

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

In re: THE RECEIVERSHIP of
Florida Select Insurance Company
a Florida corporation

CIVIL CASE NO.: 2006 CA 1669

**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 Florida Select Insurance Company ("Receiver"), hereby files its Discharge Accounting Statement and moves this court for an Order directing final closure of the estate, discharge of the Receiver, and authorizing the destruction of obsolete records. In support of its Motion, the Receiver says:

1. Florida Select Insurance Company ("Florida Select") was a Florida corporation previously authorized to transact business as a property and casualty insurance company in the State of Florida. On June 30, 2006, the Second Judicial Circuit Court in and for Leon County, Florida ("Court"), entered its Order Appointing the Florida Department of Financial Services as Receiver of Florida Select for Purposes of Rehabilitation, Injunction and Notice of Automatic Stay ("Order").
2. This Court has jurisdiction over the Florida Select 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.

3. Since being appointed, the Receiver has conducted and concluded the business affairs of Florida Select, including, but not limited to the sale of the book of business, the collection of assets, and the payment of claims. No policies have been in force since 2007 and the deadline/statute of limitations for filing a claim has long since passed.

4. All known assets have been collected, where it was cost effective to do so. The last Open claim against Florida Select was recently concluded. Therefore, the estate is ready for closure.

5. Prior to being placed in Receivership, Florida Select was part of Insurance Company Holding System. The parent company of the group was Vesta Insurance Group, Inc. (VIG). VIG owned 100% of the stock of Vesta Fire Insurance Corporation (hereinafter "Vesta Fire"). Vesta Fire in turn, owned 100% of the stock of Florida Select.

6. Vesta Fire, a Texas domestic insurer, was placed in Receivership for purposes of rehabilitation on June 28, 2006, by an Agreed Order entered by the 126th Judicial District Court of Travis County, Texas.

7. On August 1, 2006, Vesta Fire was ordered into Liquidation by this same court.

8. On August 8, 2006, VIG entered Chapter 11 Bankruptcy proceedings in the Southern Division (Birmingham) of the United States Bankruptcy Court for the Northern District of Alabama.

9. The companies in the Vesta Insurance Group were participants in parties to numerous reinsurance agreements both internal and external. By Order entered January 23, 2009, this court approved the settlement and Release Agreement. This agreement was subsequently amended on January 24, 2013. Collectively, the agreements allowed Florida Select

to receive funds for the payment of policyholder claims from the reinsurance proceeds, and settle the various insurers claims to the reinsurance proceeds.

10. The agreement contemplates upon the closure of the Florida Select estate and this motion proposes, that any remaining funds in the Florida Select estate be paid to the Receiver of Vesta Fire.

11. During the Receivership, approximately \$155,185.47 in checks were issued which were not cashed prior to the expiration date, and remain unclaimed. A diligent search to locate the payees due these funds has proven unsuccessful. The Receiver has compiled an unclaimed property report pursuant to Section 717.117, Florida Statutes listing those payees the Receiver could not locate along with all available information concerning the payees.

12. On June 18th 2013, the Receiver transferred said unclaimed funds to the Department of Financial Services as "unclaimed property" pursuant to Section 717.119, Florida Statutes.

13. The Receiver's *Discharge Accounting Statement- Projected as of June 30, 2013* (the "Discharge Accounting") is attached hereto and made a part hereof as Exhibit "A".

14. As shown in the *Discharge Accounting*, the estimated value of all assets of the Florida Select receivership estate is projected to be \$596,325.89 as of June 30, 2013.

15. The Receiver requests authority to retain \$20,000.00 as a reserve for "wind up" expenses of the Receivership.

16. The remaining balance (approximately \$576,325.89) should be forwarded to the Receiver of Vesta Fire, Florida Select's sole shareholder.

17. Upon approval of the Receiver's request for final discharge, the records of the Florida Select 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.

18. Although such recovery is unlikely, the Receiver requests an order authorizing the Division of Rehabilitation and Liquidation to remit to the Receiver of Vesta Fire Insurance Corporation, any assets which may be recovered following the closure of this receivership.

19. Upon the closure of the VFIC estate, any assets recovered by Florida Select shall be remitted as directed by the Order closing the Vesta Fire Insurance Corporation estate. If no provisions for the disposition of after-acquired assets is made by that court, any such assets shall be remitted to the Regulatory Trust Fund.

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

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

A. Authorizing and directing the Receiver to transfer unclaimed funds to the Department of Financial Services as "unclaimed property" pursuant to Section 717.119, Florida Statutes;

B. Approving and adopting the Receiver's Discharge Accounting Statement;

C. Authorizing and directing the Receiver to retain \$20,000.00 as a reserve for "wind up" expenses of the Receiver. Any surplus remaining from the \$20,000.00 shall be paid to the Receivership of VFIC;

D. Authorizing and directing the Receiver to transfer the funds remaining in the

estate (approximately \$576,325.89) to the Receiver of VFIC as directed;

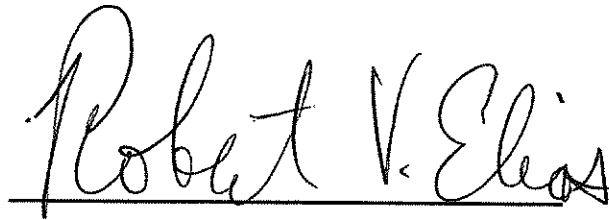
E. Authorizing the Receiver, after final discharge, to destroy any obsolete records in the Receiver's possession; and

F. Directing, without further order of this Court, the final discharge of the Receiver and the closure of the estate of its responsibilities in this receivership estate as of 12:01 a.m. on June 30, 2013 nunc pro tunc.

G. Although such recovery is unlikely, authorizing the Division of Rehabilitation and Liquidation to remit to the VFIC Receiver any assets which may be recovered following the June 30, 2013 discharge of this receivership estate.

H. Upon the closure of the VFIC estate, any assets recovered by Florida Select shall be remitted as directed by the Order closing the Vesta Fire Insurance Corporation estate. If no provisions for the disposition of after-acquired assets is made by that court, any such assets shall be remitted to the Regulatory Trust Fund.

DATED this day of June, 2013.

A handwritten signature in black ink that reads "Robert V. Elias". The signature is written in a cursive style and is positioned above a solid horizontal line.

Robert V. Elias, Chief Attorney
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Florida Select Ins. Co.
Available Cash Projection
Projected for Discharge as of June 30, 2013

| | Cash Balance as of May 31, 2013 | Jun-13 |
|-----------------------------------------------------------------------------------|------------------------------------|-----------------------|
| Beginning Cash Balance | \$ 767,445.46 | \$ 767,445.46 |
| FLDFS - Bureau of Unclaimed Property | | \$ 155,185.47 |
| Direct Receiver Expenses | | |
| Storage, Utilities, Postage, Bank Fees | | 450.00 |
| Sub-total | | <u>450.00</u> |
| Allocated Receiver Expenses | | |
| Actual May Receiver's Expenses | | 9,633.00 |
| Labor & Benefits - June Estimate | | 6,149.00 ¹ |
| Indirect Expenses | | 330.00 ² |
| Sub-total | | <u>16,112.00</u> |
| Cash Balance Before Interest Earnings | | <u>595,697.99</u> |
| Interest Earnings | | |
| Actual interest earned on SPIA APR on the previous month's average Pooled Cash | | 627.90 |
| Ending Cash Balance | <u>\$ 767,445.46</u> | <u>\$ 596,325.89</u> |

Assumptions for Allocated Receiver Expenses:

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

| | |
|----------------------------------|------------------|
| February Actual | 16,702.00 |
| March Actual | 2,388.00 |
| April Actual | 5,507.00 |
| May Actual | 2,388.00 |
| Sub-total | <u>24,597.00</u> |
| 4 month actual average (rounded) | <u>6,149.00</u> |

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

| | |
|----------------------------------------------------|------------------|
| Estimated Total Asset % | 0.10% |
| Estimated Total for the Receiver | \$ 165,000.00 |
| Estimated Expense (doubled for increased activity) | <u>\$ 330.00</u> |

Note (1): Per the Receiver's Policy R3-6.11, Advance from Regulatory Trust Fund, this amount will be recorded as a liability and will be reimbursed prior to making distribution for any other claimants.