

NO. D-1-GV-12-001713

STATE OF TEXAS	§	IN THE DISTRICT COURT OF
	§	
VS.	§	TRAVIS COUNTY, TEXAS
	§	
GRAMERCY INSURANCE	§	
COMPANY	§	53RD JUDICIAL DISTRICT

**APPLICATION TO APPROVE CONFIDENTIAL
REINSURANCE COMMUTATION AND SETTLEMENT AGREEMENT
AND REQUEST FOR EXPEDITED CONSIDERATION
(Maiden Re)**

TO THE HONORABLE JUDGE OF THE COURT:

Comes now Resolution Oversight Corporation, Special Deputy Receiver under contract to the Rehabilitator of Gramercy Insurance Company (the “SDR” and “GIC,” respectively), and files this APPLICATION TO APPROVE CONFIDENTIAL REINSURANCE COMMUTATION AND SETTLEMENT AGREEMENT AND REQUEST FOR EXPEDITED CONSIDERATION (Maiden Re), and in support respectfully shows the Court as follows:

I. INTRODUCTION

The SDR requests authority to approve a Reinsurance Commutation and Settlement Agreement with Maiden Re to commute their reinsurance contracts as described herein.

II. AUTHORITY

On December 4, 2012, this Court entered an Agreed Order Appointing Rehabilitator and Permanent Injunction, appointing the Texas Commissioner of Insurance as Rehabilitator of GIC. The Rehabilitator designated Resolution Oversight Corporation as SDR of GIC on December 5, 2013.

TEX. INS. CODE § 443.102(b) allows the SDR to deal with the property and business of the insurer. The SDR seeks approval of the confidential Reinsurance Commutation and Settlement

Agreement between GIC and Maiden Re (the "Agreement"), which settles reinsurance claims and authorizes payment to GIC, as described herein, and fully and finally commutes the reinsurance contracts described in Exhibit A. The SDR is authorized to file this Application pursuant to TEX. INS. CODE § 443.008(a), which provides that this Court may issue any order as necessary or appropriate to carry out the provisions of Chapter 443.

III. PROPOSED SETTLEMENT

Maiden Re and GIC entered into a series of Quota Share Reinsurance contracts covering GIC's commercial trucking and cargo losses with various retentions and effective dates as listed in Exhibit A and referred to hereinafter as the "Contracts." Exhibit A contains the policy number, limits, and other identifying information for each year of the Contracts being commuted.

The SDR worked with its subcontractors and with NTA, Inc., the Third Party Administrator handling the claims covered by the Contracts, to establish reserves for indemnity and allocated loss adjustment expenses for the open claims. Maiden Re also conducted an audit of the claim data and reserves. Further, the SDR and Maiden Re calculated the contingent commission credit due Maiden Re for loss development on the Contracts. Maiden Re and the SDR have also calculated estimates for incurred but not reported ("IBNR") claims and have arrived at a reasonable IBNR amount for the Contracts. The SDR and Maiden Re have entered into a confidential Agreement, subject only to approval of this Court, settling all past, present and future rights, privileges, duties, obligations and liabilities under the Contracts. Within 24 hours after the Agreement is executed, Maiden Re will pay GIC a first payment of Five Million Dollars (\$5,000,000). If the settlement is approved by this Court, Maiden Re will pay GIC Fifteen Million and no/100 Dollars (\$15,000,000), subject to offsets for specific payments made by Maiden to GIC after April 1, 2013, once the order becomes final and non-appealable. Upon

receipt of the settlement amount, the SDR, on behalf of GIC, and Maiden Re will fully and finally release one another from all rights, privileges, duties, obligations and liabilities under the Contracts identified in Exhibit A.

TEX. INS. CODE § 443.007(c) authorizes the SDR to submit confidential documents in support of an application under seal for *in camera* inspection. In accordance with Rule 171 of the Texas Rules of Civil Procedure and the *Order of Reference to Master*, the Master may receive evidence regarding an application referred to him. The SDR hereby submits the Agreement under seal, in an envelope marked "Exhibit B," for *in camera* inspection by the Master, pursuant to TEX. INS. CODE § 443.007(c). An executed version of the Agreement, which is substantially similar to Exhibit B, will be submitted *in camera* once all the signatures have been obtained.

The Affidavit of Ernesto Garza is attached hereto as Exhibit C and is offered as evidence to support this recommendation. The SDR represents to the Court that the settlement is in the best interests of the GIC estate, its policyholders and creditors.

IV. EXPEDITED CONSIDERATION

The SDR requests that this Application be set for expedited consideration with a submission date of July 1, 2013. The Agreement has funding deadlines so prompt consideration of this Application is crucial. This submission date will provide interested parties with 13 days notice and provide the estate with much needed relief and the fastest possible funding date if this Application is approved.

V. PRAYER

WHEREFORE, PREMISES CONSIDERED, the SDR prays that the Court admit the affidavit of the SDR and enter an order approving the commutation of the reinsurance contracts between GIC and Maiden Re as described in the Agreement, submitted *in camera* as Exhibit B.

Respectfully submitted,

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ATTORNEYS FOR THE SPECIAL
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APPLICANT'S NOTICE OF SUBMISSION

Pursuant to the terms of the Order of Reference to Master entered by the District Court in this cause, the SDR's *Application to Approve Confidential Reinsurance Commutation and Settlement Agreement and Request for Expedited Consideration (Maiden Re)* is hereby set for written submission before the Special Master, Tom Collins, on Monday, July 1, 2013.

The Special Master has established the following rules pursuant to Rule 171 of the Texas Rules of Civil Procedure:

1. Any objection must be filed with the Travis County District Clerk at least three (3) calendar days before the submission date.
2. A copy of any objection shall be served by email by such date on:
 - (a) The Special Master's Docket Clerk, Ms. Jean Sustaita, at Jean.Sustaita@tdi.state.tx.us.
 - (b) All interested parties, including the undersigned counsel and those listed on the Applicant's Certificate of Service.
3. The written objection must specifically list all reasons for objection with supporting references to and discussion of statutory and case authorities. Reasons not stated in writing will not be considered orally.
4. If a matter is set for submission, an objecting party shall expeditiously coordinate with Applicant's counsel and the master's docket clerk [www.jean.sustaita@tdi.texas.gov] to obtain an oral hearing, unless the master determines that an oral hearing is not necessary. The objecting party shall serve a Notice of Oral Hearing on applicant's counsel and all interested parties, including those listed on the Applicant's Certificate of Service.
5. Failure to file timely a written objection before the Special Master constitutes a waiver of the right to object to the Special Master's recommendation to the District Court.
6. Any Acknowledgment of Notice and Waiver to be filed by a Guaranty Association or other interested party should be filed at least three (3) calendar days before the submission or hearing date.

/s/ Rachel Stroud

Rachel Stroud

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all interested parties in accordance with the Texas Rules of Civil Procedure and TEX. INS. CODE ANN. § 443.007(d) this 18th day of June, 2013.

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EXHIBIT A
REINSURANCE COMMUTATION & SETTLEMENT AGREEMENT
GRAMERCY INSURANCE COMPANY¹
COMMERCIAL TRUCKING AGREEMENTS – REINSURANCE

Contract	UW Year	Prefix	Excess / ProRata	Cedent Name
TR2014	1998	TR	P	GRAMERCY INS CO
TR2015	1998	TR	E	GRAMERCY INS CO
TR2026	1999	TR	P	GRAMERCY INS CO
TR2026	2000	TR	P	GRAMERCY INS CO
TR2026	2001	TR	P	GRAMERCY INS CO
TR2026	2002	TR	P	GRAMERCY INS CO
TR2026	2003	TR	P	GRAMERCY INS CO
TR2026	2004	TR	P	GRAMERCY INS CO
TR2026	2005	TR	P	GRAMERCY INS CO
TR2026	2006	TR	P	GRAMERCY INS CO
TR2026	2007	TR	P	GRAMERCY INS CO
TR2026	2008	TR	P	GRAMERCY INS CO
TR2026	2009	TR	P	GRAMERCY INS CO
TR2026	2010	TR	P	GRAMERCY INS CO
TR2026	2011	TR	P	GRAMERCY INS CO
TR2200	2007	TR	E	GRAMERCY INS CO
TR3513	2011	TR	P	GRAMERCY INS CO

¹ The reinsurance contracts listed above include all reinsurance contracts between GIC and Motors Insurance and Reinsurer's successor, GMAC.

Cause No. D-1-GV-12-001713
“EXHIBIT B”
FOR IN CAMERA INSPECTION
BY THE RECEIVERSHIP COURT

AFFIDAVIT

STATE OF TEXAS
COUNTY OF BEXAR

§
§
§

BEFORE ME, the undersigned authority, appeared Ernesto A. Garza, who after being by me duly sworn, stated the following under oath:

1. "My name is Ernesto A. Garza. I am over the age of eighteen years. I am competent to make this Affidavit. The statements of fact in this Affidavit are true and correct, and are within my personal knowledge.
2. I am President of Resolution Oversight Corporation, the Temporary Special Deputy Receiver of Gramercy Insurance Company ("Gramercy"). I am authorized to make this Affidavit on behalf of the Special Deputy Receiver.
3. I have read the Application To Approve Confidential Reinsurance Commutation and Settlement Agreement And Request For Expedite Consideration (Maiden Re) ("*Application*"). I have also read the Exhibits attached and incorporated into the *Application* by reference.
4. Resolution Oversight Corporation ("ROC") has been Special Deputy Receiver of Gramercy since December 5, 2012. The staff of ROC and the subcontractors engaged on the receivership estate will be collectively referred to as "my staff" herein. My staff has made a diligent review of the records of the receivership estate and those maintained as part of the business of Gramercy by its agents and adjusters concerning the matters at issue in the *Application*, conducted interviews of agents and adjusters, and reported the status of all matters discussed in the *Application* to me. All factual matters contained in *Application* were reported to me by a person on my staff with knowledge of the facts and in my capacity as President of ROC, in the course of ROC's administration of the receivership estate. I have formed and acquired my knowledge from the review of records and resulting status reports from my staff. I have formed my opinion based upon this knowledge.
5. I believe that entering into the Commutation Agreement with Maiden Re as set forth in the *Application* and in the Agreement, attached as Exhibit B, is in the best interests of the estate, its policyholders and creditors."
6. The Affiant has nothing further to say.

Original Signed by

Ernesto A. Garza

SUBSCRIBED AND SWORN TO BEFORE ME on the 12th day of July, 2013, by Ernesto A. Garza, on behalf of Resolution Oversight Corporation, Special Deputy Receiver of Financial Insurance Company of America.

Original Signed by

Notary Public

JUDITH A. EOFF
MY COMMISSION EXPIRES
July 18, 2015

My Commission Expires: 7/18/2015

