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Superior Court Of California
County Of Los Angeles

DEC 02 2014

Sherri R. Carter, Executive Officer/Clerk
By: Judi Lara, Deputy

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

10 DAVE JONES, Insurance Commissioner of) Case No. C 572 724
11 the State of California,)
12 Applicant,) Honorable John L. Segal
13 vs.)
14 MISSION INSURANCE COMPANY, a) THE INSURANCE COMMISSIONER'S
15 California corporation,) STATUS CONFERENCE REPORT
Respondent.) AND UPDATED CLOSING PLAN
16 Date: December 17, 2014
Time: 8:30 a.m.
Department 50
17 Consolidated with Case Numbers
18 C 576 324; C 576 416;) Action Filed: October 31, 1985
19 C 576 323; C 576 325; C 629709
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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 **The Status of the Case**

6 This case arises from the insolvency of Mission Insurance Company, Mission National
7 Insurance Company and Enterprise Insurance Company. Each of these large property and
8 casualty insurers entered conservation on October 31, 1985 and entered liquidation on February
9 23, 1987. Since that time, the Insurance Commissioner as Liquidator has adjusted the claims and
10 marshaled the assets, with the assistance of a staff of former personnel of the insurance
11 companies and of employees of the Insurance Commissioner's Conservation and Liquidation
12 Office. Over 166,000 proof of claim forms went out in this matter, and over one billion dollars
13 in assets were collected in this matter. Each policyholder of the companies holding an approved
14 claim has been approved for a distribution of one hundred cents on the dollar of the principal
15 amount of her, his or its approved claim(s). The distributions have resulted in over a billion
16 dollars being paid to claimants.

17 The Court approved a rehabilitation plan in 1990 in which the insurance company
18 corporations were transferred, while all liabilities were transferred to liquidating trusts for
19 administration with the Insurance Commissioner as Trustee. Covanta Holding Corporation is the
20 ultimate parent company of the now-transferred insurance companies. The Insurance
21 Commissioner is now Trustee of the Mission Insurance Company Trust, the Mission National
22 Insurance Company Trust, and the Enterprise Insurance Company Trust, which administer the
23 remaining assets and claims of each of the trusts. Mission Insurance Company Trust and
24 Enterprise Insurance Company Trust continue to have outstanding general creditor obligations,
25 while Mission National Insurance Company Trust has outstanding interest obligations.
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I. Developments

Enterprise Insurance Company Trust, Mission National Insurance Company Trust and Mission Insurance Company Trust obtained a closing order in 2006. The trusts have distributed substantial assets, but each trust has substantial assets which have not been distributed. Additional assets continue to be collected. The trusts have been waiting to make their final distributions until further events take place. Substantial collections and activities have taken place since the last status report. These events and the developments and progress in resolving the remaining issues are:

1. New developments in the effort to secure a super-priority release from the United States Department of Justice

The Insurance Commissioner as Trustee applied for a release in 2011 from any super-priority claims from the United States Department of Justice. In past status reports, the Insurance Commissioner described how the Insurance Commissioner submitted a request for a super-priority release and how the Insurance Commissioner had responded to requests for further information with a submission of the requested further information. Prior status reports advised that Enterprise Insurance Company Trust obtained its release, but the request for a release by Mission Insurance Company Trust and Mission National Insurance Company Trust remain pending.

Since the last status report, counsel for the United States Department of Justice and the counsel for the Insurance Commissioner held substantial discussion as to the December 5, 2013 lists of insureds and environmental sites the EPA titled as “reservation of rights lists” as to “potential” EPA claims by the United States. These extensive lists impacted over nine hundred policy holders and potentially thousands of policies. Counsel for the United States Department of Justice requested to review copies of policies to, in their words, “confirm liability”. In the last status report, the Insurance Commissioner described a substantial effort to pull policies affecting these sites, and to provide documents showing those claims were resolved. The dialogue with

1 attorneys for the United States Department of Justice and for the Environmental Protection
2 Agency continues to move forward. On August 15, 2014, Sharon Williams, Esq., an attorney
3 with the United States Department of Justice, submitted a much shorter request for further
4 information. This list reduced the list of sites for Mission Insurance Company to twelve sites
5 (with some sites involving multiple insureds), while a similar list for Mission National Insurance
6 Company referenced four sites with one insured per site.

7 On September 18, 2014, the undersigned counsel sent to Ms. Williams a disk containing
8 copies of policies pertinent to the sites identified on August 15, 2014. On September 22, 2014,
9 the undersigned had a call with Ms. Williams and an attorney for the Environmental Protection
10 Agency. On October 10, 2014, the undersigned forwarded additional information about the
11 identified insureds to Ms. Williams. The attorneys had a further call on October 23, 2014.

12 During the October 23, 2014 call, Ms. Williams and Mr. Manual Ronquillo of the
13 Environmental Protection Agency advised that EPA was in the process of compiling two proofs
14 of claims arising from one site each to assert in this matter. Thus far, those proofs of claims have
15 not been received. The attorneys did identify the sites as to which the proofs of claims would
16 refer.

17 The proof of claims deadline in these estates was September 12, 1987. The United States
18 takes the position based on certain cases that bar dates do not affect it, while the Insurance
19 Commissioner, based upon other authority in this area, takes the position that bar dates do
20 matter. Further, the Conservation and Liquidation Office and the undersigned counsel have
21 conducted an extensive preliminary analysis of the underlying facts and the coverage aspects of
22 the sites identified by the United States. Significant issues exist as to whether the United States
23 Environmental Protection Agency could ever assert a claim.

24 The United States appears in this matter as a third party claimant against Mission and
25 Mission National insureds rather than an insured in its own right. The actual insureds' rights
26 were already resolved years ago, and principles of res judicata and collateral estoppel are likely
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1 to bar any effort by one asserting assignee or other derivative status to seek to revisit these
2 losses.

3 In addition, significant issues of policy coverage and policy allocation impose substantial
4 hurdles to any party seeking to assert a claim now. The various deadlines imposed by this Court
5 may also raise a hurdle to any claim.

6 This status report is not the time or the place to litigate those issues, though. This report
7 sets forth status. The status is that working together, the Insurance Commissioner's counsel, the
8 Conservation and Liquidation Office, the United States Department of Justice, and the
9 Environmental Protection Agency have winnowed down the discussion list as to possible issues
10 with regard to a federal release. Proofs of claims may soon follow to further frame the remaining
11 issues. Should the proofs of claims be delayed, the Insurance Commissioner will address the
12 issues either with this Court or through an appropriate action to determine rights. The resolution
13 of any claims of the United States or the receipt of a release from the United States is a step
14 needed to resolve one of the last barriers to closing. The Insurance Commissioner's Conservation
15 and Liquidation Office remains committed to try to get this process finalized.

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19 2. **The Trusts still await the conclusion of the the tax review of Covanta, which**
20 **Covanta's reports still advise is progressing through an appellate stage**

21 Mission Insurance Company Trust, Mission National Insurance Company Trust and
22 Enterprise Insurance Company Trust are part of the Covanta Holding Corporation consolidated
23 tax return. The Insurance Commissioner previously advised the Court that a tax review for the
24 tax years 2004-2009 is underway. The latest Covanta Holding Corporation 10Q for the quarterly
25 period ended September 30, 2014 still reports as follows in pertinent part:

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27 "The IRS is currently auditing our tax returns for the years 2004 through 2009, which includes
28 years during the carryforward period including returns in which some of the losses giving rise to
the NOLs that were reported. In connection with this audit, the IRS has proposed certain
adjustments to our 2008 tax return. We do not believe such proposed adjustments are consistent

1 with applicable rules, and we have challenged them through the IRS's administrative appeals
2 procedures. If we are unsuccessful in challenging such adjustments, some portion of the NOLs
3 would not be available to offset consolidated taxable income, and/or we could be required to pay
4 federal income taxes (and potentially interest and penalties) for prior years.

5 This Court has already approved a rehabilitation plan implementation agreement, in
6 which Covanta Holding Corporation agreed to indemnify the Insurance Commissioner as Trustee
7 as to certain tax issues. Since the last report, the Insurance Commissioner has obtained from
8 Covanta a written agreement ensuring that any potential tax issues arising from certain corporate
9 changes contemplated by Covanta will fall within the indemnity. Based on the foregoing, it
10 continues to appear that the audit is progressing toward a resolution, but that an administrative
11 appeal arising from the audit result is underway which will require resolution. Covanta's flings
12 for 2014 have so far continued to reference an administrative appeal process.

13 **Other assets have the potential to generate collections**

14 Centaur Insurance Company, an Illinois insurer in rehabilitation, has approved a
15 substantial proof of claim in favor of the Mission Insurance Company Trust. No distributions
16 have yet been made on this proof of claim. The most recent status report to the receivership court
17 for the Centaur Insurance Company [Centaur] receivership indicates that the Environmental
18 Protection Agency ("EPA") has asserted unliquidated claims relating to a number of
19 environmental waste sites, and that a dialogue between the Centaur Rehabilitator, EPA and the
20 United States Department of Justice is underway. The Insurance Commissioner cannot state
21 when the Centaur Rehabilitator will make a distribution on the approved proof of claim of
22 Mission Insurance Company Trust, given this possible federal claim, and cannot project the
23 amount, of any, of such distributions. The Centaur financial report as of December 31, 2013,
24 reports assets of \$ 93,581,471 and general creditor claims of \$ 103,036,850. However, notes 1
25 and 2 to that same document state:

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27 Note 1: The above amounts do not account for future administrative
28 expenses of the Receiver, nor write-offs of receivables and recoverables,
which could be significant.

1 Note 2: Not included in the reported liabilities are potential federal
2 government claims related to one hundred and thirteen environmental waste
3 sites that are accorded priority level (F) status in the statutory distribution
4 scheme. The Rehabilitator and the U. S. Justice Department are working to
5 resolve the claims. All priority level (F) claims must be resolved before the
6 priority level (G) claims can be paid.

7 **II. Financial Status of the Trusts**

8
9 Attached as Exhibit "A" is a statement of assets and liabilities for the Trusts. The Trustee
10 continues to hold a substantial sum of money in reserve for unknown and unexpected
11 contingencies. Because interested parties have posed questions about the inter-company
12 obligations of the Trusts, a page has been added to address that.

13 The Insurance Commissioner does not include a timeline with this filing, because the
14 time line would just continue to be reset until the federal issues set forth above are resolved. The
15 trusts have final distributions to make once the federal issues, including any tax issues, and any
16 remaining collection and distribution issues are resolved. A federal release/waiver issue also
17 affects one of the material assets of the Mission Insurance Company Trust, because the Insurance
18 Commissioner as Trustee has an approved multi-million dollar proof of claim against Centaur
19 Insurance Company, but distributions on this proof of claim have been delayed by the Centaur
20 rehabilitator pending its pursuit of a federal release. If the federal issues reach a resolution, then
21 the Insurance Commissioner will file a motion to make further distributions.

22 Further matters in this Case:

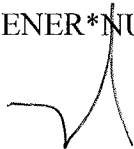
23
24 This Court granted motions to approve an accounting and to authorize distribution of
25 Enterprise Insurance Company Trust's assets on October 29, 2014. The Insurance
26 Commissioner completed the Enterprise Insurance Company Trust distributions on November
27 13, 2014.

1
2 **Conclusion:**

3 The wind-up of this case is continuing, with the continued factor of an IRS review of the
4 Covanta tax situation, and a request to get clearance in light of the lack of any other federal
5 claims. Progress is being made in the federal release process, but substantial work must be done
6 in light of the potential issues raised by the EPA. The Court is requested to set a May 2015
7 further status conference.

8
9 Respectfully submitted,

10 WISENER *NUNNALLY* GOLD, LLP

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13 _____
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Exhibit A

Conservation & Liquidation Office

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Mission Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2014

	1998 to 2014	Sep 30 2014	Jan 1998 to Sep 2014
Income			
Reinsurance Recoveries	17,019,505	-	17,019,505
Litigation Recoveries	2,633,791	-	2,633,791
Premiums and Other Collections	11,867,626	24,993	11,867,626
Salvage/Subrogation Recoveries	773,701	-	773,701
Net Investment Income	248,725,019	1,012,319	248,725,019
	281,019,642	1,037,312	281,019,642
Operating Expenses			
Legal and Professional	9,227,417	193,583	9,227,417
General and Administrative	14,585,316	126,173	14,585,316
Allocated Expenses	8,982,393	364,293	8,982,393
Loss (Gain) on Disposition of Assets	(2,975,024)	-	(2,975,024)
	29,820,101	684,050	29,820,101
Losses and Other Expenses			
Incurred Losses and Claims Expense	76,590,041	-	76,590,041
Court-ordered Debt Forgiveness	(915,746,819)	-	(915,746,819)
Provision for Federal Income taxes	78,933,754	-	78,933,754
	(760,223,024)	-	(760,223,024)
NET INCOME (LOSS)	1,011,422,564	353,262	1,011,422,564
Adjustments to assets and liabilities	5,911,248	-	5,911,248
Changes to Net Assets	1,017,333,811	353,262	1,015,223,336

Conservation & Liquidation Office

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Mission National Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2014

	1998 to 2014	Sep 30 2014	Jan 1998 to Sep 2014
Income			
Reinsurance Recoveries	(2,348,254)	-	(2,348,254)
Litigation Recoveries	943,000	-	943,000
Premiums and Other Collections	247,057	310	247,057
Salvage/Subrogation Recoveries	236,868	-	236,868
Net Investment Income	113,131,149	237,314	113,131,149
	112,209,819	237,624	112,209,819
Operating Expenses			
Legal and Professional	1,532,976	77,023	1,532,976
General and Administrative	123,314	43	123,314
Allocated Expenses	6,264,120	109,671	6,264,120
Loss (Gain) on Disposition of Assets	(7,868,879)	-	(7,868,879)
	51,531	186,737	51,531
Losses and Other Expenses			
Incurred Losses and Claims Expense	130,133,260	-	130,133,260
Court-ordered Debt Forgiveness	(75,397,352)	-	(75,397,352)
Provision for Federal Income taxes	17,442,781	-	17,442,781
	72,178,689	-	72,178,689
NET INCOME (LOSS)	39,979,599	50,887	39,979,599
Adjustments vo assets and liabilities	2,458,506	-	2,458,506
Changes to Net Assets	42,438,105	50,887	42,438,105

Conservation & Liquidation Office

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Enverprise Ins Co

STATEMENT OF CHANGES TO NET ASSETS

As of September 30, 2014

	<u>1998 to 2014</u>	<u>Sep 30 2014</u>	<u>Jan 1998 to Sep 2014</u>
Income			
Reinsurance Recoveries	-	-	-
Litigation Recoveries	205,000	-	205,000
Premiums and Other Collections	2,359,806	34,727	2,359,806
Salvage/Subrogation Recoveries	7,402	-	7,402
Net Investment Income	8,777,357	68,325	8,777,357
	<u>11,349,565</u>	<u>103,052</u>	<u>11,349,565</u>
Operating Expenses			
Legal and Professional	530,230	3,935	530,230
General and Administrative	16,950	28	16,950
Allocated Expenses	1,871,349	70,047	1,871,349
Loss (Gain) on Disposition of Assets	(594,494)	-	(594,494)
	<u>1,824,036</u>	<u>74,010</u>	<u>1,824,036</u>
Losses and Other Expenses			
Incurred Losses and Claims Expense	10,649,839	-	10,649,839
Court-ordered Debt Forgiveness	-	-	-
Provision for Federal Income taxes	93,128	(579,326)	93,128
	<u>10,742,967</u>	<u>(579,326)</u>	<u>10,742,967</u>
NET INCOME (LOSS)	<u>(2,055,685)</u>	<u>608,368</u>	<u>(798,833)</u>
Adjustments vo assets and liabilities	(6,472)	-	(6,472)
Changes to Net Assets	<u>(2,062,156)</u>	<u>608,368</u>	<u>(805,305)</u>

Mission National Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of March 31, 2014

	(Opening Balance)		
	Jan 1	31-Mar	
	1998	2014	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	102,520	-	19,453
Restricted	-	-	-
Participation in pooled investments, at market	232,119,932	26,200,181	(205,919,751)
Non-pooled short-term investments, at market			
Unrestricted	-	-	-
Restricted	-	-	-
Other securities held	-	-	-
Accrued investment income	-	54,852	54,852
Statutory deposits held by other states	1,947,958	-	(1,947,958)
Funds held by guaranty associations	-	-	-
Recoverable from reinsurers	13,739,903	2,706,799	(11,033,104)
Salvage and subrogation recoverable	-	-	-
Premium balances	-	-	-
Receivable from affiliates, net of allowances	(23,054,953)	-	23,054,953
Other receivable	-	19,453	19,453
Property and equipment, net of accumulated depreciation	-	-	-
Deposits and other assets	-	-	-
Total Assets	224,855,360	28,981,284	(195,874,076)
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	1,886,786	1,886,786
Reserve for Federal Income Tax Liability	-	15,866,987	15,866,987
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)
California and Federal claims having preference	-	-	-
All other claims	14,177,008	16,838,096	2,661,088
Total Liabilities	369,149,488	130,838,481	(238,311,007)
NET ASSETS (DEFICIENCY)	(144,294,128)	(101,857,197)	42,436,931

Mission Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of March 31, 2014

	(Opening Balance)		
	Jan 1	31-Mar	
	1998	2014	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	217,610	-	(217,610)
Restricted	16,455,223	-	(16,455,223)
Participation in pooled investments, at market	480,851,923	110,508,752	(370,343,171)
Non-pooled short-term investments, at market			
Unrestricted	-	-	-
Restricted	-	-	-
Other securities held	-	-	-
Accrued investment income	-	232,481	232,481
Statutory deposits held by other states	16,677,901	-	(16,677,901)
Funds held by guaranty associations	-	-	-
Recoverable from reinsurers	63,758,552	20,791,308	(42,967,244)
Salvage and subrogation recoverable	-	-	-
Premium balances	-	-	-
Receivable from affiliates, net of allowances	91,265,656	23,816,444	(67,449,212)
Other receivable	-	-	-
Property and equipment, net of accumulated depreciation	-	-	-
Deposits and other assets	256,437	-	(256,437)
Total Assets	<u>669,483,302</u>	<u>155,348,985</u>	<u>(514,134,317)</u>
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	1,173,188	1,173,188
Reserve for Federal Income Tax Liability	-	77,580,231	77,580,231
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	<u>1,808,539,396</u>	<u>277,191,898</u>	<u>(1,531,347,498)</u>
NET ASSETS (DEFICIENCY)	<u>(1,139,056,094)</u>	<u>(121,842,912)</u>	<u>1,017,213,182</u>

Enterprise Ins Co

STATEMENT OF ASSETS AND LIABILITIES

As of March 31, 2014

	(Opening Balance)		
	Jan 1	31-Mar	
	1998	2014	Change
ASSETS			
Cash and cash equivalents:			
Unrestricted	29,771,800	-	(29,771,800)
Restricted	-	-	-
Participation in pooled investments, at market	-	7,498,139	7,498,139
Non-pooled short-term investments, at market			
Unrestricted	-	-	-
Restricted	-	-	-
Other securities held	-	-	-
Accrued investment income	-	15,770	15,770
Statutory deposits held by other states	-	-	-
Funds held by guaranty associations	-	-	-
Recoverable from reinsurers	299,581	-	(299,581)
Salvage and subrogation recoverable	-	-	-
Premium balances	-	-	-
Receivable from affiliates, net of allowances	40,108,050	-	(40,108,050)
Other receivable	848,164	-	(848,164)
Property and equipment, net of accumulated depreciation	-	-	-
Deposits and other assets	-	-	-
Total Assets	71,027,595	7,513,909	(63,513,686)
LIABILITIES			
Unclaimed Funds and Other Secured Claims	-	661,189	661,189
Reserve for Federal Income Tax Liability	341,083	579,325	238,242
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)
California and Federal claims having preference	-	-	-
All other claims	18,008,695	30,780,906	12,772,211
Total Liabilities	93,741,285	32,021,422	(61,719,863)
NET ASSETS (DEFICIENCY)	(22,713,690)	(24,507,513)	(1,793,823)

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

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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 245 Cedar Sage Drive, Suite 240, Garland, Texas 75040.

On this date, I served the foregoing document described as **THE INSURANCE COMMISSIONER'S STATUS CONFERENCE REPORT AND UPDATED CLOSING PLAN** by placing a copy thereof enclosed in sealed envelopes addressed as follows:

Sent via FIRST CLASS 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.

(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 December 2, 2014 at Garland, Texas.



Braedon Jones

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