

IN THE COURT OF COMMON PLEAS, FRANKLIN COUNTY, OHIO

Mary Taylor, :  
Ohio Superintendent of Insurance, : CASE NO. 09CVH 08 12492  
In her Capacity as Liquidator of :  
The Physicians' Assurance Corporation, : JUDGE LAUREL BEATTY  
:  
Plaintiff, :  
:  
vs. :  
:  
The Physicians' Assurance Corporation, :  
:  
Defendant. :

**MOTION FOR APPROVAL OF LIQUIDATOR'S FINAL REPORT OF INDEPENDENT  
AUDITORS FOR THE PERIODS ENDED OCTOBER 31, 2011 AND JUNE 30, 2011**

Mary Taylor, Ohio Superintendent of Insurance, in her capacity as Liquidator ("Liquidator") of The Physicians' Assurance Corporation ("TPAC"), moves this Court for an order approving the Final Report of Independent Auditors for the periods ended October 31, 2011 and June 30, 2011 attached as Exhibit A. A Memorandum in Support is attached.

Respectfully submitted,

MIKE DE WINE  
Attorney General State of Ohio

By Special Counsel:  
CRABBE, BROWN & JAMES LLP

/s/Christina L. Corl

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The Physicians' Assurance Corporation*

**MEMORANDUM IN SUPPORT**

On October 25, 2011, this Court entered a Final Closing Order terminating the TPAC liquidation proceedings, discharging the Liquidator, closing TPAC bank accounts and closing this liquidation estate effective immediately following the final distribution that occurred before October 31, 2011 (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 audit report. This Motion requests approval of the Final Report of Independent Auditors for the periods ended October 31, 2011 and June 30, 2011 (the "Report"). The Report is attached as Exhibit A and is incorporated herein by reference.

Pursuant to the Liquidation Order entered in this case on August 18, 2009, TPAC was ordered liquidated pursuant to R.C. Chapter 3903. Further, the Liquidator Order appointed the Ohio Superintendent of Insurance as TPAC's Liquidator and empowered, authorized and directed the Liquidator to liquidate TPAC's property and assets in accordance with the laws of Ohio and under the continuing jurisdiction of this Court.

One of the Liquidator's primary responsibilities is the marshaling of assets of the TPAC liquidation estate for ultimate distribution to the estate's policyholders and creditors pursuant to R.C. Chapter 3903. The Liquidator therefore undertook to collect debts and moneys due to TPAC, and made payment of necessary expenses pursuant to the Liquidation Order and R.C. Chapter 3903. In the process of marshaling TPAC's assets, the Liquidator routinely received and deposited cash and purchases, and she sold 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. As required by R.C. 3903.18(E) and the Liquidation Order, the Liquidator filed Periodic Accountings of this activity semi-annually with the Court in the form of a statement of receipts and disbursements throughout the pendency of TPAC's liquidation proceedings. This Court approved all of the Liquidator's Periodic Accountings in this case.

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 Liquidator's 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, which was approved in this case on January 25, 2011, 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 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 Periodic Accountings, as it was the Liquidator's intention to file the report with this Court to demonstrate the integrity of the Periodic Accountings.

Maloney & Novotny LLC has completed its final audit of the statements of cash and invested assets of TPAC as of October 31, 2011 and June 30, 2011 and the related statements of cash receipts and cash disbursements for the periods ended October 31, 2011 and June 30, 2011. Maloney & Novotny LLC issued the Report containing its audit findings which opine that the Liquidator's financial statements present fairly, in all material respects, both the cash and invested assets of TPAC at October 31, 2011 and June 30, 2011 and cash receipts and cash disbursements for the periods ended October 31, 2011 and June 30, 2011.

By this Motion, the Liquidator seeks this Court's approval of the Final Report of Independent Auditors for the periods ended October 31, 2011 and June 30, 2011 (the "Report"), attached hereto as Exhibit A.

Respectfully submitted,

MIKE DE WINE  
Attorney General State of Ohio

By Special Counsel:  
CRABBE, BROWN & JAMES LLP

/s/Christina L. Corl

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Motion for the Approval of Liquidator's Final Report of Independent Auditors was posted on the Liquidator's website ([www.ohlq.com](http://www.ohlq.com)) substantially contemporaneous with the filing of this Motion and served on all parties via the Court's electronic filing system, this 24<sup>th</sup> day of September, 2012:

Joshua D. Weber, Esq., *Charles Misfud LLC*  
Brian Gianangeli, Esq., *Charles Misfud LLC*  
Charles A. Misfud, Esq., *Charles Misfud LLC*

/s/Christina L. Corl

Christina L. Corl (0067869)

**EXHIBIT A**

**OFFICE OF THE OHIO  
INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE  
CORPORATION,  
IN LIQUIDATION**

**FINANCIAL REPORT**

**OCTOBER 31, 2011 and JUNE 30, 2011**

OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE CORPORATION,  
IN LIQUIDATION

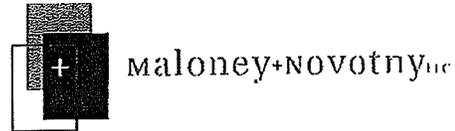
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Lynda G. Loomis  
Chief Deputy Liquidator  
Office of the Ohio Insurance Liquidator  
The Physicians Assurance Corporation, in Liquidation

Independent Auditors' Report

We have audited the accompanying statements of cash and invested assets arising from cash transactions of The Physicians Assurance Corporation, in Liquidation ("Estate") as of October 31, 2011 and June 30, 2011, and the related statement of cash receipts and cash disbursements for the period ended October 31, 2011. These financial statements are the responsibility of the Estate. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Estate's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

The accompanying statements were prepared to present the financial statements of The Physicians Assurance Corporation, in Liquidation pursuant to the accounting practices prescribed or permitted by the Office of the Ohio Insurance Liquidator and the Franklin County, Ohio Common Pleas Court, described in Note 1, and are not intended to be a complete presentation of the Company's assets and liabilities.

In our opinion, the financial statements referred to above present fairly, in all material respects, the cash and invested assets arising from cash transactions of The Physicians Assurance Corporation, in Liquidation as of October 31, 2011 and June 30, 2011, and the related statement of cash receipts and cash disbursements for the period ended October 31, 2011, on the basis of accounting described in Note 1.

This report is intended solely for the information and use of the Office of the Ohio Insurance Liquidator and the Franklin County, Ohio Common Pleas Court and is not intended to be and should not be used by anyone other than these specified parties.

*Maloney + Novotny LLC*

Cleveland, Ohio  
September 14, 2012



OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE CORPORATION,  
IN LIQUIDATION

STATEMENTS OF CASH AND INVESTED ASSETS

October 31, 2011 and June 30, 2011

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	October 31, <u>2011</u>	June 30, <u>2011</u>
Cash	\$ -	\$ 8,760
Invested assets	<u>-</u>	<u>1,585,969</u>
	<u>\$ -</u>	<u>\$1,594,729</u>

The accompanying notes are an integral part of these financial statements.

OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE CORPORATION,  
IN LIQUIDATION

STATEMENT OF CASH RECEIPTS AND CASH DISBURSEMENTS

Period Ended October 31, 2011

CASH AT JULY 1, 2011	\$ 8,760
CASH RECEIPTS	
Net investment proceeds from certificates of deposit	8,370
Net investment proceeds from money market	1,577,599
Interest and dividend income (including interest paid on bonds)	51
Recovery from settlement agreement	<u>1,319</u>
Total cash receipts	1,587,339
CASH DISBURSEMENTS	
Salaries, wages and employee benefits	21,747
Professional fees	18,606
General and administrative expenses	9,839
Return of pharmacy billing receipts to Ohio IGA	20,006
Final distribution to Ohio IGA on Class 1 & 2 claims	<u>1,525,901</u>
Total cash disbursements	<u>1,596,099</u>
CASH AT OCTOBER 31, 2011	<u>\$ -</u>

The accompanying notes are an integral part of these financial statements.

OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE CORPORATION,  
IN LIQUIDATION

NOTES TO FINANCIAL STATEMENTS

**Note 1. Background and Basis of Presentation**

Ohio Revised Code Chapter 3903 contains the Insurers' Supervision, Rehabilitation and Liquidation Act (the "Act"). The Act governs all aspects of an insurance company's rehabilitation or liquidation (sometimes referred to as receivership) resulting from insolvency.

When the Ohio Superintendent of Insurance, as regulator, determines that an Ohio-domiciled insurer is insolvent or is operating in a financially hazardous manner, the Superintendent files a Complaint in the Franklin County, Ohio Common Pleas Court ("Liquidation Court") for a court order placing the company into rehabilitation or liquidation. If the Court agrees with the Complaint, the Court enters a rehabilitation or liquidation order appointing the Superintendent of Insurance in the separate fiduciary capacity of Rehabilitator or Liquidator ("receiver") of the company, empowered to act on behalf of the creditors of the estate to secure, marshal and eventually rehabilitate or liquidate the company's assets.

The Physicians Assurance Corporation ("Company") was placed in liquidation on August 18, 2009 by the Court and it became The Physicians Assurance Corporation, in Liquidation (Estate).

As is common with entities placed in fiduciary control, the Liquidator has prepared the accompanying financial statements on the cash-basis of accounting, whereby, the statements of cash and invested assets include only the cash and invested assets of the Estate, and the statement of cash receipts and cash disbursements reflects only cash transactions; consequently, all other assets and liabilities of the Estate are not included in the statements of cash and invested assets, and uncollected revenues and unpaid expenses are not included in the statement of cash receipts and cash disbursements. Changes in amortization of bond premiums and discounts are reflected in invested assets; however, these amounts are not reflected in the statement of cash receipts and disbursements as they are non-cash transactions. This is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America and, accordingly, the statements are not intended to present the financial position and results of operations in conformity with accounting principles generally accepted in the United States of America.

**Note 2. Order to Dissolve the Physicians Assurance Estate**

On October 25, 2011, the Court issued a Final Order Closing the Physicians Assurance Estate and terminating the liquidation case (the "Closing Order").

OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
 THE PHYSICIANS ASSURANCE CORPORATION,  
 IN LIQUIDATION

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

**Note 2. Order to Dissolve the Physicians Assurance Estate (Continued)**

Assets remaining subsequent to October 25, 2011 were reserved (held-back) to pay administrative expenses related to the closure of the Physicians Assurance Estate. The Closing Order approved the Liquidator's pre-payment of \$19,412 of the Physicians Assurance Estate's unpaid administrative expenses related to the closure of the Physicians Assurance Estate to LMI Insurance Company, in Liquidation ("LMI") upon closure of the Physicians Assurance case in exchange for the LMI Estate's assumption, administration and payment of the remaining administrative expense obligations of the Physicians Assurance Estate. The payment and receipt of these funds were reported, respectively, in the Physicians Assurance Estate final accounting and the LMI periodic accountings, but the expenditure of them is not separately tracked, accounted for or reported pursuant to the provisions of paragraph 3 on page 8 of the Administrative Expense Operating Procedure applicable to Closed and Closing Estates that was updated and approved most recently beginning on December 21, 2010 in the LMI Liquidation Case, Case No. 00CVH03-2431 ("AOP"). The AOP is based upon the Liquidator's Accounting Department Internal Control for handling administrative costs and expenses for closing and closed Estates after a final distribution of assets to creditors, which dates back to 1995.

The Closing Order also ordered The Physicians Assurance Corporation to be dissolved pursuant to Ohio Revised Code Section 3903.20, which occurred on October 25, 2011 and all assets had been distributed.

**Note 3. Invested Assets**

Invested assets consist of those assets that are under the complete and direct control of the Liquidator and are being specifically held as investments.

Money market funds and certificates of deposit are recorded at cost, which approximates fair value.

At October 31, 2011 and June 30, 2011, invested assets and their carrying values consisted of the following:

	October 31, 2011 Carrying Value	June 30, 2011 Carrying Value
	<u>          </u>	<u>          </u>
Money market funds	\$ -	\$1,577,599
Certificates of deposit	<u>-</u>	<u>8,370</u>
	<u>\$ -</u>	<u>\$1,585,969</u>

OFFICE OF THE OHIO INSURANCE LIQUIDATOR  
THE PHYSICIANS ASSURANCE CORPORATION,  
IN LIQUIDATION

NOTES TO FINANCIAL STATEMENTS (CONTINUED)

**Note 4. Distribution**

Pursuant to the October 25, 2011 Order of the Court, the Estate made a final Class 1 and 2 distribution payment to the Ohio Insurance Guaranty Association totaling \$1,525,901 on October 26, 2011.

**Note 5. Subsequent Events**

Management evaluates events occurring subsequent to the date of the financial statements in determining the accounting for and the disclosure of transactions and events that affect the financial statements. Subsequent events have been evaluated through September 14, 2012, which is the date that the financial statements were available to be issued. No material subsequent events were noted.