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NOV 14 2014

SUPERIOR COURT  
BETTY J. COULD  
THURSTON COUNTY CLERK

1  EXPEDITE  
2  No Hearing is Set  
3 The Honorable Erik D. Price  
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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

**TWENTY-NINTH**  
**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. Odiorne, Chief Deputy Insurance Commissioner and Court-appointed Receiver of  
18 Cascade, and Marshall McGinnis, court-appointed Deputy Receiver of Cascade (collectively  
19 the "Receiver"), by and through their attorneys, Robert W. Ferguson, Attorney General, and  
20 Marta DeLeon, Assistant Attorney General, hereby submit the Twenty-Ninth Report of  
21 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.  
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1           2.     *Accounting to the Court.* In accordance with the Court's July 22, 2011 Order  
2 Granting Motion For Semiannual Reporting By The Receiver, the Receiver shall file a report  
3 with the Court twice per year, on or about May 15<sup>th</sup> and November 15<sup>th</sup>.

4           3.     *Financial Report.* Attached hereto as Exhibits A, B, and C are Cascade's  
5 October 31, 2014 Balance Sheet, and Statement of Receipts and Disbursements, and its  
6 Supplemental Claims Information as of September 30, 2014. 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 \$29,378,268 are calculated based upon the Receiver's best estimate  
15 of outstanding loss and loss adjustment expense reserves for automobile claims as of March  
16 31, 2014, and estimated Workers Compensation claims based on the most current actuarial  
17 study performed using claims data as of September 30, 2014. Since the Guaranty Associations  
18 are now handling the automobile claims, the usual and traditional actuarial methodology for  
19 estimating loss reserves is not applicable. Periodically, the Receiver reviews automobile loss  
20 experience and adjusts Class 2 automobile claims liabilities to reflect the Receiver's best  
21 estimate of those liabilities going forward. A current review was completed to adjust such  
22 liabilities as of March 31, 2014. Note that this adjustment includes a corresponding reduction  
23 in applicable reinsurance recoverable, a Balance Sheet asset. In this review process, the  
24 Receiver also categorized estimated Insurance Guaranty Association unallocated loss  
25 adjustment expenses as Class 1 Liabilities.

1 As of October 31, 2014, known assets totaled \$17,565,964 with 60% in cash and short-  
2 term investments. The estate's cash and short-term investment decreased significantly as a  
3 result of early access distributions to the Insurance Guaranty Associations totaling \$6 million.  
4 All of Cascade's Alaska automobile claims have been closed. In accordance with Alaska  
5 statutes, Cascade's restricted deposit held by the state was transferred to the Alaska Guaranty  
6 Association, increasing the amount advanced to it by \$312,749. The Receiver has requested  
7 the finalization of the association's previously submitted proof of claim against the estate and  
8 is awaiting their response. Known liabilities totaled \$33,758,409 resulting in a deficiency of  
9 assets over liabilities of \$16,192,446. For the period ending October 31, 2014, exclusive of the  
10 early access distribution of \$6 million, cash disbursements exceeded cash receipts by  
11 \$2,803,884. Cash receipts were primarily from asset recovery efforts, collection of loss  
12 recoverable from reinsurers, refund of state premium taxes and recovery of salvage and  
13 subrogation on paid loss claims. Operating expenses continue to be well within amounts  
14 budgeted by the Receiver. Based on electronic claims data received from the guaranty  
15 associations as of September 30, 2014, a total of \$16,626,782 of loss claims and allocated loss  
16 adjustment expenses have been paid. See the Supplemental Claims Information, Exhibit C for  
17 details.

18 4. *Proof of Claims.* In accordance with paragraph 3.5 of the Plan of Liquidation,  
19 the Receiver issued Proof of Claim forms to all policyholders and other potential claimants.  
20 All claimants had until March 4, 2006, to file a timely Proof of Claim form. Claims continue  
21 to be reviewed. Some have been denied. The Receiver is seeking additional information from  
22 some claimants. The Receiver anticipates that there may be some claims that will be rejected  
23 in whole or part, which will be disputed by the claimant and will require a hearing for ultimate  
24 resolution. The Receiver denied Mainstay Business Solutions' Proof of Claim No. 1284, and  
25 on July 22, 2011, the Court entered an Order confirming the Receiver's Final Determination  
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1 denying the Claim of Mainstay Business Solutions. The Receiver also denied Statewide  
2 General Insurance Agency, Inc.'s Proof of Claim Nos. 3594-3599, and on January 6, 2012, the  
3 Court entered an Order confirming the Receiver's Final Determination denying Statewide's  
4 Claims. The Receiver denied Columbia State Bank's Proof of Claim No. 1203, and on  
5 February 3, 2012, the Court entered an Order confirming the Receiver's Final Determination  
6 denying Columbia's Claim. Finally, the Receiver denied Proof of Claim No. 4354 from James  
7 S. Feltman, Chapter 11 Trustee for the Estate of Certified HR Services Company et al., and on  
8 November 2, 2012, the Court entered an Order confirming the Receiver's Final Determination  
9 denying Feltman's Claim. That confirmation was appealed to the Washington State Court of  
10 Appeals for Division II and was subsequently transferred to Division I. Oral argument was  
11 held on January 9, 2014 and on March 10, 2014, the Court of Appeals issued a written opinion  
12 affirming the ruling of the lower court.

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

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

24         The Office of the Insurance Commissioner (OIC) initiated a license revocation action  
25 against K.I. Tobey for failure to pay and mishandling of trust funds, and K.I. Tobey has  
26

1 voluntarily accepted revocation. Settlement negotiations between the OIC and K.I. Tobey  
2 failed, and K.I. Tobey filed for bankruptcy in Atlanta, Georgia. A trustee was subsequently  
3 appointed by the bankruptcy court. The Receiver pursued the claim in the bankruptcy court. On  
4 October 23, 2009, the case was converted from Chapter 11 to Chapter 7. No recovery is  
5 anticipated.

6 In 2007, the Receiver initiated an adversarial claim for \$941,879.55 in wrongfully  
7 withheld premiums against Statewide General Insurance Agency Inc.(Statewide) and Marcel  
8 Matar, personal guarantor of amounts owed. Statewide was served, and its attorneys filed  
9 notices of appearance. In 2008, an Answer was filed claiming lack of personal service against  
10 Mr. Matar. The Receiver's counsel requested information regarding the financial status of Mr.  
11 Matar and his business in order to determine whether resources exist to repay Cascade. The  
12 information provided was limited and insufficient to determine the financial status of Mr.  
13 Matar. Mr. Matar was personally served in Pasadena, California on January 28, 2010. Mr.  
14 Matar and Statewide have had several different attorneys appear and withdraw. On November  
15 9, 2012, the Receiver filed a Motion for Summary Judgment. On March 13, 2013, the Court  
16 granted the Receiver's motion for summary judgment. Mr. Matar's Motion for  
17 Reconsideration was denied. The Judgment for \$941,879.55 was entered on April 26, 2013.  
18 Mr. Matar and Statewide filed a notice of appeal. Oral argument was held May 19, 2014. On  
19 July 22, 2014, the Court of Appeals affirmed the decision of the lower court granting summary  
20 judgment. In the meantime, on July 7, 2014, the Receiver filed a complaint in Superior Court  
21 of California, County of Los Angeles, against Mr. Matar and Mrs. Matar to set aside fraudulent  
22 transfer of personal property and similar relief. Mediation is set for December 1, 2014

23 The Receiver is also pursuing amounts owed by Mainstay, one of Cascade's workers'  
24 compensation accounts in California, which include payment for premium, paid claims, and  
25 reserves. Cascade has requested payment and information required under the policy with  
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1 Mainstay for Cascade to conduct a premium audit. Mainstay has not provided payment, but an  
2 agreement regarding the audit premiums due was reached. Cascade made a formal demand for  
3 payment from Mainstay on November 19, 2009. On April 30, 2012, the Receiver filed a  
4 Complaint in United States District Court, Eastern District of California, against Mainstay for  
5 breach of contract and other remedies. On June 29, 2012, the Court issued a Default Judgment  
6 in favor of the Receiver. On September 27, 2012, Mainstay filed a Motion to Vacate Default  
7 Judgment. On February 11, 2013 the parties agreed to a Stipulation for Judgment and filed it  
8 with the Superior Court of California, County of Sacramento. The signed approval of that  
9 judgment has been received from the California court.

10 The Receiver filed a Complaint for Damages in King County Superior Court against  
11 several defendants, including Danny Pixler, Anthony Huff, American Staff Resources of  
12 California, Inc., Certified Services, Inc., and Midwest Merger Management, LLC. The case  
13 was removed to U.S. District Court for the Western District of Washington, No. C06-697 RSL.  
14 On May 21, 2010 the jury returned a \$19,310,744 verdict in favor of the Receiver on claims of  
15 civil conspiracy, criminal profiteering, unfair trade practices/consumer protection,  
16 misrepresentation and fraud. On January 3, 2011, the Court awarded \$2,031,925.75 in  
17 attorney's fees and \$494,496.61 in litigation expenses under the Consumer Protection Act and  
18 Criminal Profiteering Act. Defendants Anthony Huff, Sheri Huff, and Midwest Merger  
19 Management, LLC filed an appeal to the U.S. Court of Appeals for the Ninth Circuit. Oral  
20 argument was heard on April 9, 2012. On May 2, 2012, the Court issued an unpublished  
21 opinion affirming the District Court's judgment, following a jury trial, in favor of the Receiver.

22 By way of additional background, the SEC initiated criminal proceedings against  
23 defendant Danny Pixler in Florida. Defendant Pixler has entered into a plea agreement in those  
24 proceedings, pleading guilty to conspiracy to commit wire fraud, and was sentenced to five  
25 years of incarceration. The SEC initiated civil proceedings against Anthony Huff and a bench  
26

1 trial was held beginning February 16, 2010. On September 30, 2010, the judge entered an  
2 order in favor of the SEC, finding Huff violated federal securities laws and ordering him to  
3 disgorge over \$10 million in ill-gotten gains. On January 3, 2012, the U.S. Court of Appeals  
4 for the Eleventh Circuit affirmed that order. On October 1, 2012, the United States Attorney's  
5 Office for the Southern District of New York announced the filing of a 13-Count Indictment  
6 charging Huff with fraudulent schemes including but not limited to Wire Fraud, Tax Evasion,  
7 and several different counts of Conspiracy.

8 After filing suit against the Defendants, the Receiver learned that Certified HR  
9 Services, a subsidiary of Defendant Certified Services, Inc. ("Certified Services"), had entered  
10 into bankruptcy proceeding in the U.S. District Court, Southern District of Florida, Case No.  
11 05-22912-BKC-RBR. The Receiver ultimately entered into an agreement with the bankruptcy  
12 trustee and obtained a Court order establishing that none of Cascade's claims against the  
13 Defendants in the Washington litigation were affected by the Florida bankruptcy action, and  
14 preserving the possibility of recovery against the consolidated Certified HR Services/Certified  
15 Services bankruptcy estate. The Receiver subsequently filed a \$2 million claim against the  
16 bankruptcy estate. A \$100,000 interim distribution was received in April 2011. A second, and  
17 final distribution of \$200,000 was received on December 26, 2013.

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1 The Receiver filed a civil action in King County Superior Court, No. 06-2-34413-8-  
2 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

5 RESPECTFULLY SUBMITTED this 11 day of November, 2014

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7   
8 MARSHALL MCGINNIS  
*Deputy Receiver*

9 Presented by:

10 ROBERT W. FERGUSON  
11 Attorney General

12   
13 MARTA U. DeLEON WSBA #35779  
14 Assistant Attorney General  
*Attorneys for the Insurance Commissioner*

**Cascade National Insurance Company in Liquidation**  
**Balance Sheet**  
**As of October 31, 2014**

		10/31/2014	
<b>ASSETS</b>			
Operating cash		52,382	
ST investments		10,422,360	
Cash & ST Investments	(1)	10,474,742	
Advances to Guaranty Associations		6,312,749	
Reinsurance recoverable (net)	(2)	776,473	
Deposits/advances		2,000	
Total Other Assets		7,091,222	
<b>TOTAL ASSETS</b>	(3)	<b>17,565,964</b>	
<b>LIABILITIES</b>			
Secured Claims		-	
Class 1	(4)	4,169,940	
Class 2	(5)	29,378,268	
Class 3		-	
Class 4		-	
Class 5		55,284	
Class 6		138,863	
Class 7		16,054	
Class 8		-	
Class 9		-	
<b>TOTAL LIABILITIES</b>		<b>33,758,409</b>	
<b>Excess (Deficiency) of Assets Over Liabilities</b>			<b>(16,192,446)</b>
<b>TOTAL</b>		<b>17,565,964</b>	

**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 \$134,018 of restricted state deposits.
- (2) Reinsurance recoverable includes \$776 thousands of ceded losses, loss adjustment expenses and related reserves 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 receivership operating expense budget and estimated unallocated loss adjustment expenses of the Insurance Guaranty Associations.
- (5) Automobile loss reserves are the Receiver's best estimates of outstanding losses and loss adjustment expenses as of March 31, 2014. These estimates will continue to be updated from time to time. 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 September 30, 2014.

**Cascade National Insurance Company in Liquidation**  
**Statement of Receipts and Disbursements**  
**Period Ending October 31, 2014**

	<b>12 Months Ending 10/31/2014</b>	<b>Since Date of Liquidation Order</b>
<b>RECEIPTS</b>		
Reinsurance recoveries	-	2,810,532
Agents balances	-	142,718
Salvage & subrogation recoveries	42,810	347,306
Recovery of taxes previously paid	-	283,221
Asset Recovery	-	1,500,000
Other receipts	200,250	566,787
Receipts Before Investment Activities	<b>243,060</b>	<b>5,650,563</b>
Investment receipts	1,152	1,501,791
Proceeds from sales & maturity	-	915,000
Receipts from Investment Activities	1,152	2,416,791
<b>TOTAL CASH RECEIPTS</b>	<b>244,212</b>	<b>8,067,354</b>
<b>DISBURSEMENTS &amp; DISTRIBUTIONS</b>		
Claims processing expenses	-	506,948
Legal fees	175,937	3,565,669
Consulting fees	66,943	887,306
Salaries	209,155	2,973,640
Employee benefits	7,919	122,594
Payroll & other taxes	9,495	163,841
Rent & related expenses	15,382	288,665
Equipment expenses	5,019	142,693
Office expenses	9,763	193,403
Other disbursements	22,768	224,483
Disbursements	522,381	9,069,243
Early Access Distributions	-	6,000,000
Disbursements Before Investment Activities	522,381	15,069,243
Investment Expenses	2,544	29,314
Purchase of Investments	1,152	1,772,682
Disbursements for Investment Activities	3,696	1,801,995
<b>TOTAL CASH DISBURSEMENTS &amp; DISTRIBUTIONS</b>	<b>526,076</b>	<b>16,871,238</b>
<b>Net Cash Receipts over/(under) Disbursements</b>	<b>(281,864)</b>	<b>(8,803,884)</b>
Cash at beginning of period	24,699	773,413
Net Cash Receipts over/(under) Disbursements	(281,864)	(8,803,884)
Cash transferred from/(to) ST investment	309,547	8,082,854
Cash at end of period	52,382	52,382

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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, 2014**

	<b>Auto</b>	<b>Workers Compensation</b>	<b>Total</b>
Alaska	754,382		754,382
California	879,568	10,880,888	11,760,457
Oregon	1,010,780		1,010,780
Washington	3,101,163		3,101,163
	5,745,893	10,880,888	16,626,782

## 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, 2014**

	<b>Auto (1)</b>		<b>Workers Compensation</b>		<b>Total</b>	
	Transferred to IGF	Closed by IGF	Transferred to IGF	Closed by IGF	Transferred to IGF	Closed by IGF
Alaska	6	6	-	-	6	6
California	187	187	366	323	553	510
Oregon	66	66	-	-	66	66
Washington	178	177	-	-	178	177
	<u>437</u>	<u>436</u>	<u>366</u>	<u>323</u>	<u>803</u>	<u>759</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.