

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30<sup>TH</sup> JUDICIAL CIRCUIT  
INGHAM COUNTY

COMMISSIONER OF THE STATE OF  
MICHIGAN,

Plaintiff,

Case No. 97-85996-CR

Hon. Joyce Draganchuk

v.

FIRST SECURITY CASUALTY COMPANY,

Defendant.

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Christopher L. Kerr (P57131)  
Jason R. Evans (P61567)  
Assistant Attorneys General  
Michigan Department of Attorney General  
Corporate Oversight Division  
Attorneys for Plaintiff  
P.O. Box 30754  
Lansing, Michigan 48909  
Telephone: (517) 373-1160

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**PLAINTIFF'S VERIFIED MOTION TO REOPEN CASE, TERMINATE  
RECEIVERSHIP, APPROVE THE ACTIONS OF THE RECEIVER, DISCHARGE THE  
RECEIVER, CLOSE THE CASE, AND FOR RELATED RELIEF**

NOW COMES R. Kevin Clinton, the Commissioner of the Office of Financial and Insurance Regulation, in his capacity as Receiver/Liquidator of First Security Casualty Company (hereinafter referred to as "Receiver"), and for his Verified Motion to Reopen Case, Terminate Receivership, Approve the Actions of the Receiver, Discharge the Receiver, Close the Case, and For Related Relief ("Verified Motion to Terminate"), states:

#### HEARING

1. This Verified Motion to Terminate is scheduled for hearing on **January 23, 2013 at 2:30 p.m.** or as soon thereafter as counsel may be heard.

#### GENERAL MATTERS

2. First Security Casualty Company ("First Security") was incorporated in July 1985 under Minnesota law and re-domiciled as a Michigan insurance company on October 27, 1987.

3. In May 1992, First Security was placed into Supervision by the Michigan Insurance Bureau because of its deteriorating financial condition.

4. Subsequently, First Security entered into a stipulated agreement with the Michigan Insurance Bureau which required First Security to meet specific conditions and limitations intended to improve its financial condition.

5. By December 31, 1996, however, First Security was insolvent by approximately \$3.2 million.

6. On April 28, 1997, this Court appointed the Insurance Commissioner as the Receiver and James Gerber as the Special Deputy Receiver for the purpose of liquidating First Security Casualty Company. Liquidation was warranted because First Security was insolvent and its further transaction of business would be hazardous to its policy holders, creditors, or the public.

7. After his appointment, the Receiver took numerous steps to liquidate First Security. These included:

- Marshaling all First Security assets.
- Creating and implementing a claims filing process for creditors.
- Adjudicating and settling all claims against First Security including the Michigan Property & Casualty Guaranty Association claims and claims related to coverage written on a Surplus Lines basis.
- Entering into assumptive reinsurance agreements with two carriers allowing the transfer of claim liabilities in various lines of coverage.
- Negotiating and settling various disputes and litigation.
- Releasing employees and on-site independent contractors and efficiently transitioning to consolidated management and part-time staff.
- Inventorying, boxing, and shipping non-essential records for retention at Record Center Storage in Lansing.
- Completing bi-annual internal control audits each year.
- Requesting and receiving recognition from the IRS of tax exempt status for the years 1999-2007. Reestablishing the filing of corporate returns for 2007 and 2008.

8. On December 7, 2006, this Court entered an Order Granting Approval of Plan of Final Distribution (“Distribution Order”) in this insurance company liquidation proceeding under Chapter 81 of the Michigan Insurance Code. At the time the Distribution Order was entered, it was anticipated that the Receiver would complete the final distribution approved in the Distribution Order and, following a short wind-up period, file a Petition to discharge the receiver and terminate the estate.

9. In accordance with the Distribution Order, First Security disbursed \$873,847.35 in claim payments. These included a \$722,832.40 claim payment to the Michigan Property & Casualty Guaranty Association and \$151,014.95 in claims payments to approved priority class 2 claimants. The payments represented a pro-rata share (.0422773) of the total claims of these claimants. All claims with a priority class 3 through 8 were resolved pursuant to statutory guidelines and received no distribution.

10. The cash disbursement summary for January 1, 2006 through October 31, 2012 is attached as Exhibit A. This summary shows the claims payments listed above as well as administrative expenses the Receiver paid. A summary of cash receipts for this same period is also attached as Exhibit B.

11. After entry of the Distribution Order, the Receiver determined that the final tax filings with the Internal Revenue Service were incomplete.

12. In 2010, First Security filed a Form 4810, Request for Prompt Assessment of the federal tax returns for tax years 2007 and 2008. The Internal Revenue Service acknowledged the request for prompt assessment under the provisions of Section 6501(d) of the Internal Revenue Code and set the closing date for the 2008 tax year to be February 11, 2013.

13. Now, all tax and other issues relating to the liquidation of First Security have been resolved. Accordingly, by this Verified Motion to Terminate, the Receiver seeks to reopen this case for the purpose of making a final distribution of assets, terminating the receivership, closing the case, and discharging the Receiver. More specifically, and among other things, the Receiver, through this Motion, seeks the following:

- a. Approval of all actions taken or not taken by the Receiver;
- b. Discharge of and release of all claims against the Receiver;
- c. Implementation and enforcement of the bar order;
- d. Entry of a final order terminating the receivership and closing the case; and
- e. Entry of an Order permitting destruction of records.

REQUEST FOR COURT APPROVAL OF ALL ACTIONS  
TAKEN OR NOT TAKEN BY THE COMMISSIONER AS  
THE RECEIVER OF FIRST SECURITY

14. In general, the Receiver of First Security has, from the inception of the receivership, taken possession of First Security's assets, marshaled assets, compromised claims, mitigated liabilities, sought and received recovery from various individuals and entities, and administered the business of the receivership as provided in the Insurance Code of 1956, as amended. The Commissioner has done so under this Court's general supervision.

15. Further, the Receiver has complied with this Court's directives in this matter.

16. In addition, throughout the course of this receivership, the Receiver sought court approval of all material transactions.

17. As a result, the Receiver seeks an order approving all actions taken or not taken by the Receiver and his deputy receivers, accountants, agents, attorneys, successors, officers, directors, special deputies, and assigns throughout the receivership, and providing that such actions taken or not taken have been properly executed and have met the requirements of Chapter 81 of the Insurance Code and the laws of the state of Michigan in general, as ascertained by and reviewed by this Court through the date of the order.

DISPOSITION OF REMAINING FUNDS

18. After payment of administrative expenses and claims pursuant to the previously entered Distribution Order, First Security has \$15,455.80 remaining to disburse. (Exhibit C, Balance Sheet).

19. The Receiver seeks to disburse \$5,455.80 for payment of administrative expenses associated with the receivership and disburse an additional \$10,000 to the Michigan Property & Casualty Guaranty Association in payment of its claims.

REQUEST FOR DISCHARGE OF RECEIVER  
AND RELEASE OF ALL CLAIMS  
AGAINST COMMISSIONER AS THE RECEIVER OF FIRST SECURITY

20. The Insurance Code provides:

If all assets justifying the expense of collection and distribution have been collected and distributed under this chapter, the liquidator shall apply to the court for discharge. The court may grant the discharge and make any other orders, including an order to transfer any remaining funds that are uneconomic to distribute, as may be considered appropriate.

MCL 500.8146(1).

21. The Commissioner as Receiver of First Security further seeks an order that the Receiver and his deputy receivers, accountants, agents, attorneys, successors, officers, directors, special deputies, and assigns are fully, finally, and unconditionally discharged and released from any duties, obligations, and liabilities with respect to the liquidation of First Security.

REQUEST FOR BAR ORDER FOR ALL CLAIMS  
AGAINST THE RECEIVER

22. The Receiver also requests an order that all claims and causes of action against the Receiver, and his deputy receivers, accountants, agents, attorneys, successors, officers, directors, special deputies, and assigns for any and all actions taken or not taken throughout the liquidation of First Security shall be completely and forever barred, and that from and after entry of the order terminating the receivership, the Receiver shall have no further responsibility or obligations under Chapter 81 of the Insurance Code or the laws of the State of Michigan with respect to any matter relating to or arising from this receivership.

REQUEST FOR FINAL ORDER CLOSING ESTATE

23. The Receiver seeks a final order terminating the receivership of First Security and closing this case.

24. The Receiver also requests that no further reports be required of the Receiver to any person or entity, including but not limited to reports to this Court and reports to OFIR.

25. By operation of law, the corporate existence of First Security will be dissolved effective on the date of the order discharging the Receiver. MCL 500.8120.

#### REQUEST FOR APPROVAL OF RECORD DESTRUCTION

26. The Receiver recommends and seeks authority to destroy First Security receivership estate documents on a rolling, yearly basis, such that every year all documents more than three (3) years old will be destroyed without further request to the Court by the Receiver and without further review or order of this Court.

#### AUTHORIZATION OF SERVICE

27. Due to the difficulty and prohibitive cost associated with providing personalized notice of this Verified Motion to Terminate and any resulting Order to all parties with an interest in this matter, the Receiver requests that the Court authorize, approve, and/or ratify the Receiver's service of the Verified Motion to Terminate and any resulting Order by posting electronic copies on the OFIR website, [www.michigan.gov/ofir](http://www.michigan.gov/ofir), under the section "Who We Regulate" and the subsection "First Security." Service in this manner is reasonably calculated to give interested parties actual notice of these proceedings and is otherwise reasonable under the circumstances.

#### VERIFICATION

28. This Motion is verified by James Gerber, the Special Deputy Receiver.

## RELIEF REQUESTED

WHEREFORE, the Commissioner of the Office of Financial and Insurance Regulation, acting solely in his capacity as the court-appointed Receiver of First Security, respectfully requests entry of a final order:

- a. Reopening this case for the purpose of making a final distribution of assets, terminating the receivership, closing the case, and discharging the Receiver.
- b. Granting the Receiver's Verified Motion to Terminate;
- c. Approving all actions taken or not taken by the Receiver;
- d. Approving disposition of remaining funds;
- e. Unconditionally releasing the Receiver and the Receiver's past and present agents;
- f. Discharging the Receiver and the Receiver's agents;
- g. Barring all claims against the Receiver;
- h. Terminating the receivership;
- i. Closing the case;
- j. Approving record destruction;
- k. Authorizing the Receiver to serve this Verified Motion to Terminate and any resulting Order by posting electronic copies on OFIR's website; and
- l. Granting such other and further relief as equity requires.

Respectfully submitted

Bill Schuette  
Attorney General



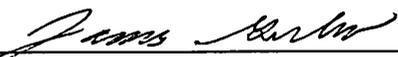
Christopher L. Kerr (P57131)  
Jason R. Evans (P61567)  
Assistant Attorneys General  
Michigan Department of Attorney General  
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P.O. Box 30755  
Lansing, Michigan 48909  
(517) 373-1160

Dated: December 18, 2012

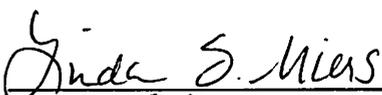
VERIFICATION

STATE OF MICHIGAN     )  
  )ss.  
COUNTY OF INGHAM     )

James Gerber, court-appointed Special Deputy to the statutory Receiver of First Security, being first duly sworn, deposes and says that he makes this Verification on the Receiver's behalf; that he has read the Verified Motion to Reopen Case, Terminate Receivership, Approve the Actions of the Receiver, Discharge the Receiver, Close the Case, and For Related Relief, and that he executes the Motion for and on behalf of the Receiver, and is duly authorized to do so; and that the matters contained in the Motion are true to his personal knowledge and/or are true to the best of his information and belief.

  
\_\_\_\_\_  
James Gerber

Subscribed and sworn to before me,  
a Notary Public in and for said county,  
this 18<sup>th</sup> day of December, 2012

  
\_\_\_\_\_  
Linda S. Miers, Notary Public  
Jackson County, Michigan *acting in Ingham*  
My Commission Expires: 12-28-2016

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**FIRST SECURITY CASUALTY COMPANY, IN LIQUIDATION**  
**CASH DISBURSEMENT SUMMARY**  
**JANUARY 1, 2006 THROUGH OCTOBER 31, 2012**

<u>ACCOUNT</u>	<u>AMOUNT</u>
RENT	\$ 2,375.53
GENERAL INSURANCE	\$ 415.54
INSURANCE PROPERTY	\$ 43.71
PERSONAL PROPERTY TAX	\$ 33.30
DISTRIBUTION PUBLICATION NOTICES	\$ 2,869.57
ACCOUNTING	\$ 14,820.00
PAYROLL PROCESSING FEES	\$ 44.27
STATE OF MICHIGAN - RECEIVERSHIP EXPENSE	\$ 9,527.79
COMPUTER SOFTWARE	\$ 105.80
OFFICE SUPPLIES	\$ 17.95
POSTAGE	\$ 13.91
TELEPHONE	\$ 86.35
ADMINISTRATIVE EXPENSE-M.P.C.G.A.	\$ 2,567.39
LOSSES PAID - CLASS 1 CLAIMANTS	\$ 151,014.95
LOSSES INCURRED PAYABLE- M.P.C.G.A.	\$ 722,832.40
OUTSIDE LABOR	\$ 15.05
SALARIES	\$ 11,913.44
F.I.C.A.	\$ 738.32
F.U.T.A.	\$ 4.08
M.E.S.C.	\$ 6.87
<b>TOTAL</b>	<b><u>\$ 919,446.22</u></b>

**First Security Casualty Company, In Liquidation**  
**Cash Disbursements**  
January 2006 through October 31, 2012

Date	Num	Name	Debit	Credit
01/06/2006	1868	Plante & Moran Plante & Moran	352.00	352.00
			352.00	352.00
01/30/2006	1869	Cadillac Insurance Company In Liquidation Cadillac Insurance Company In Liquidation	2,173.69	2,173.69
			2,173.69	2,173.69
01/30/2006	1870	V O I D	0.00	
			0.00	0.00
01/31/2006	1871	Mellen,Smith & Pivoz, P.C. Mellen,Smith & Pivoz, P.C.	3,815.00	3,815.00
			3,815.00	3,815.00
03/07/2006	1872	Plante & Moran Plante & Moran	396.00	396.00
			396.00	396.00
03/07/2006	1873	State of Michigan State of Michigan	2,880.45	2,880.45
			2,880.45	2,880.45
05/15/2006	1880	Cadillac Insurance Company In Liquidation Cadillac Insurance Company In Liquidation	1,594.78	1,594.78
			1,594.78	1,594.78

**First Security Casualty Company, In Liquidation**  
**Cash Disbursements**  
January 2006 through October 31, 2012

05/31/2006	1881	Plante & Moran		528.00
		Plante & Moran	100.01	
		Plante & Moran	427.99	
			528.00	528.00
05/31/2006	1882	State of Michigan		322.42
		State of Michigan	322.42	
			322.42	322.42
06/26/2006	1874	State of Michigan		1,086.56
		State of Michigan	1,086.56	
			1,086.56	1,086.56
06/26/2006	1875	Cadillac Insurance Company In Liquidation		99.93
		Cadillac Insurance Company In Liquidation	99.93	
			99.93	99.93
06/30/2006	1876	State of Michigan		608.45
		State of Michigan	608.45	
			608.45	608.45
07/26/2006	1877	Cadillac Insurance Company In Liquidation		1,628.04
		Cadillac Insurance Company In Liquidation	1,628.04	
			1,628.04	1,628.04
08/26/2006	1878	Plante & Moran		198.00
		Plante & Moran	198.00	
			198.00	198.00
09/30/2006	1879	Plante & Moran		71.25
		Plante & Moran	71.25	
			71.25	71.25

**First Security Casualty Company, In Liquidation**  
**Cash Disbursements**  
 January 2006 through October 31, 2012

09/30/2006	1880	State of Michigan State of Michigan		1,987.12
			1,987.12	
			1,987.12	1,987.12
10/25/2006	1884	Cadillac Insurance Company In Liquidation Cadillac Insurance Company In Liquidation		2,100.45
			2,100.45	
			2,100.45	2,100.45
10/25/2006	1885	Janice Aho Janice Aho		2,869.57
			2,869.57	
			2,869.57	2,869.57
11/07/2006	1886	State of Michigan State of Michigan		383.35
			383.35	
			383.35	383.35
11/07/2006	1887	Pricewaterhousecoopers Pricewaterhousecoopers		1,284.00
			1,284.00	
			1,284.00	1,284.00
12/11/2006	1888	Vasco Durasevic and Dickow & Trivax Vasco Durasevic and Dickow & Trivax		84,554.60
			84,554.60	
			84,554.60	84,554.60
12/11/2006	1889	Ismail Chaalan and Gary Eisenberg Ismail Chaalan and Gary Eisenberg		46,324.56
			46,324.56	
			46,324.56	46,324.56
12/11/2006	1890	VOID VOID		
			0.00	
			0.00	
			0.00	0.00

**First Security Casualty Company, In Liquidation**  
**Cash Disbursements**  
January 2006 through October 31, 2012

12/11/2006	1891	Hayloft-West, Inc. and Sidney Borders Hayloft-West, Inc. and Sidney Borders		20,135.79
			20,135.79	
			<hr/>	
			20,135.79	20,135.79
12/11/2006	1892	MPCGA MPCGA		722,832.40
			722,832.40	
			<hr/>	
			722,832.40	722,832.40
12/11/2006	1893	MPCGA MPCGA		2,567.39
			2,567.39	
			<hr/>	
			2,567.39	2,567.39
01/16/2007	1894	Cadillac Insurance Company In Liquidation Cadillac Insurance Company In Liquidation		2,181.11
			2,181.11	
			<hr/>	
			2,181.11	2,181.11
02/23/2007	1895	Cadillac Insurance Company In Liquidation Cadillac Insurance Company In Liquidation		6,223.70
			6,223.70	
			<hr/>	
			6,223.70	6,223.70
03/17/2007	1896	Plante & Moran Plante & Moran		318.75
			318.75	
			<hr/>	
			318.75	318.75
03/17/2007	1897	State of Michigan State of Michigan		1,868.54
			1,868.54	
			<hr/>	
			1,868.54	1,868.54
07/02/2007	1898	State of Michigan State of Michigan		203.32
			203.32	
			<hr/>	
			203.32	203.32

**First Security Casualty Company, In Liquidation**  
**Cash Disbursements**  
January 2006 through October 31, 2012

12/11/2007	1899	Pricewaterhousecoopers Pricewaterhousecoopers	1,716.00 <u>1,716.00</u>	1,716.00 <u>1,716.00</u>
06/24/2008	1900	Plante & Moran Plante & Moran	216.25 <u>216.25</u>	216.25 <u>216.25</u>
02/27/2009	2556	Pricewaterhousecoopers Pricewaterhousecoopers	1,716.00 <u>1,716.00</u>	1,716.00 <u>1,716.00</u>
02/27/2009	2557	Pricewaterhousecoopers Pricewaterhousecoopers	1,636.00 <u>1,636.00</u>	1,636.00 <u>1,636.00</u>
04/06/2009	2261	Plante & Moran Plante & Moran	328.75 <u>328.75</u>	328.75 <u>328.75</u>
06/16/2009	2268	Pricewaterhousecoopers Pricewaterhousecoopers	2,244.00 <u>2,244.00</u>	2,244.00 <u>2,244.00</u>
<b>TOTAL</b>			<u><u>\$ 919,446.22</u></u>	<u><u>\$ 919,446.22</u></u>

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**FIRST SECURITY CASUALTY COMPANY, IN LIQUIDATION**  
**CASH RECEIPTS SUMMARY**  
**JANUARY 1, 2006 THROUGH OCTOBER 31, 2012**

<u>ACCOUNT</u>	<u>AMOUNT</u>
INVESTMENT INCOME -CERT. OF DEPOSIT	\$ 2,777.06
CERTIFICATE OF DEPOSIT REDEMPTION	191,979.60
MISCELLANEOUS INCOME	<u>14,254.80</u>
<b>TOTAL DEPOSITS</b>	<b><u>209,011.46</u></b>

**First Security Casualty Company, In Liquidation**  
**Cash Receipts**  
 January 2006 through December 2012

Type	Date	Name	Memo	
Deposit	01/31/2006	Merrick Bank	Deposit CD Interest	296.71 <u>296.71</u>
Deposit	01/06/2006	State Farm Bank State Farm Bank Beal Bank	Deposit CD mature CD mature CD interest	94,151.45 2,680.92 829.78 <u>97,662.15</u>
Deposit	01/31/2006	Merrick Bank Ascencia	Deposit CD interest CD interest	217.59 169.01 <u>386.60</u>
Deposit	02/28/2006	Ascencia	Deposit February CD interest	169.01 <u>169.01</u>
Deposit	03/13/2006	Beal Bank Beal Bank	Deposit CD redeemed CD redeemed	95,147.23 63.13 <u>95,210.36</u>
Deposit	03/13/2006	Beal Bank	Deposit interest income	523.12 <u>523.12</u>
Deposit	03/31/2006	Ascencia	Deposit interest income	152.66 <u>152.66</u>

Type	Date	Name	Memo	
Deposit	04/28/2006	Ascencia	Deposit April check	<u>169.01</u> 169.01
Deposit	07/26/2006	Winchell, Robert	Deposit final estate distribution	<u>7,165.34</u> 7,165.34
Deposit	09/30/2006	Michigan Life & Health Insurar	Deposit refund	<u>5,031.00</u> 5,031.00
Deposit	03/16/2009	Stonebridge Bank	Deposit interest income	<u>187.04</u> 187.04
Deposit	3/24/2011	PriceWaterhouseCoopers	Deposit refund	<u>1,716.00</u> 1,716.00
Deposit	4/30/2012	State of Michigan Treasury	Deposit unclaimed property recovery	<u>342.26</u> 342.26
<b>TOTAL</b>				<u><u><b>\$209,011.26</b></u></u>

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**FIRST SECURITY CASUALTY COMPANY, IN LIQUIDATION**

**BALANCE SHEET**

**AS OF DECEMBER 31, 2012**

**ASSETS**

**CURRENT ASSETS**

CASH ON DEPOSIT \$15,455.80

TOTAL ASSETS \$15,455.80

**LIABILITIES AND EQUITY**

TOTAL LIABILITIES \$0.00

EQUITY: RETAINED EARNINGS \$15,455.80

TOTAL LIABILITIES AND EQUITY \$15,455.80