

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Mary Jo Hudson, Ohio Superintendent of Insurance, in her Capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company,	:	
	:	
Plaintiff,	:	Case No. 00 CVH 11-9867
	:	
v.	:	Judge Beverly Pfeiffer
	:	
Credit General Insurance Company, et al.,	:	
	:	
Defendants.	:	

**PLAINTIFF'S MOTION TO APPROVE THE SECOND PARTIAL DISTRIBUTION TO GUARANTY ASSOCIATIONS FOR CLASS 1 ADMINISTRATIVE EXPENSES**

Plaintiff, Mary Jo Hudson, Superintendent of Insurance, in her capacity as the Liquidator ("Liquidator") of Credit General Insurance Company and Credit General Indemnity Company (collectively "Credit General"), respectfully requests that this Court approve the Liquidator's proposed second partial pro-rata distribution to guaranty associations on their allowed Class 1 claims, as reflected in the attached *Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution to Class 1.*

Respectfully submitted,

RICHARD CORDRAY  
Attorney General of Ohio  
By Outside Counsel:  
KEGLER, BROWN, HILL & RITTER, CO. L.P.A.

By: R. Kevin Kerns by J. W. Schuermann, Jr.  
R. Kevin Kerns (0021781)  
Richard W. Schuermann, Jr. (0032546)  
65 E. State Street, Suite 1800  
Columbus, Ohio 43215  
Telephone: (614) 462-5400  
Facsimile: (614) 464-2634

*Attorneys for Mary Jo Hudson, in her capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company*

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## MEMORANDUM IN SUPPORT

On May 25, 2010, the Liquidator filed a motion consistent with R.C. 3903.34 asking this Court to approve the Liquidator's first partial pro-rata distribution to guaranty associations ("IGAs") on their allowed Class 1 claims as of December 31, 2009. On June 17, 2010, this Court approved the Liquidator's request and the Liquidator proceeded to distribute to IGAs \$11,174,619.74 from the Credit General Insurance Company liquidation proceeding and \$1,028,990.01 from the Credit General Indemnity Company liquidation proceeding. Since the first partial pro-rata distribution, the Liquidator has negotiated reinsurance settlements with various reinsurers resulting in recoveries sufficient to make an additional disbursement to IGAs in payment of 100% of their Class 1 administrative expenses as of December 31, 2009.<sup>1</sup>

On December 12, 2000, and on January 5, 2001, Credit General Indemnity Company and Credit General Insurance Company, respectively, were placed in liquidation by orders of the Court of Common Pleas of Franklin County, Ohio in a proceeding captioned *J. Lee Covington II, Superintendent of Insurance, Ohio Department of Insurance vs. Credit General Insurance Company*, Case No. 00-CVH11-9867. The orders of liquidation invoked the statutory scheme set forth within R.C. Chapter 3903, the Ohio Insurers, Supervision, Rehabilitation, and Liquidation Act ("Liquidation Act"). R.C. 3903.18(A) provides that an order to liquidate shall direct the Liquidator to administer the estate "under the general supervision of the court." As part of the liquidation and pursuant to the orders of liquidation and the Liquidation Act, the Liquidator undertakes to collect all debts and moneys due to Credit General, and to make payment of the expenses of marshaling and distributing the insurer's assets. R.C. 3903.21(A)(4).

In accordance with the liquidation statutes, the Liquidator tendered CGIC policyholder claims to insurance guaranty associations (IGAs) throughout the nation at the outset of the liquidation. By statute, IGAs provide a means to protect and compensate insureds and third-party claimants when an insurance

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<sup>1</sup> In early 2011, the Liquidator plans to finalize an Early Access Plan that will enable the Liquidator to make early access distributions on the IGAs class 2 claims in the Credit General Insurance Company and Credit General Indemnity Company liquidation proceedings.

company is liquidated and therefore unable to meet its claims obligations. See *PIE Mutual Insurance Co. v. Ohio Insurance Guaranty Assoc.*, (1993) 66 Ohio St. 3d. 209, 212.; R.C. 3955.03. Generally speaking, when a liquidation order is entered declaring an insurance company insolvent, applicable IGAs assume the insolvent insurer's obligations and rights with respect to insureds and third-party claimants for liability purposes only up to the IGAs' coverage and payment caps. *Id.* (citing current R.C. 3955.08). The IGAs provide insurance coverage (administer, defend and/or timely pay policyholder claims) to eligible claimants when no other coverage is available to pay valid claims to reduce the hardship upon innocent policyholders. *Id.*; see also R.C. 3955.13(A). Consequently, guaranty associations expend monies to pay claims long before resolution of the ultimate financial condition of the liquidating insurer's estate. In turn, the guaranty associations are granted Class 1 and Class 2 priority claim status in the Liquidation Estate. Class 1 claims include the IGAs' reasonable expenses in handling claims. R.C. 3903.42(A). The IGAs' Class 2 claims include all insured loss claims paid by the IGAs. R.C. 3903.42(B).

As of December 31, 2009, the guaranty associations have collectively paid and claimed almost \$286 million in the Credit General Insurance Company and \$61 million in Credit General Indemnity Company loss claims and allocated loss adjustment expenses (LAE). The IGAs will continue to incur millions of dollars in policyholder claims liabilities because there is no cap on their obligations to pay covered workers' compensation claims insured by Credit General. As a group, the guaranty associations represent the largest creditor of the Credit General liquidation.

In accordance with Ohio law, the Liquidator requests approval to make a second partial payment on the IGAs' Class 1 collective administrative expense claims of December 31, 2009 as reflected on Exhibit A, *Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution to Class 1*. This payment will assist the guaranty associations in meeting the ongoing obligations of Credit General, especially with respect to workers' compensation claims. This plan is consistent with Ohio law, which requires the Liquidator

to distribute claims in order by class according to the statutory scheme set forth in R.C. 3903.42. Under R.C. 3903.42(A) and the Liquidation Orders, the expenses of administration are given first priority in the distribution of assets. These expenses are paid as they become due out of the unencumbered assets of the Estate before any other claims are paid.

There are no disputes regarding the amount of each guaranty association's Class 1 claim as of December 31, 2009. The Liquidator established internal procedures for the ongoing review of the guaranty associations' administrative expense claims and has determined that these claims are reasonable. R.C. 3903.42(A)(6). Therefore, payment of a portion of the amount claimed by each guaranty association as their Class 1 administrative expense, as listed on Exhibit A, is an appropriate use of the Credit General estate assets pursuant to R.C. 3903.42.

Therefore, for the reasons outlined above, the Liquidator respectfully requests that this Court approve the Liquidator's second pro-rata distribution to guaranty associations on their allowed Class 1 administrative expense claim as of December 31, 2009, as reflected in the *Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution to Class 1*, attached hereto as Exhibit A.

Respectfully submitted,

RICHARD CORDRAY  
Attorney General of Ohio

By Outside Counsel:  
KEGLER, BROWN, HILL & RITTER, CO. L.P.A.

By: R. Kevin Kerns by J.P. Burg  
R. Kevin Kerns (0021781)  
Richard W. Schuermann, Jr. (0032546)  
65 E. State Street, Suite 1800  
Columbus, Ohio 43215  
Telephone: (614) 462-5400  
Facsimile: (614) 464-2634

*Attorneys for Mary Jo Hudson, in her capacity as Liquidator of  
Credit General Insurance Company and Credit General Indemnity  
Company*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion to Approve the Second Partial Distribution to Guaranty Associations For Class 1 Administrative Expenses* was served upon all interested parties on the attached list, via Regular Mail, postage prepaid, on this 23 day of November, 2010.

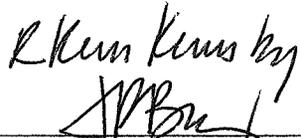
Barbara Cox  
Vice President, Legal and Regulatory  
Affairs  
National Conference of Insurance  
Guaranty Funds  
300 N. Meridian St., Ste. 1020  
Indianapolis, Indiana 46204

Amy Ballain  
Director of Accounting, Treasurer  
National Conference of Insurance Guaranty  
Funds  
300 N. Meridian St., Ste. 1020  
Indianapolis, Indiana 46204

Lynn Berg  
Anchor Claims Management  
P.O. Box 819045  
Dallas, TX 75381-9045

Sean C. Logan, Esq.  
Annapolis Consulting Group LLC  
2530 Riva Road, Suite 308  
Annapolis, MD 21402  
*PRS Trustee*

Wayne D. Wilson  
Director  
CA Insurance Guarantee Assn.  
700 N. Brand Blvd.  
Glendale, CA 91203

  
\_\_\_\_\_  
R. Kevin Kerns (0021781)

## CGIC COURTESY COPY E-MAIL LIST

David H. Levitt	<a href="mailto:dlevitt@hinshawlaw.com"><u>dlevitt@hinshawlaw.com</u></a>
Michael E. Surguine	<a href="mailto:msurguine@azinsurance.gov"><u>msurguine@azinsurance.gov</u></a>
Barbara F. Cox	<a href="mailto:bcox@ncigf.org"><u>bcox@ncigf.org</u></a>
Paul M. Gulko	<a href="mailto:pgulko@gfms.org"><u>pgulko@gfms.org</u></a>
Edwin E. Evans	<a href="mailto:eevans@dehs.com"><u>eevans@dehs.com</u></a>
Daniel W. Costello	<a href="mailto:dcostello@porterwright.com"><u>dcostello@porterwright.com</u></a>
Marvin Kelly	<a href="mailto:sdurish@tpciga.org"><u>sdurish@tpciga.org</u></a> <a href="mailto:awalker@tpciga.org"><u>awalker@tpciga.org</u></a>
Rebecca J. Nisbet	<a href="mailto:nisbetr@nationwide.com"><u>nisbetr@nationwide.com</u></a>
Nicholas Cremonese	<a href="mailto:ncremonese@nylb.org"><u>ncremonese@nylb.org</u></a> <a href="mailto:erussell@nylb.org"><u>erussell@nylb.org</u></a>
Steve A. Uhrynowycz	<a href="mailto:steve.uhrynowycz@arkansas.gov"><u>steve.uhrynowycz@arkansas.gov</u></a>
F. James Foley	<a href="mailto:fjfoley@vorys.com"><u>fjfoley@vorys.com</u></a>
Frank A. Ray	<a href="mailto:fray@cwslaw.com"><u>fray@cwslaw.com</u></a>

# EXHIBIT A

## Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution

### Credit General Insurance Company

<u>State</u>	<u>IGA Report Date</u>	<u>Administrative Expense</u>	1st Partial Class 1	Proposed 2nd Partial
			Distribution Paid on 7/1/2010	Class 1 Distribution
			<u>45% Payment</u>	<u>55% Additional Payment</u>
Alabama	12/31/2009	488,211.39	219,695.13	268,516.26
Alaska	12/31/2009	94,734.47	42,630.51	52,103.96
Arizona	6/30/2008	32,337.43	14,551.84	17,785.59
Arizona WC	12/31/2009	38,986.55	17,543.95	21,442.60
Arkansas	12/31/2009	102,428.07	46,092.63	56,335.44
California	12/31/2009	4,743,353.98	2,134,509.29	2,608,844.69
Colorado	12/31/2009	165,921.00	74,664.45	91,256.55
Connecticut	12/31/2009	159,660.28	71,847.13	87,813.15
Delaware	12/31/2009	123,340.33	55,503.15	67,837.18
District of Columbia	12/31/2009	28,425.57	12,791.51	15,634.06
Florida	12/31/2009	304,331.15	136,949.02	167,382.13
Florida WC	12/31/2009	673,999.80	303,299.91	370,699.89
Georgia	12/31/2009	1,046,811.95	471,065.38	575,746.57
Hawaii	12/31/2009	26,130.39	11,758.68	14,371.71
Idaho	12/31/2009	27,492.00	12,371.40	15,120.60
Illinois	12/31/2009	2,271,793.90	1,022,307.26	1,249,486.64
Indiana	12/31/2009	228,331.46	102,749.16	125,582.30
Iowa	12/31/2009	132,222.16	59,499.97	72,722.19
Kansas	12/31/2009	157,411.00	70,834.95	86,576.05
Kentucky	12/31/2009	398,907.39	179,508.33	219,399.06
Louisiana	12/31/2009	860,922.00	387,414.90	473,507.10
Maine	12/31/2009	29,929.72	13,468.37	16,461.35
Maryland	12/31/2009	14,686.41	6,608.88	8,077.53
Massachusetts	12/31/2009	1,028,548.20	462,846.69	565,701.51
Michigan	12/31/2009	-	-	- see Note 1
Minnesota	12/31/2009	476,292.95	214,331.83	261,961.12
Mississippi	12/31/2009	255,477.46	114,964.86	140,512.60
Missouri	12/31/2009	514,332.52	231,449.63	282,882.89
Montana	12/31/2009	113,416.00	51,037.20	62,378.80
Nebraska	12/31/2009	116,423.40	52,390.53	64,032.87
Nevada	12/31/2009	47,971.79	21,587.31	26,384.48
New Jersey	12/31/2009	43,640.17	19,638.08	24,002.09
New Jersey WC	12/31/2009	916,696.43	412,513.39	504,183.04

## EXHIBIT A

### Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution

New Mexico	12/31/2009	89,946.46	40,475.91	49,470.55
New York	12/31/2009	2,231,462.00	1,004,157.90	1,227,304.10
North Carolina	12/31/2009	449,634.47	202,335.51	247,298.96
North Dakota	6/30/2008	-	-	-
Ohio	12/31/2009	89,140.18	40,113.08	49,027.10
Oklahoma	12/31/2009	1,608,476.88	723,814.60	884,662.28
Oregon	12/31/2009	48,556.98	21,850.64	26,706.34
Pennsylvania	12/31/2009	111,672.00	50,252.40	61,419.60
Pennsylvania WC	6/30/2009	2,300,827.31	1,035,372.29	1,265,455.02
Rhode Island	12/31/2009	204,150.28	91,867.63	112,282.65
South Carolina	12/31/2009	259,854.55	116,934.55	142,920.00
South Dakota	12/31/2009	124,577.39	56,059.83	68,517.56
Tennessee	12/31/2009	770,201.78	346,590.80	423,610.98
Utah	12/31/2009	250,917.77	112,913.00	138,004.77
Vermont	12/31/2009	65,339.55	29,402.80	35,936.75
Virginia	12/31/2009	238,189.57	107,185.31	131,004.26
Washington	12/31/2009	114,491.00	51,520.95	62,970.05
West Virginia	12/31/2009	27,525.51	12,386.48	15,139.03
Wisconsin	12/31/2009	178,336.31	80,251.34	98,084.97
Wyoming	12/31/2009	6,021.00	2,709.45	3,311.55
<b>Totals</b>		<b>24,832,488.31</b>	<b>11,174,619.79</b>	

Pro-rata amount to be disbursed to Class 1 in Insurance (2nd Distribution): **13,657,868.52**

Note 1 - Michigan submitted its final accounting in 2005 and reconciled with the Liquidator; Michigan recovered a statutory deposit (\$185,993.91) covering the total of all of its loss, LAE, and admin costs. An additional \$755.85 admin expense submitted by Michigan for 12/31/2009 is not being allowed because the final accounting was completed in 2005.

### Credit General Indemnity Company

<u>State</u>	<u>IGA Report Date</u>	<u>Administrative Expense</u>	<u>1st Partial Class 1 Distribution Paid on 7/1/2010</u>	<u>Proposed Catch-up and 2nd Partial Class 1 Distribution</u>
			<u>25% Payment</u>	<u>75% Additional Payment</u>
California	12/31/2009	1,735,869.71	433,967.43	1,301,902.28

# EXHIBIT A

## Liquidator's Preliminary Report of Guaranty Associations' Class 1 Administrative Expense Claims as of December 31, 2009 and Second Pro-Rata Distribution

Texas	12/31/2009	<u>2,380,090.33</u>	<u>595,022.58</u>	<u>1,785,067.75</u>
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Totals		<u>4,115,960.04</u>	<u>1,028,990.01</u>	
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Pro-rata amount to be disbursed to Class 1 in Indemnity (Catch-up and 2nd partial  
Distribution): 3,086,970.03