Crating:	\$ 691.00
19	8.	ART Movers:	\$ 8,114.00
20		Total for 2013:	\$ 546,213.00

21

22 For January 1, 2014 through December 31, 2014:

23	1.	Ins. Commissioner's CLO:	\$ 131,993.35
24	2.	Todd Donovan:	\$ 3,532.50
25	3.	Epstein Turner Weiss:	\$ 60,122.36
26	4.	Wisener Nunnally Gold:	\$ 837.50
27	5.	JLK Rosenberger:	\$ 9,036.61
28	6.	Kane Corporation:	\$ 20,293.75

1	7.	Cooke's Crating:	\$	690.77
2	8.	ART Movers:	\$	4,740.88
3		Total for 2014:	\$	231,247.72
4				

5 A spreadsheet showing the monthly expenses for each consultant for the period 2012  
6 through 2014 is attached as Exhibit 11.

7 Court approval of the above expenses is appropriate because the expenses were necessary  
8 for the liquidation of Golden State, are reasonable for the services performed, and are within the  
9 Liquidator's statutory authority and broad discretion pursuant to the Order of Liquidation,  
10 Insurance Code §§ 1021 and 1037 and case law including *In Re Executive Life Insurance*  
11 *Company* (1995) 32 Cal.App.4th 344, discussed below.

12 Golden State's remaining assets total \$416,607 as of December 31, 2014. The assets  
13 consist of (1) Golden State's remaining real estate currently valued at approximately \$150,000,  
14 (2) Golden State's remaining Art Collection currently valued at \$40,000 with a potential purchase  
15 proposal of \$65,000, and (3) Golden State's remaining cash investments and investment income  
16 currently valued at \$226,607 [ $\$150,000 + \$40,000 + \$226,607 = \$416,607$ ]. The Liquidator has  
17 received an offer from the County of Los Angeles through its Los Angeles County Arts  
18 Commission for the Liquidator to sell Golden State's Art Collection to the County for \$65,000.  
19 The Liquidator anticipates filing an estate closing application after completing the sale of Golden  
20 State's remaining real estate and Art Collection. [Declaration of Scott Pearce ("Pearce Dec."), ¶  
21 33.]

22 Written notice of this application and the requested Orders has been provided to Golden  
23 State's Certificate of Contribution holders, The National Organization of Life and Health  
24 Insurance Guaranty Associations and its attorneys, the Pension Benefit Guaranty Corporation and  
25 Pitney Bowes, Inc. The above described persons and entities are listed on the Proof of Service  
26 filed concurrently herewith. [Declaration of Michael R. Weiss ("Weiss Dec."), ¶ 7; and Proof of  
27 Service.]

1 **II. STANDARD OF REVIEW FOR TRIAL COURT’S APPROVAL OF FEES AND**  
 2 **EXPENSES INCURRED BY INSURANCE COMMISSIONER IN LIQUIDATING**  
 3 **INSURANCE COMPANIES.**

4 The Insurance Commissioner’s Conservation & Liquidation Office (“CLO”) acts to  
 5 rehabilitate, conserve and/or liquidate, under Court supervision, troubled insurance companies  
 6 and enterprises. The CLO operates as a fiduciary for the benefit of claimants, handling the  
 7 property of the troubled companies and enterprises in a prudent, cost-effective, fair, timely and  
 8 expeditious manner. The CLO currently oversees the conservation or liquidation of nineteen (19)  
 9 insurance companies. The CLO’s executives have extensive insurance industry and insurance  
 10 conservation, rehabilitation and liquidation experience. [Pearce Dec., ¶ 2.] Mr. Pearce has over  
 11 25 years of experience in the insurance industry and in the conservation, rehabilitation and  
 12 liquidation of insurance companies and enterprises. [Pearce Dec., ¶ 3.]

13 The Insurance Commissioner exercises the state’s police power with respect to the  
 14 administration of insolvent insurance companies and enterprises. “In exercising this power, the  
 15 Commissioner is vested with broad discretion (*Commercial Nat. Bank v. Superior Court*,  
 16 [(1993)], 14 Cal.App.4<sup>th</sup> [393] at p. 402.) This discretion is subject to statutory limitations (*see id.*  
 17 at p. 409) and the requirement that the exercise of discretion be neither arbitrary nor improperly  
 18 discriminatory. (*Carpenter v. Pacific Mut. Life Ins. Co.*, *supra*, 10 Cal.2d at p. 329.)” [*In re*  
 19 *Executive Life Insurance Company* (1995) 32 Cal.App.4<sup>th</sup> 344, 358.]

20 “This review is not de novo. The trial court reviews the Commissioner’s actions under the  
 21 abuse of discretion standard (*Commercial Nat. Bank v. Superior Court*, [...], 14 Cal.App.4<sup>th</sup> 393,  
 22 398): was the action arbitrary, i.e., unsupported by a rational basis, or is it contrary to specific  
 23 statute, a breach of the fiduciary duty of the conservator as trustee, or improperly discriminatory?  
 24 We also test the action of the trial court by the abuse of discretion standard (See *Baggett v. Gates*  
 25 (1982) 32 Cal.3d 128, 142-143 [185 Cal.Rptr. 232, 649 P.2d 874].)” [*In re Executive Life*  
 26 *Insurance Company*, *supra*, 32 Cal.App.4<sup>th</sup> at 358 (1995) (Emphasis Added).]

27 In *In re Executive Life Insurance Company* (1995) 32 Cal.App.4<sup>th</sup> 344, 399-403, the trial  
 28 court approved more than \$60 million in fees to attorneys and other professionals for services

1 performed at the direction of the Insurance Commissioner as liquidator of Executive Life  
2 Insurance Company. [*Id.*, at p. 399-403.] The Court of Appeal affirmed the trial court’s approval  
3 of the fees and expenses, holding that the Insurance Commissioner had supplied the trial court  
4 with “adequate information” for the trial court to evaluate and confirm that the Insurance  
5 Commissioner had performed his duty to determine that the fees and expenses were proper and  
6 rendered to protect the insurer’s estate, policyholders and creditors. [*Id.*] The information  
7 provided to the trial court in *Executive Life* was the following:

- 8 1. Declarations reciting that detailed timekeeping and invoices seeking payment were  
9 received and carefully reviewed by the liquidator’s staff and the proposed payments were  
10 reasonable and necessary for the rehabilitation of Executive Life and in its best interests,
- 11 2. Brief descriptions of the services performed by each of the professionals seeking  
12 payment,
- 13 3. A sample of original invoices permitting the court to test the accuracy of the  
14 declarations, and
- 15 4. A description of the tasks performed, time spent and amount billed for each person  
16 for each day. [*Id.*]

17 Specifically, the Court of Appeal stated:

18 The power of the Commissioner to employ professionals and to pay them  
19 for their services is found in section 1064.2, subdivision (c). A related power,  
20 exercised through the Attorney General, is to be found in section 1036. Both  
21 sections require “approval” by the trial court of fees which the Commissioner  
22 proposes to pay.

23 “Approval,” as opposed to the “award” language more common in fee-  
24 shifting statutes, connotes an initial discretion in the Commissioner to determine  
25 whether fees billed are proper. The Commissioner is the public officer designated  
26 as the steward for the funds of the insolvent insurer whose estate he or she  
27 administers. The Commissioner’s initial determination necessarily requires  
28 adequately detailed information describing the work performed, by whom it was  
performed, the time spent and when it was spent, and the rate and amount billed,  
unless an approved contract of employment specifies a different basis of  
compensation. [Citation.] The Commissioner should possess sufficient  
information to be able to determine from the billings any excessive or duplicative  
charges, and seek clarification and correction where appropriate. Where  
compensation is on other than an hourly basis, the Commissioner must possess  
adequate information to determine that the terms of the engagement were satisfied.



1 To obtain court approval for payment of the fees deemed appropriate, the  
 2 Commissioner must supply the court with adequate information to permit  
 3 intelligent evaluation of the basis for the Commissioner's determination. The court  
 4 must be satisfied that the Commissioner has performed his duty to protect the  
 5 interests of the estate. It is not required by statute, nor is it practical, for the court  
 6 to undertake a detailed review of the invoices before approving payment. The  
 7 Commissioner must, however, be ready to provide whatever documentation the  
 8 court may find necessary in determining the propriety of the Commissioner's  
 9 request that payment be approved.

10 These standards were met in this case. The Commissioner's motions for  
 11 approval of fees were accompanied by declarations from employees of [Executive  
 12 Life] or from the Commissioner's special counsel. These declarations recite that  
 13 "extremely detailed" invoices seeking payment for legal or other professional  
 14 services were received and carefully reviewed in their detail by the  
 15 Commissioner's staff. They recite that the proposed payments to the professional  
 16 firms "are reasonable and necessary for the rehabilitation" and are in the best  
 17 interests of [Executive Life]. Also attached to the motions were brief descriptions  
 18 of the services performed by each of the professionals seeking payment.

19 The court had other substantial evidence that supplemented and  
 20 corroborated these declarations. At the court's request, the Commissioner supplied  
 21 under seal for the court's inspection a sample of original invoices from its lead  
 22 counsel, Rubinstein & Perry, thus permitting the court to test the accuracy of the  
 23 declarations based upon them. These invoices cover the months of March, May  
 24 and July, 1992. They include a description of the tasks performed, the time spent,  
 25 and the amount billed for each attorney or legal assistant for each day. These  
 26 invoices, which appear to be representative of the billing practices utilized in this  
 27 case, provide a substantial basis for the court to believe the Commissioner was  
 28 receiving adequate information upon which to exercise his discretion regarding  
 payment to professionals for services rendered. [*Id.*, at p. 399-403.]

19 **III. THE LIQUIDATOR HAS PROVIDED "ADEQUATE INFORMATION TO**  
 20 **PERMIT INTELLIGENT EVALUATION" OF THE EXPENSES.**

21 **A. Overview Of Golden State's Liquidation.**

22 Golden State's conservation and liquidation have been complex and challenging, and the  
 23 Liquidator's staff has worked diligently to address and resolve the numerous issues presented by  
 24 Golden State's severe financial impairment and hazardous operating condition which necessitated  
 25 its conservation and liquidation. The liquidation of Golden State was no simple or uncontested  
 26 matter and, instead, required the services of sophisticated and experienced professionals for which  
 27 approval of the expenses for their services is herein requested. To that end, a team of experienced  
 28 professionals, clerks and assistants were assembled to address the issues unique to Golden State

1 including CLO staff, Joe Holloway who was employed by INS Consultants, Todd Donovan,  
 2 attorneys Michael R. Weiss of Epstein Turner Weiss and Robert Nunnally of Wisener Nunnally  
 3 Gold, accounting and financial consultants Larson & Rosenberger, and real estate attorneys Ervin  
 4 Cohen & Jessup, and real estate consultant Peter Kane of Kane Corporation. [Pearce Dec., ¶ 6.]

5 On January 28, 2011, the Court terminated the Insurance Commissioner's status as  
 6 Conservator and ordered and appointed the Insurance Commissioner to serve as Golden State's  
 7 Liquidator. The Insurance Commissioner was appointed to serve as Golden State's Liquidator  
 8 because Golden State was insolvent in that, as of September 30, 2010, Golden State's estimated  
 9 liabilities of \$9,291,895 exceeded its estimated remaining assets of \$5,721,154 by over \$3.5  
 10 million. The Order of Liquidation vests title to Golden State's assets in the Liquidator, directs the  
 11 Liquidator to liquidate and wind up the business of Golden State, and authorizes the Liquidator to  
 12 sell, transfer or otherwise dispose of Golden State's property at its reasonable market value.  
 13 [Pearce Dec., ¶ 9; Order Appointing Liquidator, ¶ 32, Exhibit 1; see also Insurance Code §  
 14 1037(d).]

15 As a result of the work performed by the Liquidator's staff, the Liquidator successfully (1)  
 16 transferred Golden State's 120,000 policies with over \$71 million in reserve liability to a  
 17 financially solvent insurer, IA American Life Insurance Company, at no loss or coverage  
 18 reduction to policyholders, (2) secured insurance guarantee coverage for those policyholders and  
 19 disabled persons not transferred to the solvent insurer, (3) maintained pension plan benefits and  
 20 provided employment transition assistance for Golden State's employees, (4) protected Golden  
 21 State's core assets, (5) resolved lawsuits and claims against the company, (6) wound-down the  
 22 company's extensive multi-state operations and liabilities, and (7) completed many other actions  
 23 essential to Golden State's liquidation in a relatively short period of time. Absent the successful  
 24 transfer of Golden State's policies to a financially solvent insurer, the majority of the 120,000  
 25 policies would have been subject to the statutory benefit limitations and reductions imposed by  
 26 state insurance guaranty associations, including the requirement that policy benefit payments be  
 27 limited to "eighty percent" of benefits (i.e., 20% loss of benefits) under California Guaranty Act  
 28 and Insurance Code § 1067.02(c). Similarly, without securing the insurance guarantee coverage

1 for those policyholders and disabled persons that were not transferred to the solvent insurer, their  
2 policies and disability benefits would likely remain unpaid indefinitely due to the severity of  
3 Golden State’s insolvency. [Pearce Dec., ¶ 10.]

4 The Liquidator’s work and efforts over the past 5 years and three months has substantially  
5 reduced or resolved many of the liabilities the estate faced. The current liability to insurance  
6 guarantee associations for assuming non-transferred policy obligations and the liability to the  
7 Pension Benefit Guarantee Corporation (“PBGC”) for assuming Golden State’s substantial pre-  
8 conservation un-funded pension obligations are estimated to be at least \$1,664,205 and at least  
9 \$5,124,832, respectively. The majority of these liabilities continue today because (1) the liability  
10 to state guarantee associations remains a valid claim and is due to their statutory obligation to pay  
11 the coverage benefits owed under Golden State’s non-assumed policies and (2) the unfunded  
12 employee pension liability existed prior to conservation as a result of Golden State not fully  
13 paying its pension fund obligations. Such liabilities are Priority Class 2 and Priority Class 7  
14 liabilities, which are priority classes which must be paid in full before the payment of any claims  
15 by Certificate of Contribution holders who are a Priority Class 8 liability under Insurance Code §  
16 1033. [Pearce Dec., ¶ 11.]

17 Winding up the company’s assets, liabilities and business operations, transferring the  
18 policies, reducing liabilities, resolving litigation and the many other actions, all require expenses.  
19 Over 25 applications seeking court approval of all major actions taken by the Liquidator have  
20 been filed with the Court, nearly all of which were approved. The rates and expenses charged by  
21 the consultants listed in this Application for the services they provided were reasonable,  
22 necessary, and at or below market for professionals with their experience levels and for the duties,  
23 responsibilities and accomplishments undertaken and completed. The Liquidator’s actions and  
24 the proposed payments sought for approval in this Application were reasonable and necessary for  
25 Golden State’s liquidation, are reasonable for the services performed and were rendered in the  
26 best interests of Golden State’s estate. [Pearce Dec., ¶¶ 12-13.]  
27  
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1           **B. Descriptions Of The Services Performed By The Consultants At Issue.**

2           The consultants at issue in this application submitted invoices and documentation detailing  
3 the services and work performed for Golden State and its Liquidator. Upon receipt of the  
4 invoices and documentation, Senior Estate Trust Officer Scott Pearce from the Insurance  
5 Commissioner's Conservation & Liquidation Office ("CLO") and his staff carefully reviewed the  
6 documentation and where appropriate discussed the documentation with the consultants,  
7 requested additional information and documentation, compared the services and tasks performed  
8 by the consultants with his own understanding and first-hand knowledge of the work performed  
9 by the consultants, reviewed the timekeeping and invoices for accuracy, and sought clarification  
10 and/or correction where deemed appropriate. [Pearce Dec., ¶ 13.]

11           Mr. Pearce and his staff worked directly with each of the consultants, who had work plans,  
12 deadlines and deliverables. Mr. Pearce and his staff reviewed the services and deliverables  
13 provided by these consultants, and ensured that the essential services, reports and studies were  
14 satisfactorily performed and delivered on time. As such, Mr. Pearce is readily familiar with and  
15 authorized the work performed by these consultants. [Pearce Dec., ¶ 14.]

16           Based on his review of the work performed and work product delivered to Golden State  
17 and his personal knowledge of the essential services and tasks performed by the consultants, Mr.  
18 Pearce confirms in his declaration submitted with this Application that the proposed payments  
19 sought for approval by this Application were reasonable and necessary for Golden State's  
20 conservation and liquidation, and were rendered in the best interests of Golden State's estate.  
21 [Pearce Dec., ¶¶ 13-14.] The services performed by each of the consultants are described below  
22 and set forth in Mr. Pearce's Declaration, ¶¶ 15-24.

23           1.       Conservation & Liquidation Office ("CLO"): The CLO is an administrative  
24 service entity created by the Insurance Commissioner to administer the estates of insurers  
25 undergoing conservation or liquidation in California. Upon obtaining a conservation or  
26 liquidation order, the Insurance Commissioner generally delegates his statutory administrative  
27 duties over the insurer to the CLO and/or to special deputy insurance commissioners, pursuant to  
28 Insurance Code § 1035. The CLO's administrative expenses are allocated to each conservation or

1 liquidation estate it manages on a pro rata basis ("Allocated Expenses"). Allocated Expenses are  
 2 non-estate specific expenses and include office supplies, rent, utilities and other occupancy  
 3 expenses as well as salaries and benefits for CLO and CAB employees. The portion of Allocated  
 4 Expenses charged to each estate is determined by the amount of time CLO employees worked on  
 5 estate matters. For example, if total estate hours for a particular month is 4,000 hours, and 200 of  
 6 those are attributed to Golden State, the CLO would charge Golden State's estate 5% (or  
 7 200/4,000) of the Allocated Expenses for that month. Allocated Expenses also include the CAB's  
 8 administrative expenses, which are based on hours billed by the CAB's legal staff and the pass-  
 9 through billings associated with work performed by the Attorney General's Office. [Pearce Dec.,  
 10 ¶ 15.]

11 2. Todd Donovan: Todd Donovan was the full-time operations assistant to the  
 12 Liquidator. Mr. Donovan provided full-time and then part-time services to the Liquidator for the  
 13 day-to-day management of Golden State's operations and liquidation, prepared and distributed  
 14 complex information packages to the Liquidator and his staff, developed and maintained reporting  
 15 metrics for management, managed vital policy system/data clean-up efforts including removal of  
 16 numerous terminated policies and duplicative policy entries thereby properly correcting Golden  
 17 State's policy coverage liability by reducing improper system/data errors by over \$2 million,  
 18 assisted with successfully shutting down operations, prepared the final economic true up and  
 19 release of liabilities with IA American, assisted with the transition of Golden State's unfunded  
 20 pension liability and ongoing plan administration to the PBGC, and successfully transitioned  
 21 Golden State's Group Life certificate holder liability and Long Term Disability liability to the  
 22 applicable insurance guarantee associations. Memoranda and invoices prepared by Mr. Donovan  
 23 and attached as Exhibit 2 hereto details the services and tasks performed by Mr. Donovan for the  
 24 period January 1, 2012 through December 31, 2014. [Pearce Dec., ¶ 16; and Memoranda and  
 25 Invoices showing services and tasks performed, Exhibit 2.]

26 3. INS Consultants: INS Consultants provided estate liquidation and operations  
 27 closing services to the Liquidator for the day-to-day management of Golden State's operations  
 28 and liquidation, including Joe Holloway who served as the Liquidator's former on-site supervisor

1 and managed Golden State's operations in conservation. During 2012, Mr. Holloway provided  
 2 limited services to the Liquidator totaling only \$1,600. An invoice prepared by Mr. Holloway for  
 3 the services performed for the period January 1, 2012 through December 31, 2012 is attached as  
 4 Exhibit 4 hereto. [Pearce Dec., ¶ 17; and Invoice, Exhibit 3.]

5 4. Epstein Turner Weiss: Epstein Turner Weiss is a law firm that provided legal  
 6 services to the Liquidator and his staff including providing advice concerning insurance  
 7 conservation and liquidation, rehabilitation, reinsurance, policy termination, asset liquidation,  
 8 employment termination, litigations including the matter *Community Impact Development II, LLC*  
 9 (*"CID"*) v. *Golden State Mutual Life Insurance Company*, Los Angeles Superior Court Case No.  
 10 BC462745, real estate, re-negotiation of lease terms and terminations, Golden State's retirement  
 11 plan and PBGC issues, private sector employment and employment discrimination claims and  
 12 litigation matters, the sale of Golden State's book of insurance business, corporate governance,  
 13 and other issues and matters pertaining to Golden State. [Pearce Dec., ¶ 18; and Invoices showing  
 14 services and tasks performed for a four-month above-average sample period, Exhibit 4; and Weiss  
 15 Dec., ¶¶ 5-6.]

16 5. Wisener Nunnally Gold: Wisener Nunnally Gold is a law firm that provided legal  
 17 services including assisting with negotiating the sale of the Golden State's insurance policies and  
 18 annuity contracts and drafting the agreements for said sale, transfer of historical materials to  
 19 UCLA Library, and additional related matters. [Pearce Dec., ¶ 19; Invoices showing services and  
 20 tasks performed, Exhibit 5; and Declaration of Robert H. Nunnally, Jr., ¶¶ 12-15.]

21 6. Larson & Rosenberger / JLK Rosenberger: Larson & Rosenberger / JLK  
 22 Rosenberger is a Certified Public Accounting firm that provided financial audits, tax liability  
 23 consulting and tax return preparation for a number of years prior to the conservation and was  
 24 retained by the Liquidator under essentially the same terms to continue providing professional  
 25 accounting and tax services to the Golden State estate. Larson & Rosenberger changed its name  
 26 to JLK Rosenberger in 2013. At the time of Conservation in late 2009, Golden State had not  
 27 completed its annual financial audit for 2008. Under the direction of the Liquidator's staff,  
 28 Larson & Rosenberger completed financial audits and statutory financial statements. The audits

1 and statements were required by law and were vital to the evaluation of Golden State's financial  
2 sustainability and business capabilities. The services were provided on a fee basis, and not an  
3 hourly basis. Invoices for the services performed by Larson & Rosenberger which specify the  
4 services to be performed and the compensation for performance are attached as Exhibit 6 hereto.  
5 [Pearce Dec., ¶ 20; and Invoices, Exhibit 6.]

6 7. Kane Corporation: Kane Corporation provided mortgage loan marketing services  
7 and commercial real estate consulting services to the Liquidator regarding Golden State's  
8 commercial mortgage loan portfolio and office buildings, marketed and solicited Golden States  
9 commercial mortgage loan portfolio in an effort to maximize its value, assisted with the sale of  
10 two foreclosed loans, inspected each district office, evaluated and interviewed local real estate  
11 brokers to develop an asset disposition plan, and continues to assist in the disposition of  
12 remaining real estate assets. [Pearce Dec., ¶ 21; Invoices showing services and tasks performed  
13 for a four-month above-average sample period, Exhibit 7; and Declaration of Peter Kane, ¶¶ 4-5.]

14 8. Ervin Cohen & Jessup: Ervin Cohen & Jessup is a law firm that provided legal  
15 services to the Liquidator and his staff including providing expert testimony and advice  
16 concerning real estate sales transactions and documentation, real estate leasing, the relationship of  
17 personalty and real estate chain of title, the customs and practices regarding the duty of inquiry  
18 imposed upon a purchaser of commercial real estate, and the custom and practice in the real estate  
19 transaction industry and the commercial leasing industry with regard to personalty of the tenant  
20 and fixture determinations. [Pearce Dec., ¶ 22; and Invoice documents, Exhibit 8.]

21 9. Cooke's Crating: Cooke's Crating provided fine art packing, removal and  
22 transporting for Golden State's fine art collection, historical matters and records, which were  
23 necessary to properly package, remove and transport these items. [Pearce Dec., ¶ 23; and  
24 Invoices showing services and tasks performed, Exhibit 9.]

25 10. ART Movers: ART Movers provided fine art storage for Golden State's fine art  
26 collection, historical matters and records. [Pearce Dec., ¶ 24; and Invoices showing services and  
27 tasks performed, Exhibit 10.]  
28

1           **C.     Year By Year Detail Of Work Performed And Fees And Expenses Incurred.**

2           To detail the Liquidator's expenses for the three year period from January 1, 2012 through  
 3 December 31, 2014, the Liquidator has divided the time period at issue by year – 2012, 2013 and  
 4 2014. [Pearce Dec., ¶ 25.] Sections 1, 2 and 3 below provide a detailed summary of the work  
 5 performed by the Liquidator's staff during the years 2012, 2013 and 2014, and provides the  
 6 names, hourly rates, total expenses incurred and brief scope of work for each consultant hired to  
 7 assist the Liquidator at issue here. Section D below provides a summary of the Declaration from  
 8 the Insurance Commissioner's Senior Estate Trust Officer Scott Pearce, reciting that detailed  
 9 timekeeping and/or invoices seeking payment were received and carefully reviewed by Mr.  
 10 Pearce and the Liquidator's staff, that the proposed payments to consultants were reasonable and  
 11 necessary to properly conduct Golden State's liquidation, and that the work performed and  
 12 expenses incurred were in the best interests of Golden State. Section E provides a summary of  
 13 the Liquidator's reduction in Golden State's expenses from their peak in 2009 through December  
 14 31, 2014.

15                   **1.     2012 - Work Performed and Fees/Expenses Incurred.**

16           The Liquidator's primary objectives in 2012 were to prepare Golden State's commercial  
 17 real estate properties for sale, monetize Golden State's assets, defend against litigation asserting  
 18 adverse claims of ownership of Golden State's historical murals, resolve non-assumed policy  
 19 liabilities, and continue to wind up Golden State's business and affairs. [Pearce Dec., ¶ 26.]  
 20 From January 1, 2012 through December 31, 2012, the Liquidator's staff performed the following  
 21 necessary and significant work, in addition to additional routine work performed on a daily basis:

- 22           1.     Prepared, responded to requests for information, and completed the final financial  
 23           "True Up" and reconciliation of the assumption reinsurance transaction between  
 24           Golden State and solvent insurer IA American Life Insurance Company. This  
 25           reinsurance transaction resulted in the successful transfer to IA American of  
 26           Golden State's 120,000 policies and annuity contracts (a substantial benefit to the  
 27           policyholders) amounting to approximately \$71 million in reserve liability and  
 28           certain of Golden State's assets totaling approximately \$60 million including



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Golden State’s commercial mortgage portfolio, bond portfolio, stock portfolio and other assets. Without this assumption transaction, many of the 120,000 insurance policies would have been subject to the benefit limitations and reductions required by state insurance guaranty associations, including the “eighty percent” policy payment limitation (i.e., 20% policy reduction) under California Insurance Code § 1067.02(c). [Pearce Dec., ¶ 26(a).]

- 2. Investigated and responded to weekly data and records requests from IA American, and investigated and responded to numerous weekly policy and claim related inquires. [Pearce Dec., ¶ 26(b).]
- 3. Further negotiated and reached agreement with the National Organization of Life and Health Insurance Guaranty Associations (“NOLHGA”) through which NOLGHA agreed to provide life, health and long-term disability coverage to Golden State’s group life certificate holders, long-term disability claimants, and non-assumed policy liability. Pre-conservation Golden State management and executive staff did not establish or maintain proper reserves for this insurance coverage liability, exposing Golden State to approximately \$1,664,205 in un-reserved, un-secured coverage liabilities. Without NOLHGA’s coverage for these policies, Golden State’s insureds would have lost their coverage and not received any benefits. As a result of NOLGHA’s assumption of the coverage liabilities, NOLHGA has a Priority Class 2 claim against Golden State’s remaining assets of at least \$1,664,205. [Pearce Dec., ¶ 26(c).]
- 4. Successfully applied for and received Court approval for the policy assumption agreement with NOLHGA including approval of negotiated claim handling agreements, rate tables and issuance of alternative policies to Golden State’s health and long-term disability insureds. [Pearce Dec., ¶ 26(d).]
- 5. Successfully reduced Priority Class 2 liabilities against Golden State’s remaining assets by approximately \$548,000 due to refining NOLHGA’s coverage of Golden

1 State's un-reserved long-term disability and group life insurance policies. [Pearce  
2 Dec., ¶ 26(e).]

- 3 6. Defended against complex and fact intensive litigation asserting adverse claims of  
4 ownership of Golden State's two historical murals in the lawsuit *Community*  
5 *Impact Development II, LLC ("CID") v. Golden State Mutual Life Insurance*  
6 *Company*, Los Angeles Superior Court Case No. BC462745. The two murals are  
7 (1) "*The Negro in California History: Exploration and Colonization*" by Charles  
8 Alston and (2) "*The Negro in California History: Settlement & Development*" by  
9 Hale Woodruff (collectively, "Murals"). The Murals are painted on canvas and  
10 depict the contributions of African Americans to California's history. The first  
11 mural depicts the years 1527 to 1850, and the second depicts the years 1850 to  
12 1949. Extensive discovery, expert discovery, law and motion, and cross-motions  
13 for summary judgment occurred in 2012. [Pearce Dec., ¶ 26(f).]
- 14 7. Marketed for sale all of Golden State's real property assets which were formerly  
15 used by Golden State for its district offices. [Pearce Dec., ¶ 26(g).]
- 16 8. Successfully sold and received Court approval for the sale of four of Golden  
17 State's real property formerly used for Golden State's now-closed district offices.  
18 The four properties sold are the properties located in Dallas Texas, Detroit  
19 Michigan, Winston-Salem North Carolina, and Houston Texas. [Pearce Dec., ¶  
20 26(h).]
- 21 9. Evaluate Golden State reinsurance policies, claims and assignment to the  
22 California Life & Health Insurance Guaranty Association for reimbursement of  
23 insurance guaranty association claim payments for Golden State's insureds.  
24 [Pearce Dec., ¶ 26(i).]
- 25 10. Evaluate creditor claims against Golden State, and respond to claims, requests for  
26 information and threatened actions against assets in violation of Order of  
27 Liquidation. [Pearce Dec., ¶ 26(j).]
- 28

- 1           11.     Filed appeal of Court’s initial denial of Liquidator’s application to approve certain
- 2                     conservation and liquidation expenses, preparation and submission to the Court of
- 3                     information and documents in support of expenses, and responded to expense
- 4                     inquiries, discovery demands, motions concerning discovery and objections.
- 5                     [Pearce Dec., ¶ 26(k).]
- 6           12.     Organized and transferred historical, archival materials and documents to UCLA
- 7                     Library. [Pearce Dec., ¶ 26(l).]
- 8           13.     Successfully negotiated and entered into an agreement for the loan of a significant
- 9                     portion of Golden State’s art collection to the California African American
- 10                    Museum for display as part of a continuing city-wide art exhibition. [Pearce Dec.,
- 11                    ¶ 26(m).]
- 12           14.     Continually evaluated and responded to myriad community and special interest
- 13                    concerns regarding Golden State and its policyholders, historical significance,
- 14                    historical materials and art collection including the removable murals. [Pearce
- 15                    Dec., ¶ 26(n).]
- 16           15.     Filed numerous applications with the Court for approval of administrative actions
- 17                    including applications for approval of sales of Golden State’s real property, the
- 18                    liquidation of Golden State, continuation of the proof of claim deadline,
- 19                    settlements of claims and lawsuits against Golden State, and other actions. [Pearce
- 20                    Dec., ¶ 26(o).]

21           To complete the work described above and many additional assignments, the Liquidator

22 incurred \$987,415.93 in fees and expenses in 2012. The following shows the fees and expenses

23 incurred to the consultants/vendors listed in this Application who provided services in 2012, at

24 their hourly rates and the total for 2012.

<u>Consultant</u>	<u>Hourly Rates</u>	<u>Total 2012</u>	<u>Scope of Work</u>
27 Ins. Commissioner’s CLO:	\$146-210	\$ 429,055.00	Liquidator’s staff
28 Todd Donovan:	\$90	\$ 40,914.30	Management, consulting

1	INS Consultants:	\$160	\$ 1,600.00	Management, operations
2	Epstein Turner Weiss:	\$200-295	\$ 441,874.02	Legal services
3	Wisener Nunnally Gold:	\$250	\$ 4,106.51	Legal services
4	Larson & Rosenberger:	Fee based	\$ 9,031.85	Financial, accounting
5	Kane Corporation:	\$149-250	\$ 40,888.25	Real estate services
6	Ervin Cohen & Jessup:	Fee based	\$ 10,000.00	
7	Cooke's Crating:	Fee based	\$ 1,018.00	Art collection storage services
8	ART Movers:	Fee based	<u>\$ 8,928.00</u>	Art collection moving services
9	Total for 2012:		\$ 987,415.93	

10 [Pearce Dec., ¶ 27.]

11

12 **2. 2013 - Work Performed and Fees/Expenses Incurred.**

13 The Liquidator's primary objectives in 2013 were to prepare Golden State's commercial  
14 real estate properties for sale, monetize Golden State's assets, defend against litigation asserting  
15 adverse claims of ownership of Golden State's historical murals, resolve non-assumed policy  
16 liabilities, and continue to wind up Golden State's assets, liabilities, business and remaining  
17 affairs. From January 1, 2013 through December 31, 2013, the Liquidator's staff performed the  
18 following necessary and significant work, in addition to additional routine work performed on a  
19 daily basis:

- 20 1. Marketed for sale Golden State's remaining real property assets which were  
21 formerly used by Golden State for its district offices. [Pearce Dec., ¶ 28(a).]
- 22 2. Successfully sold and received Court approval for the sale of two of Golden State's  
23 real property formerly used for Golden State's now-closed district offices. [Pearce  
24 Dec., ¶ 28(b).]
- 25 3. Continued to defend and prosecute cross-claims concerning the ownership of  
26 Golden State's two historical murals in the lawsuit *Community Impact*  
27 *Development II, LLC ("CID") v. Golden State Mutual Life Insurance Company*,  
28 including completed discovery and expert depositions, prepared for trial,

1 participated in two mediation sessions and participated in a mandatory settlement  
2 conference. The case was resolved in October 2013 two weeks before trial in a  
3 Court mediated settlement, and Liquidation Court approval of the settlement was  
4 received on December 6, 2013. [Pearce Dec., ¶ 28(c).]

- 5 4. Applied for and received Liquidation Court approval of the settlement of the mural  
6 lawsuit *CID v. Golden State* on December 6, 2013. [Pearce Dec., ¶ 28(d).]
- 7 5. Evaluated creditor and third party claims against Golden State, respond to claims  
8 and requests for information, oppose non-complying late filed claims. [Pearce  
9 Dec., ¶ 28(e).]
- 10 6. Evaluate, respond and resolve unemployment claims, workers' compensation  
11 claims, insurance tax claims and real property tax claims against Golden State;  
12 prepare lien releases re same. [Pearce Dec., ¶ 28(f).]
- 13 7. Prepared appeal and appellate motion of Court's initial denial of Liquidator's  
14 application to approve certain conservation and liquidation expenses, preparation  
15 and submission to the Court of information and documents in support of expenses,  
16 and responded to expense inquiries, discovery demands, motions concerning  
17 discovery and objections. [Pearce Dec., ¶ 28(g).]
- 18 8. Prepared and evaluated additional information, court applications and oppositions  
19 to Liquidator's expense applications. [Pearce Dec., ¶ 28(h).]
- 20 9. Evaluate and respond to offers to purchase Golden State's assets including art  
21 collection, individual artworks and real estate. [Pearce Dec., ¶ 28(i).]
- 22 10. Organized and evaluated historical, archival materials and documents for transfer  
23 to UCLA Library. [Pearce Dec., ¶ 28(j).]
- 24 11. Coordinate removal and disposal of remaining items at company's former home  
25 offices. [Pearce Dec., ¶ 28(k).]
- 26 12. Successfully negotiated and entered into an agreement for the extension of the loan  
27 of a significant portion of Golden State's art collection to the California African  
28

1 American Museum for display as part of a continuing city-wide art exhibition.  
 2 [Pearce Dec., ¶ 28(1).]

3 13. Filed additional applications with the Court for approval of administrative actions  
 4 including applications for approval of sales of Golden State’s real property,  
 5 continuation of the proof of claim deadline, and other actions. [Pearce Dec., ¶  
 6 28(m).]

7 To complete the work described above and many additional assignments, the Liquidator  
 8 incurred \$546,213.00 in fees and expenses in 2013. The following shows the fees and expenses  
 9 incurred to the consultants/vendors listed in this Application who provided services in 2013, at  
 10 their hourly rates and the total for 2013.

12 <u>Consultant</u>	<u>Hourly Rates</u>	<u>Total 2013</u>	<u>Scope of Work</u>
13 Ins. Commissioner’s CLO:	\$166-215	\$ 240,118.00	Liquidator’s staff
14 Todd Donovan:	\$90	\$ 17,100.00	Management, consulting
15 Epstein Turner Weiss:	\$200-295	\$ 224,708.00	Legal services
16 Wisener Nunnally Gold:	\$250	\$ 12,771.00	Legal services
17 JLK Rosenberger:	Fee based	\$ 9,000.00	Financial, accounting
18 Kane Corporation:	\$149-250	\$ 33,711.00	Real estate services
19 Cooke’s Crating:	Fee Based	\$ 691.00	Art collection storage services
20 ART Movers:	Fee Based	<u>\$ 8,114.00</u>	Art collection moving services
21 Total for 2013:		\$ 546,213.00	

22 [Pearce Dec., ¶ 29.]

23

24 **3. 2014 - Work Performed and Fees/Expenses Incurred.**

25 The Liquidator’s primary objectives in 2014 were to continue to wind up Golden State’s  
 26 assets, liabilities, business and remaining affairs. From January 1, 2014 through December 31,  
 27 2014, the Liquidator’s staff performed the following necessary and significant work, in addition  
 28 to additional routine work performed on a daily basis:

- 1           1.       Marketed for sale Golden State’s remaining real property assets which were  
2                       formerly used by Golden State for its district offices. [Pearce Dec., ¶ 30(a).]
- 3           2.       Evaluated property tax status of real property assets, expense analyses, and  
4                       strategy re potential turnover of assets. [Pearce Dec., ¶ 30(b).]
- 5           3.       Continued with agreement for the loan of a significant portion of Golden State’s  
6                       art collection to the California African American Museum for display as part of a  
7                       continuing city-wide art exhibition. [Pearce Dec., ¶ 30(c).]
- 8           4.       Evaluate and respond to offers to purchase Golden State’s assets including art  
9                       collection, individual artworks and real estate; prepare purchase documents;  
10                      meetings with potential purchasers; evaluations of purchase criteria and proposals;  
11                      and viewings of artworks. [Pearce Dec., ¶ 30(d).]
- 12          5.       Evaluated creditor and third party claims against Golden State, respond to claims  
13                      and requests for information, oppose non-complying late filed claims. [Pearce  
14                      Dec., ¶ 30(e).]
- 15          6.       Finalize settlement and settlement payment concerning the lawsuit *CID v. Golden*  
16                      *State*. [Pearce Dec., ¶ 30(f).]
- 17          7.       Organized and evaluated historical, archival materials and documents for transfer  
18                      to UCLA Library, coordinated transfer. [Pearce Dec., ¶ 30(g).]
- 19          8.       Evaluate and respond real property tax claims against Golden State. [Pearce Dec.,  
20                      ¶ 30(h).]
- 21          9.       Prepared and evaluated additional information, court applications and oppositions  
22                      to Liquidator’s expense applications. [Pearce Dec., ¶ 30(i).]
- 23          10.       Evaluated proof of claims process, prepared court application for Court approval  
24                      of administrative actions including proof of claims process, liquidation of Golden  
25                      State, and other actions. [Pearce Dec., ¶ 30(j).]

26           To complete the work described above and many additional assignments, the Liquidator  
27           incurred \$231,247.72 in fees and expenses in 2014. The following shows the fees and expenses  
28

1 incurred to the consultants/vendors listed in this Application who provided services in 2014, at  
2 their hourly rates and the total for 2014.

<u>Consultant</u>	<u>Hourly Rates</u>	<u>Total 2014</u>	<u>Scope of Work</u>
3			
4 Ins. Commissioner's CLO:	\$184-279	\$ 131,993.35	Liquidator's staff
5 Todd Donovan:	\$90	\$ 3,532.50	Management, consulting
6 Epstein Turner Weiss:	\$200-295	\$ 60,122.36	Legal services
7 Wisener Nunnally Gold:	\$250	\$ 837.50	Legal services
8 JLK Rosenberger:	Fee based	\$ 9,036.61	Financial, accounting
9 Kane Corporation:	\$149-250	\$ 20,293.75	Real estate services
10 Cooke's Crating:	Fee Based	\$ 690.77	Art collection storage services
11 ART Movers:	Fee Based	<u>\$ 4,740.88</u>	Art collection moving services
12			
13 Total for 2014:		\$ 231,247.72	

14 [Pearce Dec., ¶ 31.]

15

16 **D. Declaration Confirming The Expenses Are Proper.**

17 As declared by the Insurance Commissioner's Senior Estate Trust Officer Mr. Pearce, the  
18 Liquidator and his staff received detailed timekeeping and/or invoices from each of its consultants  
19 and service providers at issue here for the work performed, carefully reviewed the charges and  
20 where appropriate sought clarification and correction. Mr. Pearce also has declared that the  
21 proposed payments sought for approval were reasonable and necessary for Golden State's  
22 liquidation, and were rendered in the best interests of the Golden State Estate. Further, as part of  
23 his declaration, Mr. Pearce summarized the services performed by each of the consultants at issue  
24 here and has attached a spreadsheet detailing the hourly rates or payment basis for the consultants,  
25 the total amounts incurred for each of the years 2012, 2013 and 2014, and a short summary of the  
26 services performed. [Pearce Dec., ¶¶ 6-31.]



1           **E. Expenses from 2007 through December 2014 Show Significant Expense**  
 2           **Reductions during Conservation and Liquidation.**

3           Prior to conservation, Golden State’s general expenses greatly increased in 2009 over  
 4 years 2007 and 2008, increasing to \$13,457,390 in 2009. After 2009, the Insurance  
 5 Commissioner – first as Conservator and then as Liquidator – reduced Golden State’s general  
 6 expenses for 2010 by nearly \$3 million and reduced general expenses for 2011 by another \$9  
 7 million to \$1,617,845. Thereafter, general expenses in 2012, 2013 and 2014 were reduced further.  
 8 For year 2014, general expenses were limited to \$231,247.72. The table below shows Golden  
 9 State’s expenses for 2007 through 2014.

10 <u>Year</u>	11 <u>General Expenses</u>	12 <u>Taxes, Licenses, Fees</u> 13 <u>(excludes federal income tax)</u>	14 <u>Total</u>
15 2007	\$ 8,820,497	\$ 936,927	\$ 9,757,424
16 2008	\$ 7,686,229	\$ 941,937	\$ 8,628,166
17 2009	\$11,691,063	\$1,766,327	\$13,457,390
18 2010	\$ 8,659,217	\$2,011,914	\$10,671,131
19 2011	\$ 1,617,845	\$ 0	\$ 1,617,845
20 2012	\$ 987,416	\$ 0	\$ 987,415
21 2013	\$ 546,213	\$ 0	\$ 546,213
22 2014	\$ 231,247	\$ 0	\$ 231,247

23 [Pearce Dec., ¶ 32.]

24 **IV. IN ADDITION TO COMPLIANCE WITH EXECUTIVE LIFE, THE APPROVAL**  
 25 **OF THE FEES AND EXPENSES REQUESTED HEREIN IS CONSISTENT WITH**  
 26 **THE LIQUIDATOR’S BROAD AUTHORITIES AND STATUTORY**  
 27 **DISCRETION.**

28 Impaired and insolvent insurance companies are precluded from seeking relief in  
 bankruptcy. [11 U.S.C. § 109(b)(2) (“A person may be a debtor under chapter 7 of this title only  
 if such person is not . . . a domestic insurance company”).] Instead, California, like most states,

1 has statutory proceedings subjecting impaired and insolvent insurers to orderly conservation,  
2 rehabilitation and/or liquidation. California’s statutory proceedings are codified in Insurance  
3 Code § 1010 *et seq.* [*Garamendi v. Golden Eagle Insurance Company* (2005) 128 Cal.App.4<sup>th</sup>  
4 452 (Insurance conservation proceedings are special proceedings subject to the provisions of the  
5 California Insurance Code).]

6 The approval of the fees and expenses requested herein is consistent with the  
7 Conservator’s and the Liquidator’s authorities and discretion under the Court’s Orders appointing  
8 conservator and liquidator, the Insurance Code and case law.

9 First, the Order Appointing Liquidator directs the Liquidator to liquidate and wind up the  
10 business of Golden State and to act in all ways and exercise all powers necessary for the purpose  
11 of carrying out the liquidation, and authorizes the Liquidator to employ special deputy  
12 commissioners, assistants, clerks and legal counsel, and to give to each of them those powers that  
13 the Liquidator deemed necessary. [Order Appointing Liquidator, ¶¶ 1, 2, 14, 15, Exhibit 1, citing  
14 Insurance Code §§ 1016, 1035(a), 1036 and 1037.]

15 Second, Insurance Code § 1037, entitled “Powers of commissioner as conservator or  
16 liquidator,” provides broad powers to the Insurance Commissioner as conservator and liquidator  
17 of insurance companies and authorizes the Liquidator to sell and dispose of Golden State’s  
18 property. Section 1037 states in pertinent part:

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

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

27                   . . . .

28                   (d) [Acquisition and disposition of property.] Shall have authority without  
notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon,  
or otherwise dispose of or deal with, any real or personal property of that person at  
its reasonable market value, or, in cases other than acquisition, sale, or transfer on  
the basis of reasonable market value, upon such terms and conditions as the  
commissioner may deem proper. However, no transaction involving real or

1 personal property shall be made where the market value of the property involved  
2 exceeds the sum of twenty thousand dollars (\$20,000) without first obtaining  
3 permission of the court, and then only in accordance with any terms that court may  
prescribe.

4 . . .

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

9 Third, California case law supports the broad grant of powers accorded the Insurance  
10 Commissioner to transfer assets when he is conserving, rehabilitating, and/or liquidating  
11 insurance companies. For instance, in *Executive Life*, the Court of Appeal stated that:

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

16 In exercising this power, the Commissioner is vested with broad discretion.  
17 (*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p.  
18 402.) This discretion is subject to statutory limitations (see *id.* at p. 409) and the  
19 requirement that the exercise of discretion be neither arbitrary nor improperly  
discriminatory. (*Carpenter v. Pacific Mut. Life Ins. Co.*, *supra*, 10 Cal.2d at p.  
329.)

20 [*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  
basis, or is it contrary to specific statute, a breach of the fiduciary duty of the  
conservator as trustee, or improperly discriminatory?

25 [*Executive Life*, *supra*, at p. 358.]

26 Here, the fees and expenses incurred by the Liquidator during the period January 1, 2012  
27 through December 31, 2014 are not an abuse of discretion. Accordingly, the fees and expenses  
28 should be approved by the Court.

1 **V. CONCLUSION**

2 For the foregoing reasons, the Court should grant the Liquidator's Application to Approve  
3 Liquidation Expenses and approve the amounts requested therein for the period January 1, 2012  
4 through December 31, 2014, which are:

5 For January 1, 2012 through December 31, 2012:

6	1.	Ins. Commissioner's CLO:	\$ 429,055.00
7	2.	Todd Donovan:	\$ 40,914.30
8	3.	INS Consultants:	\$ 1,600.00
9	4.	Epstein Turner Weiss:	\$ 441,874.02
10	5.	Wisener Nunnally Gold:	\$ 4,106.51
11	6.	Larson & Rosenberger:	\$ 9,031.85
12	7.	Kane Corporation:	\$ 40,888.25
13	8.	Ervin Cohen & Jessup:	\$ 10,000.00
14	9.	Cooke's Crating:	\$ 1,018.00
15	10.	ART Movers:	\$ 8,928.00
16		Total for 2012:	\$ 987,415.93

17  
18 For January 1, 2013 through December 31, 2013:

19	1.	Ins. Commissioner's CLO:	\$ 240,118.00
20	2.	Todd Donovan:	\$ 17,100.00
21	3.	Epstein Turner Weiss:	\$ 224,708.00
22	4.	Wisener Nunnally Gold:	\$ 12,771.00
23	5.	JLK Rosenberger:	\$ 9,000.00
24	6.	Kane Corporation:	\$ 33,711.00
25	7.	Cooke's Crating:	\$ 691.00
26	8.	ART Movers:	\$ 8,114.00
27		Total for 2013:	\$ 546,213.00

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For January 1, 2014 through December 31, 2014:

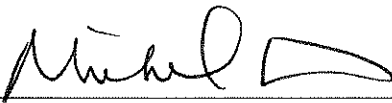
1.	Ins. Commissioner's CLO:	\$ 131,993.35
2.	Todd Donovan:	\$ 3,532.50
3.	Epstein Turner Weiss:	\$ 60,122.36
4.	Wisener Nunnally Gold:	\$ 837.50
5.	JLK Rosenberger:	\$ 9,036.61
6.	Kane Corporation:	\$ 20,293.75
7.	Cooke's Crating:	\$ 690.77
8.	ART Movers:	\$ 4,740.88
	Total for 2014:	\$ 231,247.72

[Pearce Dec., ¶ 34.]

DATE: February 18, 2015

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 DIANE S. SHAW  
 W. DEAN FREEMAN  
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 LISA W. CHAO  
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By: 

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 INSURANCE COMMISSIONER OF THE  
 STATE OF CALIFORNIA