

**IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY, FLORIDA**

IN RE: The Receivership of AMERICAN
SUPERIOR INSURANCE COMPANY, CASE NO.: 04-CA-2353
INC., a Florida Corporation.

_____ /

**RECEIVER'S MOTION FOR ORDER APPROVING DISCHARGE
ACCOUNTING STATEMENT, DIRECTING FINAL DISCHARGE, AND
AUTHORIZING DESTRUCTION OF OBSOLETE RECORDS**

The Florida Department of Financial Services, as Receiver of American Superior Insurance Company, by and through its undersigned counsel, moves this Court for entry of an Order approving the Discharge Accounting Statement, for an Order directing final discharge of the estate, and further moves the Court for an Order authorizing the destruction of obsolete records, and in support of its Motion states as follows:

1. Effective December 15, 2004, the Florida Department of Financial Services was appointed as Receiver in liquidation for American Superior Insurance Company ("Receiver").
2. American Superior Insurance Company ("ASIC"), was a property and casualty insurance company located in the State of Florida.
3. This Court has jurisdiction over the ASIC receivership and is "authorized to make all necessary or proper orders to carry out the purposes of" the Florida Insurers Rehabilitation and Liquidation Act, Section 631.021(1), Florida Statutes.
4. This Court previously entered, among others, an Order Approving Final Claims Report, Claims Distribution Report and Distribution Accounting and Authorizing

Distribution, which was entered on July 25, 2013, and which authorized a distribution of estate assets in the amount of \$884,046.95 on allowed claims in Class 2.

5. Following entry of the above Order, the Receiver made a distribution of 47.90% on approved class 2 claims.

6. Despite the Receiver's best efforts, some approved claims may have inadequate current address information and/or may have not provided the Receiver with a form W-9, required by the Internal Revenue Service. The total unclaimed property in the estate is \$116,776.43.

7. The Receiver recommends that said funds be transferred to the Bureau of Unclaimed Property, Department of Financial Services, as "unclaimed property" pursuant to Section 717.119, Florida Statutes.

8. The Receiver's Discharge Accounting Statement – Projected as of January 2014 (the "Discharge Accounting") is attached hereto as Exhibit "1."

9. As shown in the Discharge Accounting, the estimated value of all assets of the ASIC receivership estate is projected to be \$169,101.58 as of January 31, 2014. See Schedule A to Exhibit 1.

10. The Receiver requests authority to retain \$20,000 as a reserve for "wind up" expenses of the Receivership. The de minimus amounts of any leftover reserve wind up expenses and the remaining balance of funds would make it impractical to make an additional distribution.

11. After the Receiver transfers the funds discussed above to the Department of Financial Services as unclaimed property and pays all of the Receiver's windup

expenses, it is estimated that there will be approximately \$32,325.15 remaining in the estate. The Receiver requests the authority to transfer the actual remaining amount to the Florida Insurance Guaranty Association (“FIGA”).

12. Upon approval of the Receiver’s request for final discharge, the records of the ASIC receivership estate will no longer be needed, and it will be necessary to dispose of the obsolete company records. This request is in direct compliance with Article 1, Section 24, Florida Constitution, Chapters 119 and 257, Florida Statutes, and Chapters 1B-24 and 1B-26.003, Florida Administrative Code.

13. Although such recovery is unlikely, the Receiver requests an order authorizing the Division of Rehabilitation and Liquidation to remit to FIGA any assets which may be recovered following the discharge of this receivership if, in the Division’s discretion, the value of the recovered assets does not justify the reopening of this receivership estate.

14. The Receiver further requests an Order that the Receiver shall be fully and finally discharged of its responsibilities in this Receivership.

WHEREFORE, the Receiver respectfully requests the Court grant this Motion and enter an Order:

- A. Approving and adopting the Receiver’s Discharge Accounting Statement.
- B. Authorizing and directing the Receiver to retain \$20,000 as a reserve for wind up expenses of the Receiver. Any surplus remaining from the \$20,000 after discharge shall be paid to the Florida Insurance Guaranty Association;

- C. Authorizing and directing the Receiver to transfer unclaimed funds to the Department of Financial Services, Bureau of Unclaimed Property, as unclaimed property pursuant to Section 717.119, Florida Statutes;
- D. Authorizing the Receiver, after final discharge, to destroy any obsolete records in the Receiver's possession; and
- E. Directing, without further order of this Court, the final discharge of the Receiver of its responsibilities in this receivership estate as of 11:59 P.M. on January 31, 2014.
- F. Although such recovery is unlikely, authorizing the Division of Rehabilitation and Liquidation to remit to the Florida Insurance Guaranty Association any assets which may be recovered following the January 31, 2014 discharge of this receivership estate if, in the Division's sole discretion, the value of the recovered assets does not justify the reopening of this receivership.

RESPECTFULLY SUBMITTED this 21ST day of January, 2014.



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American Superior Insurance Co.
Discharge Accounting Statement
Projected for Discharge in January 2014

ASSETS

	<u>Amount</u>	
Cash	\$ 169,101.58	Schedule A
Total Assets	<u>\$ 169,101.58</u>	

LIABILITIES

	<u>Recommended Disbursement</u>	
Unclaimed Property to DFS - Outstanding Checks from Distribution Account	\$ 116,776.43	
Total Liabilities	<u>\$ 116,776.43</u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	52,325.15	
Projected Windup Expenses	<u>(20,000.00)</u>	Schedule D
Balance (Any Remaining Funds to the Florida Insurance Guaranty Association)	<u>32,325.15</u>	

Index to Attached Schedules:

- Schedule A - Available Cash Projection
- Schedule B - Allocated State Funds Expensed
- Schedule C - Interest Earnings Projection
- Schedule D - Receiver Windup Expenses
- Schedule E - Contributed Equity from the Regulatory Trust Fund

American Superior Insurance Co.
Available Cash Projection
Projected for Discharge in January 2014

	Cash Balance as of November 30, 2013	Dec-13
Beginning Cash Balance	_____	<u>\$ 111,902.08</u>
Storage, Utilities, Postage, Bank fees		150.00
Sub-total		<u>150.00</u>
Allocated Receiver Expenses		
Labor & Benefits		3,829.00 ¹
Indirect Expenses		34.00 ²
Sub-total		<u>3,863.00</u>
Cash Balance Before Interest Earnings		<u>107,889.08</u>
Cash from Distribution Account		<u>61,120.64</u>
Interest Earnings		
Actual November interest earned on SPIA APR on the previous month's average Pooled Cash		91.86
Ending Cash Balance	<u>\$ 111,895.37</u>	<u>\$ 169,101.58</u>

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

August Actual	4,319.46
Sept Actual	3,577.15
October Actual	3,650.00
November Actual	3,771.12
Sub-total	<u>15,317.73</u>
4 month actual average (rounded)	<u>3,829.00</u>

² Indirect Expenses: This estimate is ASIC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on ASIC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.01%
Estimated Total for the Receiver	<u>\$ 170,000.00</u>
Estimated Expense (doubled for increased activity)	<u>\$ 34.00</u>

American Superior Insurance Co.
Allocated State Funds Expensed (Contributed Equity)
Projected for Discharge in January 2014

	<u>December-13</u>	<u>January-14</u>	<u>Totals</u>
Estimated Accrual of Allocated State of Florida Expenses			
Labor & Benefits	\$ 440.00 ¹	\$ - ¹	\$ 440.00
Indirect Expenses	- ²	- ²	\$ -
Total	<u>\$ 440.00</u>	<u>\$ -</u>	<u>\$ 440.00</u>

Assumptions for Allocated State of Florida Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average.

August Actual	1,120.52
Sept Actual	283.13
October Actual	367.45
November Actual	-
Sub-total	<u>1,771.10</u>
4 month actual average (rounded)	<u>440.00</u>

² Indirect Expenses: This estimate is ASIC's estimated pro rata share of the Receiver's estimated total indirect expenses. The pro rata share calculation is based on ASIC's estimated total assets divided by the Receiver's estimated total assets for all receiverships.

Estimated Total Asset %	0.01%
Estimated Total for the State	\$ 10,000.00
Estimated Expense (rounded)	<u>\$ -</u>

American Superior Insurance Co.
Interest Earnings Projection
Projected for Discharge in January 2014

Interest accrued for December 2013

Beginning cash balance at 12/1/2013	\$ 111,902.08
Ending cash balance at 12/31/2013	169,101.58
Average cash balance for December	140,501.83
Assumed SPIA interest rate (Annualized)	1.00%
Subtotal (Annualized)	1,405.02
Accrual for December (Rounded)	\$ -

Interest accrued for January 2014

Beginning cash balance at 1/1/2014	\$ 169,101.58
Ending cash balance at 1/31/2014	3,829.00
Average cash balance for January	86,465.29
Assumed SPIA interest rate (Annualized)	1.00%
Subtotal (Annualized)	864.65
Accrual for January (Rounded)	\$ -

American Superior Insurance Co.
Receiver Windup Expenses
Projected for Discharge in January 2014

Windup Expenses (Projected)

Records storage, records destruction, bank fees tax returns for 2013-14	\$ 20,000.00
Total	<u><u>\$ 20,000.00</u></u>

Records Destruction	11000
Records Storage	7500
Tax Returns	1500
	20000

American Superior Insurance Company
Statement of Contributed Equity and Advances from Regulatory Trust Fund Estimated Balances
Projected for Discharge in January 2014

I. Contributed Equity Balance as of 11/30/2013	\$ 241,819.73
December Accrual (Estimate from Schedule B)	<u>\$ 440.00</u>
Total	<u>\$ 440.00</u>
Projected Contributed Equity Balance as of 01/31/2014	<u>\$ 242,259.73</u>