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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 COUNTY OF MERCED

11  
12 **INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA,**

13 Applicant,

14 v.

15  
16 **MERCED PROPERTY & CASUALTY  
COMPANY, a California corporation,**

17 Respondent.  
18

Case No. 18CV-04739

**NOTICE OF MOTION AND MOTION  
TO AMEND ORDER APPOINTING  
COMMISSIONER AS LIQUIDATOR  
AND RESTRAINING ORDERS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

**[FILED CONCURRENTLY WITH  
DECLARATION OF JOSEPH  
HOLLOWAY]**

Date: May 13, 2022  
Time: 8:15 a.m.  
Dept: 8  
Judge: Hon. Brian McCabe  
Action Filed: November 30, 2018

22  
23 **TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD,**

24 **PLEASE TAKEN NOTICE** that on May 13, 2022, at 8:15 a.m., or as soon thereafter as  
25 the matter may be heard in Department 8 of the Superior Court of the State of California, Merced  
26 County, 627 W. 21st Street, Merced, California, 95340, applicant Insurance Commissioner of the  
27 State of California in his capacity as Liquidator of the Merced Property & Casualty Company

28 ///

1 (Merced) will and hereby does move the court to amend the Order Appointing Commissioner as  
2 Liquidator and Restraining Orders (Liquidation Order) filed on December 3, 2018, as follows:

3 1. The second sentence of paragraph 6 to the Liquidation Order is deleted and replaced  
4 with “Joseph Holloway, Special Deputy Insurance Commissioner and Chief Executive Officer of  
5 the California Conservation and Liquidation Office, is hereby appointed as Deputy Liquidator  
6 empowered to carry out any and all duties and exercise the authority of the Liquidator as granted  
7 herein and under the Insurance Code.”

8 This motion is based on this notice, the accompanying memorandum of points and  
9 authorities in support thereof, the declaration of Joseph Holloway filed concurrently with this  
10 motion, and such additional evidence and argument as may be offered at the time of the hearing  
11 on the motion.

12 Pursuant to Local Rule 3.1 (F), the Court may issue a tentative ruling before the scheduled  
13 hearing date. Tentative rulings will be made available by telephone at 209-725-4240 and by  
14 posting on the Court’s website at [www.mercedcourt.org](http://www.mercedcourt.org) no later than 3:00 p.m. on the Court day  
15 preceding the scheduled hearing. If the Court has not directed argument in the tentative ruling,  
16 oral argument is permitted only if a party intending to appear notifies all other parties by  
17 telephone or in person by 4:00 p.m. on the Court day before the hearing of the party’s intention to  
18 appear. A party also must notify the Court by telephone of the party’s intention to appear by  
19 calling 209-725-4240 by 4:00 p.m. on the Court day before the hearing. The tentative ruling will  
20 become the ruling of the Court if the Court has not directed oral argument by its tentative ruling  
21 and notice of intent to appear has not been given.

22 Dated: April 21, 2022

Respectfully submitted,

23 ROB BONTA  
24 Attorney General of California  
25 MOLLY K. MOSLEY  
Supervising Deputy Attorney General

26 */s/ Debbie J. Vorous*

27 DEBBIE J. VOROUS  
28 Deputy Attorney General  
*Attorneys for Applicant Insurance  
Commissioner of the State of California*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 In mid-November 2018, the Commissioner learned that, due to the Camp Fire in Butte  
4 County, California, Merced Property & Casualty Company (Merced) would be rendered  
5 insolvent. On December 3, 2018, the court issued an Order Appointing Commissioner as  
6 Liquidator and Restraining Orders (Liquidation Order) of the Merced estate. The Liquidation  
7 Order appoints David E. Wilson, Special Deputy Insurance Commissioner and Chief Executive  
8 Officer of the Conservation & Liquidation Office, as the Commissioner's Deputy Liquidator.

9 Mr. Wilson retired, and the Commissioner appointed Joseph Holloway as Special Deputy  
10 Commissioner and Chief Executive Officer of the Conservation and Liquidation Office. Since  
11 Mr. Wilson's retirement, Mr. Holloway has been acting in the place and stead of Mr. Wilson as  
12 Deputy Liquidator of the Merced estate. The Commissioner seeks an order to amend the  
13 Liquidation Order to reflect Mr. Holloway's appointment as the Commissioner's Deputy  
14 Liquidator. The motion should be granted.

15 **ARGUMENT**

16 **I. FACTUAL STATEMENT**

17 The Commissioner's Conservation and Liquidation Office (CLO) assists the Commissioner  
18 in fulfilling his duties as court-appointed Conservator and Liquidator under Insurance Code  
19 section 1035 for troubled insurance companies domiciled in the State of California. The  
20 Commissioner delegated his statutory administrative duties to liquidate the Merced estate over to  
21 the CLO and its Chief Executive Officer and Deputy Special Commissioner David E. Wilson. (Ex  
22 Parte Applic. for Liq. Order, filed Nov. 30, 2018, pp. 4 & 11.)

23 The Liquidation Order authorizes the Commissioner "to appoint and employ special  
24 deputies, and to give them such power and authority as he may deem necessary." (Liquidation  
25 Order, p. 4.) Also, that David E. Wilson be appointed as Deputy Liquidator "empowered to carry  
26 out any and all duties and exercise the authority of the Liquidator as granted [in the Order] and  
27 under the Insurance Code." (*Ibid.*) As required, the CLO recorded the Liquidation Order in the

28 ///

1 official records of Merced County as Series No. 2019019155 of the Official Records. (Decl. of  
2 Joseph Holloway Supp. Mot. to Amend Liq. Order (Holloway Decl.), ¶ 3.)

3 David E. Wilson retired, and the Commissioner appointed Joseph Holloway in his stead as  
4 Special Deputy Commissioner and Chief Executive Officer of the CLO. (Holloway Decl., ¶ 5,  
5 Exs. A, B [California Senate confirmed Mr. Holloway's appointment as the Chief Executive  
6 Officer on Mar. 1, 2021], & C [appointment as Special Deputy Commissioner].) Since his  
7 appointment as Chief Executive Officer, Mr. Holloway has been acting in the place and stead of  
8 the Mr. Wilson as the Deputy Liquidator of the Merced estate. (*Id.* ¶ 6.)

9 As explained in the Commissioner's application for an order approving the Commissioner's  
10 sale of Merced's real property assets to Homen Properties, LLC (Homen) filed concurrently with  
11 this motion to amend the Liquidation Order, the Commissioner is proposing to sell the Merced  
12 real property assets to Homen for \$1,665,000 cash. Under the terms of the Liquidation Order, title  
13 to the real property is vested in the Commissioner, as Liquidator of the Merced estate. (Liq.  
14 Order, p. 2.) Acting as the Deputy Liquidator of the Merced estate, Joseph Holloway approved  
15 and signed the February 22, 2022 real estate commercial purchase agreement and seller counter-  
16 offer upon which the pending sale will be made. (Holloway Decl., ¶ 6.)

17 **II. THE COURT SHOULD AMEND THE LIQUIDATION ORDER TO APPOINT JOSEPH**  
18 **HOLLOWAY AS DEPUTY LIQUIDATOR**

19 Insurance Code section 1016 authorizes the Commissioner to apply to the Court for an  
20 order to liquidate and wind up the business of an insolvent insurer. The powers vested in the  
21 Commissioner for purposes of enabling him to perform his duties as a liquidator of an insolvent  
22 insurance company are wide. These include, among others, the authority to acquire and dispose of  
23 property belonging to the insolvent insurer and to appoint and employ deputy commissioners to  
24 carry out his functions. (Ins. Code, §§ 1035, 1037.) To assist the Commissioner, Insurance Code  
25 section 1020 provides that this court shall issue orders as may be deemed necessary to prevent  
26 waste of assets and interference with the Commissioner or the liquidation proceeding.

27 In the present case, the Commissioner established that it would be futile to proceed with the  
28 conduct of the business of Merced and, at his request, the court issued an order to liquidate the

1 estate. The court authorized the Commissioner to appoint and employ special deputies, and to  
2 appoint David E. Wilson as Deputy Liquidator. Mr. Wilson retired, and the Commissioner  
3 appointed Mr. Holloway as the Chief Executive Officer of the CLO and as a Special Deputy  
4 Commissioner and gave him the power to act as his Deputy Liquidator of the Merced estate.

5 The court amending the Liquidation Order to name Joseph Holloway as the Deputy  
6 Liquidator is necessary and appropriate here. As explained, the Commissioner is in the process of  
7 completing a pending sales transaction with Homen for the purchase of Merced's real property  
8 assets. Replacing Mr. Wilson with Mr. Holloway in the Liquidation Order will eliminate any  
9 potential challenge to Mr. Holloway's authority to sign the papers to complete the transaction on  
10 behalf of the Merced estate. Also, should any question arise regarding Homen's ability to obtain a  
11 policy of title insurance due to the recorded Liquidation Order showing Mr. Wilson as the Deputy  
12 Liquidator, amending the order to state Mr. Holloway is the Deputy Liquidator should resolve  
13 that question. The order is therefore necessary to prevent waste of the real property assets and  
14 interference with the Commissioner's sale of the property and liquidation of the Merced estate  
15 should either of these potential issues arise.

## 16 CONCLUSION

17 The Commissioner respectfully requests that the court grants his motion for an order  
18 amending the Liquidation Order to appoint Joseph Holloway as Deputy Liquidator of the Merced  
19 estate.

20 Dated: April 21, 2022

Respectfully submitted,

21 ROB BONTA  
22 Attorney General of California  
23 MOLLY K. MOSLEY  
Supervising Deputy Attorney General

24 */s/ Debbie J. Vorous*

25 DEBBIE J. VOROUS  
26 Deputy Attorney General  
*Attorneys for Applicant Insurance*  
*Commissioner of the State of California*

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8 *of the State of California*

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF MERCED  
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13 **INSURANCE COMMISSIONER OF THE**  
14 **STATE OF CALIFORNIA,**

15 Applicant,

16 v.

17 **MERCED PROPERTY & CASUALTY**  
18 **COMPANY, a California corporation,**

19 Respondent.  
20

Case No. 18CV-04739

**DECLARATION OF JOSEPH  
HOLLOWAY IN SUPPORT OF MOTION  
TO AMEND ORDER APPOINTING  
COMMISSIONER AS LIQUIDATOR  
AND RESTRAINING ORDERS**

Date: May 13, 2022  
Time: 8:15 a.m.  
Dept: 8  
Judge: Hon. Brian McCabe  
Action Filed: November 30, 2018

21 I, Joseph Holloway, declare as follows:

22 1. I am a Special Deputy Commissioner and the Chief Executive Officer of the  
23 California Insurance Commissioner's Conservation and Liquidation Office (CLO).

24 2. I make this declaration in support of the California Insurance Commissioner's  
25 (Commissioner) motion to amend the court's order appointing the Commissioner as the  
26 Liquidator of Merced Property & Casualty Company (Merced) and issuing various restraining  
27 orders (hereafter, "Liquidation Order"). The following information is true and correct and based  
28 on my personal knowledge and, if called to do so, I could and would testify competently to it.

3. The court issued the Liquidation Order on December 3, 2018. On June 27, 2019, the CLO recorded the order in the official records of Merced County as Series No. 2019019155 of the Official Records.

4. The Liquidation Order names David E. Wilson, Special Deputy Insurance Commissioner and Chief Executive Officer of the CLO, as the Commissioner's Deputy Liquidator of the Merced estate. Mr. Wilson is retired from the CLO.

5. Following David E. Wilson's retirement, the Commissioner appointed me as a Special Deputy Commissioner and the Chief Executive Officer of the CLO. Attached as Exhibit A hereto is a true and correct copy of a March 23, 2020 letter from the Commissioner confirming my appointment as Chief Executive Officer of the CLO. Attached as Exhibit B hereto is a true and correct copy of a March 8, 2021 letter from the California Senate confirming my appointment as the Chief Executive Officer of the CLO. Attached as Exhibit C hereto is a true and correct copy of my March 30, 2022 Appointment as Special Deputy Insurance Commissioner.

6. Since my appointment as Chief Executive Officer of the CLO, I have been acting in the place and stead of David E. Wilson as the Commissioner's Deputy Liquidator of the Merced estate. In that role, I approved and signed the February 22, 2022 real estate commercial purchase agreement and seller counter-offer between the Commissioner and Homen Properties, LLC for the sale and purchase of the Merced real property assets.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 11<sup>th</sup> day of April, 2022, at San Francisco, California.

Joseph Holloway

SA2018303475

# EXHIBIT A



**RICARDO LARA**  
CALIFORNIA INSURANCE COMMISSIONER

March 23, 2020

**VIA ELECTRONIC MAIL [HOLLOWAYJ@CACLO.ORG](mailto:HOLLOWAYJ@CACLO.ORG)**

Mr. Joseph Holloway  
Chief Operating Officer  
California Conservation and Liquidation Office  
100 Pine Street, Suite 1200  
San Francisco, CA 94111

Dear Mr. Holloway,

It gives me great pleasure to appoint you as Chief Executive Officer of the California Conservation and Liquidation Office, effective Wednesday, April 1, 2020.

This position serves at the pleasure of the Insurance Commissioner and is subject to confirmation by the California State Senate.

The functions of the California Conservation and Liquidation Office will continue serving the Insurance Commissioner and California Department of Insurance (CDI) to manage the affairs of troubled insurance companies for the benefit and protection of California policyholders.

Your many years of experience and expertise at the California Conservation and Liquidation Office will greatly contribute to furthering the mission and objectives of the organization.

Thank you for your interest serving my Administration in this important role. I look forward to working with you in the time ahead.

Sincerely,

A handwritten signature in black ink, which appears to read "Ricardo Lara", is positioned above the printed name and title.

**RICARDO LARA**  
Insurance Commissioner

cc: Catalina Hayes-Bautista, Chief Deputy Commissioner, CDI  
Michael Martinez, Senior Deputy Commissioner and Legislative Director, CDI  
Kenneth Schnoll, Deputy Commissioner and General Counsel, CDI  
Susan Bernard, Deputy Commissioner, Financial Surveillance, CDI  
Laurie Menchaca, Chief, Human Resources and Management Division, CDI

# **EXHIBIT B**

CALIFORNIA LEGISLATURE



ERIKA CONTRERAS  
SECRETARY OF THE SENATE

LISA CHIN  
DIRECTOR

LAWRENCE COOPER  
DEPUTY DIRECTOR

ELIZABETH DIETZEN OLSEN  
DEPUTY DIRECTOR

**SENATE RULES COMMITTEE**

TONI G. ATKINS  
CHAIR

March 8, 2021

Joseph (Joe) B. Holloway, Jr.  
100 Pine Street, Suite 1200  
San Francisco, CA 94111

Dear Mr. Holloway:

As you know, the Senate confirmed your appointment as Chief Executive Officer, Conservation and Liquidation Office, Department of Insurance on March 1, 2021 by a vote of 35-0.

Congratulations and best wishes for success. We encourage you to keep the Senate informed about your work and how we can collectively serve the people of California.

Sincerely,

A handwritten signature in cursive script, reading "Toni G. Atkins".

TONI G. ATKINS

Senate President pro Tempore  
39th Senate District

TGA: AJ

# EXHIBIT C

**APPOINTMENT OF SPECIAL DEPUTY**  
**INSURANCE COMMISSIONER**

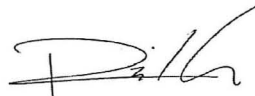
KNOW ALL PEOPLE BY THESE PRESENTS:

That **JOSEPH B. HOLLOWAY, JR, IS HEREBY APPOINTED SPECIAL DEPUTY INSURANCE COMMISSIONER, CONSERVATION & LIQUIDATION OFFICE (CLO), and** is hereby deputized to act in my place and stead subject to the provisions of Division 2, Part 2, Chapter 1, Article 14 of the California Insurance Code and any provisions of law relating thereto, for the purpose of his appointment with the **CONSERVATION & LIQUIDATION OFFICE (CLO)**. In addition, Special Deputy Insurance Commissioner, **JOSEPH B. HOLLOWAY, JR** may further delegate said authority to persons authorized by him, pursuant to law, unless it is expressly otherwise provided.

IN WITNESS WHEREOF, I have hereto

Subscribed my name and affixed my  
official

Seal this 30 day of March, 2022



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RICARDO LARA  
Insurance Commissioner,  
State of California

1 ROB BONTA  
Attorney General of California  
2 MOLLY K. MOSLEY  
Supervising Deputy Attorney General  
3 DEBBIE J. VOROUS  
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12 **INSURANCE COMMISSIONER OF THE  
STATE OF CALIFORNIA,**

13 Applicant,

14  
15 v.

16 **MERCED PROPERTY & CASUALTY  
COMPANY, a California corporation,**

17 Respondent.  
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19

Case No. 18CV-04739

**[PROPOSED] ORDER TO AMEND  
ORDER APPOINTING COMMISSIONER  
AS LIQUIDATOR AND RESTRAINING  
ORDERS**

Date: May 13, 2022  
Time: 8:15 a.m.  
Dept: 8  
Judge: Hon. Brian McCabe  
Action Filed: November 30, 2018

20  
21 The Motion of the Insurance Commissioner of the State of California (Commissioner), in  
22 his capacity as Liquidator of Merced Property & Casualty Company (Merced), for an Order to  
23 amend the Order Appointing Liquidator and Restraining Orders was heard in Department 8 of the  
24 above-entitled court on May 13, 2022, at 8:15 a.m., the Honorable Brian McCabe presiding.  
25 Having read and considered the motion, the Memorandum of Points and Authorities, the  
26 Declaration of Joseph Holloway submitted in support thereof, the Exhibits submitted in support  
27 thereof and, argument having been heard and good cause appearing,

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1 IT IS HEREBY ORDERED that:

2 1. The Motion is granted; and

3 2. The Order Appointing Commissioner as Liquidator and Restraining Orders  
4 (Liquidation Order) filed on December 3, 2018, is amended as follows: The second sentence of  
5 paragraph 6 to the Liquidation Order is deleted and replaced with “Joseph Holloway, Special  
6 Deputy Insurance Commissioner and Chief Executive Officer of the California Conservation and  
7 Liquidation Office, is hereby appointed as Deputy Liquidator empowered to carry out any and all  
8 duties and exercise the authority of the Liquidator as granted herein and under the Insurance  
9 Code.”

10 3. The Commissioner is authorized to take any and all action necessary to accomplish  
11 the purpose of this Order.

12  
13 Dated: \_\_\_\_\_

\_\_\_\_\_  
14 The Honorable Brian McCabe  
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1 ROB BONTA  
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12 **INSURANCE COMMISSIONER OF THE  
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13 Applicant,

14 v.  
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16 **MERCED PROPERTY & CASUALTY  
COMPANY, a California corporation,**

17 Respondent.  
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Case No. 18CV-04739

**PROOF OF SERVICE RE**

**NOTICE OF MOTION AND MOTION TO  
AMEND ORDER APPOINTING  
COMMISSIONER AS LIQUIDATOR AND  
RESTRAINING ORDERS;  
MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT THEREOF**

**[FILED CONCURRENTLY WITH  
DECLARATION OF JOSEPH  
HOLLOWAY]**

Date: May 13, 2022  
Time: 8:15 a.m.  
Dept: 8  
Judge: Hon. Brian McCabe  
Action Filed: November 30, 2018

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**DECLARATION OF SERVICE BY E-MAIL**

Case Name: **Insurance Commissioner of the State of California  
v. Merced Property & Casualty Co.**

Case No.: **18CV-04739**

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; my business address is: 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550.

On April 21, 2022, I served the attached:

- **NOTICE OF MOTION AND MOTION TO AMEND ORDER APPOINTING COMMISSIONER AS LIQUIDATOR AND RESTRAINING ORDERS; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF**
- **DECLARATION OF JOSEPH HOLLOWAY IN SUPPORT OF MOTION TO AMEND ORDER APPOINTING COMMISSIONER AS LIQUIDATOR AND RESTRAINING ORDERS**
- **[PROPOSED] ORDER TO AMEND ORDER APPOINTING COMMISSIONER AS LIQUIDATOR AND RESTRAINING ORDERS**

by transmitting a true copy via electronic mail.

Jeffrey D. Neumeyer, Esq.  
Sr. Vice President, General Counsel and  
Corporate Secretary  
United Heritage Financial Group  
Email to [jneumeyer@unitedheritage.com](mailto:jneumeyer@unitedheritage.com)

Brad Roeber  
Executive Director  
California Insurance Guarantee Association  
Email to [roeberb@ciga.org](mailto:roeberb@ciga.org)

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 April 21, 2022, at Sacramento, California.

\_\_\_\_\_  
M. Garcia  
Declarant

\_\_\_\_\_  
*/s/ M. Garcia*  
Signature