

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

RECEIVED AND FILED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

2009 NOV 12 A 10:14

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JOEL S. ARIO  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

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DOCKET NO. 269 M.D. 2001

***In Re: Liquidator's Petition for Future Administration of Consolidated  
Freightways Collateral***

**ORDER**

AND NOW, this \_\_\_ day of \_\_\_\_, 2009, upon consideration of the Liquidator's  
Petition for Future Administration of Consolidated Freightways ("CF") Collateral and  
there being no objections to said Petition, the Petition is granted.

The Court hereby authorizes the Liquidator to administer the CF Collateral as  
follows:

(1) to pay outstanding paid GA Workers Compensation Deductible Claims and CF retrospective premium obligations to Reliance through September 30, 2009;

(2) to pay, periodically as necessary and without further Court approval, future paid GA Workers Compensation Deductible Claims and CF retrospective premium obligations;

(3) to fund any GA Commutations agreed by the GAs and CF and approved by the Liquidator;

(4) to complete the adjustment and payment of Uncovered Claims, including payment of administration expenses, without further Court Approval;

(5) to deduct, without further Court approval, the Liquidator's Section 221.23a Expenses from GA reimbursements and GA Commutations; and

(6) to report to the Court annually, from the date of entry of this Order, regarding the administration of the CF Collateral, including whether it continues to be adequate to pay all anticipated claims against it.

And further, the Liquidator shall serve a copy of this Order on counsel for the Trustee in Bankruptcy of CF Corporation, shall provide all listed on the Master Service List with notice of the filing, shall post a true and correct copy in PDF format on the Reliance Documents website ([www.reliancedocuments.com](http://www.reliancedocuments.com)), and shall file an affidavit with this Court affirming that service was so effected.

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BONNIE BRIGANCE LEADBETTER,  
President Judge

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

JOEL S. ARIO  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 M.D. 2001

2001 NOV 12 A 10 14

RECEIVED AND FILED  
COMMONWEALTH COURT  
OF PENNSYLVANIA

**NINTH REPORT OF THE LIQUIDATOR TO THE COURT ON THE  
IMPLEMENTATION OF THE APPROVED PLAN FOR THE ALLOCATION OF  
POLICYHOLDER COLLATERAL OF CONSOLIDATED FREIGHTWAYS  
CORPORATION AND THE LIQUIDATOR'S PETITION FOR APPROVAL OF  
FUTURE ADMINISTRATION OF CONSOLIDATED FREIGHTWAYS COLLATERAL**

Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company ("Reliance") hereby makes his Ninth Report to the Court on the implementation of the Liquidator's Plan for the Allocation of Policyholder Collateral pursuant to the Court's Order of October 4, 2006 (the "Collateral Allocation Order")<sup>1</sup> and files the Liquidator's Petition for Future Administration of Consolidated Freightways Collateral.

<sup>1</sup> A copy of the Collateral Allocation Order is attached as Exhibit "A".

## **Background**

1. Reliance issued policies of insurance to Consolidated Freightways Corporation ("CF") for workers compensation and automobile/general liability ("AL/GL"). Most of the CF policies were issued with deductible provisions. Other CF policies contained retrospective premium obligations payable to Reliance. To secure its deductible reimbursement and retrospective premium obligations, CF posted collateral with Reliance in the total amount of \$100 million in the form of a \$55 million Letter of Credit (the "LOC") and a \$45 million surety bond issued by CNA which was converted to a trust in favor of Reliance (the "CNA Trust" and jointly with the LOC, the "CF Collateral").

2. After Reliance was placed in liquidation in October 2001, claims which had arisen under the CF policies were sent to the guaranty associations ("GAs"). Subject to statutory limitations, the GAs assumed the obligation to pay CF's workers compensation claims, but most GAs rejected the AL/GL claims and these files were returned to CF for handling within its deductible obligation (the "Non-Covered Claims").

3. After Reliance was placed in liquidation, CF itself filed for bankruptcy in September 2002. At that time CF ceased paying deductible reimbursement or retrospective premium obligations and ceased handling the Non-Covered Claims. As a result of the CF bankruptcy, the Non-Covered Claims were for some time essentially unadjusted and their precise value unknown.

4. In June 2004, the Pennsylvania legislature enacted an amendment to the Pennsylvania Insurance Department Act, 40 P.S. §221.23a ("Section 221.23a"), which

controls a liquidator's maintenance and administration of collateral posted by an insured to secure deductible and other policy obligations. If an insured fails to fund these obligations, the liquidator may draw the collateral to reimburse GAs for payments within a deductible and to pay an insurer for retrospective premium obligations. Section 221.23a also provides that if claims are not covered by any GA – such as the Non-Covered Claims – the liquidator shall also utilize the collateral to adjust and pay these claims. If the liquidator concludes that collateral is sufficient to pay all outstanding and anticipated claims against the collateral, Section 221.23a contemplates the liquidator would administer the collateral without Court involvement. If, however, the liquidator determines that the collateral is or may be insufficient to compensate all potential claimants, the liquidator may, subject to court approval, formulate a plan for the equitable allocation and distribution of the collateral among the claimants. Section 221.23a permits the liquidator to utilize up to 3% of the collateral to reimburse the liquidation estate for expenses incurred in fulfilling obligations under the Section ("Section 221.23a Expenses").

5. Section 221.23a specifically provides that the subject collateral is not an asset of the liquidation estate, but rather is held by the liquidator for the benefit of claimants against the collateral. To the extent that there is excess collateral beyond that needed "to secure the entire estimated ultimate obligation of the policyholder plus a reasonable safety factor", the excess collateral will be returned to the policyholder.

6. Although at the time of the enactment of Section 221.23a Reliance held significant CF Collateral, in view of the large number of workers compensation claims

resting with the GAs and the unknown valuation of the Non-Covered Claims, the Liquidator concluded that the adequacy of the CF Collateral was in question and formulated a plan for (1) the evaluation of the Non-Covered Claims; and (2) for an interim allocation and distribution of CF Collateral to the GAs and to Reliance (the "CF Plan"). The Liquidator filed a Petition to Approve a Plan for Policyholder Collateral of Consolidated Freightways Corporation for approval of the CF Plan. Based upon the First Petition, the Court issued the Collateral Allocation Order on October 4, 2006 .

7. The Collateral Allocation Order authorized the Liquidator to utilize the CF Collateral to reimburse the GAs \$30,254,461 for workers compensation claims paid by the GAs within CF's deductible obligation ("GA Workers Compensation Deductible Claims") through December 31, 2005; to pay Reliance \$766,443 in retrospective premium due from CF through December 31, 2005; and to use up to \$20 million of the CF Collateral to adjust and pay the Non-Covered Claims through a third-party administrator.

8. The Collateral Allocation Order directed the Liquidator to conclude a comprehensive evaluation of the CF Collateral by October 2007 and posited three scenarios for that evaluation: a determination that the CF Collateral was adequate and the filing of a final plan for on-going full claim payments; a determination that the CF Collateral was inadequate and the filing of a formal pro rata allocation plan; and a scenario where the Liquidator was still unable to precisely evaluate the overall adequacy of the CF Collateral and, therefore, would make periodic reports to the Court on the Liquidator's progress in the CF Collateral evaluation.

9. Upon issuance of the Collateral Allocation Order, the Liquidator promptly reimbursed the GAs over \$30 million with respect to GA Workers Compensation Deductible Claims covered by the GAs and Reliance was paid \$766,443 in retrospective premiums. As directed by the Collateral Allocation Order, Reliance, working with the CF Trustee, retained a third party administrator to begin the process of adjusting and paying the Non-Covered Claims. However, shortly after the adjustment process began and without prior notice, CF filed a complaint and related motions in its bankruptcy court, including one seeking a restraining order enjoining Reliance from accessing the CF Collateral, which prevented the Liquidator from on-going compliance with the Collateral Allocation Order (the "Adversary Proceeding") and Section 221.23a.

10. The Adversary Proceeding was exceptionally complex and has been described in detail in previous reports, but for purposes of the instant Report and Petition it can be summarized that after extensive litigation and negotiation, the Adversary Proceeding was resolved and the action dismissed as to all parties.<sup>2</sup> The resolution of the Adversary Proceeding returned the parties to the status quo ante under the Collateral Allocation Order.

11. Upon resolution of the Adversary Proceeding, on May 29, 2008, the Liquidator filed a Fifth Report of the Liquidator on the Implementation of the Approved Plan and, in conjunction therewith and as part thereof, the Liquidator's Second Petition to Partially Allocate Collateral. The Second Petition requested that the Court approve the release of further CF Collateral as follows: (1) the release of an additional

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<sup>2</sup> The Liquidator's Eighth Report filed on July 30, 2009 and available on the Reliance website ([www.reliancedocuments.com](http://www.reliancedocuments.com)) as document #2395 included a more detailed description.

\$7,552,981 from the CF Collateral so that the Liquidator could reimburse the GAs for GA Workers Compensation Deductible Claims for the time period from January 1, 2006 through September 30, 2007; (2) the release of \$58,147 to Reliance from the CF Collateral to pay CF's retrospective premium obligations to Reliance for the period January 1, 2006 through September 30, 2007; and (3) the release of \$1,087,365 to Reliance to compensate Reliance in part (up to the 3% cap provided in Section 221.23a) for expenses of administering collateral and reimbursing the GAs in the two distributions.

12. On July 18, 2008, the Court granted the Liquidator's Second Petition. Collateral was released as approved by the Court.

13. Resolution of the Adversary Proceeding also permitted the Liquidator to commence in earnest to resolve the Uncovered Claims.

### **Current Status**

14. Status of GA Workers Compensation Deductible Claims, Uncovered Claims and Reliance retrospective premium claims against the CF Collateral<sup>3</sup>:

a. GA Workers Compensation Deductible Claims - Since the last authorized release of CF Collateral to the GAs for Workers Compensation Deductible Claims through September 30, 2007, the GAs have submitted requests for reimbursement of an additional \$6,048,178 in paid claims through September 30, 2009. Reliance actuarial staff has completed a new actuarial

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<sup>3</sup> It should be noted that paid and reserved calculations are in a constant state of flux. The paid and reserved figures are, therefore, a snapshot. It is the Liquidator's opinion that as matters are resolved, future reserve figures will decrease.



analysis of future reserves for the 232 open GA Workers Compensation Deductible Claims, including a provision for incurred but not reported liabilities ("IBNR"), and has established a reserve of \$44,356,103 for these future claims.<sup>4</sup> The total value of paid, but unreimbursed, and anticipated future GA Workers Compensation Deductible Claims against the remaining CF Collateral is \$50,404,281.

b. Uncovered Claims – 175 of the 177 Uncovered Claims have been settled for total payments of \$4,565,167. The 40 claims for allocated loss adjustment expenses ("ALAE") for Uncovered Claims within the deductibles have been settled for a total of \$162,000. Except for a recent settlement for \$165,000, funds for the settled Uncovered Claims and for claim administration expenses have already been drawn from the CF Collateral pursuant to the Collateral Allocation Order. The remaining two Uncovered Claim files are in active negotiation and carry "demand" reserves<sup>5</sup> totaling \$2,206,087. There is a \$50,000 IBNR reserve for Uncovered Claims.

c. Retrospective premium due Reliance from September 30, 2007 through September 30, 2009 totals \$18,293. The reserve for anticipated future retrospective premium, including IBNR liability, is \$599,435.

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<sup>4</sup> Reliance claims staff is currently conducting a file by file review of the open GA Workers Compensation Deductible claims after which a further actuarial review will be conducted. It is expected that this review will only result in a further reserve reduction.

<sup>5</sup> A "demand" reserve is the amount the claimant had indicated will settle the claim. It represents a maximum anticipated exposure. Reliance is, however, negotiating to reduce these demands.

15. The total of the foregoing unfunded outstanding and anticipated future claims against the CF Collateral is \$53,353,096. The total remaining CF Collateral as of September 30, 2009 is \$58,893,439.<sup>6</sup> Based upon these estimates and calculations, the Liquidator has determined that there appears to be sufficient CF Collateral to pay all outstanding and anticipated future claims against the CF Collateral and maintain a safety margin for unknown liabilities.

**Petition for Approval of Future Administration of the CF Collateral**

16. The Liquidator originally filed the CF Plan for collateral evaluation and allocation under Section 221.23a with the Court because of the uncertainty as to the adequacy of the CF Collateral to pay all outstanding and anticipated future claims against it. Now that the adequacy of the CF Collateral has been established, neither a formal plan nor Court review and approval is necessary pursuant to Section 221.23a(c). Further, the continued involvement of the Court would require both an unnecessary imposition upon the Court's time and an unnecessary expenditure of Reliance resources.

17. Based upon the foregoing analysis, the Liquidator respectfully requests that the Court authorize the Liquidator to proceed as follows:

- a. to draw CF Collateral to reimburse the GAs for outstanding GA Workers Compensation Deductible Claims and to pay Reliance for CF's outstanding retrospective premium obligations through September 30, 2009;

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<sup>6</sup> The remaining CF Collateral is comprised of \$32,020,326 in the LOC and \$26,873,113 under the CNA Trust.

b. to draw CF Collateral to adjust and pay the 2 remaining Uncovered Claims and to pay CF administration expenses and third party administrator costs associated with the Uncovered Claims;

c. to periodically, as necessary and without further Court approval, draw CF Collateral to reimburse future GA Workers Compensation Deductible Claims and to pay future CF retrospective premium obligations to Reliance, as incurred; and

d. to periodically, without further Court approval, deduct Section 221.23a Expenses from CF Collateral released to the GAs as authorized by Section 221.23a. As was previously reported to the Court in the Liquidator's Second Petition, the Liquidator has determined that the Liquidator's Section 221.23a Expenses exceed the 3% cap established by the Section and, therefore, the Liquidator will deduct expenses at 3%.

18. In addition to the foregoing, the GAs and the CF have recently agreed to explore the possibility of commutations against the CF Collateral.<sup>7</sup> In exchange for a lump sum payment from the CF Collateral, a GA would fully release the CF estate, the Reliance estate and the Liquidator from any and all claims the GA may have against the CF Collateral, the Reliance estate or the CF estate for CF related claims after the commutation date (the "GA Commutations"). Under Section 221.23a, other than the

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<sup>7</sup> The Court has previously seen commutation proposals in the reinsurance context which have their own reporting and approval procedures. In this instance, "commutation" is being used in the civil law sense of the conversion of a right to receive a future or periodic payment into the right to receive a fixed present payment.

Uncovered Claimants and Reliance,<sup>8</sup> the GAs and the CF estate are the only two parties with claims against the CF Collateral - the GAs which absent a GA Commutation would have a claim to future reimbursement from the CF Collateral for GA Workers Compensation Deductible Claims and CF which has a reversionary interest in any excess CF Collateral pursuant to Section 221.23a. The expressed purpose of the GA Commutations is to provide the GAs with funds today for all future payments of CF related claims. Any such GA Commutations would be subject to the Liquidator's evaluation and approval as to the actuarial reasonableness of the proposed CF Collateral release for the commutation. In addition, a GA Commutation would further "fix" the total claims against the CF Collateral, thereby possibly expediting the return of excess CF Collateral to the CF Trustee who is being pressed to close that estate.

19. While the Liquidator has not take a position either favoring or opposing the GA Commutation approach, it is the Liquidator's opinion that, insofar as the two primary parties with an interest in the CF Collateral agree to a GA Commutation and the GA Commutation does not present an inequitable allocation of the CF Collateral, the GA Commutation would be consistent with Section 221.23a. After evaluating the reasonableness of the GA Commutation amount, the role of the Liquidator would be to release the CF Collateral as provided in the GA Commutation and, thereafter, to ensure

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<sup>8</sup> The Uncovered AL/GL claimants and the Reliance estate also have an interest in the CF Collateral, but any commutation scenario contemplates that the remaining two Uncovered Claims have been resolved or that sufficient CF Collateral has been reserved for their resolution. It also contemplates that an IBNR reserve is retained for Uncovered Claims and that a sufficient reserve has also been established for any retrospective premium owed to Reliance.

that the settling GAs present no future GA Workers Compensation Deductible Claims against the Reliance estate.

20. The Liquidator, therefore, also requests the Court's approval to:

a. draw and release CF Collateral for any GA Commutation negotiated as set forth above; and

b. retain from the CF collateral released to the GA as part of the GA Commutation, the Liquidator's Section 221.23a Expenses up to the 3% cap for the review, implementation and on-going oversight of any GA Commutations and monitoring the reserve amounts established for the payment of any future retrospective premium owed Reliance and reserves for any unresolved Uncovered Claims.

21. For the Court's information, the contents of this Petition have been reviewed and approved by the NCIGF on behalf of the GAs and by the CF Trustee.

#### **Future Reporting**

22. The Collateral Allocation Order directed the Liquidator to periodically report to the Court. The Liquidator proposes reporting to the Court annually from the date of any Order granting this Petition to confirm the Liquidator's continuing administration of the CF Collateral and adequacy of the CF Collateral. If by some circumstance, the CF Collateral should be deemed inadequate, the Liquidator will promptly report to the Court and propose a new plan for CF Collateral administration pursuant to Section 221.23a.

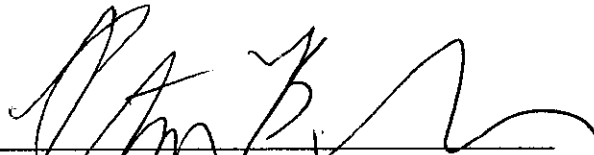
### **Conclusion**

WHEREFORE, the Liquidator respectfully requests that this Court enter an order in the form attached hereto authorizing the Liquidator to administer the CF Collateral as follows:

- a. to pay outstanding paid GA Workers Compensation Deductible Claims and CF retrospective premium obligations to Reliance through September 30, 2009;
- b. to pay, periodically as necessary and without further Court approval, future paid GA Workers Compensation Deductible Claims and CF retrospective premium obligations;
- c. to fund any GA Commutations agreed by the GAs and CF and approved by the Liquidator;
- d. to complete the adjustment and payment of Uncovered Claims without further Court Approval, including payment of administration expenses;
- e. to deduct, without further Court approval, from GA reimbursements and GA Commutations, the Liquidator's Section 221.23a Expenses; and
- f. to report to the Court annually from the date of entry of any order pursuant to this Petition, regarding the administration of the CF Collateral, including whether it continues to be sufficient for the payment of all CF Claims.

Respectfully submitted,

By: \_\_\_\_\_



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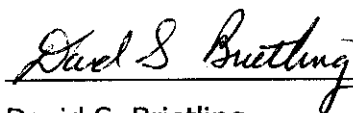
Attorney for Joel S. Ario,  
Insurance Commissioner of the  
Commonwealth of Pennsylvania, in his  
Official capacity as Liquidator of  
Reliance Insurance Company

Dated: November 12, 2009

**VERIFICATION**

I, David S. Brietling, am Chief Liquidation Officer of Reliance Insurance Company (In Liquidation). I hereby verify that the facts set forth in the foregoing Ninth Report of the Liquidator to the Court on the Implementation of the Approved Plan for the Allocation of Policyholder Collateral of Consolidated Freightways Corporation and the Liquidator's Petition for Approval of Future Administration of Consolidated Freightways Collateral are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 P.S. § 4904 relating to unsworn falsification to authorities.

Date: November 12, 2009




David S. Brietling  
Chief Liquidation Officer  
Reliance Insurance Company (In Liquidation)



## **CERTIFICATE OF SERVICE**

I, Marilyn K. Kincaid, hereby certify that on or about this day, service of the foregoing Ninth Report of the Liquidator to the Court on the Implementation of the Approved Plan for the Allocation of Policyholder Collateral of Consolidated Freightways Corporation and the Liquidator's Petition for Approval of Future Administration of Consolidated Freightways Collateral was made to K. Morgan Enterprises Inc., 805 Broadway, Suite 205, Vancouver, WA 98660 via first class mail. Pursuant to the Court's Order of December 12, 2008, service was made on the attached Master Service List through the transmission of a Notice of Filing and through posting of a true and correct copy in PDF file format on the Reliance Documents website ([www.reliancedocuments.com](http://www.reliancedocuments.com)).

Dated: November 12, 2009

  
Marilyn K. Kincaid  
MARILYN K. KINCAID

## Master Service List

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v.

Reliance Insurance Company

No. 269 M.D. 2001 (Commonwealth Court of Pennsylvania)

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(Counsel for Republic Western Insurance Company)

# Exhibit A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken, Insurance Commissioner of  
the Commonwealth of Pennsylvania,  
Plaintiff,

v.

Reliance Insurance Company,  
Defendant.

269  
No. 296 M.D. 2001

In Re: Petition to Approve Plan for  
Allocation of Policyholder Collateral for  
Consolidated Freightways Corporation

2006 OCT -4 A 9 47

RECEIVED AND FILED  
COMMONWEALTH COURT  
OF PA (PHILA)

ORDER

AND NOW, this 4<sup>th</sup> day of October, 2006, upon consideration of the Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Liquidator of Reliance Insurance Company ("the Liquidator") for Approval of Plan for Allocation of Policyholder Collateral of Consolidated Freightways Corporation (Plan), and the absence of any objection thereto, the Court finds that the Plan complies with Section 523.1 of Article V of the Act of May 17, 1921, P.L. 789, *as amended*, added by the Act of June 28, 2004, P.L. 443; 40 P.S. §221.23a (known as the Insurance Company Law of 1981 (Act)), and equitably allocates the collateral of Policyholder Consolidated Freightways Corporation (the "Collateral") currently in the possession of Reliance Insurance Company ("Reliance").

The Court finds as follows:

- A. Reliance currently holds the Collateral, which consists of \$100 million.
- B. The Collateral was posted by CF with Reliance to secure its deductible reimbursement obligations under policies of insurance issued by Reliance to Consolidated Freightways Corporation ("CF") for workers compensation

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coverage and automobile/general liability (“AL/GL”) coverage and also to secure its obligations for retrospective premium adjustments (the “CF Policies”).

C. The CF Policies consist of the following:

Policy Number	Effective Date	Expiration Date	Line of Business	Policy Type
NKC0131913	10/1/1996	10/1/1997	AL	\$3,000,000 Deductible
NKC0131913	10/1/1997	10/1/1998	AL	\$3,000,000 Deductible
NKC0131913	10/1/1998	10/1/1999	AL	\$3,000,000 Deductible
NKC0131913	10/1/1999	10/1/2000	AL	\$3,000,000 Deductible
NKC0131914	10/1/1996	10/1/1997	AL	\$3,000,000 Deductible
NKC0131914	10/1/1997	10/1/1998	AL	\$3,000,000 Deductible
NKC0131914	10/1/1998	10/1/1999	AL	\$3,000,000 Deductible
NKC0131914	10/1/1999	10/1/2000	AL	\$3,000,000 Deductible
NKC0131915	10/1/1996	10/1/1997	AL	\$3,000,000 Deductible
NKC0131915	10/1/1997	10/1/1998	AL	\$3,000,000 Deductible
NKC0131915	10/1/1998	10/1/1999	AL	\$3,000,000 Deductible
NKC0131915	10/1/1999	10/1/2000	AL	\$3,000,000 Deductible
NGB0131922	10/1/1996	10/1/1997	GL	\$500,000 Deductible
NGB0131922	10/1/1997	10/1/1998	GL	\$500,000 Deductible
NGB0131922	10/1/1998	10/1/1999	GL	\$500,000 Deductible
NGB0131922	10/1/1999	10/1/2000	GL	\$500,000 Deductible
NWA0131923	10/1/1996	10/1/1997	WC	\$2,000,000 Deductible
NWA0131923	10/1/1997	10/1/1998	WC	\$2,000,000 Deductible
NWA0131923	10/1/1998	10/1/1999	WC	\$2,000,000 Deductible
NWA0131923	10/1/1999	10/1/2000	WC	\$2,000,000 Deductible
NWA0131924	10/1/1996	10/1/1997	WC	Retro
NWA0131924	10/1/1997	10/1/1998	WC	Retro
NWA0131924	10/1/1998	10/1/1999	WC	Retro
NWA0131924	10/1/1999	10/1/2000	WC	Retro
NWA0158556	10/1/1999	10/1/2000	WC	\$2,000,000 Deductible

- D. The Collateral is in the form of a \$55 million letter of credit and a \$45 million surety bond issued by CNA.
- E. After Reliance was placed in liquidation in October 2001, claims which had arisen under the CF Polices were sent to the guaranty associations (“GAs”). Subject to applicable statutory limitations, certain GAs assumed the obligation to pay CF workers compensation claims. These are referred to as the “Affected GAs”. The Affected GAs which paid and are paying CF workers compensation claims and the amounts they had paid through December 31, 2005 are as follows and the payments made total \$30,052,708.97:

<u>Guaranty Association</u>	<u>Total Paid</u>
Alaska	691.00
Alabama	206,006.00
Arkansas	45,407.00
Arizona	85,461.00
California	10,994,010.44
Colorado	151,953.00
Connecticut	242,424.00
Florida	2,040,453.00
Georgia	587,810.00
Hawaii	176.00
Iowa	533,854.00
Illinois	2,287,987.00
Indiana	52,814.00
Kansas	250,135.00
Kentucky	22,277.00
Louisiana	76,627.00
Massachusetts	767,217.00
Maryland	275,271.00
Maine	128,617.00
Michigan	325,728.00
Minnesota	409,698.00
Missouri	395,709.00
Mississippi	128,169.00
Montana	51,976.00
North Carolina	756,715.97
Nebraska	110,792.00
New Jersey	681,887.00
New York	2,489,331.00
Oklahoma	150,058.00
Oregon	134,036.00
Pennsylvania	1,855,509.00
Rhode Island	57,653.00
South Carolina	845,504.56
Tennessee	1,318,042.00
Texas	804,927.00

Utah	323,585.00
Virginia	460,400.00
Vermont	4.00
Wisconsin	3,794.00
Grand Total All States	30,052,708.97

- F. Three Affected GAs – California, Pennsylvania and Texas - initially funded some AL claims within the CF deductible in the amount of \$201,753.00.
- G. In addition to claims under the workers compensation and AL/GL deductible policies, some of the CF Policies provided for retrospective premium adjustments. From the date of liquidation through December 21, 2005, CF owed Reliance \$766,443.12 for retrospective premium adjustments.
- H. CF also has an as yet undetermined amount of claims that are not covered by GAs.

**Accordingly, it is hereby ORDERED and DECREED as follows:**

1. The Liquidator will retain a third party administrator (“TPA”) to adjust and settle known, but unresolved, non-covered AL/GL claims.
2. From the Collateral, the Liquidator will make available an initial sum of \$20 million to settle the non-covered AL/GL claims within the deductible (“the Settlement Fund”). No settlement will be eligible for payment unless it releases the Liquidator and the Reliance Estate. To the extent claimants, GAs or CF have submitted POCs for any claim which is settled according to this process, the Liquidator shall be entitled to issue a NOD with an amount of \$0 at the appropriate statutory priority. The reasonable administrative expenses of CF and the costs of the TPA may be paid from the Settlement Fund.
3. The Liquidator shall pay to the Affected GAs from the Collateral the amounts set forth above at paragraph E.
4. The Liquidator shall pay to the California, Pennsylvania and Texas GAs \$201,753.00 that they paid in AL/GL claims.
5. The Liquidator shall reimburse Reliance from the Collateral for the amount of \$766,443.12 that was due and owing in retrospective premium through December 31, 2005.
6. **Ongoing Collateral Review**
  - a. No later than October 31, 2007, the Liquidator shall complete a review and evaluation of the Collateral and claims under CF Policies in order to determine whether there is sufficient collateral, including any Collateral



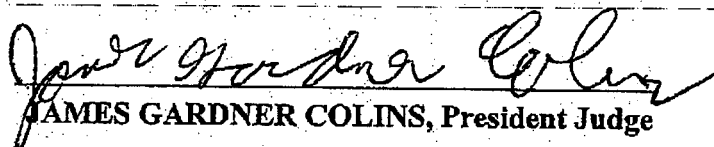
remaining in the Settlement Fund, to fund all remaining known, outstanding and anticipated claims, retrospective premium and administrative expenses.

- b. If by October 31, 2007, the Liquidator determines that there is sufficient collateral, she shall promptly file with the Court a Petition to Finally Allocate Collateral, setting forth the terms upon which she proposes to allocate and pay the Collateral. Upon approval by the Court, the Liquidator shall be entitled to proceed to allocate and pay the Collateral asset forth as directed by the Court.
  - c. If by October 31, 2007, the Liquidator determines that actuarial projections remain too imprecise to finally allocate and pay the Collateral, but that a further partial allocation and payment is appropriate, the Liquidator will promptly file with the Court a Petition to Partially Allocate Collateral, setting forth the terms upon which she proposes to allocate and pay part of the Collateral. Upon approval by the Court, the Liquidator shall be entitled to proceed to allocate and pay the Collateral as directed by the Court.
  - d. At each year anniversary of October 31, 2007, as updated and more accurate information is obtained, the Liquidator will complete a collateral review and determine whether to proceed under paragraph (b) above if the collateral is determined to be sufficient, or paragraph (c) above if the collateral review remains inconclusive.
  - e. No payments shall be made from the Collateral without approval of the Court.
7. **Insufficient Collateral.** If the Liquidator determines at any time that the Collateral is insufficient to reimburse all claims paid by the Affected GAs, pay all non-covered AL/GL claims, pay all retrospective premiums due and owing, as well as administrative expenses, the Liquidator shall file with the Court and seek the Court's approval of an amended plan establishing an equitable *pro rata* allocation formula against the Collateral controlling all future distributions. If the Collateral is exhausted without the full payment of all non-covered AL/GL claims and reimbursement of all claims paid by the Affected GAs in full, the remaining claims or partial claims shall be claims against the Reliance Estate and subject to compliance with the proof of claim process established by the Act and the September 9, 2002 Order of this Court, and any amendments or supplements thereto.
8. **Liquidator Expenses.** The Liquidator may withdraw up to 3% of the Collateral for reasonable actual expenses incurred in the administration of Section 221.23a of the Act. After each annual plan review, the Liquidator shall include in the Petition a statement of and request for approval of reimbursement of the Liquidator's administrative expenses. The Liquidator shall file the Petition with the Court, along with any response received.

9. **FURTHER**, within three months of the date of this Order and every four month period thereafter, the Liquidator shall file a report detailing the complete status of the Plan.

**AND FURTHER**, it is **ORDERED** that the Liquidator shall serve a copy of this Order upon all listed on the Master Service List, and also, shall file with this Court no later than October 13, 2006, an affidavit that service has been effectuated.

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**JAMES GARDNER COLINS, President Judge**