

1 ROB BONTA
Attorney General of California
2 LISA W. CHAO
Supervising Deputy Attorney General
3 DOUGLAS J. BETETA
Deputy Attorney General
4 State Bar No. 260377
300 South Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6014
6 Fax: (916) 731-2144
E-mail: Douglas.Beteta@doj.ca.gov
7

8 *Attorneys for Petitioner*
Insurance Commissioner of the State of California

Exempt from fees pursuant to Govt.
Code § 6103

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF LOS ANGELES

11 CENTRAL DISTRICT

13 **INSURANCE COMMISSIONER OF THE**
14 **STATE OF CALIFORNIA,**

Case No. 21STCP01655

15 Petitioner,

[PROPOSED] LIQUIDATION ORDER

16 v.

17 **WESTERN GENERAL INSURANCE**
18 **COMPANY,**

Date: August 5, 2021
Time: 8:30 a.m.
Dept.: 39
Judge: Hon. Stephen I. Goorvitch
Trial Date: None Set
Action Filed: May 21, 2021

19 Respondent.
20
21
22
23
24
25
26
27
28

1 The Court, having reviewed the ex parte application and supporting papers of Petitioner
2 Ricardo Lara, in his capacity as Insurance Commissioner of the State of California
3 (Commissioner), for an order of liquidation of Western General Insurance Company (Western
4 General) pursuant to Insurance Code section 1016, and good cause appearing, the Court finds that
5 Western General is insolvent;

6 WHEREFORE IT IS HEREBY ORDERED that:

7 1. The Commissioner's status as Conservator of Western General is terminated and
8 he is hereby appointed as Liquidator of Respondent, as contemplated by Insurance Code section
9 1016; the Commissioner, as Liquidator, is directed to (i) liquidate and wind up the affairs of
10 Respondent, (ii) conduct the business of Respondent, or so much as thereof may seem
11 appropriate, (iii) pay or defer payment of all proper claims and obligations against Respondent
12 accruing prior to or subsequent to his appointment as Liquidator; and he is directed to act in all
13 ways and exercise all powers necessary for the purpose of carrying out this Order; without
14 limiting the scope of the foregoing, this Order does not authorize the Commissioner, pursuant to
15 Insurance Code section 1017, to dissolve Respondent or to sell or otherwise transfer its corporate
16 charter and license(s);

17 2. The Commissioner is authorized as Liquidator to take possession of all the assets
18 of Respondent including books, records, and property, both real and personal, wheresoever
19 situated.

20 3. Title to all property and assets of Respondent, whether presently in Respondent's
21 possession or discovered hereafter, wheresoever situated, is hereby vested in the Commissioner as
22 Liquidator or his successor in office, in his official capacity as such Liquidator; and all persons
23 are enjoined from interfering with the Commissioner's possession and title thereto;

24 4. The Commissioner as Liquidator is authorized to pay for his costs in bringing and
25 maintaining this action, and such other actions as are necessary to carry out his functions as
26 Liquidator, out of the funds and assets of Respondent; and if there are insufficient funds, to pay
27 his costs out of the Insurance Fund, pursuant to Insurance Code section 1035;

28 5. The Commissioner as Liquidator is authorized to initiate such equitable or legal

1 actions or proceedings in this or other states as may appear to him necessary to carry out his
2 functions as Liquidator, including foreclosing on any security interests in favor of Respondent;

3 6. The Commissioner as Liquidator is authorized to appoint and employ special
4 deputies, estate trust managers, other professionals, clerks, and assistants and to give each of them
5 such power and authority as he may deem necessary; and the Commissioner as Liquidator is
6 authorized to compensate these persons from the assets of Respondent as he may deem
7 appropriate; Joseph Holloway is hereby appointed as Deputy Liquidator empowered to carry out
8 any and all duties and exercise the authority of the Liquidator granted herein and the Insurance
9 Code; and Scott Pearce is hereby appointed as Liquidation Manager empowered to carry out any
10 and all duties and exercise the authority of the Liquidator and Deputy Liquidator, and as may be
11 delegated by the Liquidator and Deputy Liquidator;

12 7. The Commissioner as Liquidator is authorized to divert, take possession of, and
13 secure all mail of Respondent, in order to screen such mail, and to effect a change in the rights to
14 use any and all post office boxes and other mail collection facilities used by Respondent;

15 8. The Commissioner as Liquidator is authorized to pay all reasonable costs of
16 operating Respondent (including direct and allocated direct costs, direct and allocated general and
17 administrative costs and overhead, and other allocated costs) out of funds and assets of
18 Respondent; and if there are insufficient funds, to pay for his costs out of the Insurance Fund,
19 pursuant to Insurance Code section 1035;

20 9. The Commissioner as Liquidator, pursuant to Insurance Code section 1037,
21 subdivision (g), is authorized to invest and reinvest assets through an investment pool consisting
22 exclusively of assets from conserved or liquidated estates; providing that, to the extent the
23 Commissioner as Liquidator invests and reinvests through such an investment pool, such
24 investments and re-investments may exceed \$100,000;

25 10. The Commissioner as Liquidator is authorized to pay as expenses of
26 administration all expenses heretofore incurred by the Commissioner as Conservator, to the extent
27 such expenses are presently unpaid; and the Commissioner as Liquidator is authorized to pay,
28 upon presentation, the full amount of any checks or drafts which have been issued by him, in his

1 capacity as Conservator, and which are outstanding;

2 11. The Commissioner as Liquidator, pursuant to Insurance Code section 1037,
3 subdivision (d), is authorized to dispose of any excess property of Respondent by any
4 commercially reasonable method, including, but not limited to, sales at public auctions or sales in
5 bulk to the high bidder;

6 12. The Commissioner as Liquidator is authorized to assume or reject, or to modify,
7 any executory contracts, including without limitation, any lease, rental, or utilization contract or
8 agreement (including any schedule to any such contract or agreement), and any license or other
9 arrangement for the use of computer software or business information systems, to which
10 Respondent is a party or as to which Respondent agrees to accept an assignment of such contract;
11 providing that the Commissioner as Liquidator is directed to effect any such assumption or
12 rejection or modification of any executory contract not later than within 120 days after the entry
13 of this Order, unless such date is extended by application to and further order of this Court; all
14 executory contracts not expressly assumed by the Commissioner as Liquidator are hereby deemed
15 rejected; any party to a contract rejected by the Commissioner as Liquidator pursuant to this
16 Order is permitted to file a proof of claim against the liquidation estate, which claim shall be
17 treated in accordance with Insurance Code section 1010, et seq.;

18 13. Respondent and all former and present officers, directors, agents, and employees
19 of Respondent are directed to deliver to the Commissioner as Liquidator all assets, books,
20 records, equipment, and other property of the Respondent, wheresoever situated;

21 14. All Respondent's funds and assets, including certificates of deposit, bank deposits,
22 and mutual fund shares, in various financial depository institutions, including banks, savings and
23 loan associations, industrial loan companies, mutual funds, or stock brokerages, wheresoever
24 situated, are hereby vested in the Commissioner as Liquidator and subject to withdrawal upon his
25 order only;

26 15. All persons who maintain records for Respondent, pursuant to written contract or
27 any other agreement, are ordered to continue to maintain such records and to deliver them to the
28 Commissioner as Liquidator upon his request;

1 16. All agents of Respondent, and all brokers who have done business with
2 Respondent, shall make remittances of all funds collected by them or in their hands directly to the
3 Commissioner as Liquidator; this obligation to remit collected funds is continuing in nature;

4 17. All persons having possession of any lists of policyholders or escrow holders of
5 Respondent, are ordered to deliver all such lists to the Commissioner as Liquidator; all persons
6 are enjoined from using any such lists or any information contained therein without the consent of
7 the Commissioner as Liquidator;

8 18. Respondent and its respective officers, directors, agents, servants, employees,
9 successors, assigns, affiliates, and other persons or entities under their control, and all persons or
10 entities in active concert or participation with them, and each of them, shall turn over to the
11 Commissioner as Liquidator any and all records, documentation, charts, and/or descriptive
12 material of all funds, assets, property (owned beneficially or otherwise), and all other assets of
13 Respondent, wherever situated, and all books and records of accounts, title documents, and other
14 documents in their possession or under their control, which relate, directly or indirectly, to
15 (i) assets or property owned by or held by Respondent or (ii) the business or operations of
16 Respondent;

17 19. All insurance policies issued by Respondent are hereby terminated and canceled
18 effective thirty (30) days following the issuance of this Order, and the Commissioner as
19 Liquidator is directed to notify promptly all policyholders of such policy termination and
20 cancellation by First Class Mail at the last known address of such policyholders; and the
21 Commissioner as Liquidator, in his sole discretion, is authorized to terminate and cancel any
22 policies issued by Respondent that are not covered by the preceding sentence or that were issued
23 by a fronting insurer and reinsured, in whole or in part, by Respondent;

24 20. In conjunction with this proceeding, all prior injunctions and other orders of this
25 Court, except to the extent expressly modified herein, are reaffirmed and remain in full force and
26 effect; and all powers and authority granted to the Commissioner as Liquidator under this Order
27 are in addition to and not in limitation of the powers of the Commissioner as Liquidator under the
28 Insurance Code and any other statutory or applicable case law;

1 21. The rights and liabilities of claimants, creditors, shareholders, policyholders,
2 escrow holders, and all other persons interested in the assets of Respondent, including the State of
3 California, are fixed as of the date of the entry of this Order prayed for herein;

4 22. All funds and accounts in the name of Respondent, or the Commissioner as
5 Conservator, in various banks or any other institutions, wheresoever situated, are hereby vested in
6 the Commissioner as Liquidator and subject to withdrawal at his direction only, and this Order
7 does not convert funds held in a fiduciary capacity to general assets of the Liquidator;

8 23. Except with leave of court issued after a hearing in which the Commissioner as
9 Liquidator has received reasonable notice, all persons are enjoined from obtaining preferences,
10 judgments, attachments or other liens, or making any levy against Respondent or its assets or
11 property, and from executing or issuing or causing the execution or issuance of any court
12 attachment, subpoena, replevin, levy, execution, or other process for the purpose of impounding
13 or taking possession of or interfering with or creating or enforcing a lien upon any property or
14 assets owned or in the possession of Respondent or its affiliates, or the Liquidator appointed
15 herein, wheresoever situated, and from doing any act interfering with the conduct of said business
16 by the Commissioner as Liquidator;

17 24. All persons, except by leave of court obtained after reasonable notice to the
18 Commissioner as Liquidator, are enjoined from accelerating the due date of any obligation or
19 claimed obligation; exercising any right of set-off; taking, retaining, retaking or attempting to
20 retake possession of any real or personal property; withholding or diverting any rent or other
21 obligation; doing any act or other thing whatsoever to interfere with the possession of or
22 management by the Commissioner as Liquidator of the property and assets, owned or controlled
23 by Respondent or in the possession of Respondent, or to in any way interfere with said
24 Commissioner as Liquidator, or to interfere in any manner during the pendency of this proceeding
25 with the exclusive jurisdiction of this Court over Respondent;

26 25. Respondent, its officers, directors, governors, agents, and employees are enjoined
27 from (i) transacting any of the business of Respondent, whether in the State of California or
28 elsewhere, or (ii) disposing of, or assisting any person in the transfer or alienation of, the property

1 or assets of Respondent, until further order of this Court;

2 26. All persons are enjoined from instituting, prosecuting, or maintaining any action at
3 law or suit in equity, including but not limited to actions or proceedings to compel discovery or
4 production of documents or testimony, and matters in arbitration, against Respondent or against
5 the Commissioner as Liquidator of Respondent, and from attaching, executing foreclosure upon,
6 redeeming of, or taking any other legal proceedings against, any of the property or assets of
7 Respondent, and from doing any act interfering with the conduct of said business by the
8 Commissioner as Liquidator, except upon order from this Court obtained after reasonable notice
9 to the Commissioner as Liquidator;

10 27. Any and all provisions of any agreement entered into by and between any third
11 party and Respondent including, by way of illustration, but not limited to, the following types of
12 agreements (as well as any amendments, assignments, or modifications thereto) shall be stayed,
13 and the assertion of any and all rights, remedies relating thereto shall also be stayed and barred,
14 except as otherwise ordered by the Court, and the Court retains jurisdiction over any cause of
15 action that has arisen or may otherwise arise under any such provision: financial guarantee bonds,
16 promissory notes, loan agreements, security agreements, deeds of trust, mortgages,
17 indemnification agreements, subrogation agreements, subordination agreements, pledge
18 agreements, assignments of rents or other collateral, financial statements, letters of credit, leases,
19 insurance policies, guaranties, escrow agreements, management agreements, real estate brokerage
20 and rental agreements, servicing agreements, attorney agreements, consulting agreements,
21 easement agreements, license agreements, franchise agreements, or employment contracts that
22 provide in any manner that selection, appointment, or retention of a conservator or trustee by any
23 court, or entry of an order such as hereby made, shall be deemed to be, or otherwise operate as a
24 breach, violation, event of default, termination, event of dissolution, event of acceleration,
25 insolvency, bankruptcy, or liquidation;

26 28. All persons are enjoined from interfering with the possession, title, and rights of
27 the Commissioner as Liquidator, in and to the property and assets of Respondent;

28 29. All persons are enjoined from waste of the assets of Respondent; and

1 30. Any and all claims against Respondent (except those policyholder claims already
2 pending against Respondent, which are deemed filed), including those which in any way affect or
3 seek to affect any of the assets of Respondent, wherever or however such assets may be owned or
4 held, must be filed by no later than February 28, 2022 (the “Claims Bar Date”), together with
5 proper proof thereof, in accordance with the provisions of Insurance Code section 1010, et seq.,
6 including, but not limited to Insurance Code section 1023; and the claim must be timely filed on
7 the form provided by the Liquidator, together with proper proofs thereof, and must be
8 supplemented with such further information as the Liquidator requests, in accordance with
9 Insurance Code section 1023, subdivision (f). As provided in Insurance Code section 1024, any
10 claims not filed by the Claims Bar Date shall be conclusively deemed forever waived and no
11 action may be maintained thereon.

12
13 Dated: _____

_____ Hon. Stephen I. Goorvitch
Judge of the Superior Court

DECLARATION OF SERVICE BY E-MAIL

Case Name: **INSURANCE COMMISSIONER OF THE STATE OF CALIFORNIA,
v. WESTERN GENERAL INSURANCE COMPANY,**

Case No.: **21STCP01655**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General.

On **August 4, 2021**, I served the attached **[PROPOSED] LIQUIDATION ORDER** by transmitting a true copy via electronic mail, addressed as follows:

John E. McPherson
Hinshaw & Culbertson LLP
350 South Grand Ave., Suite 3600
Los Angeles, CA 90071-3476
Tel.: 213-614-7320
jmcperson@hinshawlaw.com

I declare under penalty of perjury under the laws of the State of California and the United States of America the foregoing is true and correct and that this declaration was executed on **August 4, 2021**, at Los Angeles, California.

Martha Ochoa

Declarant



Signature