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10 Attorneys for Applicant Ricardo Lara,
Insurance Commissioner of the State of California
11 in his Capacity as Liquidator of
CastlePoint National Insurance Company
12

**EXEMPT from filing fees per Govt.
Code § 6103**

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 CITY AND COUNTY OF SAN FRANCISCO

17 INSURANCE COMMISSIONER OF THE
18 STATE OF CALIFORNIA,

19 Applicant,

20 v.

21 CASTLEPOINT NATIONAL INSURANCE
22 COMPANY, and DOES 1-50, inclusive,

23 Respondents.

Case No. CPF-16-515183

Reservation No. [N/A]

**DECLARATION OF JOSEPH
HOLLOWAY IN SUPPORT OF
INSURANCE COMMISSIONER'S
APPLICATION FOR ORDER
APPROVING FINANCIAL REPORT
AND EXPENSES OF
ADMINISTRATION**

Date: August 13, 2020

Time: 9:30 a.m.

Dept: 302

Judge: Hon. Ethan P. Schulman

ELECTRONICALLY

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Superio Cour o California,
Count o Sa Francisco

06/17/2020

Cler o th Court

BY ERNALY BURA

Deput Clerk

1 I, Joseph Holloway, hereby declare:

2 1. I make this declaration in support of the Insurance Commissioner's *Application for*
3 *Order Approving Financial Report and Expenses of Administration* ("Application"). The
4 following facts are known by me to be true and correct of my own personal knowledge, except as
5 to those that I have expressed as being based upon my information and belief. If called as a
6 witness to testify thereon, I could and would competently do so.

7 2. I am currently the Liquidation Manager for CastlePoint National Insurance
8 Company in Liquidation ("CastlePoint"). I served in the role as the on-site Conservation
9 Manager for CastlePoint National Insurance Company in Conservation during the period from
10 July 28, 2016 through March 31, 2017 (the "Conservation Period") and as the Liquidation
11 Manager for CastlePoint from April 1, 2017 (the "Liquidation Date") until the date hereof.
12 Having served in these roles, I am fully familiar with all aspects of the conservation and
13 liquidation of CastlePoint.

14 3. I have a Bachelor of Arts degree in Accounting from North Carolina State
15 University and hold the designation of Certified Financial Examiner from the Society of Financial
16 Examiners. From 1985 to 2005, I worked as an examiner, regulatory specialist, and chief forensic
17 accountant for the North Carolina Department of Insurance. Since 2005, I have worked for the
18 Commissioner's Conservation and Liquidation Office ("CLO"). I have over 35 years of
19 experience working with insurance companies experiencing financial difficulties, including
20 companies in supervision, conservation, rehabilitation, and liquidation.

21 4. I am empowered under Paragraphs 3 and 4 of the Court's March 30, 2017
22 *Liquidation Order for CastlePoint National Insurance Company* ("Liquidation Order"), and I was
23 previously empowered under Paragraph 18 of the Court's July 28, 2016 *Order Appointing*
24 *Insurance Commissioner As Conservator and Restraining Orders* ("Conservation Order"), to
25 carry out all the duties of and exercise the authority of the Insurance Commissioner (previously
26 Dave Jones and now Ricardo Lara) in his statutory capacity as Liquidator (formerly Conservator)
27 of CastlePoint as delegated to me in the management of CastlePoint.

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1 **2019 Status Report: Overview**

2 5. At the beginning of 2019, a portion of the liquidation activities continued to be
3 conducted at the home office of CastlePoint in New Jersey, with oversight by the Commissioner
4 as Liquidator, to preserve the institutional knowledge held by the legacy employees of
5 CastlePoint located in New Jersey and New York. However, by early 2019, the remaining
6 liquidation activities were transferred to and assigned to the staff of the Commissioner’s
7 Conservation and Liquidation Office in San Francisco (“CLO”) and, as of March 31, 2019, all
8 remaining activities were transferred to San Francisco and the CastlePoint home office was
9 closed.

10 6. The CLO and/or the CastlePoint home office accomplished the following tasks in
11 2019, among others: (1) Continued to open and/or re-open claim files for the Guaranty
12 Associations, now totaling over 2,821 claim files since the Liquidation Date through December
13 31, 2019; (2) Billed \$14,000,000 of reinsurance recoverables; (3) Collected reinsurance balances
14 of approximately \$17,000,000; (4) Collected miscellaneous recoveries of approximately
15 \$5,000,000; (5) Filed the tax return for the 2018 tax year and finalized the 2018 audit; (6)
16 Completed a statutory deposit release to CIGA of \$19,044,989 in December 2019; (7) Secured
17 the extensions of selected provisions of addenda to the administrative services agreements with
18 AmTrust¹ and National General Management Corp.; and (8) On behalf of CastlePoint, completed
19 the novation of certain insurance policies and a reinsurance agreement, effective as of October 1,
20 2019, with Lion Insurance Company (“Lion”), State National Insurance Company, Inc. (“State
21 National”), and Southeast Personnel Leasing, Inc., which in part novated all obligations and
22 liabilities of CastlePoint under certain agreements to a new insurer, State National, and in
23 connection therewith, the Commissioner received a one-time novation fee of \$25,000 and assisted
24 with the release of assets held by Wells Fargo in a Trust Account to State National.

25 7. Lion and CastlePoint were parties to a Trust Agreement, dated June 15, 2011, by
26 and among Wells Fargo Bank, N.A. (“Wells Fargo”) as Trustee, Lion as Grantor, and CastlePoint
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28 ¹ AmTrust North America, Inc. (collectively with AmTrust Financial Services, Inc., “AmTrust”).

1 as the Beneficiary. Section 1(a) of the Trust Agreement directed Wells Fargo to administer a trust
2 account (the “Trust Account”) for the Beneficiary. Beneficiary as defined in the Trust Agreement
3 also included Tower Insurance Company of New York (“TICNY”) and Tower National Insurance
4 Company (“TNIC”), for which CastlePoint is the successor by merger.

5 8. Attached hereto as **Exhibit A** is a report containing CastlePoint’s statements of
6 assets and liabilities, changes in net assets, and cash flows (“2019 Financial Report”).

7 9. Attached hereto as **Exhibit B** is a full breakdown of all expenses paid during 2019
8 related to the liquidation, which provides additional detail on the information found on page 2 of
9 Exhibit A.

10 10. The Commissioner notes that the 2019 Financial Report at Exhibit A and expense
11 documentation at Exhibit B submitted this year are different than past years because the
12 Commissioner transitioned the accounting functions for the estate from legacy CastlePoint
13 employees in New Jersey to the CLO office in San Francisco. In particular, in connection with
14 the transfer, the prior financial report format is no longer being generated at year end in order to
15 streamline and preserve the efficiency of the estate administration.

16 **Claims Brought by Eita Pruss and the TruPS Movants**

17 11. As part of the Commissioner’s claims handling functions on behalf of CastlePoint,
18 the CLO also continued to handle, and direct its attorneys at Orrick on, substantial litigation in
19 2019 surrounding the proof of claim filed by Claimant Eita Pruss (“Pruss POC”) for \$5 million in
20 2017 and continuing claims by Ms. Pruss involving the Commissioner and AmTrust. The \$5
21 million was claimed by Ms. Pruss from CastlePoint pursuant to a settlement in her underlying
22 personal injury action against certain CastlePoint insureds. Starting in late 2016, and continuing
23 to present, the claims of Ms. Pruss have required a considerable amount of the time of the CLO
24 and its attorneys.

1 12. The CLO on behalf of the Commissioner also continued to oversee and direct its
2 attorneys in connection with a motion brought by interested third-party Movants² on November
3 20, 2018. This matter has also required a considerable amount of the time of the CLO and its
4 attorneys.

5 **Update on Estate Administration Matters**

6 13. In the Commissioner’s *Application for Order Approving Financial Report,*
7 *Expenses of Administration, and Estate Administration Matters* (“2018 Application”), the
8 Commissioner requested the approval of certain routine estate administration matters for the
9 efficient and orderly handling of the estate. One such matter was the Commissioner’s request for
10 approval of a records retention and destruction plan.

11 14. With the insolvency of CastlePoint, the Commissioner inherited over 10,000 boxes
12 of CastlePoint files. A limited number of boxes have been added to storage following the
13 Conservation Date. The cost to store these boxes, some of which dated as far back as 1997, was
14 substantial and reducing the remaining value of the estate each month. Accordingly, the
15 Commissioner sought approval of the Court to implement a records retention and destruction plan
16 pursuant to which all boxes over seven years old, and that have not been accessed from storage in
17 the past seven years, may be destroyed, and box destruction may continue on an ongoing basis
18 consistent with this plan.

19 15. Following the Court’s August 13, 2019 Order approving the 2018 Application, the
20 CLO oversaw the destruction of all designated boxes held in storage by GRM Information
21 Management Services, Inc. (“GRM”) in New Jersey, which took several months to complete as
22 explained in the 2018 Application. The CLO continues to direct the destruction of boxes on an
23 ongoing basis consistent with the approved plan.

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27 _____
28 ² “Movants” comprise non-parties Alesco Preferred Funding VIII, Ltd., Alesco Preferred Funding XI, Ltd., Alesco Preferred Funding XII, Ltd., Alesco Preferred Funding XIV, Ltd., Hildene Opportunities Master Fund II, Ltd., NFC Partners, LLC, Wolf River Opportunity Fund LLC, Wolf River Partner Fund, and WT Holdings, Inc.

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Expenses of Administration

16. In 2019, the CastlePoint estate paid expenses totaling \$6,093,970. Of that total, \$470,015 was paid in payroll and benefits to CastlePoint employees through the end of March 2019, at which time all work was transferred to the CLO, and \$873,019 was paid for various office expenses, which included costs for storage (\$324,363) and record retrieval (\$494,144). As of the Conservation Date, July 28, 2016, CastlePoint had 26 employees and an annual payroll of \$3.93 million. Since then, the Liquidator has steadily reduced the number of employees and payroll costs, releasing the last of the CastlePoint employees by the end of March 2019.

17. Also of that expenses total, \$4,750,935 was paid for professional fees. Within the total for professional fees, \$823,333 was paid for legal expenses (including \$797,426 for fees paid to Orrick for legal services in connection with the liquidation during 2019), \$697,074 was paid for necessary consultants and contractors, and \$3,230,528 was paid to the CLO for professional fees, which included in part amounts allocated to the CLO Claims Department (\$448,135), the CLO IT Department (\$1,083,793), the CLO Reinsurance Department (\$992,969), and the CLO Estate Trust Department (\$432,121).

18. In 2018, the CastlePoint estate paid expenses totaling \$5,677,105.

19. The expenses and professional fees incurred by the Commissioner during 2019 were typical for a receivership of this size and complexity, and were necessary, reasonable, and an appropriate exercise of the Commissioner’s discretion to secure and manage the CastlePoint estate and to protect its creditors to the fullest extent possible.

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

Executed on May 5, 2020, at San Francisco, California.

Joseph Holloway

Joseph Holloway

EXHIBIT A

157 CastlePoint National Ins Co
STATEMENT OF ASSETS AND LIABILITIES
As of December 31, 2019

Dec 31

2019

ASSETS

Cash and cash equivalents:	
Unrestricted	5,770,700
Participation in pooled investments, at market	59,097,900
Non-pooled short-term investments, at market	
Unrestricted	139,318,300
Restricted	60,061,500
Accrued investment income	3,499,700
Statutory deposits held by other states	66,118,600
Recoverable from reinsurers	253,016,200
Receivable from affiliates	324,000
Other receivable	15,451,700
Deposits and other assets	1,800,000
Total Available Assets	604,458,600

LIABILITIES

Secured claims	105,500
Accrued administrative expenses	7,946,800
Claims against policies, including guaranty associations, before distributions	1,056,396,200
Early access and other Class 2 distributions	(251,520,000)
All other claims	69,005,400
Total Estimated Liabilities	881,933,900

NET ASSETS (DEFICIENCY)

(277,475,300)

157 CastlePoint National Ins Co
STATEMENT OF CHANGES IN NET ASSETS IN LIQUIDATION
For Twelve Months Ended December 31, 2019

	<u>2019</u>
BEGINNING NET ASSETS	(180,714)
REVENUES	
51001 Premium Written	(325,400)
52003 Salvage/Subrogation Recoveries	2,819,936
54001 Fees Collected	-
54003 Miscellaneous Income	314,206
TOTAL REVENUES	<u>2,808,742</u>
EXPENSES	
Legal	
62001 DOI Legal	5,267
62002 DOJ Legal	15,110
62003 Other Legal Expense	797,426
62004 Other Litigation Expense	5,531
Total Legal Expenses	<u>823,333</u>
Consultants and Contractors	
63002 Accounting & Auditing	45,966
63003 Software Contractor Expense	187,968
63004 Actuarial Expense	-
63005 Temporary Help Expense	17,197
63007 Other Professional Fees	425,343
63008 Tax Consulting and Compliance	20,600
Total Consultant Expenses	<u>697,074</u>
Compensation & Benefits	
64001 Salaries & Wages Expense	451,444
64002 Payroll Tax Expense	-
64004 Employee Benefits Expense	18,571
Total Compensation & Benefits	<u>470,015</u>
Office Expenses	
65001 Office Rent	-
65002 Postage	330
65004 Office Supplies	-
65005 Insurance	-
65007 Misc Licenses, Fees and Taxes	912
65010 Publication Expense	7,382
65012 Repair & Maint.-IT	642
65015 Storage Rent	324,363
65016 Record Retrieval	494,144
65018 Travel & Company Meetings	27,119
65019 Delivery	646
65027 Bank Charges	17,481
65028 Miscellaneous Expense	-
65031 Equipment Expense	-
Total Office Expenses	<u>873,019</u>
Allocated Expenses	
70002 Allocated Expenses	3,230,528
70003 Affiliate Allocations	-
70005 Allocation of GOLD admin	-
Total Net Allocated Expenses	<u>3,230,528</u>
<i>Direct Admin Exp only</i>	<u>2,863,442</u>
Total Admin Expenses	<u>6,093,970</u>
Losses	
61001 Direct Loss & LAE	(4,550)
61002 Assumed Loss & LAE	4,054,374
61004 Ceded Loss & LAE	210,185

157 CastlePoint National Ins Co
STATEMENT OF CHANGES IN NET ASSETS IN LIQUIDATION
For Twelve Months Ended December 31, 2019

		<u>2019</u>
65023	Bad Debt Expense	15,756
83002	Expense For Other Claims	18,690
61006	Commutations	<u>(189,710)</u>
	Total Loss Expenses	4,104,746
	Taxes and Other Expenses	
83001	Other Realized Gains/Losses	<u>-</u>
	Taxes and Other Expenses	-
	<i>Total non-Admin Expenses</i>	<i>4,104,746</i>
	TOTAL EXPENSES	<u>10,198,716</u>
	INVESTMENTS	
53001.1	Taxable Interest-Pool	788,595
53001.2	Taxable Interest-Non Pool	6,504,635
53001.3	Taxable Interest-Other	2,153,413
53002	Interest Earned-Non Taxable	<u>(275,314)</u>
	Total Investment Income	9,171,329
68001	Investment Expense	(309,672)
68003	Interest Expense	<u>(54,236)</u>
	Total Investment Expenses	(363,908)
82001	LT Realized Gn/Ls-Pool	(39,667)
82002	ST Realized Gn/Ls-Pool	445,932
82005	Mark to Market-Pool	(146,182)
82006	G/L on Sale LT Non Pool Sec	3,783,154
82007	G/L on Sale ST Non Pool Sec	(319,312)
82008	G/L Non Pool Reap of Sec	7,183,085
82009	Gn/Ls on Transfer to Pool	<u>3,327</u>
	Net G/L on Securities	10,910,337
	NET INVESTMENT INCOME	<u>19,717,758</u>
	NET INCOME (LOSS)	12,327,785
	Loading Balance/Net Asset Adj	(289,622,263)
	ENDING NET ASSETS	<u>(277,475,192)</u>

157 CastlePoint National Ins Co

STATEMENT OF CASH FLOWS

For Twelve Months Ended December 31, 2019

and Twelve Months Ended December 31, 2018

	<u>2019</u>
<u>Cash flows from operating activities</u>	
Revenue, Income from non-restricted investment and expenses	19,934,265
Income from Restricted Investment	(7,606,480)
Net income	<u>12,327,785</u>
Decrease (increase) in statutory deposits held by other states	(66,118,619)
Decrease (increase) in recoverable from reinsurers	(253,016,181)
Decrease (increase) in receivable from affiliates	(324,043)
Decrease (increase) in other receivable	(15,451,693)
Decrease (increase) in deposits and other assets	(1,799,976)
Increase (decrease) in secured claim liabilities	105,455
Increase (decrease) in accrued admin expenses	7,946,834
Increase (decrease) in unpaid claims against policies, including guaranty associations	1,056,396,181
Increase (decrease) in early access and other distributions	(251,520,019)
Increase (decrease) in general creditor claims	69,005,419
Adjustments to Net Assets / Loading balance	<u>(289,622,263)</u>
Net cash flow from operating activities	267,928,880
<u>Cash flows from investing activities</u>	
Decrease (increase) in accrued investment income-Non Restricted	(3,268,911)
Decrease (increase) in accrued investment income-Restricted	(231,247)
<u>Cash flows from financing activities</u>	-
Net increase (decrease) in cash, cash equivalents, and restricted cash	<u>264,428,722</u>
Restricted Cash at beginning of period	
Non-restricted Cash at beginning of period	(180,236)
Restricted Cash at end of period	(7,837,726)
Non-Restricted Cash at end of period	272,086,213
Cash at end of period	<u>264,248,486</u>

EXHIBIT B

**CastlePoint National Insurance Company
2019 Expense Exhibit**

	Total 2019
EXPENSES	
Legal	
DOI Legal	5,267
DOJ Legal	15,110
Other Legal Expense	797,426
Other Litigation Expense	5,531
Total Legal Expenses	<u>823,333</u>
CLO Fees:	
CLO Executive	57,932
CLO Estate Trust Department	432,121
CLO IT Department	1,083,793
CLO Accounting Department	215,578
CLO Reinsurance Department	992,969
CLO Claims Department	448,135
Total CLO Fees	<u>3,230,528</u>
Consultants and Contractors	
Accounting & Auditing	45,966
Software Contractor Expense	187,968
Temporary Help Expense	17,197
Other Professional Fees	425,343
Tax Consulting and Compliance	20,600
Total Consultant Expenses	<u>697,074</u>
Total Professional Fees	\$ 4,750,935
Compensation & Benefits	
Salaries & Wages Expense	451,444
Employee Benefits Expense	18,571
Total Compensation & Benefits	<u>470,015</u>
Office Expenses	
Postage	330
Misc Licenses, Fees and Taxes	912
Publication Expense	7,382
Repair & Maint.-IT	642
Storage Rent	324,363
Record Retrieval	494,144
Travel & Company Meetings	27,119
Delivery	646
Bank Charges	17,481
Total Office Expenses	<u>873,019</u>
Total 2019 Expenses	<u>\$ 6,093,970</u>