

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

Mary Taylor, Ohio Superintendent of Insurance, in her Capacity as Liquidator of Credit General Insurance Company and Credit General Indemnity Company,	:	
	:	
Plaintiff,	:	Case No. 00 CVH 11-9867
	:	
v.	:	Judge Mark Serrott
	:	
Credit General Insurance Company	:	
	:	
and	:	
	:	
Credit General Indemnity Company,	:	
	:	
Defendants.	:	
	:	

**PLAINTIFF’S APPLICATION FOR ORDER TERMINATING THE LIQUIDATION PROCEEDINGS OF CREDIT GENERAL INDEMNITY COMPANY**

Plaintiff, Mary Taylor, Ohio Superintendent of Insurance, in her capacity as Liquidator of Credit General Indemnity Company (“Indemnity”), respectfully requests a Final Closing Order, pursuant to R.C. 3903.45, 3903.46(A), 3903.48 and related sections, granting this Application, discharging the Liquidator and making other provisions to close the Indemnity liquidation estate.

The reasons in support of this Application are set forth in the accompanying Memorandum in Support.

Respectfully submitted,

**MIKE DEWINE**  
**Attorney General State of Ohio**

By Special Counsel:  
**KOHRMAN, JACKSON & KRANTZ, PLL**

/s/ Valoria C. Hoover  
\_\_\_\_\_  
Valoria C. Hoover (0059596)

655 Metro Place South, Suite 600  
Dublin, OH 43017

Telephone: (614) 408-9700

Facsimile: (216) 621-6536

[vch@kjk.com](mailto:vch@kjk.com)

*Attorneys for Mary Taylor, in her capacity as  
Liquidator of Credit General Indemnity Company*

## MEMORANDUM IN SUPPORT OF MOTION

On November 4, 2013, this Court entered an Order granting the Liquidator's Motion and Application for an Order (1) Approving the Liquidator's Final Report of Claims, Final Reserve and Payment of Administrative Expenses, and Authorizing the Final Distribution of the Assets of Credit General Indemnity Company; and (2) Requiring the Filing of the Unredacted Reports of Claims Under Seal. The Liquidator issued thirty-seven (37) final distribution checks in the total amount of \$8,798,451.73 on November 6, 2013, to allowed claimants in Classes 1 and 2 (as defined in R.C. 3903.42) on their allowed proofs of claims. All final distribution checks were mailed to claimants using the address provided by the claimant on its proof of claim form. In the notice of liquidation sent to Indemnity claimants pursuant to R.C. 3903.22, the Liquidator informed claimants that they are required to notify the Liquidator of any address changes. R.C. 3903.22 (B) specifically provides that all claimants shall keep the Liquidator informed of any changes of address.

By the December 6, 2013 expiration date to negotiate the distribution checks, Twenty-Eight (28) checks totaling \$8,795,252.22 or 99.9636 % of the distributed funds were cashed. Four (4) checks totaling \$1,115.78 or 0.0127 % of the distributed funds were returned to the Liquidator as undeliverable, and Five (5) checks totaling \$2,083.73 or 0.0237 % of the distributed funds were delivered to but not cashed by the claimant.

### **I. Unclaimed Funds**

#### **A. Distribution Checks Delivered but Not Cashed**

As has happened in prior liquidations, Five (5) distribution checks were delivered to the claimant but were not cashed prior to their expiration date. When it appeared to the Liquidator that checks were outstanding but not returned as undeliverable, the Liquidator's staff began

trying to contact the claimants to request that they cash their checks by December 6<sup>th</sup>. Some of the claimants contacted informed the Liquidator's staff that they could not cash the distribution check because they could not relate the payment to their own internal file number. In those cases, the Liquidator's staff checked all available records regarding the claim filed in the Indemnity liquidation proceeding, but was not able to locate the claimant's internal file number. Thus, these distribution checks are unclaimed funds.

#### **B. Distribution Checks Returned as Undeliverable**

There were Four (4) distribution checks were returned to the Liquidator by the U.S. Post Office as undeliverable because the claimant no longer occupies or resides at the mailing address. The Liquidator cannot successfully deliver her check to the claimants because they failed to notify the Liquidator of address changes as is required by R.C. 3903.22 (B). The Liquidator could not find a new address for these claimants. Thus, these distribution checks are unclaimed funds.

Both categories of unclaimed funds, which together equal just 0.055% of the distributed funds, are uneconomic to redistribute pursuant to R.C. 3903.42 and 3903.35 (A). As part of the order discharging the Liquidator pursuant to R.C. 3903.46 (A), the Liquidator requests the Court to authorize her to transfer all unclaimed funds representing returned or un-cashed distribution checks exclusively to the Ohio Department of Commerce, Division of Unclaimed Funds to hold and to allow the claimants to search for, identify, and claim these funds. Upon closure of the Credit General Indemnity Company estate, the Liquidator shall have no obligation to report unclaimed funds of the Indemnity estate or the absence thereof.

## **II. Final Distribution Completed**

Now that the final distribution is complete, the Liquidator requests a Final Closing Order discharging the Liquidator, dissolving Credit General Indemnity Company (“Indemnity”) and making other standard provisions to close the Indemnity liquidation estate and terminate this case as to Indemnity only, pursuant to R.C. 3903.46(A), 3903.48 and related sections. 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.

## **III. Future Receipt of Funds**

Funds, if any, which are received after the termination of this case and closure of the Indemnity liquidation, will be returned to sender.

## **IV. Discharge, Dissolution and Closure**

The Liquidator determined that all matters involving the Indemnity liquidation estate have substantially been finalized, other than several ministerial functions described below that cannot be performed until after the closing of the liquidation takes place.

### **A. Final Accounting and Final Independent Auditor’s Report**

Two primary post-closure ministerial functions are the preparation of a final accounting and the final independent audit of the Indemnity estate. These two items will be in the form of previous periodic accountings and independent auditor’s reports submitted to this Court. The final accounting for the period ending December 31, 2013 will be filed upon its completion in

the first quarter of 2014. The final independent auditor's report will be filed with the Court upon its completion in or around September 2014.

### **B. Final Federal Income Tax Return for Year End 2013**

Because the final distribution and final closing of the estate will take place in 2013, a separate final Form 1120 Indemnity 2013 tax return for the calendar year ending December 31, 2013 will be prepared and filed with the Internal Revenue Service ("IRS") post-closing in 2014.<sup>1</sup>

### **C. Disposition of Insurer's Records**

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 many Indemnity paper and electronic records pursuant to prior orders of this Court, including the orders entered in this case on April 8, 2009 and October 8, 2013. In July 2012, the Liquidator internally implemented a revised records retention schedule for all open estates under which the vast majority of records are destroyed at or within one (1) year of closure of the estate, unless required by law to be retained for a longer period of time. Consistent with the Liquidator's records retention schedule, the Liquidator now requests that this Court relieve her of any obligation she may have to retain and authorize her to immediately destroy: (1) any and all remaining pre-liquidation books, records and documents in any medium; and (2) all post-liquidation books, records and documents in any medium that are not required to be maintained pursuant to applicable federal and state records retention requirements. This will result in the destruction immediately of all remaining Indemnity and

---

<sup>1</sup> Because Indemnity is the wholly-owned subsidiary of Credit General Insurance Company (in Liquidation), its final 2013 return will be included in the 2013 consolidated return.

Liquidator/Liquidation staff records, including but not limited to all proofs of claims, except for certain limited tax and accounting records.

To safeguard the privacy of policyholders, claimants, creditors and former employees and to dispose of records containing financial information, the Liquidator's internal procedures require the use of secure methods of destruction. No personally identifiable information is retained by the Liquidator. The vast majority of the remaining paper records will be shredded or incinerated in a secure manner by one or more contracted third parties who will provide the Liquidator with a certificate of destruction. The remaining electronic records will be deleted or permanently removed from the Liquidator's own computers, servers and systems in a secure manner. In this case, the Liquidator does not have any computers from Indemnity or dedicated solely to Indemnity. Therefore, the Liquidator need not make any provision for the secure destruction of computers.

Paragraph 2 of the federal Release Agreement between the Chief Deputy Liquidator and the United States of America, approved by this Court on August 19, 2013, provides that:

. . . the United States or its duly authorized representative shall have the right, prior to the destruction of CGIND's [Indemnity's] records in accordance with the orders of the Court, during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of the estate, and of the Chief Deputy Liquidator, as shall be reasonably necessary to determine the existence and amount of claims the United States may have against the CGIND [Indemnity] estate, or to determine the Chief Deputy Liquidator's compliance with the terms of this Release Agreement. No documents, books, or records of the estate or Chief Deputy Liquidator may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of the destruction.

The Liquidator's service of this *Plaintiff's Application for Order Terminating the Liquidation Proceedings of Credit General Indemnity Company* on the United States Department of Justice is notice to the United States of (1) this Application, and (2) that all of the remaining books or

records of the Indemnity estate and the Chief Deputy Liquidator related to Indemnity, other than limited tax and accounting records, will be destroyed on or about December 31, 2013. The United States must advise the Chief Deputy Liquidator in writing on or before 5:00 p.m. Eastern Time on Monday, December 23, 2013, if the United States wishes to inspect or copy at its own expense, any documents, books, and records of the Indemnity estate or of the Chief Deputy Liquidator.

**D. Dissolution of Credit General Indemnity Company**

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

**E. Closing Indemnity's Bank Accounts**

Once the Indemnity estate is closed, the liquidation case is terminated, and the corporate entity of Indemnity is dissolved, Indemnity cannot hold bank accounts. This is true of all closed estates. Therefore, after the transfer of the unclaimed funds to the Ohio Department of Commerce, Division of Unclaimed Funds, the Liquidator will close Indemnity's bank accounts and account for the remaining Final Reserve as provided below. The few remaining obligations of Indemnity<sup>2</sup> will be transferred to LMI Insurance Company in Liquidation ("LMI"). When the Indemnity bank accounts are closed, the amount of Indemnity's remaining Final Reserve will be transferred to LMI as a pre-payment of Indemnity's administrative expense obligations pursuant to the Liquidator's Administrative Expense Operating Procedure effective January 1, 2011 ("AOP") that was approved in the LMI case on December 21, 2010 and approved in the Indemnity case on January 6, 2011. The payment and receipt of these funds will be reflected in the LMI periodic accounting reports filed in the LMI Liquidation Case, but the expenditures of

---

<sup>2</sup> Indemnity's final 2013 tax return, the Indemnity final 2013 independent audit, and the cost of Indemnity document retention and then destruction.

the funds are not separately tracked, accounted for or reported pursuant to the provisions of paragraph 3 on page 8 of the AOP that apply to Closed and Closing Estates.

**V. Conclusion**

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

1. Granting this Motion in its entirety.
2. Pursuant to R.C. 3903.46(A), authorizing the Liquidator to transfer all unclaimed funds representing returned or un-cashed distribution checks exclusively to the Ohio Department of Commerce, Division of Unclaimed Funds to hold and to allow the claimants to search for, identify and claim these funds. Upon closure of the Indemnity estate, the Liquidator shall have no obligation to report unclaimed funds of the Indemnity estate or the absence thereof.
3. Pursuant to R.C. 3903.46(A), finding that the Liquidator shall return to sender any funds received after the termination of this case and closure of the liquidation.
4. 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 independent auditor's report with the Court; (c) executing the final Form 1120-Indemnity 2013 tax return and filing the return with the Internal Revenue Service, including it in the 2013 consolidated return, in the manner provided by law; and (d) taking all related actions as authorized or as deemed necessary and appropriate by the Liquidator to close the Indemnity liquidation estate and carry out various sections of R.C. Chapter 3903 and prior Orders of this Court.

5. Pursuant to R.C. 3903.46(A) and 3903.48, approving and authorizing the destruction on or after December 31, 2013 of the pre-liquidation and post-liquidation books, records and documents in any medium of Indemnity, the Liquidator or anyone else as follows: (a) remaining pre-liquidation books, records and documents in any medium shall be immediately destroyed; (b) all remaining post-liquidation books records and documents in any medium that are not specifically required by law to be maintained shall be immediately destroyed, and (c) finding that the Liquidator has no duty or obligation to preserve any books, records or documents in any medium or anything else related to Indemnity as possible discovery, evidence or other production in any future litigation, bankruptcy, investigation or contested matter.
6. Pursuant to R.C. 3903.20, that the corporate entity of Credit General Indemnity Company is dissolved.
7. Pursuant to R.C. 3903.46(A) and related sections, after the transfer of the unclaimed funds to the Ohio Department of Commerce, Division of Unclaimed Funds, authorizing the Liquidator to immediately close Indemnity's bank accounts, whereupon any remaining Final Reserve funds will be prepaid to the LMI liquidation estate pursuant to the updated AOP referenced in this Motion, which provides that the payment and receipt of these and any other reserve funds will be accounted for in the LMI periodic accountings, but the expenditure of it is not separately tracked, accounted for or reported by LMI or Indemnity pursuant to the practice set forth in the updated AOP.

8. Pursuant to R.C. 3903.46(A), finding that Indemnity's remaining physical assets, if any, are uneconomic to liquidate or distribute, and approving and authorizing the Liquidator to abandon such physical assets.
9. Pursuant to R.C. 3903.46(A), ordering the abandonment of uncollected claims, if any.
10. 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 to the Liquidator, her predecessors and successors, any and all current and former deputy rehabilitators or liquidators, any current and former employees of the Ohio Department of Insurance, any current or former employee appointed by the Superintendent as Liquidator, and any current or former employee who serves under the Liquidator.
11. Pursuant to R.C. 3903.46(A) and related statutes, releasing the Liquidator, her predecessors and successors, and any and all current and former deputy rehabilitators, current and former deputy liquidators, current and former agents or employees of the Liquidator or the *Office of the Ohio Insurance Liquidator*, and current and former employees of the Ohio Department of Insurance, of all claims and liability of any nature whatsoever and whenever incurred (including but not limited to costs, expenses and attorneys' fees) relating to, involving or arising out of any and all actions, decisions, conduct, transactions, or events that were alleged or that could have been alleged in the Indemnity liquidation proceedings or in any other litigation that in any way relates to or involves Indemnity, the Indemnity rehabilitation or liquidation proceedings, or any proceedings related to Indemnity or the Indemnity rehabilitation or liquidation proceedings.

12. Finding that all other matters regarding the liquidation of Indemnity have been finalized in accordance with R.C. 3903.01 to .59 and the Orders of this Court and effective immediately, the Indemnity liquidation estate is closed and this case is terminated as to Indemnity only.

Respectfully submitted,

**MIKE DEWINE**  
**Attorney General State of Ohio**

By Special Counsel:  
**KOHRMAN, JACKSON & KRANTZ, PLL**

/s/ Valoria C. Hoover  
Valoria C. Hoover (0059596)  
655 Metro Place South, Suite 600  
Dublin, OH 43017  
Telephone: (614) 408-9700  
Facsimile: (216) 621-6536  
[vch@kjk.com](mailto:vch@kjk.com)

*Attorneys for Mary Taylor, in her capacity as  
Liquidator of Credit General Indemnity Company*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and accurate copy of the foregoing *Application for Order Terminating the Liquidation Proceedings of Credit General Indemnity Company* was posted on the Liquidator’s website ([www.obliq.com](http://www.obliq.com)) substantially contemporaneous with the filing of this *Motion* and that a true copy of the foregoing motion was served upon the following via ordinary mail on this 9<sup>th</sup> day of December, 2013:

Sharon C. Williams  
Trial Attorney  
Department of Justice  
Civil Division  
1100 L Street, N.W., Room 10016  
Washington, D.C. 20005  
*Attorneys for The United States of America*

Lynn Berg  
Anchor Claims Management  
P.O. Box 819045  
Dallas, TX 75381-9045

Sean C. Logan, Esq.  
Annapolis Consulting Group LLC  
2530 Riva Road, Suite 308  
Annapolis, MD 21402  
*PRS Trustee*

Wayne D. Wilson  
Executive Director  
CA Insurance Guarantee Assn.  
P.O. Box 29066  
Glendale, CA 91209-9066

/s/ Valoria C. Hoover  
Valoria C. Hoover (0059596)

**COURTESY COPY E-MAIL LIST**

David H. Levitt                    [dlevitt@binshawlaw.com](mailto:dlevitt@binshawlaw.com)

Michael E. Surguine              [msurguine@azinsurance.gov](mailto:msurguine@azinsurance.gov)

Barbara F. Cox                    [bcox@ncigf.org](mailto:bcox@ncigf.org)

Paul M. Gulko                      [pgulko@gfms.org](mailto:pgulko@gfms.org)

Edwin E. Evans	<a href="mailto:eevans@dehs.com"><u>eevans@dehs.com</u></a>
Daniel W. Costello	<a href="mailto:dcostello@porterwright.com"><u>dcostello@porterwright.com</u></a>
Marvin Kelly	<a href="mailto:awalker@tpciga.org"><u>awalker@tpciga.org</u></a>
Rebecca J. Nisbet	<a href="mailto:nisbetr@nationwide.com"><u>nisbetr@nationwide.com</u></a>
Arlene Zdanowicz	<a href="mailto:azdanowicz@nylb.org"><u>azdanowicz@nylb.org</u></a> <a href="mailto:erussell@nylb.org"><u>erussell@nylb.org</u></a>
Steve A. Uhrynowycz	<a href="mailto:steve.uhrynowycz@arkansas.gov"><u>steve.uhrynowycz@arkansas.gov</u></a>
Robert C. Mitchell	<a href="mailto:rcmitchell@vorys.com"><u>rcmitchell@vorys.com</u></a>
Matthew M. Daiker	<a href="mailto:mmdaiker@vorys.com"><u>mmdaiker@vorys.com</u></a>