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

19 INSURANCE COMMISSIONER OF THE
 STATE OF CALIFORNIA,

20 Applicant,

21 v.

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

24 Respondent.

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

[APPLICATION NO. 2 - ARTWORKS]

**MEMORANDUM OF POINTS AND
 AUTHORITIES IN SUPPORT OF
 APPLICATION FOR ORDERS
 AUTHORIZING LIQUIDATOR TO SELL
 CERTAIN WORKS OF ART TO AUSTIN
 C. MOORE III AND BARBARA JOE
 MOORE**

[Filed concurrently with Notice, Evidence and
 Proposed Order]

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

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TABLE OF CONTENTS

I. INTRODUCTION..... 1

II. PERTINENT FACTUAL BACKGROUND 3

 A. Orders Appointing Conservator and Liquidator of Golden State. 3

 B. Golden State’s Works of Art. 4

 C. Conservator’s Request for Proposals to Sell the Works of Art. 4

 D. Selection Criteria..... 7

 E. The Moores’ Proposal. 8

 F. Other Proposals..... 8

 G. Appraisal Reports..... 8

 H. Notice Of This Application..... 9

III. ARGUMENT 9

 A. The Sale Is Consistent With The Conservator’s And Liquidator’s Authorities And
 Discretion Under The Court’s Orders, The Insurance Code And Case Law..... 9

 B. The Sale Is Rational, Geared Toward Maximizing Golden State’s Estate Value And In
 The Best Interests Of Golden State’s Creditors..... 12

IV. CONCLUSION 14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
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27
28

TABLE OF AUTHORITES

Cases

Caminetti v. Pac. Mutual L. Ins. Co. (1943) 22 Cal.2d 344 11

Carpenter v. Pacific Mut. Life Ins. Co. (1937) 10 Cal.2d 307..... 11

Commercial Nat. Bank v. Superior Court (1993) 14 Cal.App.4th 393 11, 12

In Re Executive Life Insurance Company (1995) 32 Cal.App.4th 344..... 11, 12

Statutes

Insurance Code § 988..... 3

Insurance Code § 1033..... 2, 13

Insurance Code § 1037(d)..... 3, 4, 10

Insurance Code § 1057..... 11

Rules

California Rules of Court Rule 3.1184(c)..... 9

I.

INTRODUCTION

This Memorandum supports the application by the Insurance Commissioner as Liquidator (“Liquidator”) of Golden State Mutual Life Insurance Company (“Golden State”) seeking Court approval to sell to Austin C. Moore III and Barbara Joe Moore (collectively, the “Moores”) the 121 works of art (“Works of Art”) owned by Golden State and identified in Art Work Sale Agreement by and between the Liquidator and the Moores, pursuant to the terms of said Art Work Sale Agreement, a copy of which is attached hereto as Exhibit 1.

Specifically, the Liquidator requests that the Court issue the following Orders:

1. An Order authorizing the Liquidator to sell the Works of Art to the Moores pursuant to the terms of the Art Work Sale Agreement by and between the Liquidator and the Moores; and
2. An Order authorizing the Liquidator to take any and all actions necessary to accomplish the purposes of the Orders requested above.

Over the years Golden State accumulated a collection of artwork by African and African American artists including the 121 Works of Art involved here. In 2007, Golden State conducted an auction of a substantial portion of its collection, selling 94 works of art for a total of \$1.54 million. After the 2007 sale of 94 works of art, Golden State retained the unsold Works of Art which consist of 121 paintings, sculptures, photographs and mixed-media pieces. An inventory of the Works of Art with photographs is attached as Exhibit 4. In furtherance of his statutory duties, the Liquidator (when he was Golden State’s Conservator) commenced a Request for Proposals (“RFP”) process dated June 25, 2010, in which persons and entities interested in purchasing the Works of Art, as well as the removable murals and historical materials which are the subject of the other two applications, were required to submit proposals to the Conservator for the purchase of the Works of Art. The Moores and four others submitted proposals for the purchase of certain of the Works of Art.

Court approval of this application should be granted because the Liquidator’s selection of the Moores’ proposal to purchase the 121 Works of Art is within the Liquidator’s discretion, is

1 geared toward maximizing Golden State’s liquidation value and is in the best interests of Golden
2 State’s creditors, for the following reasons:

- 3 1. The sale of the Works of Art to the Moores best complies with the RFP;
- 4 2. The Moores’ proposed purchase price of \$40,000 in total for the Works of Art is
5 the highest price offered by any proposal to purchase the Works of Art;
- 6 3. The Moores’ proposal complies with the RFP including the payment of 25% of the
7 proposed purchase price, thereby providing assurance that the sale will timely close after Court
8 approval (the Moores’ deposit of \$12,500 exceeds the required 25%);
- 9 4. Golden State’s creditors will benefit from the payment of the \$40,000 purchase
10 price for the Works of Art in that receipt of the sale’s proceeds will increase the money available
11 for distribution to Golden State’s creditors in accordance with claim priority set forth in Insurance
12 Code § 1033;
- 13 5. Continuing to hold the Works of Art in hope of getting a better price over time
14 amounts to speculation in the art market, which is inconsistent with prudent management of the
15 assets of Golden State in liquidation; and
- 16 6. The other four proposals submitted to the Conservator through the RFP process are
17 not superior to the Moores’ proposal, not geared toward maximizing Golden State’s estate value
18 and not in the best interests of Golden State’s creditors, because the proposals are unreasonably
19 too low, negatively compromise the liquidation value of the entire Works of Art collection, and
20 two of them do not comply with the RFP and do not provide any assurance that the purchase price
21 would be paid and the transaction would be completed since the required 25% deposit was not
22 paid.

23 To avoid duplication of facts which may not be pertinent to this application, the Liquidator
24 incorporates by this reference in this application and this Memorandum the pleadings, documents
25 and evidence submitted with the Liquidator’s Application No. 1 entitled Application For
26 Liquidator To Sell Two Murals To Smithsonian National Museum Of African American History
27 And Culture, filed concurrently with this application and scheduled for hearing on the same date.
28

1 over \$3 million (\$5,721,154 in assets - \$9,291,895 in liabilities = \$-3,570,741). (Wilson Dec., ¶¶
2 8-9.)

3 The Order of Liquidation directs the Insurance Commissioner to liquidate and wind up the
4 business of Golden State, and, just as with the Order Appointing Conservator, authorized him to
5 sell, transfer or otherwise dispose of Golden State's personal property at its reasonable market
6 value; provided, however, for personal property sales where the market value of the property
7 involved exceeds \$20,000, Court approval of the sale is necessary. (Order of Liquidation, ¶¶ 1, 2
8 and 8, Exhibit 3; see also Insurance Code § 1037(d).)

9 **B. Golden State's Works of Art.**

10 Over the years Golden State accumulated a collection of artwork by African and African
11 American artists. In 2007, Golden State conducted an auction of a substantial portion of its
12 collection, selling 94 works of art for a total of \$1.54 million. After the 2007 sale of 94 works of
13 art, Golden State retained the unsold Works of Art and two removable murals which are the
14 subject of the Liquidator's Application No. 1 to approve the sale of the murals to the Smithsonian.
15 An inventory of the Works of Art with photographs is attached as Exhibit 4. (Wilson Dec., ¶ 10
16 and Inventory, Exhibit 4; and Declaration of Michael R. Weiss ("Weiss Dec."), ¶ 3, and Excerpts
17 from Swann Galleries' website, Exhibit 10.)

18 **C. Conservator's Request for Proposals to Sell the Works of Art.**

19 On June 25, 2010, the Conservator commenced a RFP process in which persons and
20 entities interested in purchasing the Works of Art, Golden State's two removable murals and/or
21 historical materials were required to submit proposals to the Conservator. (Wilson Dec., ¶ 11;
22 and RFP, Exhibit 5.) All prospective bidders were required to submit proposals in a specified
23 format by July 30, 2010, and were subject to strict financial and disclosure requirements to ensure
24 the successful completion of any sales. Specifically, in pertinent part, the RFP required the
25 following:
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1 **III. INFORMATION FOR BIDDERS**

2 **A. Request for Proposal Deadline**

3 All proposals for the purchase of GSM's art and/or historical materials, in whole or
4 in individual items, must be in writing, comply with the instructions and
5 requirements set forth herein including payment of 25% of the proposed purchase
6 price for each item, and be received by GSM by 4:00 p.m., PST, Thursday, July
7 30, 2010....

8 **IV. INSTRUCTIONS FOR SUBMITTING PROPOSALS AND**
9 **PROPOSAL CONTENT REQUIREMENTS**

10 **Each proposal/bid must be submitted on the form provided.** Additional pages
11 may be attached if necessary. Proposals must be complete in all aspects. A
12 proposal may be rejected if it is conditional or incomplete in any respect. The
13 following must be submitted with your proposal:

- 14 1. Name, address and telephone number of bidder or bidders. For business
15 entities, the following must be provided:
 - 16 a. Official registered name (Corporate, D.B.A., Partnership, etc.),
17 address, main telephone number, facsimile numbers and e-mail
18 address.
 - 19 b. Contact person, title, address (if different from above address) and
20 direct telephone number and e-mail address.
 - 21 c. Person authorized to contractually bind the bidding organization for
22 any proposal submitted pursuant to the RFP.
- 23 2. Identification of each item to be purchased by use of the attached
24 inventory.
- 25 3. Purchase offer amount for each item to be purchased.
- 26 4. Any additional terms or conditions requested by the bidder.
- 27 5. **Payment of 25% of the proposed purchase price for each item, payable**
28 **to "Golden State Mutual Life Insurance Company in Conservation."**
 This payment will be (i) returned to unsuccessful bidders after the selection
 of a winning bidder, or (ii) retained by GSM if the bidder is selected as the
 winning bidder and the transaction is not consummated within the time
 required due to an act or omission within the control of the bidder, or (iii)
 returned to the selected bidder if the transaction is not consummated due to
 an act or omission within the control of GSM or the Conservator, or (iv)
 applied to the purchase price. All interest earned on the payment will be
 retained by the Conservator to partially cover the expenses of the RFP
 process.
6. Disclosure of any relationships, current or past, with GSM or the
 Conservator or their staff or representatives. The Conservator considers it
 to be a potential conflict of interest if a bidder or any of its personnel have
 current and/or prior business transactions or relationships with GSM, the
 Conservator or their staff or representatives, and therefore requires

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disclosure of any such transactions or relationships. In addition, the Conservator considers it a potential conflict of interest for a bidder to use any of the persons or firms, or any of the persons working for the persons or firms, listed below, regardless of the location of their offices, in connection with any aspect of this RFP, which are currently advising the Conservator on the RFP or other matters affecting GSM. Potential bidders are required to obtain a written waiver or consent from the Conservator with respect to any conflicts that exist or arise in connection with the RFP process prior to submission of a proposal.... (RFP, Exhibit 5.)

The RFP also advised bidders that by submitting a proposal the bidder acknowledges and agrees to the Conservator’s broad powers and authorities:

THE CONSERVATOR IS UNDER NO AFFIRMATIVE OBLIGATION TO SELL GSM’S ART OR HISTORICAL MATERIALS OR ANY PART THEREOF, AND MAY, IN HIS SOLE DISCRETION, REJECT ANY OR ALL BIDS RECEIVED, IN WHOLE OR IN PART; CONTINUE OR DISCONTINUE THIS REQUEST FOR PROPOSALS WITHOUT LIABILITY TO ANY BIDDER OR POTENTIAL BIDDER; REQUEST CLARIFICATION, ADDITIONAL INFORMATION AND/OR NEW BIDS FROM SOME OR ALL BIDDERS; MAKE COUNTER OFFERS TO SOME OR ALL BIDS; ACCEPT BIDS BASED UPON FACTORS OTHER THAN THE HIGHEST PRICE; SELECT ONE OR MORE BIDS SUBJECT TO FURTHER NEGOTIATIONS AND/OR APPROVAL OF THE LOS ANGELES SUPERIOR COURT; AND/OR TAKE ANY OTHER ACTION THAT THE CONSERVATOR DEEMS APPROPRIATE.

...

V. DISCLAIMERS, DISCLOSURES AND GENERAL TERMS

4. By submitting a proposal for the purchase of GSM’s art or historical materials, each bidder acknowledges and agrees that the Conservator is under no affirmative obligation to sell, transfer or otherwise dispose of GSM’s art or historical materials or any part thereof, and may, at his sole discretion:

- Reject any or all bids received, in whole or in part, and/or continue or discontinue this RFP process without liability to any bidder or potential bidder;
- Request clarification, additional information and/or new bids and/or proposals from some or all bidders;
- Make counter offers to some or all bids;
- Accept bids based upon factors other than the highest price;
- Select one or more bids subject to further negotiations and/or approval of the Los Angeles Superior Court;
- Respond to bids with additional conditions and requirements, even if such have not been stated herein;
- Accept more than one bid in order to place the entire collection;
- Seek any requisite court approval(s); and/or
- Take any other action that the Conservator deems appropriate.

1 5. The Conservator hereby disclaims having any obligations to bidders or
2 others with respect to the manner or process through which this RFP is conducted,
3 and each bidder, by its submission of a proposal, hereby acknowledges and agrees
4 that it shall have no rights, claims or other actions against the Conservator, GSM,
or any of their respective consultants, representatives, staff or professional
advisors, based on the manner or process through which this RFP is conducted or
the results thereof. (RFP, Exhibit 5.)

5 On August 9, 2010, due to continuing interest in the Works of Art, murals and historical
6 materials, the Conservator extended the deadline to submit proposals to August 31, 2010.
7 (Wilson Dec., ¶ 12; and Letter from Conservator dated August 9, 2010, Exhibit 6.)

8 On October 14, 2010, in conclusion of his efforts to evaluate and clarify proposals, the
9 Conservator advised all bidders and all known prospective bidders to “remove any contingencies
10 imposed by them on their proposals and ensure that their proposals fully comply with the RFP’s
11 instructions including, without limitation, payment of 25% of the proposed purchase price for
12 each item by no later than October 29, 2010.” (Wilson Dec., ¶ 13; and Letter dated October 14,
13 2010, Exhibit 7.)

14 **D. Selection Criteria.**

15 As stated in the RFP, all proposals and prospective bidders were subject to strict financial
16 and disclosure requirements to ensure the successful completion of any sales, and were evaluated
17 based upon several factors including without limitation, (1) financial aspects of the proposal,
18 including purchase price and terms of payment; (2) size, financial strength and professional
19 reputation of bidder; (3) amount of the collection bidder is willing to purchase; and (4) intended
20 use and disposition of the items purchased. (Wilson Dec., ¶ 14.) Specifically, the RFP stated the
21 Selection Consideration as follows:

22 **B. Selection Consideration**

23 All proposals submitted in the required format will be given consideration by the
24 Conservator who, in his sole discretion, will decide whether to accept or reject any
25 particular proposal. Factors that may be considered by the Conservator in
selecting a proposal include, without limitation, the following, presented in no
particular order of significance:

- 26 • Financial aspects of the proposal, including purchase price and terms of
27 payment;
- Size, financial strength and professional reputation of bidder;
- 28 • Amount of the Collection bidder is willing to purchase; and

- Intended use and disposition of the items purchased. (RFP, Exhibit 5.)

E. The Moores' Proposal.

The Moores' original proposal had a purchase price of \$50,000 for 124 artworks in the art collection. After notice from the Conservator's staff that three of the artworks included in the Moores' proposal and specified in the RFP are not available for sale by the Conservator and therefore must be removed from the RFP, the Moores reduced their proposal to \$40,000 for the remaining 121 Works of Art. The Moores have deposited \$12,500 with the Liquidator as required by the RFP. (Wilson Dec., ¶ 15.)

On January 18, 2011, the Conservator entered into an Art Work Sale Agreement with the Moores. The Art Work Sale Agreement is contingent upon written approval by this Court. (Wilson Dec., ¶ 16; and Art Work Sale Agreement, Exhibit 1.)

F. Other Proposals.

The other four proposals submitted to the Conservator for the purchase of the Works of Art included (1) a proposal with a purchase price of \$1 for the "bust of William Nickerson Jr. and all the historical materials and artifacts", (2) a similar proposal with a purchase price of \$300 for the William Nickerson Jr. bust and \$900 for certain historical materials, (3) a proposal with a purchase price of \$10,000 for 18 of the 121 Works of Art, and (4) a proposal to purchase all of the Work of Art and the two removable murals for an unknown amount stated as "TBD" (meaning "to be determined") and without the required 25% deposit. (Wilson Dec., ¶ 17.)

G. Appraisal Reports.

As part of the RFP process, the Conservator commissioned and received two Appraisal Reports from Certified Appraiser Eric Hanks. The first Appraisal Report dated July 28, 2010 estimated the fair market value of the Works of Art, and the second Appraisal Report dated October 8, 2010, estimated the liquidation value of fourteen of the Works of Art. Fair market value is defined in the first Appraisal Report as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts." Liquidation value is defined in the second Appraisal Report by the Appraisers Association of America as "the price realized in a sale

1 situation under forced or limiting conditions and under time constraints.” (Wilson Dec., ¶¶ 18-19;
2 and Appraisal Reports, Exhibit 8 and 9.)

3 Because the Liquidator is obligated to sell the Works of Art in order to liquidate Golden
4 State’s assets for distribution to Golden State’s creditors, the Liquidator commissioned the second
5 Appraisal Report to determine the liquidation value for the removable murals and the highest
6 valued 14 Works of Art. The Appraisal Report estimates the liquidation value of 14 of the 121
7 Works of Art at a total of \$50,550. (Wilson Dec., ¶¶ 18-19; July 28 Appraisal, Exhibit 8; and
8 October 14 Appraisal, Exhibit 9, pp. 3, 4 and 8-9.)

9 **H. Notice Of This Application.**

10 The Liquidator has provided written notice of this application to all persons and entities
11 known to him that may have a substantial, unsatisfied claim that may be affected by the this
12 application and any Court Orders pertaining thereto, regardless of whether the persons or entities
13 are a party to this action or have appeared in it, in compliance with California Rules of Court Rule
14 3.1184(c). Said persons and entities include the Moores, the four other bidders who submitted
15 proposals for the purchase of the Works of Art, the Building owner Community Impact
16 Development II, LLC, Pension Benefit Guaranty Corporation, National Organization of Life and
17 Health Insurance Guaranty Associations, the Certificate of Contribution holders, and several
18 persons and community groups who have contacted the Conservator or have otherwise expressed
19 interest in the sale of the Works of Art. Such persons and entities are listed on the Service List
20 attached at the end of the Notice for this Application. (Weiss Dec., ¶ 4; and Proof of Service filed
21 concurrently herewith.)

22 **III.**

23 **ARGUMENT**

24 There is good cause for the Court to authorize the sale of the Works of Art to the Moores.

25 **A. The Sale Is Consistent With The Conservator’s And Liquidator’s Authorities And**
26 **Discretion Under The Court’s Orders, The Insurance Code And Case Law.**

27 First, the Order Appointing Conservator directed the Insurance Commissioner as
28 Conservator to conduct the business of Golden State or so much thereof as the Conservator may

1 deem appropriate, and authorized him to sell, transfer or otherwise dispose of Golden State’s
2 personal property at its reasonable market value; provided, however, for personal property sales
3 where the market value of the property involved exceeds \$20,000, Court approval of the sale is
4 necessary. (Order Appointing Conservator, ¶¶ 1, 7 and 8, Exhibit 2; see also Insurance Code §
5 1037(d) [quoted below].) Similarly, the Order Appointing Liquidator directs the Insurance
6 Commissioner to liquidate and wind up the business of Golden State, and, just as with the Order
7 Appointing Conservator, authorized him to sell, transfer or otherwise dispose of Golden State’s
8 personal property at its reasonable market value; provided, however, for personal property sales
9 where the market value of the property involved exceeds \$20,000, Court approval of the sale is
10 necessary. (Order of Liquidation, ¶¶ 1, 2 and 8, Exhibit 3; see also Insurance Code § 1037(d)
11 [quoted below].)

12 Second, the sale is consistent with the Conservator’s and Liquidator’s authorities under the
13 Insurance Code, which grants broad powers to the Insurance Commissioner as conservator and
14 liquidator of insurance companies to sell, transfer or otherwise dispose of the insurer’s property
15 “upon such terms and conditions as the commissioner may deem proper.” Most notably,
16 Insurance Code § 1037, entitled “Powers of commissioner as conservator or liquidator,” provides
17 in pertinent part:

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

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

26

27 (d) [Acquisition and disposition of property.] Shall have authority without
28 notice, to acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon,
or otherwise dispose of or deal with, any real or personal property of that person at
its reasonable market value, or, in cases other than acquisition, sale, or transfer on
the basis of reasonable market value, upon such terms and conditions as the
commissioner may deem proper. However, no transaction involving real or
personal property shall be made where the market value of the property involved

1 exceeds the sum of twenty thousand dollars (\$20,000) without first obtaining
2 permission of the court, and then only in accordance with any terms that court may
prescribe.

3

4 (f) [Lawsuits, execution of instruments.] May, for the purpose of executing
and performing any of the powers and authority conferred upon the commissioner
5 under this article, in the name of the person affected by the proceeding or in the
commissioner's own name, . . . execute, acknowledge and deliver any and all
6 deeds, assignments, releases and other instruments necessary and proper to
effectuate any sale of any real and personal property or other transaction in
7 connection with the administration, liquidation, or other disposition of the assets of
the person affected by that proceeding;

8

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

13
14 Third, California case law supports the broad grant of powers accorded the Insurance
15 Commissioner to sell an insurer's assets when he is conserving, rehabilitating, and/or liquidating
16 insurance companies. For instance, in *In Re Executive Life Insurance Company* (1995) 32
17 Cal.App.4th 344, the Court of Appeal noted that:

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

21
22 (*In Re Executive Life, supra*, at p. 356.) The Court then went on to explain that:

23 In exercising this power, the Commissioner is vested with broad discretion.
(*Commercial Nat. Bank v. Superior Court* [(1993)] 14 Cal.App.4th [393] at p.
24 402.) 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
25 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
26 the benefit of all creditors and other persons interested in the insolvency estate.
27 ([Insurance Code] § 1057.)

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

1 The Court concluded that:

2 . . . The trial court reviews the Commissioner's actions under the abuse of
3 discretion standard. (*Commercial Nat. Bank v. Superior Court, supra*, 14
4 Cal.App.4th 393, 398): was the action arbitrary, i.e. unsupported by a rational
5 basis, or is it contrary to specific statute, a breach of the fiduciary duty of the
6 conservator as trustee, or improperly discriminatory?

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

8 **B. The Sale Is Rational, Geared Toward Maximizing Golden State's Estate Value And**
9 **In The Best Interests Of Golden State's Creditors.**

10 The Liquidator recommends the Moores' proposal for the sale of the Works of Art
11 because the Moores' proposal best satisfied the RFP's selection criteria and the sale of the Works
12 of Art to the Moores is fair, rational and in the best interests of Golden State's creditors. The
13 Liquidator's recommendation is based on the following:

14 First, the Moores' proposed purchase price of \$40,000 in total for the Works of Art is the
15 highest price offered by any proposal to purchase the Works of Art. Although the July 28, 2010
16 Appraisal estimates the fair market value of the Works of Art at \$246,500, no one has offered
17 such a price. The Conservator marketed the Works of Art through his RFP for over 6 months
18 before accepting the Moores' proposal (June 25, 2010 to January 18, 2011). By letters dated
19 August 9 and October 14, 2010, the Conservator twice continued the RFP. As a result of all of
20 his efforts, the highest credible amount offered to purchase the Works of Art was from the
21 Moores for \$40,000. Based on the second Appraisal Report and the results of the RFP, the
22 Liquidator believes that the purchase price of \$40,000 is an appropriate liquidation value for the
23 Works of Art. (Wilson Dec., ¶¶ 11-21; Art Work Sale Agreement, Exhibit 1; October 8, 2010
24 Appraisal, pp. 4 and 9, and July 28, 2010 Appraisal, pp. 8 and 41, Exhibits 8 and 9; and Letter
25 dated October 14, 2010, Exhibit 7.)

26 Second, the Moores' proposal was the only proposal for the Works of Art that offered a
27 reasonable purchase price and also paid the required 25% deposit. In fact, the Moores' deposit of
28 \$12,500 exceeded the required 25% deposit. The Moores' payment provided the Liquidator with
the necessary assurance that the sale to the Moores will timely close after Court approval. As

1 discussed below, the proposals for \$1 and \$300 for which checks were received, are unreasonably
2 too low. (Wilson Dec., ¶¶ 11-22.)

3 Third, Golden State’s creditors will benefit from the payment of the \$40,000 purchase
4 price for the Works of Art in that receipt of the sale’s proceeds will increase the money available
5 for distribution to Golden State’s creditors in accordance with claim priority set forth in Insurance
6 Code § 1033. (Wilson Dec., ¶ 23.)

7 Fourth, continuing to hold the Works of Art in hope of getting a better price over time
8 amounts to speculation in the art market, which is inconsistent with prudent management of the
9 assets of Golden State in liquidation. (Wilson Dec., ¶ 24.)

10 Fifth, the other four proposals submitted to the Conservator (now the Liquidator) are not
11 superior to the Moores’ proposal, not geared toward maximizing Golden State’s estate value and
12 not in the best interests of Golden State’s creditors. The proposals with a \$1 and \$300 purchase
13 price for the William Nickerson Jr. bust only, which has an appraised liquidation value of
14 \$13,200, are unreasonably too low and negatively compromise the liquidation value of the entire
15 Works of Art collection because the bust alone represents \$13,200 of the \$50,550 appraised
16 liquidation value for the highest valued 14 pieces. The Liquidator believes that selling the bust
17 separately from the rest of the collection would result in lower proposals for the remaining
18 artwork in the collection. Similarly, the proposal with a \$10,000 purchase price for 18 of the 121
19 Works of Art is unreasonably too low and would negatively compromise the liquidation value of
20 the entire Works of Art collection because the 18 Works of Art include 6 of the highest valued
21 Works of Art with liquidation values totaling \$22,200. \$10,000 for 6 of the Works of Art valued
22 at \$22,200 is a considerably less than the Moores’ proposal. Further, the proposal with a \$10,000
23 purchase price for 18 of the 121 Works of Art did not comply with the RFP because it did not
24 include the required 25% deposit and therefore did not provide any assurance that the money
25 would be paid and the transaction would be completed. Finally, the proposal for the purchase of
26 the entire art collection and the removable murals without specifying a purchase price and without
27 the 25% deposit, does not comply with the RFP and does not provide any assurance that the
28

1 purchase price would be paid and the transaction would be completed. (Wilson Dec., ¶¶ 11-25;
2 and Exhibits 8 and 9.)

3 In sum, the sale of the Works of Art to the Moores is fair, rational and in the best interest
4 of Golden State's creditors; and therefore, should be approved by the Court.

5 IV.

6 CONCLUSION

7 There is good cause for the Court to grant this application and authorize the Liquidator to
8 sell the Works of Art to the Moores. Accordingly, the Liquidator requests that the Court grant
9 this application and issue the following orders:


10 1. An Order authorizing the Liquidator to sell the Works of Art to the Moores
11 pursuant to the terms of the Art Work Sale Agreement; and

12 2. An Order authorizing the Liquidator to take any and all actions necessary
13 to accomplish the purposes of these Orders.

14 DATE: February 22, 2011

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