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Insurance Commissioner of the State of California

15  
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **FOR THE COUNTY OF LOS ANGELES**

18 INSURANCE COMMISSIONER OF THE  
19 STATE OF CALIFORNIA,

20 Applicant,

21 v.

22 GOLDEN STATE MUTUAL LIFE  
INSURANCE COMPANY, a California  
23 corporation,

24 Respondent.

Case No. BS123005  
Assigned to Hon. Ann I. Jones, Dept. 86

**MEMORANDUM OF POINTS AND  
AUTHORITIES IN SUPPORT OF  
APPLICATION FOR ORDER  
CONTINUING CLAIMS BAR DATE TO  
DECEMBER 31, 2012; AND  
DECLARATIONS OF SCOTT PEARCE  
AND MICHAEL R. WEISS**

[Filed concurrently with Notice, Proposed  
Order and Proof of Service]

Date: September 28, 2011  
Time: 9:30 a.m.  
Dept: 86

1     **I. INTRODUCTION**

2           This Application seeks the Court's approval for Applicant Insurance Commissioner of the  
3 State of California in his capacity as Liquidator ("Liquidator") of Golden State Mutual Life  
4 Insurance Company ("Golden State") to continue the Claims Bar Date from its current date of  
5 December 31, 2011, to a new date of December 31, 2012. Continuing the bar date also continues  
6 the date for publication in newspapers of notice of the Claims Bar Date to June 30, 2012. The  
7 Claims Bar Date is the date that claims against Golden State's assets must be filed with the  
8 Liquidator.

9           This Application is necessary to conserve estate assets. Golden State's current estimated  
10 deficiency is at least \$5,946,228 as of June 30, 2011. Depending on the results of the sales of  
11 Golden State's real estate currently valued at approximately \$1,486,579, the outcome of the quiet  
12 title action by Community Impact Development II, LLC ("CID") regarding the murals currently  
13 valued at at least \$700,000, and the outcome of the monument designation by the City of Los  
14 Angeles regarding the murals, Golden State may not possess sufficient assets to permit significant  
15 distribution to certain priority classes of claimants. As such, pursuant to Insurance Code §  
16 1021(a), the Liquidator may decline to handle claims from certain classes of claimants or decline  
17 to continue the liquidation.

18           Although the Liquidator has not made such determinations at this time, in the event such  
19 determinations are made in the future, by this application the Liquidator presently seeks to avoid  
20 the significant administrative costs of preparing and mailing proofs of claim packages to over  
21 2,200 potential claimants, publishing notice in numerous newspapers, and handling the returned  
22 proofs of claim packages from claimants, which costs are estimated to be at least \$71,851.

23           The requested continuance will permit the Liquidator additional time to evaluate whether  
24 such determinations are necessary and thereby, in the interim, conserve and monetize assets for  
25 claimants in Priority classes who may receive distributions. Without the continuance, the  
26 Liquidator presently will need to handle the claims process and incur the necessary administrative  
27 expenses to do so without firm knowledge there will be material assets to distribute.

28

1 As discussed below, there is good cause for the requested continuance of the Claims Bar  
2 Date.

3 1. The continuance presently will avoid potentially unnecessary administrative  
4 expenses associated with the claims process pending further information on the results of real  
5 estate sales, CID's quiet title action regarding the murals, and the City of Los Angeles monument  
6 designation of the murals.

7 2. There is no prejudice to any claimants or interested persons in Golden State's  
8 estate. The only change in the claim administration process is that the Claims Bar Date and  
9 newspaper publication of that date are continued for an additional twelve months to December 31,  
10 2012, to avoid potentially unnecessary expenses.

11 3. The continuance is not expected to delay the claims process, as no distributions are  
12 likely until the real estate is sold and the issues regarding the murals are resolved.

13 4. To lessen concerns by certain remaining policy holders and certificate of  
14 contribution holders, the Liquidator is recognizing and accepting their claims without requiring  
15 separately filed written proofs of claim (this does not mean the claims are being paid at this time).

16 5. The orders requested herein are consistent with the Liquidator's authorities and  
17 discretion under the Court's prior orders, the Insurance Code and case law.

18 Accordingly, the Court should grant this Application and authorize the continuance of the  
19 Claims Bar Date to December 31, 2012.

20 **II. FACTUAL BACKGROUND.**

21 On January 28, 2011, this Court terminated the Insurance Commissioner's status as  
22 Conservator, ordered and appointed the Insurance Commissioner to serve as Liquidator of Golden  
23 State, and upon the Liquidator's request established December 31, 2011 as the current Claims Bar  
24 Date. (Declaration of Scott Pearce ("Pearce Dec."), ¶ 10; Order of Liquidation, ¶ 32.) The  
25 Insurance Commissioner was appointed Liquidator because Golden State was and remains  
26 insolvent in that, as of September 30, 2010, Golden State's estimated liabilities of \$9,291,895  
27 exceeded its estimated remaining assets of \$5,721,154 by over \$3.5 million. (Declaration of Scott  
28 Pearce ("Pearce Dec."), ¶ 11; Order of Liquidation, ¶ 32.)

1 The June 30, 2011 financials have increased the shortfall to \$5,946,228, in that as of June  
 2 30, 2011 estimated liabilities are \$8,191,012 and remaining estimated assets are \$2,244,784.  
 3 Since September 2010, the Commissioner in his capacity as Conservator and then as Liquidator  
 4 discontinued and shut down all operations conducted in Golden State's Los Angeles home office,  
 5 discontinued and shut down Golden State's then remaining seven district offices located across  
 6 the country, terminated all remaining employees, transitioned all affairs associated with the  
 7 conservation and now liquidation of Golden State to the Commissioner's Conservation and  
 8 Liquidation Office in San Francisco, completed the final accounting true up of the Reinsurance  
 9 Assumption Transaction with IA American Life Insurance Company and paid all remaining  
 10 amounts owed for IA American's assumption of Golden State's life insurance policies and  
 11 annuity contracts, completed the negotiation and approval of the transfer of Golden State's  
 12 Retirement Plan to the federal Pension Benefit Guaranty Corporation, completed the  
 13 decommission of Golden State's 401k Retirement program, quantified and negotiated the  
 14 transition of all non-assumed Class 2 policy liability to the National Organization of Life and  
 15 Health Guaranty Associations (NOLGHA), continued to defend Golden State's ownership and  
 16 control of its murals against the CID's claims and the monument designation by the City of Los  
 17 Angeles, listed for sale all seven district offices under local brokerage agreements, and has  
 18 scheduled and commenced preparations for Golden State's required financial filings and  
 19 disclosures such as an annual audit and the preparation of a tax return. (Pearce Dec., ¶ 9.)

20 In addition to the estimated liabilities of at least \$8,191,012, it is anticipated that liability  
 21 to NOLHGA, on behalf of the California Life and Health Insurance Guarantee Association and  
 22 other insurance guaranty associations, will be at least \$2 million for payments estimated to be  
 23 made by them to policyholders under Golden State's employee group life insurance and disability  
 24 plan. (Pearce Dec., ¶ 7.)

25 Currently there are two categories of Golden State's assets to be liquidated by the  
 26 Liquidator: (1) real estate valued at approximately \$1,486,579, and (2) artwork and murals whose  
 27 value is estimated to be at least \$753,200. (Pearce Dec., ¶ 12.) The real estate remains for sale,  
 28 and the sale of the artwork and murals is delayed pending resolution of the quiet title lawsuit



recently commenced by CID and the monument designation by the City of Los Angeles, and further evaluation by the Liquidator of the value of the artwork and murals once confirmed to be Golden State's personal property. (Pearce Dec., ¶ 12.)

### III. STATUTORY SCHEME.

#### A. Establishment of Claims Bar Date.

After issuance of an order to liquidate an insurer, the Liquidator establishes a claims bar date by which claimants are required to file their claims against the insurer, and thereafter publishes in newspapers notice of the claims bar date to the insurer's policyholders, creditors, shareholders and all other persons interested in the insurer's assets. (Insurance Code §§ 1021(a)<sup>1</sup> and 1022.) The notice is to be "published in a newspaper of general circulation ... in the county in which the proceeding is pending, and in the Counties of Alameda, Los Angeles, Sacramento, San Diego, San Francisco, and Santa Clara, not less than once a week for four consecutive weeks." (Insurance Code § 1022.)

#### B. Liquidator Can Decline To Handle Claims.

Notwithstanding the establishment of a claims bar date and newspaper publication, if the Liquidator determines that an insolvent insurer is not likely to possess sufficient assets to permit significant distribution to certain priority classes of claimants<sup>2</sup>, then pursuant to Insurance Code §

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<sup>1</sup> Insurance Code § 1021(a) states: "Upon the making of an order to liquidate the [insurer's business], the commissioner shall publish notice to [the insurer's] policyholders, creditors, shareholders, and all other persons interested in [the insurer's] assets. The order and the notice shall require claimants to file their claims with the commissioner, together with proper proofs thereof, within six months to one year, at the commissioner's discretion, after the date of first publication of such notice, in the manner specified in [§ 1010 et seq]."

<sup>2</sup> The distribution priorities are established in Insurance Code § 1033, which states that funds available are distributed in the following order:

(1) Expense of administration.

(2) All claims of the California Insurance Guarantee Association or the California Life and Health Insurance Guarantee Association, and associations or entities performing a similar function in other states, together with claims for refund of unearned premiums and all claims under insurance and annuity policies or contracts, including funding agreements, of an insolvent insurer that are not covered claims.

(3) Claims having preference by the laws of the United States.

1 1021(a)<sup>3</sup> the Liquidator may decline to handle certain claims from classes of claimants. Further,  
 2 if the Liquidator determines that the insolvent insurer is not likely to possess sufficient assets to  
 3 pay the administrative expenses to liquidate the insurer, then the Liquidator may decline to  
 4 continue, and may abandon, the liquidation. By way of example only, if there are insufficient  
 5 assets to pay claimants in Priorities 5 through 9, then using assets to handle such claims lessens  
 6 assets available to pay claimants in Priorities 1 through 4; so the Liquidator could decide not to  
 7 handle claims in Priority classes 5 through 9.

#### 8 **IV. ARGUMENT**

##### 9 **A. The Claims Bar Date And Newspaper Publication Should Be Continued To** 10 **December 31, 2012.**

11 The Liquidator has not determined that Golden State is likely to have insufficient assets to  
 12 permit significant distribution to any person interested in Golden State's assets, and has not  
 13 determined that Golden State is likely to possess insufficient assets to pay the administrative  
 14 expenses to liquidate Golden State. (Pearce Dec., ¶ 13.) However, depending on the results of  
 15 the sales of Golden State's real estate, the outcome of the quiet title action by CID, and the

- 
- 16
- 17 (4) Unpaid charges due under the provisions of Section 736.
  - 18 (5) Taxes due to the State of California.
  - 19 (6) Claims having preference by the laws of this state.
  - 20 (7) Claims of creditors not included in paragraphs (1) to (6), inclusive.
  - 21 (8) Certificates of contribution, surplus notes, or similar obligations, and premium
  - 22 refunds on assessable policies.
  - 23 (9) The interests of shareholders or other owners in any residual value in the
  - 24 estate.

25 <sup>3</sup> Insurance Code § 1021(c) states: "Notwithstanding the provisions of subdivision (a), both of the  
 26 following apply:

27 (1) If the commissioner determines that the business subject to liquidation order possesses,  
 28 or is likely to possess, insufficient assets to permit significant distribution to a person interested in  
 those assets, the commissioner may decline to handle a claim submitted pursuant to subdivision  
 (a), as long as the notice requirements of subdivision (a) and Section 1022 are observed.

(2) If the commissioner reasonably determines that the business subject to liquidation  
 order possesses, or is likely to possess, insufficient assets to permit significant distribution of  
 funds to pay the expenses of administration under this article, as provided in paragraph (1) of  
 subdivision (a) of Section 1033, the commissioner may decline to continue, and may abandon, the  
 insolvency proceeding upon providing notice pursuant to subdivision (a) and Section 1022."

1 outcome of the monument designation by the City of Los Angeles, such determinations are  
 2 possible in light of Golden State's current estimated deficiency of at least \$5,946,228 and the  
 3 anticipated administrative costs and expenses of these actions. (Pearce Dec., ¶ 13.)

4 Golden State's real estate is valued at approximately \$1,486,579, however the real estate  
 5 is slow to sell in the current economic environment and currently remains marketed for sale. And  
 6 as the Court is aware, the murals are the subject of a quiet title lawsuit filed by CID in which CID  
 7 seeks ownership of the murals. The murals also are the subject of a monument designation by the  
 8 City of Los Angeles, which will cause Golden State to file a petition for writ of mandate  
 9 proceeding in the near future. Therefore the sale of the murals is delayed pending final  
 10 determination of these actions. The final realized value of the real estate and murals, as well as  
 11 the artwork, will greatly impact the assets available for distribution to creditors and will impact  
 12 the Liquidator's determinations of whether Golden State has sufficient assets to permit  
 13 distributions to certain classes of claimants. (Pearce Dec., ¶¶ 12-14; Declaration of Michael R.  
 14 Weiss ("Weiss Dec."), ¶ 5.)

15 Because of the potential for such determinations, by this application the Liquidator seeks  
 16 to presently avoid the significant administrative costs of preparing and mailing proofs of claim  
 17 packages to over 2,200 potential claimants, publishing notice in numerous newspapers, and  
 18 handling the returned proofs of claim packages and expected numerous inquiries from claimants.  
 19 The cost to mail proofs of claim packages and handle the initial stages of the proof of claim  
 20 process is estimated by the Liquidator to be at least \$40,000, and the cost to publish notice in the  
 21 required newspapers is estimated by the Liquidator to be at least an additional \$31,851; for a total  
 22 of at least \$71,851 (Pearce Dec., ¶ 15; Weiss Dec., ¶ 3.)

23 For these reasons, the Claims Bar Date should be continued from its current date of  
 24 December 31, 2011 to December 31, 2012; which in turn will postpone the publication date to  
 25 June 30, 2012.

26 **B. There Is No Prejudice To Any Claimants Or Interested Persons In Golden**  
 27 **State's Estate.**

28 The only change in the claim administration process is that the Claims Bar Date and

newspaper publication of that date are continued for an additional twelve months to December 31, 2012, to avoid potentially unnecessary expenses. (Pearce Dec., ¶ 16.)

**1. The continuance is not expected to delay the claims process.**

The requested continuance of the Claims Bar Date and the newspaper publication is not expected to delay the claims process because until the real estate is sold and the mural ownership issues are resolved, no payments could be made to creditors in any event. It is currently unknown when the real estate will be fully sold. As to the murals, it is anticipated that resolution of the mural ownership and monument designation issues will take at least two years to resolve through appeal. Assuming it is confirmed that the murals are Golden State's property and are permitted to be removed from their current location, then the murals will still need to be marketed and any sale approved by the Court, which will likely add additional time to this timeframe. (Pearce Dec., ¶ 17.)

Thus, it is anticipated that claimants will not recover any monies in the years 2011 or 2012; and therefore, there is no anticipated delay in the claims process. (Pearce Dec., ¶ 17.)

**2. The requested continuance is beneficial to claimants to avoid the potentially unnecessary expenditure of Golden State's assets.**

As discussed above, if the Liquidator determines that an insolvent insurer is not likely to possess sufficient assets to permit significant distribution to certain priority classes of claimants, then the Liquidator may decline to handle certain claims from classes of claimants. For example only, if there are insufficient assets to pay claimants in Priorities 5 through 9, then using assets to handle such claims lessens assets available to pay claimants in Priorities 1 through 4; so the Liquidator would seek not to do so.

Accordingly, the requested continuance will permit the Liquidator additional time to evaluate whether such determinations are necessary and thereby, in the interim, conserve and monetize assets for claimants in Priority classes who may receive distributions. Without the continuance, the Liquidator will presently need to handle the claims process and incur the necessary administrative expenses to do so without firm knowledge there will be material assets to distribute. (Pearce Dec., ¶ 18.)

3. **To lessen concerns by certain remaining policy holders and certificate of contribution holders, the Liquidator is recognizing and accepting their claims (not paying the claims) without requiring separately filed proofs of claim.**

The majority of claimants contacting the Liquidator are (a) policyholders under Golden State's employee group life insurance and disability plan inquiring about whether their life and disability coverage will continue, and (b) Priority 8 certificate of contribution holders requesting information on filing claims to preserve their claims to recoup their investment in Golden State. (Pearce Dec., ¶ 19.) To lessen concerns by these two groups, the Liquidator is doing the following:

1. As to the policyholders under Golden State's employee group life insurance and disability plan, the Liquidator is finalizing an agreement with The National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA"), on behalf of the California Life and Health Insurance Guarantee Association ("CLHIGA") and other insurance guaranty associations, to have NOLHGA and/or CLHIGA continue to pay benefits to the policyholders under these policies. This will be a good result for remaining policyholders because otherwise benefit payments could potentially stop and the policyholders' only recourse would be as claimants against Golden State's assets. Once NOLHGA and/or CLHIGA take over benefit payments, NOLHGA and/or CLHIGA will become claimants to Golden State's assets for the benefits they paid. In lieu of requiring NOLHGA and/or CLHIGA to file separate claims, pursuant to Insurance Code § 1025.5<sup>4</sup> the Liquidator will permit NOLHGA and CLHIGA to file one claim, combining all assigned claims of individual claimants who receive benefits from

<sup>4</sup> Section § 1025.5, entitled "Alternative procedures to requiring separate claims," provides for CLHIGA to file one claim, and states: "Notwithstanding the provisions of Sections 1021 to 1025, inclusive, the commissioner may, in lieu of requiring claimants to file separate claims: ... (c) Permit the California Insurance Guarantee Association under subdivision (b) of Section 1063.4, or the California Life and Health Insurance Guarantee Association under paragraph (1) of subdivision (k) of Section 1067.07 to file one claim, for its association, combining all assigned claims and setting forth the information that the commissioner may require under Section 1023."



1 NOLHGA and/or CLHIGA. (Pearce Dec., ¶ 20(a).)

2           2. As to Priority 8 certificate of contribution holders requesting information  
3 on filing claims to recoup their investment in Golden State, rather than requiring them to file  
4 separate claims, the Liquidator will recognize and accept as filed all claims on behalf of all  
5 certificate of contribution holders without the need for certificate holders to file written proofs of  
6 claims. The Liquidator has a list of the certificate holders, their addresses and the amount of their  
7 certificate investments. If a distribution is to be made to certificate holders in the future, notice of  
8 the distribution will be sent to the certificate holders and any issues or concerns by said holders  
9 will be addressed at that time. (Pearce Dec., ¶ 20(b).)

10 Recognizing and accepting NOLHGA's and CLHIGA's claims as one claim and accepting  
11 as filed all claims on behalf of all certificate of contribution holders without requiring them to file  
12 proofs of claim, will eliminate the expenses of mailing and handling proofs of claims on their  
13 behalf, and hopefully reduce the administrative expense of the phone calls from policyholders and  
14 certificate of contribution holders, thereby further reducing Golden State's administrative  
15 expenses. (Pearce Dec., ¶ 21.)

16           **C. The Orders Requested Herein Are Consistent With The Liquidator's**  
17           **Authorities And Discretion Under The Court's Orders, The Insurance Code**  
18           **And Case Law.**

19 The requested Court Orders are authorized and consistent with the Liquidator's authorities  
20 and discretion under the Court's prior orders, the Insurance Code and California case law – all of  
21 which grants broad powers to the Insurance Commissioner as conservator and liquidator of  
22 insurance companies, as discussed below.

23 First, pursuant to the Order of Liquidation, the Liquidator is "authorized ... to do such  
24 other acts as are necessary or expedient to collect, conserve, protect and/or liquidate Golden  
25 State's assets, property and business." (Order of Liquidation, ¶ 5.)

26 Second, Insurance Code § 1037, entitled "Powers of commissioner as conservator or  
27 liquidator," provides broad powers to the Insurance Commissioner as conservator and liquidator  
28 of insurance companies, and state in pertinent part:



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

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

9           ....

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

17          Third, California case law supports the broad grant of powers accorded the Insurance  
18 Commissioner to transfer assets when he is conserving, rehabilitating, and/or liquidating  
19 insurance companies. For instance, in *In Re Executive Life Insurance Company* (1995) 32  
20 Cal.App.4th 344, the Court of Appeal stated that:

21           The Commissioner is an officer of the state (*Caminetti v. Pac.*  
22 *Mutual L. Ins. Co.* (1943) 22 Cal.2d 344, 354 [139 P.2d 908]) who, when  
23 he or she is a conservator, exercises the state's police power to carry  
24 forward the public interest and to protect policyholders and creditors of the  
25 insolvent insurer. (*Carpenter v. Pacific Mut. Life Ins. Co.* (1937) 10 Cal.2d  
26 307, 330-331 [74 P.2d 761].)

27           In exercising this power, the Commissioner is vested with broad discretion.  
28 (*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p.  
402.) This discretion is subject to statutory limitations (see *id.* at p. 409) and the  
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.) The Commissioner as conservator of the insolvent insurer is also a trustee for  
the benefit of all creditors and other persons interested in the insolvency estate.  
([Insurance Code] § 1057.)

(*In Re Executive Life*, *supra*, at p. 356.)

The Court concluded that:

... The trial court reviews the Commissioner's actions under the abuse of  
discretion standard. (*Commercial Nat. Bank v. Superior Court*, *supra*, 14

1 Cal.App.4th 393, 398): was the action arbitrary, i.e. unsupported by a rational  
2 basis, or is it contrary to specific statute, a breach of the fiduciary duty of the  
3 conservator as trustee, or improperly discriminatory?

4 (*In Re Executive Life, supra*, at p. 358.)

5 **V. NOTICE OF THIS APPLICATION.**

6 The Liquidator is not aware of any persons or entities who will be adversely affected by  
7 this application. Nonetheless, the Liquidator has provided written notice of this application to  
8 Certificate of Contribution holders. Additionally, due to prior requests to receive copies of court  
9 filings in this matter, the Liquidator has provided notice of this application to The National  
10 Organization of Life and Health Insurance Guaranty Associations and its attorneys, Community  
11 Impact Development II, LLC, and Pitney Bowes, Inc. The above described persons and entities  
12 are listed on the Proof of Service filed concurrently herewith. (Weiss Dec., ¶ 4; and Proof of  
13 Service.)

14 **VI. CONCLUSION**

15 In sum, there is good cause for the Court to grant this application. Accordingly, the  
16 Liquidator requests that the Court grant this application and issue the following orders:

- 17 1. An Order authorizing the continuance of the Claims Bar Date to December 31,  
18 2012; and  
19 2. An Order authorizing the Liquidator to take any and all actions necessary to  
20 accomplish the purposes of the Orders requested above.

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1 DATE: August 22, 2011

KAMALA D. HARRIS  
Attorney General of California  
W. DEAN FREEMAN  
Supervising Deputy Attorneys General  
MARTA L. SMITH  
Deputy Attorney General

5 EPSTEIN TURNER WEISS  
6 A Professional Corporation

7  
8 By:   
9 MICHAEL R. WEISS  
10 Attorneys for Applicant  
11 INSURANCE COMMISSIONER OF THE  
12 STATE OF CALIFORNIA  
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**DECLARATION OF SCOTT PEARCE**

I, Scott Pearce, declare as follows:

1. I have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am the Chief Estate Trust Officer for the Insurance Commissioner's Conservation & Liquidation Office. Starting on September 30, 2009, and continuing to the present, I have been and currently am the Estate Trust Officer on behalf of the Insurance Commissioner in his Statutory Capacity as Conservator ("Conservator") and then as Liquidator ("Liquidator") of Golden State Mutual Life Insurance Company ("Golden State").

3. As the Chief Estate Trust Officer on behalf of the Conservator and now Liquidator of Golden State, I am responsible for the supervision and management of matters pertaining to the conservation and liquidation of Golden State.

4. I have read the Liquidator's Application For Orders Continuing The Claims Bar Date, Memorandum and Declaration of Michael R. Weiss.

5. Based on my supervision and management of all matters pertaining to Golden State, my experience, review and understanding of the events related to the conservation and now liquidation of Golden State, my and my staff's review of the files and records routinely maintained in the regular and ordinary course of business and believed to be entered contemporaneously by persons having knowledge of the events recorded and whose job duties include recording them, and my review of this application and its supporting papers and documents, I state the following:

**Retained Assets and Liabilities for Administration by Golden State's Estate.**

6. As of June 30, 2011, assets retained by Golden State total approximately \$2,244,784 and include the following:

- a. Cash and cash equivalents of \$137,634;
- b. Real estate valued at approximately \$1,486,579; and
- c. Artwork and murals whose value is at least \$753,200.

1           7.       As of June 30, 2011, liabilities retained by Golden State currently are estimated to  
2 be at least approximately \$8,191,012 and include the following estimates of possible claims  
3 which may be asserted:

- 4           a.       Unclaimed funds payable of \$248,872;
- 5           b.       Accrued liabilities of \$373,073;
- 6           c.       Pension Plan liability of \$5,124,832, which is the difference between the  
7                    liability when the plan was terminated on December 31, 2010 and the plans  
8                    assets at termination.
- 9           d.       Obligations under Certificates of Contribution including accrued interest of  
10                   \$2,444,234; and
- 11           e.       Non-contractual liability to Golden State's policyholders as mutual owners  
12                    of Golden State, who retain their § 1033 priority 9 rights.

13           In addition to the above liabilities, it is anticipated that liability to The National  
14 Organization of Life and Health Insurance Guaranty Associations, on behalf of the California Life  
15 and Health Insurance Guarantee Association and other insurance guaranty associations, will be at  
16 least \$2 million for payments estimated to be made by them to policyholders under Golden State's  
17 employee group life insurance and disability plan.

18           8.       The above estimates of potential liabilities which may be asserted against Golden  
19 State are not an admission that a particular liability or amount of the liability is actually due.  
20 Instead, the above estimates are listed only to establish the amount of possible liabilities which  
21 may be asserted against Golden State.

22           9.       The June 30, 2011 financials have increased the shortfall to \$5,946,228, in that as  
23 of June 30, 2011 estimated liabilities are \$8,191,012 and remaining estimated assets are  
24 \$2,244,784. Since September 2010, the Commissioner in his capacity as Conservator and then as  
25 Liquidator discontinued and shut down all operations conducted in Golden State's Los Angeles  
26 home office, discontinued and shut down Golden State's then remaining seven district offices  
27 located across the country, terminated all remaining employees, transitioned all affairs associated  
28 with the conservation and now liquidation of Golden State to the Commissioner's Conservation

1 and Liquidation Office in San Francisco, completed the final accounting true up of the  
 2 Reinsurance Assumption Transaction with IA American Life Insurance Company and paid all  
 3 remaining amounts owed for IA American's assumption of Golden State's life insurance policies  
 4 and annuity contracts, completed the negotiation and approval of the transfer of Golden State's  
 5 Retirement Plan to the federal Pension Benefit Guaranty Corporation, completed the  
 6 decommission of Golden State's 401k Retirement program, quantified and negotiated the  
 7 transition of all non-assumed Class 2 policy liability to the National Organization of Life and  
 8 Health Guaranty Associations (NOLGHA), continued to defend Golden State's ownership and  
 9 control of its murals against the CID's claims and the monument designation by the City of Los  
 10 Angeles, listed for sale all seven district offices under local brokerage agreements, and has  
 11 scheduled and commenced preparations for Golden State's required financial filings and  
 12 disclosures such as an annual audit and the preparation of a tax return.

### 13 **Order of Liquidation for Golden State.**

14 10. On January 28, 2011, this Court terminated the Insurance Commissioner's status as  
 15 Conservator and ordered and appointed the Insurance Commissioner to serve as Liquidator of  
 16 Golden State ("Liquidator").

17 11. The Insurance Commissioner was appointed Liquidator because Golden State was  
 18 and remains insolvent in that, as of September 30, 2010, Golden State's estimated liabilities of  
 19 \$9,291,895 exceed its estimated remaining assets of \$5,721,154 by over \$3.5 million (\$5,721,154  
 20 in assets - \$9,291,895 in liabilities = \$-3,570,741). The current estimated deficiency is  
 21 \$5,946,228.

### 22 **Golden State's Assets Currently to be Liquidated**

23 12. Currently there are two categories of Golden State's assets to be liquidated by the  
 24 Liquidator: (1) real estate valued at approximately \$1,486,579, and (2) artwork and murals whose  
 25 value is estimated to be at least \$753,200. The real estate remains for sale and is slow to sell at  
 26 this time in the current economic environment. The sale of the artwork and murals is delayed  
 27 pending resolution of the quiet title lawsuit recently commenced by Community Impact  
 28 Development II, LLC ("CID") and the monument designation by the City of Los Angeles, and



1 further evaluation by the Liquidator of the value of the artwork and murals once confirmed to be  
2 Golden State's personal property.

3 **Determinations regarding Proof of Claim Process**

4 13. The Liquidator has not determined that Golden State is likely to have insufficient  
5 assets to permit significant distribution to any person interested in Golden State's assets, and has  
6 not determined that Golden State is likely to possess insufficient assets to pay the administrative  
7 expenses to liquidate Golden State. However, depending on the results of the sales of Golden  
8 State's real estate, the outcome of the quiet title action by CID, and the outcome of the monument  
9 designation by the City of Los Angeles, such determinations are possible in light of Golden  
10 State's current estimated deficiency of at least \$5,946,228 and the anticipated administrative costs  
11 and expenses of these actions.

12 14. The final realized value of the real estate and murals, as well as the artwork, will  
13 greatly impact the assets available for distribution to creditors and will impact the Liquidator's  
14 determinations of whether Golden State has sufficient assets to permit significant distribution to  
15 certain classes of claimants.

16 15. Because of the potential for such determinations, the Liquidator seeks to presently  
17 avoid the significant administrative costs of preparing and mailing proofs of claim packages to  
18 over 2,200 potential claimants, publishing notice in numerous newspapers, and handling the  
19 returned proofs of claim packages and expected numerous inquiries from claimants. The cost to  
20 mail proofs of claim packages and handle the proof of claim process is estimated to be at least  
21 \$40,000. This estimated cost includes preparation and mailing of Proof of Claim packages and  
22 forms, handling return mailings and locating updated addresses for potential claimants,  
23 administering and organizing received claim forms, handling and responding to telephone and  
24 letter inquiries from claimants, and other claim related administration tasks.

25 **The continuance is not expected to delay the claims process.**

26 16. The only change in the claim administration process is that the Claims Bar Date  
27 and newspaper publication of that date are continued for an additional twelve months to  
28 December 31, 2012, to avoid potentially unnecessary expenses.

17. The requested continuance of the Claims Bar Date and the newspaper publication is not expected to delay the claims process because until the real estate is sold and the mural ownership issues are resolved, no payments could be made to creditors. It is currently unknown when the real estate will be fully sold. Assuming it is determined that the murals are Golden State's property and are permitted to be removed from their current location, then the murals will still need to be marketed and any sale approved by the Court, which will likely take additional time. Based on these factors, it is anticipated that creditors will not recover any monies in the years 2011 or 2012; and therefore, there is no anticipated delay in the claims process.

18. The requested continuance will permit the Liquidator additional time to evaluate whether such determinations are necessary and thereby, in the interim, conserve and monetize assets for claimants in Priority classes who may receive distributions. Without the continuance, the Liquidator will presently need to handle the claims process and incur the necessary administrative expenses to do so without firm knowledge there will be material assets to distribute.

**To lessen concerns by certain remaining policy holders and certificate of contribution holders, the Liquidator is recognizing and accepting their claims (not paying the claims) without requiring separately filed proofs of claim.**

19. The majority of claimants contacting the Liquidator are (a) policyholders under Golden State's employee group life insurance and disability plan inquiring about whether their life and disability coverage will continue, and (b) Priority 8 certificate of contribution holders requesting information on filing claims to preserve their claims to recoup their investment in Golden State.

20. To lessen concerns by these two groups, the Liquidator is doing the following:

a. As to the policyholders under Golden State's employee group life insurance and disability plan, the Liquidator is finalizing an agreement with The National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA"), on behalf of the California Life and Health Insurance Guarantee Association ("CLHIGA") and other insurance guaranty associations, to have NOLHGA and/or CLHIGA continue to pay benefits to the

1 policyholders under these policies. This will be a good result for remaining policyholders  
 2 because otherwise benefit payments could potentially stop and the policyholders only recourse  
 3 would be as claimants against Golden State's assets. Once NOLHGA and/or CLHIGA take over  
 4 benefit payments, NOLHGA and/or CLHIGA will become claimants to Golden State's assets for  
 5 the benefits they paid. In lieu of requiring NOLHGA and/or CLHIGA to file separate claims,  
 6 pursuant to Insurance Code § 1025.5 the Liquidator will permit NOLHGA and CLHIGA to file  
 7 one claim, combining all assigned claims of individual claimants who receive benefits from  
 8 NOLHGA and/or CLHIGA.

9           b.       As to Priority 8 certificate of contribution holders requesting information  
 10 on filing claims to recoup their investment in Golden State, rather than requiring them to file  
 11 separate claims, the Liquidator will recognize and accept as filed all claims on behalf of all  
 12 certificate of contribution holders without the need for certificate holders to file written proofs of  
 13 claims. The Liquidator has a list of the certificate holders, their addresses and the amount of their  
 14 certificate investments. If a distribution is to be made to certificate holders in the future, notice of  
 15 the distribution will be sent to the certificate holders and any issues or concerns by said holders  
 16 will be addressed at that time.

17           21.     Recognizing and accepting NOLHGA's and CLHIGA's claims as one claim and  
 18 by accepting as filed all claims on behalf of all certificate of contribution holders without  
 19 requiring them to file proofs of claim, will eliminate the expenses of mailing and handling proofs  
 20 of claims on their behalf, and hopefully reduce the administrative expense of the phone calls from  
 21 policyholders and certificate of contribution holders, thereby further reducing Golden State's  
 22 administrative expenses.

23           I declare under penalty of perjury under the laws of the State of California that the  
 24 foregoing is true and correct.

25           Executed on this 10<sup>th</sup> day of August, 2011, at San Francisco, California.

26  
 27   
 28 SCOTT PEARCE

**DECLARATION OF MICHAEL R. WEISS**

I, Michael R. Weiss, declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts and circumstances set forth in this declaration, and if called upon to do so, I could and would competently testify thereto.

2. I am an attorney licensed to practice law in the State of California, and am a partner with the law firm Epstein Turner Weiss, A Professional Corporation. I and Epstein, Turner Weiss have been retained by the Insurance Commissioner of the State of California, in his capacity as Conservator ("Conservator") and then as Liquidator ("Liquidator") of Golden State Mutual Life Insurance Company ("Golden State"), to provide legal services concerning Golden State. I make this declaration in support of the Liquidator's Application For Orders Continuing The Claims Bar Date ("Application").

3. On July 20 and 21, 2011, since the notice of the Claims Bar Date will need to be published in newspapers in six counties once a week for four consecutive weeks, I contacted the following six newspapers to receive estimates for the publication of the required legal notice once a week for four consecutive weeks. The cost to publish notice in these newspapers is estimated as follows:

Los Angeles Times:	\$11,560.00
San Francisco Chronicle:	\$ 4,338.40
San Jose Mercury News:	\$ 4,226.00
Sacramento Bee	\$ 2,815.36
Oakland Tribune	\$ 1,654.32
San Diego Union Tribune	\$ 7,257.60

The total of these amounts is \$31,851.68.

4. I am not aware of any persons or entities that may be adversely affected by this Application. Nonetheless, I and my staff provided written notice of this Application to Certificate of Contribution holders. Additionally, due to prior requests to receive copies of court filings in this matter, I and my staff provided written notice of this Application to The National

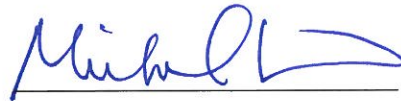


1 Organization of Life and Health Insurance Guaranty Associations and its attorneys, Community  
2 Impact Development II, LLC, and Pitney Bowes, Inc. The above described persons and entities  
3 are listed on the Proof of Service filed concurrently herewith.

4 5. As the Court is aware, the Golden State murals are the subject of a quiet title  
5 lawsuit filed by Community Impact Development ("CID") in which CID seeks ownership of the  
6 murals. The murals also are the subject of a monument designation by the City of Los Angeles,  
7 which will cause Golden State to file a petition for writ of mandate proceeding in the near future.  
8 Therefore the sale of the murals is delayed pending final determination of these actions. It is  
9 currently anticipated that resolution of the mural ownership and monument designation issues will  
10 take at least two years to resolve through appeal.

11 I declare under penalty of perjury under the laws of the State of California that the  
12 foregoing is true and correct.

13 Executed on this 22<sup>th</sup> day of August, 2011, at Los Angeles, California.

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16 MICHAEL R. WEISS  
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