

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

CIVIL ACTION NO.: 2004-507

In Re: The Receivership of
CUMBERLAND CASUALTY & SURETY
COMPANY, a Florida Corporation
authorized to transact an insurance
business in Florida.

COPY - not verified against original

**RECEIVER'S MOTION FOR APPROVAL OF FINAL CLAIMS REPORT,
CLAIMS DISTRIBUTION REPORT, DISTRIBUTION ACCOUNTING AND FOR
ORDER AUTHORIZING DISTRIBUTION**

Comes now the Florida Department of Financial Services, as Receiver of Cumberland Casualty & Surety Company (hereinafter "Receiver"), by and through its undersigned counsel, hereby respectfully moves this Honorable Court for an Order approving the Receiver's Final Claims Report, Claims Distribution Report and Distribution Accounting and for an Order Authorizing Distribution, and in support of its Motion states as follows:

1. Cumberland Casualty & Surety Company ("Cumberland") was a corporation authorized to transact business in the state of Florida as a domestic property and casualty insurer. Cumberland's corporate office and principal place of business were located at 4311 W. Waters Avenue, Tampa, FL 33614.

2. On February 26, 2004, this Court entered the Consent Order Appointing the Florida Department of Financial Services as Receiver of Cumberland for Purposes of Rehabilitation, Injunction and Notice of Automatic Stay (hereinafter the "Consent Order").

3. This Court has jurisdiction over the Receivership and is authorized to enter all necessary and/or proper orders to carry out the purpose of the Florida Insurers Rehabilitation and Liquidation Act, Section 631.021(1), Florida Statutes.

4. On July 29, 2009, the Receiver filed its Status Report and Motion for Approval of Rehabilitation Plan. This Court entered the Order Approving the Receiver's Status Report and Plan of Rehabilitation on July 30, 2009.

5. Pursuant to the Plan of Rehabilitation, a claims filing deadline was set for one hundred eighty (180) days from the date this Court signed the Order approving the plan. Ultimately, the claims filing deadline was set for January 26, 2010 at 11:59 p.m. Further, any claims not submitted on or before the deadline, were to be denied.

6. On April 14, 2010, after the claims filing deadline had passed, the staff at Cumberland produced the final draft of the Global Claims Report, which reflects amounts claimed as well as the amount recommended by the Receiver.

7. One hundred fifty three (153) claims were timely filed in the Cumberland estate. The total amount of the claims was \$7,977,803.62. The total amount recommended by the Receiver was \$5,900,700.43. On April 28, 2010, this Court entered an Order Approving the Global Claims Report.

8. Pursuant to Section 631.182 (1), Florida Statutes, the Receiver provided claimants notice of its recommendations on their claim. The deadline for filing objections was June 11, 2010. Several Objections were filed within the allotted time period, but the objections were subsequently resolved. After the objections were resolved, the new recommended amount was revised to \$6,511,700.43.

9. Several of the claimants on the Global Claim Report were from the State of Oregon ("Oregon"). Pursuant to Oregon Law, and for the protection of the Oregon insurance buying public, Oregon required Cumberland place a special deposit with its department of insurance before it was allowed to transact insurance business in Oregon.

10. At the time the Global Claims Report was drafted, Oregon held approximately \$290,715.16 in a cash special deposit. It was Oregon's intention that these funds be used primarily for the benefit of the Cumberland claimants in Oregon. Any surplus funds would then be allocated to the Receiver for inclusion in the general Cumberland receivership monies.

11. Pursuant to Section 631.191, Florida Statutes, the owner of special deposit claims against an insurer, in this case Cumberland, shall be given priority against their special deposit in accordance with the provisions of the statutes governing the creation and maintenance of such deposit. For all intents and purposes, it is a "secured" claim. In this case, there were a total of 14 Oregon claimants entitled to be paid from the special deposit held by the Oregon Department of Insurance. Pursuant to Oregon law, they were entitled to be paid prior to the release of the surplus to the Receiver.

12. In October of 2010, the Receiver entered into an agreement with Oregon whereby Oregon would transfer the aforementioned funds to the Receiver. The Receiver would then be authorized to use the special deposit assets for full payment of any surety special deposit claims made by or on behalf of Oregon claimants, as well as any administrative expenses associated with the payment of these claims. If the special deposit assets exceeded the full amount of the Oregon special deposit, the balance

remaining would be transferred to the Receiver for inclusion in the general assets of the Cumberland estate. *A copy of the Agreement is attached as Exhibit "A."*

13. On December 14, 2010, the Receiver prepared 14 distribution checks for the Oregon claimants totaling \$250,867.57. The checks were mailed on December 17, 2010. All remaining funds were transferred to the Receiver for inclusion in the general assets of the Cumberland estate.

14. In addition, the Receiver was holding cash collateral for two secured claims. One was in the amount of \$30,025.72. The check for this claim was also prepared on December 14, 2010, and mailed on December 17, 2010. The other cash collateral claim was for \$8,811.54. The Receiver issued the check on August 5, 2010 and it was cashed in September of 2010.

15. To date, the remaining claims on the Global Claims Report have not been paid. The Receiver is proposing a distribution at the end of May or beginning of June 2011.

16. The Receiver's Final Claims Report is extremely detailed and contains non public personal information, including personally identifiable financial information, relating to the claimants. Pursuant to Federal Law, specifically the Gramm-Leach-Bliley Act, 15 USC 6801 (Act"), there is an obligation to protect the security and confidentiality of an individual's non public personal information.

17. In furtherance of the act's purpose, and in order to protect the claimants of the Cumberland estate, the Receiver has not attached a copy of the Final Claims Report. Instead, the Receiver has inserted a summary page reflecting the total of the amounts claimed and the amounts recommended by the Receiver. Upon this Court's request, the

Receiver would immediately provide to the Court a full copy of the Final Claims Report.

A copy of the summary is attached as Exhibit "B."

18. The Final Claims Report reflects the total amount of all claims filed, which is 153 claims in the amount of \$7,977,803.62. The total amount of claims recommended by the Receiver is \$6,511,700.43. The total amount claimed is the same as on the Global Claims Report. The amount recommended has been revised to include any claim objections that were resolved.

19. With the approval of the Receiver's Final Claims Report, the Receiver is now in a position to make a distribution of receivership assets. Said assets will be distributed to claimants in accordance with the Claims Distribution Report. As is the case with the Final Claims Report, the Claims Distribution Report ("CDR") extremely detailed and contains non public personal information, including personally identifiable financial information, relating to the claimants and can immediately be made available to the Court upon request.

20. The CDR lists the 107 claims filed in the amount of \$6,807,447.94. The total amount recommended for payment is \$6,221,995.60. The CDR is comprised of all the claims filed on the Global Claims Report minus the Oregon claims, the two secured cash collateral claims, and the claims that were recommended at zero by the Receiver.

21. Based upon the Claim Distribution Listing, the Receiver is prepared to make a distribution of \$3,183,596.05 to all claimants. The total distribution of \$3,183,596.05 represents a distribution of 51.1668% of the recommended claim amount for all claims. The Claims Distribution Listing, with the claimants' names redacted for privacy in accordance with the Gramm Leach Bliley Act. The Claims Distribution Listing

is an abbreviated listing of all claims on the CDR. *A Copy of the Claims Distribution Listing is attached as Exhibit "C."*

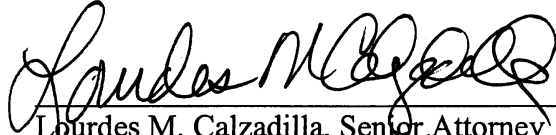
22. The Receiver has prepared a Distribution Accounting, which reflects all expenses and asset balances from the date of distribution through the projected discharge of the Cumberland receivership estate. *A copy of the Distribution Accounting is attached as Exhibit "D."*

23. The Receiver recommends that the Final Claims Report, Claims Distribution Report and Distribution Accounting be approved.

24. Despite the Receiver's best efforts, some approved claims may have inadequate current address information, and/or may not have provided the Receiver with a W-9 form, required by the Internal Revenue Service. The Receiver asks for authority to remit the funds due to these claimants to the Unclaimed Property Bureau of the Florida Department of Financial Services.

WHEREFORE the Receiver respectfully requests this Court grant this Motion and enter an Order approving the Final Claims Report, Claims Distribution Report and Claims Distribution Accounting, and directing the Receiver to make the above referenced distribution to the claimants in this receivership.

SUBMITTED this 18 day of May, 2011.



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**AGREEMENT TO HANDLE CLAIMS OF OREGON
RESIDENTS AGAINST OREGON SPECIAL DEPOSIT**

THIS AGREEMENT is made as of the date of last signature or approval required herein, by and between the Florida Department of Financial Services ("Department"), Division of Rehabilitation and Liquidation, as Receiver of Cumberland Casualty & Surety Company ("Cumberland"), and Cory Streisinger, Director, Department of Consumer and Business Services (Director), solely in her capacity as the Ancillary Receiver of Cumberland;

WHEREAS, by Order entered February 26, 2004, the Circuit Court for Leon County, Florida, (Domiciliary Court) placed Cumberland in receivership and appointed the Department as Receiver; and

WHEREAS, by Order entered September 22, 2010, the Marion County Circuit Court, Oregon (Oregon Court) appointed the Director as Ancillary Receiver pursuant to ORS 734.200(2) and charged her with taking possession of certain special deposits made by Cumberland pursuant to ORS 731.624. The Order also directed that the Ancillary Receiver administer special deposit claims of Oregon residents against Cumberland and make payments thereon from the special deposit; and

WHEREAS, on July 30, 2009, the Domiciliary Court approved a Status Report and Motion for Approval of Plan of Rehabilitation filed by the Receiver that established a claims filing deadline of January 26, 2010, which bars any claim after said date; and

WHEREAS, as of June 30, 2010, the special deposit assets consisted of cash totaling \$290,715.16 allocated to surety insurance; and

NOW, THEREFORE, in consideration of the foregoing, the Receiver and Ancillary Receiver agree as follows:

1. The Ancillary Receiver will cause the special deposit assets designated for surety insurance to be transferred to the Receiver on or after the effective date of this Agreement. The Ancillary Receiver will submit to the Receiver an accounting for already incurred costs of administration, which the Receiver will pay from the special deposit proceeds before processing surety special deposit claims. In the event that the Ancillary Receiver incurs additional costs for administration in the future, the Ancillary Receiver will submit to the Receiver an accounting for such costs. One month prior to the distribution of the remaining funds by the Receiver, the Receiver will contact the Ancillary Receiver to determine if any additional expenses have been incurred and are due to the Ancillary Receiver. Once those expenses have been paid the Ancillary Receiver agrees that it will not submit invoices or expect payment of any administrative expenses incurred after the Receiver notifies it of the upcoming distributions.

2. The Receiver shall provide to the Ancillary Receiver a listing of all open claims, including the amount claimed, and the proposed payment amount. It is understood

and agreed that proof of claim forms were previously mailed by the Receiver to all known and/or potential Oregon claimants and that certain claims were filed by these Oregon claimants. The Receiver has evaluated the Oregon claimants' claims and provided all Oregon claimants with a Notice of Determination ("NOD") advising of the claimants' right to object to the claim amount/priority as recommended by the Receiver. The NOD gave a thirty (30) day deadline for objecting which was June 11, 2010. There are no unresolved objections regarding Oregon claimants.

3. Upon the transfer contemplated in paragraph 1, the Receiver will cause the special deposit assets to be deposited in an interest-bearing account in the Special Purpose Investment Account (SPIA) separate from the general assets of Cumberland. The parties agree that, upon such transfer, the Receiver will have the authority to use, and will use, the special deposit assets or proceeds for the full payment of any surety special deposit claims made by or on behalf of Oregon claimants, in accordance with Chapter 631, Florida Statutes, Oregon Law, and the Plan of Rehabilitation as approved by the Leon County Florida Circuit Court on July 30, 2009.

4. In the event that the special deposit funds are insufficient to pay the full amount of the Oregon special deposit claims, as allowed, Oregon claimants shall not be entitled to pursue any unpaid amount of their claims against the general assets of Cumberland held by the Receiver. The claim liability as to the Receiver shall be extinguished. If the special deposit assets exceed the full amount of the Oregon special deposit claims, as allowed, the balance remaining shall be transferred to the Receiver for inclusion in the general assets of the Cumberland estate, as contemplated by ORS 734.240(2) and ORS 731.648.

5. The Receiver may deduct from the special deposit assets, or their liquidated proceeds, the costs of administering the Oregon special deposit designated for surety, including, but not limited to, claims processing.

6. The Receiver shall prepare an accounting of assets remitted from the Ancillary Receiver, interest earned thereon, and provide said accounting to the Ancillary Receiver.

7. This Agreement will become valid upon approval by the Ancillary Receiver, the Receiver, and the Oregon Court. In the event each approval is obtained, the Agreement is effective on the date of the last approval. In the event any of the approvals is not obtained, it shall be null and void as to the parties.

8. Upon completion of the Ancillary Receivership proceeding, the Ancillary Receiver shall furnish to the Receiver a certified copy of the order terminating the Ancillary Receivership.

9. This Agreement shall survive the closing and discharge of the Ancillary Receivership and shall terminate upon the final distribution and closing of the Cumberland Receivership.

Cory Streisinger, Director
Department of Consumer and Business Services,
solely in her capacity as Ancillary Receiver of
Cumberland Casualty & Surety Company

C. Sha’Ron James,
Department of Financial Services,
as Receiver of Cumberland Casualty
& Surety Co.

Date: _____

Date: _____

FINAL CLAIMS REPORT – SUMMARY

- Total # Filed Claims: 153
- Total Amount Claimed: \$7,977,803.62
- Total Amount Recommended: \$6,511,700.43

Claim Distribution Listing
For Company # 501
CUMBERLAND CASUALTY AND SURETY COMPANY

04/19/11
12:36:48

Parameters used for Distribution Processing

		GF	Non-GF
Post Period	07-2011		
	Class 1 Percentage	000.00	000.00
	Class 2 Percentage	000.00	51.1668
Doc Date	04/19/11		
	Class 3 Percentage	000.00	51.1668
	Class 4 Percentage	000.00	000.00
	Class 5 Percentage	000.00	000.00
	Class 6 Percentage	000.00	51.1668
	Class 7 Percentage	000.00	000.00
	Class 8 Percentage	000.00	000.00
	Class 9 Percentage	000.00	000.00
	Class 10 Percentage	000.00	000.00
	Secured Percentage	000.00	000.00

Claim Distribution Listing

04/19/11

For Company # 501

CUMBERLAND CASUALTY AND SURETY COMPANY

Vendor#	Claim No.	Claimant Name	Amount Due Claimant	Check Amount
0000091000	MISC7001	[REDACTED]	\$1,425.70	\$729.4900
0000091001	MISC7005	[REDACTED]	\$3,076,633.00	\$1,574,214.6500
0000091002	3134	[REDACTED]	\$1,000.00	\$511.6700
0000091003	N5010	[REDACTED]	\$1,200.00	\$614.0000
0000091004	2983	[REDACTED]	\$1,730.22	\$885.3000
0000091005	3133	[REDACTED]	\$2,000.00	\$1,023.3400
0000091006	2930	[REDACTED]	\$2,215.00	\$1,133.3400
0000091007	2883	[REDACTED]	\$2,285.50	\$1,169.4200
0000091008	2712	[REDACTED]	\$2,459.93	\$1,258.6700
0000091009	2700	[REDACTED]	\$3,000.00	\$1,535.0000
0000091010	2284	[REDACTED]	\$3,432.50	\$1,756.3000
0000091011	2737	[REDACTED]	\$3,541.21	\$1,811.9200
0000091012	2832	[REDACTED]	\$4,065.38	\$2,080.1200
0000091013	N5006	[REDACTED]	\$4,300.00	\$2,200.1700
0000091014	2592	[REDACTED]	\$4,400.00	\$2,251.3400
0000091015	N5009	[REDACTED]	\$5,000.00	\$2,558.3400
0000091016	3152	[REDACTED]	\$6,400.00	\$3,274.6800
0000091017	N5002	[REDACTED]	\$7,500.00	\$3,837.5100
0000091018	N5008	[REDACTED]	\$7,500.00	\$3,837.5100
0000091019	N5014	[REDACTED]	\$7,500.00	\$3,837.5100
0000091020	N5004	[REDACTED]	\$7,500.00	\$3,837.5100
0000091021	N5012	[REDACTED]	\$7,500.00	\$3,837.5100
0000091022	N5015	[REDACTED]	\$7,500.00	\$3,837.5100
0000091023	N5007	[REDACTED]	\$7,500.00	\$3,837.5100
0000091024	2558	[REDACTED]	\$7,600.00	\$3,888.6800
0000091025	2617	[REDACTED]	\$8,000.00	\$4,093.3400
0000091026	3041	[REDACTED]	\$8,097.58	\$4,143.2700
0000091027	2668	[REDACTED]	\$8,202.72	\$4,197.0700
0000091028	3050	[REDACTED]	\$10,000.00	\$5,116.6800
0000091029	3058	[REDACTED]	\$10,000.00	\$5,116.6800
0000091030	3071	[REDACTED]	\$12,810.00	\$6,554.4700
0000091031	3135	[REDACTED]	\$15,000.00	\$7,675.0200
0000091032	3136	[REDACTED]	\$15,000.00	\$7,675.0200
0000091033	3143	[REDACTED]	\$15,000.00	\$7,675.0200
0000091034	3131	[REDACTED]	\$15,000.00	\$7,675.0200
0000091035	3102	[REDACTED]	\$16,000.00	\$8,186.6900
0000091036	2636	[REDACTED]	\$20,000.00	\$10,233.3600
0000091037	2743	[REDACTED]	\$20,200.00	\$10,335.6900
0000091038	1476	[REDACTED]	\$20,838.96	\$10,662.6300
0000091039	3043	[REDACTED]	\$22,700.00	\$11,614.8600
0000091040	2283	[REDACTED]	\$24,095.00	\$12,328.6400
0000091041	3163	[REDACTED]	\$30,000.00	\$15,350.0400
0000091042	33	[REDACTED]	\$34,652.47	\$17,730.5600
0000091043	1541	[REDACTED]	\$35,720.35	\$18,276.9600
0000091044	3072	[REDACTED]	\$42,000.00	\$21,490.0600
0000091045	3099	[REDACTED]	\$50,000.00	\$25,583.4000
0000091046	3141	[REDACTED]	\$58,000.00	\$29,676.7400
0000091047	3140	[REDACTED]	\$60,000.00	\$30,700.0800

Claim Distribution Listing

04/19/11

For Company # 501

CUMBERLAND CASUALTY AND SURETY COMPANY

Vendor#	Claim No.	Claimant Name	Amount Due Claimant	Check Amount
0000091048	1845	[REDACTED]	\$73,183.73	\$37,445.7700
0000091049	2018	[REDACTED]	\$106,562.72	\$54,524.7300
0000091050	988	[REDACTED]	\$142,578.00	\$72,952.6000
0000091051	1705	[REDACTED]	\$611,000.00	\$312,629.1500
0000091052	1172	[REDACTED]	\$1,541,094.03	\$788,528.5000
0000091053	RP6021	[REDACTED]	\$19.00	\$9.7200
0000091054	RP6006	[REDACTED]	\$29.00	\$14.8400
0000091055	RP6051	[REDACTED]	\$33.00	\$16.8900
0000091056	RP6011	[REDACTED]	\$34.00	\$17.4000
0000091057	RP6053	[REDACTED]	\$34.00	\$17.4000
0000091058	RP6008	[REDACTED]	\$45.00	\$23.0300
0000091059	RP6004	[REDACTED]	\$52.00	\$26.6100
0000091060	RP6005	[REDACTED]	\$54.00	\$27.6300
0000091061	RP6023	[REDACTED]	\$59.00	\$30.1900
0000091062	RP6024	[REDACTED]	\$59.00	\$30.1900
0000091063	RP6014	[REDACTED]	\$61.00	\$31.2100
0000091064	RP6015	[REDACTED]	\$61.00	\$31.2100
0000091065	RP6019	[REDACTED]	\$61.00	\$31.2100
0000091066	RP6000	[REDACTED]	\$68.60	\$35.1000
0000091067	RP6041	[REDACTED]	\$71.00	\$36.3300
0000091068	RP6018	[REDACTED]	\$72.00	\$36.8400
0000091069	RP6013	[REDACTED]	\$77.00	\$39.4000
0000091070	RP6017	[REDACTED]	\$78.00	\$39.9100
0000091071	RP6062	[REDACTED]	\$84.00	\$42.9800
0000091072	RP6064	[REDACTED]	\$84.00	\$42.9800
0000091073	RP6025	[REDACTED]	\$87.00	\$44.5200
0000091074	RP6056	[REDACTED]	\$89.00	\$45.5400
0000091075	RP6063	[REDACTED]	\$93.00	\$47.5900
0000091076	RP6009	[REDACTED]	\$95.00	\$48.6100
0000091077	RP6039	[REDACTED]	\$103.00	\$52.7000
0000091078	RP6012	[REDACTED]	\$103.00	\$52.7000
0000091079	RP6003	[REDACTED]	\$104.00	\$53.2100
0000091080	RP6055	[REDACTED]	\$108.00	\$55.2600
0000091081	RP6061	[REDACTED]	\$121.00	\$61.9100
0000091082	RP6036	[REDACTED]	\$124.00	\$63.4500
0000091083	RP6050	[REDACTED]	\$133.00	\$68.0500
0000091084	RP6047	[REDACTED]	\$136.00	\$69.5900
0000091085	RP6040	[REDACTED]	\$137.00	\$70.1000
0000091086	RP6057	[REDACTED]	\$138.00	\$70.6100
0000091087	RP6007	[REDACTED]	\$143.00	\$73.1700
0000091088	RP6020	[REDACTED]	\$148.50	\$75.9800
0000091089	RP6049	[REDACTED]	\$150.00	\$76.7500
0000091090	RP6054	[REDACTED]	\$150.00	\$76.7500
0000091091	RP6058	[REDACTED]	\$150.00	\$76.7500
0000091092	RP6060	[REDACTED]	\$152.00	\$77.7700
0000091093	RP6043	[REDACTED]	\$234.00	\$119.7300
0000091094	RP6038	[REDACTED]	\$245.00	\$125.3600
0000091095	RP6059	[REDACTED]	\$245.00	\$125.3600

Claim Distribution Listing

04/19/11

For Company # 501

CUMBERLAND CASUALTY AND SURETY COMPANY

Vendor#	Claim No.	Claimant Name	Amount Due Claimant	Check Amount
0000091096	RP6034	[REDACTED]	\$254.00	\$129.9600
0000091097	RP6033	[REDACTED]	\$266.00	\$136.1000
0000091098	RP6042	[REDACTED]	\$302.00	\$154.5200
0000091099	RP6035	[REDACTED]	\$375.00	\$191.8800
0000091100	RP6037	[REDACTED]	\$400.00	\$204.6700
0000091101	RP6044	[REDACTED]	\$428.00	\$218.9900
0000091102	RP6032	[REDACTED]	\$493.00	\$252.2500
0000091103	RP6046	[REDACTED]	\$575.00	\$294.2100
0000091104	RP6045	[REDACTED]	\$696.00	\$356.1200
0000091105	RP6029	[REDACTED]	\$1,352.00	\$691.7800
0000091106	RP6028	[REDACTED]	\$1,606.50	\$821.9900

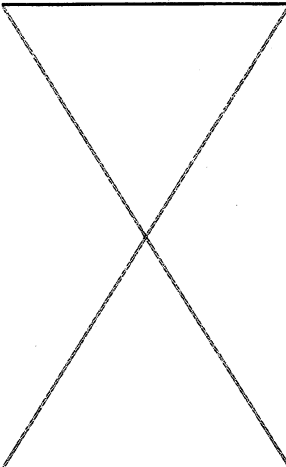
Total Distribution Records: 107

Incomplete W9 or NBA Records : 0

Total Amount Due Claimants \$6,221,995.60

Total Amount to be distributed to Claimants \$3,183,596.05

Cumberland Casualty & Surety Company
Available Cash Projection
Projected for an April 2011 Distribution

	Cash Balance as of March 31, 2011
Beginning Cash Balance	
Cash Increases	
Investment Income	
Sub-total	
Operating Expenses	
FLDFS Receiver's Expenses	
Allocated Receiver Expenses	
Sub-total	
Disribution of Collateral	
Ending Cash Balance	

(1) Total of SPIA - General account and interest from the SPIA - Collateral account.

Cumberland Casualty & Surety Company
Receiver Discharge Expenses
Post September 2011

Discharge Expenses (Projected)

Records Storage, Records Destruction, Labor &
2010-11 Final Tax Returns

<u>\$</u>	<u>9,000.00</u>
<u>\$</u>	<u>9,000.00</u>

Total

Records storage 3 months @ \$425/month = \$1,275
Records Destruction Tampa & Tallahassee \$2000
2011 tax return = \$2650
Final Oregon Administrative Fees \$3,000