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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

JAN 15 2013

BY [Signature] Clerk
Olivera Robinson Deputy

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6

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10
11 DAVE JONES, Insurance Commissioner of
the State of California,

12 Applicant,

13 vs.

14 MISSION INSURANCE COMPANY, a
California corporation,

15 Respondent.
16

17 Consolidated with Case Numbers

18 C 576 324; C 576 416;
19 C 576 323; C 576 325; C 629709

) Case No. C 572 724

) Honorable John L. Segal

) **THE INSURANCE COMMISSIONER'S
STATUS CONFERENCE REPORT
AND UPDATED CLOSING PLAN**

) Date: January 30, 2013

) Time: 8:30 a.m.

) Department 50

) Action Filed: October 31, 1985

BY FAX

1 Dave Jones, Insurance Commissioner of the State of California, in his capacity as
2 Trustee of the Mission Insurance Company Trust, the Mission National Insurance Company
3 Trust and the Enterprise Insurance Company Trust ("Insurance Commissioner"), hereby submits
4 this Status Report and advises the Court as follows:

5 **I. Developments**

6 Enterprise Insurance Company Trust, Mission National Insurance Company Trust and
7 Mission Insurance Company Trust have obtained a closing order in 2006. The trusts have
8 distributed substantial assets, but each trust has substantial assets which have not been
9 distributed. The trusts have been waiting to make their final distributions until three events take
10 place. These events and the developments are:

11 1. **The Super-priority release:** Mission Insurance Company Trust applied for a release
12 from any super-priority claims from the United States Department of Justice. In past status
13 reports, the Insurance Commissioner described how the Insurance Commissioner submitted a
14 request for a super-priority release and how the Insurance Commissioner had responded to a
15 request for further information with a submission of further information.

16 On January 14, 2013, Sharon Williams, Esq., the attorney with the United States
17 Department of Justice handling these matters, wrote an electronic mail which requested further
18 information about eight matters. The Conservation and Liquidation Office will examine its
19 records to find information about these eight matters, and will send a detailed response to the
20 United States Department of Justice on those matters.

21 Enterprise Insurance Company Trust has already obtained its super-priority release,
22 which has been executed and court-approved.

23 2. **The tax review of Covanta** Mission Insurance Company Trust, Mission National
24 Insurance Company Trust and Enterprise Insurance Company Trust are part of the Covanta
25 Holding Corporation consolidated tax return. The Insurance Commissioner previously advised
26 the Court that a tax review for the tax years 2004-2009 is underway. Covanta Holding
27 Corporation filed its 10-Q quarterly report with the Securities and Exchange Commission for the
28

1 time period ending September 30, 2012. Page 19 of this 10-Q once again stated that "The IRS is
2 currently auditing our tax returns for the years 2004-2009". Accordingly, the tax review
3 continues. Counsel for the U.S. Attorney's Office requested via e-mail on September 27, 2012
4 that the undersigned remove the IRS and the U.S. Attorney's Office from the service list.

5 **3. The E-ferol Litigation**

6 The e-ferol claimants are a set of claimants who did not timely file proofs of claim
7 as of the bar date for filing proofs of claims on September 12, 1987. They filed a lawsuit in the
8 United States District Court for the Northern District of Texas entitled *Victoria Klein and Ashley*
9 *Swadley v. Federal Insurance Co., et al*, Case Number CA 7-03-CV-102-D, pending in the
10 United States District Court for the Northern District of Texas, Wichita Falls Division.

11 In a previous status report, the Insurance Commissioner advised that on July 16, 2012,
12 the United States District Court for the Northern District of Texas granted the motion to dismiss
13 filed by Mission Insurance Company Trust in the case captioned *Victoria Klein and Ashley*
14 *Swadley v. Federal Insurance Co., et al*, Case Number CA 7-03-CV-102-D, pending in the
15 United States District Court for the Northern District of Texas, Wichita Falls Division. The Court
16 did grant the plaintiffs leave to amend their complaint, but held that "unless the class plaintiffs
17 request that the court reconsider its abstention decision as it applies to the class plaintiffs' fourth
18 amended complaint, the court will abstain under Burford from deciding the plaintiffs'
19 constitutional claims seeking injunctive relief against MICT, and, for the reasons discussed
20 above, will decline to consider the class plaintiffs' request for a declaratory judgment holding
21 that the Mission policy provides liability insurance coverage for the causes of action that the
22 class plaintiffs have asserted against the Revco defendants".

23
24 The plaintiffs subsequently filed their Fourth Amended Complaint in Texas, adding the
25 Insurance Commissioner. Since the last status report, the Insurance Commissioner has filed a
26 motion to stay or alternatively dismiss this Fourth Amended Complaint, which the e-ferol
27 defendants have opposed.
28

1 On October 16, 2012, the e-ferol claimants, through counsel, sent 370 late proof of claim
2 forms to the Insurance Commissioner as Trustee. On December 13, 2012, the Insurance
3 Commisioner as Trustee, through counsel, rejected each proof of claim on a number of
4 sufficient grounds, including the prior rejection of all proof of claims of the affected insured,
5 Revco, and the failure to file a timely proof of claim by the third party e-ferol claimants. The
6 rejection also pointed out in detail why no there is no liability in any event.

7 On January 11, 2013, the undersigned counsel was advised that the e-ferol claimants had
8 filed an application for order to show cause in this Court why these late claims should not be
9 allowed, with the hearing on the whether the order to show cause should issue set for February
10 18, 2013. The Insurance Commissioner will work with the claimants' counsel to seek to set a
11 briefing schedule for the briefing of this claims matter in accordance with California Insurance
12 Code Section 1032.

13 14 **II. Financial Status of the Trusts**

15 Attached as Exhibit "A" is a statement of assets and liabilities for the Trusts. The Trustee
16 continues to hold a substantial sum of money in reserve for unknown and unexpected
17 contingencies.
18

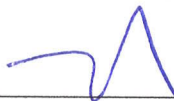
19 The Insurance Commissioner does not include a timeline with this filing, because the
20 time line would just continue to be reset until the federal issues set forth above are resolved. The
21 trusts have final distributions to make once the federal issues, including any tax issues, and any
22 remaining collection and distribution issues are resolved. A federal issue also affects one of the
23 assets of the estate, because the Insurance Commissioner has an approved multi-million dollar
24 proof of claim against Centaur Insurance Company, but distributions on this proof of claim have
25 been delayed by the Centaur rehabilitator pending its pursuit of a federal release.
26
27
28

1 **Conclusion:**

2 The wind-up of this case is continuing, with the continued factor of an IRS review of the
3 Covanta tax situation, a request to get clearance in light of the lack of any other federal claims,
4 and any issues following dismissal of the new lawsuit filed by a set of late claimants. The Court
5 is requested to set a June 2013 further status conference.
6
7
8
9

10 Respectfully submitted,

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Exhibit "A"

Conservation & Liquidation Office

Mission Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2012

	(Opening Balance)		
	Jan 1	Sep 30	
	1998	2012	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	217,610	-	(217,610)
Restricted	16,455,223	580,450	(15,874,773)
Participation in pooled investments, at market	480,851,923	105,583,924	(375,267,999)
Accrued investment income	-	381,078	381,078
Statutory deposits held by other states	16,677,901	-	(16,677,901)
Recoverable from reinsurers	63,758,552	21,586,435	(42,172,117)
Receivable from affiliates, net of allowances	91,265,656	23,816,444	(67,449,212)
Deposits and other assets	256,437	-	(256,437)
Total Assets	669,483,302	151,948,331	(517,534,971)
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	1,759,153	1,759,153
Reserve for Federal Income Tax Liability	-	77,583,064	77,583,064
Claims against policies, including guaranty associations, before distributions	784,277,837	846,832,561	62,554,724
Policyholder distributions	-	(846,832,560)	(846,832,560)
California and Federal claims having preference	-	-	-
All other claims	1,024,261,559	198,438,478	(825,823,081)
Total Liabilities	1,808,539,396	277,780,695	(1,530,758,701)
NET ASSETS (DEFICIENCY)	(1,139,056,094)	(125,832,364)	1,013,223,730

Conservation & Liquidation Office

Mission Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2012

	1998 to 2011	Sep 30 ytd 2012	Jan 1998 to Sep 2012
Income			
Reinsurance Recoveries	17,019,505	-	17,019,505
Litigation Recoveries	2,633,791	-	2,633,791
Premiums and Other Collections	8,081,726	91,473	8,173,199
Salvage/Subrogation Recoveries	773,701	-	773,701
Net Investment Income	243,914,135	2,877,013	246,791,148
	<u>272,422,858</u>	<u>2,968,486</u>	<u>275,391,343</u>
Operating Expenses			
Legal and Professional	8,915,730	44,179	8,959,909
General and Administrative	14,046,725	160,004	14,206,730
Allocated Expenses	7,911,262	200,073	8,111,335
Loss (Gain) on Disposition of Assets	(2,975,024)	-	(2,975,024)
	<u>27,898,693</u>	<u>404,256</u>	<u>28,302,949</u>
Losses and Other Expenses			
Incurred Losses and Claims Expense	76,426,985	163,057	76,590,041
Court-ordered Debt Forgiveness	(915,746,819)	-	(915,746,819)
Provision for Federal Income Taxes	78,933,754	-	78,933,754
	<u>(760,386,080)</u>	<u>163,057</u>	<u>(760,223,024)</u>
NET INCOME (LOSS)	<u>1,004,910,245</u>	<u>2,401,173</u>	<u>1,007,311,418</u>
Adjustments to assets and liabilities	5,912,311	-	5,912,311
Changes to Net Assets	<u>1,010,822,556</u>	<u>2,401,173</u>	<u>1,013,223,730</u>

Conservation & Liquidation Office

Mission National Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2012

	1998 to 2011	Sep 30 ytd 2012	Jan 1998 to Sep 2012
Income			
Reinsurance Recoveries	(2,348,254)	-	(2,348,254)
Litigation Recoveries	943,000	-	943,000
Premium and Other Collections	205,524	99	205,623
Salvage/Subrogation Recoveries	236,868	-	236,868
Net Investment Income	112,052,907	641,341	112,694,248
	<u>111,090,045</u>	<u>641,440</u>	<u>111,731,485</u>
Operating Expenses			
Legal and Professional	1,410,459	15,338	1,425,797
General and Administrative	123,185	33	123,218
Allocated Expenses	5,971,592	43,101	6,014,693
Loss (Gain) on Disposition of Assets	(7,868,879)	-	(7,868,879)
	<u>(363,643)</u>	<u>58,472</u>	<u>(305,171)</u>
Losses and Other Expenses			
Incurred Losses and Claims Expense	130,188,220	(14,596)	130,173,624
Court-ordered Debt Forgiveness	(75,397,352)	-	(75,397,352)
Provision for Federal Income Taxes	17,442,781	-	17,442,781
	<u>72,233,649</u>	<u>(14,596)</u>	<u>72,219,053</u>
NET INCOME (LOSS)	<u>39,220,040</u>	<u>597,564</u>	<u>39,817,604</u>
Adjustments to assets and liabilities	2,458,504	-	2,458,504
Changes to Net Assets	<u>41,678,544</u>	<u>597,564</u>	<u>42,276,108</u>

Conservation & Liquidation Office

Mission National Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2012

	(Opening Balance)		
	Jan 1	Sep 30	
	1998	2012	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	102,520	-	(102,520)
Participation in pooled investments, at market	232,119,932	23,553,361	(208,566,571)
Accrued investment income	-	85,002	85,002
Statutory deposits held by other states	1,947,958	-	(1,947,958)
Recoverable from reinsurers	13,739,903	5,119,864	(8,620,039)
Receivable from affiliates, net of allowances	(23,054,953)	-	23,054,953
Other receivable	-	62,313	62,313
Total Assets	224,855,360	28,820,539	(196,034,821)
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	1,886,786	1,886,786
Reserve for Federal Income Tax Liability	-	15,867,066	15,867,066
Claims against policies, including guaranty associations, before distributions	354,972,480	596,098,477	241,125,997
Policyholder distributions	-	(499,851,864)	(499,851,864)
All other claims	14,177,008	16,838,096	2,661,088
Total Liabilities	369,149,488	130,838,560	(238,310,928)
NET ASSETS (DEFICIENCY)	(144,294,128)	(102,018,020)	42,276,108

Conservation & Liquidation Office

Enterprise Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of September 30, 2012

	(Opening Balance) Jan 1 1998	Sep 30 2012	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	29,771,800	-	(29,771,800)
Participation in pooled investments, at market	-	7,403,480	7,403,480
Accrued investment income	-	26,723	26,723
Recoverable from reinsurers	299,581	-	(299,581)
Receivable from affiliates, net of allowances	40,108,050	-	(40,108,050)
Other receivable	848,164	-	(848,164)
Total Assets	71,027,595	7,430,203	(63,597,392)
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	661,189	661,189
Reserve for Federal Income Tax Liability	341,083	579,373	238,290
Claims against policies, including guaranty associations, before distributions	75,391,507	120,573,416	45,181,909
Policyholder distributions	-	(120,573,414)	(120,573,414)
All other claims	18,008,695	30,780,906	12,772,211
Total Liabilities	93,741,285	32,021,470	(61,719,815)
NET ASSETS (DEFICIENCY)	(22,713,690)	(24,591,267)	(1,877,577)

Conservation & Liquidation Office

Enterprise Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2012

	1998 to 2011	Sep 30 ytd 2012	Jan 1998 to Sep 2012
Income			
Litigation Recoveries	205,000	-	205,000
Premium and Other Collections	2,254,065	7,207	2,261,273
Salvage/Subrogation Recoveries	7,402	-	7,402
Net Investment Income	8,447,814	201,671	8,649,485
	10,914,281	208,879	11,123,160
Operating Expenses			
Legal and Professional	512,415	3,020	515,435
General and Administrative	16,855	10	16,864
Allocated Expenses	1,712,897	21,270	1,734,167
Loss (Gain) on Disposition of Assets	(594,494)	-	(594,494)
	1,647,673	24,300	1,671,973
Losses and Other Expenses			
Incurred Losses and Claims Expense	10,649,839	-	10,649,839
Provision for Federal Income Taxes	672,454	-	672,454
	11,322,293	-	11,322,293
NET INCOME (LOSS)	(2,055,684)	184,579	(1,871,105)
Adjustments to assets and liabilities	(6,472)	-	(6,472)
Changes to Net Assets	(2,062,156)	184,579	(1,877,577)

PROOF OF SERVICE: By REGULAR MAIL
(Code Civ. Proc., §§ 1013, 2015.5)

STATE OF TEXAS, COUNTY OF DALLAS.

I am employed in the County of Dallas, State of Texas. I am over the age of 18 and not a party to the within action; my business address is 625 West Centerville Road, Suite 110, Garland, Texas 75041.

On this date, I served the foregoing document described as **NOTICE OF STATUS CONFERENCE** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

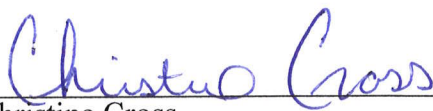
Sent via REGULAR MAIL to:
The Attached List

I am readily familiar with my employer's practices of collection and processing correspondence for mailing with the U.S. Postal Service and the above-referenced correspondence will be deposited with the U.S. Postal Service on the same date as stated below, following the ordinary course of business.

 X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ (Federal) I declare that I am employed by the office of a member of the bar of this court at whose direction the service was made.

Executed on January 15, 2013 at Garland, Texas.


Christine Cross

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