

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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In the Matter of

Index No.: 400986/10

the Liquidation of

**AFFIRMATION**

PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA.  
-----X

Melissa A. Pisapia, an attorney at law, duly admitted to practice before the Courts of the State of New York, hereby affirms the following to be true under penalties of perjury:

1. I am an attorney with the New York Liquidation Bureau ("NYLB"), which serves as the staff of Linda A. Lacewell, Superintendent of Financial Services of the State of New York ("Superintendent") in her capacity as liquidator ("Liquidator") of Professional Liability Insurance Company of America ("PLICA"). I submit this affirmation, upon information and belief, based on my review of the PLICA files maintained by the NYLB and the conversations I have had with employees of the Liquidator in support of the Liquidator's application for an order approving the Liquidator's report on the status of the PLICA liquidation proceeding ("Liquidation Proceeding") and the financial transactions detailed in the report ("Closing Report") and closing the Liquidation Proceeding. A copy of a proposed order is annexed hereto as Exhibit "1". The Closing Report is annexed hereto as Exhibit "2".

**PLICA's Placement Into Liquidation**

2. PLICA was primarily a medical malpractice liability insurance carrier, incorporated in New York, but did not provide medical malpractice liability insurance in New York. Substantially all of PLICA's insurance policies were underwritten in Illinois, Missouri, Connecticut and Texas.

3. PLICA was placed into rehabilitation under Article 74 of the New York Insurance Law on April 30, 2010 by order of the Supreme Court of the State of New York, New York County (the "Court"). In October 2012, the Superintendent petitioned this Court to convert the rehabilitation into a liquidation proceeding, which was granted by an order dated February 10, 2014.

#### **The Liquidation Proceeding**

4. All of the substantive work necessary to liquidate PLICA has been completed. The Liquidator: (i) took possession of PLICA's business and assets; (ii) transferred all electronic data to the Liquidator's control; (iii) reviewed all of PLICA's executory contracts; (iv) reviewed PLICA's liabilities; (v) obtained a Court Order establishing a bar date; (vi) obtained a Court Order establishing adjudication procedures for claimants to have a forum to object to any determination made by the Liquidator; (vii) reviewed all first and third-party claims against PLICA policies and referred all eligible policyholder claims or claims by third parties against a PLICA policyholder to the appropriate Guaranty Fund (as defined herein) for coverage and payment; (viii) obtained approval to settle an action against certain former officers and directors of PLICA alleging, among other things, that the directors and officers allowed PLICA to engage in self-dealing transactions with insider entities; (ix) sought and received from the United States Government a release of potential liability under the Federal Priority Statute, 31 U.S.C. § 3713(c); (x) collected monies owed to PLICA; and (xi) made an application and obtained a Court Order approving an initial court report and all of the financial transactions detailed therein ("Initial Report"). A copy of the order approving the Initial Report is annexed as Exhibit "3".

**The Court Approved Adjudication Procedure and  
Appointment of a Court Appointed Referee**

5. By order dated August 17, 2011, this Court approved a procedure for the judicial review of the adjudication of claims in the PLICA rehabilitation proceeding. In late 2014, this Court converted the PLICA proceeding from rehabilitation to liquidation. By order dated January 14, 2015, this Court established adjudication procedures for the Liquidation Proceeding. Pursuant to that order, claimants who objected to the Liquidator's recommendations were entitled to a hearing before the Court or a court-appointed referee. This Court appointed the Honorable Edward H. Lehner as a referee to hear disputes pertaining to any claim adjudication made by the Liquidator.

**The Initial Report**

6. On March 22, 2016, this Court issued an order granting the Liquidator's motion to approve the Initial Report and authorizing the continued payment of administrative expenses. The Initial Report set forth PLICA's financial condition as of September 30, 2015. At that time, PLICA had total assets of \$25,835,470 and total liabilities of \$26,937,452, leaving PLICA insolvent in the amount of \$1,101,982. *See* Exh. 3.

**The D&O Action**

7. During the rehabilitation proceeding, and as set forth in the Initial Report, the Superintendent in his capacity as rehabilitator brought an action against certain former directors and officers alleging, among other things, breach of fiduciary duty (the "D&O Action"). By order dated December 3, 2013, this Court approved an agreement resolving the D&O Action for a \$1,500,000 payment to the estate.

### **The Bar Date**

8. By order dated August 25, 2016, this Court approved the Liquidator's motion and established June 30, 2017 as the bar date for the submission to the Liquidator of all claims and evidence supporting those claims against PLICA or its insureds, including claims reportable under any extended reporting period endorsements of policies issued by PLICA ("Bar Date").

### **Court Approved Distributions to State Guaranty Funds**

9. PLICA was domiciled in New York, but its policies were written in other states. The liquidation order against PLICA triggered the statutory guaranty associations in those states, which administered eligible claims under PLICA policies. The guaranty associations, in turn, submitted claims against PLICA for payments and expenses in connection with the administration of PLICA policies.

10. By order of this Court dated September 26, 2016, this Court approved an Early Access Agreement among the Liquidator of PLICA and the Illinois Insurance Guaranty Fund and the Missouri Insurance Guaranty Association (collectively, "Guaranty Funds"), which authorized the Liquidator to provide early access payments to the Guaranty Funds according to the terms of the agreement. Such early access payments were made by the Liquidator in November 2016. A copy of the September 26, 2016 Order and Early Access Agreement are attached hereto as Exhibit "4".

### **Federal Waiver**

11. The Liquidator made an application to the United States, through the Department of Justice, seeking a waiver of all federal claims that could be asserted against PLICA. On or about May 1, 2019, the United States provided the Liquidator with a release under the Federal Priority Statute, 31 U.S.C. § 3713(b) in connection with the Liquidation Proceeding (the "Release

Agreement”). A copy of the Release Agreement, without exhibits, is annexed hereto as Exhibit “5”.

### Current Status of Claims Presented

12. The Liquidator has administered all claims against PLICA and, because the Bar Date has passed, no additional claims against PLICA may be presented. In total, forty-seven (47) claims were filed in the Liquidation Proceeding, of which four (4) were Class two claims, two (2) were Class four claims, ten (10) were Class five claims, thirty (30) were Class six claims, and one (1) was a Class nine claim.

13. Of the four (4) Class two claims, one (1) was voided, one (1) is a non-fund claim, and the remaining two (2) are the Guaranty Fund claims. The two (2) Guaranty Fund claims can be further broken down into thirty-nine (39) individual claims under PLICA policies, of which thirty-six (36) were administered by the Illinois Insurance Guaranty Fund and three (3) were administered by the Missouri Insurance Guaranty Association.

14. These claims under PLICA policies make up the claims of the Guaranty Funds, which, paid a total of \$4,853,068 in claims and related expenses. The Illinois Insurance Guaranty Fund paid a total of \$4,624,704 in claims and related expenses between February 2010 and October 2018, and the Missouri Insurance Guaranty Fund paid a total of \$228,364 between February 2010 and June 2018. This Court, through nine (9) separate orders, has approved the Guaranty Funds’ claims for reimbursement.

15. Of the remaining forty-three (43) claims that were classified below Class two, all were allowed except the following: three (3) Class six claims were disallowed; three (3) Class six claims were voided; and five (5) Class six claims were withdrawn. One of the withdrawn Class six claims had been asserted by a former officer of PLICA, seeking unpaid compensation and an

equity interest in the company. However, this former officer was a participant in the Settlement Agreement resolving the D & O Action. All parties to the Settlement Agreement entered into mutual releases of all claims raised in the lawsuit or that could have been raised based on the subject matter of the lawsuit. The former officer then confirmed in an email to the Liquidator's staff, dated March 23, 2016, that he was withdrawing his claim in accordance with the terms of the Settlement Agreement.

16. One (1) Class nine claim has been filed by Jo Ann Howard, the Texas Special Deputy Receiver ("Texas SDR") of Lincoln Memorial Life Insurance Company, Memorial Life Insurance Company, and National Prearranged Services, asserting 100% equity ownership of PLICA. A copy of the Texas SDR's proof of claim, without exhibits, is annexed hereto as Exhibit "6".

17. The Liquidator can now report that PLICA has sufficient assets to pay all allowed claims in full through Class six. Because there are no Class seven or eight claims, the Liquidator will pay the balance of assets to the Class nine claimant, the Texas SDR.

**The Liquidation Process Has Been Completed And The Proceeding Should Be Closed**

18. As more fully detailed in the attached Closing Report, the Liquidator has completed all of the substantive work necessary to liquidate PLICA. Therefore, it is respectfully submitted that the relief sought in this affirmation and accompanying Closing Report, including approval of the financial transactions detailed therein, should be granted, the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, should be discharged, and the Liquidation Proceeding should be closed.

19. Additionally, it is requested that the NYLB be authorized, after the termination of the Liquidation Proceeding and without further application to this Court, to (a) receive any additional assets of PLICA that may be located, and to use such assets, first, to pay all administrative expenses incurred in connection with the collection and disbursement of such additional assets, and then to distribute those assets to creditors of PLICA with allowed claims who are eligible to share in a distribution and (b) destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate.

#### **Other Relief Sought**

20. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving a return date ("Return Date") for a hearing on the Liquidator's application to be held before the Court 45 days after the date of issuance of the Order to Show Cause, or as soon after such 45-day period as the Court determines to be reasonably practicable.

21. The Liquidator proposes that notice be given through (a) posting the Order to Show Cause and its supporting papers on the NYLB web page at <http://www.nylb.org> at least fifteen (15) days before the Return Date, and (b) publishing the notice substantially in the form as attached hereto as Exhibit "7" in *The New York Times, National Edition*, such publication to occur within three weeks following the date of the issuance of this Order to Show Cause.

22. No previous application for the relief sought herein has been made to this or any other court of judge thereof.

WHEREFORE, it is respectfully requested that the Court grant an order substantially in the form as the proposed order annexed hereto as Exhibit "1": (i) approving the Liquidator's Closing Report and the financial transactions detailed therein; (ii) authorizing the continued payment of actual and necessary administrative expenses incurred by the Liquidator, if any,

including such expenses pertaining to the closing of the Liquidation Proceeding; (iii) authorizing the Liquidator to pay allowed claims in the order of priority as set forth in Insurance Law 7434; (iv) authorizing the NYLB, after the termination of the PLICA liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate; (v) terminating and closing the Liquidation Proceeding; (vi) authorizing the NYLB to continue, after the termination of the Liquidation Proceeding and without further order of this Court, to receive any additional assets of PLICA that may be located, and to use such assets, first, to pay all administrative expenses incurred in connection with the collection and disbursement of such additional assets, and then to distribute those assets to the holder of the allowed Class nine shareholder claim; and (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Liquidation Proceeding.

Dated: New York, New York  
November 19, 2020

*Melissa A. Pisapia*

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Melissa A. Pisapia

L27140/Closing/map



# **EXHIBIT 1**

At IAS Part 21 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, in the County, City and State of New York, on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

P R E S E N T:

HON. LISA A. SOKOLOFF, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Index No.: 400986/10

the Liquidation of

**ORDER**

PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA.

-----X

Upon the motion of the Superintendent of Financial Services of the State of New York in her capacity as liquidator (the "Liquidator") of Professional Liability Insurance Company of America ("PLICA"), for an order, *inter alia*: (i) approving the Liquidator's report and request to close the PLICA liquidation proceeding ("Liquidation Proceeding") and the financial transactions delineated the report ("Closing Report"); (ii) authorizing the continued payment of actual and necessary administrative expenses incurred by the Liquidator, if any, including such expenses pertaining to the closing of the Liquidation Proceeding; (iii) authorizing the Liquidator to pay allowed claims in the order of priority as set forth in Insurance Law 7434; (iv) authorizing the NYLB, after the termination of the PLICA Liquidation Proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate; (v) terminating and closing the Liquidation Proceeding; (vi) authorizing the NYLB to continue, after the termination of the Liquidation Proceeding and without further order of this Court, to receive any additional assets of PLICA

that may be located, and to use such assets, first, to pay all administrative expenses incurred in connection with the collection and disbursement of such additional assets, and then to distribute those assets to the holder of the allowed Class nine shareholder claim; and (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Liquidation Proceeding.

NOW, on the motion of the Liquidator, and no opposition having been filed with the Court, it is;

ORDERED, that the application is granted; and it is further

ORDERED, that the Closing Report and the financial transactions delineated the report is approved; and it is further

ORDERED, that the continued payment of administrative expenses, if any, including such expenses pertaining to the closing of the Liquidation Proceeding is authorized; and it is further

ORDERED, that the Liquidator is granted the authority to pay allowed claims in the order of priority as set forth in Insurance Law 7434;

ORDERED, that the NYLB is authorized, after the termination of the PLICA Liquidation Proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate;

ORDERED, that the Liquidation Proceeding is terminated and closed; and it is further

ORDERED, that the NYLB is authorized, after the termination of the Liquidation Proceeding and without further order of this Court, to receive any additional assets of PLICA that may be located, and to use such assets, first, to pay all administrative expenses incurred in

connection with the collection and disbursement of such additional assets, and then to distribute those assets to the holder of the allowed Class nine shareholder claim; and it is further

ORDERED, that the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, are released from any and all liability arising from their acts or omissions in connection with the Liquidation Proceeding.

E N T E R

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J.S.C.

L27140/map

# **EXHIBIT 2**

**REPORT ON THE STATUS OF AND REQUEST TO CLOSE  
THE LIQUIDATION PROCEEDING OF  
PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA**

Linda A. Lacewell, Superintendent of Financial Services of the State of New York (“Superintendent”) as liquidator (“Liquidator”) of Professional Liability Insurance Company of America (“PLICA”) has appointed certain agents to carry out, through the New York Liquidation Bureau (“NYLB”), the responsibilities of the Liquidator. The Liquidator, by David Axinn, Special Deputy Superintendent and Agent, submits this final report (“Closing Report”) on the PLICA liquidation proceeding (“Liquidation Proceeding”).

**INTRODUCTION**

PLICA was placed into rehabilitation under Article 74 of the New York Insurance Law on April 30, 2010 by order of the Supreme Court of the State of New York, New York County (the “Court”). In October 2012, the Superintendent petitioned the Court to convert the rehabilitation into a liquidation proceeding, which was granted by an order dated February 10, 2014 (the “Liquidation Order Date”). The Liquidator requests that the Court enter an order, *inter alia*, approving this Closing Report and the financial transactions detailed herein, and terminating and closing the Liquidation Proceeding.

**The Liquidation Proceeding May Now Be Closed**

**A. Adjudication Procedure**

By order dated August 17, 2011, this Court approved a procedure for the judicial review of the adjudication of claims in the PLICA rehabilitation proceeding. In late 2014, this Court converted the PLICA proceeding from rehabilitation to liquidation. By order dated January 14, 2015, this Court established adjudication procedures for the Liquidation Proceeding. Pursuant to that order, claimants who objected to the Liquidator’s recommendations were entitled to a hearing

before the Court or a court-appointed referee. This Court appointed the Honorable Edward H. Lehner as a referee to hear disputes pertaining to any claim adjudication determination made by the Liquidator.

**B. Initial Report**

On March 22, 2016, this Court issued an order granting the Liquidator's motion to approve the Liquidator's initial report on the status of the PLICA liquidation proceeding (the "Initial Report"), approving the financial transactions detailed therein and authorizing the continued payment of administrative expenses. The Initial Report set forth PLICA's financial condition as of September 30, 2015. At that time, PLICA had total assets of \$25,835,470 and total liabilities of \$26,937,452, leaving PLICA insolvent in the amount of \$1,101,982. A copy of the March 22, 2016 Order approving the Initial Report is attached as Exhibit 3 to the accompanying November 16, 2020, affirmation of Melissa A. Pisapia ("Pisapia Aff").

**C. D&O Action**

During the rehabilitation proceeding, and as set forth in the Initial Report, the Superintendent in his capacity as rehabilitator brought an action against certain former directors and officers alleging, among other things, breach of fiduciary duty (the "D&O Action"). By order dated December 3, 2013, this Court approved an agreement (the "Settlement Agreement") resolving the D&O Action for a \$1,500,000 payment to the estate.

**D. Bar Date**

By order dated August 25, 2016, this Court approved the Liquidator's motion and established June 30, 2017 as the bar date for the submission to the Liquidator of all claims and evidence supporting those claims against PLICA or its insureds, including claims reportable under any extended reporting period endorsements of policies issued by PLICA ("Bar Date").

**E. Distribution of Assets**

PLICA was domiciled in New York, but its policies were written in other states. The liquidation order against PLICA triggered the statutory guaranty associations in those states, which administered eligible claims under PLICA policies. The guaranty associations, in turn, submitted claims against PLICA for payments and expenses in connection with the administration of PLICA policies.

**F. Court Approved Distributions to State Guaranty Funds**

By order of this Court entered September 26, 2016, the Court approved an Early Access Agreement among the Liquidator of PLICA and the Illinois Insurance Guaranty Fund and the Missouri Insurance Guaranty Association (collectively, “Guaranty Funds”), which authorized the Liquidator to provide early access payments to the Guaranty Funds according to the terms of the agreement. Such early access payments were made by the Liquidator in November 2016. A copy of the September 26, 2016 Order and Early Access Agreement are attached to the Pisapia Aff as Exhibit “4”.

**G. Federal Waiver**

The Liquidator made an application to the United States, through the Department of Justice, seeking a waiver of all federal claims that could be asserted against PLICA. On or about May 1, 2019, the United States provided the Liquidator with a release under the Federal Priority Statute, 31 U.S.C. § 3713(b) in connection with the Liquidation Proceeding (the “Release Agreement”). A copy of the Release Agreement, without exhibits, is annexed to the Pisapia Aff as Exhibit “5”.



### Current Status of Claims Presented

The Liquidator has administered all claims against PLICA and, because the Bar Date has passed, no additional claims against PLICA may be presented. In total, forty-seven (47) claims were filed in the Liquidation Proceeding, of which four (4) were Class two claims, two (2) were Class four claims, ten (10) were Class five claims, thirty (30) were Class six claims, and one (1) was a Class nine claim.

Of the four (4) Class two claims, one (1) was voided, one (1) is a non-fund claim and the remaining two (2) are the Guaranty Fund claims. The two (2) Guaranty Fund claims can be further broken down into thirty-nine (39) individual claims under PLICA policies, of which thirty-six (36) were administered by the Illinois Insurance Guaranty Fund and three (3) were administered by the Missouri Insurance Guaranty Association.

Of the remaining forty-three (43) claims that were classified below Class two, all were allowed except the following: three (3) Class six claims were disallowed; three (3) Class six claims were voided; and five (5) Class six claims were withdrawn. One of the withdrawn Class six claims had been asserted by a former officer of PLICA, seeking unpaid compensation and an equity interest in the company. However, this former officer was a participant in the Settlement Agreement resolving the D & O Action (see Section C above). All parties to the Settlement Agreement entered into mutual releases of all claims raised in the lawsuit or that could have been raised based on the subject matter of the lawsuit. The former officer then confirmed in an email to the Liquidator's staff, dated March 23, 2016, that he was withdrawing his claim in accordance with the terms of the Settlement Agreement.

One (1) Class nine claim has been filed by Jo Ann Howard, the Texas Special Deputy Receiver ("Texas SDR") of Lincoln Memorial Life Insurance Company, Memorial Life Insurance

Company, and National Prearranged Services, asserting 100% equity ownership of PLICA. A copy of the proof of claim, without exhibits, submitted by Texas SDR is annexed to the Pisapia Aff as Exhibit "6".

The Liquidator can now report that PLICA has sufficient assets to pay all allowed claims in full through Class six. Because there are no Class seven or eight claims, the Liquidator will pay the balance of assets to the Class nine claimant, the Texas SDR.

### **FINANCIAL CONDITION OF PLICA**

The estate's financial books and records were determined as of November 18, 2020 (the "Reference Date"). PLICA's comparative statement of assets, the statement of liabilities and the statement of changes in cash and invested assets for the period between the Liquidation Order Date and the Reference Date are annexed hereto as Exhibit "A." As of the Reference Date, PLICA had total assets of \$14,526,362, which equaled its total liabilities of \$14,526,362.

#### **1. Assets**

PLICA had total assets of \$14,526,362 as of the Reference Date, which consisted of \$14,526,362 in cash. Subsequent to the Reference Date, PLICA's assets may be adjusted, upward or downward, based on incoming receipts or payment of administrative expenses, and cannot be determined with finality at this time.

#### **2. Collection of Assets**

As of the Reference Date, the Liquidator had collected assets in the amount of \$9,860,942, consisting of \$1,340,672 in investment income, \$2,749,055 in reinsurance recoveries, \$4,542,298 from the release of statutory deposits held by New York and other states, \$1,194,972 in an income tax refund, and \$33,945 in miscellaneous receipts.

### **3. Distribution of Assets as of the Reference Date**

As of the Reference Date, the Liquidator distributed a total of \$7,526,935 consisting of \$4,853,068 in early access payments<sup>1</sup> to the Guaranty Funds; \$293,712 in expenses incurred during the rehabilitation of PLICA; \$86,848 in loss adjustment expenses; \$817,224 in salaries of the Liquidator's staff; \$505,238 for employee relations and welfare (e.g., payroll taxes, health insurance and pension contributions); \$235,658 in rent and related expenses; \$83,292 in general and administrative expenses (e.g., IT services and general office maintenance); \$514,045 in professional fees (e.g., accountants and other consultants) and \$137,850 for other miscellaneous expenses (e.g., insurance and bank fees).

### **4. Projected Distributions of Assets as of the Closing Date**

PLICA's projected distributions of assets to creditors as of the closing date are as follows: \$4,693 for Class one liabilities for administrative expenses; \$200,000 for a non-fund covered Class two claim<sup>2</sup>; \$59,395 for Class five liabilities for state and local government claims; \$126,101 for allowed Class six general creditor unsecured claims; and approximately \$14,136,173<sup>3</sup> to be paid to the Class nine shareholder claimant. See Exhibit A.

### **RELIEF SOUGHT**

The Liquidator submits this Closing Report that the affairs of the PLICA estate have been completed and that it is in the best interests of the estate to close the proceeding under the terms

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<sup>1</sup> The early access payments to the Guaranty Funds were made according to the terms of the early access agreement (see Section F above) and are treated herein as a distribution of estate assets.

<sup>2</sup> The non-fund covered Class two claim is an "over-cap" claim returned from the Illinois Insurance Guaranty Fund. The Illinois Insurance Guaranty Fund's statutory maximum liability on a claim is \$500,000 and if there is any judgment against or settlement on behalf of an insured that exceeds that amount, the balance, or the amount "over-cap," returns to the Liquidator for adjudication as a non-fund-covered Class two claim.

<sup>3</sup> The final payment to the Class nine claimant may be adjusted slightly to reflect the final amount of administrative expenses.

and conditions set forth herein. Accordingly, the Liquidator respectfully requests that the Court issue an order:

1. Approving the Closing Report and the financial transactions detailed herein;
2. Authorizing the continued payment of actual and necessary administrative expenses, if any, including such expenses pertaining to the closing of the Liquidation Proceeding;
3. Authorizing the Liquidator to pay allowed claims in the order of priority as set forth in Insurance Law 7434;
4. Authorizing the NYLB, after the termination of the PLICA liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate;
5. Terminating and closing the Liquidation Proceeding;
6. Authorizing the NYLB to continue, after the termination of the Liquidation Proceeding and without further order of the Court, to receive any additional assets of PLICA that may be located, and to use such assets, first, to pay all administrative expenses incurred in connection with the collection and disbursement of such additional assets, and then to distribute those assets to the holder of the allowed Class nine shareholder claim; and
7. Releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the Liquidation Proceeding.

Dated: New York, New York  
November 19, 2020

*David Axinn*

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David Axinn  
Special Deputy Superintendent and Agent of  
Linda A. Lacewell, Superintendent of  
Financial Services of the State of New York  
as Liquidator of Professional Liability  
Insurance Company of America

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# **EXHIBIT A**

**PROFESSIONAL LIABILITY INSURANCE CORPORATION OF AMERICA**  
**STATEMENT OF ASSETS**

	<u>November 18, 2020</u>	<u>February 10, 2014</u> <u>Liquidation Date</u>
<b>Unrestricted Assets:</b>		
<b>Cash</b>	\$ 14,526,362	\$ 9,337,800
<b>Bonds</b>	-	2,418,934
<b>Common Stock</b>	-	840,495
<b>Total Cash and Invested Assets</b>	<u>14,526,362</u>	<u>12,597,229</u>
<b>Net Reinsurance Recoverable on Paid Losses and LAE</b>	-	2,430,052
<b>Net Reinsurance Recoverable on Unpaid Losses and LAE</b>	-	5,111,000
<b>Accrued Investment Income</b>	-	12,151
<b>Income Tax Recoverable</b>	-	1,174,245
<b>Total Unrestricted Assets</b>	<u>14,526,362</u>	<u>21,324,677</u>
<b>Restricted Assets:</b>		
<b>Statutory Deposits in this or Other States</b>	-	4,510,793
<b>Total Restricted Assets</b>	<u>-</u>	<u>4,510,793</u>
<b>Total Assets</b>	<u>\$ 14,526,362</u>	<u>\$ 25,835,470</u>

**PROFESSIONAL LIABILITY INSURANCE CORPORATION OF AMERICA**  
**STATEMENT OF LIABILITIES**

<b>Secured Claims</b>	<u>November 18, 2020</u>	<u>February 10, 2014</u> <u>Liquidation Date</u>
<b>Class I - Administrative Claims:</b>	<b>\$ 4,693</b>	<b>\$ 999,203</b>
<b>Class II - Claims and Related Costs:</b>		
Administrative Claims Expenses	662,298	
Loss Adjustment Expenses (LAE)	2,456,533	-
Loss Claims	1,734,237	-
Total Allowed Claims	4,853,068	-
Less Dividends	(4,853,068)	-
Total Allowed Claims	<u>-</u>	<u>-</u>
<b>Non - Allowed Claims:</b>		
Loss Adjustment Expenses (LAE)	-	2,809,000
Loss Claim Reserves	-	6,805,500
Total Non-Allowed Claims	<u>-</u>	<u>9,614,500</u>
<b>General Creditor Claims:</b>		
Allowed Claims:		
Loss Claims	200,000	-
Total Allowed Claims	<u>200,000</u>	<u>-</u>
IBNR	-	7,026,000
Total Class II Claims and Related Costs:	<u>200,000</u>	<u>16,640,500</u>
<b>Class III - Federal Government Claims:</b>	<u>-</u>	<u>-</u>
<b>Class IV - Employee Claims:</b>	<u>-</u>	<u>2,400</u>

**PROFESSIONAL LIABILITY INSURANCE CORPORATION OF AMERICA**  
**STATEMENT OF LIABILITIES (Continued)**

	<u>November 18, 2020</u>	<u>February 10, 2014</u> <u>Liquidation Date</u>
<b>Class V - State and Local Government Claims:</b>		
Allowed Claims:	59,395	-
Non - Allowed Claims	-	393
<b>Total Class V Claims</b>	<u>59,395</u>	<u>393</u>
<b>Class VI - General Creditors:</b>		
Allowed General Unsecured Creditor Claims (Other than	83,261	-
Non Allowed General Unsecured Creditor Claims (Other than		
Reinsurance Related)	-	4,081,810
Total General Unsecured Creditor Claims (Other than Reinsurance	<u>83,261</u>	<u>4,081,810</u>
<b>Reinsurance Related Unsecured Claims</b>	<u>42,840</u>	<u>5,213,146</u>
<b>Total Class VI Claims</b>	<u>126,101</u>	<u>9,294,956</u>
<b>Class VII - Late Filed Claims:</b>	-	-
<b>Class VIII - Section 1307 (Shareholder) Loans:</b>	-	-
<b>Class IX - Share Holder Claims:</b>	<u>14,136,173</u>	-
<b>Total Liabilities</b>	<u>14,526,362</u>	<u>26,937,452</u>
<b>Liquidator's Deficit</b>	-	(1,101,982)
<b>Total Liabilities and Liquidator's Deficit</b>	<u>\$ 14,526,362</u>	<u>\$ 25,835,470</u>



**PROFESSIONAL LIABILITY INSURANCE CORPORATION OF AMERICA**  
**STATEMENT OF CHANGES IN CASH AND INVESTED ASSETS**

	<u>Inception to November 18, 2020</u>
<b>Receipts:</b>	
<b>Investment Income Received</b>	\$ 1,340,672
<b>Reinsurance Recovered</b>	2,749,055
<b>Released from the Statutory Deposits</b>	4,542,298
<b>Tax Refund</b>	1,194,972
<b>Miscellaneous</b>	33,945
<b>Total Receipts</b>	<b>9,860,942</b>
<b>Disbursements:</b>	
<b>Dividends</b>	4,853,068
<b>Rehabilitation Expenses</b>	293,712
<b>Loss Adjustment Expense</b>	86,848
<b>Salaries</b>	817,224
<b>Employee Relations &amp; Welfare</b>	505,238
<b>Rent and Related Expenses</b>	235,658
<b>Professional Fees</b>	514,045
<b>General and Administrative Expenses</b>	83,292
<b>Other Expense</b>	137,850
<b>Total Disbursements</b>	<b>7,526,935</b>
<b>Net Increase of Receipts Over Disbursements</b>	<b>2,334,007</b>
<b>Cash and Invested Assets (Unrestricted) as of Liquidation date February 10, 2014</b>	<b>12,597,229</b>
<b>Realized Loss on Investments</b>	<b>(404,874)</b>
<b>Cash as of November 18, 2020</b>	<b>\$ 14,526,362</b>

# **EXHIBIT 3**

FA  
3/22/16  
E

SUPREME COURT OF THE STATE OF NEW YORK  
NEW YORK COUNTY

PRESENT: STALLMAN  
Justice

PART 21

PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA

INDEX NO. 400986/10

MOTION DATE 2/8/16

MOTION SEQ. NO. 17

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for

affidavit of Liquidator's report

Notice of Motion/Order to Show Cause - Affidavits - Exhibits

No(s). 1

Answering Affidavits - Exhibits

No(s). 2-4

Replying Affidavits

3 sets of affidavits of removal (by Mail [3-7], of Posting of  
Stipulation of withdrawal of objects. Publications

No(s). 5

Upon the foregoing papers, it is ordered that this motion is

granted without opposition.

The Liquidator's Report on the status of PLIC is approved and the Liquidator may continue paying administrative expenses.

Long-form Order signed.

**FILED**

MAR 22 2016

COUNTY CLERK'S OFFICE  
NEW YORK

RECEIVED  
29 i  
CLERK'S OFFICE  
NYS SUPREME COURT - CIVIL

MICHAEL D. STALLMAN  
J.S.C.

Dated: 3/22/16

[Signature], J.S.C.

1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
2. CHECK AS APPROPRIATE: Liquidator's MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):

At IAS Part 21 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street, in the County, City and State of New York, on the 21<sup>st</sup> day of March, 2016.

**FILED**  
MAR 22 2016  
COUNTY CLERK'S OFFICE  
NEW YORK

P R E S E N T:

HON. MICHAEL D. STALLMAN, J.S.C.  
-----x

In the Matter of  
  
the Liquidation of

Index No.: 400986/10

ORDER

PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA.  
-----x

Upon the November 13, 2015, affirmation of Melvin Browning, an attorney with the New York Liquidation Bureau, the organization that carries out the duties of Shirin Emami, Acting Superintendent of Financial Services of the State of New York in her capacity as liquidator ("Liquidator") of Professional Liability Insurance Company of America ("PLICA"), and its attachments and upon all other papers previously submitted and all proceedings heretofore had

herein; *upon the Order of this Court dated November 25, 2015; the Affidavit of Service by Mail (Benny Thompson and Thomas Belmont), the Affidavit of Posting; and the Affidavit of Publication; and the stipulation of withdrawal of the Benadictis objection;* NOW, on motion of the Liquidator and after due deliberation having been had thereon, it

is

ORDERED, that the application is granted; and it is further

ORDERED, that the Liquidator's report on the status of the liquidation of PLICA and the financial transactions delineated in such report are approved; and it is further

ORDERED, that the Liquidator is authorized to continue paying administrative expenses.

ENTER



J.S.C.

MICHAEL D. STALLMAN  
J.S.C.

**FILED**

MAR 22 2016

COUNTY CLERK'S OFFICE  
NEW YORK

Index No. 400986 Year 2010

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

In the Matter of

the Liquidation of

PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA.

ORDER

**JOHN PEARSON KELLY**

Attorney for the Acting Superintendent of Financial Services of the State of New York as Liquidator

*Office and Post Office Address, Telephone*

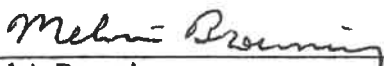
New York Liquidation Bureau  
110 William Street – 15<sup>th</sup> Floor  
New York, NY 10038  
(212) 341-6523  
Fax (212) 233-0461

**FILED**  
MAR 22 2016  
COUNTY CLERK'S OFFICE  
NEW YORK

**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: 2016  
New York, New York

  
Melvin Browning

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on the      day of      20

NOTICE OF SETTLEMENT

that an order  
settlement to the HON.

of which the within is a true copy will be presented for  
one of the judges of the within named court, at  
20      at

Dated:

, on

Yours, etc.

**JOHN PEARSON KELLY**

Attorney for the Acting Superintendent of  
Financial Services of the State of New York as  
Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street – 15<sup>th</sup> Floor  
New York, NY 10038  
(212) 341-6523  
Fax (212) 233-0461

# **EXHIBIT 4**

EA  
9/26/16  
E

# SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT: STALLMAN  
Justice

PART 21

PROFESSIONAL LIABILITY INSURANCE  
COMPANY OF AMERICA

INDEX NO. 400986/10

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 19

RE:

The following papers, numbered 1 to 4, were read on this motion to/for  
Notice of Motion/Order to Show Cause — Affidavits — Exhibits + 3 affidavits of Brian No(s) 1, 2-4  
Answering Affidavits — Exhibits (No opposing) No(s) \_\_\_\_\_  
Replying Affidavits \_\_\_\_\_ No(s) \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is granted. The insurance company  
Associate Policy recent payment is approved as  
per the ~~order~~ long-form order signed today and filed  
herewith.

*Order signed*

RECEIVED  
SEP 26 2016  
NYS SUPREME COURT - CIVIL  
GENERAL CLERK'S OFFICE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

FILED  
MICHAEL D. STALLMAN  
SEP 26 2016

COUNTY CLERK'S OFFICE  
NEW YORK

Dated: 9/22/16

[Signature] J.S.C.

- 1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: Yipuel A. Berson MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE



*At oral AS part 21 of the Supreme Court of the State of New York, held in and for the County of New York on the 22<sup>nd</sup> day of September, 2016*

PRESENT:

HON. MICHAEL D. STALLMAN, J.S.C.

-----X

In the Matter of

Index No.: 400986/10

the Liquidation of

**ORDER**

**FILED**

PROFESSIONAL LIABILITY  
INSURANCE COMPANY OF AMERICA.

SEP 26 2016

COUNTY CLERK'S OFFICE  
NEW YORK

-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator (the "Liquidator") of Professional Liability Insurance Company of America ("PLICA"), moved this Court for an order: (i) approving the form of the Insurance Guaranty Association Early Access, Disbursement, Reimbursement and Refunding Agreement for Professional Liability Insurance Company of America, attached as Exhibit A to the Hong Affirmation, as defined below (the "Early Access Agreement"); (ii) authorizing the Liquidator to execute the Early Access Agreement; (iii) for the Liquidator to become bound by its terms with the Illinois Insurance Guaranty Fund (the "Illinois Fund"), if the Illinois Fund agrees with and executes the Early Access Agreement, and to also become bound by its terms with the Missouri Property & Casualty Insurance Guaranty Association (the "Missouri GA") if the Missouri GA also agrees with and executes the Early Access Agreement; and (iv) authorizing the Liquidator to

make disbursements to the Guaranty Associations in accordance with the Early Access Agreement.

NOW, upon reading the affirmation, dated June 14, 2016 of Eric S. Hong, an attorney for the New York Liquidation Bureau, the organization which carries out the duties of the Liquidator (the "Hong Affirmation"), and proof of service thereof upon all interested parties having been made, after due deliberation;

NOW, on application of the Liquidator, it is

ORDERED, that the application is granted; and it is further

ORDERED, that the form of the Early Access Agreement is approved; and it is further

ORDERED, that the Liquidator may execute and become bound by the terms of the Early Access Agreement with the Illinois Fund and/or the Missouri GA, provided that either or both of these entities agree to and execute the Early Access Agreement; and it is further

ORDERED, that the Liquidator is authorized to make disbursements to the Illinois Fund and/or the Missouri GA, as the case may be, in accordance with an agreed-upon and executed Early Access Agreement.

**FILED**

SEP 26 2016

COUNTY CLERK'S OFFICE  
NEW YORK

ENTER:

*[Handwritten signature]*  
JSC 9/22/16

# **EXHIBIT 5**

## **RELEASE AGREEMENT**

This Release Agreement is being entered into by the United States and David Axinn, Special Deputy Superintendent and Agent of the Superintendent of Financial Services of the State of New York acting as Liquidator (“Liquidator”) of Professional Liability Insurance Company of America. (“Professional Liability”).

### **I. PARTIES**

The parties to this Release Agreement are the United States and the Liquidator (collectively, the “Parties”).

### **II. RECITALS**

1. The Parties do not intend this Release Agreement to release any possible claims the United States may have or may acquire against anyone for tax, fraud (including, but not limited to, securities and pension benefit fraud), criminal liabilities, or reimbursement liabilities and penalties arising under 42 U.S.C. § 1395y(b), or any liability under 31 U.S.C. § 3713(b) arising from such claims.

2. Except for the express terms of this Release Agreement, the Parties do not intend to create, enhance, diminish, defeat or otherwise affect such claims, if any, as the United States may have against the Liquidator or the Professional Liability estate.

3. The Parties understand that this Release Agreement may be subject to the approval of the Supreme Court of the State of New York, County of New York (“Court”), which is supervising the liquidation of Professional Liability.

4. The United States enters into this Release Agreement in reliance upon the information contained in the affidavit dated July 25, 2018, executed by the Liquidator of Professional Liability, attached as Exhibit A to this Release Agreement (“Affidavit”).

### III. AGREEMENT

1. Subject to the exclusions in the immediately following paragraph, the United States hereby releases and discharges the Liquidator and the Professional Liability estate from any and all liability under 31 U.S.C. § 3713(b) in connection with the Professional Liability liquidation.

2. Notwithstanding any other provision to this Release Agreement, the United States does not release Liquidator and the Professional Liability estate for:

- (a) any claim arising under any criminal law or any liability under 31 U.S.C. § 3713(b) arising from any such claim;
- (b) any criminal, civil, or administrative claim, right or defense arising under Title 26, U.S. Code (Internal Revenue Code) or any liability under 31 U.S.C. § 3713(b) arising from any such claim;
- (c) any claim or action arising under 31 U.S.C. § 3729 *et seq.* (False Claims Act), 31 U.S.C. § 3801 *et seq.* (Program Frauds Civil Remedies Act), 42 U.S.C. § 1320a-7a (Civil Monetary Penalties statute), 29 U.S.C. Ch. 18 (Employee Retirement Income Security Program), or 42 U.S.C. § 1395y(b) (Medicare as Secondary Payer) or any liability under 31 U.S.C. § 3713(b) arising from any such claim;
- (d) any claim arising under any other statute or common law principle governing pension benefit, fraudulent conveyance or any other form of fraud or any liability under 31 U.S.C. § 3713(b) arising from any such claim;
- (e) any obligation created by this Release Agreement.

3. Under the terms of this Release Agreement, the United States or its duly authorized representative shall have the right, prior to the destruction of Professional Liability's

records in accordance with the orders of the Court, during normal business hours, on a date and at a location agreed upon by the Parties, to inspect, and if it wishes, to copy at its own expense, such documents, books, and records of the Professional Liability estate and of the Liquidator, as shall be reasonably necessary to determine the existence and amount of claims the United States may have against the Professional Liability estate, or to determine Professional Liability's compliance with the terms of this Release Agreement. No documents, books, or records of the Professional Liability estate or the Liquidator may be destroyed unless notice is given to the United States of any motion filed with the Court requesting approval of such destruction. If the Liquidator does not request approval from the Court, he or she must obtain prior written authorization from the United States before destruction of any documents, books, or records of the estate or the Liquidator.

4. Except for the express undertakings of the Liquidator and the United States in this Release Agreement, nothing in this Release Agreement shall be construed:

(a) to establish or perfect any claims, substantive rights, or procedural rights of the United States;

(b) to limit, restrict, diminish, or defeat any claims, substantive rights, or procedural rights of the United States;


(c) to establish or perfect any objections or defenses, substantive rights, or procedural rights of the Liquidator; or

(d) to limit, restrict, diminish, or defeat any defenses, substantive rights, or procedural rights of the Liquidator.


5. The Parties agree that this Release Agreement shall not be effective unless and until it is approved by the Court, if approval is required, and the time for appeals of any such

approval has expired. The Parties further agree to cooperate with each other in seeking prompt approval of this Release Agreement from the Court, including, but not limited to, making the necessary witnesses available for testimony considered necessary or appropriate to provide the Court with an adequate record upon which to approve this Release Agreement.

Dated: 4/11/19

  
By: Sharon C. Williams  
Trial Attorney  
Civil Division  
Department of Justice  
Attorney for the United States

Dated: May 1, 2019

  
By: David Axinn  
Special Deputy Superintendent and  
Agent of the Superintendent of  
Financial Services of the State of  
New York acting as Liquidator of  
Professional Liability Insurance  
Company of America

# **EXHIBIT 6**



LINCOLN MEMORIAL LIFE INSURANCE COMPANY  
MEMORIAL SERVICE LIFE INSURANCE COMPANY  
NATIONAL PREARRANGED SERVICES INC.  
IN RECEIVERSHIP

JO ANN HOWARD & ASSOCIATES, P.C.  
SPECIAL DEPUTY RECEIVER  
PO Box 160050  
AUSTIN, TX 78716

October 12, 2015

Anthony J. Albanese  
Acting Superintendent as Receiver  
Professional Liability Insurance Company of America  
Claims Division  
New York Liquidation Bureau  
110 William Street  
New York NY 10038-3901



Re: *In the Matter of the Liquidation of Professional Liability Insurance Company of America*, Index N. 400986/2010, in the Supreme Court of the State of New York, County of New York

#### PROOF OF CLAIM

I, Jo Ann Howard, being of lawful age and duly sworn under oath, state as follows:

1. My name is Jo Ann Howard. I am the President of Jo Ann Howard & Associates, P.C., Special Deputy Receiver of Lincoln Memorial Life Insurance Company, Memorial Life Insurance Company, and National Prearranged Services, Inc. (the "SDR" and "Lincoln," "Memorial," and "NPS," respectively).
2. This document, including its attachments, constitute the Proof of Claim ("POC") filed on behalf of Jo Ann Howard, SDR of Lincoln, Memorial, and NPS in the liquidation proceeding for the **Professional Liability Insurance Company of America ("PLICA")**. The Claim is filed pursuant to Section 7433 of the New York Insurance Code and all related statutes. The SDR claims all distributions, payments, entitlements and any other asset attributable or payable to the owners of PLICA from the PLICA receivership estate.
3. I, solely in my representative capacity, am sole owner of all shares and all other equity interests, if any, of PLICA. My ownership arises by way of assignment of all shares from settlement agreements with shareholders Howard Wittner, Rhonda Cassity, Tyler Cassity and Brent Cassity (collectively, the "Settlement Agreements"). The Wittner Settlement Agreement, including the Power of Attorney, is attached as Exhibit 1. The Tyler Cassity and Rhonda Cassity Settlement Agreement, including the Power of Attorneys, are attached as Exhibit 2. I swear under oath that Brent Cassity has assigned all of his shares of PLICA to me, in my capacity as SDR, and provided me a Power of Attorney, which is attached as Exhibit 3.
4. NPS, Lincoln, and Memorial were placed in receivership for purposes of rehabilitation on May 14, 2008 in the 250<sup>th</sup> District Court of Travis County, Texas under Cause No. D-1-GV-08-000945, in the lawsuit styled *The State of Texas v. Memorial Service Life Insurance Company, et al.* On September 22, 2008, the Receivership Court found that NPS, Lincoln, and Memorial were insolvent and converted the receivership into a liquidation proceeding. I attach a true and correct copy of the *Order Appointing Liquidator, Order Approving Liquidation Plan and Permanent Injunction* as Exhibit 4. On May 15, 2008, the Receiver designated Donna Garrett as the SDR. Following the retirement of Donna Garrett, I was designated the SDR on December 5, 2011. I attach my *Notice of Designation and Oath of Special Deputy Receiver* as Exhibit 5.

5. The National Organization of Life and Health Insurance Guaranty Associations ("NOLHGA") is a voluntary association made up of the life and health insurance guaranty associations of all 50 states and the District of Columbia ("Guaranty Associations"). NOLHGA coordinates the Guaranty Associations' role in the liquidation proceedings, including their participation in the Liquidation Plan that was approved by the Receivership Court along with the Liquidation Order (the "Liquidation Plan"). The Guaranty Associations are by far the largest creditor of the estates. So far, they have paid more than \$280,000,000 to provide insurance benefits and they anticipate providing more than \$270,000,000 more in the form of coverage for future claims. Representatives of NOLHGA have reviewed and approved this submission.
6. Pursuant to Texas law, the SDR is vested by operation of law with the authority to collect all debts and moneys due the insolvent insurer, and to prosecute any claims or actions on behalf of the insolvent insurers and their creditors, members, policyholders, or the public, subject to the express authority of the Guaranty Associations to prosecute certain claims and actions. TEX. INS. CODE § 443.154. The SDR marshals and liquidates all assets of Lincoln, Memorial and NPS and distributes the proceeds consistent with the Liquidation Act subject to Receivership Court Orders.
7. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached to this statement were produced pursuant to TEX. INS. CODE ANN. § 443.017, are either true and correct copies of records of the insurer and were received from the custody of the insurer or found among its effects or were created by and filed with the Receiver's office in connection with the receivership of these delinquent insurers, and are held by the Special Deputy Receiver in its official capacity.
8. I am competent to make this affidavit and attest to this Proof of Claim. The statements of fact set forth herein are true and correct, and are within my personal knowledge.

By: Jo Ann Howard  
Jo Ann Howard

**SUBSCRIBED AND SWORN TO BEFORE ME** on October 12, 2015, by Jo Ann Howard, President of Jo Ann Howard & Associates, P.C., Special Deputy Receiver of Lincoln Memorial Life Insurance Company, Memorial Life Insurance Company, and National Prearranged Services, Inc.

Nancy L. Parrell

Notary Public



# **EXHIBIT 7**

**IN THE MATTER OF THE LIQUIDATION OF  
PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA  
Supreme Court County of New York  
Index No.: 400986/10**

**NOTICE**

The Superintendent of Financial Services of the State of New York and her successors in office were appointed liquidator ("Liquidator") of Professional Liability Insurance Company of America ("PLICA"). The Liquidator has, pursuant to New York Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent ("Special Deputy"), as her agent to liquidate the business of PLICA. The Special Deputy carries out his duties through the New York Liquidation Bureau ("NYLB"), 180 Maiden Lane, New York, New York 10038. The Liquidator has submitted to the Court an application seeking an order: (i) approving the Liquidator's report to the Court on the status of the PLICA liquidation proceeding and the financial transactions detailed therein; (ii) authorizing the continued payment of actual and necessary administrative expenses incurred by the Liquidator, if any, including such expenses pertaining to the closing of the PLICA liquidation proceeding; (iii) authorizing the Liquidator to pay allowed claims in order of priority as set forth in Insurance Law 7434; (iv) authorizing the NYLB, after the termination of the PLICA liquidation proceeding and without further order of this Court, to destroy or otherwise dispose of any and all of the books, files, records (paper or electronic) and other property of the PLICA estate; (v) terminating and closing the PLICA liquidation proceeding; (vi) authorizing the NYLB to continue, after the termination of the PLICA liquidation proceeding and without further order of this Court, to receive any additional assets of PLICA that may be located, and to use such assets, first, to pay all administrative expenses incurred in connection with the collection and disbursement of such additional assets, and then to distribute those assets to the holder of the allowed Class nine shareholder claim; and (vii) releasing and discharging the Liquidator, her predecessors and successors in office, and their agents, attorneys and employees, from any and all liability arising from their acts or omissions in connection with the PLICA liquidation proceeding.

A hearing is scheduled on the application on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_, at \_\_:\_\_.M., before the Court at the Courthouse, Part \_\_, Room \_\_, 80 Centre Street, New York, New York ("Return Date"). If you wish to object to the application, you must serve a written statement setting forth your objections and all supporting documentation ("Answering Papers") upon the Liquidator, by at least seven (7) days prior to the Return Date, and the original Answering Papers must be filed with the Court on or before the Return Date. Service on the Liquidator shall be made by first class mail at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of Professional Liability Insurance Company of America  
180 Maiden Lane, 15<sup>th</sup> Floor  
New York, New York 10038  
Attention: General Counsel

The application is available for inspection at <http://www.nylb.org>. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the NYLB, Creditor and Ancillary Operations Division, at (212) 341-6728 or [ReceiverOps@nylb.org](mailto:ReceiverOps@nylb.org).

Dated: [Insert Date]

LINDA A. LACEWELL  
Superintendent of Financial Services of the  
State of New York as Liquidator of  
Professional Liability Insurance Company  
of America

Index No. 400986

Year 2010

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NEW YORK

---

In the Matter of

the Liquidation of

PROFESSIONAL LIABILITY INSURANCE COMPANY OF AMERICA.

---

**ORDER TO SHOW CAUSE AND AFFIRMATION  
(Closing Report)**

---

**JOHN PEARSON KELLY**

Attorney for the Superintendent of Financial Services of the State of New York as Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
180 Maiden Lane, 15<sup>th</sup> Floor  
New York, NY 10038  
(212) 341-6755

---

**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: November 19, 2020  
New York, New York

*Melissa A. Pisapia*

Melissa A. Pisapia

---

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on the      day of      20

NOTICE OF SETTLEMENT

that an order  
for settlement to the HON.

, on

of which the within is a true copy will be presented  
one of the judges of the within named court, at  
20      at

Dated:

Yours, etc.

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial Services  
of the State of New York as Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
180 Maiden Lane, 15<sup>th</sup> Floor  
New York, NY 10038  
(212) 341-6755