

**FILED**

MAY 16 2013

SUPERIOR COURT  
BETTY J. GOULD  
THURSTON COUNTY CLERK

EXPEDITE  
 No Hearing is Set  
The Honorable Erik D. Price

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**STATE OF WASHINGTON  
THURSTON COUNTY SUPERIOR COURT**

MIKE KREIDLER,  
INSURANCE COMMISSIONER,  
  
Petitioner,

NO. 04-2-02427-4

**TWENTY-SIXTH  
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 W. Ferguson, Attorney General, and Marta DeLeon, Assistant Attorney General, hereby submit the Twenty-Sixth 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.

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 April  
5 30, 2013 Balance Sheet, and Statement of Receipts and Disbursements, and its Supplemental  
6 Claims Information as of March 31, 2013. The financial figures are derived from calculations  
7 made in accordance with the Receiver’s Handbook for Insurance Company Insolvencies  
8 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 \$29,971,002 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, 2012, and estimated Workers Compensation claims based on the most current actuarial  
17 study performed using claims data as of December 31, 2011. 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, 2012. 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 re-categorized estimated Insurance Guaranty Association unallocated loss  
25 adjustment expenses as Class 1 Liabilities.

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1 As of April 30, 2013, known assets totaled \$18,255,796 with 61% 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 \$34,041,681 resulting in a deficiency of  
9 assets over liabilities of \$15,785,885. For the period ending April 30, 2013, exclusive of the  
10 early access distribution of \$6 million, cash disbursements exceeded cash receipts by  
11 \$2,112,331. 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 March 31, 2013, a total of \$16,226,930 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. A date for oral argument has not yet been set.

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

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

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

4 In 2007, the Receiver initiated an adversarial claim for \$941,879.55 in wrongfully  
5 withheld premiums against Statewide General Insurance Agency Inc.(Statewide) and Marcel  
6 Matar, personal guarantor of amounts owed. Statewide was served, and its attorneys filed  
7 notices of appearance. In 2008, an Answer was filed claiming lack of personal service against  
8 Mr. Matar. The Receiver's counsel requested information regarding the financial status of Mr.  
9 Matar and his business in order to determine whether resources exist to repay Cascade. The  
10 information provided was limited and insufficient to determine the financial status of Mr.  
11 Matar. Mr. Matar was personally served in Pasadena, California on January 28, 2010. Mr.  
12 Matar and Statewide have had several different attorneys appear and withdraw. On November  
13 9, 2012, the Receiver filed a Motion for Summary Judgment. On March 13, 2013, the Court  
14 granted the Receiver's motion for summary judgment. Mr. Matar's Motion for  
15 Reconsideration was denied. The Judgment for \$941,879.55 was entered on April 26, 2013.  
16 Mr. Matar and Statewide have filed a notice of appeal. However, counsel for Mr. Matar and  
17 Statewide has filed notices of intent to withdraw in both the superior court and appellate court  
18 action.

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 an  
23 agreement regarding the audit premiums due was reached. Cascade made a formal demand for  
24 payment from Mainstay on November 19, 2009. On April 30, 2012, the Receiver filed a  
25 Complaint in United States District Court, Eastern District of California, against Mainstay for  
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1 breach of contract and other remedies. On June 29, 2012, the Court issued a Default Judgment  
2 in favor of the Receiver. On September 27, 2012, Mainstay filed a Motion to Vacate Default  
3 Judgment. On February 11, 2013 the parties agreed to a Stipulation for Judgment and filed it  
4 with the Superior Court of California, County of Sacramento. The parties are now waiting for  
5 the signed approval of that judgment from the California court. The Receiver, through counsel,  
6 continues to pursue various legal avenues that could result in recovery of assets to the  
7 receivership estate. The Receiver filed a Complaint for Damages in King County Superior  
8 Court against several defendants, including Danny Pixler, Anthony Huff, American Staff  
9 Resources of California, Inc., Certified Services, Inc., and Midwest Merger Management,  
10 LLC. The case was removed to U.S. District Court for the Western District of Washington,  
11 No. C06-697 RSL. On May 21, 2010 the jury returned a \$19,310,744 verdict in favor of the  
12 Receiver on claims of civil conspiracy, criminal profiteering, unfair trade practices/consumer  
13 protection, misrepresentation and fraud. On January 3, 2011, the Court awarded \$2,031,925.75  
14 in attorney's fees and \$494,496.61 in litigation expenses under the Consumer Protection Act  
15 and Criminal Profiteering Act. Defendants Anthony Huff, Sheri Huff, and Midwest Merger  
16 Management, LLC filed an appeal to the U.S. Court of Appeals for the Ninth Circuit. Oral  
17 argument was heard on April 9, 2012. On May 2, 2012, the Court issued an unpublished  
18 opinion affirming the District Court's judgment, following a jury trial, in favor of the Receiver.

19 By way of additional background, the SEC initiated criminal proceedings against  
20 defendant Danny Pixler in Florida. Defendant Pixler has entered into a plea agreement in those  
21 proceedings, pleading guilty to conspiracy to commit wire fraud, and was sentenced to five  
22 years of incarceration. The SEC initiated civil proceedings against Anthony Huff and a bench  
23 trial was held beginning February 16, 2010. On September 30, 2010, the judge entered an  
24 order in favor of the SEC, finding Huff violated federal securities laws and ordering him to  
25 disgorge over \$10 million in ill-gotten gains. On January 3, 2012, the U.S. Court of Appeals  
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1 for the Eleventh Circuit affirmed that order. On October 1, 2012, the United States Attorney's  
2 Office for the Southern District of New York announced the filing of a 13-Count Indictment  
3 charging Huff with fraudulent schemes including but not limited to Wire Fraud, Tax Evasion,  
4 and several different counts of Conspiracy.

5 After filing suit against the Defendants, the Receiver learned that Certified HR  
6 Services, a subsidiary of Defendant Certified Services, Inc. ("Certified Services"), had entered  
7 into bankruptcy proceeding in the U.S. District Court, Southern District of Florida, Case No.  
8 05-22912-BKC-RBR. The Receiver ultimately entered into an agreement with the bankruptcy  
9 trustee and obtained a Court order establishing that none of Cascade's claims against the  
10 Defendants in the Washington litigation were affected by the Florida bankruptcy action, and  
11 preserving the possibility of recovery against the consolidated Certified HR Services/Certified  
12 Services bankruptcy estate. The Receiver subsequently filed a \$2 million claim against the  
13 bankruptcy estate. A \$100,000 interim distribution was received in April 2011, but it is  
14 uncertain when or whether there will be further payment on this claim.

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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.

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5 RESPECTFULLY SUBMITTED this 15 day of May, 2013

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MARSHALL MCGINNIS  
*Deputy Receiver*

9 Presented by:

10 ROBERT W. FERGUSON  
11 Attorney General

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

**Cascade National Insurance Company in Liquidation**  
**Balance Sheet**  
**As of April 30, 2013**

		4/30/2013	
<b>ASSETS</b>			
Operating cash		59,387	
ST investments		11,095,640	
Cash & ST Investments	(1)		11,155,028
Advances to Guaranty Associations		6,312,749	
Reinsurance recoverable (net)	(2)	776,473	
Deposits/advances		11,547	
Total Other Assets			7,100,769
<b>TOTAL ASSETS</b>	(3)		<b>18,255,796</b>
 <b>LIABILITIES</b>			
Secured Claims		-	
Class 1	(4)	3,860,478	
Class 2	(5)	29,971,002	
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>34,041,682</b>
<b>Excess (Deficiency) of Assets Over Liabilities</b>			<b>(15,785,885)</b>
<b>TOTAL</b>			<b>18,255,796</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 \$133,894 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 2011/2012 and 2012/2013 operating expense budget for the receivership 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, 2012. 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 December 31, 2011.

**Cascade National Insurance Company in Liquidation**  
**Statement of Receipts and Disbursements**  
**Period Ending April 30, 2013**

	6 Months Ending 4/30/2013	Since Date of Liquidation Order
<b>RECEIPTS</b>		
Reinsurance recoveries	-	2,810,532
Agents balances	-	142,718
Salvage & subrogation recoveries	650	303,816
Recovery of taxes previously paid	-	283,221
Asset Recovery	-	1,500,000
Other receipts	515	366,537
Receipts Before Investment Activities	1,165	5,406,823
Investment receipts	616	1,500,071
Proceeds from sales & maturity	-	915,000
Receipts from Investment Activities	616	2,415,071
<b>TOTAL CASH RECEIPTS</b>	<b>1,781</b>	<b>7,821,894</b>
<b>DISBURSEMENTS &amp; DISTRIBUTIONS</b>		
Claims processing expenses	-	506,948
Legal fees	121,718	3,319,118
Consulting fees	57,737	711,580
Salaries	133,633	2,675,141
Employee benefits	6,555	112,875
Payroll & other taxes	5,703	149,935
Rent & related expenses	9,157	263,989
Equipment expenses	946	135,641
Office expenses	8,692	179,402
Other disbursements	4,675	83,122
Disbursements	348,815	8,137,751
Early Access Distributions	-	6,000,000
Disbursements Before Investment Activities	348,815	14,137,751
Investment Expenses	1,739	25,512
Purchase of Investments	616	1,770,961
Disbursements for Investment Activities	2,355	1,796,474
<b>TOTAL CASH DISBURSEMENTS &amp; DISTRIBUTIONS</b>	<b>351,170</b>	<b>15,934,225</b>
<b>Net Cash Receipts over/(under) Disbursements</b>	<b>(349,389)</b>	<b>(8,112,331)</b>
Cash at beginning of period	33,776	773,413
Net Cash Receipts over/(under) Disbursements	(349,389)	(8,112,331)
Cash transferred from/(to) ST investment	375,000	7,398,306
Cash at end of period	59,387	59,387

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**Cascade National Insurance Company in Liquidation  
Supplemental Claims Information  
Claims and Adjusting Expenses Paid by Insurance Guaranty Funds  
As of March 31, 2013**

	Auto	Workers Compensation	Total
Alaska	754,382		754,382
California	879,006	10,689,631	11,568,637
Oregon	1,010,780		1,010,780
Washington	2,893,131		2,893,131
	5,537,299	10,689,631	16,226,930

## 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 March 31, 2013**

	<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	304	553	491
Oregon	66	66	-	-	66	66
Washington	178	176	-	-	178	176
	<u>437</u>	<u>435</u>	<u>366</u>	<u>304</u>	<u>803</u>	<u>739</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.

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  
CERTIFICATE OF SERVICE

v.

CASCADE NATIONAL INSURANCE  
COMPANY,  
Respondent.

This will hereby certify that on the date below, I mailed or emailed a true and correct copy of the **Twenty-Sixth 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, or if indicated by electronic mail, to the following interested parties:

Robert Draper, Sr. VP  
**Columbia Bank**  
Special Credits Department  
Per agreement via electronic mail to: [rdraper@columbiabank.com](mailto:rdraper@columbiabank.com)

Harold Anderson  
Per agreement via electronic mail to [handa@bendbroadband.com](mailto:handa@bendbroadband.com)  
**Former President of Cascade Majority Shareholder**

Donald Anderson  
Eisenhower & Carlson PLLC  
Per agreement via electronic mail to [danderson@eisenhowerlaw.com](mailto:danderson@eisenhowerlaw.com)  
**Attorneys for Columbia Bank**

///

1 Michael Gossler  
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2 **Attorneys for Harold Anderson**

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4 **Special Request for Notice**

5 Larry Morrison, President  
Business Transition Network, Inc.  
6 Per agreement, via electronic mail to [larry.morrison@comcast.net](mailto:larry.morrison@comcast.net)  
7 **Former Outside Director of Cascade**

8 W. Theodore Vander Wel, Attorney at Law  
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9 **Attorney for Morrison and Lebo**

10 Robert R. Rubin  
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**Attorney for Harold Anderson**

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16 Per agreement, via electronic mail to [mikek@oic.wa.gov](mailto:mikek@oic.wa.gov)

17 Marshall McGinnis, Deputy Receiver  
c/o Cascade National Insurance Company  
18 Per agreement, via electronic mail to [mmcginnis@cascadenational.com](mailto:mmcginnis@cascadenational.com)  
**For Cascade National Insurance Company**

19 Jim Odiorne, Receiver  
20 Office of Insurance Commissioner  
Per agreement, via electronic mail to [jimo@oic.wa.gov](mailto:jimo@oic.wa.gov)  
21 **For Cascade National Insurance Company**

22 Victoria L. Vreeland  
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24 Alaska Guaranty Association  
Susan R. Daniels, AIGA Administrator  
25 Per agreement, via electronic mail to [sdaniels@nadj.com](mailto:sdaniels@nadj.com)

26 ///

1 C. Guerry Collins, Esq.  
Per agreement, via electronic mail to [gcollins@lockelord.com](mailto:gcollins@lockelord.com)  
2 ***For CA Ins. Guaranty Association (CIGA)***

3 Oregon Insurance Guaranty Association  
David C. Johnson, Administrator  
4 Per agreement, via electronic mail to [djohnson.oiga@frontier.com](mailto:djohnson.oiga@frontier.com)

5 WA Insurance Guaranty Association  
c/o Western Guaranty Fund Services, Dave Edwards  
6 per agreement, via electronic mail to [dedwards@wgfs.org](mailto:dedwards@wgfs.org)

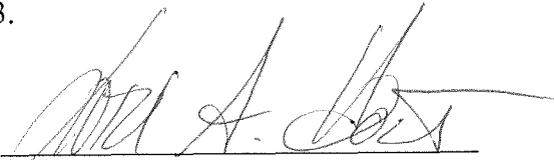
7 Alaska Division of Insurance  
Linda S. Hall, Director of Juneau Office  
8 Per agreement, via electronic mail to [linda.hall@alaska.gov](mailto:linda.hall@alaska.gov)

9 John Mellen (Retired)  
David Russell  
10 Law Offices of Keller Rohrback, LLP  
Per agreement, via electronic mail to [drussell@kellerrohrback.com](mailto:drussell@kellerrohrback.com)  
11 ***Attorney for Harold Anderson***

12 Richard Alan Stout  
Richard Alan Stout, Attorney at Law LLC  
13 Per agreement, via electronic mail to [alanstout1@msn.com](mailto:alanstout1@msn.com)  
***Attorney for Amica Mutual Insurance Co.***

14 Bradley W. Hoff  
15 Christopher M. Alston  
Foster Pepper PLLC  
16 Per agreement, via electronic mail to [hoffb@foster.com](mailto:hoffb@foster.com) and [alstc@foster.com](mailto:alstc@foster.com)  
***Attorneys for Claimant James T. Feltman***

17 DATED this 16<sup>th</sup> day of May, 2013.

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19   
20 **LORI A. HOLT, Legal Assistant**