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IN THE COURT OF COMMON PLEAS
FRANKLIN COUNTY, OHIO

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

**MOTION FOR APPROVAL OF LIQUIDATOR’S FINAL PERIODIC ACCOUNTING
FOR THE PERIOD OF JANUARY 1, 2011 TO FEBRUARY 28, 2011 AND FINAL
REPORT OF INDEPENDENT AUDITORS FOR THE YEARS ENDED
FEBRUARY 28, 2011 AND JUNE 30, 2010**

Plaintiff, Mary Taylor in her capacity as Liquidator of The Oil and Gas Insurance Company (“OGICO”), moves this Court for an Order approving the Final Statement of Receipts and Disbursements for the period January 1, 2011 to February 28, 2011, as set forth in the attached Exhibit A, and the Final Report of Independent Auditors for the years ended February 28, 2011 and June 30, 2010, as set forth in the attached Exhibit B. A Memorandum in Support is attached.

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Respectfully submitted,

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MEMORANDUM IN SUPPORT

On February 25, 2011, this Court entered a Final Closing Order Granting the Liquidator's Application for Order Terminating the Liquidation Proceedings of The Oil & Gas Insurance Company (the "Closing Order"). Pursuant to R.C. 3903.46(A), the Closing Order requires the Liquidator to file for post-closure approval of a final accounting and a final auditor report. This Motion requests approval of the Liquidator's Final Statement of Receipts and Disbursements for the period January 1, 2011 to February 28, 2011, as set forth in the attached Exhibit A (the "Final Periodic Accounting") and the Final Report of Independent Auditors for the years ended February 28, 2011 and June 30, 2010, as set forth in the attached Exhibit B (the "Final Audit Report").

I. The Final Accounting

On August 31, 1990, this Court entered a Liquidation Order declaring OGICO insolvent and appointing the Ohio Superintendent of Insurance as Liquidator. The Liquidation Order authorized and directed the Liquidator to liquidate the assets of OGICO in accordance with the laws of Ohio under the continuing jurisdiction of this Court. As part of the liquidation, and pursuant to the Order of Liquidation and Ohio Revised Code Chapter 3903, the Liquidator collects, where reasonable, all debts and moneys due to OGICO and makes payment of necessary expenses. The Liquidation Order and R.C. 3903.21(A)(4) further provide, in pertinent part, that the Liquidator may:

pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of or otherwise dealing with the business and property of the insurer.

The Liquidation Order and Section 3903.18(E) of the Ohio Revised Code also require the Liquidator to submit periodic accountings to the Court throughout the pendency of the

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liquidation proceeding. Such accountings may assist the Court in monitoring the progress and status of the liquidation, and in particular, the receipts and disbursements in the OGICO liquidation proceedings. Prior to this motion, the Liquidator filed periodic accountings with this Court throughout the course of the liquidation, all of which this Court approved.

On November 24, 2004, January 9, 2006 and February 15, 2011, this Court approved the Liquidator's reports of claims filed in the OGICO liquidation and authorized the Liquidator to make final pro rata distributions of the remaining assets of OGICO to allowed claimants in Classes 1 through 9. The Court's Order entered on February 15, 2011 also approved, as part of the Class 1 (administrative expense) final distribution, the agreed reserve of \$523,000 for the Liquidator to pay administrative expenses related to closing the OGICO estate. There are three (3) general categories of closing-related administrative expenses for which a reserve is made when closing a liquidation:

- (1) Administrative expenses that were already incurred at the time the final distribution order (in this case the February 15, 2011 Order) was entered, but were not yet paid at the time of that Order. These administrative expenses were, however, paid prior the final closing of the estate pursuant to the Final Closing Order 9in this case, the February 25, 2011 Final Closing Order, which, among other things, closed the OGICO bank accounts, closed the OGICO estate and discharged the Liquidator from her prior authority). Thus, these administrative expenses were paid by the OGICO estate from OGICO bank accounts using the reserve and are included in the attached Final Periodic Accounting.
- (2) Other administrative expenses that were not yet incurred as of the final distribution order, but that the Liquidator knew would be both incurred and paid during the time the final distribution of estate assets was underway and thus prior to entry of the Final Closing Order. Because this category of expenses is also paid prior to entry of a Final Closing Order, this category of expenses would also be included in the Final Periodic Accounting.
- (3) Administrative expenses related to closing the OGICO estate that were not incurred or paid as of the time of the February 15, 2011 Order, but that the Liquidator knew would be both incurred and paid after entry of both the final distribution order and the Final Closing Order. Expenses related to the preparation and filing of the Final Accounting and Final Audit Report attached to this Motion are classic examples of this third category of closing-related "future" administrative expenses for which a reserve must be made prior to or as part of making a final distribution to claimants below Class 1. The OGICO estate (like other closed estates) does not pay this category of expense from OGICO bank accounts because this category of administrative expenses is not incurred or paid until after the Liquidator is discharged and the

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OGICO bank accounts are closed pursuant to a Final Closing Order. Instead, upon entry of the Final Closing Order and as part of the closing of the bank accounts, OGICO pre-pays the remaining reserve to another estate, LMI Insurance Company (“LMI”), for its administration and payment of these remaining OGICO expenses¹. Consistent with long standing administrative operating procedures approved in the LMI Liquidation Case and in this case, the post-liquidation closing obligations of OGICO were transferred through a prepayment of the remaining OGICO court-authorized reserve, to LMI. This expenditure is recorded in the attached Final Periodic Accounting.

As noted above, on February 25, 2011, this Court entered the Final Closing Order granting the Liquidator’s Application, discharging the Liquidator, closing this liquidation estate effective on or about February 28, 2011 and terminating this case. The Liquidator’s Final Periodic Accounting for OGICO for the period January 1, 2011 to February 28, 2011, as set forth in the attached Exhibit A, is hereby submitted for approval as the final submission pursuant to the Final Closing Order.

II. The Final Audit Report

One of the Liquidator’s primary responsibilities is the marshaling of assets of the OGICO liquidation estate, for ultimate distribution to the liquidation estate’s policyholders and creditors pursuant to R.C. Chapter 3903, under the supervision of this Court. In the process of marshaling assets, the Liquidator routinely receives and deposits cash and purchases and sells various investment securities. In order to record this activity, the Liquidator built an internal accounting department capable of tracking costs and recoveries and generating basic financial reports. The cash and investment security balances are reported by the Liquidator to this Court in the periodic accountings mentioned above.

In July of 1991, the Liquidator determined that it was in the best interests of all of the Ohio liquidation estates to hire an independent auditing firm to perform an annual audit of the

¹ The Liquidator administers and accounts for the administrative holdback pursuant to the long standing Administrative Operating Procedure updated and approved most recently on December 21, 2010 in the LMI Liquidation Case, Case No. 00CVH03-2431 (the “updated AOP”). *See also* the February 15, 2011 Order and the Final Closing Order in this case. The process set forth in the updated AOP for Closed Estates has been in place since the early 1990s.

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Liquidator's internal controls relating to cash receipts and disbursements and the purchase and sale of investment securities in order to ensure the integrity of the Liquidator's accounting system. Pursuant to the Administrative Operating Procedure Updated Effective January 1, 2011 (*see* footnote 1, *supra*), the retention of independent auditors is reassessed no less frequently than every five years, and modified based on upon responses to requests for proposals (RFPs). The last RFP was issued in 2011. As a result of the responses received from several public accounting firms, the Liquidator modified her previous retention and engaged Maloney + Novotny LLC to perform the audit. The Liquidator requested the auditing firm to render an opinion in its audit report as to the propriety of the information presented in the Final Periodic Accounting, as it was the Liquidator's intention to file the report with this Court to demonstrate the integrity of the Final Periodic Accounting.

Maloney + Novotny LLC has completed its audit of the statements of cash and invested assets of OGICO as of February 28, 2011 and June 30, 2010 and the related statements of cash receipts and cash disbursements for the years ended February 28, 2011 and June 30, 2010. Maloney + Novotny LLC issued the Final Audit Report containing its audit findings which opines that the Liquidator's financial statements present fairly, in all material respects, both the cash and invested assets of OGICO at February 28, 2011 and June 30, 2010 and cash receipts and cash disbursements for the years ended February 28, 2011 and June 30, 2010. By this Motion, the Liquidator also seeks this Court's approval of the Final Audit Report, which is filed pursuant to the Final Closing Order.

III. Conclusion

For the reasons set forth above, the Liquidator respectfully requests that this Court enter an Order approving the attached Final Periodic Accounting and Final Audit Report.

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Respectfully submitted,

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