

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

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**LIQUIDATOR’S EXHIBITS TO SECTION 15 SUBMISSION**

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PROOF OF CLAIM

The Home Insurance Company,

Merrimack County Superior Court, State of New Hampshire 03-E-0106

Read Carefully Before Completing This Form

Please print or type

FOR LIQUIDATOR'S USE ONLY

DATE PROCLAIM RECEIVED

RECEIVED

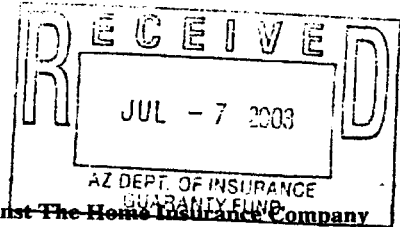
JUL 14 2003

HICIL

Lori Nestor, Claims Manager
Arizona Property & Casualty Insurance Guaranty Fund
1110 West Washington Suite 270
Phoenix AZ 85007-2962

POC #: Govt18901

Barcode



The Deadline for Filing this Form is June 13, 2004.

You should file this Proof of Claim form if you have an actual or potential claim against The Home Insurance Company of any of its former subsidiaries\* ("The Home") even if the amount of the claim is presently uncertain. To have your claim considered by the Liquidator, this Proof of Claim must be postmarked no later than June 13, 2004. Failure to timely return this completed form will likely result in the DENIAL OF YOUR CLAIM. You are advised to retain a copy of this completed form for your records.

Arizona Property and Casualty

- 1. Claimant's Name: Insurance Guaranty Fund
2. Claimant's Address: 1110 West Washington Ave., Suite 270
Phoenix, Arizona 85007

- 3. Claimant's Telephone Number: (602) 364-3863
Fax Number: (602) 364-3872
Email address:

- 4. Claimant's Social Security Number, Tax ID Number or Employer ID Number:

- 5. Claim is submitted by (check one):
a) Policyholder or former policyholder
b) Third Party Claimant making a claim against a person insured by The Home
c) Employee or former employee
d) Broker or Agent
e) General Creditor, Reinsurer, or Reinsured
f) State or Local Government Entity
g) XX Other; describe: Insurance Guaranty Fund

If your name, address, e-mail address, or telephone number set forth above are incorrect, or if they change, you must notify the Liquidator so she can advise you of new information.

Describe in detail the nature of your claim. You may attach a separate page if desired. Attach relevant documentation in support of your claim, such as copies of outstanding invoices, contracts, or other supporting documentation.

All Claims, loss adjustment expenses, and administrative expense incurred and paid to The Home Insurance Company policy holders.

- 6. Indicate the total dollar amount of your claim. If the amount of your claim is unknown, write the word "unknown", BUT be sure to attach sufficient documentation to allow for determination of the claim amount.

\$ unknown (if amount is unknown, write the word "unknown").

- 7. If you have any security backing up your claim, describe the nature and amount of such security. Attach relevant documentation.

N/A

- 8. If The Home has made any payments towards the amount of the claim, describe the amount of such payments and the dates paid:

N/A

- 9. Is there any setoff, counterclaim, or other defense which should be deducted by The Home from your claim?

N/A

- 10. Do you claim a priority for your claim? If so, why:

N/A

- 11. Print the name, address and telephone number of the person who has completed this form.

Name: Same As Above
Address:

Phone Number ( )
Email address:

12. If represented by legal counsel, please supply the following information:
- a. Name of attorney: N/A
  - b. Name of law firm: \_\_\_\_\_
  - c. Address of law firm: \_\_\_\_\_
  - d. Attorney's telephone: \_\_\_\_\_
  - e. Attorney's fax number: \_\_\_\_\_
  - f. Attorney's email address: \_\_\_\_\_

13. If using a judgment against The Home as the basis for this claim:
- a. Amount of judgment N/A
  - b. Date of judgment \_\_\_\_\_
  - c. Name of case \_\_\_\_\_
  - d. Name and location of court \_\_\_\_\_
  - e. Court docket or index number (if any) \_\_\_\_\_

14. If you are completing this Proof of Claim as a Third Party Claimant against an insured of The Home, you must conditionally release your claim against the insured by signing the following, as required by N.H. Rev. Stat. Ann. § 402-C:40 I:

I, \_\_\_\_\_ (insert claimant's name), in consideration of the right to bring a claim against The Home, on behalf of myself, my officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives hereby release and discharge \_\_\_\_\_ (insert name of defendant(s) insured by The Home), and his/her/its officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives, from liability on the cause(es) of action that forms the basis for my claim against The Home in the amount of the limit of the applicable policy provided by The Home; provided, however, that this release shall be void if the insurance coverage provided by The Home is avoided by the Liquidator.

\_\_\_\_\_  
Claimant's signature

\_\_\_\_\_  
Date

15. All claimants must complete the following:

I, Connie Fatina (insert individual claimant's name or name of person completing this form for a legal entity) subscribe and affirm as true, under the penalty of perjury as follows: that I have read the foregoing proof of claim and know the contents thereof, that this claim in the amount of unknown dollars (\$ unknown ) against The Home is justly owed, except as stated in item 9 above, and that the matters set forth in this Proof of Claim are true to the best of my knowledge and belief. I also certify that no part of this claim has been sold or assigned to a third party.

Connie Fatina  
\_\_\_\_\_  
Claimant's signature

7-9-02  
\_\_\_\_\_  
Date

Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

16. Send this completed Proof of Claim Form, postmarked by June 13, 2004, to:

The Home Insurance Company in Liquidation  
P.O. Box 1720  
Manchester, New Hampshire 03105-1720

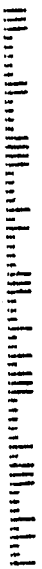
**You should complete and send this form if you believe you have an actual or potential claim against The Home even if the amount of the claim is presently uncertain.**



ARIZONA GUARANTY FUND  
ARIZONA DEPARTMENT OF INSURANCE  
1110 West Washington Street, Suite 270  
Phoenix, Arizona 85007

The Home Insurance Company, in Liquidation  
P. O. Box 1720  
Manchester, New Hampshire 03105 1720

03105+1720 15







**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



59 Maiden Lane  
New York, New York 10038

James Hamilton  
TEL: 212 530 3113  
FAX: 212 530 3100

Date: December 24, 2009

Attn: Michael Surguine, Executive Director  
Arizona Property & Casualty Ins. Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

Re: Administration expenses

Dear Mike:

Further to an earlier conversation I had with your Controller regarding the allocation and payment of administration expenses that the Arizona Property & Casualty Insurance Guaranty Association (the "Association") has sought from The Home Insurance Company in Liquidation ("The Home"), we are in the process of reviewing the financial documentation the Association has submitted in order to issue a new Notice of Determination regarding Class I Administration Expenses. Our review has identified an issue with respect to the Giant Industries, Inc. ("Giant") groundwater pollution claim and how the Association has allocated administration expenses to the The Home for the period March 1, 2008 thru March 31, 2009. (Attached is a summary of the Association's administration expenses compiled from your reports.)

By way of background, The Home became aware of Giant's claim in January 2008 after which we issued a letter to Giant advising them of Home's status in liquidation along with the methodology for how to file a Proof of Claim in the estate. At that time, The Home established two claim records, reflecting that The Home had issued two primary policies to Giant. The claim material was sent to the Association along with policy information (two primary policies and one excess policy) in February 2008. Giant sought coverage for defense costs and indemnification with respect to various suits filed as a result of Giant's alleged involvement in groundwater contamination from Methyl Tertiary Butyl Ether (MTBE). While there were various potential defenses available, the Association denied Giant's claim as having been late filed per the liquidation claim filing deadline. The Home assisted the Association in that defense and provided a supporting affidavit. The Association but not the Insured was dismissed from the case in August 2009. The Association incurred \$28,817.38 in expenses to obtain that dismissal, which was charged to allocated loss adjustment expense and is not at issue.

In contrast to the The Home's handling of this matter, the Association established 80 claim records for Giant, broken into 40 claims per primary policy. Because the Association calculates its allocation of administration expenses to insolvencies based on

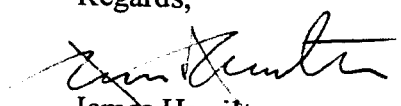
**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



the number of claim records it establishes, the creation of 80 basically identical claim records clearly, and disproportionately, impacts the amounts allocated to The Home. This approach resulted in an increase in administration expenses submitted to The Home of approximately 300% over its previous submission. Given that the Association had Giant's action dismissed because of late notice, the Association did not conduct work on a claim-by-claim basis. Thus, attempting to allocate on the basis that the Association was handling 80 individual claims does not reflect the underlying circumstances. Rather, as late notice was a policy level defense, the Association (consistent with The Home's approach) should have only established two claim records, i.e., one for each of primary policy.

In light of the historically good relationship between the Liquidator and the Association, we would appreciate if you, or someone on your staff, would reconsider the allocation and the facts surrounding Giant's claim. Applying the appropriate number of claims would decrease the Association's reported administration expense for the period from March 1, 2008 through June 30, 2009 from \$376,557 to approximately \$19,000. Accordingly, we look forward to learning the outcome of your review of this issue.

Regards,

  
James Hamilton  
VP Claims Systems

cc: Tom Kober, Chief Claims Officer

ARIZONA PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOC.

FIQ Quarter	Administration Expense Qtrly	Monthly	Admin Exp Monthly	Inventory	Fund's Paid Claim Loss	Fund's Paid Claim Exp	Fund's Loss Reserves	Fund's Expense Reserves
		July						
		Jun		82 claims/82 claimants				\$ 9,077.02
		May		82 claims/82 claimants		\$ 260.00		\$ 57,540.25
		April		82 claims/82 claimants		100.00		\$ 57,540.25
2009-03	\$ 128,346.03	March		82 claims/82 claimants		-		\$ 57,540.25
		Feb	\$ 28,747.06	82 claims/82 claimants /2 transfers (in - out)		-		\$ 57,540.25
		Jan	\$ 21,427.39	82 claims/82 claimants		-		\$ 57,700.59
2008-12	\$ 88,017.74	Dec	\$ 78,171.58	82 claims/82 claimants		-		\$ 58,322.79
		Nov	\$ 34,919.22	82 claims/82 claimants		-		\$ 58,685.39
		Oct	\$ 24,389.15	82 claims/82 claimants		-		\$ 59,237.73
2008-09	\$ 105,953.78	Sept	\$ 28,709.37	82 claims/82 claimants		1,058.29		\$ 60,296.02
		Aug	\$ 28,321.85	82 claims/82 claimants		3,721.00		\$ 64,017.02
		July	\$ 40,425.68	82 claims/82 claimants		9,889.57		\$ 62,551.31
2008-06	\$ 54,240.30	Jun	\$ 37,206.25	82 claims/82 claimants		1,733.50		\$ 64,284.81
		May	\$ 24,900.05	82 claims/82 claimants		4,872.21		\$ 53,091.69
		April	\$ 28,244.28	83 claims/87 claimants		6,065.33		\$ 59,657.02
2008-03	\$ 11,136.65	Mar	\$ 868.35	83 claims/87 claimants/33 transfers (in - out)		-		\$ 50,157.02
		Feb	\$ 2,725.16	3 claims/ 7 claimants	18,773.13	-		\$ 10,157.02
		Jan	\$ 7,543.14	3 claims/ 7 claimants	-	-		\$ 10,157.02
2007-12	\$ 6,550.62	Dec	\$ 2,171.52	3 claims/ 7 claimants	-	-		\$ 10,157.02
		Nov	\$ 2,490.15	3 claims/ 7 claimants	-	100.00		\$ 10,257.02
		Oct	\$ 1,888.94	4 claims/ 8 claimants	-	-		\$ 10,257.02
2007-09	\$ 8,930.31	Sept	\$ 2,409.14	4 claims/ 8 claimants	-	-		\$ 10,258.02
		Aug	\$ 4,711.43	4 claims/ 8 claimants	-	80.00		\$ 10,338.02
		July	\$ 1,809.75	4 claims/ 8 claimants	-	-		\$ 10,338.02
2007-06	\$ 7,339.07	Jun	\$ 1,403.71	4 claims/ 8 claimants	-	-		\$ 10,338.02
		May	\$ 2,745.94	7 claims/ 13 claimants	-	-		\$ 10,338.02
		April	\$ 3,189.41	7 claims/ 13 claimants	28,802.63	-		\$ 10,537.02
2007-03	\$ 12,181.36	Mar	\$ 2,612.60	7 claims/ 13 claimants	-	-		\$ 19,789.02
		Feb	\$ 2,493.61	7 claims/ 13 claimants	-	-		\$ 19,789.02
		Jan	\$ 7,075.16	7 claims/ 13 claimants	-	-		\$ 19,789.02
2006-12	\$ 3,099.93	Dec	\$ 477.91	7 claims/ 11 claimants	-	-		\$ 19,789.02
		Nov	\$ 359.17	7 claims/ 11 claimants	-	140.00		\$ 19,785.02
		Oct	\$ 2,262.84	7 claims/ 11 claimants	-	-		\$ 24,925.02
2006-09	\$ 8,524.19	Sept	\$ 1,811.30	7 claims/ 11 claimants	52,324.24	-		\$ 11,414.98
		Aug	\$ 2,267.03	7 claims/ 12 claimants	-	-		\$ 24,925.02
		July	\$ 4,445.86	7 claims/ 12 claimants	-	-		\$ 23,025.02
2006-06	\$ 13,097.54	Jun	\$ 3,118.73	7 claims/ 12 claimants	-	-		\$ 23,025.02
		May	\$ 5,698.44	13 claims/ 22 claimants	-	-		\$ 23,025.02
		April	\$ 4,280.37	12 claims/ 20 claimants	-	-		\$ 23,026.02
2006-03	\$ 18,343.14	Mar	\$ 5,873.77	13 claims/ 23 claimants	-	-		\$ 31,026.02
		Feb	\$ 3,255.42	11 claims/ 19 claimants	-	120.00		\$ 31,206.02
		Jan	\$ 9,213.94	15 claims/ 27 claimants	-	120.00		\$ 30,825.02
Begins 01/01/06		Total	\$ 465,760.63		\$ 99,900.00	\$ 29,957.38		\$ 30,945.02



**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



61 Broadway 6<sup>th</sup> FL  
New York, New York 10006-2504

James Hamilton  
TEL: 212 530 3113  
FAX: 212 530 4063

May 12, 2011

Michael Surguine, Executive Director  
Arizona Property & Casualty Ins. Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

Re: Administration expenses allocated to The Home

Dear Mike:

Further to our earlier conversation and my letter of December 24, 2009, the purpose of this correspondence is to provide the Arizona Property & Casualty Insurance Guaranty Association (the "Association") with a preliminary response to the Association's classification of certain asserted administration expenses. Said charges have been submitted to the Liquidator ("Liquidator") of The Home Insurance Company ("Home") seeking to be allowed as an authorized estate expenditure.

Our review has identified three items within the Association's administration expenses, as reported in their Quarterly Financial Information Questionnaires ("FIQ") that raise concerns. The most significant issue involves the *Giant Industries, Inc.* ("Giant") groundwater pollution claims. Specifically, allocated expenses incurred as respects Giant during the period March 1, 2008 thru June 30, 2009 were submitted for reimbursement. The request for NCIGF dues and Investment Management Fees is also problematic.

We appreciate that the Association has a statutory duty to investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the Association's obligation and deny all other claims. In the instant matter, the Association denied Giant's claim for coverage under two primary policies as the claims were filed after the statutory deadline for filing per applicable Arizona Guaranty Association Statutes and are, therefore, non-covered claims. Notwithstanding the evident lack of coverage as of the initial submission date, the Association established 40 basically identical claim records pertaining to the two primary policies based on potential allocated exposures. The change increased the number of open Home claims being handled by the Association from three, prior to the Giant's claim, to 83 open claims thereafter. This approach resulted in an increase in asserted administration expenses submitted to The Home exceeding 300% over the previous submission. Given that the Association had Giant's action dismissed because of late notice, the Association clearly did not conduct

**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



work on a claim-by-claim basis. As late notice was a complete and immediately evident defense to the claim, the Association needed to establish only two claim records, i.e., one for each primary policy.


Since the yearly administration expense in 2007 totaled \$31,000.00 based on five claims, the Liquidator is willing to allow that same amount for the 2008 and 2009 years. Based on the calculations shown in the attached work sheet, the Liquidator intends to issue a Notice of Determination for a class I allowance of \$150,694.92 for the period beginning 01/01/2006 through 12/31/2010. Of course, you will have a right to dispute the Liquidator's determination (once it is issued) via the established claim procedures for seeking redetermination by the Referee or the Court.

The NCIGF dues, reported as \$75,881.97 on the FIQ will be subject of a separate Notice of Determination. This expense does not appear to meet the definition of Class I administration expenses. Additionally, the allocation of the expense category reported in the first quarter of 2009, totaled \$52,572.44, which is 10 times the prior amounts. The Liquidator intends to allow as a Class V claim the same amount reported in 2008 or \$4,365.00. The Claim V notice will total \$27,674.53. You will have a separate right to dispute each Notice of Determination.

The investment fees relate to the Association's handling of its investment portfolio maintained for current and future insolvencies. Such costs of handling are, or should be, offset by commensurate growth in investment value. Furthermore, the Association is holding The Home's Special Deposit of \$1,000,000.00 and no accounting has been produced to show that the asserted investment expenses are solely being incurred to manage The Home's funds or to reflect interest earned on the account. Before issuing a Notice of Determination, the Liquidator wants to afford the Association with an opportunity to provide an accounting and support for the submitted amount.

Given the significant issues referenced above, we seek to engage in an open dialogue prior to issuing determinations, and we request a response within thirty days. Attached for your reference is my supporting work sheet reconciling the FIQ's. I look forward to hearing from you.

Regards,

  
James Hamilton  
VP Claims Systems

cc: Peter Bengelsdorf, Special Deputy Liquidator  
Christopher Marshall, Assistant Attorney General

**HOME INSURANCE CO. IN LIQUIDATION  
DRAFT - FOR DISCUSSION PURPOSES ONLY**

**AZ P&C SUMMARY OF FINANCIAL INFORMATION REPORTED ("FIQ")**

FIQ  
Incept through  
12/30/2005

Description	Home's Code	Amount
Accounting/Legal	2658	\$ 3,863.88
Administrative	2681	\$ 120,199.70
Misc	2677	\$ 11,315.00
Equip & Maint.	2665	\$ 18,864.94
Postage	2669	\$ 1,123.81
Rent	2663	\$ 7,334.96
Telephone	2674	\$ 1,104.66
NCIGF Dues	2670	\$ 11,104.60
Bank fees	2681	\$ -
		\$ 174,911.55

The Home's Notices of Determination  
Date issued Class  
GOVT18901-02 10/24/2006 Class I  
GOVT18901-04 11/22/2006 Class V  
Amount  
\$ 163,806.95  
\$ 11,104.60 Pending Request for Review  
\$ 174,911.55

**AZ P&C Reported :**

Description	Home's Code	Amount	Year 2006		Year 2007		Year 2008		Year 2009		Year 2010		Converted to UDS D Format, Inception to Date 12/31/2010
			Reported activity	Reported adjustments	Reported activity	Reported adjustments	Reported activity	Reported adjustments	Reported activity	Reported adjustments			
Accounting/Legal	2658	\$ 1,126.17			\$ 8,773.02			\$ 562.42	\$ 0.01	\$ 146.10	\$ (0.01)	\$ 15,458.29	
Split out Legal 01/09	2658							\$ 9,428.39		\$ 1,163.08	\$ 0.02	\$ 10,591.49	
Administrative	2681	\$ 26,246.32	\$ (0.01)	\$ 21,796.40	\$ 185,604.98	\$ (0.01)	\$ 131,325.19	\$ (0.01)	\$ 15,736.72	\$ -	\$ -	\$ 500,909.28	
Misc	2677	\$ 1,700.57	\$ (2,051.43)	\$ 1,158.55	\$ 7,109.48		\$ 295.86					\$ -	
Equip & Maint.	2665	\$ 3,974.69	\$ (8,140.30)	\$ 2,429.21	\$ 19,124.47	\$ 68.59	\$ (36,321.60)					\$ (19,528.03)	
Postage	2669	\$ 331.86	\$ 0.01	\$ 113.26	\$ 317.51		\$ 52.76	\$ (0.02)		\$ 17.29	\$ (1,956.48)	\$ -	
Rent	2663	\$ 662.95	\$ (0.01)	\$ 1,427.27	\$ 17,576.00		\$ 2,812.14	\$ (0.01)	\$ 716.67	\$ -	\$ -	\$ 30,528.98	
Telephone	2674	\$ 320.92		\$ 324.85	\$ 2,257.58		\$ 1,757.79		\$ 207.80	\$ (5,873.70)	\$ -	\$ -	
NCIGF Dues	2670	\$ 5,930.75	\$ 1,153.00	\$ 3,917.36	\$ 4,365.72		\$ 52,572.44	\$ 0.01	\$ 9,095.70	\$ (88,139.58)	\$ -	\$ -	
Bank fees	2681	\$ 2,770.57	\$ 23,817.92	\$ 2,847.66	\$ (0.01)	\$ (68.59)	\$ 513.68		\$ 209.83	\$ (44,310.78)	\$ -	\$ -	
Split out Travel 01/09	2675						\$ 1,639.85			\$ 100.46	\$ -	\$ 1,740.31	
Split out Office Exp 01/09	2666						\$ 54,802.44	\$ (0.01)	\$ 2,178.92	\$ 159,908.59	\$ -	\$ 216,889.94	
Split out Investment Mgr Fees 01/09	2654	\$ 43,064.80	\$ 14,779.18	\$ 35,001.36	\$ 259,348.48	\$ (0.01)	\$ 238,874.19	\$ (0.03)	\$ 32,484.72	\$ 0.03	\$ -	\$ 798,464.27	
<b>Average number of claims per Year :</b>			<b>9 Claims per month</b>	<b>5 Claims per month</b>	<b>10 months of 82 claims</b>	<b>6 months of 82 claims</b>	<b>1 Claim per month</b>						
Remove from the totals above													
NCIGF Dues		\$ (5,930.75)	\$ (3,917.36)	\$ (4,365.72)	\$ (52,572.44)	\$ (19,432.83)	\$ (9,095.70)	\$ (75,881.97)				\$ (22,344.98)	
Investment Mgr Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -				\$ -	
Adjusted Net per Year		\$ 37,134.05	\$ 31,084.00	\$ 31,000.00	\$ 166,668.92	\$ 20,476.87	\$ 2,912.15	\$ 32,484.72				\$ 22,344.98	
<b>Proposed Home Class I Recommendation:</b>		<b>\$ 37,134.05</b>	<b>\$ 31,084.00</b>	<b>\$ 31,000.00</b>	<b>\$ 31,000.00</b>	<b>\$ 20,476.87</b>	<b>\$ 2,912.15</b>	<b>\$ 32,484.72</b>				<b>\$ 22,344.98</b>	
<b>Proposed Home Class V Recommendation:</b>		<b>\$ 5,930.75</b>	<b>\$ 3,917.36</b>	<b>\$ 4,365.72</b>	<b>\$ 4,365.00</b>	<b>\$ 9,095.70</b>	<b>\$ 2,912.15</b>	<b>\$ 32,484.72</b>				<b>\$ 27,674.53</b>	





**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: July 12, 2011

Class I. Creditor

Michael Surguine, Executive Director  
Arizona Property & Casualty Insurance Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

RE: NOTICE OF PARTIAL DETERMINATION  
Proof of Claim No.: GOVT18901-11

Determination Summary

Administration expenses incurred and reported to the Liquidator ("Liquidator") of The Home Insurance Company ("Home"), for the period beginning 01/01/06 through 12/30/2010 (see copy of May 12, 2011 correspondence and Attachment A for details.)

Amount Allowed by Liquidation: \$150,694.92

Dear Mr. Surguine:

Further to our correspondence of May 12, 2011, the purpose of this letter is to provide the Arizona Property & Casualty Insurance Guaranty Association (the "Association") with a determination regarding expenses that have been presented to the Liquidator of the Home, under the Proof of Claim enumerated and captioned above. The determination is consistent with that which was outlined in the referenced May 12, 2011 correspondence for which no disagreement or other response was furnished the Liquidator. The Liquidator expects to present notice of this determination to the Superior Court for Merrimack County, New Hampshire (the "Court") for approval in accordance with New Hampshire Revised Statutes Annotated ("RSA") §402-C:45. Read this Notice of Determination carefully as it sets forth your rights and obligations in detail.

The Liquidator has now made a Determination on the claim as set forth above in accordance with The Home's Claim Procedures (the "Procedures")<sup>1</sup> approved by the Court. If the claim has been allowed, in whole or in part, it has been assigned a Class I priority as "Administration Costs" pursuant to the Order of Distribution set forth in RSA §§402-C:44 and 404-B:11 and it will be placed in line for payment as directed by the Court from the assets of The Home.

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<sup>1</sup> A copy of the January 19, 2005 *Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation* may be obtained from the website of the Office of the Liquidation Clerk for The Home Insurance Company in Liquidation and US International Reinsurance Company in Liquidation, [www.hicilclerk.org](http://www.hicilclerk.org).

You may have other claims against The Home for which you will receive other Notices of Determination. You will have a separate right to dispute each Notice of Determination. If you have any questions please contact James Hamilton VP Claims Systems at the above captioned address.

Any and all distributions of assets may be affected and/or reduced by any payments you have received on this claim from any other sources. Distributions by The Home are based on The Home's knowledge and/or understanding of the amounts you have received in settlement and/or reimbursement of the expenses forming the subject of this Notice of Determination from all other sources at the time of the allowance or thereafter. Should The Home subsequently become aware of prior recoveries from other sources, The Home has the right to reduce its future distribution payments to you to the extent of such other recoveries or to seek and obtain repayment from you with respect to any previous distributions that were made to you.

Further, if you seek or receive any future payment from any other source after you receive a distribution payment from The Home, you must notify The Home at the address below, and The Home has the right to recover from you the distribution payments in whole or in part, to the extent of any such other future recoveries.

The following instructions apply to this Notice of Determination:

#### Claim Allowed

1. If this claim has been allowed in whole or in part and you agree with the determination, sign and date the enclosed Acknowledgment of Receipt of the Notice of Determination and mail the completed Acknowledgment to The Home.

#### Claim Disallowed

2. A. If all or part of your claim has been disallowed or you wish to dispute the determination or creditor classification for any reason, you may file a Request for Review with the Liquidator. The Request for Review is the first of two steps in the process of disputing a claim determination. The Request for Review must be received by the Liquidator within thirty (30) days from the date of this Notice of Determination.

#### REQUEST FOR REVIEW FILING REQUIREMENTS:

- (a) Sign and return the attached Acknowledgment of Receipt form.
- (b) On a separate page, state specifically the reasons(s) you believe that the determination is in error and how it should be modified. Please note the Proof of Claim number on that page and sign the page.

- (c) Mail the Request for Review to:  
The Home Insurance Company in Liquidation  
P.O. Box 1720  
Manchester, NH 03105-1720

You should keep a copy of this Notice of Determination, Acknowledgment of Receipt and Request for Review, then mail the Original Request for Review to us by U.S. Certified Mail.

- (d) The Request for Review must be received by the Liquidator within thirty (30) days from the date of this Notice of Determination. The Request for Review must be in writing.
- (e) The Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination.

IF THE REQUEST FOR REVIEW IS NOT FILED WITHIN THE THIRTY (30) DAY PERIOD, YOU MAY NONETHELESS DIRECTLY FILE AN OBJECTION WITH THE COURT WITHIN SIXTY (60) DAYS FROM THE MAILING OF THIS NOTICE. You do not have to file the Request for Review as a prerequisite to dispute the Notice of Determination. Please see Section 2B for the Objections to Denial of Claims.

B. If your claim is disallowed in whole or in part, you may file an Objection with the Court at

Office of the Clerk, Merrimack County Superior Court  
163 N Main Street, P.O. Box 2880  
Concord, New Hampshire 03301  
Attention: The Home Docket No.03-E-0106

within sixty (60) days from the mailing of the Notice of Determination and bypass the Request for Review procedures as noted in Section 2A (above). If the Request for Review is timely filed as outlined in Section 2A the Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination. If the redetermination is to disallow the claim, you may still file an Objection with the Court. You have sixty (60) days from the mailing of the Notice of Redetermination to file your Objection. Please also sign and return the Acknowledgment of Receipt form and mail a copy of the Objection to the Liquidator.

IF YOU DO NOT FILE AN OBJECTION WITH THE COURT WITHIN EITHER SIXTY (60) DAYS FROM THE MAILING OF THE NOTICE OF DETERMINATION OR SIXTY (60) DAYS FROM THE MAILING OF THE NOTICE OF REDETERMINATION, YOU MAY NOT FURTHER OBJECT TO THE DETERMINATION.

A timely filed Objection will be treated as a Disputed Claim and will be referred to the Liquidation Clerk's Office for adjudication by a Referee in accordance with the Procedures.

3. You must notify the Liquidator of any changes in your mailing address. This will ensure your participation in future distributions, as applicable. For purposes of keeping The Home informed of your current address, please notify us at the address given above.

Sincerely yours,

Peter Bengelsdorf, Special Deputy Liquidator  
For Roger A. Sevigny, Liquidator  
of THE HOME INSURANCE COMPANY

**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: July 12, 2011

Amount Allowed: \$150,694.92

Michael Surguine, Executive Director  
Arizona Property & Casualty Insurance Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

**ACKNOWLEDGMENT OF RECEIPT**

POC #: GOVT18901-11

I hereby acknowledge receipt of the Notice of Partial Determination as a Class I Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Determination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the determination.

I reject the determination and want to file a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I reject the determination and intend to file a separate Objection with the Court, without filing a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I have not assigned any part of this claim.

I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

same name as above.

new name \_\_\_\_\_

same address as above

new address \_\_\_\_\_

This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



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61 Broadway 6<sup>th</sup> FL  
New York, New York 10006-2504

James Hamilton  
TEL: 212 530 3113  
FAX: 212 530 4063

May 12, 2011

Michael Surguine, Executive Director  
Arizona Property & Casualty Ins. Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

Re: Administration expenses allocated to The Home

Dear Mike:

Further to our earlier conversation and my letter of December 24, 2009, the purpose of this correspondence is to provide the Arizona Property & Casualty Insurance Guaranty Association (the "Association") with a preliminary response to the Association's classification of certain asserted administration expenses. Said charges have been submitted to the Liquidator ("Liquidator") of The Home Insurance Company ("Home") seeking to be allowed as an authorized estate expenditure.

Our review has identified three items within the Association's administration expenses, as reported in their Quarterly Financial Information Questionnaires ("FIQ") that raise concerns. The most significant issue involves the *Giant Industries, Inc.* ("Giant") groundwater pollution claims. Specifically, allocated expenses incurred as respects Giant during the period March 1, 2008 thru June 30, 2009 were submitted for reimbursement. The request for NCIGF dues and Investment Management Fees is also problematic.

We appreciate that the Association has a statutory duty to investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the Association's obligation and deny all other claims. In the instant matter, the Association denied Giant's claim for coverage under two primary policies as the claims were filed after the statutory deadline for filing per applicable Arizona Guaranty Association Statutes and are, therefore, non-covered claims. Notwithstanding the evident lack of coverage as of the initial submission date, the Association established 40 basically identical claim records pertaining to the two primary policies based on potential allocated exposures. The change increased the number of open Home claims being handled by the Association from three, prior to the Giant's claim, to 83 open claims thereafter. This approach resulted in an increase in asserted administration expenses submitted to The Home exceeding 300% over the previous submission. Given that the Association had Giant's action dismissed because of late notice, the Association clearly did not conduct

**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



work on a claim-by-claim basis. As late notice was a complete and immediately evident defense to the claim, the Association needed to establish only two claim records, i.e., one for each primary policy.


Since the yearly administration expense in 2007 totaled \$31,000.00 based on five claims, the Liquidator is willing to allow that same amount for the 2008 and 2009 years. Based on the calculations shown in the attached work sheet, the Liquidator intends to issue a Notice of Determination for a class I allowance of \$150,694.92 for the period beginning 01/01/2006 through 12/31/2010. Of course, you will have a right to dispute the Liquidator's determination (once it is issued) via the established claim procedures for seeking redetermination by the Referee or the Court.

The NCIGF dues, reported as \$75,881.97 on the FIQ will be subject of a separate Notice of Determination. This expense does not appear to meet the definition of Class I administration expenses. Additionally, the allocation of the expense category reported in the first quarter of 2009, totaled \$52,572.44, which is 10 times the prior amounts. The Liquidator intends to allow as a Class V claim the same amount reported in 2008 or \$4,365.00. The Claim V notice will total \$27,674.53. You will have a separate right to dispute each Notice of Determination.

The investment fees relate to the Association's handling of its investment portfolio maintained for current and future insolvencies. Such costs of handling are, or should be, offset by commensurate growth in investment value. Furthermore, the Association is holding The Home's Special Deposit of \$1,000,000.00 and no accounting has been produced to show that the asserted investment expenses are solely being incurred to manage The Home's funds or to reflect interest earned on the account. Before issuing a Notice of Determination, the Liquidator wants to afford the Association with an opportunity to provide an accounting and support for the submitted amount.

Given the significant issues referenced above, we seek to engage in an open dialogue prior to issuing determinations, and we request a response within thirty days. Attached for your reference is my supporting work sheet reconciling the FIQ's. I look forward to hearing from you.

Regards,

  
James Hamilton  
VP Claims Systems

cc: Peter Bengelsdorf, Special Deputy Liquidator  
Christopher Marshall, Assistant Attorney General



HOME INSURANCE CO. IN LIQUIDATION  
DRAFT - FOR DISCUSSION PURPOSES ONLY

AZ P&C SUMMARY OF FINANCIAL INFORMATION REPORTED ("FIQ")

Description	Home's Code	Amount
Accounting/Legal	2658	\$ 3,863.88
Administrative	2681	\$ 120,199.70
Misc	2677	\$ 11,315.00
Equip & Maint.	2665	\$ 18,864.94
Postage	2669	\$ 1,123.81
Rent	2663	\$ 7,334.96
Telephone	2674	\$ 1,104.66
NCIGF Dues	2670	\$ 11,104.60
Bank fees	2681	\$ 174,911.55

The Home's Notices of Determination  
Date issued Class  
GOVT18901-02 10/24/2006 Class I  
GOVT18901-04 11/22/2006 Class V  
Amount  
\$ 163,806.95  
\$ 11,104.60 Pending Request for Review  
\$ 174,911.55

Description	Home's Code	Amount	Year 2006		Year 2007		Year 2008		Year 2009		Year 2010		Converted to UDS D Format, Inception to Date 12/31/2010
			Reported activity	FIQ	Reported activity	FIQ	Reported activity	FIQ	Reported activity	FIQ	Reported activity	FIQ	
Accounting/Legal	2658	\$ 1,126.17			\$ 986.70		\$ 8,773.02		\$ 562.42	\$ 0.01	\$ 146.10	\$ (0.01)	\$ 15,458.29
Split out Legal 01/09	2658								\$ 9,428.39		\$ 1,163.08	\$ 0.02	\$ 10,591.49
Administrative	2681	\$ 26,246.32	\$ (0.01)	\$ 21,796.40	\$ 185,604.98	\$ (0.01)	\$ 131,325.19	\$ (0.01)	\$ 15,736.72	\$ (0.01)	\$ 15,736.72	\$ -	\$ 500,909.28
Misc	2677	\$ 1,700.57	\$ (2,051.43)	\$ 1,158.55	\$ 7,109.48	\$ 295.86	\$ 19,124.47	\$ 68.59	\$ (36,321.60)	\$ (0.02)	\$ (19,528.03)	\$ -	\$ -
Equip & Maint.	2665	\$ 3,974.69	\$ (8,140.30)	\$ 2,429.21	\$ 113.26	\$ 317.51	\$ 52.76	\$ 17.29	\$ (1,956.48)	\$ (0.01)	\$ (1,956.48)	\$ -	\$ -
Postage	2669	\$ 331.86	\$ (0.01)	\$ 1,427.27	\$ 17,576.00	\$ 2,812.14	\$ 716.67	\$ 207.80	\$ (5,973.70)	\$ (0.01)	\$ (5,973.70)	\$ -	\$ -
Rent	2663	\$ 662.95	\$ (0.01)	\$ 324.95	\$ 2,257.58	\$ 1,757.79	\$ 52,572.44	\$ 9,095.70	\$ (88,139.58)	\$ (0.01)	\$ (88,139.58)	\$ -	\$ -
Telephone	2674	\$ 320.92	\$ 1,153.00	\$ 3,917.36	\$ 4,365.72	\$ 14,219.72	\$ (68.59)	\$ 513.68	\$ 209.83	\$ (44,310.78)	\$ (0.01)	\$ (44,310.78)	\$ -
NCIGF Dues	2670	\$ 5,930.75	\$ 23,817.92	\$ 2,847.66	\$ (0.01)	\$ (0.01)	\$ 1,639.85	\$ 100.46	\$ 2,912.15	\$ (0.01)	\$ 2,912.15	\$ -	\$ 1,740.31
Bank fees	2681	\$ 2,770.57	\$ 43,064.80	\$ 14,779.18	\$ 35,001.36	\$ 259,348.48	\$ (0.01)	\$ 19,432.83	\$ 32,484.72	\$ (0.03)	\$ 32,484.72	\$ 0.03	\$ 22,344.98
Split out Travel 01/09	2675												
Split out Office Exp 01/09	2666												
Split out Investment Mgr Fees 01/09	2654												
<b>Average number of claims per Year :</b>			<b>9 Claims per month</b>	<b>5 Claims per month</b>	<b>10 months of 82 claims</b>	<b>6 months of 82 claims</b>	<b>1 Claim per month</b>						
Remove from the totals above													
NCIGF Dues		\$ (5,930.75)	\$ (3,917.36)	\$ (4,365.72)	\$ (52,572.44)	\$ (19,432.83)	\$ (9,095.70)	\$ (75,881.97)					
Investment Mgr Fees		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -					
Adjusted Net per Year		\$ 37,134.05	\$ 31,084.00	\$ 254,982.76	\$ 166,868.92	\$ 20,476.87							
<b>Proposed Home Class I Recommendation:</b>		\$ 37,134.05	\$ 31,084.00	\$ 31,000.00	\$ 31,000.00	\$ 20,476.87							\$ 150,694.92
<b>Proposed Home Class V Recommendation:</b>		\$ 5,930.75	\$ 3,917.36	\$ 4,365.72	\$ 4,365.00	\$ 9,095.70							\$ 27,674.53



**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: July 12, 2011

Class V Creditor

Michael Surguine, Executive Director  
Arizona Property & Casualty Insurance Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

RE: NOTICE OF PARTIAL DETERMINATION  
Proof of Claim No.: GOVT18901-12

Determination Summary

Expenses incurred and reported to the Liquidator ("Liquidator") of The Home Insurance Company ("Home"), for the period beginning 01/01/06 through 12/30/2010 (see copy of May 12, 2011 correspondence and Attachment A for details.)

Amount Allowed by Liquidation: \$27,674.53

Dear Mr. Surguine:

Further to our correspondence of May 12, 2011, the purpose of this letter is to provide the Arizona Property & Casualty Insurance Guaranty Association (the "Association") with a determination regarding expenses that have been presented to the Liquidator of the Home, under the Proof of Claim enumerated and captioned above. The determination is consistent with that which was outlined in the referenced May 12, 2011 correspondence for which no disagreement or other response was furnished the Liquidator. The Liquidator expects to present notice of this determination to the Superior Court for Merrimack County, New Hampshire (the "Court") for approval in accordance with New Hampshire Revised Statutes Annotated ("RSA") §402-C:45. Read this Notice of Determination carefully as it sets forth your rights and obligations in detail.

The Liquidator has now made a Determination on the claim as set forth above in accordance with The Home's Claim Procedures (the "Procedures")<sup>1</sup> approved by the Court. If the claim has been allowed, in whole or in part, it has been assigned a Class V priority as a "residual claim" pursuant to the Order of Distribution set forth in RSA §§402-C:44 and 404-B:11 and it will be placed in line for payment as directed by the Court from the assets of The Home.

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<sup>1</sup> A copy of the January 19, 2005 *Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation* may be obtained from the website of the Office of the Liquidation Clerk for The Home Insurance Company in Liquidation and US International Reinsurance Company in Liquidation, [www.hicilclerk.org](http://www.hicilclerk.org).

You may have other claims against The Home for which you will receive other Notices of Determination. You will have a separate right to dispute each Notice of Determination. If your claim has been allowed in whole or in part, this Notice of Determination does not mean that your claim will immediately be paid, or that it will be paid in full. The Liquidator will make distributions from The Home's assets on allowed claims in accordance with orders of the Court as may be entered from time to time. If you have any questions please contact James Hamilton VP Claims Systems at the above captioned address.

Any and all distributions of assets may be affected and/or reduced by any payments you have received on this claim from any other sources. Distributions by The Home are based on The Home's knowledge and/or understanding of the amounts you have received in settlement and/or reimbursement of the expenses forming the subject of this Notice of Determination from all other sources at the time of the allowance or thereafter. Should The Home subsequently become aware of prior recoveries from other sources, The Home has the right to reduce its future distribution payments to you to the extent of such other recoveries or to seek and obtain repayment from you with respect to any previous distributions that were made to you.

Further, if you seek or receive any future payment from any other source after you receive a distribution payment from The Home, you must notify The Home at the address below, and The Home has the right to recover from you the distribution payments in whole or in part, to the extent of any such other future recoveries.

The following instructions apply to this Notice of Determination:

**Claim Allowed**

1. If this claim has been allowed in whole or in part and you agree with the determination, sign and date the enclosed Acknowledgment of Receipt of the Notice of Determination and mail the completed Acknowledgment to The Home.

**Claim Disallowed**

2. A. If all or part of your claim has been disallowed or you wish to dispute the determination or creditor classification for any reason, you may file a Request for Review with the Liquidator. The Request for Review is the first of two steps in the process of disputing a claim determination. The Request for Review must be received by the Liquidator within thirty (30) days from the date of this Notice of Determination.

**REQUEST FOR REVIEW FILING REQUIREMENTS:**

- (a) Sign and return the attached Acknowledgment of Receipt form.

- (b) On a separate page, state specifically the reasons(s) you believe that the determination is in error and how it should be modified. Please note the Proof of Claim number on that page and sign the page.
- (c) Mail the Request for Review to:  
The Home Insurance Company in Liquidation  
P.O. Box 1720  
Manchester, NH 03105-1720

You should keep a copy of this Notice of Determination, Acknowledgment of Receipt and Request for Review, then mail the Original Request for Review to us by U.S. Certified Mail.

- (d) The Request for Review must be received by the Liquidator within thirty (30) days from the date of this Notice of Determination. The Request for Review must be in writing.
- (e) The Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination.

IF THE REQUEST FOR REVIEW IS NOT FILED WITHIN THE THIRTY (30) DAY PERIOD, YOU MAY NONETHELESS DIRECTLY FILE AN OBJECTION WITH THE COURT WITHIN SIXTY (60) DAYS FROM THE MAILING OF THIS NOTICE. You do not have to file the Request for Review as a prerequisite to dispute the Notice of Determination. Please see Section 2B for the Objections to Denial of Claims.

2. B. If your claim is disallowed in whole or in part, you may file an Objection with the Court at

Office of the Clerk, Merrimack County Superior Court  
163 N Main Street, P.O. Box 2880  
Concord, New Hampshire 03301  
Attention: The Home Docket No.03-E-0106

within sixty (60) days from the mailing of the Notice of Determination and bypass the Request for Review procedures as noted in Section 2A (above). If the Request for Review is timely filed as outlined in Section 2A the Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination. If the redetermination is to disallow the claim, you may still file an Objection with the Court. You have sixty (60) days from the mailing of the Notice of Redetermination to file your Objection. Please also sign and return the Acknowledgment of Receipt form and mail a copy of the Objection to the Liquidator.

IF YOU DO NOT FILE AN OBJECTION WITH THE COURT WITHIN EITHER SIXTY (60) DAYS FROM THE MAILING OF THE NOTICE OF

DETERMINATION OR SIXTY (60) DAYS FROM THE MAILING OF THE NOTICE OF REDETERMINATION, YOU MAY NOT FURTHER OBJECT TO THE DETERMINATION.

A timely filed Objection will be treated as a Disputed Claim and will be referred to the Liquidation Clerk's Office for adjudication by a Referee in accordance with the Procedures.

3. You must notify the Liquidator of any changes in your mailing address. This will ensure your participation in future distributions, as applicable. For purposes of keeping The Home informed of your current address, please notify us at the address given above.

Sincerely yours,

Peter Bengelsdorf, Special Deputy Liquidator  
For Roger A. Sevigny, Liquidator  
of THE HOME INSURANCE COMPANY

**THE HOME  
INSURANCE  
COMPANY IN  
LIQUIDATION**



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61 Broadway 6<sup>th</sup> FL  
New York, New York 10006-2504

James Hamilton  
TEL: 212 530 3113  
FAX: 212 530 4063

May 12, 2011

Michael Surguine, Executive Director  
Arizona Property & Casualty Ins. Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

Re: Administration expenses allocated to The Home

Dear Mike:

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Our review has identified three items within the Association's administration expenses, as reported in their Quarterly Financial Information Questionnaires ("FIQ") that raise concerns. The most significant issue involves the *Giant Industries, Inc.* ("Giant") groundwater pollution claims. Specifically, allocated expenses incurred as respects Giant during the period March 1, 2008 thru June 30, 2009 were submitted for reimbursement. The request for NCIGF dues and Investment Management Fees is also problematic.

We appreciate that the Association has a statutory duty to investigate claims brought against the fund and adjust, compromise, settle and pay covered claims to the extent of the Association's obligation and deny all other claims. In the instant matter, the Association denied Giant's claim for coverage under two primary policies as the claims were filed after the statutory deadline for filing per applicable Arizona Guaranty Association Statutes and are, therefore, non-covered claims. Notwithstanding the evident lack of coverage as of the initial submission date, the Association established 40 basically identical claim records pertaining to the two primary policies based on potential allocated exposures. The change increased the number of open Home claims being handled by the Association from three, prior to the Giant's claim, to 83 open claims thereafter. This approach resulted in an increase in asserted administration expenses submitted to The Home exceeding 300% over the previous submission. Given that the Association had Giant's action dismissed because of late notice, the Association clearly did not conduct

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Given the significant issues referenced above, we seek to engage in an open dialogue prior to issuing determinations, and we request a response within thirty days. Attached for your reference is my supporting work sheet reconciling the FIQ's. I look forward to hearing from you.

Regards,

  
James Hamilton  
VP Claims Systems

cc: Peter Bengelsdorf, Special Deputy Liquidator  
Christopher Marshall, Assistant Attorney General



HOME INSURANCE CO. IN LIQUIDATION  
DRAFT - FOR DISCUSSION PURPOSES ONLY

AZ P&C SUMMARY OF FINANCIAL INFORMATION REPORTED ("FIQ")

Description	Home's Code	Amount
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Telephone	2674	\$ 1,104.66
NCIGF Dues	2670	\$ 11,104.60
Bank fees	2681	\$ -
		\$ 174,911.55

The Home's Notices of Determination  
Date issued Class  
Amount  
GOVT18901-02 10/24/2006 Class I \$ 163,906.95  
GOVT18901-04 11/22/2006 Class V \$ 11,104.60 Pending Request for Review  
\$ 174,911.55

Description	Home's Code	Year 2006		Year 2007		Year 2008		Year 2009		Year 2010		Year 2010 Reported adjustments	Year 2010 Reported activity	Year 2010 Reported adjustments	Converted to UDS D Format, Inception to Date 12/31/2010
		Reported activity	FIQ	Reported activity	FIQ	Reported activity	FIQ	Reported activity	FIQ						
Accounting/Legal	2658	\$ 1,126.17		\$ 986.70		\$ 8,773.02		\$ 562.42		\$ 146.10		\$ (0.01)	\$ 15,458.29		
Split out Legal 01/09	2658												\$ 1,163.08	\$ 10,991.49	
Administrative	2681	\$ 26,246.32	\$ (0.01)	\$ 21,796.40		\$ 185,604.98	\$ (0.01)	\$ 131,325.19	\$ (0.01)	\$ 15,736.72		\$ -	\$ 500,909.28		
Misc	2677	\$ 1,700.57	\$ (2,051.43)	\$ 1,158.55		\$ 7,109.48		\$ 295.86		\$ -		\$ (19,528.03)	\$ -		
Equip & Maint.	2665	\$ 3,974.69	\$ (8,140.30)	\$ 2,429.21		\$ 19,124.47	\$ 68.59	\$ (36,321.60)		\$ -		\$ -	\$ -		
Postage	2669	\$ 331.86	\$ 0.01	\$ 113.26		\$ 317.51		\$ 52.76	\$ (0.02)	\$ 17.29		\$ (1,956.48)	\$ -		
Rent	2663	\$ 662.95	\$ (0.01)	\$ 1,427.27	\$ 0.01	\$ 17,576.00		\$ 2,812.14	\$ (0.01)	\$ 716.67		\$ -	\$ 30,529.98		
Telephone	2674	\$ 320.92		\$ 324.95		\$ 2,257.58		\$ 1,757.79		\$ 207.80		\$ (5,973.70)	\$ -		
NCIGF Dues	2670	\$ 5,930.75	\$ 1,153.00	\$ 3,917.36		\$ 4,365.72		\$ 52,572.44	\$ 0.01	\$ 9,085.70		\$ (88,139.58)	\$ -		
Bank fees	2681	\$ 2,770.57	\$ 23,817.92	\$ 2,847.66	\$ (0.01)	\$ 14,219.72	\$ (68.59)	\$ 513.68		\$ 209.83		\$ (44,310.78)	\$ -		
Split out Travel 01/09	2675							\$ 1,639.85		\$ 100.48		\$ -	\$ 1,740.31		
Split out Office Exp 01/09	2666							\$ 54,802.44	\$ (0.01)	\$ 2,179.92		\$ 159,908.59	\$ 216,889.94		
Split out Investment Mgr Fees 01/09	2654	\$ 43,064.80	\$ 14,779.18	\$ 35,001.36	\$ -	\$ 259,348.48	\$ (0.01)	\$ 19,432.83	\$ (0.03)	\$ 32,484.72	\$ 0.03	\$ -	\$ 22,344.98		
														\$ 798,464.27	
Average number of claims per Year :		9 Claims per month	5 Claims per month	10 months of 82 claims	6 months of 82 claims	1 Claim per month									
Remove from the totals above															
NCIGF Dues		\$ (5,930.75)	\$ (3,917.36)	\$ (4,365.72)	\$ (52,572.44)	\$ (9,085.70)	\$ (75,881.97)								
Investment Mgr Fees		\$ -	\$ -	\$ -	\$ (19,432.83)	\$ (2,912.15)	\$ (22,344.98)								
Adjusted Net per Year		\$ 37,134.05	\$ 31,084.00	\$ 254,982.76	\$ 166,868.92	\$ 20,476.87									
Proposed Home Class I Recommendation:		\$ 37,134.05	\$ 31,084.00	\$ 31,000.00	\$ 31,000.00	\$ 20,476.87								\$ 150,694.92	
Proposed Home Class V Recommendation:		\$ 5,930.75	\$ 3,917.36	\$ 4,365.72	\$ 4,365.00	\$ 9,095.70								\$ 27,674.53	

**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: July 12, 2011

Amount Allowed: \$27,674.53

Michael Surguine, Executive Director  
Arizona Property & Casualty Insurance Guaranty Association  
1110 West Washington St. #270  
Phoenix, AZ 85007

**ACKNOWLEDGMENT OF RECEIPT**

POC #: GOVT18901-12

I hereby acknowledge receipt of the Notice of Partial Determination as a Class V Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Determination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the determination.

I reject the determination and want to file a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I reject the determination and intend to file a separate Objection with the Court, without filing a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I have not assigned any part of this claim.

I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

same name as above.

new name \_\_\_\_\_

same address as above

new address \_\_\_\_\_

\_\_\_\_\_

This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: \_\_\_\_\_

Print: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





**Arizona Property and Casualty  
Insurance Guaranty Fund**  
Arizona Department of Insurance  
Telephone: (602) 364-3863  
Facsimile: (602) 364-3872

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**JANICE K. BREWER**  
Governor

1110 W. Washington, Suite 270  
Phoenix, Arizona 85007  
[www.id.state.az.us](http://www.id.state.az.us)

**CHRISTINA URIAS**  
Director of Insurance

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August 30, 2011

Office of the Clerk  
Merrimack County Superior Court  
163 N. Main Street  
P.O. Box 2880  
Concord, New Hampshire 03301  
Attention: The Home Docket No. 03-E-0106

**Re: Notice of Partial Determination  
Proof of Claim No.: GOVT18901-11  
Arizona Property and Casualty Insurance Guaranty Fund**

Dear Clerk:

Pursuant to the *Restated and Revised Order Establishing Procedures Regarding Claims Filed with the Home Insurance Company in Liquidation* entered by the Court on January 19, 2005, the Arizona Property and Casualty Insurance Guaranty Fund ("APCIGF") hereby files its Objection to the Notice of Partial Determination issued by the Liquidator on July 12, 2011 regarding Proof of Claim No. GOVT18901-11.

The Liquidator, in issuing his Notice of Partial Determination, has declined to allow over \$600,000 in administrative expenses incurred and reported by APCIGF pursuant to its timely filed Proof of Claim. The Liquidator's decision is contrary to the facts and the law.

Respectfully,

Michael E. Surguine  
Executive Director

cc: The Home Insurance Company in Liquidation  
Claims Determination Unit  
P.O. Box 1720  
Manchester, NH 03105-1720





**Arizona Property and Casualty  
Insurance Guaranty Fund**

Arizona Department of Insurance

Telephone: (602) 364-3863

Facsimile: (602) 364-3872

**JANICE K. BREWER**  
Governor

1110 W. Washington, Suite 270  
Phoenix, Arizona 85007  
[www.id.state.az.us](http://www.id.state.az.us)

**CHRISTINA URIAS**  
Director of Insurance

August 31, 2011

Office of the Clerk  
Merrimack County Superior Court  
163 N. Main Street  
P.O. Box 2880  
Concord, New Hampshire 03301  
Attention: The Home Docket No. 03-E-0106

**Re: Notice of Partial Determination  
Proof of Claim No.: GOVT18901-12  
Arizona Property and Casualty Insurance Guaranty Fund**

Dear Clerk:

Pursuant to the *Restated and Revised Order Establishing Procedures Regarding Claims Filed with the Home Insurance Company in Liquidation* entered by the Court on January 19, 2005, the Arizona Property and Casualty Insurance Guaranty Fund ("APCIGF") hereby files its Objection to the Notice of Partial Determination issued by the Liquidator on July 12, 2011 regarding Proof of Claim No. GOVT18901-12.

The Liquidator, in issuing his Notice of Partial Determination, has disallowed certain administrative expenses incurred and reported by APCIGF pursuant to its timely filed Proof of Claim in Class I in the amount of \$75,881.97. Instead, the Liquidator allowed a portion of said administrative expenses in the amount of \$27,674.53 in Class V. The Liquidator's decision is contrary to the facts and the law.

Respectfully,

Michael E. Surguine  
Executive Director

cc: The Home Insurance Company in Liquidation  
Claims Determination Unit  
P.O. Box 1720  
Manchester, NH 03105-1720





**Liquidator's Claim Determination Summary  
(08/24/12)**

Arizona P&C

# Open claims per month (from Arizona P&C Fund)

	2006	2007	2008	2009	2010
Jan	15	7	3	82	1
Feb	11	7	3	82	1
Mar	13	7	83	82	1
Apr	12	7	83	82	1
May	13	7	83	82	1
Jun	0	4	82	82	1
Jul	7	4	82	3	1
Aug	7	4	82	3	1
Sep	7	4	82	3	1
Oct	7	4	82	3	1
Nov	7	3	82	3	1
Dec	7	3	82	2	1

Average # claims per month based on 12 months

8.833	5.083	69.083	42.417	1.000
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Total Administration Expenses allocated to Home by Arizona P&C Fund by year

\$ 43,064.80	\$ 35,001.36	\$ 259,348.48	\$ 238,874.19	\$ 32,484.72	= \$ 608,773.55
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Remove NCIGF Dues

\$ (5,930.75)	\$ (3,917.36)	\$ (4,365.72)	\$ (52,572.44)	\$ (9,095.70)	= \$ (75,881.97)
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Remove Investment Mgr. Fees

			\$ (19,432.83)	\$ (2,912.15)	= \$ (22,344.98)
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Adjusted Administration Expenses by year

\$ 37,134.05	\$ 31,084.00	\$ 254,982.76	\$ 166,868.92	\$ 20,476.87	= \$ 510,546.60
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Allowed Administrative Expenses allocation based on 5 claims for 2008 and 2009 (using the amount reported for 2007 for 2008 and 2009)

\$ 37,134.05	\$ 31,084.00	\$ 31,000.00	\$ 31,000.00	\$ 20,476.87	= \$ 150,694.92
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Allowed NCIGF Dues allocation using the amount reported in 2008 for the year 2009

\$ 5,930.75	\$ 3,917.36	\$ 4,365.72	\$ 4,365.00	\$ 9,095.70	= \$ 27,674.53
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The Liquidator had been waiting on support for the claimed Investment Management Fees of \$22,344.98. A separate determination has now been issued.



THE 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

Proof of Claim Number: GOVT 18901-11

Claimant Name: Arizona Property and Casualty Insurance Guaranty Fund

**CLAIMANT'S MANDATORY DISCLOSURES**

Arizona Property and Casualty Insurance Guaranty Fund, Claimant herein, hereby submits its Mandatory Disclosures pursuant to Section 14(b) of the Court's Restated and Revised Order Establishing Procedures Regarding Claims Filed with The Home Insurance Company in Liquidation.

1. Amount Due Claimant. From inception to September 30, 2010, Claimant has incurred and allocated to The Home Insurance Company in Liquidation \$798,464.26 in administrative expense. Claimant is due the stated amount, less any amounts previously allowed by the Liquidator as a Class I claim. In a Partial Notice of Determination dated October 20, 2006 regarding Proof of Claim No. GOVT18901-02, the Liquidator allowed Claimant \$163,806.95 in administrative expenses reported by Claimant from inception to December 31, 2005 in Class I. Claimant agreed to the determination. In a Notice of Partial Determination dated November 22, 2006 regarding Proof of Claim No. GOVT18901-04, the Liquidator disallowed \$11,104.60 of certain

administrative expenses submitted by Claimant as Class I and instead allowed said amount as a Class V claim. Claimant timely notified the Liquidator of its objection to this Determination.

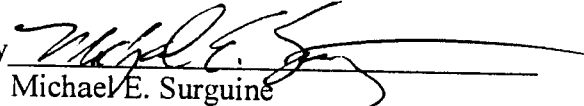
2. Method of Calculation of Amounts Owed. Claimant allocates all administrative expenses to open insolvency cases. The method of allocation is based on the number of open claims. An allocation percentage for each open receivership estate is determined by dividing the number of open claims for a specific insolvency by the total population of open claims being handled by Claimant. The total of the administrative expenses incurred by Claimant is then multiplied by the allocation percentage for each estate, and the product is reported to the Liquidator as Claimant's administrative expense for the applicable period. The allocation percentages are recalculated each quarter.

3. Additional Supporting Evidence. Claimant is not submitting any additional evidence at this time.

Respectfully submitted,

ARIZONA PROPERTY AND CASUALTY  
INSURANCE GUARANTY FUND

By

  
Michael E. Surguine

Executive Director

1110 W. Washington Street, Suite 270


Phoenix, AZ 85007

(602-364-3863)

**Electronically Filed and Mailed  
via U.S. Mail on November 18,  
2011 with/to the Liquidation Clerk**

**COPY** of the foregoing electronically delivered  
and mailed Via U.S. Mail on November 18, 2011 to:

Eric A. Smith, Esq.  
Rackeman Sawyer & Brewster  
160 Federal Street  
Boston, MA 02100-1700

  
s/Michael E. Surguine  
Michael E. Surguine



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

**CLAIMANT'S ANSWERS TO LIQUIDATOR'S  
FIRST SET OF WRITTEN INTERROGATORIES**

Interrogatory No. 1. Claimant's Mandatory Disclosures state that Claimant allocates all administrative expenses to "open insolvency cases" (receivership estates) based upon the number of "open claims." Provide for each year from 2005 through 2010 (a) Claimant's total administrative expenses for the year; (b) the total of Claimant's administrative expenses that Claimant has sought to recover from open insolvency cases; (c) the number of open insolvency cases from which Claimant sought to recover administrative expenses; (d) the number of insolvent insurers under whose policies Claimant handled claims; (e) the total number of open claims being administered by Claimant; and (f) the total number of open claims under Home policies being administered by Claimant. This information may be provided in a spreadsheet.

Answer. See Exhibit 1 attached hereto, which contains the data in response to (a), (c), (e) and (f). In response to (b), Claimant allocates all administrative expenses to open insolvency cases.<sup>1</sup> In response to (d), the number should be the same as (c). Claimant doesn't separately track this information for expense allocation purposes.

Interrogatory No. 2. Claimant's Mandatory Disclosures states that Claimant's method of allocation of administrative expenses to "open insolvency cases" is based on the number of "open claims." Explain what Claimant means by "open claim" and how Claimant determines the number of open claims for each open insolvency case.

Answer. By "open claim" Claimant means a claim that was opened because there was a demand for coverage under a policy issued by an insurer for which Claimant has been activated, and the claim has not yet been fully resolved. Claimant's claims

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<sup>1</sup> The Claimant in this matter is the Arizona Property and Casualty Insurance Guaranty Fund and may be referred to herein as "Claimant", "Fund" or "APCIGF."

manager prepares a monthly report of the number of open claims by insurer for each account based on information taken from our claims system.

Interrogatory No. 3. When a matter or number of related matters is submitted to Claimant by an insured, a third party claimant or a liquidator as a potential covered claim, what are Claimant's criteria (a) used to determine when a claim is to be opened; (b) used to determine how many claims are to be opened; and (c) used to determine when a claim is to be closed.

Answer. (a) The criteria used by Claimant to determine when a claim is to be opened are (1) whether the Fund has been activated as a result of the insolvency of the insurer that issued the policy under which a demand for coverage has been made, (2) whether the claim is for a type of insurance that is not excluded from coverage by the Fund's enabling statutes, (3) whether the policyholder is a resident of Arizona, (4) whether the claim is for first-party property damage and the property from which the claim arises is permanently located in Arizona, (4) whether the claimant is a resident of Arizona and the guaranty fund in the state of residence of the insured has denied or exhausted coverage, and (5) whether the claim could be considered a "covered claim" under the Fund's enabling statutes.

(b) Generally, one claim is opened for each incident or occurrence with regard to which a demand for coverage is made. If the demand for coverage arising out of an incident or occurrence could trigger coverage under more than one policy issued by the insolvent insurer, then a separate claim would be opened as to each policy, as each policy requires a separate evaluation of coverage, declarations, conditions and endorsements.

(c) A claim is closed by the Fund (1) when the claim has been paid, all settlement documentation has been obtained, and all invoices for loss adjustment expenses have been paid, (2) when it has been determined that no coverage applies to the loss in question, all appropriate parties have been so advised, all invoices for loss adjustment expenses have been paid and there is a reasonable expectation that no further work needs to be done with respect to the claim, or (3) in rare cases, when efforts to contact the parties involved have resulted in no response or cooperation.

Interrogatory No. 4. When Claimant is determining to open a claim or the number of claims to be opened, does Claimant consider whether the matter presented is late-filed? If so, how?

Answer. No. Regardless of whether a claim has been determined to be timely or late-filed by the liquidator of an insolvent insurer, the Fund is obliged to respond to the party seeking coverage, to investigate the matter and to make a determination as to whether Fund coverage applies to the claim.



Interrogatory No. 5. Does Claimant group related claim matters into a master file? If so, (a) what is the purpose of a master file, and (b) what are Claimant's criteria to determine whether to open and close multiple claims under a master file?

Answer. No. A claim file may occasionally be referred to as a "Master File", but its purpose is not to group all related claims into a single claim file. If there are a number of related claims with respect to a matter, a "Master File" may be used to collect all related notes, joint payments and shared documents, but simply for purposes of efficiency. This eliminates the need to make the same notations multiple times and simplifies the payment of invoices for loss adjustment expenses. The identity of each individual claim is preserved, and each claim is separately evaluated as to coverage and liability. The same criteria listed in Claimant's answer to Interrogatory No. 3 herein are utilized to determine whether to open or close any such claim files.

Interrogatory No. 6. Did Claimant establish a master file for the Giant claim? If so, when?

Answer. Yes. April 8, 2008.

Interrogatory No. 7. How many claims did Claimant open for the Giant claim? State the basis for that determination.

Answer. The Fund opened eighty (80) claims for Giant. Western Refining demanded coverage from the Fund in regard to forty (40) separate lawsuits filed in different jurisdictions and/or regarding separate occurrences of MTBE pollution. Each lawsuit represented an unpaid claim and could therefore constitute a covered claim under the Fund's enabling act. Further, each lawsuit represented the potential to trigger coverage under two separate policies issued by Home to Giant.

Interrogatory No. 8. When did Claimant first determine to record the Giant claim as 80 open claims? State the basis for that determination.

Answer. On or about March 4, 2008, when Western Refining demanded coverage from the Fund under policies issued to Giant by Home with regard to forty (40) separate lawsuits filed in various jurisdictions and involving separate occurrences of alleged MTBE pollution of groundwater .

Interrogatory No. 9. When did Claimant first determine to deny the Giant claim? State the basis for that determination.

Answer. The determination to deny the Giant claims was reached separately for each claim, so the dates vary, but most of the claims were denied on March 5, 7, 10, 11, 12 and 14, 2008. The claims were denied because the claims were filed after the bar date adopted by the Fund pursuant to its enabling act and a resolution of the Fund's Board of Directors.

Interrogatory No. 10. State (a) the date Claimant was served in the coverage action, (b) the date Western Refining and Claimant agreed Claimant would be dismissed from the coverage action, (c) the date the order dismissing Claimant was entered in the coverage action.

Answer. The summons and complaint in the coverage action were received by our claims manager on April 4, 2008. The Fund received a letter of agreement executed by Western Refining concerning the dismissal of the coverage action as to the Fund on December 3, 2008. The Fund received a copy of the court's order of dismissal as to the Fund on January 23, 2009.

Interrogatory No. 11. State the basis for Western Refining's and Claimant's agreement to dismiss Claimant from the coverage action.

Answer. As part of Western Refining's litigation with AIG, they named the Fund in a direct action claiming they were entitled to coverage under the policies issued by Home. APCIGF filed a Motion for Summary Judgment on the basis that the claims were filed subsequent to the bar date, and sought attorneys' fees and costs. After negotiations between the parties, Western Refining agreed to waive any MTBE claims against Home, APCIGF and any other insolvent carrier, and APCIGF agreed to waive attorneys' fees and costs.

Interrogatory No. 12. When did Claimant determine to close the Giant claim? State the basis for that determination.

Answer. Each Giant claim was individually closed. Most were closed on either June 3 or June 5, 2009. The claims were closed because the policyholder had dismissed its coverage lawsuit against APCIGF and agreed not to further pursue APCIGF for coverage under the Home policies. Also, all settlement and dismissal documents had been obtained and all expense invoices had been paid.

Interrogatory No. 13. Has the deposit been used to pay any of claimant's administrative expenses? If so, how much and for what periods?

Answer. No.

Interrogatory No. 14. By whom are NCIGF membership fees set, determined or calculated? State the basis for (a) the determination of the amount of NCIGF fees, and (b) the amount of NCIGF fees billed to Claimant.

Answer. NCIGF annual membership fees and assessments are determined by the NCIGF Board of Directors pursuant to the NCIGF Bylaws. Part of the amount paid by each member is a fixed annual membership fee as established by the NCIGF Board of Directors. The remainder is a pro-rata assessment based on the amount of net direct written premium for all covered lines of business in the member's state/jurisdiction. The pro-rata assessment is for the amount of NCIGF operating expenses not covered by the

annual membership fees. The annual membership fee and pro-rata assessment of each member is subject to a maximum determined by the NCIGF Board of Directors.

Interrogatory No. 15. State the basis on which you allege that NCIGF membership fees paid by Claimant constitute Priority Class I administration costs in Home's estate.

Answer. APCIGF, like all state insurance guaranty funds/associations, was created by statute for a singular purpose—the payment of covered claims made under the policies of insolvent insurers. All of the activities of APCIGF are carried out in the pursuit and furtherance of this singular purpose, including membership and participation in the activities of the National Conference of Insurance Guaranty Funds. RSA 404-B:11(II) provides “. . . The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.” RSA 402-C:44(I) assigns Class I priority to the liquidator's costs and expenses of administration. It follows then that all of APCIGF's expenses should be assigned Class I priority as well.

Interrogatory No. 16. Does Claimant contend that NCIGF membership fees are expenses of Claimant's handling of claims? If so, state the basis for that position.

Answer. Yes, for the same reasons set forth in Claimant's response to Interrogatory No. 15 hereinabove.

Interrogatory No. 17. Identify the purposes served by Claimant's membership in NCIGF and any benefits to Home's estate from such membership.

Answer. The NCIGF assists the Claimant and all of its member guaranty funds/associations in meeting their obligations under their respective enabling acts to pay covered claims under policies issued by insolvent insurers. Particularly in multi-state insolvencies such as The Home liquidation, the NCIGF is a key facilitator in the insolvency process, enabling the member guaranty funds to discharge their statutory duties in a more effective and efficient manner. NCIGF Coordinating Committees serve as a liaison between the liquidator and the affected guaranty funds by providing the liquidator with a list of information that will be needed by the guaranty funds, arranging for and assisting with the flow of claim and financial information utilizing software applications developed by NCIGF and providing a forum for the discussion and resolution of problems and issues, among other things. It would be inefficient and prohibitively expensive for the liquidator and the guaranty funds to address such matters on an individual basis. These are only some of the services that NCIGF provides to its members for the betterment of the insolvency process.

Respectfully submitted,

ARIZONA PROPERTY AND CASUALTY  
INSURANCE GUARANTY FUND

By Michael E. Surguine  
Michael E. Surguine  
Executive Director  
1110 W. Washington Street, Suite 270  
Phoenix, AZ 85007  
(602)-364-3863

VERIFICATION

I, Michael E. Surguine, do hereby state upon oath that the foregoing Claimant's  
Answers to Liquidator's First Set of Written Interrogatories and the information and  
statements contained therein are true and correct to the best of my knowledge and belief.

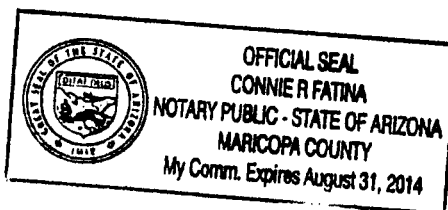
Michael E. Surguine  
Michael E. Surguine

Subscribed and sworn to before me, a Notary Public within and for the State of  
Arizona and County of Maricopa, this 4<sup>th</sup> day of April, 2012.

Connie R. Fatina  
Notary Public

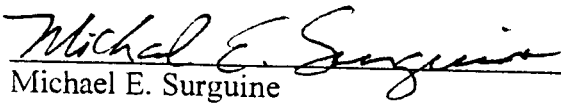
My commission expires:

\_\_\_\_\_



**Certificate of Service**

I hereby certify that a copy of the foregoing was served on the Liquidator by email and by U.S. Mail to Eric A Smith, Rackemann, Sawyer & Brewster, P.C., his attorneys, this 4<sup>th</sup> day of April, 2012.

  
Michael E. Surguine

100% Administrative Expenses charged back to Insolvent insurers with open claims and calculated monthly then reported to Receiver at the end of each quarter.

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2005	1st Quarter	210,344.41	12.00	244	32
	2nd Quarter	122,473.56	10.00	199	35
	3rd Quarter	159,520.07	9.00	154	17
	4th Quarter	123,038.15	8.00	131	15
				Ending 12/31/05	Ending 12/31/05
	TOTAL YEAR END:	615,376.19	8.00	131	15

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2006	1st Quarter	188,703.79	8.00	105	15
	2nd Quarter	137,380.65	7.00	86	7
	3rd Quarter	175,727.26	8.00	167	7
	4th Quarter	136,362.18	9.00	431	5
				Ending 12/31/06	Ending 12/31/06
	TOTAL YEAR END:	638,173.88	9.00	431	5

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2007	1st Quarter	207,830.64	9.00	103	7
	2nd Quarter	124,132.61	10.00	78	3
	3rd Quarter	146,747.88	9.00	65	4
	4th Quarter	119,088.11	9.00	51	3
				Ending 12/31/07	Ending 12/31/07
	TOTAL YEAR END:	597,799.24	9.00	51	3

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2008	1st Quarter	184,413.56	10.00	3252	83
	2nd Quarter	119,376.82	9.00	3241	82
	3rd Quarter	145,664.09	8.00	112	82
	4th Quarter	116,651.07	8.00	109	82
				Ending 12/31/08	Ending 12/31/08
	TOTAL YEAR END:	566,105.54	8.00	109	82

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2009	1st Quarter	187,201.03	8.00	106	82
	2nd Quarter	113,523.93	8.00	23	2
	3rd Quarter	180,347.02	8.00	18	2
	4th Quarter	112,044.39	8.00	14	2
				Ending 12/31/09	Ending 12/31/09
	TOTAL YEAR END:	593,116.37	8.00	14	2

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Clams
2010	1st Quarter	190,958.27	9.00	34	1
	2nd Quarter	122,957.95	9.00	35	1
	3rd Quarter	153,499.12	8.00	35	1
	4th Quarter	117,512.41	8.00	30	1
				Ending 12/31/10	Ending 12/31/10
	TOTAL YEAR END:	584,927.75	8.00	30	1



ARIZONA PROPERTY AND CASUALTY ADMINISTRATIVE EXPENSES  
 100% Administrative Expenses charged back to Insolvent insurers with  
 open claims and calculated monthly then reported to Receiver at the end of  
 each quarter.

*Exhibit 1*

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2005	1st Quarter	210,344.41	12.00	244	32
	2nd Quarter	122,473.56	10.00	199	35
	3rd Quarter	159,520.07	9.00	154	17
	4th Quarter	123,038.15	8.00	131	15
				Ending 12/31/05	Ending 12/31/05
	TOTAL YEAR END:	615,376.19	8.00	131	15

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2006	1st Quarter	188,703.79	8.00	105	15
	2nd Quarter	137,380.65	7.00	86	7
	3rd Quarter	175,727.26	8.00	167	7
	4th Quarter	136,362.18	9.00	431	5
				Ending 12/31/06	Ending 12/31/06
	TOTAL YEAR END:	638,173.88	9.00	431	5

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2007	1st Quarter	207,830.64	9.00	103	7
	2nd Quarter	124,132.61	10.00	78	3
	3rd Quarter	146,747.88	9.00	65	4
	4th Quarter	119,088.11	9.00	51	3
				Ending 12/31/07	Ending 12/31/07
	TOTAL YEAR END:	597,799.24	9.00	51	3

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2008	1st Quarter	184,413.56	10.00	3252	83
	2nd Quarter	119,376.82	9.00	3241	82
	3rd Quarter	145,664.09	8.00	112	82
	4th Quarter	116,651.07	8.00	109	82
				Ending 12/31/08	Ending 12/31/08
	TOTAL YEAR END:	566,105.54	8.00	109	82

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2009	1st Quarter	187,201.03	8.00	106	82
	2nd Quarter	113,523.93	8.00	23	2
	3rd Quarter	180,347.02	8.00	18	2
	4th Quarter	112,044.39	8.00	14	2
				Ending 12/31/09	Ending 12/31/09
	TOTAL YEAR END:	593,116.37	8.00	14	2

		Administrative	Insolvent Insurers	Open Claims ending Quarter	Home Open Claims
2010	1st Quarter	190,958.27	9.00	34	1
	2nd Quarter	122,957.95	9.00	35	1
	3rd Quarter	153,499.12	8.00	35	1
	4th Quarter	117,512.41	8.00	30	1
				Ending 12/31/10	Ending 12/31/10
	TOTAL YEAR END:	584,927.75	8.00	30	1





**Lori Nestor**

---

**From:** Lori Nestor  
**Sent:** Tuesday, February 26, 2008 4:24 PM  
**To:** 'kevin.kelly@homeinsco.com'  
**Subject:** Giant Industries, Policy #'s BOP8816174, and BOP8931246

Hi Kevin -

We've received copies of 16 separate lawsuits that were filed against Giant Industries by various municipalities & water companies, all of whom are suing for actual or potential contamination from MTBE. Western Refining, the current owner of Giant Industries, alleges that Giant was covered by 2 Home Insurance policies during the time period in question:

BOP 8816174, effective 8/3/80 - 8/3/81, and  
 BOP 8931246, effective 8/3/82 - 8/3/83.

If these are first notices of the lawsuits, they are obviously past the bar date. Would you please check to see whether a claim was ever created for these matters? They would be claims made by the following plaintiffs, and alleging damages related to MTBE.

Albertson Water District  
 Glen Cove (City of)  
 City of Lowell  
 City of New York  
 City of Inverness  
 City of Greenlawn  
 Crystal River (FL??)  
 Buchanan County School Board  
 American Distilling & Manufacturing Co.  
 Homosassa Water District  
 Incorporated Valley of Sands Point  
 Hicksville Water District  
 County of Nassau  
 County of Greenville  
 City of Tampa Bay Water District

If you don't find claims for these matters, we will need claim #'s and verification of whether Giant actually had these policies in order to respond appropriately. We will be denying for bar date as well, but need to put the Receivership on notice of the claims & will send you copies in order to do so. Will a response be sent out by the Receiver as well?

*Lori Nestor  
 Claims Manager  
 Arizona Property & Casualty Insurance Guaranty Fund  
 1110 W. Washington, Ste. 270  
 Phoenix, AZ 85007  
 (602) 364-3863  
 fax (602) 364-3872*

2/26/2008



**Lori Nestor**

**From:** Lori Nestor  
**Sent:** Friday, February 29, 2008 2:42 PM  
**To:** kevin.kelly@homeinsco.com  
**Subject:** RE: Giant Industries, Policy #'s BOP8816174, and BOP8931246

*3/4/08 - Spoke w/ Kevin.  
They say they've read all the  
same lawsuits, but will  
only use 2 claim #s.  
They no longer  
send UPS!  
Need to  
enter by  
hand.*

Kevin -

Thanks for sending the policies & correspondence to me - they arrived today.

We actually have received a total of 36 separate lawsuits, all with different plaintiffs but mostly the same defendants, and all for MTBE - and more are arriving on a daily basis! Were you just going to use one claim number for each policy on these? They're not consolidated or class/mass actions yet, and I was thinking we'd need to set them up under separate claim #'s for each as a result. I assume that the one with the NJ Dept of Environmental Protection will be the lead case tied to those claim #'s, right? Do you want copies of each of the lawsuits that we've received?

---

**From:** kevin.kelly@homeinsco.com [mailto:kevin.kelly@homeinsco.com]  
**Sent:** Wednesday, February 27, 2008 10:17 AM  
**To:** Lori Nestor  
**Subject:** Re: Giant Industries, Policy #'s BOP8816174, and BOP8931246

Hi Lori,

We have received copies of the same suits and are assigning claim numbers for each of the primary policies. I will advise you of the claim numbers and forward copies of the two primary and one excess policy, as well as prior correspondence relating to the initial claim submitted in April 2007. Regards, Kevin

Kevin Kelly  
The Home Insurance Company in Liquidation  
59 Maiden Lane  
New York, NY 10038  
kevin.kelly@homeinsco.com  
Tel. 212-530-4106  
Fax 212-299-4201

"Lori Nestor" <lnestor@azinsurance.gov>

To <kevin.kelly@homeinsco.com>

cc

02/26/2008 06:24 PM

Subject Giant Industries, Policy #'s BOP8816174, and BOP8931246

Hi Kevin -

We've received copies of 16 separate lawsuits that were filed against Giant Industries by various municipalities & water companies, all of whom are suing for actual or potential contamination from MTBE. Western Refining, the current owner of Giant Industries, alleges that Giant was covered by 2 Home Insurance policies during the time

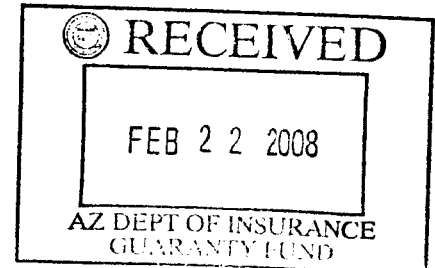
2/29/2008



February 20, 2008

**VIA FEDERAL EXPRESS**

Michael E. Surgine  
Executive Director  
Arizona Insurance Guaranty Funds  
1110 West Washington, Suite 270  
Phoenix, AZ 85007  
(602) 364-3863



RE:

Insured: Giant Industries, Inc., 23733 N. Scottsdale Rd., Scottsdale, Arizona 85255-000 and its subsidiaries, affiliates, successors or assigns, including such components hereafter acquired or formed, and any corporation, partnerships, joint ventures, trusts, joint tenancy in common or other entities in which the subsidiaries or affiliates as defined either directly or indirectly owns more than 50% interest therein or have assumed active management or control and any trusts, foundations, funds and welfare plans of any kind and other interests now or hereafter related to the Insureds but not specifically named, including but not limited to the above named corporations

Lawsuit: Albertson Water District v. Amerada Hess Corp., et al.

Companies: Home Insurance Company; and, any other Home affiliated company that issued any other general liability policy issued to an Insured as that term is defined above or is defined in any general liability policy issued to an Insured

Policies: BOP 8816174 (Effective Dates: 8/3/80 – 8/3/81); BOP 8931246 (Effective Dates: 8/3/82 – 8/3/83) and, any other general liability policy issued to an Insured as that term is defined above or is defined in any general liability policy issued to an Insured

Your Claim #: TBA

Dear Mr. Surgine:

This letter is to provide notice to you that Giant Industries, Inc., an insured of Home Insurance Company (“Insured”), has been served with a lawsuit which is attached for your information and review. As you probably are aware, Home Insurance Company is in liquidation and is not accepting claims. Western Refining, Inc. acquired the Insured on May 31, 2007 when it acquired 100 percent of Giant Industry, Inc.’s shares.

In light of the Home Insurance Company liquidation, please determine whether any benefits are available to the Insured through the Arizona Insurance Guaranty Funds.

We have engaged counsel which has begun incurring expenses, so please provide a response as soon as possible.

Should you have any questions, please contact me at your convenience.

Sincerely,

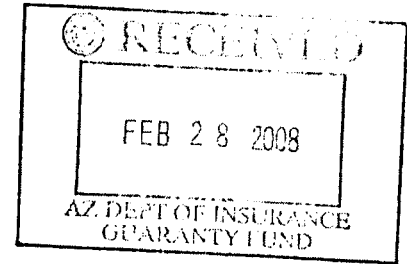
A handwritten signature in black ink, appearing to read "W. Brant Chandler". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

W. Brant Chandler  
Vice President  
Risk Management

February 27, 2008

**VIA FEDERAL EXPRESS**

Michael E. Surgine  
Executive Director  
Arizona Insurance Guaranty Funds  
1110 West Washington, Suite 270  
Phoenix, AZ 85007  
(602) 364-3863



RE:

Insured: Giant Industries, Inc., 23733 N. Scottsdale Rd., Scottsdale, Arizona 85255-000 and its subsidiaries, affiliates, successors or assigns, including such components hereafter acquired or formed, and any corporation, partnerships, joint ventures, trusts, joint tenancy in common or other entities in which the subsidiaries or affiliates as defined either directly or indirectly owns more than 50% interest therein or have assumed active management or control and any trusts, foundations, funds and welfare plans of any kind and other interests now or hereafter related to the Insureds but not specifically named, including but not limited to the above named corporations

Lawsuit: Roslyn Water District v. Amerada Hess Corp., et al.

Companies: Home Insurance Company; and, any other Home affiliated company that issued any other general liability policy issued to an Insured as that term is defined above or is defined in any general liability policy issued to an Insured

Policies: BOP 8816174 (Effective Dates: 8/3/80 – 8/3/81); BOP 8931246 (Effective Dates: 8/3/82 – 8/3/83) and, any other general liability policy issued to an Insured as that term is defined above or is defined in any general liability policy issued to an Insured

Your Claim #: TBA

Dear Mr. Surgine:

This letter is to provide notice to you that Giant Industries, Inc., an insured of Home Insurance Company ("Insured"), has been served with a lawsuit which is attached for your information and review. As you probably are aware, Home Insurance Company is in liquidation and is not accepting claims. Western Refining, Inc. acquired the Insured on May 31, 2007 when it acquired 100 percent of Giant Industry, Inc.'s shares.



In light of the Home Insurance Company liquidation, please determine whether any benefits are available to the Insured through the Arizona Insurance Guaranty Funds.

We have engaged counsel which has begun incurring expenses, so please provide a response as soon as possible.

Should you have any questions, please contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "W. Brant Chandler". The signature is written in a cursive, flowing style.

W. Brant Chandler  
Vice President  
Risk Management





**Arizona Property and Casualty  
Insurance Guaranty Fund**  
Arizona Department of Insurance  
Telephone: (602) 364-3863  
Facsimile: (602) 364-3872

**JANET NAPOLITANO**  
Governor

1110 W. Washington, Suite 270  
Phoenix, Arizona 85007  
[www.id.state.az.us](http://www.id.state.az.us)

**CHRISTINA URIAS**  
Director of Insurance

March 7, 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: Albertson Water District v. Amerada Hess Corporation et al.  
INSURED: Giant Industries  
CLAIMANT: Albertson Water District  
CLAIM NUMBER: PCO-036-0027 and PCO-036-0028

Dear Mr. Chandler:

We are in receipt of your letter dated February 20, 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 20, 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 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



**Arizona Property and Casualty  
Insurance Guaranty Fund**  
*Arizona Department of Insurance*  
Telephone: (602) 364-3863  
Facsimile: (602) 364-3872

**JANET NAPOLITANO**  
Governor

1110 W. Washington, Suite 270  
Phoenix, Arizona 85007  
[www.id.state.az.us](http://www.id.state.az.us)

**CHRISTINA URIAS**  
Director of Insurance

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.

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



1 John Rollie Wightman (Bar No. 011355)  
2 **JOHN ROLLIE WIGHTMAN, P.C.**  
3 P. O. Box 390  
4 Phoenix, Arizona 85001  
5 Telephone: (602) 263-8005  
6 Facsimile: (602) 263-0207  
7 Electronic Mail: [rwightman@wightmanlaw.com](mailto:rwightman@wightmanlaw.com)

8 Philip C. Hunsucker (*Pro Hac Vice* Pending)  
9 **HUNSUCKER, GOODSTEIN & NELSON**  
10 3717 Mt. Diablo Boulevard, Suite 200  
11 Lafayette, California 94549  
12 Telephone: (925) 284-0840  
13 Facsimile: (925) 284-0870  
14 Electronic Mail: [phunsucker@reslawgrp.com](mailto:phunsucker@reslawgrp.com)

15 Attorneys for Plaintiffs

Telephone (602) 263-8005  
Facsimile (602) 263-0207

**COPY**  
APR 01 2008



MICHAEL K. EAMES, CLERK  
M. BOND  
DEPUTY CLERK

16 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
17 **IN AND FOR THE COUNTY OF MARICOPA**

18 WESTERN REFINING SOUTHWEST,  
19 INC. f/k/a GIANT INDUSTRIES  
20 ARIZONA, INC., GIANT INDUSTRIES,  
21 INC., and WESTERN REFINING  
22 YORKTOWN, INC. f/k/a GIANT  
23 YORKTOWN, INC.,

Case No.: 012008-007299

**COMPLAINT FOR DECLARATORY  
RELIEF, BREACH OF CONTRACT  
AND BREACH OF IMPLIED  
COVENANT OF GOOD FAITH AND  
FAIR DEALING**

24 vs. Plaintiffs,

(Demand for Jury Trial)

25 NATIONAL UNION FIRE INSURANCE  
26 COMPANY OF PITTSBURGH, PA;  
27 ILLINOIS NATIONAL INSURANCE  
28 COMPANY; AMERICAN HOME  
ASSURANCE COMPANY; AMERICAN  
INTERNATIONAL SPECIALTY LINES  
INSURANCE COMPANY; OMAHA  
INDEMNITY COMPANY; FIREMAN'S  
FUND INSURANCE COMPANY;  
UNITED STATES FIDELITY AND  
GUARANTY COMPANY;  
ASSICURAZIONI GENERALI S.p.A.  
(U.S. BRANCH); ARIZONA PROPERTY  
AND CASUALTY INSURANCE  
GUARANTY FUND; AND, DOES 1 - 100,  
Defendants.

26 Plaintiffs Western Refining Southwest, Inc. f/k/a Giant Industries Arizona, Inc.  
27 ("Giant Arizona"), Giant Industries, Inc. ("Giant Industries") and Western Refining  
28 Yorktown, Inc. f/k/a Giant Yorktown, Inc. ("Giant Yorktown") hereby file this Complaint

1 for Declaratory Relief, Breach of Contract and Breach of Implied Covenant of Good Faith  
2 and Fair Dealing ("Complaint") against Defendants National Union Fire Insurance Company  
3 of Pittsburgh, PA ("National Union"); Illinois National Insurance Company ("Illinois  
4 National"); American Home Assurance Company ("American Home"); American  
5 International Specialty Lines Insurance Company ("AISL"); Omaha Indemnity Company  
6 ("Omaha Indemnity"); Fireman's Fund Insurance Company ("Fireman's Fund"); United  
7 States Fidelity and Guaranty Company ("USF & G"); Assicurazioni Generali S.p.A. (U.S.  
8 Branch) ("Generali-U.S. Branch"); the Arizona Property and Casualty Insurance Guaranty  
9 Fund ("Arizona Guaranty Fund"); and, Does 1 through 100 (collectively, "the Insurers") and  
10  
11  
12 allege as follows:

13  
14 **PARTIES**

15 1. Plaintiff Giant Arizona is an Arizona corporation, with its headquarters in  
16 Scottsdale, Maricopa County, Arizona. At all relevant times, Plaintiff Giant Arizona has  
17 been a wholly-owned subsidiary of Giant Industries.

18 2. Plaintiff Giant Industries is a Delaware corporation, with its headquarters in  
19 Scottsdale, Maricopa County, Arizona.

20 3. Plaintiff Giant Yorktown is a Delaware corporation, with its headquarters in  
21 Scottsdale, Maricopa County, Arizona. At all relevant times, Plaintiff Giant Yorktown has  
22 been a wholly-owned subsidiary of Giant Industries. For purposes of this Complaint, Giant  
23 Arizona, Giant Industries and Giant Yorktown collectively are referred to as "the  
24 Policyholders."

25 4. Defendant National Union is a Pennsylvania corporation with its headquarters  
26 at 70 Pine Street, New York, New York 10270. National Union is a member of "the AIG  
27 Group," as defined in paragraph 39 below. National Union has been authorized to do  
28 business in all states and the District of Columbia. National Union was authorized and  
licensed to do business by the State of Arizona on August 10, 1920. At all relevant times,

1 Branch office located at 2201 E. Camelback Road, Suite 400B, Phoenix, Maricopa County,  
2 Arizona 85016.

3 5. Defendant Illinois National is an Illinois corporation with its headquarters at  
4 500 West Madison Street, Chicago, Illinois 60661. Illinois National is a member of the AIG  
5 Group. Illinois National has been authorized to do business in all states and the District of  
6 Columbia, except Arkansas, California, North Carolina and Virginia. Illinois National was  
7 authorized and licensed to do business by the State of Arizona on March 7, 1980. At all  
8 relevant times, Illinois National was authorized to transact and did transact business in the  
9 State of Arizona. Along with all the other members of the AIG Group, Illinois National  
10 maintains a Regional Branch office located at 2201 E. Camelback Road, Suite 400B,  
11 Phoenix, Maricopa County, Arizona 85016.

12 6. Defendant American Home is a New York corporation, with its headquarters  
13 at 70 Pine Street, New York, New York 10270. American Home is a member of the AIG  
14 Group. American Home has been authorized to do business in all states and the District of  
15 Columbia. American Home was authorized and licensed to do business by the State of  
16 Arizona on May 8, 1929. At all relevant times, American Home was authorized to transact  
17 and did transact business in the State of Arizona. Along with all the other members of the  
18 AIG Group, American Home maintains a Regional Branch office located at 2201 E.  
19 Camelback Road, Suite 400B, Phoenix, Maricopa County, Arizona 85016.

20 7. Defendant AISL is an Arkansas corporation with its headquarters at 70 Pine  
21 Street, New York, New York 10270. AISL is a member of the AIG Group. AISL has been  
22 authorized to do business as a surplus lines insurer in all states and the District of Columbia,  
23 except New Jersey. AISL is listed by the Arizona Department of Insurance as an insurer for  
24 which a sponsoring Surplus Lines Broker has filed documents required to qualify AISL to  
25 transact surplus lines insurance in Arizona. At all relevant times, AISL was authorized to  
26 transact and did transact business in the State of Arizona. Along with all the other members  
27 of the AIG Group, AISL maintains a Regional Branch office located at 2201 E. Camelback  
28 Road, Suite 400B, Phoenix, Maricopa County, Arizona 85016.



1           8.     Defendant Omaha Indemnity is a Wisconsin corporation with its headquarters  
2 at Mutual of Omaha Plaza, Omaha, Nebraska 68175. Omaha Indemnity has been authorized  
3 to do business in all states and the District of Columbia. Omaha Indemnity was authorized  
4 and licensed to do business by the State of Arizona on  
5 January 15, 1969. At all relevant times, Omaha Indemnity was authorized to transact and  
6 did transact business in the State of Arizona.

7           9.     Defendant Fireman's Fund is a California corporation, with its headquarters at  
8 777 San Marin Drive, Novato, California 94998. Fireman's Fund has been authorized to do  
9 business in all states and the District of Columbia. Fireman's Fund was authorized and  
10 licensed to do business by the State of Arizona on March 31, 1899. At all relevant times,  
11 Fireman's Fund was authorized to transact and did transact business in the State of Arizona.

12          10.    Defendant USF & G is a New York corporation, with its headquarters in  
13 Maryland. USF & G is a member of the Travelers Group of Companies. USF & G was  
14 authorized and licensed to do business by the State of Arizona at the time it issued insurance  
15 policies to the Policyholders. At all relevant times, USF & G was authorized to transact and  
16 did transact business in the State of Arizona.

17          11.    Defendant Generali-U.S. Branch is part of an Italian corporation,  
18 Assicurazioni Generali S.p.A., and has its headquarters at One Liberty Plaza, New York,  
19 New York 10006. Assicurazioni Generali S.p.A. is Italy's largest insurance company. It  
20 controls almost 300 companies, more than a third of which sell insurance. Genamerica  
21 Management Corporation, New York, conducts and carries on the daily operations of  
22 Generali-U.S. Branch. Generali-U.S. Branch has been authorized to do business in all states  
23 and the District of Columbia, except Hawaii, Massachusetts, Rhode Island and Vermont.  
24 Generali-U.S. Branch was authorized and licensed to do business by the State of Arizona on  
25 October 19, 1982. At all relevant times, Generali-U.S. Branch was authorized to transact  
26 and did transact business in the State of Arizona.

27          12.    Defendant Arizona Guaranty Fund is a fund within the Arizona Department of  
28 Insurance created by the Property and Casualty Insurance Guaranty Fund Act, codified at

1 A.R.S. § 20-662. The Arizona Guaranty Fund is charged with protecting the interests of  
2 persons holding covered claims against insolvent insurance companies, including their  
3 policyholders or claimants who are residents of Arizona. Home Insurance Company  
4 (“Home Insurance”), which issued comprehensive general liability (“CGL”) insurance  
5 policies to the Policyholders, was declared insolvent in the State of New Hampshire in 2003.  
6 The Arizona Guaranty Fund assumed the rights and liabilities of Home Insurance as an  
7 insolvent insurer and is obligated to pay covered claims. The Arizona Guaranty Fund is  
8 obligated, under Arizona law, to defend the Policyholders to the same extent Home  
9 Insurance would have been required to defend the Policyholders had it not become  
10 insolvent.

11 13. The true names and capacities, whether individual, corporate, associate, or  
12 otherwise, of Defendant Does 1 through 100 are unknown to the Policyholders at this time  
13 and the Policyholders’ claims are asserted against such Doe Defendants using fictitious  
14 names, pursuant to Rule 4(c) of the Arizona Rules of Civil Procedure. When the true names  
15 and capacities of said Doe Defendants have been ascertained, the Policyholders will amend  
16 this Complaint accordingly.

17 14. The Policyholders allege that each of the Defendants sued as Does 1 through  
18 100 issued one or more CGL insurance policies to the Policyholders or to another entity  
19 naming the Policyholders as an insured, named insured, additional insured, or additional  
20 named insured.

#### 21 VENUE AND JURISDICTION

22 15. Pursuant to A.R.S. § 12-401, venue is proper in Maricopa County because  
23 Plaintiff Giant Industries resides in Maricopa County. Giant Industries’ corporate office is  
24 located at 23733 N. Scottsdale Road, Scottsdale, Arizona 85255.

25 16. Pursuant to A.R.S. § 12-401, venue also is proper in Maricopa County because  
26 Plaintiff Giant Yorktown resides in Maricopa County. Giant Yorktown’s corporate office is  
27 located at 23733 N. Scottsdale Road, Scottsdale, Arizona 85255.

28

1 17. Pursuant to A.R.S. § 12-401, venue also is proper in Maricopa County because  
2 the Insurers contracted in writing to perform an obligation in Maricopa County.

3 18. Pursuant to A.R.S. § 12-401, venue also is proper in Maricopa County because  
4 this is an action against insurance companies and the claims for relief asserted by the  
5 Policyholders against the Insurers arose in Maricopa County.

6 19. Pursuant to A.R.S. § 12-401, venue also is proper in Maricopa County because  
7 the Insurers have agents and/or representatives in Maricopa County.

8 20. Pursuant to A.R.S. § 12-401, venue also is proper in Maricopa County because  
9 the Insurers conduct business in Maricopa County.

10 21. This Court has jurisdiction over the Insurers because each Insurer has  
11 substantial, systematic and continuous contact with the State of Arizona. In addition, the  
12 Insurers maintain offices, agents, and/or representatives in the State of Arizona. The  
13 Insurers have purposely availed themselves of the privilege of conducting business in the  
14 State of Arizona. This lawsuit arises directly from the activities of the Insurers in the State  
15 of Arizona.

16 22. This Court has jurisdiction over Defendant Arizona Guaranty Fund because it  
17 is an entity created by Arizona statute and is a resident of the State of Arizona.

18 NATURE OF THE ACTION

19 23. The Insurers (except for the Arizona Guaranty Fund) sold the CGL insurance  
20 policies, including those listed in paragraphs 825 through 1040 below (collectively, the  
21 "CGL Insurance Policies") to three residents of the County of Maricopa, Arizona, Giant  
22 Arizona, Giant Industries and Giant Yorktown, then wrongfully failed to defend their  
23 policyholders in over fifty (50) product liability lawsuits. Through the insolvency of Home  
24 Insurance, the Arizona Guaranty Fund, like the other Insurers, is liable for the defense of the  
25 Policyholders.

26 24. All of the CGL Insurance Policies issued by the Insurers that are relevant to  
27 this action were purchased and delivered to the Policyholders at or in Maricopa County,  
28 Arizona.

1           25.    The over fifty (50) product liability lawsuits filed against the Policyholders are  
2 described more fully in paragraphs 90 to 820 of this Complaint (collectively, “the  
3 Underlying Product Liability Lawsuits”).

4           26.    Although the Underlying Product Liability Lawsuits were filed in many states  
5 across the country – from the West to the Northeast and the South – almost all of the  
6 Underlying Product Liability Lawsuits have been consolidated in the United States District  
7 Court for the Southern District of New York in a single proceeding as part of the multi-  
8 district litigation, In re: Methyl Tertiary Butyl Ether (“MTBE”) Products Liability Litigation  
9 No. 1:00-1898 MDL 1358 (S.D.N.Y.) (“MTBE Products Liability MDL”). The  
10 Policyholders vigorously have contested the Underlying Product Liability Lawsuits,  
11 including those in the MTBE Products Liability MDL.

12           27.    The Underlying Product Liability Lawsuits generally are not specific as to  
13 exactly when, where, and how the alleged damages were caused and the plaintiffs in the  
14 Underlying Product Liability Lawsuits have not made this information available, if it exists  
15 at all. Instead, the plaintiffs in the Underlying Product Liability Lawsuits have concentrated  
16 their efforts on the MTBE manufacturing industry and gasoline refining industry through  
17 theories of collective liability such as “Market Share Liability,” “Alternative Liability,”  
18 “Enterprise Liability,” and “Concert of Action Liability.” The plaintiffs in the Underlying  
19 Product Liability Lawsuits generally allege that the claimed damages arise out of products  
20 that were manufactured or sold by the Policyholders and that the Policyholders’ alleged  
21 liability arises from the sale of a product – reformulated gasoline (“RFG”) – that allegedly  
22 contained MTBE.

23           28.    Typical of the product liability allegations in the Underlying Product Liability  
24 Lawsuits are allegations from State of New Mexico v. Amerada Hess Corp., et al., Case No.  
25 06-CV-5496 (see paragraphs 93 to 106 below), one of the many Underlying Product  
26 Liability Lawsuits in the MTBE Products Liability MDL, in which the plaintiffs allege:

- 27                   a. “Oil companies began blending MTBE into gasoline in the late 1970’s.  
28                   Initially used as an octane enhancer, MTBE was used throughout the

1 1980's at low concentrations in some gasoline by some refiners, primarily  
2 in high-octane grades." (State of New Mexico v. Amerada Hess Corp., et  
3 al., Case No. 06-CV-5496, Original Complaint, ¶47.)

4 b. "Refiners, including Defendants, significantly increased their use of MTBE  
5 in gasoline after 1990, when Congress established the Reformulated  
6 Gasoline Program ('RFG Program') in section 211(k) of the Clean Air Act,  
7 42 U.S.C. §7545(k)." (State of New Mexico v. Amerada Hess Corp., et al.,  
8 Case No. 06-CV-5496, Original Complaint, ¶48.)

9 c. "The defendants in this action are major oil and chemical companies that  
10 manufacture MTBE, blend MTBE into gasoline, and/or supply gasoline  
11 containing MTBE to the State. The defendants include MTBE  
12 manufacturers and refiners and major brand marketers of gasoline  
13 containing MTBE, which entered and continues to enter the stream of the  
14 State's commerce. Gasoline containing MTBE has damaged and continues  
15 to damage the waters of the State and State property." (State of New  
16 Mexico v. Amerada Hess Corp., et al., Case No. 06-CV-5496, Original  
17 Complaint, ¶5.)

18 d. "MTBE is a fungible product. Once released into the environment, MTBE  
19 lacks characteristics or a chemical signature that would enable  
20 identification of the refinery or company that manufactured the product."  
21 (State of New Mexico v. Amerada Hess Corp., et al., Case No. 06-CV-  
22 5496, Original Complaint, ¶39.)

23 e. "Gasoline containing MTBE from various refiners is commingled during  
24 transmission from refineries to distribution centers. The gasoline at any  
25 particular service station comes from many different refiners. Thus, a  
26 subsurface plume, even if released from a single identifiable tank, pipeline,  
27 or vessel, is the product of mixed batches of gasoline originating from  
28

1 different refiners.” (State of New Mexico v. Amerada Hess Corp., et al.,  
2 Case No. 06-CV-5496, Original Complaint, ¶40.)

3 f. “When Defendants placed gasoline containing MTBE into the stream of  
4 commerce, it was defective, unreasonably dangerous, and not reasonably  
5 suited for its intended, foreseeable and ordinary transportation, storage,  
6 handling, and uses . . .” (State of New Mexico v. Amerada Hess Corp., et  
7 al., Case No. 06-CV-5496, Original Complaint, ¶63.)

8 29. The first MTBE product liability cases were filed in 1998 in Millett v. Atlantic  
9 Richfield Co. in Cumberland County, Maine. Several more MTBE product liability cases  
10 were filed in 1999, such as Maynard v. Amerada Hess Corp. in New Hanover County, North  
11 Carolina, Communities for a Better Env’t v. Unocal Corp. in San Francisco County,  
12 California, and, South Tahoe Pub. Util. Corp. v. Atlantic Richfield Co. in San Francisco  
13 County, California. More MTBE product liability cases were filed between 1999 and 2004.  
14 In October 2000, the United States Judicial Panel on Multidistrict Litigation transferred  
15 purported class action cases brought on behalf of private well owners in 18 states against  
16 nearly all refiners operating in the United States District Court for the Southern District of  
17 New York for consolidated proceedings. These consolidated cases were collectively  
18 referred to as “MDL 1358, In re MTBE Product Liability Litigation”  
19 ([http://www.jpml.uscourts.gov/Docket\\_Info/Products\\_Liability/MDL-1358/mdl-1358.html](http://www.jpml.uscourts.gov/Docket_Info/Products_Liability/MDL-1358/mdl-1358.html)),  
20 the MTBE Products Liability MDL. Judge Shira A. Scheindlin of the United States District  
21 Court for the Southern District of New York has presided over the MTBE Products Liability  
22 MDL.

23 30. Almost all of the MTBE product liability lawsuits in the United States were  
24 sent to Judge Scheindlin for handling as a part of the MTBE Products Liability MDL. By  
25 2004, over 60 MTBE product liability cases were pending as part of the MTBE Products  
26 Liability MDL.

27 31. Judge Scheindlin continues to oversee the MTBE Products Liability MDL and  
28 thus, oversees almost all of the Underlying Product Liability Lawsuits. In a 2001 decision in

1 **Policies Issued by Fireman's Fund**

2 1006. On information and belief, Fireman's Fund issued CGL Policy No.  
3 MXP3583217, effective May 3, 1980 through August 3, 1980.

4 1007. On information and belief, CGL Policy No. MXP3583217 requires Fireman's  
5 Fund to defend all suits against Giant Industries potentially seeking damages because of  
6 bodily injury or property damage to which the insurance policy applies.

7 1008. On information and belief, CGL Policy No. MXP3583217 did not contain any  
8 exclusion that eliminates Fireman Fund's duty to defend Giant Industries in the Underlying  
9 Product Liability Lawsuits.

10 1009. On information and belief, CGL Policy No. MXP3583217 does not have any  
11 deductible or self-insured retention applicable to any of the Underlying Product Liability  
12 Lawsuits.

13 1010. At this time, the Policyholders do not have a copy of CGL Policy No.  
14 MXP3583217. The Policyholders have requested a copy of CGL Policy No. MXP3583217,  
15 but Fireman's Fund has not provided it.

16 **Policies Issued by Home Insurance**

17 1011. On information and belief, Home Insurance issued insurance to Giant  
18 Industries under a Business Owner Insurance package that included CGL policies.

19 1012. On information and belief, Home Insurance issued Business Owner Policy No.  
20 BOP8816174, effective August 3, 1980 through August 3, 1981.

21 1013. On information and belief, Policy No. BOP8816174 requires Home Insurance  
22 (now Arizona Guaranty Fund) to defend Giant Industries in all suits potentially seeking  
23 damages because of bodily injury or property damage to which the insurance policy applies.

24 1014. On information and belief, Policy No. BOP8816174 does not contain any  
25 exclusion that eliminates Home Insurance's (now Arizona Guaranty Fund's) duty to defend  
26 Giant Industries in the Underlying Product Liability Lawsuits.

27  
28

1 1015. On information and belief, Policy No. BOP8816174 does not have any  
2 deductible or self-insured retention applicable to any of the Underlying Product Liability  
3 Lawsuits.

4 1016. At this time, the Policyholders do not have a copy of Policy No. BOP8816174.  
5 The Policyholders have requested a copy of Policy No. BOP8816174, but Arizona Guaranty  
6 Fund has not provided it.

7 1017. On information and belief, Home Insurance issued Business Owner Policy No.  
8 BOP8828551 (renewal of BOP8816174), effective August 3, 1981 through August 3, 1982.

9 1018. On information and belief, Policy No. BOP8828551 requires Home Insurance  
10 (now Arizona Guaranty Fund) to defend Giant Industries in all suits potentially seeking  
11 damages because of bodily injury or property damage to which the insurance policy applies.

12 1019. On information and belief, Policy No. BOP8828551 does not contain any  
13 exclusion that eliminates Home Insurance's (now Arizona Guaranty Fund's) duty to defend  
14 Giant Industries in the Underlying Product Liability Lawsuits.

15 1020. On information and belief, Policy No. BOP8828551 does not have any  
16 deductible or self-insured retention applicable to any of the Underlying Product Liability  
17 Lawsuits.

18 1021. At this time, the Policyholders do not have a copy of Policy No. BOP8828551.  
19 The Policyholders have requested a copy of Policy No. BOP8828551, but Arizona Guaranty  
20 Fund has not provided it.

21 1022. The Superior Court of Merrimack County, New Hampshire, placed Home  
22 Insurance in liquidation on June 13, 2003. By order of the court, the deadline for filing  
23 claims against Home Insurance was set as June 13, 2004.

24 1023. Pursuant to the Arizona Property and Casualty Insurance Guaranty Fund Act,  
25 A.R.S. § 20-662, the Arizona Department of Insurance oversees the Arizona Guaranty Fund  
26 which handles claims against insolvent insurers by Arizona policyholders.

27 1024. Under Arizona law, the Arizona Guaranty Fund must "step into the shoes" of  
28 Home Insurance and assume its obligations and rights under the CGL Insurance Policies. As



1 a result, under Policy No. BOP8816174 and BOP8828551, the Arizona Guaranty Fund is  
2 required to defend Giant Industries in all suits potentially seeking damages because of bodily  
3 injury or property damage to which the Home Insurance policy applies.

4 1025. The Arizona Guaranty Fund has denied the Policyholders' claims for defense  
5 of the Underlying Product Liability Lawsuits.

#### 6 **Policies Issued by USF & G**

7 1026. On information and belief, USF & G issued CGL Policy No. MP67583,  
8 effective August 19, 1982 through August 3, 1983.

9 1027. On information and belief, CGL Policy No. MP67583 requires USF & G to  
10 defend Giant Industries in all suits potentially seeking damages because of bodily injury or  
11 property damage to which the insurance policy applies.

12 1028. On information and belief, CGL Policy No. MP67583 did not contain any  
13 exclusion that eliminates USF & G's duty to defend Giant Industries in the Underlying  
14 Product Liability Lawsuits.

15 1029. On information and belief, CGL Policy No. MP67583 does not have any  
16 deductible or self-insured retention applicable to any of the Underlying Product Liability  
17 Lawsuits.

18 1030. At this time, the Policyholders do not have a copy of CGL Policy No.  
19 MP67583. The Policyholders have requested a copy of CGL Policy No. MP67583, but USF  
20 & G has not provided it.

#### 21 **Policies Issued by Omaha Indemnity**

22 1031. Omaha Indemnity issued CGL Policy No. CL000151, effective August 3, 1983  
23 through August 3, 1986.

24 1032. Giant Industries is a named insured under CGL Policy No. CL000151, as well  
25 as "all divisions, subsidiaries and joint ventures now existing or as may later be constituted."  
26 Giant Arizona and Giant Yorktown are wholly-owned subsidiaries of Giant Industries, so  
27 Giant Arizona and Giant Yorktown also are Named Insureds under CGL Policy No.  
28 CL000151.

1 1078. National Union issued Umbrella Policy No. BE 139-96-75, effective  
2 November 1, 2002 through November 1, 2003.

3 1079. National Union issued Umbrella Policy No. BE 298-80-58, effective  
4 November 1, 2003 through November 1, 2004.

5 1080. National Union issued Umbrella Policy No. BE 598-39-11, effective  
6 November 1, 2004 through November 1, 2005.

7 1081. National Union issued Umbrella Policy No. 2979948, effective November 1,  
8 2005 through November 1, 2006.

9 1082. National Union issued Umbrella Policy No. 4485768, effective November 1,  
10 2006 through November 1, 2007.

11 1083. None of the Umbrella Policies issued by National Union are applicable to the  
12 defense of the Underlying Product Liability Lawsuits. The Policyholders only are seeking  
13 defense of the Underlying Product Liability Lawsuits through this Complaint and none of  
14 the policy limits of the underlying primary CGL Insurance Policies have been exhausted so  
15 as to trigger coverage under the Umbrella Insurance Policies.

16 **Policies Issued by Home Insurance**

17 1084. Home Insurance issued Umbrella Policy No. HXL-1 57 65 17, effective  
18 August 3, 1983 though August 3, 1984.

19 1085. The Umbrella Policy issued by Home Insurance is not applicable to the  
20 defense of the Underlying Product Liability Lawsuits. The Policyholders only are seeking  
21 defense of the Underlying Product Liability Lawsuits through this Complaint and none of  
22 the policy limits of the underlying primary CGL Insurance Policies have been exhausted so  
23 as to trigger coverage under the Umbrella Insurance Policies.

24

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1 1154. Enforcement of a judgment for the claims for relief asserted by the  
2 Policyholders in the Complaint would be enforceable in Arizona because the Policyholders  
3 each are residents of Arizona; Arizona Guaranty Fund is an Arizona resident; each Insurer is  
4 registered and does business in Arizona; and, almost every other state has adopted the  
5 Uniform Enforcement of Judgments Act, the Arizona version of which is codified at A.R.S.  
6 § 12-1702.

7 1155. On information and belief, the docket in Maricopa County, Arizona is no more  
8 congested than the dockets in other forums potentially available, and most likely is less  
9 congested. In fact, on information and belief, the time to trial on most civil matters in  
10 Maricopa County, Arizona is a little more than a year.

11 1156. Trial in Arizona would be at home with the state law that would govern the  
12 case because under the choice of law analysis outlined in the Restatement Second, which  
13 Arizona follows in determining choice of law, Arizona law applies to the Complaint.  
14 Section 188 of the Restatement Second provides that, where the parties have not chosen the  
15 applicable law, the rights and duties of the parties, with respect to a contract issue, will be  
16 determined by the local law of the State which, as to that issue, has the most significant  
17 relationship to the transaction and to the parties. Arizona, as the state in which the contract  
18 was formed, the policyholder resides, the insurance broker resides, and the majority of  
19 witnesses reside, thus has the most significant relationship to the transaction at issue.

20 **FIRST CLAIM FOR RELIEF**

21 **DECLARATORY RELIEF**

22 **(Multiple Policies Apply to the Defense of the Policyholders and Policyholders Can**  
23 **Select One AIG Group Policy to Pay 100% of the Reasonable and Necessary Defense**  
24 **Costs of the Underlying Product Liability Lawsuits – Against All Defendants)**

25 1157. The Policyholders refer to and re-allege the allegations set forth in paragraphs  
26 1 through 1156 of this Complaint and incorporate them by reference.

27 1158. The Insurers are obligated to fully investigate and defend, or to pay the costs  
28 of investigation and defense in connection with lawsuits that contain allegations that are

1 potentially covered under the CGL Insurance Policies from May 3, 1980 to November 1,  
2 2002.

3 1159. The Underlying Product Liability Lawsuits are covered, or, at a minimum,  
4 potentially covered, under each of the Insurers' CGL Insurance Policies.

5 1160. Under the terms of the Insurers' CGL Insurance Policies, the Insurers have a  
6 duty to investigate fully the Underlying Product Liability Lawsuits and to provide a full  
7 defense to the Policyholders in connection with the Underlying Product Liability Lawsuits.

8 1161. The Insurers that are members of the AIG Group have failed and refused fully  
9 to acknowledge, accept or undertake their duty to fully investigate and defend the  
10 Policyholders in the Underlying Product Liability Lawsuits.

11 1162. Under Arizona law which is applicable to this dispute, the Policyholders are  
12 entitled to select one of the Insurers' CGL Insurance Policies to provide 100% of the  
13 Policyholders' defense of the Underlying Product Liability Lawsuits.

14 1163. The Policyholders have selected National Union Policy No. GL 541-96-88  
15 RA, effective November 1, 1990 through November 1, 1991, to provide 100% of the  
16 Policyholders' defense of the Underlying Product Liability Lawsuits.

17 1164. Should it cure its breach of contract and bad faith, National Union has the right  
18 to seek subrogation or contribution from each of the other Insurers that have an obligation to  
19 defend the Policyholders against the Underlying Product Liability Lawsuits, provided that in  
20 doing so it does not attempt to shift any portion of its obligation to fully defend the  
21 Policyholders and pay 100% of the Policyholders' defense of the Underlying Product  
22 Liability Lawsuits.

23 1165. There exists an actual justiciable controversy between the Policyholders and  
24 the Insurers as to the Insurers' obligations under the CGL Insurance Policies to investigate  
25 and provide a defense to the Policyholders in connection with the Underlying Product  
26 Liability Lawsuits, and as to whether the obligations between the Insurers are several.  
27 Declaratory relief will settle that controversy and clarify the Parties' rights and obligations.  
28

1 1166. Pursuant to the Uniform Declaratory Judgments Act, A.R.S. § 12-1831 et seq.,  
2 the Policyholders seek a declaration that:

- 3 a. The Insurers, under the CGL Insurance Policies, have a duty to defend  
4 fully and to pay or reimburse in full the Policyholders' past, present and  
5 future costs of investigation and defense in the Underlying Product  
6 Liability Lawsuits;
- 7 b. The Insurers' duties to defend fully and to pay or reimburse in full are  
8 separate and independent of any duties that any other of the Insurers have  
9 or may not have to the Policyholders;
- 10 c. The Insurers each are fully liable for the entire defense of the Policyholders  
11 in connection with the Underlying Product Liability Lawsuits and the  
12 entire investigation of those claims and all of the Policyholders' past and  
13 future costs of defense investigation in connection with the Underlying  
14 Product Liability Lawsuits; and,
- 15 d. The Policyholders are authorized by law to select one CGL Insurance  
16 Policy to pay 100% of the defense of the Underlying Product Liability  
17 Lawsuits.

18 1167. The Policyholders seek these declarations based upon the language of the CGL  
19 Insurance Policies, the allegations in the Underlying Product Liability Lawsuits, the  
20 reasonable expectations of the Policyholders under the Insurers' CGL Insurance Policies and  
21 on the insuring obligations implied or imposed under Arizona law.

22 **SECOND CLAIM FOR RELIEF**

23 **BREACH OF CONTRACT**

24 **(Failure to Defend – Against the AIG Group Members Only)**

25 1168. The Policyholders refer to and re-allege the allegations set forth in paragraphs  
26 1 through 1167 of this Complaint and incorporate them by reference.

1 z. Seeking to avoid the ruling on the duty to defend against the AIG Group on  
2 the same claims as determined in the Third Federal Circuit against the AIG  
3 Group in Sunoco, Inc. v. Illinois Nat'l Ins. Co., 226 Fed.Appx. 104, 2007  
4 WL 295267 (3d Cir. 2007), decided under Pennsylvania law which in most  
5 relevant respects is similar to Arizona law.

6 1187. As a result of the wrongful refusal to defend the Policyholders by the Insurers  
7 who are members of the AIG Group, the Policyholders have paid for their own defense in  
8 the Underlying Product Liability Lawsuits, including costs and fees for:

- 9 a. Engaging counsel to defend the Underlying Product Liability Lawsuits;
- 10 b. Incurring additional costs in connection with the defense of the Underlying  
11 Product Liability Lawsuits which are covered; and,
- 12 c. Compelling the Policyholders to initiate this Complaint just to obtain the  
13 policy benefits to which they already are entitled.

14 1188. The Insurers who are members of the AIG Group acted with knowledge that  
15 their actions were likely to cause unjustified and significant damages to the Policyholders.

16 1189. The conduct of the Insurers' who are members of the AIG Group, as herein  
17 alleged, was and is oppressive, outrageous and intolerable in that it was and is taken in  
18 conscious disregard of the Policyholders' rights under the CGL Insurance Policies with the  
19 intent to vex, injure or annoy the Policyholders, such as to constitute oppression, fraud or  
20 malice under Arizona law, and justifies an award of exemplary and punitive damages against  
21 the Insurers.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff Policyholders respectfully request that judgment be entered  
24 in their favor for the following:

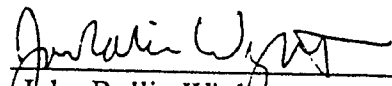
- 25 A. On the First, Second and Third Claims for Relief, an award of direct, indirect,  
26 consequential, incidental, special compensatory and other damages, due to the  
27 alleged breaches of contract and in tort as set forth above, in an amount to be  
28 proven at trial;

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- B. On the First, Second and Third Claims for Relief, an award of attorneys' fees and costs, pursuant to A.R.S. § 12-341.01(A);
- C. On the First Claim for Relief, a declaration that Insurers, collectively, and each Insurer, severally, are obligated to fully defend Policyholders and that the Policyholders have the right to select one policy to provide 100% of the defense;
- D. On the First Claim for Relief, costs pursuant to the Uniform Declaratory Judgments Act, A.R.S. § 12-1840;
- E. On the Third Claim for Relief, punitive and exemplary damages;
- F. On all Claims for Relief, such orders as are necessary to effectuate this Prayer for Relief or to preserve this Court's jurisdiction over the Parties and issues herein;
- G. For costs of suit; and,
- H. For such further and other relief that the Court deems just and proper.

DATED this 1st day of April, 2008.

**JOHN ROLLIE WIGHTMAN, P.C.**

By:   
John Rollie Wightman  
P. O. Box 390  
Phoenix, AZ 85001  
Attorneys for Plaintiffs





**Arizona Property & Casualty Insurance Guaranty Fund**  
**Notes**

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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**  
**Notes**

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:** 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**  
**Notes**

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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

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

Notes

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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: 03/11/2008

Type: User

User ID: igfjdd

Subject: Arizona Property and Casualty

Arizona Property and Casualty

Insurance Guaranty Fund03/11/08

Arizona Department of Insurance

Telephone: (602) 364-3863

Facsimile: (602) 364-3872

JANET NAPOLITANO1110 W. Washington, Suite 270CHRISTINA URIAS

GovernorPhoenix, Arizona 85007Director 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**  
**Notes**

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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

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

**Arizona Property & Casualty Insurance Guaranty Fund**  
**Notes**

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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:** 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

**Arizona Property & Casualty Insurance Guaranty Fund**  
**Notes**

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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

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.

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>
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:** 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**

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,	)	<b>DEFENDANT ARIZONA</b>
	)	<b>PROPERTY AND CASUALTY</b>
v.	)	<b>INSURANCE GUARANTY</b>
	)	<b>FUND'S MOTION FOR</b>
National Union Fire Insurance Company of	)	<b>SUMMARY JUDGMENT</b>
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.<sup>1</sup>

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 <sup>1</sup>The limitations found in A.R.S. §§ 20-673 and 20-679 both have application to the claims  
21 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.<sup>2</sup> 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 <sup>2</sup>The 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

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

7 SOF ¶5.

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

---

19  
20 <sup>3</sup>Although A.R.S. § 20-679 authorizes the Guaranty Fund to bar claims not filed  
21 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.*<sup>4</sup>

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 <sup>4</sup>The 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-  
9 of-time claim in this case.

10 *Id.* at 80.

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

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

19 *Id.* (citations omitted).

20 Other courts interpreting their state's insurance insolvency provisions have come to  
21 the same conclusion. *See, e.g., Berea Roll & Bowl, Inc.*, 482 N.E.2d at 998 (holding that the  
Ohio Insurance Guaranty Association had no obligation to pay a claim filed five months after  
the claims bar date passed); *In re Professional Ins. Co. of New York*, 413 N.Y.Supp.2d 17,  
affirmed 402 N.E.2d 143 (1979) (holding that New York security fund's decision to reject  
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.<sup>5</sup> 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.

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21           <sup>5</sup>A.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.<sup>6</sup> 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 3<sup>rd</sup> day of September, 2008.

19 \_\_\_\_\_  
20 <sup>6</sup>As 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.**

By: /s/ Ryan J. Talamante

Ryan J. Talamante  
2025 North Third Street, Suite 260  
Phoenix, Arizona 85004  
Attorney for Defendant Arizona Property  
and Casualty Insurance Guaranty Fund

**ELECTRONICALLY FILED**

this 3<sup>rd</sup> day of September, 2008.

**COPIES** electronically served this  
this 3<sup>rd</sup> day of September, 2008, via  
LexisNexis File & Serve, to:

John Rollie Wightman  
JOHN ROLLIE WIGHTMAN, P.C.  
1850 East Thunderbird Road  
Phoenix, Arizona 85022  
Attorney for Plaintiffs

Philip C. Hunsucker  
Brian L. Zagon  
Christopoher J. Dow  
Allison E. McAdam  
Hunsucker, Goodstein & Nelson  
3717 Mt. Diablo Boulevard, Suite 200  
Lafayette, California 94549  
Attorney for Plaintiffs

- 1 Mark Peck  
WILSON & MCQUEENY
- 2 500 North Brand Blvd., Suite 900  
Glendale, California 91203
- 3 Attorneys for Defendant Fireman's Fund
- 4 Theodore Julian  
BURCH & CRACCHIOLO, P.A.
- 5 702 East Osborn Road  
Phoenix, Arizona 85014
- 6 Attorneys for Defendant Fireman's Fund
- 7 George D. Yaron  
James L. Silverstein
- 8 YARON & ASSOCIATES  
601 California Street, 21<sup>st</sup> Floor  
San Francisco, California 94108
- 9 Attorneys for Defendant Assicurazioni Generali S.p.A.
- 10 Donald L. Myles, Jr.
- 11 JONES, SKELTON & HOCHULI, P.L.C.  
2901 North Central Avenue, Suite 800  
Phoenix, Arizona 85012
- 12 Attorneys for Defendant Assicurazioni Generali S.p.A.
- 13 Steven Plitt  
Joshua D. Rogers
- 14 KUNZ PLITT HYLAND DEMLONG & KLEIFIELD  
3838 North Central Avenue, Suite 1500  
Phoenix, Arizona 85012
- 15 Attorneys for Defendants National Union  
Fire Insurance Company of Pittsburgh, PA,  
Illionois National Insurance Company,  
16 American Home Assurance Company and  
17 American International Specialty Lines Ins. Co.
- 18
- 19
- 20
- 21

1 J. Karren Baker  
SINNOTT, DITO, MOURA & PUEBLA  
2 555 Montgomery Street, Suite 720  
San Francisco, California 94111  
3 Attorneys for Defendants National Union  
Fire Insurance Company of Pittsburgh, PA,  
4 Illinois National Insurance Company,  
American Home Assurance Company and  
5 American International Specialty Lines Ins. Co.

6 /s/ Danielle Avery

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1 John Rollie Wightman (Bar No. 011355)  
2 **JOHN ROLLIE WIGHTMAN, P.C.**  
3 1850 East Thunderbird Road  
4 Phoenix, Arizona 85022  
5 Telephone: (602) 263-8005  
6 Facsimile: (602) 263-0207  
7 Electronic Mail: [rwightman@wightmanlaw.com](mailto:rwightman@wightmanlaw.com)

8 Philip C. Hunsucker (*Pro Hac Vice*)  
9 Brian L. Zagon (*Pro Hac Vice*)  
10 Christopher J. Dow (*Pro Hac Vice*)  
11 Allison E. McAdam (*Pro Hac Vice*)  
12 **HUNSUCKER, GOODSTEIN & NELSON**  
13 3717 Mt. Diablo Boulevard, Suite 200  
14 Lafayette, California 94549  
15 Telephone: (925) 284-0840  
16 Facsimile: (925) 284-0870  
17 Electronic Mail: [phunsucker@reslawgrp.com](mailto:phunsucker@reslawgrp.com)

18 Attorneys for Plaintiffs

19 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
20 **IN AND FOR THE COUNTY OF MARICOPA**

21 WESTERN REFINING SOUTHWEST,  
22 INC. f/k/a GIANT INDUSTRIES  
23 ARIZONA, INC., GIANT INDUSTRIES,  
24 INC., and WESTERN REFINING  
25 YORKTOWN, INC. f/k/a GIANT  
26 YORKTOWN, INC.,

27 Plaintiffs,

28 vs.

No: CV2008-007299

29 NATIONAL UNION FIRE INSURANCE  
30 COMPANY OF PITTSBURGH, PA;  
31 ILLINOIS NATIONAL INSURANCE  
32 COMPANY; AMERICAN HOME  
33 ASSURANCE COMPANY; AMERICAN  
34 INTERNATIONAL SPECIALTY LINES  
35 INSURANCE COMPANY; FIREMAN'S  
36 FUND INSURANCE COMPANY;  
37 ASSICURAZIONI GENERALI S.p.A.  
38 (U.S. BRANCH); ARIZONA PROPERTY  
39 AND CASUALTY INSURANCE  
40 GUARANTY FUND; et al.,

41 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**

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

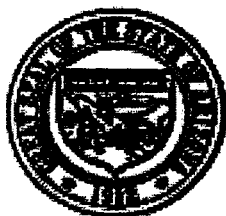
**IT IS HEREBY ORDERED** the First Amended Complaint is dismissed with prejudice as to Defendants Assicurazioni Generali S.p.A., erroneously sued as Assicurazioni Generali S.p.A. (U.S. Branch), and the Arizona Property and Casualty Insurance Guaranty Fund only, each party to bear its own costs and attorneys'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

DATED: \_\_\_\_\_

\_\_\_\_\_  
THE HONORABLE JOHN BUTTRICK  
JUDGE OF THE SUPERIOR COURT

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 2008 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																					
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	199,800.00	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	199,800.00	
ALLOCATED EXPENSE PAID	39,968.82	622.20	160.34	0.00	782.54	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	41,192.36	
INDEMNITY RESERVE		37,351.32	37,351.32	37,351.32	112,053.96	37,351.32	37,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32	29,351.32
ALLOCATED EXPENSE RESERVE		57,540.25	57,540.25	57,540.25	172,620.75	57,540.25	57,540.25	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02	9,077.02
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	0.00	
LEGAL (BANKRUPTCY) (2009) LEGAL	0.00	0.00	0.00	852.88	852.88	4,689.82	0.00	0.00	4,787.80	0.00	0.00	0.00	562.42	0.00	0.00	0.00	0.00	0.00	0.00	562.42	
ADMINISTRATIVE FEES (BANKRUPTCY) CONTRACTOR	353,847.37	21,208.50	21,169.30	21,139.54	63,517.33	21,847.09	21,751.42	2,336.08	4,787.80	1,262.31	627.70	2,953.44	2,183.45	140.69	41.97	1,421.81	11,604.47	9,428.39	11,604.47	9,428.39	
MISCELLANEOUS OFFICE EXPNS	19,232.17	0.00	0.00	0.00	0.00	0.00	0.00	0.00	45,151.60	4,262.75	2,844.10	2,865.65	9,992.50	2,963.66	3,449.87	5,434.22	11,877.75	131,325.19	11,877.75	131,325.19	
TRAVEL (BANKRUPTCY) (2009) TRAVEL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	171.39	87.76	30.71	0.00	118.47	0.00	0.00	0.00	0.00	295.96	118.47	295.96	
OFFICE EXPENSE OFFICE EXPNS	38,327.60	4,803.12	119.31	275.98	5,209.41	767.50	368.88	1,713.38	1,713.38	0.00	227.49	0.00	227.49	0.00	0.00	0.00	0.00	1,639.85	227.49	1,639.85	
POSTAGE OFFICE EXPNS	1,896.43	(326.52)	14.83	282.98	(287.70)	5,189.24	207.87	416.68	5,785.59	678.45	570.36	99.20	1,348.03	763.74	11.88	536.01	1,331.62	18,400.83	1,331.62	18,400.83	
RENT OFFICE RENT	27,001.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	26.32	0.00	26.32	0.00	26.32	0.00	0.00	0.00	55.15	52.76	55.15	52.76	
TELEPHONE OFFICE EXPNS	4,008.11	284.59	0.00	578.77	863.36	303.82	308.51	33.97	643.60	0.00	0.00	0.00	2,822.22	47.06	(57.14)	0.00	(10.08)	2,812.14	2,812.14	2,812.14	
MEETING DUES & MEMBERSHIP OFFICE EXPNS	26,471.44	52,201.90	0.00	370.55	52,972.44	0.00	0.00	0.00	30,899	29,005	52.88	30,899	112.83	59,065	39,611	39,333	138,000	1,757.79	138,000	1,757.79	
BANKING FEES OFFICE EXPNS	43,587.27	0.00	123.95	181.20	285.15	12.73	0.00	17.45	25.18	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	52,572.44	0.00	52,572.44	
INVESTMENT FEES (Beginning 1st Quarter 2009)	0.00	6,787.02	3,189.68	6,725.39	16,702.10	0.00	0.00	776.94	1,498.60	456.08	0.00	1,498.60	1,854.69	0.00	0.00	0.00	0.00	134,833	1,854.69	134,833	
TOTAL ADMINISTRATIVE EXPENSE:	527,105.34	84,858.61	24,617.07	35,472.45	145,048.13	32,760.29	22,634.48	3,852.60	59,277.38	6,798.13	4,391.12	8,227.88	19,416.93	4,061.45	3,532.17	7,518.13	15,131.75	238,874.18	15,131.75	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	24,617.07	35,472.45	145,048.13	32,760.29	22,634.48	3,852.60	59,277.38	6,798.13	4,391.12	8,227.88	19,416.93	4,061.45	3,532.17	7,518.13	15,131.75	238,874.18	15,131.75	238,874.18	



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 2006	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 2007 TOTAL	TOTAL FROM INCEPTION THROUGH 2007		
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	152,224.24	79,931.08	79,931.08	79,931.08	239,793.24	79,931.08	79,931.08	79,931.08	239,793.24	79,931.08	79,931.08	79,931.08	239,793.24	79,931.08	79,931.08	79,931.08	239,793.24	79,931.08	239,793.24	152,224.24	
ALLOCATED EXPENSE PAID	11,554.96	19,789.02	19,789.02	19,789.02	59,367.06	19,789.02	19,789.02	19,789.02	59,367.06	19,789.02	19,789.02	19,789.02	59,367.06	19,789.02	19,789.02	19,789.02	59,367.06	19,789.02	59,367.06	11,554.96	
INDEMNITY RESERVE																					
ALLOCATED EXPENSE RESERVE																					
ADMINISTRATIVE EXPENSE																					
ACCOUNTING PROFESSIONAL SVC	4,980.05	144.86	0.00	0.00	144.86	202.81	396.48	0.00	566.29	0.00	0.00	0.00	0.00	0.00	243.55	0.00	243.55	686.70	5,976.75	0.00	
LEGAL (REPAIRS 1st Quarter 2009) LEGAL	146,446.01	2,579.14	1,900.89	2,103.38	6,483.22	2,614.79	1,537.16	979.38	5,131.33	1,574.62	2,402.55	1,674.69	5,651.86	1,419.26	1,496.87	1,614.06	4,529.89	21,796.40	168,242.41	0.00	
MISCELLANEOUS FEES EMPLOY CONTRACTOR	10,364.14	61.53	0.00	0.00	61.53	23.24	97.81	59.84	190.89	0.00	247.54	45.70	293.24	102.53	162.97	287.40	622.90	1,159.55	12,122.69	0.00	
TRAVEL (Beginning 1st Quarter 2009) TRAVEL	14,699.33	176.10	434.85	210.74	621.69	1.78	390.10	135.66	517.54	235.13	64.85	422.91	722.88	3.42	366.83	65.44	435.69	2,497.80	17,197.13	0.00	
POSTAGE OFFICE EXPNS	1,455.87	0.83	2.68	2.68	5.36	0.53	37.42	49.28	87.21	0.00	0.00	1.00	1.00	0.00	0.00	0.46	2.57	113.26	1,569.93	0.00	
RENT OFFICE RENT	7,997.80	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	1,427.27	9,425.18	0.00	
TELEPHONE OFFICE EXPNS	1,425.58	29.82	30.91	0.00	60.73	0.00	66.71	21.25	90.96	0.00	55.42	0.00	1,427.27	0.00	0.00	0.00	0.00	81.24	324.95	1,750.53	
INCLIG. DUES & MEMBERSHIP OFFICE EXPNS	16,188.35	3,467.87	3.71	0.00	3,471.58	30.72	0.00	0.00	30.72	0.00	0.00	0.00	0.00	0.00	0.00	0.00	15.26	3,917.36	22,105.71	0.00	
BANKING FEES OFFICE EXPNS	26,568.49	187.07	222.80	2,950.93	3,360.80	313.54	228.27	156.32	702.12	0.00	513.76	264.84	778.63	217.30	199.73	202.38	619.42	2,778.06	29,367.55	0.00	
INVESTMENT FEES (Beginning 1st Quarter 2009)																					
TOTAL ADMINISTRATIVE EXPENSE:	232,755.52	7,075.16	2,483.61	2,612.60	12,181.37	3,189.41	2,745.94	1,633.71	7,339.05	1,969.75	4,711.43	2,469.14	8,659.31	1,999.94	2,480.15	2,171.52	6,550.61	35,001.35	267,756.87	0.00	
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	1,000,000.00	0.00	

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 2005	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 2006 TOTAL	TOTAL FROM INCEPTION THROUGH 2006	
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	90,900.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	52,324.24	0.00	0.00	52,324.24	52,324.24	152,222.24	152,222.24
ALLOCATED EXPENSE PAID	10,894.88	0.00	120.00	120.00	240.00	190.00	0.00	0.00	190.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	140.00	660.00	11,554.88	11,554.88
INDEMNITY RESERVE	134,755.32	134,755.32	134,755.32	134,755.32	134,755.32	134,755.32	132,751.32	132,751.32	132,751.32	132,751.32	132,251.32	132,251.32	132,251.32	79,927.08	79,927.08	79,927.08	79,927.08	149,874.16	289,748.32	289,748.32
ALLOCATED EXPENSE RESERVE	30,945.02	30,945.02	30,945.02	31,205.02	31,205.02	31,025.02	23,025.02	23,025.02	23,025.02	23,025.02	20,025.02	24,925.02	24,925.02	11,414.88	24,925.02	19,785.02	11,414.88	11,414.88	11,414.88	11,414.88
ADMINISTRATIVE EXPENSE:																				
ACCOUNTING PROFESSIONAL SVC	3,863.88	215.80	0.00	0.00	215.80	0.00	218.67	0.00	218.67	487.61	0.00	106.30	376.91	114.80	0.00	0.00	114.80	1,126.17	4,990.05	4,990.05
LEGAL (Beginning 1st Quarter 2009) LEGAL	120,199.69	2,580.76	2,823.56	4,981.49	10,385.91	3,585.32	2,683.12	2,438.69	8,727.13	2,555.43	1,298.37	1,278.09	5,132.89	1,377.35	253.88	359.04	1,990.38	26,246.32	146,446.01	146,446.01
MISCELLANEOUS OFFICE EXPNS	9,263.57	142.00	3,592.57	27.46	520.04	0.00	485.11	73.97	529.08	178.42	56.52	90.30	325.24	234.95	69.79	12.47	317.21	1,700.87	10,964.14	10,964.14
TRAVEL (Beginning 1st Quarter 2009) TRAVEL	10,724.63	121.47	29.44	11.91	162.82	614.87	1,651.26	266.23	2,522.36	794.83	143.24	152.29	1,090.37	152.58	4.71	41.85	199.14	3,974.69	14,699.33	14,699.33
OFFICE EXPENSE OFFICE EXPNS	1,123.82	0.59	3.30	4.56	8.44	0.00	12.11	23.97	38.08	106.00	0.16	0.50	106.66	178.16	0.31	0.19	178.67	331.85	1,455.67	1,455.67
RENT OFFICE RENT	7,334.95	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	654.83	0.00	654.83	0.00	0.00	8.12	662.95	7,997.90	7,997.90	
TELEPHONE OFFICE EXPNS	1,104.66	0.00	39.45	46.81	86.27	40.18	30.02	38.46	109.89	36.37	11.52	21.18	69.06	43.39	0.00	12.21	55.60	320.92	1,425.58	1,425.58
MEMBERSHIP OFFICE EXPNS	12,257.80	5,890.28	0.00	0.00	5,890.28	30.00	0.00	0.00	30.00	0.00	0.00	10.48	10.48	0.00	0.00	0.00	10.48	5,930.75	18,188.35	18,188.35
BANK FEES OFFICE EXPNS	23,817.92	263.04	0.00	791.53	1,054.58	0.00	637.82	284.41	922.23	307.20	101.38	149.16	557.75	161.62	30.38	44.01	236.01	2,770.57	26,588.49	26,588.49
INVESTMENT FEES (Beginning 1st Quarter 2009)																				
TOTAL ADMINISTRATIVE EXPENSE:	189,690.73	9,213.94	3,255.42	5,873.77	18,343.13	4,280.37	5,688.44	3,118.73	13,087.53	4,445.86	2,267.03	1,811.30	8,324.20	2,262.84	399.17	477.91	3,099.92	43,064.79	232,755.52	232,755.52
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	1,000,000.00	1,000,000.00



"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.

There 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 \*\*\*\*\*

This message, along with any attachments, may be confidential or legally privileged. It is intended only for the named person(s), who is/are the only authorized recipient(s). If this message has reached you in error, kindly destroy it without review and notify the sender immediately. Thank you for your help.

\*\*\*\*\*



\*\*\*\*\* PLEASE NOTE \*\*\*\*\*

This message, along with any attachments, may be confidential or legally privileged. It is intended only for the named person(s), who is/are the only authorized recipient(s). If this message has reached you in error, kindly destroy it without review and notify the sender immediately. Thank you for your help.

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Home Insurance 3rd Quarter 2010.xls



**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%



**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
5	AZWC Arizona W/C	O	Flat fee based on a % of loss paid, negotiated by AZ Industrial Commission
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.





# 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. Surguine  
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
	15,000.00 * 0.0000 =
	51,274.47 * 0.0000 =
002	66,274.47 * 0.0000 =

*Handwritten notes in table:*  
OK  
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

*Handwritten notes:*  
OK b pay  
MEG  
01/19/06



# 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

*Property and Casualty*  
Arizona 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*



Invoice Number:  
1452

300 North Meridian St.  
Indianapolis, IN 46204  
United States

Invoice Date:  
1/17/08

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 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  
MEJ  
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
<del>2008 NCIGF Dues</del>	67,418.00

Subtotal 67,418.00

Payments applied to this invoice

Make checks payable to the  
National Conference of Insurance Guaranty Funds

TOTAL DUE

67,418.00

OK to pay  
MES  
1/5/09

National Conference  
of Insurance Guaranty Funds **NCIGF**<sup>SM</sup>

**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

Subtotal 63,568.00

Payments applied to this invoice

Make checks payable to the  
National Conference of Insurance Guaranty Funds

TOTAL DUE 63,568.00

*Michael E. Surguine*  
1/1/10



# NATIONAL CONFERENCE OF INSURANCE GUARANTY FUNDS

## MEMORANDUM

To: Guaranty Association Managers

From: Kevin Harris

Date: January 16, 2006

Re: 2006 Dues Billing

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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, though 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.

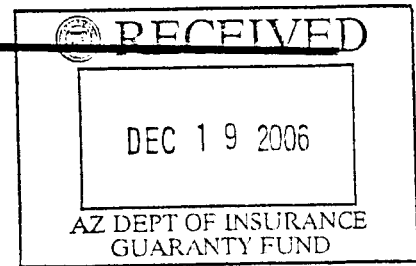
**Thank You**

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



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.

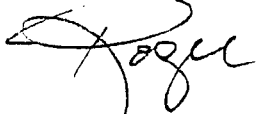
The 2007 budget is fully responsive to the challenges facing the guaranty fund system as well as to requests guaranty fund association members have made of their national organization to achieve a more effective level of communication both internally and externally. Even with only a 1.6 percent increase 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.

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". The signature is fluid and cursive, with a large initial "R" and "S".

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**<sup>SM</sup>

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 horizontal flourish 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
	<u>\$ 432,000,585,303</u>	<u>100.00%</u>	<u>\$ 2,998,019</u>

**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.

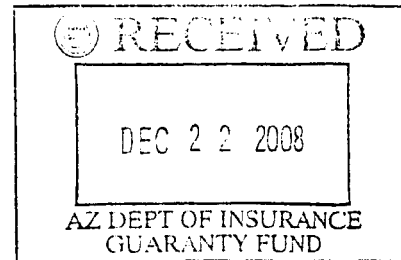
**Data Security.** NCIGF has developed a data security and privacy policy and is taking the leading the effort to build support for such a policy to be implemented by all organizations involved in the handling of insurer insolvencies.

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.



National Conference  
of Insurance Guaranty Funds **NCIGF**<sup>SM</sup>

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.

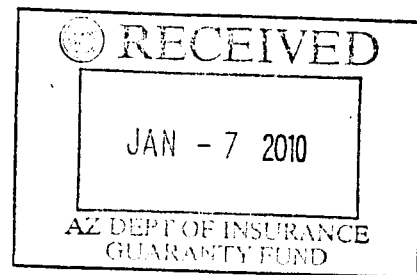
Sincerely,

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

Roger H. Schmelzer  
President & CEO



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 \$141,615 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,

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.

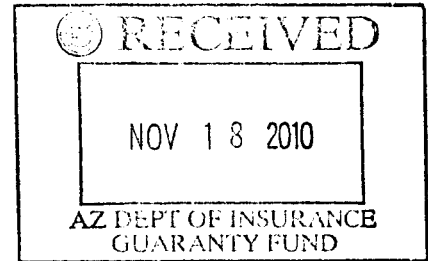
**Outreach, Communications and Education Projects:**

- 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.

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.

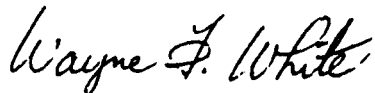
Thank you for your ongoing support of the guaranty fund system. As always, please let us know if you have any questions or comments.



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.

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



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 18, 2011 Roger Schnelzer, 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  
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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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Financial/Liquidation  
Training - Podcast](#)

[UDS D Record  
Financial/Liquidation  
Training - PowerPoint with  
Narrative Notes](#)

[UDS D Record IT Training  
- 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.](#)





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.

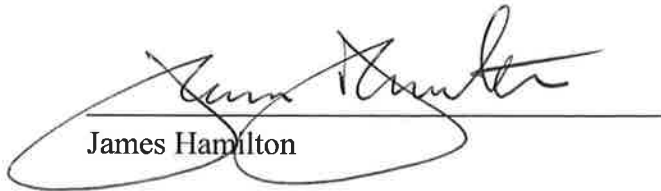
3. I have prepared a chart summarizing the information reported by the Arizona Fund with respect to claimed administrative expenses for 2006 through 2010 and the Liquidator's determinations for those years. That chart is Liquidator's Exhibit 8.

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 8, 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.

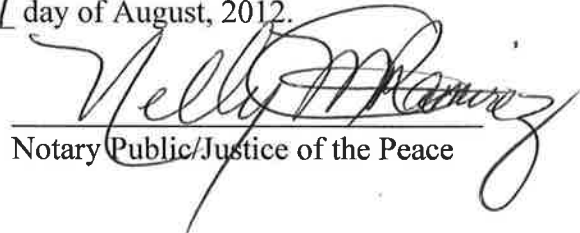
6. In the course of reviewing guaranty association submissions concerning claimed administrative expenses, I keep track of the allocation methodologies used by each guaranty association. I have prepared a chart identifying the methodology used by each guaranty association. That chart is Liquidator's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

Signed under the penalties of perjury this 29<sup>th</sup> day of August, 2012.

  
James Hamilton

STATE OF NEW YORK  
COUNTY OF NEW YORK

Subscribed and sworn to, before me, this 29<sup>th</sup> day of August, 2012.

  
Notary Public/Justice of the Peace

**Nely M. Gomez-Ramirez**  
**Notary Public State of New York**  
**No. 01GO5005271**  
**Qualified in Bronx County**  
**Commission Expires 2/1/2015**