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NOV 18 2009

**INSURANCE COMMISSIONER
COMPANY SUPERVISION**

1 EXPEDITE
2 No Hearing is Set
3 The Honorable Judge Thomas McPhee
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7 **STATE OF WASHINGTON**
8 **THURSTON COUNTY SUPERIOR COURT**

9 MIKE KREIDLER,
10 INSURANCE COMMISSIONER,
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Petitioner,

NO. 04-2-02427-4

**SIXTEENTH QUARTERLY
REPORT OF RECEIVER**

v.

CASCADE NATIONAL INSURANCE
COMPANY,
Respondent.

Mike Kreidler, Insurance Commissioner of the State of Washington and Statutory Receiver of Cascade National Insurance Company in Liquidation ("Cascade" or "CNIC"), James T. Odiorne, Deputy Insurance Commissioner and Court-appointed Receiver of Cascade, and Marshall McGinnis, court-appointed Deputy Receiver of Cascade (collectively the "Receiver"), by and through their attorneys, Robert M. McKenna, Attorney General, and Heather L. Polz, Assistant Attorney General, hereby submit the Sixteenth Quarterly Report of Receiver pursuant to RCW 48.31.040(5), and state as follows:

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

2. *Accounting to the Court.* In accordance with the Order of Liquidation, the 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 October 31, 2009 Balance Sheet, and Statement of Receipts and Disbursements, and its
6 Supplemental Claims Information as of September 30, 2009. 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 \$29,049,812 are calculated based upon the Receiver's best estimate
15 of outstanding loss and loss adjustment expense reserves for automobile claims as of the
16 review completed for closed files returned to Cascade as of the end of 2008, and estimated
17 Workers Compensation claims based on the most current actuarial study performed using
18 claims data as of June 30, 2009. Since the Guaranty Associations are now handling the
19 automobile claims, the usual and traditional actuarial methodology for estimating loss reserves
20 is not applicable. The Receiver completed a detailed review of each individual automobile
21 claim closed and returned to Cascade by all Guaranty Associations as of the end of 2008.
22 Based upon that review of closed claims and known outstanding claims, the Receiver has
23 adjusted Class 2 automobile claims liabilities to reflect the Receiver's best estimate of those
24 liabilities going forward. Note that this adjustment includes a corresponding reduction in
25 applicable reinsurance recoverable, a Balance Sheet asset. In this review process, the Receiver
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1 also re-categorized estimated Insurance Guaranty Association unallocated loss adjustment
2 expenses as Class 1 Liabilities. Due to significant continuing adverse development noted in
3 the paid and case reserves of the California Workers Compensation business, the Receiver
4 commissioned an update to the Workers Compensation independent actuarial study using the
5 latest available claims data as of June 30, 2009. The result of the study confirms continuing
6 deterioration of Cascade's California Workers Compensation business.

7 As of October 31, 2009, known assets totaled \$19,672,571 with 57% in cash and short-
8 term investments. The estate's cash and short-term investment decreased significantly as a
9 result of early access distributions to the insurance guaranty associations totaling \$6 million.
10 Known liabilities totaled \$35,538,182 resulting in a deficiency of assets over liabilities of
11 \$15,865,612. For the sixteen quarters ending October 31, 2009, exclusive of the early access
12 distribution of \$6 million, cash receipts exceeded cash disbursements by \$259,717. Cash
13 receipts were primarily from asset recovery efforts, collection of loss recoverable from
14 reinsurers, refund of state premium taxes and recovery of salvage and subrogation on paid loss
15 claims. Operating expenses continue to be well within amounts budgeted by the Receiver.
16 Based on electronic claims data received from the guaranty associations as of September 30,
17 2009, a total of \$14,094,657 of loss claims and allocated loss adjustment expenses have been
18 paid. *See* the Supplemental Claims Information, Exhibit C for details.

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

1 5. *Operations.* The Receiver received approval by the Court to cease all
2 operations of its subsidiary, MBR Corporation DBA Allied Pacific Adjusting Group
3 (“Allied”), effective April 14, 2006. All Allied assets were disposed of or sold, with all funds
4 received from the sale maintained in a separate account. The funds were subsequently
5 disbursed and documents to dissolve the corporation were filed with all appropriate
6 jurisdictions. All activities required to cease all operations of Allied have now been
7 completed.

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

12 The Office of the Insurance Commissioner (“OIC”) initiated a license revocation action
13 against K.I. Tobey for failure to pay and mishandling of trust funds, and K.I. Tobey has
14 voluntarily accepted revocation. Settlement negotiations between OIC and K.I. Tobey failed,
15 and K.I. Tobey filed for bankruptcy in Atlanta, Georgia. A trustee was subsequently appointed
16 by the bankruptcy court. The Receiver is pursuing the claim in the bankruptcy court, but the
17 likelihood of recovery is unknown. On October 23, 2009, the case was converted from
18 Chapter 11 to Chapter 7.

19 In an effort to marshal the assets of Cascade, the Receiver has initiated an adversarial
20 claim for wrongfully withheld premiums against Statewide General Insurance Agency and
21 Marcel Matar. This adversarial claim has been filed with the receivership court. Statewide has
22 been served, and its attorneys have filed notices of appearance. Despite Mr. Matar having
23 avoided service, Statewide’s attorneys have filed notices of appearance on behalf of Mr. Matar,
24 as well. An Answer was filed, after the Receiver filed a motion for default. Mr. Matar is
25 claiming lack of funds. The Receiver’s counsel requested information regarding the financial
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1 status of Mr. Matar and his business in order to establish whether there are resources available
2 to repay Cascade. The information provided was limited and is not sufficient, particularly with
3 respect to the financial status of Mr. Matar, who personally guaranteed the obligation to
4 Cascade. Mr. Matar's counsel has filed a Notice of Substitution, but the Receiver has filed an
5 objection to the change in representation on the basis of the Rules of Professional Conduct
6 ("RPC"), RPC 1.9.

7 The Receiver is also pursuing amounts owed by Mainstay, one of Cascade's workers'
8 compensation accounts in California, which include payment for premium, paid claims, and
9 reserves. Cascade has requested payment and information required under the policy with
10 Mainstay for Cascade to conduct a premium audit. Mainstay has not provided payment, but
11 has provided some audit information. Mainstay and Cascade are continuing to communicate
12 about these issues, and a demand for payment is being made.

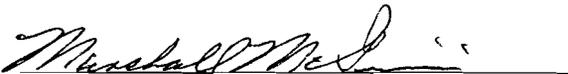
13 The Receiver, through counsel, continues to pursue various legal avenues that could
14 result in recovery of assets to the receivership estate. The Receiver filed a Complaint for
15 Damages in the Superior Court of the State of Washington for King County, Cause No. 06-2-
16 13068-5-SEA, against several defendants, including Danny Pixler, Anthony Huff, American
17 Staff Resources of California, Inc., Certified Services, Inc., and Midwest Merger Management,
18 LLC. The Complaint alleges that defendants failed to comply with the contract payment terms
19 and failed to fund reserves while Cascade's obligation to provide workers' compensation
20 coverage under the policies continued. Cascade's demands for compliance and payment went
21 unanswered. The Complaint also alleges that Cascade was victimized in a deceptive scheme,
22 and seeks damages in excess of \$18.7 million arising from the workers' compensation
23 coverage which was not paid for by Defendants. This case was removed to the U.S. District
24 Court for the Western District of Washington, No. C06-697 RSL. The parties engaged in
25 extensive discovery, depositions, and motions practice. A mediation was held in Seattle on
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1 August 12, 2008 but was unsuccessful. A second mediation is scheduled for November 18,
2 2009. The trial date was reset from September 2008 to March 2009, and the Court has recently
3 continued the trial date to May 2010. Criminal proceedings were initiated against defendant
4 Danny Pixler in Florida. Defendant Pixler has entered into a plea agreement in those
5 proceedings and is scheduled to begin incarceration in late 2009. Defendant Pixler is also
6 currently negotiating a plea agreement in response to allegations by the IRS. The SEC has
7 initiated civil proceedings against defendant Huff and trial in that action is expected to begin
8 early in 2010.

9 After filing suit against the Defendants, the Receiver learned that Certified HR
10 Services, a subsidiary of Defendant Certified Services, Inc. ("Certified Services"), had entered
11 into bankruptcy proceeding in the U.S. District Court, Southern District of Florida, Case No.
12 05-22912-BKC-RBR. The Receiver ultimately entered into an agreement with the bankruptcy
13 trustee and obtained a Court order establishing that none of Cascade's claims against the
14 Defendants in the Washington litigation were affected by the Florida bankruptcy action, and
15 preserving the possibility of recovery against the consolidated Certified HR Services/Certified
16 Services bankruptcy estate. The Receiver subsequently filed a \$2 million claim against the
17 bankruptcy estate and it is uncertain when or whether there will be actual payment on that
18 claim.

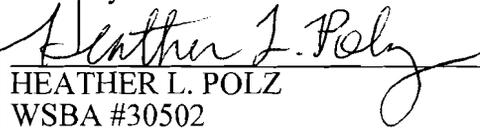
19 The Receiver had filed a civil action in King County Superior Court, No. 06-2-34413-
20 8-SEA, to recover damages for officer/director actions that harmed Cascade. A favorable
21 settlement has been reached and the action has been dismissed.

22 RESPECTFULLY SUBMITTED this 16 day of November, 2009.

23 
24 MARSHALL MCGINNIS
25 Deputy Receiver

26 Presented by:

1 ROBERT M. MCKENNA
Attorney General

2 

3 HEATHER L. POLZ
WSBA #30502
4 Assistant Attorney General
Attorneys for the Insurance Commissioner

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

		10/31/2009	
ASSETS			
Operating cash		6,435	
ST investments		11,132,913	
Cash & ST Investments	(1)	11,139,348	
Advances to Guaranty Associations		6,000,000	
Reinsurance recoverable (net)	(2)	2,524,668	
Rental deposit		8,555	
Total Other Assets		8,533,223	
TOTAL ASSETS	(3)	19,672,571	
 LIABILITIES			
Secured Claims		-	
Class 1	(4)	6,274,034	
Class 2	(5)	29,049,812	
Class 3		-	
Class 4		-	
Class 5		55,284	
Class 6		138,863	
Class 7		20,190	
Class 8		-	
Class 9		-	
TOTAL LIABILITIES		35,538,182	
Excess (Deficiency) of Assets Over Liabilities		(15,865,612)	
TOTAL		19,672,571	

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 \$447,182 of restricted state deposits.
- (2) Reinsurance recoverable includes \$2.5 million of ceded loss, loss adjustment expenses 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 six-year operating expense budget for the receivership and estimated unallocated loss adjustment expenses of the Insurance Guaranty Associations.
- (5) Automobile loss reserves are the best estimates based on detailed review of each individual automobile claim closed and returned to the estate by all guaranty associations as of the end of 2008. These estimates will continue to be updated as more claim files are closed and returned to the estate. For workers' compensation policies, the receivership, with the help of an independent consulting actuary, updated its Class 2 workers' compensation liabilities using paid losses and loss reserves data from the California Guaranty Association as of 6/30/09. 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.

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

	12 Months Ending 10/31/09	Since Date of Liquidation Order
RECEIPTS		
Reinsurance recoveries	674,282	2,515,531
Agents balances	-	142,718
Salvage & subrogation recoveries	5,667	296,754
Recovery of taxes previously paid	-	283,221
Asset Recovery	-	1,500,000
Other receipts	1,042	264,444
Receipts Before Investment Activities	680,990	5,002,667
Investment receipts	43,116	1,491,531
Proceeds from sales & maturity	302,000	915,000
Receipts from Investment Activities	345,116	2,406,531
TOTAL CASH RECEIPTS	1,026,106	7,409,197
DISBURSEMENTS & DISTRIBUTIONS		
Claims processing expenses	-	506,948
Legal fees	649,653	2,146,582
Audit fees	-	-
Consulting fees	99,009	397,978
Salaries	420,468	1,694,917
Employee benefits	17,132	76,551
Payroll & other taxes	22,162	101,867
Rent & related expenses	38,454	162,197
Equipment expenses	3,872	113,096
Office expenses	25,551	118,589
Other disbursements	15,582	53,963
Disbursements	1,291,883	5,372,688
Early Access Distributions	-	6,000,000
Disbursements Before Investment Activities	1,291,883	11,372,688
Investment Expenses	4,131	12,047
Purchase of Investments	33,996	1,764,746
Disbursements for Investment Activities	38,127	1,776,793
TOTAL CASH DISBURSEMENTS & DISTRIBUTIONS	1,330,010	13,149,480
Net Cash Receipts over/(under) Disbursements	(303,904)	(5,740,283)
Cash at beginning of period	283,698	773,413
Net Cash Receipts over/(under) Disbursements	(303,904)	(5,740,283)
Cash transferred from/(to) ST investment	26,641	4,973,306
Cash at end of period	6,435	6,435

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**Cascade National Insurance Company in Liquidation
Supplemental Claims Information
Claims and Adjusting Expenses Paid by Insurance Guaranty Funds
As of September 30, 2009**

	Auto	Workers Compensation	Total
Alaska	754,382	-	754,382
California	732,275	8,906,854	9,639,129
Oregon	961,259	-	961,259
Washington	2,739,887	-	2,739,887
	<u>5,187,804</u>	<u>8,906,854</u>	<u>14,094,657</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, 2009**

	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	6	-	-	6	6
California	186	182	366	255	552	437
Oregon	63	62	-	-	63	62
Washington	178	160	-	-	178	160
	<u>433</u>	<u>410</u>	<u>366</u>	<u>255</u>	<u>799</u>	<u>665</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.

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1 EXPEDITE
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3 The Honorable Judge Thomas McPhee
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7 **STATE OF WASHINGTON**
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9 MIKE KREIDLER,
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Petitioner,

NO. 04-2-02427-4
CERTIFICATE OF SERVICE

v.

CASCADE NATIONAL INSURANCE
COMPANY,
Respondent.

This will hereby certify that on the 17th day of November, 2009, I mailed a true and correct copy of the **Sixteenth Quarterly Report of Receiver, Exhibits A, B, and C, and Certificate of Service** via the U.S. Mail, first-class postage prepaid, in sealed envelopes, from Olympia, Washington, to the following interested parties:

Elizabeth J. Anderson, Sr. VP
Columbia Bank
Special Credits Department
1301 "A" Street
Tacoma, WA 98401

Harold Anderson
P.O. Box 3526
Bend, OR 97707
Former President of Cascade Majority Shareholder

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23 Eric Mendoza
24 Bank of America NA
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25 Pasadena, CA 91102-6102
Creditor of MBR Corp (Allied...)
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8 Alaska Division of Insurance
9 Linda S. Hall, Director of Juneau Office
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10 333 Willoughby Avenue
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14 OR Dept. of Consumer and Business Svcs.
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Attorneys for Harold Anderson

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3 *Attorney for Amica Mutual Insurance Co.*

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Christopher M. Alston
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Attorneys for Claimant James T. Feltman

7
8 DATED this 17th day of November, 2009.

9
10 
11 DARLA AUMILLER
Legal Assistant

