

1 **ORDR**
2 CATHERINE CORTEZ MASTO
3 Attorney General
4 JOANNA N. GRIGORIEV
5 Senior Deputy Attorney General
6 Nevada Bar No. 5649
7 555 E. Washington Avenue, Suite 3900
8 Las Vegas, NV 89101
9 P: (702) 486-3101
10 Email: jgrigoriev@ag.nv.gov
11 *Attorney for the Division of Insurance*

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,)
11 COMMISSIONER OF INSURANCE, IN HIS)
12 OFFICIAL CAPACITY AS STATUTORY)
13 RECEIVER FOR DELINQUENT DOMESTIC)
14 INSURER,)
15)
16 Plaintiff,)

Case No. A-13-678046
Dept. No. XI

13 vs.)

14 NEVADA CONTRACTORS INSURANCE)
15 COMPANY INC., a Nevada Domiciled Captive)
16 Insurance Company,)

16 and)

17 BUILDERS INSURANCE COMPANY INC., a)
18 Nevada Domiciled Property and Casualty)
19 Insurance Company.)

19 Defendants.)

20)
21 COMPANION PROPERTY AND CASUALTY)
22 INSURANCE COMPANY, COMPANION)
23 COMMERCIAL INSURANCE COMPANY,)
24 RISK SERVICES-NEVADA, INC., AND RISK)
25 SERVICES, LLC)

24 Intervenors.)

25 **ORDER APPOINTING COMMISSIONER AS PERMANENT RECEIVER FOR NEVADA**
26 **CONTRACTORS INSURANCE COMPANY INC. AND BUILDERS INSURANCE COMPANY**
27 **INC. AND GRANTING OTHER PERMANENT RELIEF**

28 This matter came before the Court on the 29th day of March, 2013 on the Amended
Petition for Appointment of Commissioner as Receiver and Other Permanent Relief; Request

1 for Injunction Pursuant to NRS 696B.270(1) by the Commissioner of Insurance, Scott J.
2 Kipper, in his official capacity as Temporary Receiver of NEVADA CONTRACTORS
3 INSURANCE COMPANY INC., ("NCIC") a Nevada Domiciled Captive Insurance Company,
4 and BUILDERS INSURANCE COMPANY INC., ("BIC") a Nevada Domiciled Property and
5 Casualty Insurance Company (hereinafter collectively "Defendants" or "Insurers").

6 The Court having reviewed the points and authorities submitted by counsel and exhibits
7 in support thereof, and having heard arguments of counsel,

8 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

9 (1) Commissioner of Insurance, Scott J. Kipper, ("Commissioner"), should be, and is
10 hereby, appointed Permanent Receiver ("Receiver") of Defendants NCIC and BIC and is
11 hereby vested, in addition to the powers set forth herein, with all the powers and authority
12 expressed or implied under the provisions of chapter 696B of the Nevada Revised Statute
13 ("NRS"), and any other applicable law. The Commissioner appointed Cantilo & Bennett, L.L.P.
14 as Special Deputy Receiver of the Defendants, and Cantilo & Bennett, L.L.P. is hereby
15 appointed as Permanent Special Deputy Receiver of the Defendants. The Receiver and
16 Special Deputy Receiver may do all acts necessary or appropriate for the conservation,
17 rehabilitation, or liquidation of Defendants. Whenever this Order refers to the Receiver, it will
18 equally apply to the Special Deputy Receiver.

19 (2) Pursuant to NRS 696B.290, the Receiver is hereby vested with exclusive title
20 both legal and equitable to all of Defendants' assets, books, records, property, real and
21 personal, including all property or ownership rights, choate or inchoate, whether legal or
22 equitable of any kind or nature, including but not limited to all causes of action, defenses,
23 letters of credit relating to the Defendants or their business, all stocks, bonds, cash, cash
24 equivalents, contract rights, reinsurance contracts and reinsurance recoverables, in force
25 insurance contracts and business, deeds, mortgages, leases, book entry deposits, bank
26 deposits, certificates of deposit, evidences of indebtedness, bank accounts, securities of any
27 kind or nature, both tangible and intangible, including but without being limited to any special,
28 statutory or other deposits or accounts made by or for Defendants with any officer or agency

1 of any state government or the federal government or with any banks, savings and loan
2 associations, or other depositories and including such property of Defendants which may be
3 discovered hereafter, wherever the same may be located and in whatever name or capacity it
4 may be held (all of the foregoing being hereinafter referred to as the "Property") and is hereby
5 directed to take immediate and exclusive possession and control of same. In addition to
6 vesting title to all of the Property in the Receiver or his successors, the said Property is hereby
7 placed in the *custodia legis* of this Court, Commissioner, in his capacity as Receiver, and the
8 Court hereby assumes and exercises sole and exclusive jurisdiction over all the Property and
9 any claims or rights respecting such Property to the exclusion of any other court or tribunal,
10 such exercise of sole and exclusive jurisdiction being hereby found to be essential to the
11 safety of the public and of the claimants against Defendants. Notwithstanding any provision in
12 this Paragraph 2, or in Paragraph 6 in this Order, for all books, records, stocks, bonds, cash,
13 cash equivalents, contract rights, reinsurance contracts and reinsurance recoverables, in force
14 insurance contracts and business, deeds, mortgages, leases, book entry deposits, bank
15 deposits, certificates of deposit, evidences of indebtedness, bank accounts, securities of any
16 kind or nature, both tangible and intangible, including, but without being limited to, any special,
17 statutory or other deposits or accounts with any officer or agency of any state government or
18 the federal government or with any banks, savings and loan associations, or other
19 depositories, this Court will determine the extent of title (exclusive or otherwise) by separate
20 motion of any interested party, if any such asset is (1) actually known to the Receiver or
21 Special Deputy Receiver to have been made by or in the name of Companion Property and
22 Casualty Insurance Company or Companion Commercial Insurance Company (hereinafter
23 collectively referred to as "Companion"), (2) actually known to the Receiver or Special Deputy
24 Receiver to have been made on behalf of or for the benefit of Companion, or the Companion
25 policyholders, or (3) property of Companion which the Receiver or Special Deputy Receiver
26 actually knows now or discovers hereafter, is co-mingled with other property of the
27 Defendants, and in whatever name or capacity it may be held. Assets referenced in (1), (2),
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1 and (3) of this Paragraph 2 are mentioned without waiver of any rights or remedies the
2 interested parties may have.

3 (3) The Receiver is authorized to employ and to fix the compensation of such
4 deputies, counsel, employees, accountants, actuaries, investment counselors, asset
5 managers, consultants, assistants and other personnel as he considers necessary. Any
6 Special Deputy Receiver appointed by the Receiver pursuant to this Order shall exercise all of
7 the authority of the Receiver pursuant hereto subject only to oversight by the Receiver and the
8 Court. All compensation and expenses of such persons and of taking possession of
9 Defendants and conducting this proceeding shall be paid out of the funds and assets of
10 Defendants in accordance with NRS 696B.290.

11 (4) All persons, corporations, partnerships, associations and all other entities
12 wherever located, are hereby enjoined and restrained from interfering in any manner with the
13 Receiver's possession of the Property or his title to or right therein and from interfering in any
14 manner with the conduct of the receivership of Defendants. Said persons, corporations,
15 partnerships, associations and all other entities are hereby enjoined and restrained from
16 wasting, transferring, selling, disbursing, disposing of, or assigning the Property and from
17 attempting to do so except as provided herein.

18 (5) All claims against Defendants or their assets must be submitted to the Receiver
19 as specified herein to the exclusion of any other method of submitting or adjudicating such
20 claims in any forum, court, or tribunal subject to the further Order of this Court. The Receiver
21 is hereby required to provide this Court with a Receivership Claims and Appeal Procedure, for
22 all receivership claims, excluding Companion's claims. The Receiver is also hereby required
23 to provide this Court with a separate Receivership Claims and Appeal Procedure for
24 Companion's claims. The Receivership Claims and Appeal Procedures shall be used to
25 facilitate the orderly disposition or resolution of claims or controversies involving the
26 receivership or the receivership estates.

27 (6) Except as limited by Paragraph 2 of this Order, the Receiver may change to his
28 own name the name of any of Defendants' accounts, funds or other property or assets, held

1 with any bank, savings and loan association or other financial institution, wherever located,
2 and may withdraw such funds, accounts and other assets from such institutions or take any
3 lesser action necessary for the proper conduct of the receivership. To the extent the Receiver
4 is actually aware of assets falling within the description in the second paragraph of Paragraph
5 2 of this Order in a comingled account, the Receiver may not deplete the funds or assets in
6 such account below the value of the assets falling within that description.

7 (7) All secured creditors or parties, pledge holders, lien holders, collateral holders or
8 other persons claiming secured, priority or preferred interest in any property or assets of
9 Defendants, including any governmental entity, are hereby enjoined from taking any steps
10 whatsoever to transfer, sell, encumber, attach, dispose of or exercise purported rights in or
11 against the Property; however, except as provided in Paragraph 8(g) of this Order,
12 Companion shall be entitled to take any actions necessary to administer, settle and pay any
13 and all claims made by insureds under Companion policies or to make any necessary refund
14 of premium to insureds.

15 (8) The officers, directors, trustees, partners, affiliates, agents, creditors, insureds,
16 employees and policyholders of Defendants, and all other persons or entities of any nature
17 including, but not limited to, claimants, plaintiffs, petitioners, and any governmental agencies
18 who have claims of any nature against Defendants, including cross-claims, counterclaims and
19 third party claims, are hereby permanently enjoined and restrained from doing or attempting to
20 do any of the following, except as provided in subparagraph (g) of this Paragraph 8 and/or in
21 accordance with the express instructions of the Receiver or by Order of this Court:

- 22 (a) conducting any portion or phase of the business of Defendants;
- 23 (b) commencing, bringing, maintaining or further prosecuting any action at law,
24 suit in equity, arbitration, or special or other proceeding against Defendants
25 or their estates, or the Receiver and his successors in office, as Receiver
26 thereof, or any person appointed pursuant to Paragraph 3 hereinabove;
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- 1 (c) making or executing any levy upon, selling, hypothecating, mortgaging,
2 wasting, conveying, dissipating, or asserting control or dominion over the
3 Property or the estate of Defendants;
- 4 (d) seeking or obtaining any preferences, judgments, foreclosures, attachments,
5 levies, or liens of any kind against the Property;
- 6 (e) interfering in any way with these proceedings or with the Receiver, or any
7 successor in office, in his acquisition of possession of, the exercise of
8 dominion or control over, or his title to the Property, or in the discharge of his
9 duties as Receiver thereof;
- 10 (f) commencing, maintaining or further prosecuting any direct or indirect actions,
11 arbitrations, or other proceedings against any insurer of Defendants for
12 proceeds of any policy issued to Defendants; or
- 13 (g) Notwithstanding any other provision of this Order, Companion may continue
14 to administer, settle and pay Companion policy claims and make necessary
15 refunds using Companion funds without waiving any rights or remedies
16 whatsoever.

17 (9) However, notwithstanding any other provision of this Order, the commencement
18 of conservatorship, receivership, liquidation or other delinquency proceedings against
19 Defendants in another jurisdiction by an official lawfully authorized to commence such
20 proceeding shall not constitute a violation of this Order.

21 (10) No bank, savings and loan association or other financial institution shall, without
22 first obtaining permission of the Receiver, exercise any form of set-off, alleged set-off, lien, or
23 other form of self-help whatsoever or refuse to transfer the Property to the Receiver's control.

24 (11) The Receiver shall have the power and is hereby authorized:

- 25 (a) to collect all debts and monies due and claims belonging to Defendants,
26 wherever located, and for this purpose: (i) to institute and maintain timely
27 actions in other jurisdictions, in order to forestall garnishment and attachment
28 proceedings against such debts; (ii) to do such other acts as are necessary

1 or expedient to marshal, collect, conserve or protect its assets or property,
2 including the power to sell, compound, compromise or assign debts for
3 purposes of collection upon such terms and conditions as he deems
4 appropriate, and the power to initiate and maintain actions at law or equity or
5 any other type of action or proceeding of any nature, in this and other
6 jurisdictions; (iii) to pursue any creditor's remedies available to enforce his
7 claims;

8 (b) to conduct public and private sales of the assets and property of Defendants,
9 including any real property;

10 (c) to acquire, invest, deposit, hypothecate, encumber, lease, improve, sell,
11 transfer, abandon, or otherwise dispose of or deal with any asset or property
12 of Defendants, and to sell, reinvest, trade or otherwise dispose of any
13 securities or bonds presently held by, or belonging to, Defendants upon such
14 terms and conditions as he deems to be fair and reasonable, irrespective of
15 the value at which such property was last carried on the books of
16 Defendants. He shall also have the power to execute, acknowledge and
17 deliver any and all deeds, assignments, releases and other instruments
18 necessary or proper to effectuate any sale of property or other transaction in
19 connection with the receivership;

20 (d) to borrow money on the security of Defendants' assets, with or without
21 security, and to execute and deliver all documents necessary to that
22 transaction for the purpose of facilitating the receivership;

23 (e) to enter into such contracts as are necessary to carry out this Order, and to
24 affirm or disavow any contracts to which either Defendant is a party;

25 (f) to institute and to prosecute, in the name of Defendants or in his own name,
26 any and all suits and other legal proceedings, to defend suits in which
27 Defendants or the Receiver is a party in this state or elsewhere, whether or
28 not such suits are pending as of the date of this Order, to abandon the

1 prosecution or defense of such suits, legal proceedings and claims which he
2 deems inappropriate, to pursue further and to compromise suits, legal
3 proceedings or claims on such terms and conditions as he deems
4 appropriate;

5 (g) to prosecute any action which may exist on behalf of the policyholders,
6 insureds or creditors, of Defendants against any officer or director of
7 Defendants, or any other person;

8 (h) to remove any or all records and other property of Defendants to the offices
9 of the Receiver or to such other place as may be convenient for the purposes
10 of the efficient and orderly execution of the receivership; and to dispose of or
11 destroy, in the usual and ordinary course, such of those records and property
12 as the Receiver may deem or determine to be unnecessary for the
13 receivership;

14 (i) to file any necessary documents for recording in the office of any recorder of
15 deeds or record office in this County or wherever the Property of Defendants
16 is located;

17 (j) to intervene in any proceeding wherever instituted that might lead to the
18 appointment of a conservator, receiver or trustee of Defendants or its
19 subsidiaries, and to act as the receiver or trustee whenever the appointment
20 is offered;

21 (k) to enter into agreements with any ancillary receiver of any other state as he
22 may deem to be necessary or appropriate;

23 (l) to perform such further and additional acts as he may deem necessary or
24 appropriate for the accomplishment of or in aid of the purpose of the
25 receivership, it being the intention of this Order that the aforesaid
26 enumeration of powers shall not be construed as a limitation upon the
27 Receiver;

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1 (m) to terminate and disavow the authority previously granted Defendants'
2 agents or marketing representatives to represent them in any respect,
3 including the underlying agreements, and any continuing payment obligations
4 created therein, as of the receivership date, with reasonable notice to be
5 provided and agent compensation accrued prior to any such termination or
6 disavowal to be deemed a general creditor expense of the receivership;

7 (n) to affirm, reject, or disavow any leases or executory contracts to which any
8 Defendant is a party. The Receiver is authorized to reject, or disavow any
9 leases or executory contracts at such times as he deems appropriate under
10 the circumstances, provided that payment due for any goods or services
11 received after appointment of the Commissioner as Receiver, with his
12 consent, will be deemed to be an administrative expense of the receivership,
13 and provided further that other unsecured amounts properly due under the
14 disavowed contract, and unpaid solely because of such disavowal, will give
15 rise to a general unsecured creditor claim in the Receivership proceeding.
16 The Receiver's power to affirm, reject, or disavow any leases or executory
17 contracts will not apply to any leases or executory contracts made by or in
18 the name of Companion, or any leases or contracts made on behalf or for the
19 benefit of Companion, of which the Receiver is actually aware. The
20 Receiver's power to affirm, reject, or disavow leases or contracts of
21 Companion will be subject to this Court's determination of the rights and legal
22 status of the parties under those contracts or leases;

23 (o) to institute and to prosecute, in the name of Defendants or in their own
24 name, any and all suits and other legal proceedings, to defend suits in which
25 any Defendant or the Receiver is a party in this state or elsewhere, whether
26 or not such suits are pending as of the date of this Order, to abandon the
27 prosecution or defense of suits, legal proceedings and claims which the
28 Receiver deems inappropriate to pursue further and to compromise suits,

1 legal proceedings, or claims on such terms and conditions as the Receiver
2 deems appropriate; and

3 (p) to prosecute any action which may exist on behalf of the subscribers,
4 members, insureds, policyholders, or creditors of Defendants against any
5 officer or director of Respondents, or any other person.

6 (12) The Defendants, their officers, directors, partners, agents and employees, any
7 person acting in concert with them, and all other persons, having any property or records
8 belonging to Defendants, including data processing information and records of any kind such
9 as, by way of example only, source documents, are hereby ordered and directed to surrender
10 custody and to assign, transfer and deliver to the Receiver all of such property in whatever
11 name the same may be held, and any persons, firms or corporations having any books,
12 papers or records relating to the business of Defendants shall preserve the same and submit
13 these to the Receiver for examination at all reasonable times. Any property, books, or records
14 asserted to be simultaneously the property of Defendants and other parties, or alleged to be
15 necessary to the conduct of the business of other parties though belonging in part or entirely
16 to Defendants, shall nonetheless be delivered immediately to the Receiver who shall make
17 reasonable arrangements for copies or access for such other parties without compromising
18 the interests of the Receiver or the Defendants.

19 (13) All secured creditors or parties, pledge holders, lien holders, collateral holders,
20 or other persons claiming secured, priority, or preferred interest in any property or assets of
21 Respondents, including any governmental entity, are hereby enjoined from taking any steps
22 whatsoever to transfer, sell, encumber, attach, dispose of, or exercise purported rights in or
23 against the Property without the consent of the Receiver.

24 (14) Nothing in this Order may be construed as to prevent the Nevada Life and
25 Health Insurance Guaranty Association and the Nevada Insurance Guaranty Association from
26 exercising their respective powers under Title 57 of the NRS.

27 (15) The Defendants, Receiver, Special Deputy Receiver, and their representatives
28 are hereby prohibited from paying any secured claims, insurance policy claims, or creditor

1 claims for a time period of forty-five days from the date of this Order until further order of this
2 court, and this forty-five day prohibition will be automatically extended to insurance policy
3 claims only (as to each Defendant company) and claims of lesser priority should the Nevada
4 Insurance Guaranty Association accept responsibility for payment of the Builder Insurance
5 Company, Inc.'s claims during such forty-five day time period. This prohibition on claim
6 payments will not apply to payment of administrative expenses incurred for the proper
7 administration of the Defendants' affairs; however, the payment of administrative expenses
8 will be subject to and limited by the provisions of Paragraph 2 of this Order. This prohibition
9 on claim payments may be further extended or modified with court approval.

10 (16) In addition to that provided by statute or by the Defendants' policies or contracts
11 of insurance, and to the extent not in conflict with the other provisions of this Paragraph 16,
12 the Receiver may, at such time he deems appropriate, without prior notice, subject to the
13 following provisions, impose such full or partial moratoria or suspension upon the payments or
14 other obligations which arise as sums due under the policies or contracts of insurance issued
15 by Defendants, creditor obligations and any other payment obligations, provided that

16 (a) with respect to any policies or contracts of insurance, any such suspension
17 or moratorium shall apply in the same manner or to the same extent to all
18 policies or contracts of the same type or to the particular types or payments
19 due thereunder. However, the Receiver may, in his sole discretion, impose
20 the same upon only certain types, but not all, of the payments due under any
21 particular type of contract or policy; and

22 (b) notwithstanding any other provision of this Order, the Receiver may
23 implement a procedure for the exemption from any such moratorium or
24 suspension, those hardship claims, as he may define them, that he, in his
25 sole discretion, deems proper under the circumstances.
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1 (17) The Receiver shall only impose such moratorium or suspension when the same
2 is not specifically provided for by contract or statute as part, or in anticipation, of a plan for the
3 partial or complete rehabilitation of Defendants or when necessary to determine whether such
4 partial or complete rehabilitation is reasonably feasible.

5 (18) It is hereby ordered that all insurance policies and contracts of insurance of
6 Defendants are hereby terminated effective on the thirtieth day following this Order, subject to
7 not cancelling insurance contracts issued by, or on behalf of, Companion. This Order will not
8 terminate any policies and/or contracts of insurance issued directly by Companion.

9 (19) Under no circumstances shall the Receiver be liable to any person or entity for
10 his good faith decision to impose, or to refrain from imposing, such policy lien, moratorium or
11 suspension.

12 (20) Notice of such policy lien, moratorium or suspension, which may be by
13 publication, shall be provided to the holders of all policies or contracts affected thereby. The
14 Receiver and all deputies, special deputies, attorneys, accountants, actuaries, investment
15 counselors, asset managers, peace officers and other consultants are deemed to be public
16 officers acting in their official capacities on behalf of the state and shall have no personal
17 liability for or arising out of their acts or omissions performed in good faith in connection with
18 their services performed in connection with these or related proceedings or pursuant to this or
19 related orders except as regards claims by the Receiver.

20 (21) No judgment, order, attachment, garnishment sale, assignment, transfer,
21 hypothecation, lien, security interest or other legal process of any kind with respect to or
22 affecting the Defendants or the Property shall be effective or enforceable or form the basis for
23 a claim against Defendants or the Property unless entered by the Court, or unless the Court
24 has issued its specific order, upon good cause shown and after due notice and hearing,
25 permitting same.

26 (22) All costs, expenses, fees or any other charges of the Receivership, including but
27 not limited to fees and expenses of accountants, peace officers, actuaries, investment
28 counselors, asset managers, attorneys, special deputies, and other assistants employed by

1 the Receiver, the giving of the Notice required herein, and other expenses incurred in
2 connection herewith shall be paid from the assets of Defendants. Provided, further, that the
3 Receiver may, in his sole discretion, require third parties, if any, who propose rehabilitation
4 plans with respect to Defendants to reimburse the estate of Defendants for the expenses,
5 consulting or attorney's fees and other costs of evaluating and/or implementing any such plan.

6 (23) If any provision of this Order or the application thereof is for any reason held to
7 be invalid, the remainder of this Order and the application thereof to other persons or
8 circumstances shall not be affected thereby.

9 (24) The Receiver may at any time make further application for such further and
10 different relief as he sees fit.

11 (25) The Court shall retain jurisdiction for all purposes necessary to effectuate and
12 enforce this Order.

13 (26) The Receiver is authorized to deliver to any person or entity a certified copy of this
14 Order, or of any subsequent order of the Court, such certified copy, when so delivered, being
15 deemed sufficient notice to such person or entity of the terms of such Order. But nothing
16 herein shall relieve from liability, nor exempt from punishment by contempt, any person or
17 entity who, having actual notice of the terms of any such Order, shall be found to have
18 violated the same.

19 (27) The Motion to Intervene of Companion is hereby granted.

20 (28) Pursuant to the Stipulation and Order entered on March 29, 2013, the Motion to
21 Intervene of Risk Services-Nevada, Inc. and Risk Services, L.L.C. ("collectively "Risk
22 Services") was granted for monitoring purposes. Further, Risk Services' additional requests
23 for relief were continued, without prejudice, for approximately thirty (30) days to allow the
24 Special Deputy Receiver to evaluate the Defendants' estate and the numerous legal actions
25 involving Risk Services, Michael Rogers and the Defendants.

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1 (29) Notice of any filings in this proceeding shall additionally be provided by
2 electronic delivery to the email addresses provided by the Special Deputy Receiver, counsel
3 for Companion, counsel for Risk Services, and Brian Hardy, Esq.

4 (30) The Receiver or Special Deputy Receiver shall file with the Court monthly
5 reports in summary form of the affairs of NCIC & BIC under receivership.

6 (31) First Status Report is due May 29, 2013.
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8 **IT IS SO ORDERED**

9 DATED this 18 day of April, 2013.
10

11 
12 _____
13 DISTRICT COURT JUDGE

14 Respectfully submitted by:

15 CATHERINE CORTEZ MASTO
16 Attorney General

17 By: /s/ Joanna N. Grigoriev
18 JOANNA N. GRIGORIEV
19 Senior Deputy Attorney General
20 *Attorneys for the Division of Insurance*

21 Approved as to form and content:

22 LIONEL SAWYER & COLLINS

23 By: /s/ Rodney M. Jean
24 Rodney M. Jean
25 *Attorneys for Intervenors Companion Property
26 and Casualty Insurance Company and
27 Companion Commercial Insurance Company*
28