

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, et al.,	:	
	:	
Defendants.	:	
	:	
	:	

**MOTION OF THE LIQUIDATOR FOR APPROVAL OF THE RELEASE AGREEMENT  
ENTERED INTO BETWEEN CREDIT GENERAL INDEMNITY COMPANY IN  
LIQUIDATION AND THE UNITED STATES**

Plaintiff Mary Taylor, Superintendent of Insurance, State of Ohio, in her capacity as Liquidator (“the Liquidator”) of Credit General Indemnity Company (“Indemnity”), requests the Court for an Order approving the Release Agreement entered into by and between Indemnity and the United States (“Release Agreement”). A copy of the Release Agreement is attached and incorporated by reference as Exhibit 1. A Memorandum in Support is attached.

Respectfully submitted,

MIKE DEWINE  
Attorney General of Ohio

By Special Counsel:  
KOHRMAN, JACKSON & KRANTZ, PLL

/s/Valoria C. Hoover  
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*Attorneys for Mary Taylor, in her capacity as Liquidator of  
Credit General Indemnity Company*

**MEMORANDUM IN SUPPORT**

Plaintiff Mary Taylor, Superintendent of Insurance, State of Ohio, in her capacity as Liquidator (“the Liquidator”) of Credit General Indemnity Company (“Indemnity”) requests the Court for an Order approving the Release Agreement entered into by and between Indemnity and the United States. A copy of the Release Agreement is attached as Exhibit 1. The Release Agreement releases and discharges the Liquidator and the estate of Indemnity from and any all liability under 31 U.S.C. § 3713(b) in connection with the Indemnity liquidation, subject to the terms and conditions contained therein.

On December 12, 2000, this Court issued an order placing Indemnity in liquidation pursuant to Chapter 3903 of the Ohio Revised Code and appointing the Ohio Superintendent of Insurance as its Liquidator. Since then, the Liquidator has reviewed the books and records of Indemnity, has identified and collected, where reasonable, all known assets of Indemnity, and has reviewed, valued and classified all timely proofs of claims filed against the Indemnity estate.

Ohio Revised Code § 3903.42 governs the priority of the distribution of claims from an insurer’s estate. Under the statute,

The priority of distribution of claims from the insurer’s estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds retained for such payment before the members of the next class receive any payment.

Among the various classes of claims established under R.C. § 3903.42, “Class 3” claims are limited to claims of the federal government. *See* OHIO REV. CODE ANN. § 3903.42(C) (2009). In the case of the estate of Indemnity, there was one proof of claim filed by the federal government, which was a “US Gov’t Blanket claim” filed by the United States Department of Justice.

To facilitate closure of the Indemnity estate, the Liquidator of Indemnity has entered into a Release Agreement with the United States, a copy of which is attached as Exhibit 1. The release is expressly conditioned upon the approval of this Court. The Release Agreement

provides for a release of the Liquidator and the Indemnity estate from any and all liability under § 31 U.S.C. 3713(b), subject to the terms and conditions therein.

Therefore, the Liquidator of Indemnity requests the Court for an Order approving the Release Agreement entered into by and between Credit General Indemnity Company in Liquidation and the United States.

Respectfully submitted,

MIKE DEWINE  
Attorney General of Ohio

By Special Counsel:  
KOHMAN, JACKSON & KRANTZ, PLL

/s/Valoria C. Hoover

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*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 *Motion of the Liquidator for Approval of the Release Agreement Entered into between Credit General Indemnity Company, in Liquidation and the United States* was served upon the following via Regular U.S. Mail, postage prepaid, and was also sent via email to [Sharon.Williams@usdoj.gov](mailto:Sharon.Williams@usdoj.gov), on this 30th day of July, 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*

The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion for Approval of the Liquidator's Periodic Accounting* was posted on the Liquidator's website ([www.ohliq.com](http://www.ohliq.com)) substantially contemporaneous with the filing of this *Motion*. The undersigned hereby certifies that a true and accurate copy of the foregoing *Motion* was emailed to the persons on the attached Credit General Indemnity Company Courtesy Copy E-Mail List and served upon the following via Regular Mail, postage prepaid, on this 30th day of July, 2013:

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	<a href="mailto:dlevitt@hinshawlaw.com"><u>dlevitt@hinshawlaw.com</u></a>
Michael E. Surguine	<a href="mailto:msurguine@azinsurance.gov"><u>msurguine@azinsurance.gov</u></a>
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Steve A. Uhrynowycz	<a href="mailto:steve.uhrynowycz@arkansas.gov"><u>steve.uhrynowycz@arkansas.gov</u></a>
Robert C. Mitchell	<a href="mailto:rmitchell@vorys.com"><u>rmitchell@vorys.com</u></a>
Matthew M. Daiker	<a href="mailto:mmdaiker@vorys.com"><u>mmdaiker@vorys.com</u></a>

## **RELEASE AGREEMENT**

In order to permit a distribution of the assets of the estate of Credit General Indemnity Company (“CGIND”), pursuant to the orders of the Court of Common Pleas of Franklin County, Ohio (“Court”), this Release Agreement is being executed by the United States and Lynda G. Loomis, Chief Deputy Liquidator of CGIND (“Chief Deputy”).

### **I. PARTIES**

The parties to this Release Agreement are the United States and the Chief Deputy (collectively, the “Parties”).

### **II. RECITALS**

1. The Parties do not intend this Release Agreement to release any possible claims the United States may have or may acquire against anyone for tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, reimbursement liabilities and penalties arising under 42 U.S.C. § 1395y(b), or claims the United States may have or may acquire against Credit General Insurance Company.

2. Except for the express terms of this Release Agreement, the Parties do not intend to create, enhance, diminish, defeat or otherwise affect such claims, if any, as the United States may have against the Chief Deputy or the CGIND estate.

3. The Parties understand that this Release Agreement may be subject to the approval of the Court, which is supervising the liquidation of CGIND.

4. The United States enters into this Release Agreement in reliance upon the representations of the Chief Deputy contained in her affidavit dated April 27, 2012, attached as Exhibit A to this Release Agreement (“Affidavit”).

### III. AGREEMENT

1. Except only for possible federal tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, or reimbursement liabilities and penalties arising under 42 U.S.C. § 1395y(b), the United States hereby releases and discharges the Chief Deputy and the estate of CGIND from any and all liability under 31 U.S.C. § 3713(b) in connection with the CGIND liquidation.

2. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of CGIND'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, as shall be reasonably necessary to determine the existence and amount of claims the United States may have against the CGIND estate, or to determine the Chief Deputy's compliance with the terms of this Release Agreement. No documents, books, or records of the estate or Chief Deputy may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of the destruction. If the Chief Deputy does not request approval from the Court, she must obtain prior written authorization from the United States before destruction of any documents, books, or records of the estate or Chief Deputy.

3. Except for the express undertakings of the Chief Deputy and the United States in this Release Agreement, nothing in this Release Agreement shall be construed

(a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;

(b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;

(c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Chief Deputy; or

(d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Chief Deputy.

4. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court, if approval is required, and the time for appeals of any such approval has expired. The Parties further agree to cooperate with each other in seeking prompt approval of this Release Agreement from the Court, including but not limited to making the necessary witnesses available for testimony considered necessary or appropriate to provide the Court with an adequate record upon which to approve this Release Agreement.

Dated: 7/18/13

Sharon C. Williams  
By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice

Dated: June 27, 2013

Lynda G. Loomis  
By: Lynda G. Loomis  
Chief Deputy Liquidator  
Credit General Indemnity Company

*Office of the Ohio Insurance Liquidator***Credit General Indemnity Company****(In Liquidation)**

Mary Taylor, *Liquidator*  
50 W. Town St., Ste. 350  
Columbus, OH 43215

Telephone: 614.487.9200  
Fax: 614.487.9418

**AFFIDAVIT OF CHIEF DEPUTY LIQUIDATOR**

April 27, 2012

I, Lynda G. Loomis, in my capacity as Chief Deputy Liquidator of Credit General Indemnity Company, having been so appointed by the Superintendent of the Ohio Department of Insurance in her capacity as Liquidator of Credit General Indemnity Company, upon personal knowledge and information known to me or supplied to me by others upon whom I rely in my capacity as Chief Deputy Liquidator, make the following statement under oath:

1. Credit General Indemnity Company (referred to as "CGIND" or "the company") is an Ohio domiciled insurance company. The Ohio Secretary of State's records show the date of incorporation as June 22, 1992. The company's statutory annual statement for the year ending December 31, 1999 states that September 15, 1992 is the date of incorporation. CGIND was originally formed as a Texas domiciled property and casualty insurance company named Credit General Insurance Company of Texas. CGIND commenced business on January 4, 1993. CGIND operated as a Texas domiciled property and casualty insurance company using the name Credit General Insurance Company of Texas until November 8, 1994, when it changed its name to The General Auto Insurance Company of Texas and/or The General Auto Company. On September 30, 1995, the company re-domesticated to Ohio as The General Auto Insurance Company. On April 17, 1997, the company filed amended articles of incorporation with the Ohio Secretary of State changing its name to Credit General Indemnity Company.
2. On November 6, 2000, the Ohio Superintendent of Insurance filed a complaint for rehabilitation against CGIND in the Court of Common Pleas of Franklin County, Ohio pursuant to Ohio Revised Code Chapter 3903. The Court entered a Rehabilitation Order on November 6, 2000 in Case No. 00 CVH11-9867. The Ohio Superintendent of Insurance was appointed as Rehabilitator. On December 12, 2000, the Court of Common Pleas of Franklin County, Ohio, entered a Liquidation Order with a finding of insolvency against CGIND in Case No. 00 CVH11-9867. The Ohio Superintendent of Insurance was appointed as its Liquidator pursuant to Ohio Revised Code Chapter 3903. All of CGIND's insurance policies and bonds were ordered cancelled no later than 12:01 a.m. on January 11, 2001. A copy of the CGIND Liquidation Order is attached as Exhibit A and hereby incorporated by reference into this Affidavit.
3. At the time of its liquidation, CGIND was authorized to transact insurance business, operating under Ohio Revised Code Chapter 3929.

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4. At the time of its liquidation, CGIND was licensed to do business in California and Texas.
5. According to the Liquidator's records, at the time of its liquidation CGIND wrote inland marine, workers' compensation, commercial auto liability, auto physical damage and surety (on federally funded projects) lines of business.
6. The Liquidator's records show that CGIND issued surety bonds and insurance policies, but they do not show whether any of them were for the benefit of the United States.
7. Bond claims are subject to the notice requirements and suit limitations in the applicable Miller Acts.
8. CGIND's federal tax identification number is 74-2641633. There are no outstanding IRS claims against CGIND.
9. At the time of its liquidation, CGIND did not have any subsidiaries. CGIND was a subsidiary of Credit General Insurance Company (referred to as "CGIC"). CGIND and CGIC were part of an insurance holding company system. CGIND was wholly owned by CGIC. CGIC's stock was wholly-owned by PRS Insurance Group, Inc., formerly known as The Phoenix Insurance Group, Inc. (federal tax identification number 34-1664530), which was a Delaware holding company incorporated in the State of Delaware. PRS Insurance Group, Inc. and its subsidiaries, PRS Captive Investment Fund; PRS Management Group, Inc.; PRS Surety Bond Agency, Inc.; PRS Enterprises, Inc.; PRS Enterprises Insurance Services, Inc.; PRS Benefits Services, Inc.; PRS Management Services, Inc.; Enterprise Group Insurance Company, Ltd.; PRS Insurance Holdings (Barbados) Ltd.; PRS Guaranty Insurance Limited and Brookwell Insurance Companies (collectively the "PRS Entities"), are debtors in jointly administered Chapter 11 federal bankruptcy cases in the United States Bankruptcy Court for the District of Delaware captioned, *In re PRS Insurance Group*, Case No. 00-4070-MFW. Another subsidiary PRS Finance Corporation was dissolved January 13, 1998, prior to the PRS bankruptcy. CGIND and CGIC are not included as debtors in the PRS and PRS Entities bankruptcy proceedings.
10. After its liquidation, CGIND filed separate federal income tax returns direct with the Internal Revenue Service. As of the date of this affidavit, CGIND's individual returns for tax years 2000 through 2008 have been filed with the IRS. CGIND's individual returns for 2009 through 2011 are being prepared by the Liquidator's outside accountants for filing with the IRS.
11. For tax year 1994 through tax year 2007, PRS Insurance Group, Inc. filed consolidated federal income tax returns that included CGIND and CGIC, along with the PRS Entities. As of the date of this affidavit, CGIND's and CGIC's 2008 returns have been forwarded to PRS to be filed with the PRS consolidated return.

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12. Following CGIND's and CGIC's liquidation, the IRS audited the PRS consolidated returns for tax years 1995 through 1999, including amended returns, and proposed adjustments that resulted in assessments of additional taxes, penalties and interest due for 1995, 1996 and 1997 tax years. These assessments were appealed by the Liquidator of CGIND and CGIC and also by the PRS Bankruptcy Trustee. In 2006, the assessments were finally resolved resulting in an overall refund to the PRS Group, which included CGIND and CGIC. A *Closing Agreement on Final Determination Covering Specific Matters* between and among PRS Insurance Group, Inc., CGIND, CGIC and the Commissioner of the Internal Revenue for the tax years ended December 31, 1994 through December 31, 2001, attached as Exhibit B, reflects the parties' agreement as to the filing of returns and the handling of the tax liabilities and refunds for the 1994 through 2001 tax years. The *Closing Agreement* refers to a separate *Agreement Regarding Allocation of Income Tax Refunds* entered into on August 16, 2004, attached as Exhibit C, between the PRS Bankruptcy Trustee and the Liquidator of CGIND and CGIC concerning the allocation of both tax refunds and costs between the entities in connection with the federal income tax issues and the resolution of disputes related thereto.
13. At the time of its liquidation, CGIND's statutory home office was located at 3201 Enterprise Parkway, Suite 300, Beachwood, Ohio 44122. At the time of its liquidation, the primary location of CGIND's books and records was 3201 Enterprise Parkway, Suite 300 Beachwood, Ohio 44122.
14. CGIND's and the Ohio Secretary of State's records reflect that at various points in time, the precise time frames of which are unknown to me, CGIND had office locations in Irving, Texas; other cities in Texas that are unknown to me; Cleveland, Ohio; and Beachwood, Ohio. The Ohio Secretary of State's records identify the following addresses where the company may have had offices at various points in time, the precise time frames of which are unknown to me:  
  
709 Brookpark Road, Cleveland, Ohio 44109  
3201 Enterprise Parkway, Suite 310, Beachwood, Ohio 44122
15. At the time of the CGIND Liquidation Order, a policy was in effect whereby proof of claim forms were issued to all persons who were reflected on the company's books and records as policyholders and claimants or potential at any between the date of the Liquidation Order and the date that is three years prior to the Liquidation Order, even if the claim was a closed claim. The Liquidator also as a matter of course issues proof of claim forms in all liquidations to the United States Department of Justice and the Internal Revenue Service. Thus, issuance of a proof of claim does not necessarily mean there was or is a post-liquidation claim. For purposes of this affidavit, the Liquidator did not examine claim files that were closed pre-liquidation.
16. The CGIND Liquidator issued proof of claim forms ("POCs") to the four (4) federal agencies identified on Exhibit D, which is the Log of "CREDIT GENERAL

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INDEMNITY CO IN LIQUIDATION POTENTIAL FEDERAL GOVERNMENT CLAIMS" maintained in the course of the liquidation proceeding by the Liquidator's Claims staff. These federal agencies are:

Department of the Navy  
Internal Revenue Service  
US Department of Justice  
US Attorney Southern District of Ohio

These federal agencies' names and addresses are also located in the claims list for CGIC attached as Exhibit E and discussed in paragraph 33, below.

17. Only one (1) proof of claim was returned for filing in the CGIND liquidation proceedings. The United States Department of Justice filed POC 99009729 as a "blanket" proof of claim on January 30, 2002.
18. Prior to its liquidation, CGIND had in-house systems used to track certain property & casualty and bond claims. CGIND insured a number of programs that were produced, underwritten and managed by outside managing general agents and affiliates (the "Agents"). CGIND relied on the Agents' systems rather than establishing its own in-house systems to track the claims involved as the Agents also handled the claims for CGIND on the programs. Similarly, CGIND relied on various third party administrators, or TPAs, to handle all of its workers' compensation claims administration and thus did not maintain an in-house workers' compensation claim system. As a result, CGIND's claims records were very incomplete at the time of CGIND's liquidation and when the Liquidator took possession of the company and its records.
19. The Liquidator's staff obtained and exported as much claims information as possible from CGIND's legacy systems, and from CGIND's agents and TPAs. The Liquidator also obtained claims information from the various insurance guaranty associations handling CGIND claims against after its liquidation and from claimants who timely filed proofs of claim in the CGIND liquidation proceeding. The Liquidator converted the data gathered into the Liquidator's own usable electronic claims administration system for purposes of effectuating the statutory requirements of liquidation, which include the duties of evaluating claims to determine the liabilities of the Estate, and distributing assets to the claimants of the Estate in accordance with the Ohio Insurance Liquidation Statutes. The Liquidator has used the data gathered during the CGIND liquidation proceeding to attempt to identify here those open claims that are potential federal claims.
20. Based upon a review of CGIND's s pre-liquidation records of claims that were open as of the time of the Liquidation Order and records in the CGIND liquidation case, the Liquidator has identified the claims listed below as claims with potential federal involvement that were unresolved at the time of Liquidation or as claims that were asserted post-Liquidation that have potential federal government involvement.

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Claim No. 114280. This is a Commercial Auto liability claim. The insured driver rear-ended the claimant. The claimant was treated at the Naval Hospital ER in San Diego, as the spouse of a service person. The total medical bill was \$143.00. The Navy sent the bill to CGIND and CGIND paid it pre-liquidation. After liquidation, the Navy returned the check to the Liquidator, asking that it be re-issued payable to the "Treasurer of the United States" and not the Department of the Navy (as issued by CGIND). The Liquidator is not permitted to honor such requests. The Liquidator therefore forwarded the claim and re-issue request to the California Insurance Guarantee Association, which denied the Navy's claim.

B. U.S. Attorney Southern District of Ohio

On June 25, 2003, the United States indicted Robert J. Lucia, the president and ultimate owner of CGIND, CGIC and PRS Insurance Group, for various crimes (bank fraud, money laundering false income tax returns) arising out of his use of bank accounts bearing PRS Insurance Group tax I.D. numbers in a case captioned, *United States of America v. Robert J. Lucia*, Case No. 1:03CR244 (S.D. Ohio). A plea agreement was entered on December 3, 2003. The Liquidator is not aware of any claim the United States has against CGIND as a result of this case, but I believe this case is probably the reason a proof of claim form was mailed to the United States Attorney for the Southern District of Ohio.

21. There are no environmental claims against CGIND.
22. Prior to its liquidation, CGIND issued policies that included coverage for tort liability. All such policies were canceled no later than January 11, 2001.
23. CGIND issued workers' compensation policies to businesses that included coverage for medical expenses to the extent those expenses are compensable under applicable workers' compensation laws. All such policies were canceled no later than January 11, 2001.
24. CGIND did not issue group health policies or operate any group health plans. Therefore, the provisions of 42 U.S.C. Section 1395y(b)(7) (required submission of information by group health plans) do not apply to the CGIND Liquidator.
25. The Liquidation Order triggered the various state guaranty funds and they took over the handling of open and newly reported claims involving CGIND policies.
26. The vast majority of claims arising under CGIND policies are workers' compensation claims, which have unlimited, 100% coverage afforded by the various guaranty associations. Coverage for general liability claims arising under CGIND policies and

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bond claims is limited by the various state insurance guaranty association statutes. The CGIC Liquidation Estate is exposed only for settlements, judgments, and awards in amounts above the guaranty association coverage limit and non-covered claims under the guaranty association statutes and within the CGIND policy limits and submitted on a timely proof of claim.

27. In general, except as stated in paragraph 26 above, post-liquidation payments on CGIND covered claims are made by the insurance guaranty associations of the states in which CGIND was licensed to conduct insurance business. Guaranty associations have the responsibility to report claims payments they make to the extent required by 42 U.S.C. 1395y(b)(8). With regard to those claims which were paid in full by the guaranty associations, neither CGIND nor the Liquidator are Responsible Reporting Entities ("RREs") required to report pursuant to 42 U.S.C. 1395y(b)(8). For this reason, the Liquidator has not undertaken any procedures to ascertain whether payments made by guaranty associations related to items or services paid for by Medicare. Such procedures are the responsibility of the guaranty associations, as the RRE. Coverage for general liability claims arising under CGIND policies and bond claims was limited by the various state guaranty association statutes. The CGIND Liquidation Estate is exposed only for settlements, judgments, and awards in amounts above the guaranty association coverage limit and within the policy limit and submitted on a timely proof of claim.
28. Post liquidation, the Liquidator pays claims arising under those policies prior to policy cancellation only to the extent there are assets sufficient to pay the claim in whole or in part and only to the extent the claim is also an allowed proof of claim in the CGIND liquidation case that has not been paid in full by an insurance guaranty association. Liquidator payments, if any, on these claims are referred to as distributions in the CGIC Liquidation Case and are made pursuant to Ohio Revised Code Section 3903.42 and Court Order in the Liquidation Case. The Liquidator has not made any distributions to allowed claimants (other than statutorily mandated early access payments to guaranty funds) against the CGIND Liquidation Estate.
29. On proofs of claims arising under CGIND policies, the claims were incurred more than a decade before the time that there was a requirement of Medicare reporting. As a result, neither CGIND nor the Liquidator had a system in place for determining Medicare eligibility at that time.
30. The Liquidator will fully comply on behalf of the CGIND Liquidation Estate with all reporting requirements of 42 U.S.C. § 1395y(b)(7) and (8), and all program instructions issued thereunder (presently found at <http://www.cms.gov/MandatoryInsRep/>) by reporting reportable TPOCs pursuant to the TPOC Amounts, TPOC Dates (distribution dates) and Reporting Timelines and thresholds set forth in the CMS Alert dated September 30, 2011 or any amendments thereto.
  - (a) The Liquidator reviews allowed proofs of claims or portions of proofs of claims arising under CGIND policies that are not covered (paid) in full by applicable

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insurance guaranty associations and therefore may receive a partial distribution from the Liquidator. The purpose of the review is to determine whether the claimant (payee) is an individual; whether the individual was 65 years or older at the time of the incident that forms the basis of the claim against the CGIND Liquidation Estate; whether the claimant was disabled or otherwise entitled to Medicare benefits at the time of the incident that forms the basis of the claim against the CGIND Liquidation Estate; and, whether the claim otherwise qualifies for Medicare reporting (*e.g.*, involves medical care or bodily injury). If the review of the allowed proof of claim shows that the payee does not fit any of the above criteria, there is no further action taken.

- (b) The Liquidator has not yet completed her adjudication of all Class 2 claims. As of the time of this affidavit, the Liquidator's Claims Department has identified only twenty six (26) allowed Class 2 proofs of claims or portions of proofs of claims fully adjudicated to date that arise under CGIND policies or bonds that have a value in excess of zero dollars and that are not covered (paid) in full by applicable insurance guaranty associations. The assets of the CGIND liquidation estate are insufficient to pay these claims in full. The amount of any future pro-rata distribution is unknown at this time. An examination of these proofs of claims shows:
- (i) Not one of them is for a coverage date of October 1, 2010 or subsequent. All of these claims are for coverage dates prior to February 4, 2001.
  - (ii) Only two (2) of the twenty six (26) proofs of claims are claims where the claimant is an individual. Of these two (2) claims, which may be cross-referenced with the CGIND claims list at Exhibit E,
    - (a) POC 04000438 is a claim for reimbursement of collision damage paid directly by the claimant. The claim does not involve personal injury or medical expense. Thus, any partial payment the Liquidator may make on these claims will not include payment of medical expenses paid conditionally by Medicare. Therefore, the Liquidator will not report any distribution she makes on the above-described claims through the DDE method.
    - (b) POC 42008376 is a wrongful death claim that the Texas Property & Casualty Association returned to the Liquidator after it paid its \$300,000 statutory cap on the claim. The claimant is an administrator of an 80-year old decedent's estate who obtained a pre-liquidation \$10.5 million judgment against two CGIC insureds in a nursing home negligence case. The judgment is secured in part by a \$1,187,471.80 supersedeas bond issued by CGIND. The proof of claim against the bond is valued at \$887,471.80 in the CGIND liquidation. The Liquidator will report any distribution she makes on this claim through

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the DDE method if DDE shows at the time the Liquidator makes a partial distribution payment that the decedent was a Medicare beneficiary. Unless CMS directs otherwise under applicable regulations, the Liquidator does not intend to attempt to identify and locate the beneficiaries of the decedent's estate for purposes of running their names or the administrator's name through DDE in the event assets are sufficient to make a partial distribution on this claim. On May 22, 2001, the estate administrator's counsel represented to the Texas Property & Casualty Association that there were no Medicare liens on the claim.

- (c) The Liquidator registered the CGIND Liquidation Estate as a Responsible Reporting Entity (RRE) with the Centers for Medicare & Medicaid Services ("CMS"). The CGIND Liquidation Estate is registered to report through the Direct Data Entry ("DDE") method. The Liquidator will not report through DDE until she makes a court-approved distribution in the CGIC Liquidation Case to Class 2 claimants whose claims are not covered (paid) in full by a guaranty association. The Liquidator does not expect to make distributions, if any, to Class 2 claimants whose claims are not covered (paid) in full by a guaranty association until 2013 or later.
- (d) After identifying claimants that fit the criteria in (a) and after receiving a court order approving a distribution, the Liquidator's procedure is to run the individual payee's name and federal identification number through DDE as the means of verifying whether the claimant is a Medicare recipient, and then report her distributions, if any, to those claimants on DDE. To the extent a distribution does not fully satisfy the claim against the CGIND Liquidation Estate (is a distribution less than 100% of the amount of the allowed proof of claim), the amount reported on DDE is the amount paid. Any additional distributions are likewise reported when made as additional TPOC amount.
31. There are no open ancillary receiverships for CGIND.
32. As of the date of this affidavit, CGIND does not have any special deposits.
33. The claims list for CGIND has been downloaded into a CD, a copy of which is provided with this Affidavit as Exhibit E, and hereby incorporated by reference into this Affidavit. The enclosed CD contains an excel spreadsheet listing of all Proofs of Claim issued by the Liquidator to persons who might have held a claim against CGIND. Column A contains the Liquidator Number assigned to the POC issued, Column B contains the sequence number for the claim; Column C indicates the date that the POC was returned for filing in the CGIND case (where it is blank, it means the POC was not returned and, thus, there is no claim); Columns D and E contain name information; Column F, G, H, I, J and K contain address information.

Office of the Ohio Insurance Liquidator

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(In Liquidation)

34. A copy of the most recent Liquidator's financial statement and a copy of the last tax return for CGIND are attached hereto as Exhibits F and G and are hereby incorporated by reference into this Affidavit.

The information contained in this affidavit is accurate and complete to the best of my knowledge.

  
Lynda G. Loomis  
Chief Deputy Liquidator  
Credit General Indemnity Company, In Liquidation

State of Ohio )  
County of Franklin ) SS

Lynda G. Loomis, Chief Deputy Liquidator, personally appeared before me and subscribed the foregoing Affidavit in my presence on this 27 day of April, 2012.

  
Notary Public

BARBARA J. FARRINGTON, ATTORNEY  
NOTARY PUBLIC - STATE OF OHIO  
My commission has no expiration date  
Section 147.03 R.C.