

NO. D-1-GV-03-002024

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
WESTERN INDEMNITY INSURANCE COMPANY	§ §	261ST JUDICIAL DISTRICT

FINAL ACCOUNTING AND APPLICATION TO TERMINATE RECEIVERSHIP

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Resolution Oversight Corporation, Special Deputy Receiver of Western Indemnity Insurance Company (the “SDR” and “Western”, respectively), files its *Final Accounting and Application to Terminate Receivership* (the “Application”).

I. RELIEF REQUESTED

1. On July 7, 2015, this Court entered its *Order Approving Final Report and Application to Make Final Distribution* (“Final Distribution Order”). The SDR has completed the distribution of assets in accordance with the Final Distribution Order and submits its final accounting. The SDR requests that the Court terminate this receivership proceeding, and discharge the Texas Commissioner of Insurance (“Commissioner”) as Receiver of Western, and Resolution Oversight Corporation, as the SDR of Western.

II. AUTHORITY

2. The SDR is authorized to file this Application pursuant to TEX. INS. CODE ANN. § 443.352. The subject matter of this Application has been referred to the Master appointed in this proceeding in accordance with the *Amended Order of Reference to Master* entered on November 4, 2005.

III. FINAL FINANCIAL STATEMENTS

3. The Balance Sheet, attached as “Exhibit A”, and the Sources and Uses of Cash Statement, attached as “Exhibit B”, reflect the financial condition of the receivership estate as of October 5, 2015.

IV. EXPENSES

4. The Final Distribution Order approved an Expense Reserve of \$52,650 for the payment of estimated expenses from May 1, 2015 through the termination of the receivership. The actual expenses incurred were \$48,800.43. Attached as “Exhibit C” is the Final Statement Expenses submitted pursuant to TEX. INS. CODE ANN. § 443.015.

V. DISTRIBUTIONS

5. Through early access payments, interim distributions and the distributions authorized in the Final Distribution Order, the SDR paid 100% of the Class 1, 2 and 4 claims. There were no Class 3 claims. In accordance with the Final Distribution Order, the SDR has made Class 5 distributions and credit totaling \$7,298,991.05, representing a 50.42% distribution. No assets were available for distribution to Class 6 or classes of lower priority. A schedule of the distributions authorized by the Final Distribution Order is attached as Exhibit “D”, and made a part hereof for all purposes.

6. The SDR was authorized to transfer any residual funds left from the Expense Reserve to the Commissioner to defray expenses incurred after the termination of receivership proceeding for handling inquiries and asset management issues related to the transferred assets. The remainder of \$4,413.70 has been transferred to the Commissioner.

VI. UNCLAIMED FUNDS

7. There were unclaimed distributions in the amount of \$166,537.02 which have been delivered to the Commissioner in accordance with TEX. INS. CODE ANN. § 443.304. The SDR has provided the Commissioner with a schedule of the proof of claim numbers, the claimants' names and addresses and the allowed amount of each unclaimed distribution.

VII. FEDERAL INCOME TAX RETURNS

8. The SDR will file a final federal tax return for 2015 before the termination of this estate. No federal income taxes were owed by the receivership estate.

VIII. TRANSFERS

9. The Final Distribution Order authorized the SDR to transfer the Legion POC and any other unliquidated or unknown assets of Western to the Commissioner. The unliquidated assets transferred to the Commissioner are identified on "Exhibit E". If funds are collected from such assets, this proceeding may be reopened by this Court under TEX. INS. CODE ANN. § 443.353. However, if the Commissioner determines that the funds are insufficient to justify the costs of reopening this proceeding, or cannot be distributed economically, the SDR requests that this Court authorize the Commissioner to deposit any such funds in an account under TEX. INS. CODE ANN. § 443.304

IX. RECORDS

10. The Final Distribution Order authorized the SDR to destroy certain records of Western that were no longer required for the administration of the receivership. The remaining records of Western have been inventoried by the SDR and transferred to the Commissioner of Insurance and the Guaranty Associations, as required. In accordance with the Final Distribution

Order, the Commissioner and the Guaranty Associations were authorized to dispose of any or all records transferred to them at their discretion.

X. TERMINATION AND DISCHARGE

11. The SDR requests that this Court issue an Order terminating this proceeding and discharging the Receiver and the SDR.

XI. OFFER OF PROOF

12. Attached hereto as Exhibit "F" is an Affidavit submitted under TEX. INS. CODE ANN. § 443.017, authenticating Exhibits A through E, which are incorporated herein by reference.

WHEREFORE, PREMISES CONSIDERED, the SDR prays that this Court grant this Application and enter an order:

1. Accepting into evidence all the Exhibits filed with this Application;
2. Granting the Application in all respects;
3. Approving the Final Statement of Expenses;
4. Approving the transfer of the assets listed on Exhibit E to the Commissioner, and vesting ownership of these assets in the Commissioner;
5. Authorizing the Commissioner to deposit any funds collected from assets listed on Exhibit E in an account under TEX. INS. CODE ANN. § 443.304, if the Commissioner determines that the funds are insufficient to justify the costs of reopening a proceeding or cannot be distributed economically;
6. Approving the SDR's transfer of the residual funds from the Expense Reserve to the Commissioner pursuant to TEX. INS. CODE ANN. § 443.352 of the Code;

7. Authorizing the Commissioner to handle the unclaimed funds as directed in TEX. INS. CODE ANN. § 443.304;
8. Authorizing the SDR to file the final tax return for 2015;
9. Discharging the Receiver and the SDR;
10. Terminating this proceeding; and,
11. Granting the Receiver and the SDR other relief to which they may be entitled.

Respectfully submitted,

THE STROUD FIRM, PLLC.
16000 Pool Canyon Rd
Austin, Texas 78734
Telephone: (512) 293-8244

By: /s/ Rachel Stroud

Rachel Stroud
State Bar No. 19424700
Email: rstroud@thestroudfirm.com

ATTORNEYS FOR THE SPECIAL
DEPUTY RECEIVER

APPLICANT'S NOTICE OF SUBMISSION

In accordance with the Amended Order of Reference to Master entered by the District Court in this cause, the *Final Accounting and Application to Terminate Receivership* is hereby set for written submission before the Special Master, Tom Collins, on **Monday, November 23, 2015**.

The Special Master has established the following rules pursuant to TEX. R. CIV. P. Rule 171:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by email by such date on:
 - (a) The Special Master's Docket Clerk, at SpecialMasterClerk@tdi.texas.gov
 - (b) All interested parties, including the undersigned counsel and those listed on the Applicant's Certificate of Service.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
4. If a matter is set for submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the master's docket clerk [(512) 676-6915] to obtain an oral hearing, unless the master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all interested parties, including those listed on the Applicant's Certificate of Service.
5. Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by a Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/ Rachel Stroud
Rachel Stroud

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served on the following in accordance with the TEX. INS. CODE § 443.007 and the Texas Rules of Civil Procedure this 5th day of November, 2015.

Mr. Tom Collins
Special Master
Texas Department of Insurance
333 Guadalupe, Tower III,
Room 550, MC-305-1D
Austin, Texas 78701
Email: specialmasterclerk@tdi.texas.gov

Ms. Kathy Gartner
Liquidation Oversight
Texas Department of Insurance
333 Guadalupe
Tower III, 5th Floor, MC-305-1D
Austin, Texas 78701
Email: kathy.gartner @tdi.texas.gov

Mr. James Kennedy
Legal Services
Texas Department of Insurance
333 Guadalupe
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Email: james.kennedy@tdi.texas.gov

Ms. Amber Walker
Texas Property & Casualty Ins. Guaranty Assoc.
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Mr. David Broemel
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Wisconsin Ins. Security Funds
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Hollaway & Gumbert
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Civil Process Clerk
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San Antonio, Texas 78216-5597

United States Attorney General
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Chief of Special Procedures Staff
U.S. Internal Revenue Service
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Chief of Special Procedures Staff
U.S. Internal Revenue Service
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Commercial Litigation Branch
Civil Division
Department of Justice
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/s/ Rachel Stroud
Rachel Stroud
Email: rstroud@thestroutfirm.com

EXHIBIT A

WESTERN INDEMNITY INSURANCE COMPANY IN RECEIVERSHIP R-516
BALANCE SHEET
OCTOBER 5, 2015

Assets		
Cash- Unrestricted		\$0
Reinsurance Recoverables on Paid Losses & LAE (net of allowance)		<u>0</u>
Total Assets		<u><u>\$0</u></u>
Liabilities & Equity		
Liabilities		
Policy Claims- Class 2		\$165,677
Other Liabilities		
Class 4 Claims	850	
Class 5 General Unsecured Creditor Claims	330,681	
Class 5 Reinsurance Related Unsecured Claims	6,846,599	
Class 6 Claims	<u>4,936</u>	
Total Other Liabilities		<u>7,183,066</u>
Total Liabilities		7,348,743
Equity (Deficit)		<u>(7,348,743)</u>
Total Liabilities & Equity		<u><u>\$0</u></u>

EXHIBIT B**WESTERN INDEMNITY INSURANCE COMPANY IN RECEIVERSHIP R-516
SOURCES & USES OF CASH STATEMENT
INCEPTION TO DATE THROUGH ESTATE CLOSING**

Receipts

Receipts from Assets/Receivables

Premium Receipts	\$14,790	
Agents' Balances Received	308,132	
Reinsurance Recoveries	18,529,145	
Salvage & Subrogation Recoveries	86,434	
Settlement/Litigation Recovery	2,005,422	
Other Receipts	623,911	
Sale of Real & Personal Property	715	
Investment Sales/Receipts	6,897,965	
Total Receipts from Assets/Receivables	<u>6,897,965</u>	\$28,466,514

Passive Receipts

Interest & Dividend Receipts	402,596	
Cash Deposit Interest	3,079,057	
Total Passive Receipts	<u>3,079,057</u>	<u>3,481,653</u>

Total Cash Receipts

31,948,167

Disbursements for Operations

SDR Fees & Expenses	(1,797,797)	
Subcontractor Legal Fees & Expenses	(1,055,197)	
Subcontractor Other Fees & Expenses	(749,681)	
Other Expenses	(324,346)	
RLO Fees & Expenses	(495,249)	
Total Disbursements for Operations	<u>(4,422,270)</u>	<u>(4,422,270)</u>

Net Cash from Operations

27,525,897

Cash Distributions

Guaranty Associations	(13,462,119)	
Other Loss Claims	(12,663,991)	
Unsecured Creditor Claims	(5,024,362)	
RLO Unclaimed Fund	(166,537)	
Total Cash Distributions	<u>(31,317,009)</u>	<u>(31,317,009)</u>

Net Decrease in Cash

(3,791,112)

Cash at Beginning of Period

3,791,112

Cash at End of Period

\$0

EXHIBIT C**WESTERN INDEMNITY INSURANCE COMPANY IN RECEIVERSHIP R-516
FINAL STATEMENT OF EXPENSES**

	Total Expenses	Approved Expense Reserve	Residual Funds
SDR			
SDR administration and accounting	\$24,962.20	\$21,300.00	(\$3,662.20)
Subcontractors			
The Stroud Firm- legal	6,180.00	8,200.00	2,020.00
Marrero & Welch- legal	2,854.80	2,300.00	(554.80)
Emkay Associates- claims	1,792.50	5,450.00	3,657.50
The Warren Group- tax return	2,700.00	2,700.00	0.00
Other Vendors/ Expenses			
Safesite- records storage	8,357.50	10,000.00	1,642.50
Texas State Library- records storage	500.00	500.00	0.00
Bank charges	1,203.43	1,200.00	(3.43)
Liquidation Oversight Allocation			
Liquidation Oversight allocation	247.78	700.00	452.22
Special Master's fees	2.22	300.00	297.78
Total Expenses	<u>\$48,800.43</u>	<u>\$52,650.00</u>	<u>3,849.57</u>
Interest earned subsequent to estate closing application			<u>564.13</u>
Residual Funds Forwarded to Commissioner			<u>\$4,413.70</u>

EXHIBIT D
WESTERN INDEMNITY INSURANCE COMPANY IN RECEIVERSHIP R-516
ACCOUNTING OF FINAL DISTRIBUTIONS

PCC NUMBER	CLAIMANT	PAYEE ADDRESS	PAYEE CITY	STATE	ZIP	CLAIM TYPE	CLASS	AMOUNT CLAIMED	CLASS 1 ALLOWED	CLASS 2 ALLOWED	CLASS 4 ALLOWED	CLASS 5 ALLOWED	CLASS 5 PRO RATA DISTRIBUTION	PAYMENT METHOD	DISTRIB DATE	FILED UNCLAIMED TRIBS	PAYEE NAME
WC-0007	(Individual claimant)	4540 LIV Avenue	Abion	LA	51023	CarBank Claim	2	1,440.50		1,440.50				DR # 2105	7/10/2015		(Individual claimant)
WC-0007	(Individual claimant)	258 Plunkew Drive	Hogans	OK	54561	CarBank Claim	2	349.50		349.50				DR # 2105	7/10/2015		(Individual claimant)
WC-0004	A.M. Best Company, Inc.	Armed Road	Orlando	NJ	08861	Invoy - 2002 JWC Fee Rating	5	3,000.00			3,000.00			wire	7/14/2015		A.M. Best Company, Inc.
WC-0006	(Individual claimant)	4505 Grandon (reprints and known address, final distribution notice was undelivered)	Houston	TX	77006	Former Employee	4	850.00			850.00			wire	7/14/2015		
WC-0008	Alabama Insurance Guaranty Association	2020 Canyon Road, Suite 200	Birmingham	AL	35216	Guaranty Association	4	286,635.83	286,635.83					wire	10/02/2006 12/12/2008 7/14/2015		Alabama Insurance Guaranty Association
WC-0008	Alabama Insurance Guaranty Association	2020 Canyon Road, Suite 200	Birmingham	AL	35216	Guaranty Association	2	1,002,232.10		1,002,232.10				wire	10/02/2006 12/12/2008 7/14/2015		Alabama Insurance Guaranty Association
WC-0008	Alabama Insurance Guaranty Association	2020 Canyon Road, Suite 200	Birmingham	AL	35216	Guaranty Association	5	100.00			100.00			wire	10/02/2006 12/12/2008 7/14/2015		Alabama Insurance Guaranty Association
WC-0004	Alliant Life Insurance Company of North America	6 Office Park Circle, Suite 200	Birmingham	AL	35223	Guaranty Association	5	100.00			100.00			wire	7/14/2015		Alliant Life Insurance Company of North America
WC-0004	Alliant Life Insurance Company of North America	5701 Golden Hills Drive	Minneapolis	MN	55416	Reinsurance Invoyce	5	3,129,938.24			3,129,938.24		1,678,126.84	wire	7/14/2015		Alliant Life Insurance Company of North America
WC-0055	Texas Property and Casualty Insurance Guaranty Association	9120 Burnet Road	Austin	TX	78758	Guaranty Association	2	5,593,146.42		5,593,146.42				wire	10/02/2006 12/12/2008 7/14/2015		Texas Property & Casualty Insurance Guaranty Association
WC-0006	Tennessee Insurance Guaranty Association	3100 West End Avenue, Suite 670	Nashville	TN	37203	Guaranty Association	1	121,708.96	121,708.96					wire	10/02/2006 12/12/2008 7/14/2015		Tennessee Insurance Guaranty Association
WC-0006	Tennessee Insurance Guaranty Association	3100 West End Avenue, Suite 670	Nashville	TN	37203	Guaranty Association	2	4,128,661.18		4,128,661.18				wire	10/02/2006 07/29/2011 7/14/2015		Tennessee Insurance Guaranty Association
WC-0070	General Fire - New England Asset Management, Inc.	74 Robinson Park Road	Farmington	CT	06032	Reinsurance	5	6,036.00			6,036.00		3,043.37	wire	7/14/2015		General Asset Management, Inc.
WC-0072	Compass Bank	15 South 20th Street	Birmingham	AL	35233	Invoyce - BIC, Inc	5	3,128.00			3,128.00		1,577.16	wire	7/14/2015		Compass Bank
WC-0124	Medical Assurance Co., Inc.	100 Breakwood Place	Birmingham	AL	35209	Defense Attorney	5	25,921.88			25,921.88		13,099.01	wire	7/14/2015		ProAssurance Indemnity Company, Inc.
WC-0129	National Workers' Compensation Reinsurance Pool for MCCI, Inc.	160 MCCI, 901 Pennington Corporate Circle	Boca Raton	FL	33487	Reinsurance Invoice	5	3,602.25			3,602.25		1,647.36	wire	7/14/2015		National Workers' Compensation Reinsurance Association
WC-0153	Tennessee Occidental Life Insurance Company	4333 Edgewood Road NE	Copier Field	VA	52409	Reinsurance	5	1,953,096.05			1,953,096.05		884,748.50	wire	7/14/2015		Tennessee Life Insurance Company
WC-0159	Safeco / American Economy Insurance Company	175 Brewery Street	Boston	MA	02116	Invoyce	5	28,339.43			28,339.43		14,208.03	wire and distribution credits	7/14/2015		American Economy Insurance Company
WC-0166	Charleston Insurance Group, Inc.	411 Fern Avenue, 5th Floor	New York	NY	10016	Reinsurance	5	8,322,426.00			8,322,426.00		4,198,188.46	wire and distribution credits	7/14/2015		Charleston National Insurance Company
WC-0133	American International Specialty Lines Insurance Company	600 AG Corporate Tar Dept 489F, 175 Walker Street	New York	NY	10038	Reimbursement for settlement paid on Encaris claim	5	400,000.00			400,000.00		201,681.53	wire	7/14/2015		American International Specialty Lines Insurance Company
WC-0199	Tennessee Workers' Compensation Insurance Plan	P.O. Box 811009	Franklin	TN	37069	Guaranty Association	5	443.38			443.38		221.59	wire	7/14/2015		Tennessee Workers' Compensation Insurance Plan
WC-0208	(Individual claimant)	5701 4th Street, Suite 308	Katy	TX	77456	Medical Malpractice Claim	5	350,000.00			350,000.00		176,471.34	wire	7/14/2015		(Individual claimant)
WC-0216	(Individual claimant)	P.O. Box 1537	Tomball	TX	92070	Claimed	5	250,000.00			250,000.00		126,050.96	wire	7/14/2015		(Individual claimant)
WC-0208	Texas Property and Casualty Insurance Guaranty Association	9120 Burnet Road	Austin	TX	78758	Guaranty Association	1	2,347,521.28	2,347,521.28					wire	10/02/2006 12/12/2008 7/14/2015		Texas Property & Casualty Insurance Guaranty Association
WC-0210	Western Indemnity Insurance Company	1800 West Loop South, Suite 1500	Houston	TX	77027	Professional Claim	2	12,188.25		12,188.25				wire	7/14/2015		Western Indemnity Insurance Company

Totals \$37,592,183.25 \$2,725,869.97 \$10,738,190.65 \$850.00 \$14,410,270.63 \$7,208,991.05 \$850.00

EXHIBIT E
ASSETS TRANSFERRED TO THE TEXAS COMMISSIONER OF INSURANCE

All of rights, title and interests of Western Indemnity Insurance Company (Western) or the receivership estate of Western in any and all assets, causes of action or other claims, known or unknown, whether existing or arising in the future, including but not limited to the following:

1. POC No. 1324103 filed in 1 Leg 2002; In the Matter of Legion Insurance Company, in Liquidation, approved in the amount of \$189,841.48.
2. Any unclaimed funds belonging to Western held by any governmental entity.

STATE OF TEXAS

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IN THE DISTRICT COURT OF

VS.

TRAVIS COUNTY, TEXAS

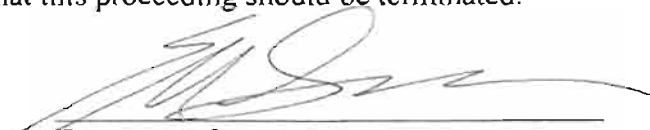
WESTERN INDEMNITY INSURANCE
COMPANY

261ST JUDICIAL DISTRICT

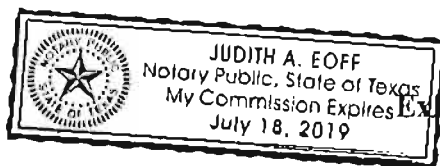
**AFFIDAVIT OF ERNESTO A. GARZA IN SUPPORT OF
FINAL ACCOUNTING AND APPLICATION TO TERMINATE RECEIVERSHIP**

BEFORE ME, the undersigned authority, appeared Ernesto A. Garza, who after being by me duly sworn, stated the following under oath:

1. "My name is Ernesto A. Garza. I am over the age of eighteen years. I am competent make this Affidavit. The statements of facts in this Affidavit are true and correct, and are within my personal knowledge. I am the President of Resolution Oversight Corporation, the Special Deputy Receiver ("SDR") of Western Indemnity Insurance Company ("Western"). I am authorized to make this Certification and Affidavit on behalf of the Special Deputy Receiver.
2. I have read the Final Accounting and Application to Terminate Receivership in the case styled: Cause No. D-1-GV-03-002024; *State of Texas vs. Western Indemnity Insurance Company*; In the 261st Judicial District Court of Travis County, Texas ("*Final Accounting*"). I have also reviewed the Exhibits attached and incorporated into the *Final Accounting* by reference. I verify that all of the facts contained in the *Final Accounting* and this *Affidavit* are true and correct based on my personal knowledge, my review of the estate records and my consultation with my staff and sub-contractors.
3. I certify that the exhibits, books, accounts, papers, and/or other records attached thereto were produced pursuant to TEX. INS. CODE ANN. §443.017, and are either true and correct copies of records of the insurer and were received from the custody of the insurer or found amongst its effects or were created by and filed with the Receiver's office in connection with the receivership of this delinquent insurer, and are held by the Special Deputy Receiver in its official capacity.
4. All assets justifying the expense of collection and distribution have been collected and distributed and the remaining unliquidated assets do not justify the expenses of continuing this proceeding. Accordingly, it is my recommendation that this proceeding should be terminated. "
5. The Affiant has nothing further to say."


Ernesto A. Garza

Subscribed and sworn to before me on this 4 day of November, 2015 by Ernesto A. Garza, on behalf of Resolution Oversight Corporation, Special Deputy Receiver of Western Indemnity Insurance Company.





Notary Public - State of Texas

Exhibit F