

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

MARY TAYLOR	:	
Ohio Superintendent of Insurance,	:	
in her Capacity as Liquidator of	:	Case No. 90CVH05-3409
The Oil and Gas Insurance Company,	:	
	:	
Plaintiff,	:	Judge Julie M. Lynch
	:	
vs.	:	
	:	
The Oil and Gas Insurance Company,	:	
	:	
Defendant.	:	

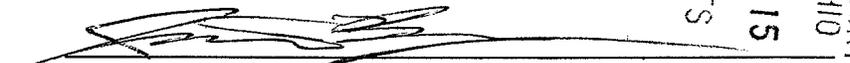
PLAINTIFF'S APPLICATION FOR ORDER TERMINATING THE LIQUIDATION PROCEEDINGS OF THE OIL AND GAS INSURANCE COMPANY

Plaintiff, Mary Taylor, Ohio Superintendent of Insurance in her capacity as Liquidator (the "Liquidator") of The Oil and Gas Insurance Company ("OGICO"), respectfully requests that this Court enter a Final Closing Order pursuant to this Court's February 15, 2011 Order and R.C. 3903.46 and related sections granting this Application, discharging the Liquidator and making other provisions to close this liquidation estate and terminate this case. A Memorandum in Support is attached.

Respectfully submitted,

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Attorney General State of Ohio

By Special Counsel:
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 FRANKLIN CO. OHIO
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MEMORANDUM IN SUPPORT

On August 31, 1990, this Court issued an Order declaring The Oil & Gas Insurance Company ("OGICO") insolvent, ordering OGICO liquidated and appointing the Ohio Superintendent of Insurance as Liquidator. During the course of this liquidation proceeding, the Liquidator thoroughly reviewed the books and records of OGICO, and identified and collected, where reasonable, all known assets of OGICO as reported on the Liquidator's periodic accountings filed with this Court. The Liquidator also reviewed, classified, determined and paid all timely proofs of claim submitted in the OGICO liquidation in accordance with R.C. Chapter 3903, particularly R.C. 3903.39, 3903.42 and 3903.43.

I. Report of Claims

Over the course of this Liquidation, this Court approved the Liquidator's Reports of Claims in Classes 2-6 (as defined in R.C. 3903.42) filed under R.C. 3903.43, as well as the final distributions of OGICO estate assets to those claimants. This Court approved the first payments to Class 2 claimants (early access payments to guaranty associations to pay insurance policy claims as required under R.C. 3903.34) in 2000 and 2003, and approved payments to Class 2 policyholders in 2004, for a total of \$15,049,909.29. The Liquidator settled the estate's Class 3 debts, those held by the federal government, in 2005 for no money. No Class 4 claims, those of employees for back pay, were allowed. In 2006, this Court approved payment of \$19,970,587.68 to settle allowed Class 5 claims, those of general creditors, and \$91,479.89 to settle allowed Class 6 claims, those of state and local governments. There were no allowed Class 7 (late-filed claims and similar obligations) due in part to the Court's entry of an order establishing an absolute final bar date. Nor were there any allowed Class 8 claims (claims for surplus notes and

similar obligations). In all classes, the creditors and other debt-holders received 100% of the principal of their allowed claims.

After the Ohio Supreme Court issued its decision in *Hudson v Petrosurance, et al.*, 127 Ohio St.3d 54, 2010-Ohio-4505, this Court entered an Order on February 15, 2011 resolving all matters involving Petrosurance, Inc. and Mark G. Hardy who controls Petrosurance Inc. The agreed resolution includes the Liquidator's holdback of \$523,000 of OGICO funds for prepayment to the LMI Liquidation Estate of OGICO's Class 1 administrative expenses related to the closure of the OGICO estate. The Order requires that this holdback be accounted for pursuant to the administrative operating procedure ("AOP") approved on December 21, 2010 in the LMI Liquidation Case, Case No. 00CVH03-2431. The terms of the Order also include the Liquidator's determination and report that the single Class 9 (shareholder) proof of claim presented in the case is settled for a value of \$14,274,000.00. On February 23, 2011, the Liquidator made a final distribution of OGICO's assets in the amount of \$14,274,000.00 to Beckman Weil & Shepardson LLC for the benefit of Petrosurance, Inc. and Mark G. Hardy as required by this Court's February 15, 2011 Order and the matters and documents approved therein.

II. Discharge, Dissolution and Closure

In further compliance with the Court's February 15, 2011 Order, the Liquidator hereby applies to the Court for a Final Closing Order discharging the Liquidator, dissolving OGICO and making other provisions to close the OGICO liquidation estate and terminate this case. R.C. 3903.46(A) provides:

When all assets justifying the expense of collection and distribution have been collected and distributed under sections 3903.01 to 3903.59 of the Revised Code, the liquidator shall apply to the court for discharge. The court may 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.

As set forth above, the Liquidator has reviewed the books and records of the OGICO estate and determined that all matters involving the estate have substantially been finalized, other than several ministerial functions set forth below which cannot be performed until after the closing of the liquidation takes place.

A. Unclaimed Funds

There are no unclaimed funds or remaining funds that are uneconomic to distribute in this estate. If there were, these funds would normally be transferred to the Ohio Department of Commerce, Division of Unclaimed Funds prior to final closure of the estate or returned to the payor after final closure of the estate. In this case, any remaining funds received after the termination of this case will be sent to the Court pursuant to this Court's February 15, 2011 Order.

B. Final Accounting and Final Auditor's Report

Primary post-closure ministerial functions include the preparation of a final accounting and a final independent auditor's report of the estate, in the form of previous auditor's reports submitted to this Court. This accounting and auditor's report will be filed with the Court upon their completion.

C. 2010 and 2011 Tax Returns

An OGICO 2010 tax return will be prepared and filed with the Internal Revenue Service (“IRS”) in 2011. Because the final distribution took place in 2011 and the OGICO estate will be finally closed in 2011, a final OGICO tax return must be prepared and filed with the IRS in 2012.

D. Disposition of Insurer’s Records and Report on Court’s Preservation Order

R.C. 3903.48 provides:

Whenever it shall appear to the superintendent of insurance that the records of any insurer in process of liquidation or completely liquidated are no longer useful, he may recommend to the court and the court shall direct what records should be retained for future reference and what should be destroyed.

The Liquidator has already destroyed the vast majority of OGICO paper and electronic records pursuant to prior orders of this Court, including the order entered on March 4, 2002. The Liquidator now requests that this Court relieve her of any obligation she may have to retain and authorize her to immediately destroy: (1) all remaining pre-liquidation books, records and documents; and (2) all post-liquidation books, records and documents that the Liquidator determines are no longer essential, or that are not required to be maintained pursuant to applicable federal and state records retention requirements. The Liquidator further requests an order directing that all other books, records and documents shall be destroyed on or after the date three (3) years following the date the order granting this application is entered. Notwithstanding the existence of litigation captioned *Hardy v. NAIC, et al.*, United States District Court for the Southern District of New York Case No. 10-cv-4178, the Liquidator requests authority to destroy all such books, records and documents, in part because Hardy and Petrosurance, Inc. agreed as part of the Release approved by this Court of February 15, 2011 that the Liquidator and others

are forever relieved from all litigation, discovery and other participation in connection with that case or any other future case. Further, this Court permanently enjoined Mr. Hardy from all contact with the Liquidator and related persons in pursuit of that litigation. This combined with this Court's discharge of the Liquidator results in the absence of any reasonable anticipation of litigation by, against or involving the Liquidator for which documents should be preserved.

E. Dissolution of OGICO

Pursuant to R.C. 3903.20, the corporate entity of OGICO is dissolved by operation of law once the Liquidator is discharged under R.C. 3903.46(A).

F. Closing OGICO Bank Accounts

Once an estate is closed and the corporate entity dissolved, there is no entity to hold the OGICO bank accounts. The Liquidator therefore closes the bank accounts upon closure of the estate and administers and accounts for the administrative holdback pursuant to the long standing administrative operating procedure updated and approved most recently beginning on December 21, 2010 in Case No. 00CVH03-2431. Accordingly, in this liquidation, \$523,000 of OGICO funds will be prepaid to the LMI Liquidation Estate in exchange for the LMI Estate's assumption and administration of the remaining administrative expense obligations of the OGICO Estate. The payment and receipt of \$523,000 will be accounted for respectively in the OGICO final accounting and the LMI periodic accountings, but the expenditure of it is not separately tracked, accounted for or reported pursuant to the AOP.

III. Conclusion

For the reasons set forth above, the Liquidator respectfully requests that this Court enter an Order:

1. Pursuant to R.C. 3903.42 and R.C. 3903.46(A), approving the agreed holdback of \$523,000 from the assets of the OGICO estate for the Liquidator's pre-payment of the OGICO estate's administrative expenses related to the closure of the OGICO estate.
2. Pursuant to R.C. 3903.46 (A) and the Court's February 15, 2011 Order, finding that there are no unclaimed funds or remaining funds uneconomic to distribute.
3. Pursuant to R.C. 3903.46(A), authorizing the Liquidator or her designee to retain limited authority for the following purposes: (a) filing a final accounting with the Court; (b) filing a final audit report with the Court; (c) executing the OGICO 2010 and 2011 tax returns and filing the returns with the Internal Revenue Service in the manner provided by law; (d) implementing and enforcing this Court's February 15, 2011 Order and the Release executed by Petrosurance Inc. and Mark G. Hardy on February 11, 2011 that is approved in the February 15, 2011 Order; (e) and taking all related actions as authorized or as deemed necessary and appropriate by the Liquidator to close the OGICO liquidation estate and carry out various sections of R.C. Chapter 3903 and prior orders of this Court.
4. Pursuant to R.C. 3903.46(A) and related sections, authorizing the Liquidator to close OGICO's bank accounts on or before February 28, 2011.
5. Pursuant to 3903.20, that the corporate entity of The Oil and Gas Insurance Company is hereby dissolved.
6. Pursuant to R.C. 3903.46(A) and 3903.48, approving and authorizing the destruction of the OGICO and Liquidator books, records and documents as follows: (a) all remaining pre-liquidation books and records in any medium, shall be immediately destroyed; (b) all remaining post-liquidation books and records in any medium that the Liquidator determines are no longer essential, or that are not required to be maintained shall be immediately destroyed; (c) all other books, records and documents in any medium shall be destroyed on or after the date three (3) years following the date of the order granting this application; and (d) pursuant to the Court's February 15, 2011 Order approving the terms of the Release executed by Petrosurance, Inc. and Mark G. Hardy on February 11, 2011, finding that the Liquidator has no duty or obligation to preserve books, records or documents in any medium or anything else related to OGICO or the Office of the Ohio Insurance Liquidator as possible discovery or evidence in any litigation or contested matter.
7. Pursuant to R.C. 3903.46(A), finding that OGICO's remaining physical assets are uneconomic to distribute, and approving and authorizing the Liquidator to abandon such physical assets.
8. Pursuant to R.C. 3903.46(A) and R.C. 3903.07, discharging the Liquidator and providing protections afforded under R.C. 9.86, 9.87, 109.36 to 109.366 [109.36.6] to the Liquidator, her predecessors and assigns, any and all deputy liquidators, any

employee of the department of insurance, any employee appointed by the Superintendent as Liquidator, and any employee who serves under the Liquidator.

9. Finding that all other matters regarding the liquidation of OGICO have been finalized in accordance with the Orders of this Court, and effective immediately, the OGICO liquidation estate is closed and this case is terminated.
10. Pursuant to 3903.04(E) and other sections of the Revised Code, retaining jurisdiction to enforce this Court's orders, including the February 15, 2011 Order and the Final Closing Order.
11. Pursuant to R.C. 3903.46(A) making other orders as may be appropriate.

Respectfully submitted,

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Attorney General State of Ohio

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