

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

In re: THE RECEIVERSHIP of
Superior Insurance Company

CIVIL CASE NO.:2003 CA 1979

**RECEIVER'S MOTION FOR ORDER APPROVING DISCHARGE ACCOUNTING
STATEMENT, DIRECTING FINAL DISCHARGE AND CLOSURE, DIRECTING
PAYMENT OF REMAINING ESTATE FUNDS, PROVIDING FOR DISPOSITION
OF ASSETS RECEIVED AFTER CLOSURE, AND AUTHORIZING DESTRUCTION
OF OBSOLETE RECORDS**

THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES, as Receiver of Superior 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. Superior Insurance Company ("Superior") was a Florida corporation previously authorized to transact business as a property and casualty insurance company in the State of Florida. On August 29, 2003, 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 Superior for Purposes of Rehabilitation, Injunction and Notice of Automatic Stay ("Order").

2. This Court has jurisdiction over the 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 Superior, including, but not limited to, the collection of assets, and the payment of claims. No policies have been in force since 2004 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 policy-related claims against Superior have been concluded. Therefore, the estate is ready for closure.

5. As reflected in the attached Discharge Accounting Statement, included as Attachment A. Superior has a surplus of approximately \$11,801,782.00, after projected expenses are considered.

6. Prior to being placed in Receivership, Superior was part of an Insurance Company Holding System. Superior was owned by Superior Insurance Group, Inc., which was/is a wholly subsidiary of Symons International Group Inc.

7. Certain parties: Continental Casualty Company (CCC) and 1911 Holdings LLC, and Bradford T Whitmore as Special Trustee under the Amended and Restated Declaration of Trust have filed claims against Superior and/or its affiliates, officers, directors, shareholders, immediate, intermediary and ultimate parent corporations.

8. These claims are pending in the United States District Court for the Southern District of Indiana in consolidated case numbers: 1:01-CV-00799 –RLY-MJD and 1:09-CV-00391-RLY-TAB.

9. The Receiver previously recommended to this court that in the interest of judicial economy, these non-policy-related claims should be considered and decided by that Federal

Court, rather than duplicating the effort and possibly reaching an inconsistent resolution in the Receivership court.

10. On September 4, 2012, this Court entered its Order Approving Receivers Motion for Approval of Windup and Termination Plan for Superior Insurance Company. A copy of this Order is included as Attachment B.

11. That Order directs the Receiver to take steps to conclude the Receivership, including but not limited to:

- a. The payment of funds eligible for escheat;
- b. The collection of statutory deposits;
- c. The payment of attorney's fees owed of Insurance Regulation
- d. The dissolution of the corporate entities;
- e. The destruction of obsolete records; and

f. The filing an Interpleader action in the related consolidated cases pending in the Indiana Federal Court to place in the registry of that Court, the remaining surplus of Superior Insurance Company (net of wind-up expenses) for determination by that Court as to the entitlement of the surplus.

12. The Receiver has calculated/completed all the above activities.

13. On October 28, 2013, the Indiana Court entered its Order on First Stage of Florida Department of Financial Services' Complaint for Interpleader included as Attachment C.

14. With the entry of that Order, the Estate is ready for closure.

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

- a. Approving and adopting The Receiver's Discharge Accounting Statement --

Projected as of November 15, 2013,

b. Authorizing and directing the Receiver to transfer \$11,801,782.00 to the Clerk of the United States District Court for the Southern District of Indiana, pursuant to the Order entered October 28, 2013 in Consolidated Case Nos. 1:01-cv-00799-RLY-MJD and 1:09-cv-00391-RLY-TAB, pending before that Court.

c. Authorizing the Receiver to retain \$40,000.00 as a reserve for "wind up" expenses of the Receiver. Any surplus remaining from the \$40,000.00 reserve after the conclusion of wind up activities shall be paid to the Clerk of the United States District Court for the Southern District of Indiana, pursuant to the Order entered October 28, 2013 in Consolidated Case Nos. 1:01-cv-00799-RLY-MJD and 1:09-cv-00391-RLY-TAB, pending before that Court.

d. Authorizing and directing the Receiver to transfer \$212,672.00 to the Regulatory Trust Fund as reimbursement for Contributed Equity in this estate funded by/through the Regulatory Trust Fund;

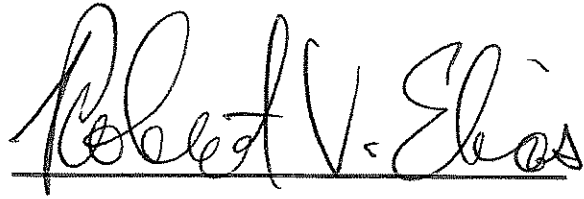
e. Authorizing and directing the Receiver, after final discharge, to destroy any obsolete records in the Receiver's possession. This destruction shall comply with Article 1, Section 24 of the Florida Constitution, Chapters 119 and 257, Florida Statutes, and Chapter 1B-24 and Rule 1B-26.003, Florida Administrative Code.

f. Ordering that the receivership shall be closed, and the Receiver's administration of this receivership shall be deemed satisfied, approved, and confirmed in all respects, and the Receiver, its deputies and all other employees shall be discharged without further order of this Court, from any and all duties, obligations and liabilities in the administration of the Receivership at 12:01 a.m. on November 15, 2013, nunc pro tunc.

g. Ordering that any subrogation recoveries or miscellaneous recovered following

the November 15, 2013 closure of this receivership estate shall be assigned to Superior Insurance Group, Inc.

DATED this 26th day of November, 2013.

A handwritten signature in black ink, reading "Robert V. Elias", written over a horizontal line.

Robert V. Elias, Chief Attorney
Florida Bar No. 0530107
Florida Department of Financial Services
Division of Rehabilitation and Liquidation
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Superior Insurance Co.
Discharge Accounting Statement
Projected for Discharge as of November 15, 2013

ASSETS

	<u>Amount</u>	
Cash	\$ 12,046,914.00	Schedule A
Accrued Interest for October	\$ 7,540.00	
Total Assets	<u>\$ 12,054,454.00</u>	

LIABILITIES

	<u>Recommended Disbursement</u>	
Florida Dept. Financial Services - Regulatory Trust Fund (Estimate)	\$ 212,672.00	
Total Liabilities	<u>\$ 212,672.00</u>	

WINDUP SUMMARY

Funds Available for Windup Expenses	11,841,782.00	
Projected Windup Expenses	(40,000.00)	Schedule D
Balance to Indiana Court Bankruptcy Trustee	<u>11,801,782.00</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 and Advances from the Regulatory Trust Fund

Superior Insurance Co.
Available Cash Projection
Projected for Discharge as of November 15, 2013

	Cash Balance as of September 30, 2013	Oct-13
Beginning Cash Balance	\$ 12,070,628.00	\$ 12,070,628.00
Direct Receiver Expenses		
Accounting Service Provider		12,500.00
Storage, Utilities, Postage, Bank Fees		500.00
Sub-total		<u>13,000.00</u>
Allocated Receiver Expenses		
Labor & Benefits		15,654.00 ¹
Indirect Expenses		2,880.00 ²
Sub-total		<u>18,534.00</u>
Cash Balance Before Interest Earnings		<u>12,039,094.00</u>
Interest Earnings		
Actual & estimated interest earned on SPIA APR on the previous month's average Pooled Cash		7,820.00
Ending Cash Balance	<u>\$ 12,070,628.00</u>	<u>\$ 12,046,914.00</u>

Assumptions for Allocated Receiver Expenses:

¹ Labor & Benefits: This estimate is based on a four month actual average. Doubled for increased activity level

June Actual	2,958.61
July Actual	6,355.33
August Actual	7,079.87
September Actual	14,914.65
Sub-total	<u>31,308.46</u>
4 month actual average (rounded)	<u>15,654.00</u>

² Indirect Expenses: This estimate is SIC's estimated pro rata share of the Receiver's estimated total indirect expense share calculation is based on SIC's estimated total assets divided by the Receiver's estimated total assets for .

Estimated Total Asset %	0.90%
Estimated Total for the Receiver	\$ 160,000.00
Estimated Expense (doubled for increased activity)	<u>\$ 2,880.00</u>

Superior Insurance Co.
Allocated State Funds Expensed
Projected for Discharge as of November 15, 2013

	<u>October-13</u>	<u>Totals</u>
Estimated Accrual of Allocated State of Florida Expenses		
Labor & Benefits	\$ 160.00 ¹	\$ 160.00 ¹
Indirect Expenses	230.00 ²	\$ 230.00 ²
Total	<u>\$ 390.00</u>	<u>\$ 390.00</u>
Total Estimated State of Florida Expenses		

Assumptions for Allocated State of Florida Expenses:

¹ This estimate is based on a four month actual average.

June Actual	33.39
July Actual	18.12
August Actual	230.70
September Actual	368.50
Sub-total	<u>650.71</u>
3 month actual average (rounded)	<u>160.00</u>

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

Estimated Total Asset %	0.90%
Estimated Total for the State	<u>\$ 25,000.00</u>
Estimated Expense (rounded)	<u>\$ 230.00</u>

Superior Insurance Co.
Interest Earnings Projection
Projected for Discharge as of November 15, 2013

<u>Interest accrued for October 2013</u>	
Beginning cash balance at 10/1/2013	\$ 12,070,628.00
Ending cash balance at 10/31/2013	12,046,914.00
Average cash balance for October	12,058,771.00
Assumed SPIA interest rate (Annualized)	0.75%
Subtotal (Annualized)	90,440.78
Accrual for October (Rounded)	<u>\$ 7,540.00</u>

Superior Insurance Co.
Receiver Windup Expenses
Projected for Discharge as of November 15, 2013

Windup Expenses (Projected)

Records storage, transport & destruction
tax return for 2013

Total

\$ 40,000.00
\$ 40,000.00

Superior Ins. Co.
Statement of Contributed Equity from Regulatory Trust Fund
Projected for Discharge November 15, 2013

Contributed Equity Balance as of 9/30/13		\$212,282.00
October Accrual (Estimate from Schedule B)	<u>\$ 390.00</u>	
Total		<u>\$ 390.00</u>
Estimated Contributed Equity Balance as of 11/15/13		<u>\$ 212,672.00</u>

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

In Re: The Receivership of
SUPERIOR INSURANCE COMPANY,
a Florida Corporation.

CASE NO.: 2003-CA-1979

**ORDER APPROVING RECEIVER'S MOTION FOR APPROVAL OF WINDUP AND
TERMINATION PLAN FOR SUPERIOR INSURANCE COMPANY**

This cause came on for hearing before this Court on the *Receiver's Motion for Approval of Windup and Termination Plan for Superior Insurance Company*, filed by the Florida Department of Financial Services as Receiver of Superior Insurance Company (hereinafter "Receiver"). The Court having reviewed the pleadings, heard argument from all interested parties, and being otherwise fully advised in the premises, it is therefore

ORDERED and **ADJUDGED** as follows:

On June 6, 2012, the Receiver filed a *Joint Pre-Hearing Statement of Parties*, whereby all of the parties-in-interest to the Receiver's Motion agreed that no witnesses were required for the hearing and that no evidence would be offered at the hearing. The parties also agreed that, except for the issue regarding the disbursement of funds remaining in the estate at termination, the Receiver's proposed actions for the completion of the administration of this estate, as set forth in its Motion, are appropriate. Therefore, based upon the aforementioned stipulation of the parties, the Receiver is hereby authorized to take the actions set forth in its Motion regarding the following issues:

- a. Treatment of escheat funds
- b. Collection of statutory deposits
- c. Future subrogation recoveries
- d. Payment of attorney's fees to the Florida Office of Insurance Regulation

- e. Dissolving corporations
- f. Records destruction
- g. Contributed equity
- h. Final accounting and discharge

Specifically, the Court finds as follows regarding the aforementioned issues:

a. **Treatment of Escheat Funds:** At the beginning of the Superior Receivership, Superior's books reflected an account balance of \$1,228,258.00 in funds eligible for escheat. Upon investigation by the Receiver, it was determined that almost the entire balance lacked sufficient detail to determine ownership. Of this \$1,228,258.00 amount, the Receiver has only been able to identify \$303,252.34 as being associated with a specific payee. Therefore, to the extent that there is insufficient information to determine the identity of the payee or confirm the existence of a liability, the Receiver is authorized to make appropriate entries reversing the liability and including the corresponding amounts as assets of the company. The Receiver is further authorized to pay to the Bureau of Unclaimed Property all other funds eligible for escheat.

b. **Collection of Statutory Deposits:** All known statutory deposits owned by Superior Insurance Company have been collected.

c. **Future Subrogation Recoveries:** Future subrogation recoveries are possible, but not expected to be material in amount. Upon closure of the estate, all subrogation recoveries collected thereafter shall be the property of Superior Insurance Group, Inc.

d. **Payment of Attorneys' Fees to the Florida Office of Insurance Regulation:** The Receiver is authorized to enter into a Consent Order with the Office of Insurance Regulation providing for payment by Superior of Attorney's Fees owed to the Office of Insurance Regulation.

e. **Dissolving Corporations:** The Certificates of Authority to transact insurance held by Superior Insurance Company and Superior Guaranty Insurance Company have been surrendered. The Receiver is therefore authorized to dissolve the corporate existence of both companies.

f. **Records Destruction:** This Court has previously authorized the Receiver to destroy obsolete records and, to the extent necessary, the Receiver is further authorized to destroy any additional obsolete records relating to this Receivership.

g. **Contributed Equity:** Over the life of this Receivership, certain services and resources funded by the State of Florida budget appropriations have been utilized by Superior. These costs are allocated across all receiverships and shown on Financial Statements as contributed equity. The Receiver is therefore authorized, consistent with its policies and procedures, to reimburse the Insurance Regulatory Trust Fund as part of this Receivership's windup activities.

h. **Final Accounting and Discharge:** Upon completion of the activities set forth in the Receiver's Termination Plan, the Receiver shall present to this Court a final accounting, a request that the Receiver be discharged, and a request that this estate be closed.

The Disbursement of Remaining Assets

The only contested issue thus before this Court was the Receiver's proposal to file an interpleader action in the United States District Court, Southern District of Indiana, Case No. 1:01-cv-00799-RLY-KPF, and upon approval of that court, pay into the registry of the federal district court the assets remaining in the Superior estate, less any amounts necessary for wind up/administrative expenses. The Superior estate, of which this Court has jurisdiction over pursuant to Chapter 631, Florida Statutes, has approximately \$10 million in surplus. Furthermore, a contingent asset of approximately \$500,000.00 in the nature of a refund from the Florida Automobile Joint

Underwriting Association has been identified by the Receiver, which the Receiver may be eligible to receive.


The entitlement of these funds is subject to multiple claims by the various parties represented before this Court at the June 12, 2012 hearing, as set forth in the parties' respective briefs to the *Receiver's Motion for Approval of Windup and Termination Plan for Superior Insurance Company*. The parties-in-interest asserting claims against the subject funds are Continental Casualty Company ("CCC)/CNA/1911 Holdings LLC; Bradford T. Whitmore, as Special Trustee under the Amended and Restated Declaration of Trust, dated August 12, 1997; and Superior Insurance Group, Inc., which is the immediate parent and sole shareholder of Superior Insurance Company. All of the foregoing parties, together with the Receiver, have stipulated that claims to the entire assets of Superior Insurance Company by CCC and Special Trustee Whitmore are pending in the United States District Court, Southern District of Indiana, and that Symons International Group, Inc., parent of Superior Insurance Group, Inc., is also a party to the pending actions in the District Court. In its Termination Plan filed July 15, 2011, the Receiver proposes, in the interest of judicial economy, to file an interpleader action in the United States District Court, Southern District of Indiana, and to pay the net-remaining balance in the Superior estate into the registry of the District Court, once received/approved by the Indiana District Court.

The Court therefore finds that all of the parties claiming an interest in the remaining assets of Superior Insurance Company are before the United States District Court, Southern District of Indiana, and have asserted said claims in the District Court. An interpleader of these assets in the Indiana proceeding will allow for an orderly due process regarding the various claims to the assets because all of the parties claiming an interest in the remaining assets of Superior Insurance Company are in fact parties to the pending proceedings in Indiana and all parties will be able to

raise in the District Court all claims to those assets that they have asserted in this proceeding. All of the rights, interests, entitlements, defenses, and remedies of the parties with respect to the assets of Superior Insurance Company are expressly reserved and preserved, and neither the changes of venues of the res, nor the interpleading of the funds into the District Court, shall, or shall be deemed to, alter, affect, impair or otherwise prejudice the foregoing rights, interests, entitlements, defenses and remedies. If the District Court accepts the interpleader, the purposes of Chapter 631 with regard to the rehabilitation of Superior Insurance Company can be fully accomplished, and therefore these rehabilitation proceedings are hereby terminated subject to acceptance by the District Court of that action. *Section 631.101(3), Florida Statutes.* The Receiver's Motion for Approval of Windup and Termination Plan for Superior Insurance Company is GRANTED, subject to acceptance of the interpleader by the District Court, as this Court finds that the Receiver's Plan conserves the assets of Superior Insurance Company, provides for the orderly disposition of these funds, and is fair and equitable to all of the parties concerned. *Section 631.141(9), Florida Statutes.* In the event the interpleader action is not accepted by the District Court, the parties will advise this Court and present alternatives for resolving the claims to the disputed assets.

The Receiver is hereby directed to file an interpleader action in the United States District Court, Southern District of Indiana, Case No. 1:01-cv-00799-RLY-KPF, pursuant to 28 U.S.C.A., Section 1335, and naming Continental Casualty Company ("CCC")/CAN/1911 Holdings LLC, Special Trustee Whitmore, and Superior Insurance Group, Inc., as Defendants claiming an interest in the remaining assets to be interplead and to comply with the direction of the Indiana District Court.

DONE and ORDERED in Chambers at Tallahassee, Leon County, Florida, this 4 day
of September, 2012.



CHARLES A. FRANCIS
CIRCUIT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

SYMONS INTERNATIONAL GROUP, INC.,)
)
Plaintiff,)

vs.)

CONTINENTAL CASUALTY)
COMPANY,)
)
Defendant.)

1:01-cv-00799-RLY-MJD

**Order on First Stage of Florida
Department of Financial Services'
Complaint for Interpleader**

CONTINENTAL CASUALTY)
COMPANY, and I911 CORP.,)
)
Counterplaintiffs and)
Third-Party Plaintiffs,)

vs.)

SYMONS INTERNATIONAL GROUP, INC.,)
)
Counterdefendant)

and)

GORAN CAPITAL, INC., GRANITE)
REINSURANCE COMPANY, LTD.,)
ALAN G. SYMONS, and G. GORDON SYMONS,)
)
Counterdefendants and)
Third-Party Defendants.)

BRADFORD T. WHITMORE, as Special Trustee)
Under the Amended and Restated Declaration of)
Trust Dated August 12, 1997,)

Plaintiff,)

vs.)

I:09-cv-00391-RLY-TAB

SYMONS INTERNATIONAL GROUP, INC.,)

Defendant.)

WILMINGTON TRUST COMPANY and)
CONTINENTAL CASUALTY COMPANY,)

Intervenors.)

STEPHEN W. ROBERTSON, as the)
Commissioner of the Indiana Department of)
Insurance and as Rehabilitator of Pafco)
General Insurance Company,)

Plaintiff-Interpleader,)

vs.)

CONTINENTAL CASUALTY COMPANY,)
BRADFORD T. WHITMORE, individually and as)
Special Trustee under a certain Amended and)
Restated Declaration of Trust dated August 12,)
1997, SUPERIOR INSURANCE GROUP, INC.,)
and BOSE MCKINNEY & EVANS LLP,)

Interpleader Defendants.)

FLORIDA DEPARTMENT OF FINANCIAL)
SERVICES, as Receiver for Superior Insurance)
Company,)

Plaintiff-Interpleader,)

vs.)

CONTINENTAL CASUALTY COMPANY,)
BRADFORD T. WHITMORE, individually and as)
Special Trustee under a certain Amended and)
Restated Declaration of Trust dated August 12,)
1997, and SUPERIOR INSURANCE)
GROUP, INC.,)

Superior Interpleader Defendants.)

**ORDER ON FIRST STAGE OF FLORIDA DEPARTMENT OF
FINANCIAL SERVICES' COMPLAINT FOR INTERPLEADER**

Comes now Interpleader-Plaintiff, Florida Department of Financial Services, as Receiver for Superior Insurance Company ("Receiver"), having filed its Complaint for Interpleader. The requested relief of the Complaint for Interpleader was in two stages. The first stage involved this Court acknowledging the propriety of the Interpleader and ordering that the Receiver deposit the remaining Superior Insurance Company assets with the Clerk of this Court. Upon the deposit of the Superior Insurance Company assets, the Receiver would be dismissed, with prejudice, from these proceedings. The second stage of the Interpleader Complaint will involve the Court determining the merits of the respective claims to the remaining Superior Insurance Company assets by the Interpleader Defendants.

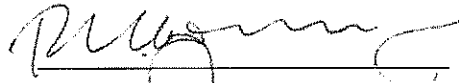
The Court, being duly advised in the premises now GRANTS the relief requested concerning the first stage of the Receiver's Complaint for Interpleader.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. The Receiver shall file with the Clerk of the United States District Court, Southern District of Indiana, the remaining Superior Insurance Company funds within 30 days of entry of an order by the Florida Receivership court closing the receivership.
2. The Receiver may withhold those funds as authorized by the Receivership Court, reasonably needed to conclude the estate windup activities.
3. Within 10 days of the completion of the windup activities, the remaining funds shall be deposited with the Clerk.
4. At the time the Receiver deposits the funds, notice shall be given to counsel for all parties of the deposit of these funds with the Clerk.

5. Upon the Receiver's deposit of the remaining Superior Insurance Company funds with this Court, the Receiver will be dismissed from this action, with prejudice.

Dated: 10/28/2013


RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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