

IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO

MARY JO HUDSON,  
SUPERINTENDENT OF INSURANCE,  
OHIO DEPARTMENT OF INSURANCE, IN  
HER CAPACITY AS LIQUIDATOR OF THE  
P.I.E. MUTUAL INSURANCE COMPANY,

Plaintiff,

v.

THE P.I.E. MUTUAL INSURANCE  
COMPANY,

Defendant.

CASE NO. 97CVH12-10867

JUDGE JOHN F. BENDER

**PLAINTIFF'S MOTION FOR AUTHORITY TO DESTROY CERTAIN RECORDS  
OF THE P.I.E. MUTUAL INSURANCE COMPANY**

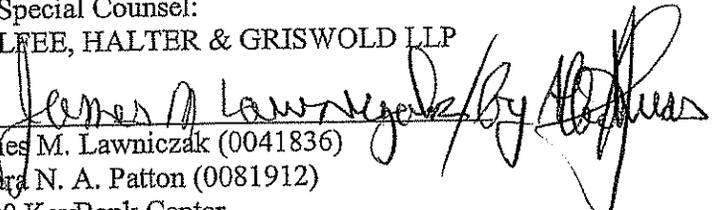
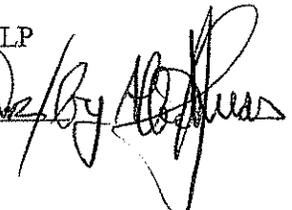
Mary Jo Hudson, Ohio Superintendent of Insurance, in her capacity as Liquidator (the "Liquidator") of The P.I.E. Mutual Insurance Company, in Liquidation ("P.I.E."), hereby moves this Court for an Order authorizing the Liquidator to destroy certain P.I.E. records that have not been used, and will not be used, to administer the P.I.E. liquidation estate. The destruction of these records is in accord with O.R.C. § 3903.48 because the records are no longer useful, and destruction of them will reduce the administrative expenses associated with keeping and storing the records and thereby conserve estate assets for the benefit of policyholders and claimants. This Motion is supported by the attached Memorandum in Support.

FILED  
 COMMON PLEAS COURT  
 FRANKLIN CO., OHIO  
 2009 OCT 28 PM 4:24  
 CLERK - CIVIL SERVICE

Respectfully Submitted,

RICHARD CORDRAY  
Attorney General, State of Ohio

By Special Counsel:  
CALFEE, HALTER & GRISWOLD LLP

By: /By   
James M. Lawniczak (0041836)  
Tiiara N. A. Patton (0081912)  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 622-8200  
Facsimile: (216) 241-0816  
Email: [jlawniczak@calfee.com](mailto:jlawniczak@calfee.com)  
[tpatton@calfee.com](mailto:tpatton@calfee.com)

*Attorneys for Mary Jo Hudson, Ohio Superintendent  
of Insurance, in her capacity as Liquidator of The  
P.I.E. Mutual Insurance Company.*

## MEMORANDUM IN SUPPORT

On March 23, 1998, The P.I.E. Mutual Insurance Company ("P.I.E.") was ordered into liquidation by this Court under Ohio Revised Code Chapter 3903 ("Liquidation Order"). The Liquidation Order and O.R.C. § 3903.48 grant the Ohio Superintendent of Insurance, in her capacity as statutory liquidator of P.I.E. (the "Liquidator"), the authority to determine when company records are no longer useful and "...recommend to the court and the court shall direct what records should be retained for future reference and what should be destroyed." O.R.C. § 3903.48.

The Liquidator is preparing to close the P.I.E. estate by year end 2009, if possible. Since the inception of the P.I.E. liquidation proceedings, the Liquidator has, among other duties, thoroughly reviewed the books and records of P.I.E., identified and collected, where reasonable, all known assets of P.I.E., and reviewed, valued and classified claims of P.I.E.

Early in the P.I.E. liquidation process, the Liquidator rented warehouse space near the liquidation office in order to store the voluminous P.I.E. documents that were moved to Columbus from the various P.I.E. offices following their closing. In 2009, to reduce overhead expenses to the P.I.E. estate, the Liquidator relocated many records that were no longer essential to administering the P.I.E. liquidation estate to Fireproof Records Center for storage until they could be destroyed.

In preparation for the closing of the P.I.E. liquidation estate, the Liquidator is now requesting the Court to authorize the destruction of certain P.I.E. records currently stored at the Fireproof Records Center and at the Liquidator's warehouse that have, to date, not been used in the administration of the P.I.E. liquidation estate and will not be useful in the remaining administration of the P.I.E. liquidation estate. (Affidavit of Chief Deputy

Liquidator Lynda G. Loomis ("Loomis"), attached hereto as Exhibit 1, ¶ 3 and *see e.g.* O.R.C. § 3903.48). The categories of records to be destroyed are as follows:

1. All files and other records obtained from the defunct Jacobson, Maynard, Tuschman & Kalur's ("JMTK") Ohio, Kentucky, Maryland, Missouri, Pennsylvania, and West Virginia law offices on closed cases, which are presently stored at the Liquidator's offsite warehouse facilities, and other litigation files from non-JMTK law offices on cases closed prior to liquidation, which have never been re-opened or used during the liquidation proceeding.
2. All claim files closed prior to liquidation and presently stored at the Liquidator's offsite warehouse facilities.
3. All non-essential pre-liquidation accounting and administration records.

The schedule identifying the approximately 3,000 boxes of records to be destroyed is over eight hundred (800) pages long and is therefore not attached. The schedule will be brought to court on November 6, 2009 at 9:00 a.m., the time scheduled for the hearing, and submitted to the court for review. If anyone is interested in reviewing the schedule of records to be destroyed prior to November 6, 2009, they should contact the Liquidator's office (phone number 614-487-9200) and request a copy of the schedule.

The Liquidator has fulfilled her fiduciary duty to policyholders, creditors, and claimants by determining that the documents are no longer of value as they are not required to administer the P.I.E. liquidation estate and the documents can be destroyed. The ongoing expense of retaining such documents should not be the responsibility of the estate in these circumstances. Furthermore, the records must be destroyed at some point anyway and by doing so now, the P.I.E. estate ceases to incur continued storage costs. The destruction expense of approximately \$84,000 can be paid now rather than being reserved for later.

### CONCLUSION

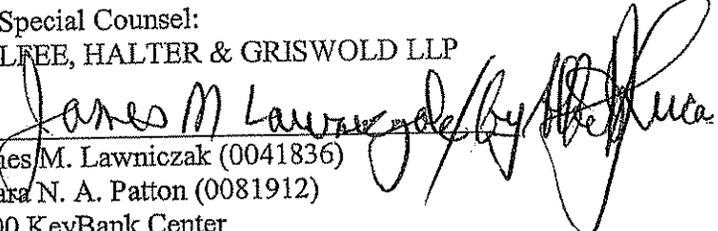
For the reasons stated above, the Liquidator moves this Court for an order pursuant to the Liquidation Order and O.R.C. § 3903.48, which authorizes her to determine when

records are no longer useful and to petition the court for an order of destruction. Specifically, the Liquidator seeks an Order that: (1) allows the immediate destruction of the approximately 3,000 boxes of the P.I.E. records that the Liquidator has selected for destruction because these records are no longer useful to administering the P.I.E. liquidation estate, and (2) authorizes the Liquidator to spend estate assets for such destruction.

Respectfully Submitted,

RICHARD CORDRAY  
Attorney General, State of Ohio

By Special Counsel:  
CALFEE, HALTER & GRISWOLD LLP

By:   
James M. Lawniczak (0041836)  
Tiiara N. A. Patton (0081912)  
1400 KeyBank Center  
800 Superior Avenue  
Cleveland, Ohio 44114  
Telephone: (216) 622-8200  
Facsimile: (216) 241-0816  
Email: [jlawniczak@calfee.com](mailto:jlawniczak@calfee.com)  
[tpatton@calfee.com](mailto:tpatton@calfee.com)

*Attorneys for Mary Jo Hudson, Ohio Superintendent  
of Insurance, in her capacity as Liquidator of The  
P.I.E. Mutual Insurance Company.*

**CERTIFICATE OF SERVICE**

I hereby certify that on October 28, 2009, I caused the Motion to be served by Federal Express upon the parties listed below, except to Douglas Morris to which the Motion was mailed first class mail, postage pre-paid, via the United States Postal Service:

Clifford C. Masch  
Gary H. Goldwasser  
Reminger & Reminger CO., LPA  
101 W. Prospect Avenue, Suite 1400  
Cleveland, Ohio 44115

F. James Foley  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street  
Columbus, Ohio 43216

Robert B. Hoffman  
Wolf, Block, Schorr and Solis-Cohen LLP  
213 Market Street  
9th Floor  
Harrisburg, PA 17108

N. Gerald DiCuccio  
Butler, Cincione & DiCuccio  
2200 W. 5th Avenue, 3rd Floor  
Columbus, OH 43215

Susan L. Logan  
2419 W. 19th Street  
Ashtabula, Ohio 44004

Richard S. Gurbst  
Philip M. Oliss  
Squire, Sanders & Dempsey L.L.P.  
4900 Key Tower  
127 Public Square  
Cleveland, Ohio 44114-1304

Gerald S. Leeseberg  
Leeseberg Maloon Schulman & Valentine  
175 South Third Street  
Penthouse #1  
Columbus, Ohio 43215

Mark Frasure  
Buckingham, Doolittle & Burroughs, LLP  
4518 Fulton Drive, N.W.  
P.O. Box 35548  
Canton, Ohio 44735-5548

Thomas J. Lee  
Kelley, McCann & Livingstone, LLP  
3500 BP Tower  
200 Public Square  
Cleveland, Ohio 44114-2302

Douglas Morris  
P. O. Box 1329  
Prospect KY 40059

Steven Jared Troy  
22 Sugarvale Way  
Lutherville, Maryland 21093

Christopher J. Swift  
Chris Bator  
Baker & Hostetler, LLP  
3200 National City Center  
1900 East Ninth Street  
Cleveland, Ohio 44114-3485

Allen Schulman, Jr.  
Allen Schulman and Associates  
Carnegie Building  
236 3rd Street, S.W.  
Canton, Ohio 44702

Robin Maupin  
2916 Cambridge Rd  
Louisville, KY 40220-1508

Larry Abramson  
Abramson & O'Connell, LLC  
695 Bryden Road  
Columbus, Ohio 43205

Mahendra K. Thakkar, M.D.  
999 West State Street  
Alliance, Ohio 44601

Paul A. Casi, P.S.C.  
440 South Seventh Street  
Suite 100  
Louisville, Kentucky 40203-1909

Scott Webster, Executive Director  
Kentucky Insurance Guaranty Association  
4010 Dupont Circle  
Louisville, KY 40207-4812

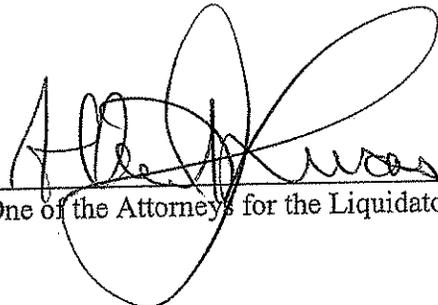
Ann Marie Hawkins  
Hawkins and Company, LLC  
1267 W. 9th Street, #500  
Cleveland, OH 44113

Michael B. Shannon, M.D.  
2860 Dresden Road  
Zanesville, Ohio 43701

Ronald B. Noga  
1010 Old Henderson Road, Suite 1  
Columbus, Ohio 43220

Martin L. Sandel  
37290 Wexford Drive  
Solon, Ohio 44139

Elisabeth A. Squeglia, Esq.  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, Ohio 43215

  
One of the Attorneys for the Liquidator



were onsite at the company at the time of liquidation and were subsequently moved to the Liquidator's various storage facilities, and records and documents that were gathered or received as part of the liquidation process. As the liquidation proceeds, an analysis is done as to whether or not the records are needed and/or useful in the administration of the particular liquidation estate.

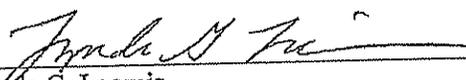
4. To the best of my knowledge and belief, the records, which are more fully described in the Motion, are records that have not been used, and will not be used, to administer the P.I.E. liquidation estate and are therefore no longer useful to the estate.

5. None of these records are being used in the claims adjudication process.

6. None of the records recommended for destruction benefit the policyholders, creditors or general public and are a drain on the assets of P.I.E.

7. If the Liquidator is allowed to destroy these documents now, the estate will save money by reducing storage expenses at Fireproof Records Center in Columbus, Ohio.

FURTHER AFFIANT SAYETH NAUGHT.

  
Lyada G. Loomis  
Chief Deputy Liquidator

SWORN TO BEFORE ME AND SUBSCRIBED in my presence this 8 day of October,

2009.

  
NOTARY PUBLIC

STEPHEN C. NOMBACH, Attorney-At-Law  
NOTARY PUBLIC, STATE OF OHIO  
My commission has no expiration date.  
Section 147.03 R. C.