

**IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

**MARY JO HUDSON,  
SUPERINTENDANT OF  
INSURANCE, OHIO DEPARTMENT  
OF INSURANCE, IN HER  
CAPACITY AS REHABILITATOR  
OF THE GUARANTEE TITLE AND  
TRUST COMPANY,**

**Plaintiff,**

**v.**

**THE GUARANTEE TITLE AND  
TRUST COMPANY**

**Defendant**

**Case No. 08 CVH 07 10725**

**JUDGE GUY L. REECE, II**

**MEMORANDUM  
IN RESPONSE TO PLAINTIFF'S MOTION FOR  
FINAL ORDER AND JUDGMENT OF LIQUIDATION**

This memorandum is submitted pursuant to R.C. § 3903.16(A), which provides that the directors of an insurer in rehabilitation shall have the right to take such action as they deem is reasonably necessary in response to a motion for liquidation of that insurer.

The directors of Guarantee Title & Trust Company ("GTT's Directors") do not oppose the request for an order of liquidation, and they agree that statutory grounds exist as specified in R.C. § 3903.17. Nevertheless, because of (a) past issues between the GTT Directors and the Rehabilitator – soon to be Liquidator and (b) concerns about certain factual allegations – which are actually disputed by the parties, the GTT Directors are compelled to bring these matters to the Court's attention by filing this memorandum.

In the memorandum filed in support of the Rehabilitator's motion, she makes the following assertions of fact:

- (1) GTT failed to consistently pursue agent recoupments prior to the Rehabilitation (p. 4-5);
- (2) GTT “does not properly reserve for claims” (p. 5);
- (3) GTT “fails to adequately maintain accounting records in accordance with the Ohio Revised Code and applicable accounting standards” (p. 5); and
- (4) GTT “failed to consistently collect premium” prior to the Rehabilitation (p. 6).

Each of these allegations is disputed by the GTT Directors. These statements are simply allegations – no real evidence has been submitted to this Court to date to support these allegations.

The GTT Directors do not wish to engage in a debate, at this time, as to which party is correct regarding these factual details. The GTT Directors simply want the Court to know that these matters are disputed.

More importantly, any determination regarding these factual disputes is both premature and unnecessary. The matter currently before the Court is the Rehabilitator’s request for an order of liquidation. Statutory grounds exist to support the Rehabilitator’s request. Whether GTT failed to do this or that is irrelevant for purposes of the issues currently before the Court. Therefore, none of these allegations should be included in any Order issued by this Court approving the liquidation.

Accordingly, the GTT Directors urge the Court to issue an Order that is devoid of any disputed factual allegations.<sup>1</sup> In the alternative, this Court should schedule a hearing and require the Rehabilitator to introduce admissible evidence to substantiate these allegations.

---

<sup>1</sup> The GTT Directors cannot comment on whether the Rehabilitator’s proposed order of liquidation actually contains any of these or even other disputed factual allegations as the Rehabilitator has refused to share a copy of the proposed order prior to the status conference scheduled for October 27, 2008.

Respectfully submitted,

---

Randall S. Rabe (0021287)  
Susan T. Stead (0009917)  
Nelson Levin de Luca & Horst  
280 North High Street, Suite 920  
Columbus, Ohio 43215  
[rrabe@nldhlaw.com](mailto:rrabe@nldhlaw.com)  
(614) 221-1633  
(614) 221-7529 (Facsimile)

Attorneys for the GTT Directors

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true copy of the foregoing has been served upon the following by email and regular U.S. Mail this 24<sup>th</sup> day of October, 2008.

Valoria C. Hoover  
Kohrman Jackson & Krantz, LLP  
655 Metro Place South, Suite 600  
Dublin, OH 43016  
[vch@kjk.com](mailto:vch@kjk.com)

---

Randall S. Rabe