



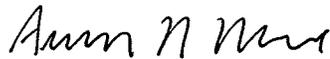
2. pursuant to R.C. 3903.45(A), approving the Liquidator's determination that:
  - (1) the payments previously approved by the Court and made by the Liquidator to the Lost Claimants as identified in the attached Exhibit D are "unclaimed funds" under R.C. 3903.45(A);
  - (2) these unclaimed funds shall be included in the amount to be distributed in this final distribution; and
  - (3) the Lost Claimants shall not be included in this final distribution;
3. pursuant to R.C. 3903.45(A), 3903.42, and 3903.46(A), approving the Liquidator's recommendation for the allocation, distribution, and final accounting of the funds remaining in the estate for funding of administrative expenses, as set forth in detail in the attached Exhibit E, and authorizing the Liquidator to make such allocation and distribution;
4. pursuant to R.C. 3903.46(A), finding that all of Ohio General's remaining physical assets are uneconomic to distribute, and authorizing the Liquidator to transfer these remaining physical assets to the liquidation estate of LMI Insurance Company;
5. pursuant to R.C. 3903.46, authorizing the Liquidator or her designee to retain funds not negotiated by final distribution claimants and to collect and hold other assets of Ohio General received after the closing of this liquidation until such time as it is determined that (1) these funds and assets are sufficient to reopen the liquidation and make another distribution to claimants pursuant to R.C. 3903.47, or (2) these funds and assets are needed to defray administrative expenses of other Ohio insurance receiverships pursuant to R.C. 3903.14(A) and 3903.21(A)(4);  
and

6. authorizing the Liquidator to close all of the Ohio General bank accounts on or before December 31, 2007.

Respectfully submitted,

MARC DANN  
Attorney General of Ohio

By: PORTER WRIGHT MORRIS & ARTHUR LLP  
Special Counsel



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of Insurance, in her capacity as Liquidator  
of The Ohio General Insurance Company*

## MEMORANDUM IN SUPPORT OF MOTION

In accordance with Chapter 3903 of the Ohio Revised Code, on March 28, 1990, the Court issued an Order placing the Ohio General Insurance Company ("Ohio General") into liquidation and appointing the Ohio Superintendent of Insurance as the Liquidator of Ohio General ("the Liquidator"). Since then, the Liquidator has thoroughly reviewed the books and records of Ohio General, has identified and collected where reasonable all known assets of Ohio General, and has reviewed, analyzed, and classified all known claims against Ohio General.

The Liquidator has made multiple distributions to claimants holding allowed claims during the life of this liquidation. On June 27, 2000, the Court approved the Liquidator's early access, partial distribution of payments relating to the Class 1 and 2 claims of the various state guaranty funds and associations in an amount equal to seventy-five percent (75%) of the amount claimed by each of the guaranty associations. This partial distribution to these guaranty associations was in the amount of Three Million, Nine Hundred Forty Thousand, Eight Hundred Sixty-Eight Dollars and Twenty Two Cents (\$3,940,868.22).

On December 15, 2003, the Court approved the Liquidator's additional distribution of payments relating to the Class 1 and 2 claims of the various state guaranty funds and associations in the amount of One Million, Four Hundred Sixty-Six Thousand, Seven Hundred Fifty-One Dollars and Thirty-Four Cents (\$1,466,751.34).

On September 21, 2004, the Court approved the Liquidator's distribution of payments relating to the remaining Class 2 claims in the amount of One Million, Five Hundred Eighty-Six Thousand, Nine Hundred Thirty-Six Dollars and Sixty-Two Cents (\$1,586,936.62).

In the case of the estate of Ohio General, there were no Class 3 claims, which are limited to claims of the federal government. See R.C. 3903.42(C). Accordingly, the Liquidator entered

into a Release Agreement with the United States ("Release Agreement"), which settled all Class 3 claims that had been filed or could have been filed against the Ohio General estate. On December 27, 2005, the Court approved the Release Agreement.

On January 10, 2006, the Court approved the Liquidator's Report of Claims and distribution of payments relating to claims in Class 4 (no claims), Class 5 (general creditors), Class 6 (claims of state or local governments), Class 7 (no claims), Class 8 (no claims), and Class 9 (no claims), including a one hundred percent (100%) distribution to Class 5 and Class 6 claims, in the total amount of Ten Million, Five Hundred Sixty-Eight Thousand, Three Hundred Fifty-Six Dollars and Sixty-Seven Cents (\$10,568,356.67), and approved the foreclosure or disallowance of any contingent or future Class 4, 5, 6, 7, 8, or 9 claims or any Class 4, 5, 6, 7, 8, or 9 claims not included in the Report of Claims and not previously disallowed or zero valued.

The claimants who received these prior distributions were identified in motions which requested the Court's approval for each of these distributions. At present, there remain certain of these claimants who have not timely negotiated the distributions that were sent to them or whom the Liquidator has been unable to locate (the "Lost Claimants"). These Lost Claimants are identified in the attached Exhibit D. R.C. 3903.45(A) provides:

All unclaimed funds subject to distribution remaining in the liquidator's hands when he is ready to apply to the court for discharge, including the amount distributable to any creditor, shareholder, member, or other person who is unknown or cannot be found, shall be distributed in accordance with section 3903.42 of the Revised Code among those claimants to whom it is possible to make immediate payment.

R.C. 3903.45(A). Because the Lost Claimants have not timely negotiated the distributions that were sent to them or the Liquidator has been unable to locate them, the Liquidator requests that the Court approve the Liquidator's determination that (1) the payments previously approved for the Lost Claimants are "unclaimed funds" under R.C. 3903.45(A); (2) these unclaimed funds

shall be included in the amount to be distributed in this final distribution; and (3) the Lost Claimants shall not be included in this final distribution.

After the foregoing distributions, and including the “unclaimed funds” referenced above, the Liquidator holds remaining assets of Ohio General in the total amount of Eight Million, Five Hundred Thirty-Four Thousand, Two Hundred Eighty-Two Dollars and Twelve Cents (\$8,534,282.12) as of April 30, 2007 (the “Current Asset Balance”). With the Court’s approval, the Liquidator is prepared to make a final distribution to claimants holding allowed claims as reflected on the Reports of Claims. These allowed claims have already been approved by the Court and are listed by class in the attached Exhibits A, B, and C. The Lost Claimants are not included in these Exhibits. There were no Class 3, 4, 7, 8, or 9 claims.

In determining the amount to be disbursed to these claimants in this final distribution, the Liquidator must make two adjustments to the Current Asset Balance. First, the Liquidator must subtract the administrative expenses necessary to conclude the administration of this liquidation which the Liquidator will incur following the filing of this motion. The Liquidator estimates that these administrative expenses total One Hundred Thirty-Seven Thousand Dollars (\$137,000.00) (the “Projected Administrative Expenses”). A detailed explanation of these administrative expenses is set forth in the attached Exhibit E.

Second, Ohio General has and will receive additional investment income between April 30, 2007 and the time that the final distribution checks ultimately clear OGIC’s accounts. The Liquidator estimates this additional investment income to be Seventy-Two Thousand, Four Hundred Eighty-Three Dollars and Sixty-One Cents (\$72,483.61) (the “Projected Investment Income”). The Liquidator believes that this amount should be added to the Current Asset Balance for purposes of calculating the amount to be disbursed in this final distribution.

After subtracting the Projected Administrative Expenses from the Current Asset Balance and adding the Projected Investment Income, the Liquidator is left with the balance of Eight Million, Four Hundred Sixty-Nine Thousand, Seven Hundred Sixty-Five Dollars and Seventy-Three Cents (\$8,469,765.73). With the Court's approval, the Liquidator intends to distribute this amount pro rata to all claimants holding allowed claims in this liquidation, as described above. This distribution will result in a final payment of 71.553% of the amount of each allowed Class 2, 5, and 6 claim, excluding the Lost Claimants. The amount of each claimant's final payment is reflected in the attached Exhibits A, B, and C.

Because all allowed claims have already been paid in full, this final distribution will result in each claimant receiving a sum greater than the principal amount of each claimant's allowed claim. R.C. 3903.42 does not provide clear direction as to how assets are to be distributed once all allowed claims have been paid in full. The statutory direction with respect to unclaimed funds is set forth in R.C. 3903.45(A), which states that such funds must be distributed in accordance with R.C. 3903.42 "among those claimants to whom it is possible to make immediate payment." In addition, R.C. 3903.46(A) specifically authorizes the Court, in connection with the Liquidator's application for discharge, to "grant the discharge and make any other orders, including an order to transfer any remaining funds that are uneconomic to distribute, as may be appropriate."

With little statutory direction as to how assets are to be distributed once all allowed claims have been paid in full, the Liquidator proposes a pro rata distribution of the remaining assets, after the adjustments discussed above, to all Class 2, 5, and 6 claimants whose claims have already been allowed and approved, excluding the Lost Claimants.

Once this final distribution is made, it is the Liquidator's experience that not all of the final distribution checks will be negotiated by the claimants to whom they are sent. This situation always presents a problem in closing a liquidation estate. The Liquidator would like to close the Ohio General liquidation estate and all Ohio General accounts by December 31, 2007, including the completion of a final accounting, a final audit, and a final tax return.

In the likely event that funds remain in the Ohio General account on December 31, 2007, because some claimants have not negotiated their final distribution checks, the Liquidator requests the Court's approval to transfer these remaining funds to a separate account maintained by the Liquidator for one of the other currently open liquidation estates until such time as it is determined that (1) these remaining funds are sufficient to reopen the liquidation and make another distribution to claimants pursuant to R.C. 3903.47, or (2) these remaining funds are needed to defray administrative expenses of other Ohio insurance receiverships pursuant to R.C. 3903.14(A) and 3903.21(A)(4). Further, if one of the Ohio General claimants who did not timely negotiate their final distribution check appears and requests a replacement distribution, and the Liquidator has not yet disbursed the remaining funds per (1) or (2) above, the Liquidator may reissue the distribution to such claimant.

Additionally, it is not uncommon for the Liquidator to receive payments for the liquidated company after the liquidation is closed. These payments are usually comprised of unknown assets or small assets that are not sufficiently large enough to keep the liquidation open until they are received. Absent authority to accept and hold these assets after the closing of the liquidation, the Liquidator would be required to return these assets to the payee. The Liquidator requests the Court's approval to administer these funds in the same manner as set forth above.

The Liquidator believes that this proposed manner of handling and using Ohio General's

assets following this final distribution is consistent with the enunciated goals of R.C. Chapter 3903 and the Superintendent's duties and powers as set forth therein. The Liquidator is charged by R.C. Chapter 3903 to administer the estates of insolvent insurance companies and to do so in a manner that promotes the overall purposes of R.C. Chapter 3903, including enhanced efficiency and economy of liquidation. R.C. 3903.02(D)(3). No provision of R.C. Chapter 3903 suggests that this goal exists only at an estate-by-estate level. Rather, the Liquidator, exercising reasonable discretion in the performance of her official duties, should seek solutions that will enhance the efficiency and economy of the liquidation of *all* estates. R.C. 3903.02(D)(3).

Further, R.C. 3903.14(A) and 3903.21(A)(4) address the situation where an insurer is in such financial distress that its assets are insufficient to pay the administrative expenses necessary to operate its rehabilitation or liquidation. In this situation, these statutes provide that the Superintendent "may advance the costs so incurred out of any appropriation for the maintenance of the department of insurance. Any amounts so advanced for expenses of administration shall be repaid to the superintendent for the use of the department out of the first available money of the insurer." R.C. 3903.14(A); 3903.21(A)(4). It is consistent with this statutory authority for the Superintendent to be authorized to retain assets from a closed liquidation, which assets are not sufficient to justify reopening the liquidation, and to use those assets when necessary to meet this statutory plan for funding future insurance receiverships where sufficient funds are not available from the insolvent insurer.

Authorizing the Liquidator as requested above advances the statutory goal of enhanced efficiency and economy of liquidation because it precludes the necessity for the Liquidator to return repeatedly to the Court to deal with the diminishing assets of Ohio General, which are not

sizable enough to justify reopening of the liquidation case. The Liquidator therefore proposes that the Court address all of these issues by way of a single order.

In addition, during the course of a liquidation, the Liquidator often uses physical assets, such as desks and filing cabinets, which were owned by the insolvent company prior to the liquidation. The use of these physical assets allows for substantial cost savings as the cost of acquiring new physical assets is usually much higher than the Liquidator would obtain from the sale of the insolvent company's physical assets.

Ohio General is no exception. Since 1990, the Liquidator has used some of Ohio General's physical assets to carry out this liquidation. All of these assets have been fully depreciated, but some of them are still in use in the liquidation office. The Liquidator believes that she would receive virtually nothing from the sale of these assets if she were to try to sell them. Therefore, she requests, in effect, that they be deemed abandoned by Ohio General.

A transfer of these physical assets to another liquidation estate is consistent with the provisions of R.C. Chapter 3903. It is uneconomic to liquidate and distribute these physical assets. Therefore, the Court may enter an order as appropriate pursuant to R.C. 3903.46(A). Because the Liquidator can continue to use some of these physical assets, she requests authority to transfer them to the liquidation estate of LMI Insurance Company.

Therefore, in consideration of the foregoing, the Liquidator moves the Court for an Order as follows:

1. approving the Liquidator's recommendation to make a final distribution, and, pursuant to R.C. 3903.45(A), 3903.42, and 3903.46(A), authorizing the Liquidator to make a final distribution of remaining Ohio General assets in the total amount of Eight Million, Four Hundred Sixty-Nine Thousand, Seven Hundred Sixty-Five Dollars and Seventy-Three Cents (\$8,469,765.73) pro rata to all claimants holding allowed claims in this liquidation, except for the claims identified in paragraph 2 below, in accordance with the Reports of Claims for Class 2, 5, and 6 claims, attached as Exhibits A, B, and C;
2. approving the Liquidator's determination as to specific claimants who were to receive distributions per prior orders of the Court but who have not timely negotiated the distributions that were sent to them or whom the Liquidator has been unable to locate (the "Lost Claimants"), and, pursuant to R.C. 3903.45(A), ordering that: (1) the payments previously made by the Liquidator to the Lost Claimants as identified in the attached Exhibit D are "unclaimed funds" under R.C. 3903.45(A); (2) these unclaimed funds shall be included in the amount to be distributed in this final distribution; and (3) the Lost Claimants shall not be included in this final distribution;
3. approving the Liquidator's recommendation for the allocation, distribution, and final accounting of the funds remaining in the estate for funding of administrative expenses, as set forth in detail in the attached Exhibit E, and, pursuant to R.C. 3903.45(A), 3903.42, and 3903.46(A), authorizing the Liquidator to make such allocation and distribution;

4. finding that all of Ohio General's remaining physical assets are uneconomic to distribute, and, pursuant to R.C. 3903.46(A), authorizing the Liquidator to transfer these remaining physical assets to the liquidation estate of LMI Insurance Company;

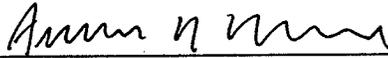
5. pursuant to R.C. 3903.46, authorizing the Liquidator or her designee to retain funds not negotiated by final distribution claimants and to collect and hold other assets of Ohio General received after the closing of this liquidation, which funds and assets shall be held in a separate account maintained by the Liquidator for one of the other open liquidation estates, and, pursuant to R.C. 3903.46, authorizing the Liquidator or her designee to utilize these remaining funds and assets as follows: (1) if these remaining funds and assets in an aggregate amount are sufficient to justify a distribution to claimants, the Liquidator may request Court approval to reopen the Ohio General liquidation and make another distribution to claimants pursuant to R.C. 3903.47, or (2) if these remaining funds and assets are not sufficient to justify a distribution to claimants, the Liquidator may continue to hold these remaining funds and assets until they are needed to defray administrative expenses of other Ohio insurance receiverships, at which time the Liquidator may use these remaining funds and assets for such purpose pursuant to R.C. 3903.14(A) and 3903.21(A)(4). If one of the Ohio General claimants who did not timely negotiate its final distribution check appears and requests a replacement distribution and the Liquidator has not yet disbursed the remaining funds and assets per (1) or (2) above, the Liquidator may reissue the distribution to such claimant; and

6. authorizing the Liquidator to close all of the Ohio General bank accounts on or before December 31, 2007.

Respectfully submitted,

MARC DANN  
Attorney General of Ohio

By: PORTER WRIGHT MORRIS & ARTHUR LLP  
Special Counsel



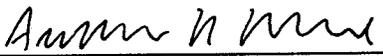
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*Attorneys for Plaintiff Mary Jo Hudson,  
Superintendent of Insurance, Ohio Department  
of Insurance, in her capacity as Liquidator  
of The Ohio General Insurance Company*

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was served upon Mary Jo Hudson, Superintendent of Insurance, Ohio Department of Insurance, in her capacity as Liquidator of The Ohio General Insurance Company, in care of Douglas L. Hertlein, Esq., Chief Deputy Liquidator, Office of the Ohio Insurance Liquidator, 1366 Dublin Road, Columbus, Ohio 43215-1093, on this 15<sup>th</sup> day of June 2007.

  
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Anthony R. McClure (0075977)