

E-17

06/05/2009 3:50 PM

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<u>IGA</u>	<u>Claim No</u>	<u>Policy No</u>	<u>Insured</u>	<u>LOB</u>	<u>Examiner</u>	<u>Status</u>
36	PCO-036-0081	BOP8816174	GIANT INDUSTRIES	OTHER	igfjdd	Closed

Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

Date: 06/05/2009

Type: User

User ID: igfjdd

Subject: CLOSED FILE

CLOSED FILE

All MTBE claims by Giant/Western have been dismissed as to the Fund and Receiver. All fee bills have been paid and no exposures remain. Closing file as planned.

Date: 06/10/2008

Type: User

User ID: igfldn

Subject: Adjuster & management notes will be maintained in master file

Adjuster & management notes will be maintained in master file #PCO-036-0027, unless specifically pertinent to this claim.

Date: 04/10/2008

Type: User

User ID: igfldn

Subject: Reviewed claim on mgr's diary. Handled appropriately. Thanks,
Reviewed claim on mgr's diary. Handled appropriately. Thanks, John.

Arizona Property & Casualty Insurance Guaranty Fund
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<u>IGA</u>	<u>Claim No</u>	<u>Policy No</u>	<u>Insured</u>	<u>LOB</u>	<u>Examiner</u>	<u>Status</u>
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Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

Date: 04/08/2008

Type: User

User ID: igfjdd

Subject: Received and reviewed Summons and Complaint.

Received and reviewed Summons and Complaint.

Western Refining f/k/a Giant Industries has filed a Complaint for Declaratory Relief, Breach of Contract and Breach of Implied Covenant of Good Faith and Fair Dealing. The named defendants are:

National Union (AIG)
Illinois National (AIG)
American Home (AIG)
American International Specialty (AIG)
Omaha Indemnity
Fireman's Fund
USF&G
Assicurazioni Generali
The Fund

The AIG companies are the focus of the litigation. The Breach of Contract and Breach of Implied Covenant of Good Faith are only pled against AIG. The other named defendants are solely involved in the Declaratory Relief action.

The Complaint alleges that AIG has been involved in a factually similar matter in the same US District Court that is handling the MTBE litigation, referred to as the Sunco matter, where in it was found to owe a duty to defend under its CGL policies. AIG's position, and that which appears to have been upheld by the court, is that MTBE is not a pollutant, but a product as it is not harmful until an intervening cause leads to a spill or release. Thus, they have specifically excluded their excess insurers and pollution policies and are focusing on a products-liability claim. They claim the court has already ruled that joint and several does not apply and that a possible market-share allocation may apply, should liability be found against the manufacturers/distributors. The court also dismissed the punitive damage aspects of the claims stating they cannot apply on a market-share allocation claim.

They list all pending lawsuits against Giant in their factual scenario and are seeking coverage for all of the claims.

The Complaint does not name Home. It does note the insolvency and bar date. It glosses over the bar date and talks about the Fund owing them duties to the insured as the insolvent insurer would. This is incorrect and does not continue on to cite the "in accordance with the statutes" language in the Dickey case. They also claim the Fund has refused to supply them with copies of the policies. They fail to note that the policies were never requested from the Fund.

Finally, they claim AIG is defending under a "limited basis" under some policies. However, they are attempting to apply AZ's allowance of the insured to choose a policy when more than one apply to opt for coverage from AIG's National Union policy GL 541-96-88 (11/1/90-91) in order to perfect their bad faith and breach of contract claims.

Applicable defenses appear to be bar date and other insurance. Policy defenses cannot be outlined as we do not have a copy of the BOP policy language for review, assuming the above defenses were deemed inapplicable.

Arizona Property & Casualty Insurance Guaranty Fund
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BAR DATE

I discussed with L. Nestor and we will utilize Ryan Talamante as defense counsel. We will also utilize the Albertson Water District claim PCO-036-0027 as the Master File and will keep all further notes and pay all bills from that file.

Date: 04/04/2008

Type: User

User ID: igfldn

Subject: Rec'd Summons & Complaint filed against the Guaranty Fund itself

Rec'd Summons & Complaint filed against the Guaranty Fund itself by policyholder Giant Industries. It demands a defense from the Fund and from the other defendants, who are other insurers that provided coverage to the policyholder during the timeframe presented in the subject MTBE lawsuit. Complaint indicates multiple lawsuits for MTBE contamination filed by numerous plaintiffs, demands a defense from the insurers/Fund listed, and alleges bad faith specifically against other insurers AIG.

Assigned lawsuit to adjuster to defend based on bar date and the presence of other insurance, etc.

Arizona Property & Casualty Insurance Guaranty Fund
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Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

Date: 03/11/2008

Type: User

User ID: igfjdd

Subject: Arizona Property and Casualty

Arizona Property and Casualty
Insurance Guaranty Fund 03/11/08

Arizona Department of Insurance

Telephone: (602) 364-3863

Facsimile: (602) 364-3872

JANET NAPOLITANO 1110 W. Washington, Suite 270 CHRISTINA URIAS

Governor Phoenix, Arizona 85007 Director of Insurance

www.id.state.az.us

March 11, 2008

W. Brent Chandler - Vice President

Western Refining
123 West Mills Avenue
STE 200
El Paso, TX 79901

RE: Home Insurance Company, in Liquidation

STYLE OF CASE: Roslyn Water District v. Amerada Hess Corporation et al.

INSURED: Giant Industries

CLAIMANT: Roslyn Water District

CLAIM NUMBER: PCO-036-0081 and PCO-036-0082

Dear Mr. Chandler:

We are in receipt of your letter dated February 27, 2008, requesting the Fund review the above captioned matter for possible coverage under Giant's liability policies with the now insolvent Home Insurance Company. Pursuant to the Home Liquidation Order, the court has established a filing deadline, or "bar date," for claims against Home of June 13, 2004, and no new claims will be accepted for coverage under the receivership estate after that date. The receivership had to receive notice of the claim prior to June 13, 2004 in order for coverage via the cancelled Home policy to apply. The first notice of the above claim was your letter of February 27, 2008. The Fund in turn forwarded a copy to the Receiver. As notice of this loss was not received prior to the bar date, it is deemed late.

The Fund must honor the bar dates established by receivership courts. In a resolution adopted on April 16, 1998, the Fund has specifically stated that "... any and all claims against the FUND, whether liquidated or unliquidated, not filed with the receiver or the FUND within four months from the date of the notice to creditors by the receiver, or on or before the claims bar date established by the receiver, whichever is later, shall be barred as to the FUND;" Notice of this claim was not provided prior to the bar date established. For that reason, we will not be able to extend coverage for this matter under the Fund.

The Fund reserves all statutory and/or policy defenses it may have in connection with this matter, whether stated

Arizona Property & Casualty Insurance Guaranty Fund
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Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

or not in this letter. The Fund reserves its rights to modify its coverage position at any time upon receipt of additional information. Should you have any additional information regarding the notice of this claim that you would like for us to consider, please contact me.

Sincerely,

John Draftz
Senior Claims Adjuster
(602) 364-3869

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<u>IGA</u>	<u>Claim No</u>	<u>Policy No</u>	<u>Insured</u>	<u>LOB</u>	<u>Examiner</u>	<u>Status</u>
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Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

Date: 03/11/2008

Type: User

User ID: igfjdd

Subject: Reviewed new claim from the Home insolvency.

Reviewed new claim from the Home insolvency.

This is a first notice claim filed after the bar date and has been deemed late. Western Refining claims to have purchased all of Giant Industries stock as of 5/31/07, and is requesting the Fund review this matter for possible coverage as Giant was domiciled in AZ. The notice letter was received 2/25/08 and Home's bar date was 6/13/04. As such, a denial letter citing the bar date will be sent.

There are two files set up for this loss, one for each policy: PCO-036-0081 and PCO-036-0082.

This loss relates to suit in US District Court in NY, 04CV5422, filed by the Roslyn Water District (RWD). The RWD is a municipal corporation, assigned with the preservation and distribution of groundwater to over 17,000 residents in Long Island, NY. The RWD filed suit against numerous defendants, all dealing with the extraction, exploration, refining, design, manufacture, distribution or marketing of petroleum, specifically the creation and utilization of Methyl Tertiary Butyl Ether (MTBE). Included in the list of defendants are; Shell, Exxon, Chevron, Texaco, Mobil etc... as well as the insured, Giant Industries. Giant is actually named as Giant Yorktown, Inc., and is listed to be domiciled out of Scottsdale, AZ, the same corporate location as Giant Industries.

The Complaint lists causes of action to include: Public Nuisance, Private Nuisance, Strict Liability for Design Defect, Strict Liability for Failure to Warn, Negligence, Trespass, Violation of the Toxic Substances Control Act, Violation of NY Business Law and Violation of NY Navigation Law. They are seeking to have the defendants clean the water and install early warning MTBE detectors at the water tables. In addition, the RWD is requesting \$480 million in compensatory damages as well as \$2 billion in punitive damages.

It is alleged that the defendants knowingly used MTBE, a chemical only created through the refining of petroleum, as a fuel oxygenator despite knowing its propensity to be highly water soluble and being a known carcinogen. MTBE has been found to spread further, faster and last longer than any other petroleum by-product, up to 24 times faster. It is not naturally found in gasoline and is only found as an additive. It also lasts much longer due to its resistance to natural and chemical forces.

It is further alleged that in addition to soil and groundwater contaminations from spills, either industrial or by the consumer, MTBE, when burned through an engine, evaporates and returns through rainwater, thus making containment almost impossible.

It is claimed that the defendants, as far back as 1980, created the American Petroleum Institute and were members of the Toxicology Committee created to review MTBE. Named defendants Exxon, Shell, Mobil, Arco, Tosco and Chevron were listed to have been on the API Committee. It is alleged that they shared information regarding MTBE and its propensity to contaminate groundwater. Despite said findings, the defendants continued to refute EPA studies as to the effects of MTBE and its possible hazards even though various internal memos warned of said dangers. The defendants were also aware of multiple spills outside of NY that resulted in groundwater contamination by MTBE.

It is further claimed that despite the dangers of MTBE, the defendants chose to use it as an oxygenator that they already had on hand from refining rather than utilize another party for safer oxygenators such as Ethanol, while

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Close Dt: 06/05/2009

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Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

continuing to claim that its utilization created cleaner burning fuel that was more environmentally friendly. Subsequent studies refute that MTBE in any way helped keep the air cleaner.

Overall, the Complaint generally alleges that the defendants knowingly used a harmful additive to gasoline, rather than a safer alternative, to boost profits. In addition, while doing so, they went to great lengths to combat studies showing the potential hazards of MTBE while all along knowing the harm they could cause, thus deceiving the EPA and the general public.

COVERAGE: Giant Industries was insured by two Business Owner's policies with Home:

1. BOP 8816174 (8/3/80-81) and extended by endorsement through 8/3/82
2. BOP 8931246 (8/3/82-83)

Both are noted to have \$500,000 limits with a \$1,000 deductible to all claims. The copies of the policies and Dec pages that were forwarded by the Receiver include endorsement language such as Auto, Liquor, Accounts Receivable and Extended Business Liability but do not have the general liability coverage terms. It cannot be confirmed at this time if the Home policies would have afforded coverage for this loss. Areas of concern would be punitives, fraud, known hazard etc...

FUND COVERAGE: Loss was presented after the 6/13/04 bar date and is deemed late. As such, coverage will be denied.

OTHER INSURANCE: According to the schedule of insurers provided, the insured carried multiple primary and excess policies including GL, Excess Liability, Pollution Liability including certain policies for only pollution liability defense costs, Umbrella Liability and UST Pollution policies. There are very few policies that were issued by insolvent insurers such as Home and Reliance.

LIABILITY: Unknown at this time.

PENDS: Demand for coverage from Western Refining, successor to Giant Industries.

PLAN:

1. Deny coverage for bar date. Send denial letter to:

W. Brent Chandler - Vice President
Western Refining
123 West Mills Avenue
STE 200
El Paso, TX 79901

TELEPHONE (915) 534-1400

2. Diary for 30 days.

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Close Dt: 06/05/2009

DOL: 08/03/1980

Claim Description: ALLEGED MTBE CONTAMINATION - SEE X-CLAIM #PCO-036-0082

BAR DATE

Date: 03/11/2008

Type: New Claim

User ID: igftlg

Subject: Posted from Notice to Claim

Posted from Notice to Claim

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GLOVER & VAN COTT, P.A.
2025 NORTH THIRD STREET, SUITE 260
PHOENIX, ARIZONA 85004 ♦ (602) 257-9160

GLOVER & VAN COTT, P.A.
2025 North Third Street, Suite 260
Phoenix, Arizona 85004
(602) 257-9160

Ryan J. Talamante — 15323

Attorney for Defendant Arizona Property
and Casualty Insurance Guaranty Fund

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

Western Refining Southwest, Inc., et al.,)	Case No. CV2008-007299
)	
Plaintiffs,)	DEFENDANT ARIZONA
)	PROPERTY AND CASUALTY
v.)	INSURANCE GUARANTY
)	FUND'S MOTION FOR
National Union Fire Insurance Company of)	SUMMARY JUDGMENT
Pittsburgh, Pa; et al.,)	
)	(Assigned to the Honorable
Defendants.)	John Buttrick)
)	

Pursuant to Rule 56(b), Arizona Rules of Civil Procedure, Defendant Arizona Property and Casualty Insurance Guaranty Fund (the "Guaranty Fund") hereby moves the Court to enter summary judgment in its favor. This Motion is based on the following Memorandum of Points and Authorities and the separately-filed Separate Statement of Facts.

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 **I. CASE BACKGROUND**

3 This lawsuit arises out of the fact that one or more of the Plaintiffs have been sued in
4 numerous “MTBE” lawsuits throughout the country. Plaintiffs bring this lawsuit seeking,
5 among other things, a declaration that the defendants in this case are obligated to defend the
6 Plaintiffs in those MTBE lawsuits under various policies of insurance that have been issued
7 to Plaintiffs over the years. However, unlike every other defendant named in this case, the
8 Guaranty Fund is not an insurance company, but is a statutorily-created fund maintained
9 within the Arizona Department of Insurance. It is this unique nature of the Guaranty Fund
10 that gives rise to the instant Motion.

11 **A. The Unique Nature of the Guaranty Fund**

12 The Guaranty Fund is governed by Article 6 of Chapter 3 of Title 20 of the Arizona
13 Revised Statutes (A.R.S. §§ 20-661 through 20-680 – collectively referred to sometimes as
14 the “Arizona Guaranty Fund Statutes”). The Guaranty Fund is controlled by an 11-member
15 board appointed by the Governor of Arizona, and is designed to handle the administration
16 of claims brought in Arizona against insolvent insurance companies. *See* A.R.S. §§ 20-662
17 and 20-663. As set forth in A.R.S. § 20-664, the main purpose of the Guaranty Fund is to
18 “[i]nvestigate claims brought against the fund and adjust, compromise, settle and pay *covered*
19 *claims* to the extent of the fund’s obligations *and deny all other claims.*” (Emphasis added.)
20
21

1 A “covered claim” is defined in A.R.S. § 20-661 as:

2 an unpaid claim . . . which arises out of and is within the
3 coverage of an insurance policy to which this article applies
4 issued by an insurer, if such insurer becomes an insolvent
5 insurer after August 27, 1977 and the claimant or insured is a
resident of this state at the time of the insured event or the
property from which the claim arises is permanently located in
this state.

6 A.R.S. § 20-661(3).

7 Above and beyond qualifying as a “covered claim,” there are numerous other
8 provisions contained in the Arizona Guaranty Fund Statutes that limit the ability of the
9 Guaranty Fund to pay claims. For example, A.R.S. § 20-667 limits the maximum amount that
10 the Guaranty Fund can pay on a claim to \$99,900, A.R.S. § 20-673 requires that a claimant
11 first exhaust all other sources of other insurance coverage before seeking any payment from
12 the Guaranty Fund, and A.R.S. § 20-679 authorizes the Guaranty Fund to bar claims not
13 submitted within certain time frames.¹

14 Thus, the Guaranty Fund is not simply a substitute for the insolvent insurer. As the
15 Arizona Guaranty Fund Statutes and accompanying case law make clear, the Guaranty Fund
16 steps into the shoes of the insolvent insurer *only to the extent that it has an obligation under*
17 *the statutes to pay a “covered claim.”* See A.R.S. § 20-667(C) (“The fund is deemed the
18 insurer to the extent of its obligation on the covered claims . . .”) (emphasis added); see also
19 *Arizona Property and Casualty Ins. Guar. Fund v. Herder*, 751 P.2d 519, 521 n.3, 156 Ariz.

20
21 ¹The limitations found in A.R.S. §§ 20-673 and 20-679 both have application to the claims
in this case and form the basis for Guaranty Fund’s request for summary judgment. Both statutes are
analyzed in detail below in Section III of this Motion.

1 203, 205 n.3 (1988) (noting that “the Fund is deemed the insurer to the extent of the Fund’s
2 obligations on the covered claims, *and not to the extent of the insolvent insurer’s*”) (emphasis
3 added). As the Arizona Court of Appeals recently stated: “The Fund exists to mitigate the
4 adverse effects caused by the insolvency of insurers, not to fully replace the coverage that
5 would have existed if those insurers were solvent.” *Jangula v. Jangula*, 207 Ariz. 468, 472
6 (¶21), 88 P.3d 182, 186 (¶ 21) (App. 2004).

7 **B. The Guaranty Fund’s Role in this Case**

8 The Guaranty Fund has been named as a defendant in this case because of the
9 insolvency of The Home Insurance Company, a New Hampshire insurance company that was
10 authorized to write business in Arizona. SOF ¶1. Home Insurance was placed into liquidation
11 by the Superior Court in Merrimack County, New Hampshire by order of June 13, 2003. SOF
12 ¶2. Home Insurance had issued certain policies of insurance to one or more of the Plaintiffs.
13 According to the Complaint, the only Home Insurance policies at issue in this case are: (1)
14 a Business Owner’s Policy issued to Giant Industries, Inc. (No. BOP 8816174), covering the
15 period August 3, 1980 to August 3, 1981; and (2) a Business Owner’s Policy to Giant
16 Industries, Inc. (No. BOP 8828551), covering the period August 3, 1981 to August 3, 1982.
17 SOF ¶3. Plaintiffs allege that these two policies provide coverage for some or all of the
18 claims at issue in the MTBE lawsuits that have been filed against the Plaintiffs, and,
19 therefore, Home Insurance (and now the Guaranty Fund) is obligated to defend the Plaintiffs
20 in those lawsuits. SOF ¶4. The Guaranty Fund disagrees.
21

1 As set forth below, the Arizona Guaranty Fund Statutes bar payment of Plaintiffs'
2 claims, and, thus, no defense is owed by the Guaranty Fund.

3 **III. ARGUMENT**

4 Before turning to the substance of the Guaranty Fund's argument, it is important to
5 point out that the Guaranty Fund is *not* arguing any policy defenses to Plaintiffs' claims at
6 this time. In fact, for purposes of this Motion, the Guaranty Fund will assume that the
7 underlying insurance policies issued by Home Insurance provide coverage for some or all
8 of the claims alleged against the Plaintiffs in the MTBE lawsuits.² Therefore, while there is
9 likely to be a great amount of time and effort devoted in this case to exploring the terms and
10 exclusions contained in the numerous underlying insurance policies at play, none of those
11 issues need be dealt with in this Motion.

12 **A. Plaintiffs' Claims Against the Guaranty Fund Are Barred by
13 A.R.S. § 20-679**

14 A.R.S. § 20-679, entitled "Limitation on filing of creditor's claims," provides:

15 With respect to the handling of claims, the fund may by
16 resolution bar known claims, whether liquidated or unliquidated,
not filed with the within four months from the date of notice to
creditors.

17 In accordance with the authority granted by A.R.S. § 20-679, the Guaranty Fund
18 passed the following resolution on April 16, 1998:

- 19 1. Unless otherwise provided by the resolution of the Board
20 applicable to a specific receivership, any and all claims

21 ²The Guaranty Fund reserves the right to contest coverage under the Home Insurance
policies if it remains a defendant in this litigation beyond the summary judgment stage.

1 against the FUND, whether liquidated or unliquidated,
2 not filed with the receiver or the FUND within four
3 months from the date of notice to creditors by the
4 receiver or on or before the claims bar date established
5 by the receiver, whichever is later, shall be barred as to
6 the FUND; and

- 7 2. Notice to creditors by the receiver shall be treated and
8 deemed as notice by the FUND and proof of any claim
9 filed with the receiver shall be treated and deemed as
10 filed with the FUND.

11 SOF ¶5.

12 Therefore, in order to be an obligation of the Guaranty Fund, notice of the claim must
13 be provided to the receiver of the insolvent insurer or directly to the Guaranty Fund at least
14 by the claims bar date.³ In this case, the claims bar date set in the Home Insurance liquidation
15 proceeding was June 13, 2004. SOF ¶6. Therefore, in order to be a valid claim as against the
16 Guaranty Fund, notice of that claim must have been provided to the Home Insurance
17 liquidator or the Guaranty Fund on or before June 13, 2004. Plaintiffs, however, did not
18 notify the Home Insurance liquidator of any of the MTBE lawsuits filed against them until
19 April of 2007, and did not provide any notice of those lawsuits to the Guaranty Fund until
20 February of 2008. SOF ¶¶7-8. Accordingly, all of the claims at issue in this case are barred
21 as to the Guaranty Fund. As explained below, this includes even those claims arising from
lawsuits that were initiated against the Plaintiffs *after* the June 13, 2004 claims bar date.

³Although A.R.S. § 20-679 authorizes the Guaranty Fund to bar claims not filed within four months of notice to creditors, the Guaranty Fund's resolution of April 16, 1998 expanded that time frame to allow for notice of claims filed anytime before the claims bar date.

1 Although there are no Arizona cases directly commenting on the application of A.R.S.
2 § 20-679, similar guaranty fund statutes from other states have been consistently construed
3 as barring any claims submitted after the claims bar date. For example, that was the
4 conclusion reached by the court in *Satellite Bowl, Inc. v. Michigan Property & Casualty*
5 *Guaranty Association*, 419 N.W.2d 460 (Mich. App. 1988). In that case, Satellite Bowl, Inc.,
6 a company doing business in Michigan, was insured by Proprietor's Insurance Company, an
7 Ohio insurer authorized to do business in Michigan. On August 5, 1981, Proprietor's was
8 declared insolvent by an Ohio court. A receiver was appointed and the claims bar date was
9 set for one year after the date of insolvency – August 5, 1982. Not until after the claims bar
10 date had passed did Satellite Bowl become aware of two lawsuits filed against it. Satellite
11 Bowl promptly notified the Michigan Property & Casualty Guaranty Association of the
12 claims, but the Association refused to defend because no notice of the claims had been
13 received by the Association or by Proprietor's receiver prior to the claims bar date. Satellite
14 Bowl then brought suit seeking a determination that the Association was obligated to defend
15 Satellite Bowl in the two lawsuits. *See Satellite Bowl*, 419 N.W.2d at 461.

16 The Michigan Guaranty Association filed a motion for summary judgment, claiming
17 that, under the Michigan Property and Casualty Guaranty Association Act (the "Michigan
18 Act"), the Association was only obligated to pay those "covered claims" that were presented
19 to the Association "on or before the last date fixed for the filing of claims" (i.e., the claims
20 bar date). The trial court agreed with the Association and Satellite Bowl appealed. *See id.* at
21 462. On appeal, Satellite Bowl argued that the Association should be required to accept the

1 late-filed claim because the purpose of the Michigan Act was to eliminate risk for
2 policyholders doing business with an insolvent insurer. In rejecting that argument and
3 upholding the trial court's ruling, the Michigan appeals court stated:

4 While that is indeed the purpose of the act [i.e., to protect
5 policyholders], the deadline requirement in § 7925(1)(c)
6 [Michigan's claims bar date statute] indicates that the
7 Legislature did not intend to make this protection absolute,
8 indemnifying any claim no matter when it arose. The
9 requirement in the statute that claims be presented before the
10 filing deadline evidences an intent on the part of the Legislature
11 to provide a cutoff date after which the association is no longer
12 obligated to accept claims. The language implies that some
13 claims, those filed after the filing deadline, would not be
14 indemnified. The statute does not authorize extension of the
15 filing deadline for equitable reasons.

16 *Id.*

17 In addition to its plain language interpretation of the claims bar date statute, the court
18 in *Satellite Bowl* found further support for its opinion in the fact that, under the Michigan
19 Act, claimants who seek payment from the Michigan Guaranty Association are required to
20 assign their rights against the insolvent insurer to the Association so that the Association can
21 then seek reimbursement from the insolvent insurer's estate. The court explained:

 There must be reasonable limits to the association's liability and
 finality to the liquidation proceeding. . . . It is important,
 therefore, to the statutory scheme that the association be able to
 recover as much of the claim as possible from the insolvent
 insurer's estate. Thus, the association is obligated under the act
 to accept only claims timely filed which entitle it to participate
 in the liquidation proceedings.

1 *Id.*⁴

2 After citing cases from other jurisdictions that had construed other states' guaranty
3 fund statutes in a similar manner, the *Satellite Bowl* court concluded:

4 We agree with these decisions that allowance of delinquent
5 claims would prolong distribution of the insolvent company's
6 assets to the detriment of other claimants and would adversely
7 affect the guaranty associations.

8 *Id.*; see also *Ohio Ins. Guar. Ass'n v. Berea Roll & Bowl, Inc.*, 482 N.E.2d 995, 998 (Ohio
9 C.P. 1984) ("The purpose of permitting the court to set a date beyond which no claim shall
10 be presented allows the early liquidation of the insolvent insurance company and, therefore,
11 benefits the claimants and policyholders of the insolvent company.").

12 Another case with facts similar to this case is *Cannelton Industries, Inc. v. Aetna
13 Casualty & Surety Co.*, 460 S.E.2d 18 (W.V. App. 1994). Cannelton Industries was involved
14 in the coal business in West Virginia and had been insured over the years by numerous
15 insurers, including Midland Insurance Company and Integrity Insurance Company. Both
16 Midland and Integrity were eventually declared insolvent, and claims bar dates were set in
17 each estate – April 3, 1987 for Midland, and March 25, 1988 for Integrity. *Cannelton*, 460
18 S.E.2d at 20.

19 On June 23, 1988 – after both bar dates had passed – Cannelton received notice from
20 the United States Environmental Protection Agency that Cannelton may be a responsible

21 ⁴The Arizona Guaranty Fund Statutes contain a similar requirement. See A.R.S. § 20-672
("Any person recovering pursuant to this article shall be deemed to have assigned his or her rights
under the policy to the fund . . .").

1 party for an environmental pollution problem that had occurred at a Michigan site owned by
2 Cannelton. Eleven months later, on May 25, 1989, the EPA issued a formal environmental
3 claim against Cannelton. After the EPA issued the formal claim, Cannelton notified the
4 liquidators of both Midland and Integrity, requesting coverage under the respective policies.
5 Because Cannelton was a West Virginia company, both claims were forwarded to the West
6 Virginia Insurance Guaranty Association ("WVIGA") for handling. The WVIGA denied
7 coverage under both policies because notice of the claim had not been presented prior to the
8 expiration of the claims bar date in either estate. Cannelton then brought a declaratory
9 judgment action against the WVIGA and approximately 56 of its insurance carriers, seeking
10 coverage for the EPA claim. *Id.* at 20-21.

11 The WVIGA filed a motion to dismiss (later treated as a motion for summary
12 judgment) arguing that it had no obligation (or even authority) to pay under the Midland or
13 Integrity policies because no notice of the claim had been received prior to the expiration of
14 the claims bar dates. The trial court granted the motion, and Cannelton appealed. *Id.* at 21.

15 After reviewing the provisions of the West Virginia Guaranty Association Act that
16 defined "covered claims" (in terms virtually identical to the definition found in A.R.S. § 20-
17 661) and established the claims bar date limitation, the appellate court agreed that
18 Cannelton's claim against the WVIGA was barred, stating:

19 The fact that there might have been a *potential* claim obviously
20 did not surface until well after the bar dates for filing proofs of
21 claims had expired Clearly, by the time Cannelton was
faced with a viable claim (on May 25, 1989, the day the USEPA
issued its environmental claim), it was no longer a "covered
claim" under the Act.

1 *Id.* at 23 (emphasis in original).

2 Similar reasoning was used by the court in *Bassi v. Rhode Island Insurers' Insolvency*
3 *Fund*, 661 A.2d 77 (R.I. 1995). In that case, Ishkhan Tavitian was injured while working for
4 AAMCO Electric, a Rhode Island business owned and operated by Fred Bassi. At the time
5 of Tavitian's injury, Bassi had workers' compensation coverage from American Universal
6 Insurance Company. However, on January 8, 1991 – about six months after Tavitian's injury
7 – American Universal was declared insolvent by the Rhode Island Superior Court, and a
8 claims bar date was set for one year later – January 8, 1992. *See Bassi*, 661 A.2d at 78.

9 There were no claims filed against Bassi or American Universal regarding Tavitian's
10 injury until September of 1992, when United States Fidelity and Guaranty ("USF&G") – a
11 workers' compensation carrier for a prior employer of Tavitian – filed a petition for
12 apportionment against Bassi in the Workers' Compensation Court. Since American Universal
13 was insolvent, Bassi turned to the Rhode Island Insurers' Insolvency Fund to defend and
14 indemnify him in the apportionment action by USF&G. The Rhode Island Fund refused to
15 do so, citing to a Rhode Island statute that provides that the Fund is not obligated to pay "any
16 claim filed with the fund after the final date set by the court for the filing of claims against
17 the liquidator or receiver of an insolvent insurer." *See id.* at 80 (citing to Section 27-34-
18 8(a)(1)(iii) of the Rhode Island Insurers' Insolvency Act). Bassi then brought suit against the
19 Rhode Island Fund.

20 On motion for summary judgment, the Rhode Island Fund argued that, because
21 Bassi's claim was not filed with the American Universal receiver by the claims bar date, the

1 claim was barred as to the Fund per the Rhode Island statutes. The fact that Bassi had no
2 knowledge of the USF&G claim until nine months after the claims bar date passed (thereby
3 making it impossible to have timely filed the claim) was irrelevant according to the Rhode
4 Island Fund. *See id.* at 78-79. The trial court agreed with the Fund, and Bassi appealed.

5 On appeal, the appellate court upheld the trial court ruling, stating:

6 Although it is unfortunate for Bassi that he was not aware of the
7 claim filed against him until after the filing date had passed, this
8 court has no authority upon which to allow the filing of an out-
of-time claim in this case.

8 *Id.* at 80.

9 The court in *Bassi* explained that the statute clearly prohibited late-filed claims as
10 against the Rhode Island Fund and left no room for any other interpretation.

11 Furthermore, although the Legislature has provided protection
12 for claimants and policyholders of specific insurance companies
13 that become insolvent, that protection is not absolute. Without
14 a deadline for filing claims, the liquidation of an insolvent
insurance company could not be effected until the statutes of
limitations on all potential claims had expired.

15 *Id.* (citations omitted).

16 Other courts interpreting their state's insurance insolvency provisions have come to
17 the same conclusion. *See, e.g., Berea Roll & Bowl, Inc.*, 482 N.E.2d at 998 (holding that the
18 Ohio Insurance Guaranty Association had no obligation to pay a claim filed five months after
19 the claims bar date passed); *In re Professional Ins. Co. of New York*, 413 N.Y.Supp.2d 17,
20 affirmed 402 N.E.2d 143 (1979) (holding that New York security fund's decision to reject
21 a late-filed claim was correct even though the claimant did not learn of the possibility of a

1 malpractice suit until after the claims bar date had passed); *Union Gesellschaft Fur Metal*
2 *Industrie Co. v. Illinois Ins. Guar. Fund*, 546 N.E.2d 1076, 1079 (App. Ill. 1989) (holding
3 that the Illinois Insurance Guaranty Fund was not obligated to indemnify the insured's late-
4 filed claims, even though the insured "could not have filed any information respecting the
5 two specific claims by the filing deadline" because it had no knowledge of them at that time).

6 Much like the statutes involved in the above-cited cases, A.R.S. § 20-679 expressly
7 authorizes the Arizona Guaranty Fund to bar claims that are not presented by the prescribed
8 deadline. There is no ambiguity surrounding that statute, nor is there any question that the
9 Guaranty Fund properly exercised that grant of authority in establishing the claims bar date
10 as the latest date by which claims must be presented.

11 As set forth above, neither the Home Insurance liquidator nor the Guaranty Fund
12 received notice, prior to the claims bar date of June 13, 2004, of *any* of the claims now
13 alleged against Plaintiffs. Accordingly, those claims are now barred as to the Guaranty Fund.
14 This includes not only those claims that Plaintiffs knew or could have known about on or
15 before June 13, 2004, but, as the cases cited above make clear, the bar applies even to those
16 claims that Plaintiffs did not know about (and could not have known about) until sometime
17 after June 13, 2004.

18 It should be noted that Plaintiffs are not be wholly without remedy, as they may be
19 able to establish a late-filed claim in the Home Insurance liquidation process. But regardless
20 of whether they are successful in doing so, their claims against the Guaranty Fund are barred
21 under the authority granted to the Guaranty Fund by the legislature in A.R.S. § 20-679.

1 **B. Plaintiffs' Claims Against the Guaranty Fund Are Premature**

2 Even if Plaintiffs' claims were not barred by A.R.S. § 20-679, they are premature
3 under A.R.S. § 20-673. Section 20-673 deals with the situation, like this one, where more
4 than one insurance policy may be applicable to cover the loss. Section 673 states, in part:

5 Where more than one policy may be applicable, a policy issued
6 by the insolvent insurer shall be deemed to be excess coverage.
7 The claimant shall be required to exhaust all rights under other
8 applicable coverage or coverages. Any recovery pursuant to this
9 article shall be reduced by the amount of the recovery under the
10 claimant's insurance policy. . . .

11 A.R.S. § 20-673(C).

12 In other words, anyone seeking to recover monies from the Guaranty Fund must first
13 exhaust all other applicable insurance coverage. Not only that, but any recovery from other
14 insurance is applied to reduce the \$99,900 that the Guaranty Fund would otherwise have to
15 pay.⁵ As a result, once a claimant recovers \$99,900 from any other insurance, the Guaranty
16 Fund's obligation on the covered claim is reduced to zero. *See Jangula*, 207 Ariz. at 471 (¶
17 14), 88 P.3d at 185 (¶ 14) (holding that recoveries from other insurance are applied to offset
18 the \$99,900 that the Guaranty Fund may otherwise be required to pay). And once there is no
19 longer any obligation to pay on a covered claim, the Guaranty Fund has no obligation to pay
20 defense costs.

21 ⁵A.R.S. § 20-667 was amended in 2007 to increase the maximum amount payable on a covered claim to \$299,900. *See* 2007 Ariz. Session Laws Ch. 115, § 3. That amendment, however, only applies to insolvent estates that are activated after the effective date of that amendment (September 19, 2007). *See* A.R.S. § 1-244. Since Home Insurance was declared insolvent on June 13, 2003, the previous version of A.R.S. § 20-667 applies in this case.

1 The complaint here not only states on its face that there are other insurance policies
2 issued by solvent insurers that are applicable to these claims, but that those policies have yet
3 to be exhausted. SOF ¶9. Until Plaintiffs have exhausted their rights under those other
4 policies, there is no claim against the Guaranty Fund.⁶ Moreover, any recoveries under those
5 policies will effectively reduce the Guaranty Fund's obligation on any covered claims (and
6 thus its obligation for defense costs) to zero.

7 **III. CONCLUSION**

8 Plaintiffs' claims against the Guaranty Fund are barred by A.R.S. § 20-679 and the
9 resolution passed by the Guaranty Fund in accordance with that statute. The barred claims
10 include not only those claims that Plaintiffs' knew about as of June 13, 2004 (the Home
11 Insurance claims bar date), but also those claims that did not come into existence until after
12 that date passed. Even if Plaintiffs claims were not barred by A.R.S. § 20-679, the policies
13 issued by Home Insurance are deemed excess pursuant to A.R.S. § 20-673 and cannot be
14 accessed until all other insurance is exhausted. Accordingly, Plaintiffs have no claim against
15 the Guaranty Fund at this time.

16 For the foregoing reasons, the Guaranty Fund requests that the Court grant this Motion
17 and enter summary judgment in its favor.

18 **DATED** this 3rd day of September, 2008.

19 _____
20 ⁶As stated in A.R.S. § 20-673(C), the policies issued by Home Insurance are deemed to be
21 "excess policies," and, like the other excess policies issued to Plaintiff, should not be a part of this case.

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GLOVER & VAN COTT, P.A.

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ELECTRONICALLY FILED
this 3rd day of September, 2008.

COPIES electronically served this
this 3rd day of September, 2008, via
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6 /s/ Danielle Avery
7 _____

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E-19

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Attorneys for Plaintiffs

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

14 WESTERN REFINING SOUTHWEST,
15 INC. f/k/a GIANT INDUSTRIES
16 ARIZONA, INC., GIANT INDUSTRIES,
17 INC., and WESTERN REFINING
18 YORKTOWN, INC. f/k/a GIANT
19 YORKTOWN, INC.,

Plaintiffs,

vs.

No: CV2008-007299

20 NATIONAL UNION FIRE INSURANCE
21 COMPANY OF PITTSBURGH, PA;
22 ILLINOIS NATIONAL INSURANCE
23 COMPANY; AMERICAN HOME
24 ASSURANCE COMPANY; AMERICAN
25 INTERNATIONAL SPECIALTY LINES
26 INSURANCE COMPANY; FIREMAN'S
27 FUND INSURANCE COMPANY;
28 ASSICURAZIONI GENERALI S.p.A.
(U.S. BRANCH); ARIZONA PROPERTY
AND CASUALTY INSURANCE
GUARANTY FUND; et al.,

Defendants.

**ORDER OF DISMISSAL WITH
PREJUDICE AS TO
DEFENDANTS
ASSICURAZIONI GENERALI
S.p.A., ERRONEOUSLY SUED
AS ASSICURAZIONI
GENERALI S.p.A. (U.S.
BRANCH), AND ARIZONA
PROPERTY AND CASUALTY
INSURANCE GUARANTY
FUND ONLY**

1 Upon the stipulation and joint motion of Plaintiffs Western Refining
2 Southwest, Inc. f/k/a Giant Industries Arizona, Inc., Giant Industries, Inc., and
3 Western Refining Yorktown, Inc. f/k/a Giant Yorktown, Inc. and Defendants
4 Assicurazioni Generali S.p.A., erroneously sued as Assicurazioni Generali S.p.A.
5 (U.S. Branch), the Arizona Property and Casualty Insurance Guaranty Fund, Illinois
6 National Insurance Company, American Home Assurance Company, National Union
7 Fire Insurance Company of Pittsburgh, PA, American International Specialty Lines
8 Insurance Company and Fireman's Fund Insurance Company, and good cause having
9 been shown,

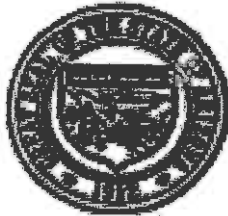
10 **IT IS HEREBY ORDERED** the First Amended Complaint is dismissed with
11 prejudice as to Defendants Assicurazioni Generali S.p.A., erroneously sued as
12 Assicurazioni Generali S.p.A. (U.S. Branch), and the Arizona Property and Casualty
13 Insurance Guaranty Fund only, each party to bear its own costs and attorneys' fees.

14
15 DATED: _____

16
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18 _____
19 THE HONORABLE JOHN BUTTRICK
20 JUDGE OF THE SUPERIOR COURT
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Granted

Signed on this day, January 21, 2009



/S/ John Buttrick
Judicial Officer of Superior Court

Summary of UDS C Claim payments reported by the Arizona P&C Fund

Claim Expense payments reported against the Giant Industries claim file by Arizona P&C Fund

AZ Claim file reported	AZ referenced the Home claim #	AZ Claimant Number	Transaction Date	Check #	Amount
PCO-36-00227	0870523228	0001	5/9/2008	5337	\$ 6,065.33
PCO-36-00227	0870523228	0001	7/7/2008	5369	\$ 1,733.50
PCO-36-00227	0870523228	0001	8/6/2008	5374	\$ 9,749.57
PCO-36-00227	0870523228	0001	9/5/2008	5379	\$ 3,641.00
PCO-36-00227	0870523228	0001	6/6/2008	5362	\$ 4,872.21
PCO-36-00227	0870523228	0001	10/3/2008	5384	\$ 1,058.29
PCO-36-00227	0870523228	0001	11/12/2008	5387	\$ 552.34
PCO-36-00227	0870523228	0001	12/3/2008	5390	\$ 362.60
PCO-36-00227	0870523228	0001	1/16/2009	5394	\$ 622.20
PCO-36-00227	0870523228	0001	2/4/2009	5400	\$ 160.34
					<u>\$ 28,817.38</u>

SUMMARY OF CLAIMS, EXPENSE AND ADMINISTRATION
NAME OF COMPANY: HOME INSURANCE COMPANY
DATE OF INSOLVENCY: JUNE 13, 2003

INCEPTION THROUGH SEPTEMBER 30, 2010

AUTO ACCOUNT:	TOTAL FROM INCEPTION THROUGH 2008	JANUARY	FEBRUARY	MARCH	1ST QUARTER TOTAL	APRIL	MAY	JUNE	2ND QUARTER TOTAL	JULY	AUGUST	SEPTEMBER	3RD QUARTER TOTAL	OCTOBER	NOVEMBER	DECEMBER	4TH QUARTER TOTAL	YEAR END 2010 TOTAL	TOTAL FROM INCEPTION 2010	
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
PREMIUM REFUND	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OTHER ACCOUNT:																				
INDEMNITY PAID	199,600.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	28,351.32	28,351.32	28,351.32	85,053.96	28,351.32	28,351.32	28,351.32	85,053.96	170,107.92	389,907.92	389,907.92
ALLOCATED EXPENSE PAID	41,132.36	40.00	40.00	0.00	80.00	0.00	0.00	0.00	0.00	8,497.02	8,497.02	8,497.02	25,481.06	8,497.02	8,497.02	8,497.02	25,481.06	50,762.12	91,894.48	91,894.48
INDEMNITY RESERVE	29,351.32	29,351.32	29,351.32	29,351.32	88,054.96	29,351.32	29,351.32	29,351.32	88,054.96	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ALLOCATED EXPENSE RESERVE	8,037.02	8,037.02	8,037.02	8,037.02	24,111.06	8,037.02	8,037.02	8,037.02	24,111.06	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMINISTRATIVE EXPENSE																				
ACCOUNTING PROFESSIONAL FEE	15,312.20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
LEGAL (BUT NOT 1ST QUARTER 2009) LEGAL	6,428.39	674.33	66.67	3.79	744.89	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
ADMINISTRATIVE FEES EMPLOY CONTRACTOR	465,172.56	3,755.14	3,755.14	753.96	8,314.34	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
MISCELLANEOUS OFFICE EXPENSE	19,529.03	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TRAVEL (BUT NOT 1ST QUARTER 2009) TRAVEL	1,636.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
OFFICE EXPENSE (1ST QUARTER 2009) TRAVEL	54,802.43	461.73	508.42	178.73	1,148.88	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
POSTAGE OFFICE EXPENSE	1,636.85	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
RENT OFFICE BUILDING	1,636.85	10.56	10.56	11.43	22.55	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TELEPHONE OFFICE EXPENSE	29,813.31	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
NGIGF DUES & MEMBERSHIP OFFICE EXPENSE	5,765.50	72.24	42.53	8.07	122.84	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
BANKING FEES OFFICE EXPENSE	79,043.89	9,081.14	0.00	14.56	9,095.70	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
INVESTMENT FEES (BUT NOT 1ST QUARTER 2009)	44,100.56	47.59	55.04	10.44	113.07	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
INVESTMENT FEES (BUT NOT 1ST QUARTER 2009)	19,432.93	0.00	798.15	742.29	1,540.44	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL ADMINISTRATIVE EXPENSE:	765,979.52	14,064.57	5,225.96	1,721.71	21,012.41	1,003.50	1,406.17	1,075.12	3,584.79	2,256.54	1,033.91	1,061.33	4,350.79	1,093.34	986.17	1,454.51	3,537.02	37,484.74	796,464.26	796,464.26
RECOVERIES:	1,000,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00

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ARIZONA PROPERTY AND CASUALTY
INSURANCE GUARANTY FUND
A Division of the Arizona Department of Insurance

SUMMARY OF CLAIMS, EXPENSE AND ADMINISTRATION
NAME OF COMPANY: HOME INSURANCE COMPANY
DATE OF INSOLVENCY: JUNE 13, 2009

INCEPTION THROUGH SEPTEMBER 30, 2010

AUTO ACCOUNT:	TOTAL FROM INCEPTION THROUGH 2008	JANUARY	FEBRUARY	MARCH	1ST QUARTER TOTAL	APRIL	MAY	JUNE	2ND QUARTER TOTAL	JULY	AUGUST	SEPTEMBER	3RD QUARTER TOTAL	OCTOBER	NOVEMBER	DECEMBER	4TH QUARTER TOTAL	YEAR END 2009 TOTAL	TOTAL FROM INCEPTION THROUGH 2009		
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PREMIUM REFUND	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
OTHER ACCOUNT:																					
INDEMNITY PAID	189,800.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	189,800.00	
ALLOCATED EXPENSE PAID	39,889.82	622.20	190.34	0.00	792.54	100.00	260.00	0.00	360.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,142.54	
INDEMNITY RESERVE	37,351.32	37,351.32	37,351.32	37,351.32	149,055.28	37,351.32	37,351.32	37,351.32	149,055.28	37,351.32	37,351.32	37,351.32	149,055.28	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32
ALLOCATED EXPENSE RESERVE	57,726.59	57,726.59	57,726.59	57,726.59	173,206.35	57,726.59	57,726.59	57,726.59	173,206.35	57,726.59	57,726.59	57,726.59	173,206.35	57,726.59	57,726.59	57,726.59	57,726.59	57,726.59	57,726.59	57,726.59	57,726.59
ADMINISTRATIVE EXPENSE																					
ACCOUNTING PROFESSIONAL SVC	14,749.77	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	14,749.77	
LEGAL (Beginning 1st Quarter 2009)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ADMINISTRATIVE FEES EMPLOY CONTRACTOR	353,647.37	21,208.50	21,189.50	21,189.54	83,577.53	21,947.09	21,751.42	2,339.09	45,937.60	4,267.71	627.70	2,826.68	9,992.50	2,863.88	3,439.87	6,424.22	11,077.75	1,804.97	1,804.97	1,804.97	1,804.97
MISCellaneous OFFICE EXPNS	19,232.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TRAVEL (Beginning 1st Quarter 2009)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
OFFICE EXPENSE OFFICE EXPNS	39,321.60	4,893.12	118.13	274.98	5,286.23	767.50	368.83	1,138.38	1,177.39	9.78	30.71	0.00	1,184.47	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
POSTAGE OFFICE EXPNS	1,888.43	(328.52)	144.81	282.99	(28.70)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
RENT OFFICE RENT	27,001.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TELEPHONE OFFICE EXPNS	4,008.11	284.50	0.00	578.77	863.27	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
NETWORKS & MEMBERSHIP OFFICE EXPNS	28,471.44	52,201.90	0.00	370.85	52,372.44	0.00	0.00	0.00	543.50	20.05	52.88	30.89	112.83	50.06	30.61	41.01	35.15	1,839.99	1,839.99	1,839.99	
BANKING FEES OFFICE EXPNS	43,587.27	0.00	123.58	161.20	285.16	12.73	0.00	12.45	25.18	21.72	11.55	35.24	68.51	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INVESTMENT FEES (Beginning 1st Quarter 2009)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TOTAL ADMINISTRATIVE EXPENSE	527,105.34	84,858.61	24,817.07	35,472.45	149,048.13	32,790.29	22,834.49	3,852.60	59,277.38	6,798.13	4,381.12	9,227.69	19,416.93	4,081.45	3,532.17	7,518.13	15,131.75	238,874.18	238,874.18	238,874.18	238,874.18
RECOVERIES:	1,000,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL	1,527,105.34	84,858.61	24,817.07	35,472.45	149,048.13	32,790.29	22,834.49	3,852.60	59,277.38	6,798.13	4,381.12	9,227.69	19,416.93	4,081.45	3,532.17	7,518.13	15,131.75	238,874.18	238,874.18	238,874.18	238,874.18

ARIZONA PROPERTY AND CASUALTY
INSURANCE GUARANTY FUND
A Division of the Arizona Department of Insurance

SUMMARY OF CLAIMS EXPENSE AND ADMINISTRATION
NAME OF COMPANY: HOME INSURANCE COMPANY
DATE OF INSOLVENCY: JUNE 13, 2003
INCEPTION THROUGH SEPTEMBER 30, 2010

AUTO ACCOUNT:	TOTAL FROM INCEPTION THROUGH 2007	JANUARY	FEBRUARY	MARCH	1ST QUARTER TOTAL	APRIL	MAY	JUNE	2ND QUARTER TOTAL	JULY	AUGUST	SEPTEMBER	3RD QUARTER TOTAL	OCTOBER	NOVEMBER	DECEMBER	4TH QUARTER TOTAL	YEAR END 2008 TOTAL	TOTAL FROM INCEPTION THROUGH 2008		
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
PREMIUM REFUND																					
INDEMNITY PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE PAID	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
INDEMNITY RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ALLOCATED EXPENSE RESERVE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
OTHER ACCOUNT:																					
INDEMNITY PAID	181,026.87	0.00	0.00	10,773.13	10,773.13	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	181,026.87	
ALLOCATED EXPENSE PAID	11,734.88	0.00	0.00	0.00	0.00	0.00	0.00	4,872.21	10,937.54	1,733.50	9,686.57	3,721.00	15,344.07	1,058.29	592.34	362.34	1,942.52	18,773.13	20,624.04	39,398.82	
INDEMNITY RESERVE	48,124.45	48,124.45	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32	37,351.32
ALLOCATED EXPENSE RESERVE	10,167.02	10,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	50,167.02	
ADMINISTRATIVE EXPENSE:																					
ACCOUNTING PROFESSIONAL SVC	5,976.75	0.00	0.00	0.00	0.00	3,088.29	2,888.46	127.80	2,988.55	0.00	0.00	0.00	0.00	3,921.00	0.00	0.00	1,942.52	5,863.52	8,775.02	14,749.77	
LEGAL (Beginning 1st Quarter 2009) LEGAL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
ADMINISTRATIVE FEES EMPLOY CONTRACTOR	168,242.41	2,743.90	2,007.22	697.47	5,448.59	18,824.65	19,248.10	688.50	38,752.35	29,614.11	19,735.64	19,911.83	69,281.57	20,746.09	20,537.75	30,636.61	72,142.46	163,604.98	353,847.37	353,847.37	
MISCELLANEOUS OFFICE EXPNS	12,122.63	67.50	3.25	11.27	82.11	587.11	418.22	0.00	1,055.34	1,833.57	1,862.89	298.20	3,975.66	450.62	893.29	702.47	2,046.38	7,109.48	18,232.17	18,232.17	
TRAVEL (Beginning 1st Quarter 2009) TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
OFFICE EXPENSE OFFICE EXPNS	17,197.13	411.01	330.10	7.27	748.38	2,267.88	2,172.65	158.40	4,617.01	2,318.74	1,048.08	4,464.02	7,829.84	2,605.78	2,270.20	1,653.47	5,929.45	19,124.47	38,321.60	38,321.60	
POSTAGE OFFICE EXPNS	1,569.83	8.63	0.86	16.82	28.69	72.96	3.26	75.22	151.22	0.00	0.00	108.95	108.95	0.00	0.00	0.00	107.74	317.60	1,866.43	1,866.43	
RENT OFFICE RENT	9,425.18	0.00	51.22	0.00	51.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TELEPHONE OFFICE EXPNS	1,750.53	24.53	26.68	0.00	59.21	291.01	257.68	9.59	558.00	17,524.78	0.00	0.00	17,524.78	0.00	0.00	0.00	0.00	17,576.00	27,001.18	27,001.18	
TRIP DUES & MEMBERSHIP OFFICE EXPNS	22,105.71	4,024.77	0.00	12.23	4,037.00	0.00	0.00	268.85	264.30	0.00	0.00	0.00	268.85	555.31	276.99	276.42	1,109.72	2,257.56	4,008.11	4,008.11	
BANKING FEES OFFICE EXPNS	29,367.55	282.46	305.81	115.18	683.45	3,082.30	3,118.88	110.23	6,321.40	3,174.97	0.00	3,220.43	8,325.39	428.36	393.81	0.00	819.48	4,355.73	29,471.44	43,597.27	
INVESTMENT FEES (Beginning 1st Quarter 2009)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TOTAL ADMINISTRATIVE EXPENSE:	287,796.87	7,543.15	2,725.16	689.34	11,136.65	28,244.28	24,800.05	1,063.96	54,240.30	37,205.25	40,425.66	28,321.85	105,953.78	29,700.37	24,368.15	34,919.22	88,017.73	259,348.46	527,105.34	527,105.34	
RECOVERIES:	1,000,000.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
TOTAL:	1,287,796.87	7,543.15	2,725.16	689.34	11,136.65	28,244.28	24,800.05	1,063.96	54,240.30	37,205.25	40,425.66	28,321.85	105,953.78	29,700.37	24,368.15	34,919.22	88,017.73	259,348.46	527,105.34	527,105.34	



"Connie Fatina"
<CFatina@azinsurance.gov>
04/20/2011 05:22 PM

To <james.hamilton@homeinsco.com>
cc
bcc

Subject RE: Home: Financial report

History: This message has been replied to.

-----Original Message-----

From: james.hamilton@homeinsco.com [mailto:james.hamilton@homeinsco.com]

Sent: Wednesday, April 20, 2011 2:00 PM

To: Connie Fatina

Subject: Home: Financial report

Connie,

We have the FIQ reports for the 1st, 2nd and 4th quarters of 2010. Can you send me the 3rd qtr information. I want to clean up and get all the amounts balanced.

The is no problem with reading the new UDS D records.

Thanks,

Jim

James Hamilton
VP Claims Systems
Home Ins Co in Liquidation
Patriot Health Ins Co in Liquidation
USI RE Co in Liquidation
61 Broadway 6th Floor, NY NY 10006
Tel. 212-530-3113

***** PLEASE NOTE *****

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Home Insurance 3rd Quarter 2010.xls

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Percentage of Asserted Administrative Expense Allocated to Home by the Arizona P&C Fund

Year	Total Asserted Administrative Expenses	Expenses allocated to Home by Arizona Fund	Percentage of Expenses Allocated to Home by Arizona Fund
2006	\$ 638,173.88	\$ 43,064.80	6.75%
2007	\$ 597,799.24	\$ 35,001.36	5.86%
2008	\$ 566,105.54	\$ 259,348.48	45.81%
2009	\$ 593,116.37	\$ 238,874.19	40.27%
2010	\$ 584,927.75	\$ 32,484.72	5.55%

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Liquidator's Summary of Guaranty Fund Allocation Methodologies (as of 08/15/12)

	Guaranty Funds (excluded L&H and Funds with no open claims)	Code	Most recent Administration Allocation methodology *
1	AK Alaska Insurance Guaranty Assoc.	T	Time spend on claims
2	AL Alabama Insurance Guaranty Assoc.	T	Time spend on claims
3	AR Arkansas Property & Casualty Ins. Guaranty Assoc.	T	Time spend on claims
4	AZ Arizona	C	# of open claims
			Flat fee based on a % of loss paid, negotiated by AZ Industrial Commission
5	AZWC Arizona W/C	O	
6	CA California Insurance Guarantee Assoc.	T	Time spend on claims
7	CO Colorado Insurance Guaranty Assoc.	T	Time spend on claims
8	CT Connecticut Insurance Guaranty Assoc.	T	Time spend on claims
9	DC District of Columbia Insurance Guaranty Assoc.	T	Time spend on claims
10	DE Delaware Insurance Guaranty Assoc.	T	Time spend on claims
11	FL Florida Insurance Guaranty Assoc.	C	# of open claims
12	FLWC Florida Workers Compensation Ins Guaranty Assoc. Inc.	T	Time spend on claims
13	GA Georgia Insurers Insolvency Pool	T	Time spend on claims
14	HI Hawaii Insurance Guaranty Assoc.	T	Time spend on claims
15	IA Iowa Insurance Guaranty Assoc.	T	Time spend on claims
16	ID Idaho Insurance Guaranty Association	T	Time spend on claims
17	IL Illinois	T	Time spend on claims
18	IN Indiana Insurance Guaranty Assoc.	T	Time spend on claims
19	KS Kansas Insurance Guaranty Assoc.	T	Time spend on claims
20	KY Kentucky Insurance Guaranty Assoc.	O	% of claim payments (activity)
21	LA Louisiana Insurance Guaranty Assoc.	T	Time spend on claims
22	MA Massachusetts Insurance Guaranty Assoc.	T	Time spend on claims
23	MD Maryland Property & Casualty Ins. Guaranty Assoc.	T	Time spend on claims
24	ME Maine Insurance Guaranty Assoc.	T	Time spend on claims
25	MI Michigan Property & Casualty Guaranty Assoc.	T	Time spend on claims
26	MN Minnesota Insurance Guaranty Assoc.	T	Time spend on claims
27	MO Missouri Property & Casualty Ins. Guaranty Assoc.	T	Time spend on claims
28	MS Mississippi Insurance Guaranty Assoc.	O	Combination of Time and # of claims
29	MT Montana Insurance Guaranty Assoc.	T	Time spend on claims
30	NC North Carolina Ins. Guaranty Assoc.	T	Time spend on claims
31	NE Nebraska Property & Liability Ins. Guaranty Assoc.	T	Time spend on claims
32	NH New Hampshire Insurance Guaranty Assoc.	T	Time spend on claims
33	NJ New Jersey Property-Liability Ins Guaranty Assoc.	T	Time spend on claims
34	NJWC New Jersey WC Security Fund	T	Time spend on claims
35	NM New Mexico Insurance Guaranty Assoc.	O	% of claim payments (activity)
36	NY Superintendent of Insurance of NY	T	Time spend on claims
37	OH Ohio Insurance Guaranty Assoc.	T	Time spend on claims
38	OK Oklahoma P & C Ins. Guaranty Assoc.	O	% of claim payments (activity)
39	OR Oregon	C	# of open claims
40	PA Pennsylvania Property & Casualty Ins. Guaranty Assoc.	C	# of open claims
41	PAWC Pennsylvania Worker's Compensation Security Fund	C	# of open claims
42	RI Rhode Island Insurance Guaranty Assoc.	T	Time spend on claims
43	SC South Carolina Property & Casualty Ins. Guaranty Assoc.	O	Flat fee of 10% based on claim payments
44	SD South Dakota Property & Casualty Ins. Guaranty Assoc.	C	# of open claims
45	TN Tennessee Insurance Guaranty Assoc.	O	Combination of Time and # of claims
46	TX Texas Property & Casualty Insurance Guaranty Assoc.	T	Time spend on claims
47	UT Utah Property & Casualty Ins. Guaranty Assoc.	T	Time spend on claims
48	VA Virginia Insurance Guaranty Assoc.	T	Time spend on claims
49	VT Vermont Insurance Guaranty Assoc.	T	Time spend on claims
50	WA Washington Insurance Guaranty Assoc.	T	Time spend on claims
51	WI Wisconsin Insurance Security Funds	T	Time spend on claims
52	WV West Virginia Insurance Guaranty Assoc.	T	Time spend on claims

39 # of Fund's using T
 6 # of Fund's using C
 7 # using some other or combination

* Some Funds have changed their allocation method over time.

E-24



Invoice

Invoice Number: m467

Invoice Date: 1/16/06

300 North Meridian Street
Suite 1020
Indianapolis, IN 46204
317-464-8192
317-464-8180

Sold To:

Michael E. Sarguine
Arizona Insurance Guaranty Fund
1110 West Washington Street
Suite 270
Phoenix, AZ 85007-2962

Customer ID: AZ IGA

Due Upon Receipt

Description	Amount
Per-capita portion of 2006 NCIGF Dues	15,000.00
Pro-rata portion of 2006 NCIGF Dues	51,274.47
	0.00
	5,000.0000 *
	51,274.4700 *
002	66,274.4700 *

OK (15)
1-19-06

Subtotal 66,274.47

Payments applied to this invoice

Make checks payable to the
National Conference of Insurance Guaranty Funds

TOTAL DUE

66,274.47

OK to pay
MES
all 19/06



Invoice

Invoice Number:

971

Invoice Date:

12/8/06

300 North Meridian Street

Suite 1020

Indianapolis, IN 46204

317-464-8097

317-464-8180

Sold To:

Michael E. Surguine

Arizona *Property and Casualty* Insurance Guaranty Fund

1110 West Washington Street

Suite 270

Phoenix, AZ 85007-2962

Customer ID: AZ IGA

Due Upon Receipt

Description	Amount
2007 NCIGF Dues	69,618.00

Subtotal 69,618.00

Payments applied to this invoice

Make checks payable to the
National Conference of Insurance Guaranty Funds

TOTAL DUE 69,618.00

OK to pay
MS
12/19/06

National Conference
of Insurance Guaranty Funds **NCIGF™**

Invoice

Invoice Number:

1452

Invoice Date:

1/17/08

300 North Meridian St.
Indianapolis, IN 46204
United States

Tel: 317-464-8192

Fax: 317-464-8180

Sold To:

Michael E. Surguine
Arizona Insurance Guaranty Fund
1110 West Washington Street
Suite 270
Phoenix, AZ 85007-2962

Customer ID: AZ IGA

Due Upon Receipt

Description	Amount
2008 NCIGF Dues	60,309.00

Subtotal

60,309.00

Payments applied to this invoice

Make checks payable to the
National Conference of Insurance Guaranty Funds

TOTAL DUE

60,309.00

OK to pay
MES
01/22/08

300 North Meridian St.
Indianapolis, IN 46204
United States

Invoice Date:
12/18/08

Tel: 317-464-8192
Fax: 317-464-8180

Sold To:
Michael E. Surguine
Arizona Insurance Guaranty Fund
1110 West Washington Street
Suite 270
Phoenix, AZ 85007-2962

Customer ID: AZ IGA

Due Upon Receipt

Description	Amount
2008 NCIIGF Dues	67,418.00

Subtotal 67,418.00

Make checks payable to the
National Conference of Insurance Guaranty Funds

Payments applied to this invoice

TOTAL DUE

67,418.00

OK to pay
MES
1/5/09

National Conference
of Insurance Guaranty Funds **NCIGF**SM

Invoice

Invoice Number:
2090

Invoice Date:
1/1/10

300 North Meridian St.
Indianapolis, IN 46204
United States

Tel: 317-464-8192
Fax: 317-464-8180

Sold To:
Michael E. Surguine
Arizona Insurance Guaranty Fund
1110 West Washington Street
Suite 270
Phoenix, AZ 85007-2962

Customer ID: AZIGA

Due Upon Receipt

Description	Amount
2010 NCIGF Dues	63,568.00

Sub total 63,568.00

Payments applied to this invoice

TOTAL DUE 63,568.00

Make checks payable to the
National Conference of Insurance Guaranty Funds

[Handwritten signature and date]

NATIONAL CONFERENCE OF INSURANCE GUARANTY FUNDS

MEMORANDUM

To: Guaranty Association Managers

From: Kevin Harris

Date: January 16, 2006

Re: 2006 Dues Billing

Greetings from the NCIGF. We hope everyone's holidays were joyous, and we wish everyone the best for the new year. I am pleased to report that we have now settled into our new offices at 300 North Meridian Street, Suite 1020 in Indianapolis, about four blocks from our old office. Only our street address has changed as a result of the move, our other contact information (direct dial numbers and e mail addresses) remains the same.

You will find attached our dues billing for 2006. I write to you to present and explain this billing. I also discuss below key NCIGF activities planned for 2006 and major challenges we expect in the coming year. My hope is that the below will help with an appreciation of the benefits that flow from membership in our organization.

The guaranty associations enter 2006 as their busiest period ever appears to be winding down. Activity has been at a record level for the last four years. In total over this period, the guaranty associations assumed responsibility for almost 200,000 claims. Total annual guaranty association payout has averaged \$1.9 billion, an amount that is five times the prior historical annual average.

Again, the strength and flexibility of our system has been tested, and again the guaranty associations met the challenge. Day by day, by protecting insureds and claimants from the impact of an insurer insolvency, the guaranty associations continue to build a record of success and achievements.

In serving as a safety net for insurance consumers, and providing policy benefits even when an insurer fails, the state-based system of guaranty associations helps affirm the

integrity of the insurance contract and ensure continued public trust in the insurance industry and its products. In short, being careful to not overstate our role, the guaranty associations, through their own, at times small and at times large, contributions, help make property and casualty insurance work in this country.

2006 Will Likely Be a Busy and Challenging Year

While at this point claims activity from past insolvency is tapering off, whether we are completely past our busy period remains to be seen. All indications are that Hurricane Katrina will be the largest insured loss ever for the domestic insurance industry. The record losses from Katrina may be too much for some insurers to absorb. Further, a number of large insurers continue in runoff. Despite the best efforts of those involved, it may become necessary to at some point place one or more of these insurers in liquidation.

We are confident that the property and casualty guaranty associations which we are proud to represent will continue to rise to meet challenges as they occur. We nonetheless see 2006 as a demanding year for the guaranty association community:

- The impact of last year's record hurricane losses upon insurers is likely to be felt by the guaranty association community in 2006.
- Certain insurance receivers continue efforts to chip away at the rights of guaranty associations to recover from estates, through "reviews" of guaranty association records and expense allocations, and though challenging the allowance and classification of certain categories of expenses. Despite the best efforts of many to resolve issues, this continues to be a troublesome area.
- Some number of insurance departments will begin introducing in state legislatures liquidation act legislation based upon the NAIC's newly approved IRMA model law, a law with which many have in the guaranty association community have concerns.
- The NAIC is currently working on a revision of its model property and casualty guaranty association law. The NAIC has proved to be a very challenging environment in which to advance guaranty association positions and protect guaranty association rights. The receivers that populate the working groups that vote on the specific provisions of the model laws often have a different perspective from that of the guaranty funds and their members. NCIGF staff, along with various guaranty association and industry representatives, put forth tremendous effort in educating the working groups on our concerns and issues. We continue to strive to arrive at the best possible result from NAIC efforts to revise their laws. These NAIC model laws are important for at least two reasons. They often become the starting point for an insurance department's effort to

amend its insolvency laws. More important, the NAIC is considering adding parts of the IRMA to NAIC accreditation standards.

- Renewed Congressional attention to federal insurance regulation is expected in 2006. This may include proposed legislation directly affecting the guaranty associations.

The NCIGF will be directly involved in all the above activities, advancing the guaranty associations' positions and interests, and, when necessary, acting to protect those interests. Members of NCIGF's staff serve as trusted experts on insolvency legislation, whether through supporting legislative reforms or sitting at the table with NAIC working groups. We support coordinating committees' efforts by monitoring estate activities, ensuring issues are addressed in a timely manner and communications promptly occur. On an average day, our "project manager" support to these committees may be the NCIGF's most obvious contribution.

We should also add that during 2006 the NCIGF is planning numerous activities of value for members:

- NCIGF will conduct its first ever Information Technology Seminar on June 1-2 in St. Louis. The seminar will be aimed primarily at IT users and decision-makers. Topics to be covered will include: internal and external security best practices, business continuity and disaster recovery planning, future web development and trends, converting to a paperless office, current and future developments concerning Uniform Data Standards (UDS) and recommendations on minimum system configuration.

We continue to provide where needed support in implementing the latest version of the Uniform Data Standards that was introduced last year.

- We are also starting to work on a networking seminar for claims managers and staff. The program will be dedicated to claims issues affecting the guaranty associations.

- NCIGF expects to be very busy assisting managers and the trade associations in dealing with other state insolvency legislation introduced in 2006.

- We are constantly working to upgrade our communications activities to our members. This year we will continue the semi monthly *Insolvency Briefings* and *Quarterly Commentary* articles while expanding our communications activities to reach policy makers in the regulatory and legislative arenas who can have an impact on guaranty association work in protecting insurance consumers.

- Our Annual Meeting is planned for April 20-21 in Portland, Oregon. This meeting provides the opportunity for an educational program in addition to bringing together

guaranty associations for the annual meeting of members. We are also planning a joint workshop with IAIR, to be held November 2-3 in Salt Lake City.

- Finally, it is important to note that the NCIGF Board of Directors will be meeting later this month, with most of its meeting intended as a response to the guaranty associations' call to action from our November managers meeting. The message from you as a result of the November meeting will likely have a significant impact on NCIGF priorities for 2006 and beyond.

We hope that you find the above helpful in better understanding our plans, and also how the NCIGF's activities are of benefit to your organization. I would be remiss to not acknowledge the significant contributions by the guaranty association representatives who serve as members of our many committees. We could not be successful without your active involvement in our many activities.

2006 Dues

You will find attached a detailed calculation of member dues for 2006, which is based upon the NCIGF budget for 2006 as approved by our Board of Directors. This year the Board has directed that the "fixed fee" portion of Member dues be \$15,000 and the overall per fund cap be \$75,000. Additionally, for the first time, the Board has implemented a "by-state" dues cap which comes in to play when more than one NCIGF Member resides in a particular state. This amount is \$100,000 for 2006.

The dues calculation is becoming more and more complex because roughly one third of all member guaranty associations' dues reach at least one of the maximums. When this happens, the excess for that state over, for example, the per guaranty association maximum of \$75,000, must be allocated to the remaining guaranty associations not subject to the maximum. This has become a three step process, because each re-allocation pushes a new group of guaranty associations above the maximum. If you have any questions about how the dues amount for your fund was developed, please feel free to contact me.

Our 2006 budget represents an increase of 18% over last year. While we recognize that this is a significant increase in cost for you, we believe that is necessary to continue our current level of services to you, and to accomplish critical goals in the areas of communications, information technology, coordination of activities, and state and federal legislation. Principal reasons for the budget increase include the following: the addition of a full time IT director (Tom Wagenhauser joined the NCIGF in late 2005), the addition of an administrative assistant, and the need to implement the decision of the NCIGF Board to increase NCIGF contingency funds. Regarding the latter, prior to this time, the NCIGF had contingency funds on hand that would be sufficient to fund only two weeks' operations. We decided this year that a more prudent approach would be to build up,

over the next few years, contingency funds sufficient to fund the operation for as much as six months without the need for additional assessments to member guaranty associations. The contingency funds will be held and invested by NCIGF, and not used absent the need caused by a crisis or emergency.

I would be happy to answer questions or discuss the above with you. Please feel free to contact me.

Thank You

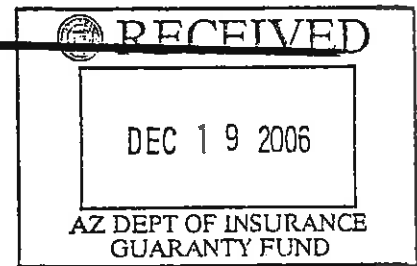
In conclusion, on behalf of our board of directors and staff, please let me extend our sincere appreciation for the past support each of you have given our organization. Rest assured that we will be working hard in the coming year to ensure that support continues to be deserved.

NCIGF

National Conference of Insurance Guaranty Funds

E-26

December 12, 2006



To Guaranty Association's and Members of
The National Conference of Insurance Guaranty Funds

Enclosed, please find an invoice for your association's portion of the NCIGF dues for 2007. In support of this billing, an enclosed exhibit representing the detailed dues allocations computed in accordance with the method approved by the Board of Directors on November 1, 2006 is also included. Allocations are based on an operational budget of \$2,797,000 and \$35,925 contribution to the contingency fund. Together, this represents a total dues assessment equal to 2006 in the amount of \$2,832,925.

The 2007 NCIGF budget of \$2,797,000 was approved by the Board of Directors during its November 1, 2006 meeting. Its price was determined by the 2007 Operational Goals and Objectives presented to and approved by the NCIGF Board in August, 2006, a copy of which is enclosed.

Three levels of activity are represented in the 2007 NCIGF budget:

- Transactional, anticipated costs of doing business to meet "day-to-day" expectations of members. Included in this portion of the budget are the core functional costs of operating NCIGF according to the principle of providing cost effective association management and low cost member services.
- The higher level of association management and member services contemplated in the 2007 Operational Goals and Objectives. Included are the costs associated with raising the profile of NCIGF and the state guaranty fund system through an enhanced communication package, and;
- Additional funding necessary for specific initiatives and special projects representing the funding necessary to accomplish three specific objectives, Strategic Planning, federal legislative monitoring and the availability and security of NCIGF data.

The 2007 budget is fully responsive to the challenges facing the guaranty fund system as well as to requests guaranty fund association members have made of their national organization to achieve a more effective level of communication both internally and externally. Even with only a 1.6 percent increase over the actual operational allocation of a year ago, this budget represents a meaningful, substantive and measurable step forward in the professionalism and value of the trade association.

December 12, 2006

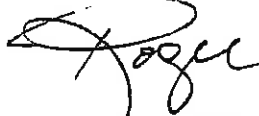
Page 2

In addition to approving the 2007 budget, the Board of Directors also approved the allocation method recommended by the Special Dues Committee. The total dues assessment for 2007 of \$2,832,925 for 2007 consists of a \$15,000 "fixed fee" portion and a proportionate share per association based on net assessable premiums with the cap remaining at \$75,000 per fund and \$100,000 per state.

Thank you for your support of NCIGF. 2006 has been an eventful year in the history of this organization and 2007 promises to be even more remarkable. Your active engagement in the affairs of the association will spur its performance and that of the guaranty fund community to even finer accomplishments in the years ahead. I very much look forward to our work together.

Please feel free to contact me if I can answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger H. Schmelzer", written in a cursive style.

Roger H. Schmelzer
President

NATIONAL CONFERENCE OF INSURANCE GUARANTY FUNDS
OPERATIONAL GOALS AND OBJECTIVES

Association Management and Member Services

Goal 1: To provide cost-effective association value to the NCIGF membership via low cost operations, high quality staff, proven technology and a core service operations philosophy.

Objective A: Provide accurate and timely financial statements that allow effective monitoring of financial results on a monthly and quarterly basis.

Objective B: Maximize investment income.

Objective C: Work toward achieving "break even" status on all education events and the Annual Meeting.

Objective D: Complete employee reviews by January 31.

Objective E: Continue to support and improve the technological resources available to NCIGF Staff.

Key Deliverables: Regular financial reporting to Board that informs on cash expenditures and cash position and budget-to-actual performance; Increased investment returns through better cash management and a board-approved change in approach to investment policy; Aggressive management of large meeting budgets to "break-even" on expenses versus registration fees; New cost-effective technology to enhance security and staff capabilities.

Goal 2: Provide essential informational and operational value to members through programs and services related to insurer insolvencies and insurance consumers.

Objective A: Coordination of activities on insolvencies with and through the state-based member guaranty associations for the effective and efficient administration of the nation-wide property/casualty insurance consumer safety net.

Key Deliverables: Prompt and effective communication and coordination of activity among affected guaranty associations with respect to planning and pre-insolvency activities; professional services needed to assist members in carrying out statutory duties once liquidation occurs.

Goal 3: Develop and provide educational programs and materials and provide IT resources to support member needs and requirements.

Objective A: Develop, promote, sponsor and/or host educational programs related to property/casualty insurer insolvencies, and the operations, performance and strength of the guaranty fund system.

Objective B: Facilitate efforts of member funds to educate new board members.

Objective C: Provide technology resources to Guaranty Association members.

Objective D: Provide NCIGF members with an efficient, accurate and secure platform to communicate data and information using a uniform and standardized format.

Objective E: Provide support to NCIGF committees.

Key Deliverables: *Through annual educational meetings and materials targeting new board members, provide members with educational resources to enhance their abilities to perform statutory duties and effectively deal with new challenges; Utilize new IT-focused communications and educational programs to increase members' ability to understand and address developing issues and new technologies; Improve security, efficiency and uniformity in the electronic transfer of transaction level data and financial data.*

Communications and Outreach

Goal 1: Enhance and raise the profile of NCIGF and the state guaranty fund system among P/C industry leaders and public policymakers to distinguish NCIGF as the National Forum (i.e. the "trusted expert") for discussion and debate related to insolvency and its consequences.

Objective A: Via a proactive communications and industry outreach plan, establish the role of NCIGF and state guaranty funds in the P/C insurance industry by emphasizing the successes of member guaranty associations as well as the public policy and technical expertise related to guaranty fund and insolvency law.

Objective B: Brand NCIGF as the definitive source of information and insight in the nation on state guaranty funds and insolvency matters.

Objective C: Build and/or strengthen relationships with key industry organizations that can have an impact on the success or credibility of NCIGF and its members.

Objective D: Gather current claim, expense, assessment and other financial data from member associations to provide consistent and complete information for all interested parties.

Key Deliverables: *Implementation of a proactive strategy to promote the success of the guaranty fund system, the public policy interests of the guaranty fund system and to solidify the reputation of NCIGF as the definitive source of information and data on the system. In addition to liaison with national policymaking organizations (NAIC, NCOIL, etc), included in the strategy are publication and education initiatives utilizing industry trade associations and national trade press. Also critical will be enhanced outreach to important industry organizations, including LAIR, III, the national P/C trades and state insurance organizations.*

Goal 2: Effective and informative value-added communications with NCIGF members.

Objective A: Communicate directly with NCIGF members to increase awareness of association activities, encourage participation and establish value proposition of membership.

Key Deliverables: *New NCIGF website with a dynamic Member Only section; Revamped annual report to members designed to more effectively promote membership value; Continuation of the Briefing and Commentary publications; Initiatives to increase one-on-one contact with guaranty association managers.*

Public Policy Development

Goal: Build on role as non-lobbying “trusted advisors” through more formal engagement of industry and fund managers in public policy initiatives related to guaranty funds.

Objective A: Establish NCIGF as a focal point to help educate, energize and provide counsel to the property/casualty insurance industry and others to reform state guaranty fund and insolvency laws to assure adequate capacity for insurance consumers, continued operational effectiveness of the guaranty fund system.

Objective B: Identify federal initiatives with potential to impact guaranty funds and be prepared to serve as a resource to help shape the outcome

Key Deliverables : *Management of a public policy partnership that brings together representatives from industry, national trade associations and guaranty fund managers in order to present positions to the NCIGF Board of Directors for approval as well as reports on the outcome of its collaborations. Continuation of the existing Congressional Education Plan (CEP) in collaboration with NOLHGA.*

Technology

Goal 1: Working in partnership with the Automated Systems Committee, promote the effective use of technology by the state-based guaranty association system and NCIGF staff.

Objective A: Develop and promote to Guaranty Associations and Receivers suggested global Security Policy and Procedures governing the secure storage and transmission of protected personal information.

Objective B: Develop and promote to Guaranty Associations a Business Continuity Plan to provide continuing organizational operations in the event of a disaster.

Objective C: Work with members of the Automated Systems Committee to continue development of core technology competencies within the Guaranty Associations.

Key deliverables: *Support to guaranty associations in development and implementation of both data security policies/procedures and business continuity plans; Working with the*

Automated Systems Committee to develop recommendations for critical area IT procedures and minimum system and network/server configuration; Compilation and publication of existing claims systems features.

Final-August 7, 2006

National Conference
of Insurance Guaranty Funds **NCIGF**SM

January 17, 2008

To Guaranty Association Members of
The National Conference of Insurance Guaranty Funds

Enclosed, please find an invoice for your association's portion of the NCIGF dues for 2008. In support of this billing, an enclosed exhibit representing the detailed dues allocations computed in accordance with the method approved by the Board of Directors on November 7, 2007 is also included. Allocations are based on an operational budget of \$2,948,012 and \$50,000 contribution to the contingency fund. Together, this represents a total dues assessment in the amount of \$2,998,012.

The 2008 NCIGF budget of \$2,998,012 was approved by the Board of Directors at its November 7, 2007 meeting. The budget was determined by the 2008 Operational Goals and Objectives presented to and approved by the NCIGF Board in November, 2007, a copy of which is enclosed.

Two levels of activity are represented in the 2008 NCIGF budget:

- Transactional, anticipated costs of doing business to meet "day-to-day" expectations of members. Included in this portion of the budget are the core functional costs of operating NCIGF according to the principle of providing cost effective association management and low cost member services. Management has approached this section rigorously and with the objective of continuing to identify our specific recurring charges yet understanding the uncertainty of fully predicting the needs of our members in the event of insolvency activity.
- Additional funding necessary for specific initiatives and special projects identified in the NCIGF Operational Goals and Objectives approved by the NCIGF Board in November, 2007.

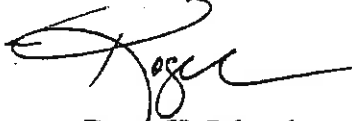
The 2008 budget is fully responsive to the challenges facing the guaranty fund system as well as to requests guaranty fund association members have made of their national organization to achieve a more effective level of communication both internally and externally. The budget represents a 5.86% percent increase over the actual operational allocation of a year ago and will allow for a significant step forward in the professionalism and value of the association.

In addition to approving the 2008 budget, the Board of Directors also approved the allocation method recommended by the Special Dues Committee. The total dues assessment for 2008 of \$2,998,012 consists of a \$20,000 "fixed fee" portion and a proportionate share per association based on net assessable premiums with the cap at \$100,000 per fund and \$135,000 per state. Enclosed is a memorandum previously provided you with a discussion on the development and recommendation of the changes in dues allocation method for 2008.

Thank you for your support of NCIGF. 2007 has been an eventful year in the history of this organization and 2008 holds even greater promise. Your active engagement in the affairs of the association will spur its performance and that of the guaranty fund community. I look forward to our continued work together.

Please contact me if I can answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger", with a long, sweeping horizontal line extending to the right.

Roger H. Schmelzer
President & CEO

**National Conference of Insurance Guaranty Funds
2008 Dues and Assessments
Using 2006 Premium Base**

Flat Rate (1) → 20,000
Max. Assessment → 100,000
State Max. Assessment → 135,000

State	2006 Net Assessable Premiums	Percentage Share	Total Assessment
AL	\$ 5,709,089,813	1.32%	\$ 53,771
AK	1,407,104,222	0.33%	28,323
AR	3,589,511,560	0.83%	41,233
AZ	6,814,295,611	1.58%	60,309
* CA	55,171,448,000	12.77%	100,000
CO	6,669,675,965	1.54%	59,454
CT	6,068,466,222	1.40%	55,897
DC	1,042,437,743	0.24%	26,166
DE	1,603,157,306	0.37%	29,483
* FL	31,820,126,982	7.37%	100,000
* FLWC	6,325,283,773	1.46%	35,000
GA	11,423,673,606	2.64%	87,575
HI	1,789,817,753	0.41%	30,588
ID	1,641,260,620	0.38%	29,708
* IL	18,503,609,844	4.28%	100,000
IN	7,475,153,444	1.73%	64,218
IA	3,808,330,667	0.88%	42,528
KS	3,909,932,593	0.91%	43,128
KY	5,402,239,196	1.25%	51,957
LA	6,876,700,871	1.59%	60,679
ME	1,649,457,827	0.38%	29,757
MD	5,939,850,009	1.37%	55,137
MA	10,785,092,254	2.50%	83,798
* MI	14,811,521,432	3.43%	100,000
MN	8,007,145,571	1.85%	67,366
MS	3,557,697,425	0.82%	41,046
MO	7,865,440,424	1.82%	66,527
MT	1,323,250,356	0.31%	27,828
NE	2,595,839,412	0.60%	35,356
NV	4,298,373,250	0.99%	45,427
NH	1,937,560,151	0.45%	31,462
NJ	13,134,258,048	3.04%	97,694
NJWC	1,964,682,919	0.45%	31,622
NM	2,418,791,216	0.56%	34,308
* NY	34,261,088,653	7.93%	100,000
NC	10,674,240,758	2.47%	83,142
ND	879,295,644	0.20%	25,201
OH	11,741,634,483	2.72%	89,456
OK	5,144,698,843	1.19%	50,433
OR	4,418,540,703	1.02%	46,137
* PA	15,427,444,346	3.57%	100,000
* PAWC	2,647,660,016	0.61%	35,000
PR	1,570,125,350	0.36%	29,288
RI	1,523,441,301	0.35%	29,011
SC	5,838,784,059	1.35%	54,538
SD	997,072,056	0.23%	25,899
TN	7,439,420,818	1.72%	64,006
* TX	31,911,049,078	7.39%	100,000
UT	2,933,316,789	0.68%	37,352
VT	998,000,042	0.23%	25,904
VA	9,372,750,518	2.17%	75,444
WA	7,581,286,944	1.75%	64,846
WV	2,064,939,225	0.48%	32,215
WI	6,500,000,000	1.50%	58,450
WY	735,519,592	0.17%	24,352
\$	432,000,585,303	100.00%	\$ 2,998,019

**NATIONAL CONFERENCE OF INSURANCE GUARANTY FUNDS
OPERATIONAL GOALS AND OBJECTIVES, 2008-2010**

Association, Operations and Insolvency Management

Strategic Goal: The NCIGF supports member guaranty funds in meeting their immediate and future obligations to policyholders.

Objective A: Support the Board of Directors and other committees to advance the guaranty fund system strategic plan.

Objective B: Coordinate activities on insolvencies with and through the state-based member guaranty associations for the effective and efficient administration of the nationwide property/casualty insurance consumer safety net.

Objective C: Provide cost-effective association value to the NCIGF membership via low cost operations, high quality staff, proven technology and a core service operations philosophy.

Objective D: Provide NCIGF members with an efficient, accurate and secure platform to communicate data and information using a uniform and standardized format.

Objective E: Gather current claim, expense, assessment and other financial data from member associations to provide consistent and complete information for all interested parties.

Key Deliverables: *Tested and certified IT disaster recovery plan and/or business continuity plan; Converted legacy UDS applications to a .Net/MS Sql environment; Integrated financial information accessible via web based application; Modified accounting system capable of supporting project and departmental reporting with enhanced management reports to support budget and forecasting requirements; Secured external audit of IT critical missions; Financial analysis in support of insolvency activity; Education and governance programs for state and NCIGF boards of directors.*

Public Policy Management

Strategic Goal: Strengthen service to policyholders and claimants through sound public policies that form the foundation of the property and casualty guaranty fund system. When necessary, seek renewal of the system's statutory foundation to meet future challenges on behalf of policyholders and claimants.

Objective A: Support the Public Policy and Legal committees and others to advance the guaranty fund system strategic plan.

Objective B: Educate, energize and provide counsel to stakeholders and public policy makers to strengthen state guaranty fund and insolvency laws to assure adequate capacity for insurance consumers, continued operational effectiveness of the guaranty fund system, and coverage that is commensurate with current marketplace and consumer needs.

Objective C: Identify and evaluate initiatives with potential to impact guaranty funds and be prepared to serve as a resource to stakeholders and public policy makers in shaping the outcome.

Key Deliverable: *Execution of a public policy partnership that brings together representatives from industry, national trade associations and guaranty fund managers in order to present positions to the NCIGF Board of Directors for approval as well as reports on the outcome of its collaborations. Continuation of the existing Congressional Education Plan (CEP) in collaboration with NOLHGA.*

Outreach, Communications and Education

Strategic Goal: Educate and inform the public, industry, policymakers and other stakeholders about the property and casualty guaranty fund system in order to assist the state guaranty funds and the NCIGF in execution of their respective missions.

Objective A: Support the Communications and Education Committees and other committees to advance the guaranty fund system strategic plan.

Objective B: Via a proactive communications and industry outreach plan, establish the role of NCIGF and state guaranty funds in the P/C insurance industry.

Objective C: Build and/or strengthen relationships and alliances with key industry organizations and trade press with the view of driving the success and promoting the credibility of NCIGF and its members.

Objective D: Deliver support to NCIGF members in communications and related areas.

Key Deliverables: *Execution of a proactive strategy to promote the public policy role of the guaranty fund system and to solidify the NCIGF as the definitive source of information and data on the system; Publication and education initiatives utilizing industry trade associations and national trade press; Updated Guaranty Fund Expense Review to include additional years.*

Strategic Goal: Drive cooperation and consensus building among guaranty funds through member-focused communication and education.

Objective A: Support the Education and Operations committees and other committees to advance the guaranty fund system strategic plan.

Objective B: Interface with education and operations committees, and all other applicable committees to develop, promote, sponsor and/or host educational programs related to property/casualty insurer insolvencies, and the operations, performance and strength of the guaranty fund system.

Objective C: Support consensus building and cooperation among the guaranty funds.

Objective D: Communicate directly with NCIGF members to increase awareness of association activities, encourage participation and establish value proposition of membership.

Key Deliverables: *New NCIGF website with a dynamic Member Only section; Continuation of the Briefing and Commentary publications; Initiatives to increase one-on-one contact with guaranty association managers; Develop a plan to promote utilization of current UDS formats and work with the committees to implement the plan; Gather current claim, expense, assessment and other financial data from member associations to provide consistent and complete information for all interested parties; In cooperation with the Accounting Issues Committee, update the Financial Reporting Manual, develop best practices and a communication strategy to support and promote consistency in expense reporting; Value-added educational meetings, breaking even within budgeted amounts; Enhanced educational tools including webinars, video recording, voice recording and other similar media to accomplish the dissemination of information to a broad audience.*

Benefits of Your NCIGF Membership

If we are doing things right at the NCIGF, the job of a guaranty association should be easier. We believe that the NCIGF makes a number of important and valuable contributions to the guaranty funds' efforts to handle insolvencies and related issues. Our organization provides real and substantial benefits to member guaranty associations. Please consider the following.

Communications. In the broadest sense, NCIGF is accomplishing its mission on communications within the guaranty association community when guaranty associations, primary insurers and their trade associations are receiving timely and relevant communications on important insolvency issues and also critical information needed to make decisions on common issues. We heavily utilize our website, for example, on the "members only" side, to provide the guaranty funds' with extensive information and data on particular insurer insolvencies. A standardized, user-friendly format is used to populate a webpage for each major insolvency. These web pages on our website provide guaranty fund managers and staff with needed information on insolvencies.

We regularly publish two important and different communications. The *Insolvency Briefing*, a bulletin in newsletter format, provides updates on major developments, and is issued electronically twice a month. The *Insolvency Briefing* is intended to be something that can be quickly read and provide a high level update on our important activities. The *NCIGF Quarterly Commentary* contains articles providing a more in-depth analysis on important subjects, and typically explains and promotes the guaranty associations' views. This publication gives us the opportunity to "make the case" for the guaranty funds' position on a particular matter. We also publish annually for the exclusive use of member guaranty funds our compilation of cases law interpreting guaranty association law.

Coordinating Committees. Coordinating committees are organized for multi-state insolvencies in which issues affecting a number of guaranty funds are present. We are extremely fortunate to have many in the guaranty fund community willing to serve on committees - many individuals serve on half dozen or more active committees. As a result of our recent high level of activity, the role of assigned NCIGF staff, usually a staff lawyer, has grown into that of a "project manager" for coordinating committees. Assigned staff provides critical assistance and support by doing whatever is necessary to ensure that guaranty fund interests are properly treated with respect to a particular insolvency.

Staff for a committee performs a number of valuable functions - generally monitoring the insolvency, being a conduit for information to the guaranty funds, individually contributing on important matters, ensuring issues are promptly brought before the committee for action, maintaining a record of committee actions and providing prompt updates on important developments. By bringing the guaranty funds together to deal with common issues and supporting their efforts, we are facilitators in the insolvency process. This results in a more effective, efficient discharge of statutory duties.

Model legislation. NCIGF lawyers, working with NCIGF's legal committee and lately the NCIGF Board Task Force, have provided extensive assistance and in many cases have been directly responsible for fashioning legislative and other solutions to problems encountered in insurance insolvencies. The NCIGF Model Guaranty Association Act has been adopted in whole or in part in a growing number of states. Our model act represents the latest and best collective wisdom of the guaranty fund community concerning how to best protect those least able to absorb an uninsured loss, while at the same time placing reasonable limits on that protection, by, for example, limiting coverage for claims of commercial insureds. Importantly, the NCIGF is also often directly involved in a "technical expert" role, in supporting efforts to enact industry-sponsored insolvency legislation.

NCIGF lawyers have contributed substantially to the success of recent legislative efforts in Pennsylvania to enact large deductible legislation in 2004, and in New York last year to enact legislation providing a temporary funding solution for the New York Workers' Compensation Security Fund. Legislative efforts supported by NCIGF result in enacted laws that provide a continued appropriate level of safety net protection, and a rational allocation of resulting costs among stakeholders of insolvencies and those that ultimately bear the cost of the guaranty fund system. The bottom line result is the continued financial health and integrity of our industry-run state-based guaranty fund system.

Congressional Education Program. In response to proposals for a federal guaranty fund system developed by certain groups in Washington, DC in 2001, the NCIGF, at the direction of its board of directors, began a program of educating and informing key members of Congress and their staffs about the functioning of the state-based guaranty association system and its remarkable record of success and achievement in protecting insurance consumers and others affected by an insurer insolvency. In conjunction with NOLHGA, numerous briefings of members of different committees considering insurance regulatory reforms have been conducted. As a result of these activities, the work of the state guaranty associations is often cited as an example of the success in state regulation by those advocating continued reliance upon state regulation of insurance. NCIGF has become a technical resource to Congressional staff members on issues affecting guaranty associations.

Liaison to NAIC. Another good example of an important contribution includes NCIGF staff's efforts involving an NAIC working group's overhaul of both the NAIC Model Liquidation Act and Property and Casualty Insurance Guaranty Association Model Act. The NAIC's work on its liquidation act has been ongoing for the last four years. NCIGF staff has been present every step of the way to do what is possible to ensure guaranty fund issues are fairly treated. As a result, a number of favorable revisions have been made.

Educational forums for the guaranty fund community. Staff supports annual efforts to conduct educational meetings, the goal of which is to better equip the guaranty fund community to discharge its important responsibilities. We include an educational program with our annual meeting held in the spring and conduct a fall workshop and a legal seminar every other year. NCIGF staff provides support to related volunteer committees, and one or more staff members usually speak at every one of these meetings. This year we are

conducting for the first time separate seminars for IT Users and Claims staff. The IT Users Conference was held June 1-2 in St. Louis, and much positive feedback was received.

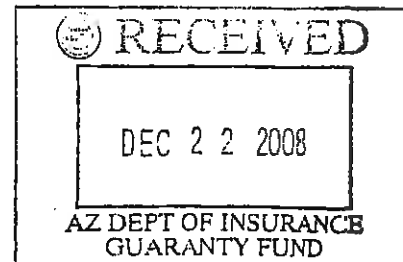
Uniform Data Standards. NCIGF is and has been deeply involved in the development of uniform standards for the transfer of data between guaranty associations and Liquidators. In doing so, we have created a uniform format so that all parties have the same representation of information. This is crucial to the successful management of data in an insolvent insurer. This facilitates the processing of claims by the guaranty funds, related reporting and importantly, the collection of reinsurance by the liquidator. With UDS, all parties speak the same language. We have recently created a vehicle for all interested parties to contribute to this ongoing effort through the creation of the UDS Forum – a depository of expertise from Guaranty Fund staff, their respective counsel, and Departments of Insurance.

Data Communication. NCIGF has become a clearinghouse of data transmissions both from the Liquidator to the Guaranty Funds. These transmissions are essential to the timely payment of claims by Guaranty Funds. All loss claim and unearned premium data for multi-state insolvencies are transmitted by our IT staff. We also transmit premium data for the NAIC, report historical expense and assessment data on our website, and support specific studies of Guaranty Fund activities.

Data Security. NCIGF has developed a data security and privacy policy and is taking the leading the effort to build support for such a policy to be implemented by all organizations involved in the handling of insurer insolvencies.

The above is intended to present a clear picture on the variety of services the NCIGF provides to its members. Hopefully it helps even those already involved with the NCIGF to better understand our organization's important role in the continuing success of the guaranty funds.

December 17, 2008



To Guaranty Association Members of
The National Conference of Insurance Guaranty Funds

Enclosed, please find an invoice for your association's portion of NCIGF dues for 2009. Detailed dues allocations are based on a total budget of \$2,998,012, which was approved by the Board of Directors on November 5, 2008 and reflects no increase in spending from 2008. ←

The 2009 Budget was priced to support the 2009 Operational Goals and Objectives, also approved by the Board of Directors on November 5. I have included the goals and objectives for your review, as well as a fact sheet that summarizes the value of NCIGF to your guaranty association and the policyholders it serves.

The allocation method used to compute the 2009 dues is the same method used last year. This allocation method was approved in November 2007 by the Board of Directors as recommended by the Special Dues Committee. The total dues assessment for 2009 of \$2,998,012 consists of a \$20,000 "fixed fee" portion and a proportionate share per association based on 2007 net assessable premiums with the cap at \$100,000 per fund and \$135,000 per state.

Thank you for your support of NCIGF. Your active engagement in the association helps to drive its performance.

Please contact me if I can answer any questions.

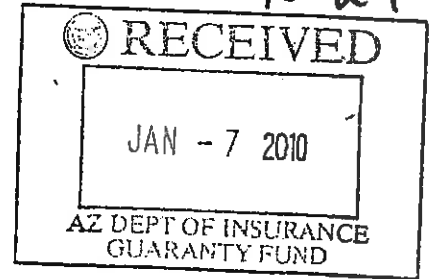
Sincerely,

A handwritten signature in black ink, appearing to read "Roger H. Schmelzer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Roger H. Schmelzer
President & CEO

E-29

December 28, 2009



To Guaranty Association Members of
The National Conference of Insurance Guaranty Funds

Enclosed, please find an invoice for your association's portion of NCIGF dues for 2010. Detailed dues allocations are based on a total budget of \$3,144,388, which was approved by the Board of Directors.

The 2010 Budget was priced to support the 2010 Operational Goals and Objectives, also approved by the Board of Directors on November 4, 2009. I have included the goals and objectives for your review, as well as a fact sheet that summarizes the value of NCIGF to your guaranty association and the policyholders it serves.

The Board of Directors also approved the NCIGF Dues Allocation Policy on November 4, 2009 that stated "NCIGF dues will exactly fund the approved budget. The flat rate, minimum and maximum rates will increase or decrease in direct proportion to the approved budget. This policy would be applied to the existing formula which computes a pro-rata share based on net assessable premiums from the second year preceding dues in accordance with the current by-laws of the NCIGF." Under this policy the total dues assessment for 2010 of \$3,144,388 consists of a \$20,980 "fixed fee" portion and a proportionate share per association based on 2008 net assessable premiums with the cap at \$104,900 per fund and \$144,615 per state.

Thank you for your support of NCIGF. Your active engagement in the association drives its performance.

Please contact me if I can answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Roger H. Schmelzer". The signature is fluid and cursive, written over a white background.

Roger H. Schmelzer
President & CEO

At the Heart of our Mission: Member Value

The NCIGF's mission to bring the greatest possible value to the member state property and casualty guaranty funds and the state-based guaranty fund system in support services and association management, communications and public policy development. This is our focus every day.

In 2009 many initiatives undertaken by the NCIGF underscored the member value focus that is basic to NCIGF member services.

Highlights of these include:

Guaranty Fund Support Services

Insolvency Support. Insolvency support to our guaranty fund members was a key focus for the NCIGF in 2009. Staff conducted simulated insolvency throughout the year designed to sharpen skills in an evolving insolvency environment. This pro-active training came into play with the Park Avenue insolvency, allowing NCIGF staff to respond quickly to member needs. Legal staff provided it's typical coordinating committee support while the Information Technology staff

addressed the need for expedited claims-paying in the fast-breaking insolvency by:

- Functioning as primary point of contact for the TPA in handling data-related issues in the early weeks of the insolvency.
- Writing software to convert raw extracts of claims data to compliant A and G Records, and distributing UDS records to guaranty funds.
- Writing software to convert 50 GB of imaged data into subsets of data in I record type format.
- Distributing imaged data to funds.
- Rewriting portions of image processing to better allow ISU states to process imaged data.
- Creating a new SUDS process to allow guaranty fund-to-guaranty fund transfer of UDS data.
- Within hours of the announcement of the insolvency, adding Park Avenue to the NCIGF's Members-only site for quick distribution of insolvency related materials, allowing members to sign up for estate updates.

NCIGF IT front also delivered standard IT and SUDS-related support for the Park Avenue insolvency (such as distributing A, F and G Records from the receiver to the guaranty funds and processing C records).

Uniform Data Standards (UDS) and Secure Uniform Data Standards (SUDS).

In 2009 the NCIGF IT staff completed a rewrite of the SUDS nightly processing system as part of an overall SUDS upgrade. This project, which was spearheaded by NCIGF and vetted and approved by the NAIC UDS Technical Support Group, re-establishes UDS and SUDS as a "resident" core member service of the NCIGF. The rewrite also extends the functionality and improves the security and reliability of the system.

P/C Guaranty Fund Training. In October, the NCIGF completed development of on-line interactive guaranty fund training materials. Now posted on the NCIGF Web site, the materials are educating

NCIGF Members-only Web site, the manual helps guaranty funds achieve consistency in reporting financial information and identifies recommended methods and best practices.

Member Access to ISO Forms Library. NCIGF membership provides state guaranty funds unlimited access to the entire library of ISO policy forms and endorsements, searchable by state, effective date, form type, form name, and form number.

Liquidation Planning Checklist. The NCIGF's Liquidation Planning Checklist is designed to assist future coordinating committees and receivers in identifying issues early in the insolvency process, helping streamline the insolvency administration process and to speed payments to covered policyholders and claimants.

Public Policy

Technical assistance on insolvency statutory matters. Guided by NCIGF's Public Policy and Legal Committees, the NCIGF provides extensive technical assistance in fashioning legislative and other solutions related to insurance insolvency issues.

The value of our public policy activity is evident: the NCIGF Model Guaranty Association Act has been adopted in whole, or in part, in a growing number of states and recently has been endorsed by the National Conference of Insurance Legislators (NCOIL). The NCIGF, in efforts led by a special task force of our board, has also developed a package of model provisions for liquidation acts, including a model statute to deal with large deductible policies in insurance company insolvencies. This model has now been adopted in similar form in several key states.

NCIGF staff is always available to provide technical input on other discrete insolvency issues that arise in various jurisdictions; our staff also often facilitates "expertise and experience sharing" between states that benefit from learning from one another. This sharing of available thinking, research and information on these often complex issues can bring real cost savings, and promotes consistency in policy making.

Evaluate Current Coverage Parameters and Develop Suggestions for Potential Change. In 2010 the NCIGF will perform financial analysis of certain coverage parameters and compilation of benchmark data on claims loss amounts; this activity will be followed by a white paper and model legislation on any recommended changes. Going forward, these efforts will promote well informed public policy decisions that weigh the benefits along with the ultimate cost to the public of various changes in guaranty fund statutory provisions.

Promote Change to SSAP 35 to adopt GAAP-based rule, AICPA SOP 97-3 (*Accounting by Insurance and Other Insurance Related Assessments*). The NCIGF provided essential background information to the NAIC that supports modifying SSAP 35 for the recording of guaranty fund assessments by insurance. The information presented by NCIGF to the NAIC was included in the draft Issue Paper exposed for comment in November 2009. It is expected that the NAIC Statutory Accounting Principles Working Group will adopt the change to SSAP 35 in summer 2010; the change will then become effective later that year.

Congressional Education Program. In 2009, the U.S. House of Representatives passed a bill in response to the financial services crisis that retains the state guaranty fund system. The U.S. Senate is expected to

to our members. And a new publication, the NCIGF's *Washington Update*, connects our members with the latest guaranty fund-related news and developments from Capitol Hill.

Compilation of Cases. Each year we publish a compilation of cases law interpreting guaranty association law for the exclusive use of member guaranty funds.

Guaranty Fund Laws Manual. The NCIGF provides an annual update to the Guaranty Fund Laws Manual, a complete set of the enabling statutes for each of our member funds that features useful summary information.

Insolvency Trends. Each year our *Insolvency Trends* white paper series documents important developments in the property and casualty insolvency arena. This information, which is often picked up and cited by major industry publications, is critical in promoting understanding of the state-based property and casualty guaranty fund system.

Educational Forums and Networking Opportunities for the Guaranty Fund Community. The NCIGF provides many opportunities to meet with colleagues and establish and renew business associations each year through our educational program and committee meetings. Education programs are a key part of our spring annual meeting and – every other year – our fall workshop and a legal seminar.

Membership is Value

Central to the NCIGF mission is the value we deliver to our member guaranty associations—not just in periods of heavy insolvency activity, but every day.

NCIGF membership brings with it an alliance with the national guaranty fund community and all its resources.

NCIGF members also receive the support and counsel of the NCIGF staff: leading experts in insolvency issues, law and policy support and a range of key business disciplines, such as communications and information technology.

In 2010 and beyond, the NCIGF will continue to provide programs and initiatives that provide *real value* through support in the areas of IT and UDS, public policy, seminars and meetings, among others.

It's all part of delivering on the NCIGF assurance of member value.

NCIGF Corporate Goals and Objectives

Guaranty Fund Support Services and Association Management Projects:

1. **Assessment History and Financial Information Project.** The NCIGF will streamline the process for obtaining assessment and financial information by making one request of guaranty funds per year, replacing the software used to collect the information with a Web-based application software, and by including Expense Study Data as part of the annual request. Moving to a Web-based software will improve efficiency for the guaranty associations and NCIGF since the financial information will be updated in real-time. NCIGF will work with the Accounting Issues Committee to add an appendix to the Accounting Guidelines Manual to provide broad guidance on Expense Study reporting.
2. **Disaster Recovery and Resource Sharing.** NCIGF will develop options, procedures and a proposed agreement for Guaranty Funds. Possible examples: storage of computer backups at another fund's site, adjustor sharing alliances for times when one fund has a deluge of claims activity and other funds have available adjustor capacity.
3. **IT Governance.** Execute a comprehensive IT governance program that includes vulnerability or "penetration" testing and an audit of NCIGF's IT policies and processes. Audit results, policies and procedures to be directed by NCIGF staff and overseen by the NCIGF Audit Committee. Steps to be completed include:
 - a) Complete IT vulnerability testing to assess the security of NCIGF's IT systems, including UDS and SUDS.
 - b) Seek and retain a firm to provide counsel in IT security and compliance to identify and begin preparing for an appropriate IT compliance program. This program will focus on assessing and monitoring our IT policy and procedures, our systems' security, our back-up and recovery and disaster recovery systems.
 - c) Begin preparation for compliance assessment for completion in 2011. Perform Business Continuity Exercise (Disaster Recovery), which is a complete test of NCIGF's IT disaster recovery system.
 - d) Complete IT audit, or compliance assessment; with the report delivered to the NCIGF Board and Audit Committee.
4. **GF Document Imaging Support.** NCIGF staff will launch a program of document imaging support that will standardize digital document images and make them "readable" between insolvent estates and guaranty funds. The NCIGF is assembling a project plan and expects to complete a proof of concept for the project by Q2 2010.

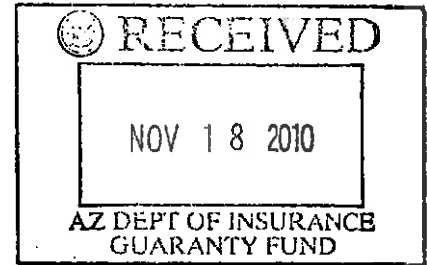
- ii. Analysis of Guaranty Association Coverage Parameters. Study the appropriateness of current guaranty association coverage parameters. Deliverables are: white paper on recommended changes, if any, to coverage parameters; model legislation on any recommended statutory changes; research on parameters of various "cat" funds such as medical malpractice.
- e) **Manage Strategic Planning Tactics.** B16 (Consider legislative changes to include a statutory mandated pre-liquidation role for the guaranty associations) and Strategic Tactic B17 (Consider promoting legislative changes to accommodate the need for the guaranty associations' active participation and representation of their post – liquidation interests as a large creditor of the insolvent estate) have been combined by Public Policy Committee into project entitled "Role of Guaranty Associations." Deliverables are:
- i. White paper or memo on guaranty association role. Public Policy Committee decided to have group discussion on this topic before doing white paper.
 - ii. Model legislation if legislation recommended. Public Policy Committee determined that the right to intervene statute and info sharing tactics (B16 and B17) should be promoted at the 2010 Annual Meeting presentation on legislation.
 - iii. Board Task Force has already developed information sharing statute.

Outreach, Communications and Education Projects:

- 10. **Expense Study.** Work with the chairperson of the Operations Committee in organizing the accumulation of data for updating the Expense Review for 2008. Support the Committee and the project with a proactive approach providing project management techniques in organizing their directives and accomplishing the goals as outlined by that committee.
- 11. **Guaranty Fund Visits.** Senior management will visit 24 guaranty funds in 2010. The purpose of these trips is to gain an understanding of member needs and to bring awareness of NCIGF services.

November 12, 2010

Michael Surguine
Executive Director
Arizona Insurance Guaranty Fund
1110 West Washington Street, Suite 270
Phoenix, AZ 85007-2962



Dear Mike,

Following the recent Manager's Meeting, the NCIGF board approved the NCIGF's 2011 budget.

Under this budget the dues of NCIGF member guaranty funds will increase by 9.6%. The NCIGF's general operating expenses for 2011 are relatively flat (only a 1.5 percent increase over last year's). An additional 8.1% is necessary to enhance the NCIGF's federal education program and deliver new NCIGF data support services that will ensure quick transmission of digital claims information to the guaranty funds.

Attached is a document presented to the Board Finance Committee and the Board that provides a detailed explanation of the rationale for this increase. We hope it will be of assistance when discussing the NCIGF dues with your board.

In approving the 2011 budget for the NCIGF-Indianapolis office, we have balanced the financial challenges presented by low claims counts and the continued scrutiny of the federal government in the years ahead.

With respect to the second point, the NCIGF recognizes as critical a study by the new Federal Insurance Office (FIO) of guaranty funds and how our system is perceived in Washington. It is essential that this study, which will closely examine the guaranty fund system, accurately and clearly reflects the merits of the state-based guaranty fund system. The results of the FIO study will form the basis of draft legislation on federal insurance regulation and consumer protection under that system. The bill could be considered as early as 2012.

In addition to the FIO review, studies with potential impact on guaranty funds are underway at the Department of Labor and General Accounting Office. Concurrently, the FDIC and Federal Reserve are both in the process of drafting new rules mandated by the Dodd-Frank Act that could have impact on the job of the state liquidation mechanism.

Page # 2

For these reasons it is imperative in the coming year that the NCIGF – working with its NOLHGA and Baker & Daniels partners – redoubles its effort to educate and inform federal policymakers about the guaranty fund system.

Equally important for the guaranty fund system in the year ahead is data management. The recent Park Avenue, Imperial and Pegasus insolvencies have clearly shown how important it is for receivers to be able to quickly marshal and transfer digital claims data to the guaranty funds. *With federal policymakers scrutinizing the guaranty funds, we may not be able to withstand a situation in which policyholders fail to get their covered claims paid due to data issues.*

We very clearly understand in this period of low claim counts the prospect of increasing the NCIGF-Indianapolis budget will raise questions from our individual guaranty funds. As chairs of NCIGF's Board, Executive Committee and Board Finance Committee, we believe that the challenges our system now faces well-justify this level of support of the guaranty fund system as a whole. This is a critical time.

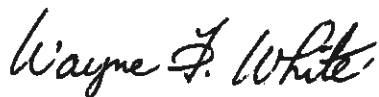
Thank you for your ongoing support of the guaranty fund system. As always, please let us know if you have any questions or comments.



Debra Wozniak
NCIGF Board Chairman



Smitty Harrison
Executive Committee Chairman



Wayne White
NCIGF Board Finance Committee Chairman

How the New Public Policy Climate for Financial Services Oversight and Insurance Regulation Impacts Guaranty Funds and the Operations of NCIGF-Indianapolis

The Unavoidable New Reality and its Consequences

The Dodd-Frank Act signed into law on July 21, 2010 preserves the current system of insurance guaranty funds while opening the door for future federally-mandated changes. The new Federal Insurance Office (FIO) has been charged with studying:

- How to modernize insurance regulation,
- The effects of any Federal resolution authority for insurance companies on the operation of State insurance guaranty fund systems, and
- The loss of guaranty fund coverage if an insurance company is subject to a Federal resolution authority.

The report, accompanied by a draft legislative proposal, is due within one year of enactment.

This presents an opportunity for the NCIGF to make strategic investments intended to assure a continued future for the state-based guaranty fund mechanism. New or additional resources are recommended to meet the challenges presented post Dodd-Frank:

- 1) **Public Policy Management.** Preserving the system will require a) sustained and increased funding of the current federal education program; and b) efforts to improve the overall liquidation mechanism in areas where it might be criticized.
- 2) **Data Support Services.** Assuring delivery of timely and accurate claims information to guaranty funds by extracting claims data from the insolvent company's data and converting it into GF (UDS) format. Expansion of these services at NCIGF-Indianapolis will bridge the "gap" created by inconsistent receiver capabilities.

To perform at this level will require an increase in the NCIGF budget of \$301,921 for 2011 (9.6%). It is contemplated that this expenditure, at approximately this level, will be recurring for at least the next four years with the hope that the issues in Washington will be settled by 2014. It is expected however that the "federal education" component of overall public policy management will remain as a "core" service of NCIGF-Indianapolis, although possibly at a lower level.

If the proposed budget is approved, membership dues for all guaranty funds would increase by the same percentage as the 2011 budget increase per the Dues Allocation Policy approved by the NCIGF Board on November 4, 2009. The policy states: "*NCIGF dues will exactly fund the approved budget. The flat rate, minimum and maximum rates will increase or decrease in direct proportion to the approved budget.*" This policy applies to the dues formula, which computes a pro-rata share based on net assessable premiums from the second year preceding dues in accordance with the current by-laws of the NCIGF.

General Background

Over the last several years, the NCIGF Board of Directors has overseen establishment of new or advanced competencies in communications, accounting, public policy management, information management and technology to complement the core insolvency and education support services housed in Indianapolis since 1989.

In light of the public policy and political environment in which guaranty funds operate in 2010 and the new demands placed on the system, each of these areas will be asked to do more, such as:

- NCIGF-Indianapolis will compile information in response to extensive requests from the FIO, requiring heavy accounting, legal and information management support (Requests of members for supplemental information should be expected).
- We anticipate a need to revisit the topic of stress testing in one form or another as part of the FIO review. We may choose to get ahead of those questions by utilizing the results of the NCIGF stress test to drive potential changes in states, requiring coordination between member funds and local industry. Possible public policy changes could include increasing assessment caps to 2% in all jurisdictions where the current cap is a lower amount and reevaluating the separate assessment account structures in place in many states. Industry outreach/relationship building efforts will be essential in achieving any changes of this nature.
- Explanations of the coverage the current system provides must be communicated clearly. This too may require efforts to develop and promote consistent state laws regarding claim caps. We may need to develop and promote legislative packages for industry and guaranty funds to manage, which insure that needy claimants do not do without coverage because of differences in state laws. Current exclusions from coverage such as net worth limitations will need to be evaluated. There will be related legal and communications expenses.

Building the functional competencies to effectively represent the property and casualty guaranty fund system was contemplated as part of the evolution of the NCIGF-Indianapolis office and can be addressed within traditional budgeting levels. Ordinary and expected operational increases for these functions in 2011 are relatively flat at 1.5 percent. Additional financial resources are necessary to solidify the guaranty funds' strongest arguments with public officials. These additions, detailed below, would amount to a 8.1 percent spending increase.

Relationship with Baker & Daniels. NCIGF staff will be deeply involved in these initiatives, but we are in a position to leverage other relationships of Baker & Daniels to achieve ultimate results. Staff has instituted cost monitoring procedures to manage these expenditures more closely. Baker & Daniels will inform the CEO when monthly billings reach 75 percent of the monthly budgeted amount. At that time, the CEO and counsel will determine how to distribute remaining workload (if feasible) in order to keep the task within budgeted amounts.

Background on the Federal Situation facing NCIGF

The outcome of Dodd-Frank related to guaranty funds was the result of intense efforts over nearly 10 years by NCIGF and NOLHGA representatives to educate federal policymakers about the demonstrated ability of the current state-based system to protect insurance policy claimants. Outside counsel with a consistent presence on Capitol Hill has been necessary to facilitate these discussions and maintain contacts prior to and during development of the legislation.

While a decade of effort was unable to settle all questions about the state-based guaranty fund system, it was effective enough to discourage a negative outcome in reaction to the 2008 financial crisis.

Further preservation of the system will be challenged by repeated benchmarking of the insurance safety net to the FDIC. That the guaranty funds and FDIC do two different things in two different sectors of the financial services industry is immaterial; the FDIC is considered the "gold standard" for financial services consumer protection by the federal government and the public in general. While the guaranty funds cannot and should not seek to replicate the FDIC, a clear understanding is imperative that the perceived "seamlessness" of the FDIC method, both in function and funding, is revered and will be used to measure guaranty fund capabilities.

NCIGF Initiatives

Public Policy Management. Going forward, our dual strategic goals are to promote awareness and understanding of the state-based guaranty funds in Washington, D.C. and beyond while simultaneously seeking to satisfy skeptics of the system and the entire insurance liquidation mechanism.

1. **Federal Initiatives.** Additional effort is needed in Washington if the current state guaranty fund system is to receive a positive recommendation in the upcoming FIO study. We believe that a positive finding in the study will result in keeping the current mechanism in place for the foreseeable future. If a positive finding is not reached, even more effort will be necessary to address whatever disadvantage is caused. NCIGF must be prepared either way.

The results of the November 2010 elections will also have an impact on guaranty funds. There are likely to be several new members of the House Financial Services Committee and possibly a leadership change. These events will require the making of new contacts across Capitol Hill.

Likewise, while we have good relationships at the federal level, we need to strengthen them and expand our reach. The people wrestling with GA issues don't always know us or think to call us. Key players can't always remember much about what we tell them. Our message bears repeating.

The increased scrutiny expected from the FIO and others interested in the system (there are currently studies underway by the General Accounting Office and the Department of

amending existing Model laws and/or proposing new legislation but most will likely require collaboration with others.

Some of the possible strategies will require involvement of the NAIC. We should draft the proposals we want the NAIC to consider – statements of commitment, revised Models, etc. We need to work with NAIC leadership to ensure that initiatives are handled at the Commissioner level, not delegated to working groups. We should also consider involving NCOIL for purposes of expediting state-by-state adoption of any revised/new legislation.

Data Support. Since the heavy insolvencies of the early 2000s, insolvency support at NCIGF-Indianapolis has shifted from a primarily legal function to a more information-dictated regimen. Due to advances in technology, data is king more than ever before and management of data can determine how quickly a new estate can be ready to pay claims. One data-related “quality spill” that causes a delay in claims payment, even for a single, sympathetic claimant, could call into question the effectiveness of the entire guaranty fund system. Unfortunately, some receivers may be short-staffed, under-funded or may lack quick access to IT support or adequate hands-on familiarity with UDS. Given this potential “gap” in service, NCIGF-Indianapolis can provide an enhanced level of data-delivery support to its members.

Assisting liquidators and guaranty funds with UDS data transfers and imaging has already emerged as a key service area provided by NCIGF-Indianapolis IT staff. In addition to offering direct support managing data for the Park Avenue insolvency (which considerably accelerated claims paying), staff upgraded existing programs (e.g., FIRST) and has developed the *UDS Data Mapper*, a software application that gives receiverships the means to quickly marshal and transfer digital claims data to the guaranty funds. The intensity of this level of activity cannot be sustained at current staffing levels.

Until three years ago the NCIGF maintained an IT staff of three professionals tasked with: 1) overall management, 2) networks and Web site administration and 3) UDS. Due to light insolvency activity in recent years, these functions could be handled by two employees. Going forward however, a three-member staff configuration is recommended to maximize delivery of data management and imaging support and will also position the organization to move toward ISO compliance of its systems and procedures, per the desire of the NCIGF Board. Further, it will permit the current senior executive in charge of IT to continue his already extensive application development and programming work (not currently fully realized due to the unanticipated insolvency data management support that he has undertaken). The present systems analyst will step into the role of managing all day-to-day IT operations of the organization.

The proposed third member of the IT staff will combine data management and business analysis skills in the following way:

- As the principal in charge of the UDS Data Mapper, he/she will travel to work directly with liquidators to assist them in understanding UDS data requirements, and place insolvency-related content into a coherent format for use with the UDS Data Mapper. Prior to the reduction of the IT department, NCIGF employed a UDS specialist whose

principal function was to structure data from receivers for use by the individual funds. With insolvency activity beginning to increase, that function is becoming necessary once again, but now with the *Mapper*, this employee will be able to structure data more efficiently but will also be available to extract data from the failed company, a key part of guaranty fund preparations.

- This added staff member also will provide adequate staffing resources for the NCIGF to identify, train and deploy a “new generation” of UDS-support liaisons, a team that will ensure efficient digital data transfers, better overall UDS proficiency among receivers and more uniform use of UDS.

Conclusion

The NCIGF Board of Directors has overseen a steady upgrade of its Indianapolis office just in time for it to be able to effectively represent the system in the wake of what is anticipated to be vigorous questions from the federal government. Taking into account ordinary and expected operational increases, the NCIGF-Indianapolis budget can be kept relatively flat (1.5%). However, the increased and often uncontrollable efforts necessary to educate federal policymakers, as well as the more predictable opportunity to assure even more prompt claims paying ability, requires an additional 8.1 percent in funding. If approved, the dues for every NCIGF member guaranty fund would be increased by 9.6%. The accompanying chart summarizes the elements of the proposed 2011 budget increase.

	2011 Budget Increase	% 2011 Budget Increase
2011 Key Initiatives:		
1) Public Policy Mgmt-Federal Education	\$ 166,203	5.3%
2) Data Support Services	90,000	2.8%
Total 2011 Budget Increase related to Key Initiatives	\$ 256,203	8.1%
2011 Budget Increase Excluding Key Initiatives	45,718	1.5%
2011 Proposed Budget Increase	\$ 301,921	9.6%

Member Resources	Resources	Industry	UDS	Media Room	Meetings	About Us
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- [Guaranty Funds Contacts](#)
- [Claims Questions](#)
- [Publications](#)
- [Links And Resources](#)

NEWS & UPDATES

Insolvency Trends Summer 2012 Issue Now Available

The National Conference of Insurance Guaranty Funds (NCIGF) has released the summer 2012 issue of *Insolvency Trends 2012*. Authored by the NCIGF legal and public policy staff, *Insolvency Trends 2012* provides an update on recent developments in insolvency law and practice. [Click here](#) to view the summer issue of *Insolvency Trends 2012*.

On December 16, 2011 the National Conference of Insurance Guaranty Funds (NCIGF) and the National Organization of Life & Health Insurance Guaranty Associations (NOLHGA) filed joint comments with the Federal Insurance Office (FIO):

The comments were submitted in response to the request by the FIO for public input on "How to Modernize and Improve the System of Insurance Regulation in the United States", for a report to Congress called for by Dodd Frank.

To view the comments, [click here](#).

On November 16, 2011 Roger Schmeizer, President of the NCIGF, submitted testimony to a U.S. House of Representatives Financial Services Insurance, Housing and Community Opportunity Subcommittee hearing. The hearing focused on the topic Insurance Oversight & Legislative Proposals.

The testimony covered how the state insurance guaranty systems work to protect insurance policy holders when insurance companies become insolvent, and provided an assessment about the financial strength of the guaranty fund system.

CLAIMS QUESTIONS Questions?

The NCIGF does not process or pay claims. Questions about individual claims are best directed to your state's department of insurance or guaranty association. Contact information can be found by following the links below

State Insurance department Web sites

Alabama
[Department of Insurance](#)

Alaska
[Department of Insurance](#)

Arizona
[Department of Insurance](#)

Arkansas
[Department of Insurance](#)

California
[Department of Insurance](#)

Colorado
[Department of Insurance](#)

Connecticut
[Department of Insurance](#)

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ABOUT US

The National Conference of Insurance Guaranty Funds (NCIGF) is a non-profit, member-funded association that provides national assistance and support to the property and casualty guaranty funds located in each of the 50 states and the District of Columbia. Incorporated in December 1989, the NCIGF monitors national insurance activities, coordinates information for multi-state insolvencies and provides legal, informational, administrative, communications and public policy and administrative support to our members. The NCIGF works in close cooperation with the property and casualty insurance trade associations to monitor and respond to issues that might impact state guaranty funds. The group serves as a trusted expert, informing trade and other organizations as they develop model legislation related to state guaranty fund laws.

- [Insolvency Primer](#)
- [Articles and publications about insolvency and the guaranty fund system](#)
- [NCIGF Staff Directory](#)
- [Vision and Mission Statements](#)
- [The Shared Value of the NCIGF and its Member Property & Casualty Guaranty Funds](#)
- [The Strategic Goals of the NCIGF and the State Property & Casualty Guaranty Fund System](#)

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- Podcast](#)

[UDS D Record IT Training
- PowerPoint with
Narrative Notes](#)



**Accounting Guidelines
Manual Available**

The National Conference of Insurance Guaranty Funds (NCIGF) has released the Accounting Guidelines Manual, authored by the NCIGF Accounting Issues Committee. Formerly titled the Financial Reporting Guidelines Manual, the publication provides guidelines on guaranty fund-related accounting practices. [Click here to view the Accounting Guidelines Manual.](#)

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STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

BEFORE THE COURT-APPOINTED REFEREE
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY
DISPUTED CLAIMS DOCKET

In Re Liquidator Number: 2011-HICIL-50
2011-HICIL-51

Proof of Claim Number: GOVT 18901-11
GOVT 18901-12

Claimant Name: Arizona Property and Casualty Insurance
Guaranty Fund

AFFIDAVIT OF JAMES HAMILTON

I, James Hamilton, hereby depose and say:

1. I am Vice President Claims Systems of The Home Insurance Company, in Liquidation. I have held that position since 2003. As Vice President Claims Systems, my responsibilities include receiving and reviewing financial information submitted by insurance guaranty associations in the Home liquidation for purposes including the making of claim determinations. That information includes guaranty association submissions concerning claimed administrative expenses.

2. I have received and reviewed financial information from the Arizona Property and Casualty Insurance Guaranty Fund ("Arizona Fund"), including its submissions concerning claimed administrative expenses for 2006 through 2010. Based on that review, I prepared the chart attached to my May 12, 2011 letter to the Arizona Fund summarizing the information presented by the Arizona Fund. A copy of that letter is Liquidator's Exhibit 3 in this matter, and it is attached to the Notices of Determination that are Liquidator's Exhibits 4 and 5.

3. I have prepared a chart summarizing the information reported by the Arizona Fund with respect to claimed administrative expenses for 2006 through 2010 and the Liquidator's determinations for those years. That chart is Liquidator's Exhibit 8.

4. I have reviewed the claim information reported by the Arizona Fund in the UDS C reports to identify claim expense payments reported by the Arizona Fund with respect to Giant Industries. I prepared a chart summarizing the claim expense payments (amounts paid to the Arizona Fund's counsel) reported by the Arizona Fund on Giant Industries. That chart is Liquidator's Exhibit 20.

5. Based on the total yearly asserted administrative expenses reported by the Arizona Fund for the years 2006 through 2010 on the chart included as Liquidator's Exhibit 11 and the amounts claimed by the Arizona Fund from the Home estate as set forth on Liquidator's Exhibit 3, I prepared a chart showing the percentage of the Arizona Fund's asserted administrative expenses that it claims from the Home estate for those years. That chart is Liquidator's Exhibit 22.

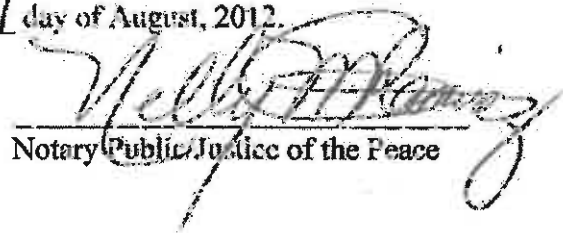
6. In the course of reviewing guaranty association submissions concerning claimed administrative expenses, I keep track of the allocation methodologies used by each guaranty association. I have prepared a chart identifying the methodology used by each guaranty association. That chart is Liquidator's Exhibit 23.

Signed under the penalties of perjury this 21st day of August, 2012.


James Hamilton

STATE OF NEW YORK
COUNTY OF NEW YORK

Subscribed and sworn to, before me, this 21st day of August, 2012.


Notary Public, Justice of the Peace

Nelly M. Gomez-Ramirez
Notary Public State of New York
No. 01GO5005271
Qualified in Bronx County
Commission Expires 21/1/2015