

1 EXPEDITE
2 No Hearing is Set
The Honorable Judge Gary Tabor

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7 **STATE OF WASHINGTON**
THURSTON COUNTY SUPERIOR COURT

8 MIKE KREIDLER,
9 INSURANCE COMMISSIONER,

10 Petitioner,

11 v.

12 CASCADE NATIONAL INSURANCE
13 COMPANY,

14 Respondent.

NO. 04-2-02427-4

**THIRTEENTH QUARTERLY
REPORT OF RECEIVER**

15 Mike Kreidler, Insurance Commissioner of the State of Washington and Statutory
16 Receiver of Cascade National Insurance Company in Liquidation ("Cascade" or "CNIC"),
17 James T. Odiome, Deputy Insurance Commissioner and Court-appointed Receiver of Cascade,
18 and Marshall McGinnis, court-appointed Deputy Receiver of Cascade (collectively the
19 "Receiver"), by and through their attorneys, Robert M. McKenna, Attorney General, and
20 Christina Gerstung Beusch, Assistant Attorney General, hereby submit the Thirteenth
21 Quarterly Report of Receiver pursuant to RCW 48.31.040(5), and state as follows:

22 1. *Order of Liquidation.* On November 4, 2005, this Court declared Cascade
23 insolvent and entered an Order of Liquidation and Approval of Plan of Liquidation ("Order of
24 Liquidation" or "Order") pursuant to Chapters 48.31 and 48.99 RCW.

25 2. *Accounting to the Court.* In accordance with the Order of Liquidation, the
26 Receiver shall file a report with the Court quarterly. In order to ensure that the reports have the

1 most recent financial information, the reports will be filed after the accounts from the prior
2 month are closed. The estimated filing dates for the reports are: February 15, May 15, August
3 15, and November 15.

4 3. *Financial Report.* Attached hereto as Exhibits A, B and C are Cascade's
5 January 31, 2009 Balance Sheet, and Statement of Receipts and Disbursements, and its
6 Supplemental Claims Information as of December 31, 2008. The financial figures are derived
7 from calculations made in accordance with the Receiver's Handbook for Insurance Company
8 Insolvencies published by the National Association of Insurance Commissioners ("NAIC").

9 The enclosed financial statements have been prepared from available information.
10 Certain assets and liabilities are estimates. Assets with uncertain realizable value have not
11 been included. Additional assets resulting from legal and/or collection efforts may be recorded
12 in the future when realized. The review of incoming claims is an ongoing process. The
13 estate's largest creditors are various Insurance Guaranty Associations. Current known Class 2
14 (Loss Claims) liabilities of \$34,098,344 are estimated primarily based on the October 31, 2005
15 loss reserves for automobile claims transferred to the Guaranty Associations and updated paid
16 losses and loss reserves for Workers Compensation claims as of June 30, 2008. Since the
17 Guaranty Associations are now handling the automobile claims, the usual and traditional
18 actuarial methodology for estimating loss reserves is not applicable. The Receiver has begun a
19 detailed review of each individual automobile claim for the purpose of developing a more
20 current estimate of ultimate losses on these claims.

21 As of January 31, 2009, known assets totaled \$23,667,506 with 49% in cash and short-
22 term investments. The estate's cash and short-term investment decreased significantly as a
23 result of early access distributions to the insurance guaranty associations totaling \$6 million.
24 Known liabilities totaled \$36,704,111 resulting in a deficiency of assets over liabilities of
25 approximately \$13,036,605. For the thirteen quarters ending January 31, 2009, exclusive of
26 the early access distribution of \$6 million, cash receipts exceeded cash disbursements by

1 \$362,533. Cash receipts were primarily from asset recovery efforts, collection of loss
2 recoverables from reinsurers, refund of state premium taxes and recovery of salvage and
3 subrogation on paid loss claims. Operating expenses continue to be well within amounts
4 budgeted by the Receiver. Based on electronic claims, data received from the guaranty
5 associations as of December 31, 2008, a total of \$12,865,403 of loss claims and allocated loss
6 adjustment expenses have been paid. See the Supplemental Claims Information, Exhibit C for
7 details.

8 4. *Proof of Claims.* In accordance with paragraph 3.5 of the Plan of Liquidation,
9 the Receiver issued Proof of Claim forms to all policyholders and other potential claimants.
10 All claimants had until March 4, 2006, to file a timely Proof of Claim form. Claims continue
11 to be reviewed. Some have been denied. The Receiver is seeking additional information from
12 some claimants. The Receiver anticipates that there may be some claims that will be rejected
13 in whole or part, which will be disputed by the claimant and will require a hearing for ultimate
14 resolution.

15 5. *Operations.* The Receiver received approval by the Court to cease all
16 operations of its subsidiary, MBR Corporation DBA Allied Pacific Adjusting Group
17 ("Allied"), effective April 14, 2006. All Allied assets were disposed of or sold, with all funds
18 received from the sale maintained in a separate account. The funds were subsequently
19 disbursed and documents to dissolve the corporation were filed with all appropriate
20 jurisdictions. All activities required to cease all operations of Allied have now been
21 completed.

22 6. *Marshalling Assets.* The Receiver completed a global reconciliation of
23 accounts current for its former general agents, Kenneth I. Tobey, Inc. and the Statewide
24 General Insurance Agency, and has billed them for closing amounts totaling over \$1 million.
25 Both general agents dispute the global reconciliations presented by the Receiver.
26

1 The Office of the Insurance Commissioner (“OIC”) initiated a license revocation action
2 against K.I. Tobey for failure to pay and mishandling of trust funds, and K.I. Tobey has
3 voluntarily accepted revocation. Settlement negotiations between OIC and K.I. Tobey failed,
4 and K.I. Tobey filed for bankruptcy in Atlanta, Georgia. A trustee was subsequently appointed
5 by the bankruptcy court. The Receiver is pursuing the claim in the bankruptcy court, but the
6 likelihood of recovery is unknown.

7 In an effort to marshal the assets of Cascade, the Receiver has initiated an adversarial
8 claim for wrongfully withheld premiums against Statewide General Insurance Agency and
9 Marcel Matar. This adversarial claim has been filed with the receivership court. Statewide has
10 been served, and its attorneys have filed notices of appearance. Despite Mr. Matar having
11 avoided service, Statewide’s attorneys have filed notices of appearance on behalf of Mr. Matar,
12 as well. An Answer was filed, after the Receiver filed a motion for default. Mr. Matar is
13 claiming lack of funds. The Receiver’s counsel requested information regarding the financial
14 status of Mr. Matar and his business in order to establish whether there are resources available
15 to repay Cascade. The information provided was limited and is not sufficient, particularly with
16 respect to the financial status of Mr. Matar, who personally guaranteed the obligation to
17 Cascade. It appears that Receiver’s counsel will have to propound discovery in order to obtain
18 additional information.

19 The Receiver is also pursuing amounts owed by Mainstay, one of Cascade’s workers’
20 compensation accounts in California, which include payment for premium, paid claims, and
21 reserves. Cascade has requested payment and information required under the policy with
22 Mainstay for Cascade to conduct a premium audit. Mainstay has not provided payment, but
23 has provided some audit information. Mainstay and Cascade are continuing to communicate
24 about these issues. Since the last report of the Receiver, it appears that some of the issues may
25 be close to being resolved.

1 The Receiver, through counsel, continues to pursue various legal avenues that could
2 result in recovery of assets to the receivership estate. The Receiver filed a complaint for
3 damages in the Superior Court of the State of Washington for King County, Cause No. 06-2-
4 13068-5-SEA, against various defendants, including Danny Pixler, Anthony Huff, American
5 Staff Resources of California, Inc., Certified Services, Inc., and Midwest Merger Management,
6 LLC. The complaint alleges that defendants failed to comply with the contract payment terms
7 and failed to fund reserves while Cascade's obligation to provide workers' compensation
8 coverage under the policies continued. Cascade's demands for compliance and payment went
9 unanswered. The lawsuit also alleges that Cascade was victimized in a deceptive purchase
10 scheme. The lawsuit seeks damages of \$18.7 million that arose from deceptive practices,
11 breaches and wrongful acts. This matter has been removed to the U.S. District Court for the
12 Western District of Washington, No. C06-697 RSL. The Defendants have argued various
13 motions and certain aspects of the discovery phase continue. Depositions have been
14 completed. A mediation meeting was held in Seattle on August 12, 2008 but was unsuccessful.
15 The trial date has been rescheduled from September 2008 to March 2009, and is now continued
16 until September 2009. In the meantime, the Receiver is awaiting the court's decision on his
17 motion for partial summary judgment and the defendants' cross-motion.

18 After filing suit against the Defendants, the Receiver learned that Certified HR
19 Services, a subsidiary of Defendant Certified Services, Inc. ("Certified Services"), had entered
20 into bankruptcy proceeding in the U.S. District Court, Southern District of Florida, Case No.
21 05-22912-BKC-RBR. The Receiver ultimately entered into an agreement with the bankruptcy
22 trustee and obtained a Court order establishing that none of Cascade's claims against the
23 Defendants in the Washington litigation were affected by the Florida bankruptcy action, and
24 preserving the possibility of recovery against the Certified HR Services. The Receiver has
25 subsequently filed a \$2 million dollar claim against the subsidiary. The Receiver cannot
26 anticipate when or if there will be any payment on the claim.

1 The Receiver had filed a civil action in King County Superior Court, No. 06-2-34413-
2 8-SEA, to recover damages for officer/director actions that harmed Cascade. A favorable
3 settlement has been reached and the action has been dismissed.

4 RESPECTFULLY SUBMITTED this 17th day of February, 2009.

5 
6 MARSHALL MCGINNIS
7 Deputy Receiver

8 Presented by:

9 ROBERT M. MCKENNA
10 Attorney General

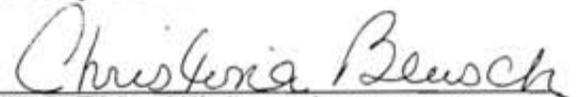
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12 CHRISTINA GERSTUNG BEUSCH
13 WSBA # 18226
14 Assistant Attorney General
15 Attorneys for the Insurance Commissioner
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EXHIBIT A

Cascade National Insurance Company in Liquidation
Balance Sheet
As of January 31, 2009

| | | 1/31/2009 | |
|---|-----|------------|---------------------|
| ASSETS | | | |
| Operating cash | | 284,251 | |
| ST investments | | 11,250,459 | |
| Cash & ST Investments | (1) | | 11,534,710 |
| | | | |
| Advances to Guaranty Associations | | 6,000,000 | |
| Reinsurance recoverable (net) | (2) | 6,124,241 | |
| Rental deposit | | 8,555 | |
| Total Other Assets | | | 12,132,796 |
| TOTAL ASSETS | (3) | | 23,667,506 |
| LIABILITIES | | | |
| Secured Claims | | - | |
| Class 1 | (4) | 2,396,351 | |
| Class 2 | (5) | 34,098,344 | |
| Class 3 | | - | |
| Class 4 | | - | |
| Class 5 | | 55,284 | |
| Class 6 | | 138,863 | |
| Class 7 | | 15,269 | |
| Class 8 | | - | |
| Class 9 | | - | |
| TOTAL LIABILITIES | | | 36,704,111 |
| | | | |
| Excess (Deficiency) of Assets Over Liabilities | | | (13,036,605) |
| | | | |
| TOTAL | | | 23,667,506 |

Note: The information contained in this report is prepared by the receiver from information available to, known or estimated by the receiver as of the date of the report. The receiver makes no warranty as to the accuracy of the information or of the opinions or evaluations contained in this report and expressly disclaims any liability arising from the statements of fact, evaluation or opinion contained in the report.

- (1) Cash & ST investments include \$435,608 of restricted state deposits.
- (2) Reinsurance recoverable includes \$6.1 million of ceded loss, loss adjustment expense and related incurred but not reported losses estimated for Company's automobile business.
- (3) Assets reported in this statement do not include all possible recoveries that may result from various legal and/or collection efforts.
- (4) The Class 1 Liability represents the remainder of the four-year operating expense budget for the receivership.
- (5) Auto loss reserves have not been updated since all open auto claims as of October 31, 2005 were transferred to the Guaranty Associations for settlement. The usual and traditional actuarial methodology for estimating auto loss reserves is not applicable since they are now being handled by the Guaranty Associations. The receiver has begun a detailed review of each individual auto claim for the purpose of developing a more current estimate of ultimate losses on these auto claims. For workers' compensation policies, the receivership, with the help of a consulting actuary, updated its Class 2 workers' compensation liabilities using paid losses and loss reserves data from the California Guaranty Association as of 6/30/08. Additionally, the Class 2 liabilities exclude \$2.7 million of reserves for reimbursable workers' compensation losses for which the receivership is currently holding a standby letter of credit.

EXHIBIT B

Cascade National Insurance Company in Liquidation
Statement of Receipts and Disbursements
Period Ending January 31, 2009

| | <u>3 Months</u> <u>Ending 1/31/09</u> | <u>Since Date of</u> <u>Liquidation</u> <u>Order</u> |
|---|--|--|
| RECEIPTS | | |
| Reinsurance recoveries | 224,480 | 2,065,729 |
| Agents balances | - | 142,718 |
| Salvage & subrogation recoveries | 4,501 | 295,588 |
| Recovery of taxes previously paid | - | 283,221 |
| Asset Recovery | - | 1,500,000 |
| Other receipts | 420 | 263,821 |
| Receipts Before Investment Activities | <u>229,401</u> | <u>4,551,077</u> |
| Investment receipts | 22,659 | 1,471,073 |
| Proceeds from sales & maturity | - | 613,000 |
| Receipts from Investment Activities | <u>22,659</u> | <u>2,084,073</u> |
| TOTAL CASH RECEIPTS | <u>252,059</u> | <u>6,635,150</u> |
| DISBURSEMENTS & DISTRIBUTIONS | | |
| Claims processing expenses | - | 506,948 |
| Legal fees | 194,461 | 1,691,390 |
| Audit fees | - | - |
| Consulting fees | 31,737 | 330,705 |
| Salaries | 168,904 | 1,443,353 |
| Employee benefits | 3,518 | 62,937 |
| Payroll & other taxes | 6,112 | 85,817 |
| Rent & related expenses | 9,926 | 133,670 |
| Equipment expenses | - | 109,224 |
| Office expenses | 11,867 | 104,906 |
| Other disbursements | 2,743 | 41,124 |
| Disbursements | <u>429,268</u> | <u>4,510,073</u> |
| Early Access Distributions | - | 6,000,000 |
| Disbursements Before Investment Activities | <u>429,268</u> | <u>10,510,073</u> |
| Investment Expenses | 1,220 | 9,136 |
| Purchase of Investments | 22,659 | 1,753,409 |
| Disbursements for Investment Activities | <u>23,879</u> | <u>1,762,545</u> |
| TOTAL CASH DISBURSEMENTS & DISTRIBUTIONS | <u>453,147</u> | <u>12,272,618</u> |
| Net Cash Receipts over/(under) Disbursements | <u>(201,088)</u> | <u>(5,637,468)</u> |
| Cash at beginning of period | 283,698 | 773,413 |
| Net Cash Receipts over/(under) Disbursements | (201,088) | (5,637,467) |
| Cash transferred from/(to) ST investment | 201,641 | 5,148,306 |
| Cash at end of period | <u>284,251</u> | <u>284,251</u> |

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EXHIBIT C

**Cascade National Insurance Company in Liquidation
Supplemental Claims Information
Claims and Adjusting Expenses Paid by Insurance Guaranty Funds
As of December 31, 2008**

| | Auto | Workers Compensation | Total |
|------------|------------------|-------------------------|-------------------|
| Alaska | 736,026 | - | 736,026 |
| California | 677,850 | 7,989,604 | 8,667,454 |
| Oregon | 959,243 | - | 959,243 |
| Washington | 2,502,680 | - | 2,502,680 |
| | <u>4,875,799</u> | <u>7,989,604</u> | <u>12,865,403</u> |

Notes:

- The above amounts do not include reserves established by the insurance guaranty associations for outstanding claims nor the estate's residual liabilities on these claims.

Cascade National Insurance Company in Liquidation
Supplemental Claims Information
Claim Counts by Loss Event
As of September 30, 2008

| | Auto (1) | | Workers Compensation | | Total | |
|------------|--------------------|---------------|-----------------------------|---------------|--------------------|---------------|
| | Transferred to IGF | Closed by IGF | Transferred to IGF | Closed by IGF | Transferred to IGF | Closed by IGF |
| Alaska | 6 | 5 | - | - | 6 | 5 |
| California | 186 | 173 | 364 | 237 | 550 | 410 |
| Oregon | 60 | 57 | - | - | 60 | 57 |
| Washington | 170 | 140 | - | - | 170 | 140 |
| | <u>422</u> | <u>375</u> | <u>364</u> | <u>237</u> | <u>786</u> | <u>612</u> |

Note:

- (1) A substantial number of closed auto claims are claims closed by the insurance guaranty associations without loss payment. These claims may have been settled by the claimants' own insurance carrier. As a result, these insurance carriers may have recovery rights against the estate of Cascade. It is not possible to estimate the number or amount of these subrogation claims against the estate at this time.

