

GOVERNOR'S OFFICE OF GENERAL COUNSEL

RECEIVED
INSURANCE DEPARTMENT
2012 FEB 29 AM 11:16
ADMIN HEARINGS OFFICE

February 29, 2012

Jean Martin, Assistant Hearing Administrator
Pennsylvania Insurance Department
Administrative Hearings Office
901 North Seventh Street, Room 200
Harrisburg, PA 17102

Re: *In Re: First Sealord Surety, Inc. (In Liquidation)*

Dear Ms. Martin:

Attached please find an original and two copies of a Petition for Entry of Summary Order Finding First Sealord Surety, Inc. (In Liquidation) Insolvent, together with a proposed Order and Notice of Hearing, with regard to the above-referenced liquidation.

Very truly yours,

Preston M. Buckman
Insurance Department Counsel

PMB:drh

Enclosures

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

RECEIVED
INSURANCE DEPARTMENT
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IN RE: : SUMMARY ORDER
: :
First Sealord Surety, Inc. (In Liquidation) : Pursuant to Sections 503, 510 and 520(f) of
789 East Lancaster Avenue : Article V of the Insurance Department Act of
Villanova, PA 10985 : 1921, P.L. 789, as amended, 40 P.S. §§221.3,
: 221.10, 221.20(f).
: :
: Docket No.

ORDER

AND NOW, this _____ day of March, 2012, pursuant to and in accordance with Sections 503, 510 and 520(f) of the Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, as amended, 40 P.S. §§221.3, 221.10, 221.20(f), Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, after consideration of the Petition of the Statutory Liquidator of First Sealord Surety, Inc. (In Liquidation) for Entry of Summary Order Declaring First Sealord Surety, Inc. (In Liquidation) Insolvent, any answer thereto, and any administrative hearing testimony, exhibits, briefs and other documents that may properly be considered, makes the following Order:

1. On February 8, 2012, the Commonwealth Court of Pennsylvania placed First Sealord Surety, Inc. into liquidation.
2. On February 29, 2012, the Statutory Liquidator of First Sealord Surety, Inc. (In Liquidation) (“Liquidator”) filed a Petition For Entry of Summary Order Declaring First Sealord Surety, Inc. (In Liquidation) Insolvent (“Petition”).

3. First Sealord Surety, Inc. (In Liquidation) (“FSS”) is subject to the jurisdiction of the Commissioner under Article V of the Insurance Department Act of 1921 (“Article V”). 40 P.S. §§221.2(1)(3) (persons covered), 221.3 (definition of “insurer”), 221.10 (Commissioner’s summary orders).

4. Section 520(f) of Article V provides that the Commonwealth Court may issue a determination of insolvency upon petition of the Commissioner following an administrative finding of insolvency and a hearing before the Commissioner. 40 P.S. §221.20(f).

5. An administrative hearing was held on the Liquidator’s Petition on March _____, 2012.

6. Under Section 503 of Article V, 40 P.S. §221.3, an insurer is insolvent if its admitted assets do not exceed its liabilities plus any capital and surplus required by law.

7. FSS was a domestic stock property and casualty insurance company, organized pursuant to the laws of the Commonwealth of Pennsylvania and retains its principal place of business at 789 East Lancaster Avenue, Suite 200, Villanova, Pennsylvania 19085.

8. FSS was authorized to write lines of business under the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, Section 202(c), 40 P.S. § 382(c)(1), fidelity and surety.

9. Under 40 P.S. §386(a), FSS’s minimum required capital and surplus was \$1,125,000.

10. Attached to the Petition as Exhibit B is the Affidavit of FSS’s Chief Financial Officer, Robert W. Ghegan, concerning First Sealord’s financial condition as of December 31, 2011.

11. The Affidavit of Mr. Ghegan demonstrates that, as of December 31, 2011, First Sealord’s liabilities, plus any capital and surplus required by law, exceeded its admitted assets by more than \$16 million:

	December 31, 2011
Admitted Assets	\$ 11,204,621
Liabilities	\$ 26,750,773
Required Capital and Surplus	\$ 1,125,000
Liabilities + Required Capital and Surplus	\$ 27,875,773
Total Insolvency (line 1 – line 4)	(\$ 16,671,152)
(Admitted Assets minus sum of Liabilities and Required Capital and Surplus)	

12. Under Section 503 of Article V, FSS's admitted assets do not exceed its liabilities plus any capital and surplus required by law, and thus FSS is statutorily insolvent.

Michael F. Consedine
Insurance Commissioner
Commonwealth of Pennsylvania

DATED: _____

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Villanova, PA 10985 : 1921, P.L. 789, as amended, 40 P.S. §§221.3,
: 221.10, 221.20(f).
:
: Docket No.

**PETITION FOR ENTRY OF SUMMARY ORDER FINDING
FIRST SEALORD INSURANCE COMPANY, INC.
(IN LIQUIDATION) INSOLVENT**

The Statutory Liquidator of First Sealord Surety, Inc. (In Liquidation) (“Liquidator”) hereby requests that the Insurance Commissioner (“Commissioner”) enter a summary order finding First Sealord Surety, Inc. (In Liquidation) (“FSS”) to be insolvent under Article V of the Insurance Department Act of 1921, 40 P.S. §§221.3, 221.10, 221.20(f), and, in support thereof, states the following:

BACKGROUND

1. FSS was a domestic stock property and casualty insurance company, organized pursuant to the laws of the Commonwealth of Pennsylvania and retains its principal place of business at 789 East Lancaster Avenue, Suite 200, Villanova, Pennsylvania 19085.
2. FSS was authorized to write lines of business under the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, Section 202(c), 40 P.S. § 382(c)(1), fidelity and surety.

3. FSS is subject to the jurisdiction of the Commissioner under Article V of the Insurance Department Act of 1921 (“Article V”). 40 P.S. §§221.2(1)(3) (persons covered), 221.3 (definitions of “insurer”), 221.10 (Commissioner’s summary orders).

4. On February 8, 2012, the Commonwealth Court placed First Sealord into liquidation. A true and correct copy of the Liquidation Order is attached as Exhibit A and incorporated here by reference.

5. While the business written by First Sealord, fidelity and surety, is not subject to Guaranty Fund protection in Pennsylvania, Guaranty Fund coverage is afforded for surety claims in several states in which First Sealord did business, including: Arkansas, Kansas, Kentucky, Maryland, Michigan and New York. *Compare* 40 P.S. §991.1802 (definition of “property and casualty insurance policy” excludes fidelity and surety) *with* A.C.A. §23-90-103(4) (definition of “insurer”), 23-90-104 (applicability – exceptions); K.S.A. §§40-1102 (kinds of insurance authorized), 40-2902(application); KRS § 304.36-030 (scope of subtitle); Md. Insurance Code Ann. §9-303 (scope of subtitle); MCLS §500.7911 (membership); NY CLS Ins §§1113 (kinds of insurance authorized), 7603 (property/casualty security fund).

6. The obligation of the Guaranty Funds in these states to step in to protect policyholders and claimants from financial loss by paying covered claims is triggered by a determination of insolvency entered by the Commonwealth Court in a liquidation proceeding. *See* A.C.A. §23-90-103 (definition of “insolvent insurer”); K.S.A. §40-2903(e) (definition of “insolvent insurer”); KRS §304.36-050 (definition of “insolvent insurer”); Md. INS. Code §9-301(e)(definition of “insolvent insurer”); MCLS §500.7921 (definition of “insolvent insurer”); NY CLS Ins. §1309 (“insolvency of an insurer”), NY CLS Ins. §7603 (property/casualty security fund), 11 NYCRR §130.6 (judicial declaration of insolvency required).

7. Section 520(f) of Article V provides that the Commonwealth Court may issue a determination of insolvency, triggering Guaranty Fund coverage, upon petition of the Commissioner following an administrative finding of insolvency and a hearing before the Commissioner. 40 P.S. §221.20(f).

FSS IS STATUTORILY INSOLVENT

8. Under Section 503 of Article V, 40 P.S. §221.3, an insurer is insolvent if its admitted assets do not exceed its liabilities plus any capital and surplus required by law.

9. Under 40 P.S. §386(c), First Sealord’s minimum required capital and surplus was \$1,125,000.

10. The Liquidator has filed the affidavit of FSS’s Chief Financial Officer, Robert W. Ghegan, concerning First Sealord’s financial condition as of December 31, 2011. A true and correct copy of the Affidavit of Robert W. Ghegan is attached as Exhibit B and incorporated here by reference.

11. The Affidavit of Robert W. Ghegan demonstrates that, as of December 31, 2011, First Sealord’s liabilities, plus any capital and surplus required by law, exceeded its admitted assets by more than \$16 million:

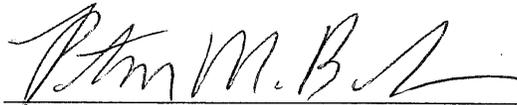
12.

	December 31, 2011
Admitted Assets	\$ 11,204,621
Liabilities	\$ 26,750,773
Required Capital and Surplus	\$ 1,125,000
Liabilities + Required Capital and Surplus	\$ 27,875,773
Total Insolvency (line 1 – line 4)	(\$ 16,671,152)
(Admitted Assets minus sum of Liabilities and Required Capital and Surplus)	

13. Under Section 503 of Article V, FSS is statutorily insolvent. See 40 P.S. §221.3 (definition of “insolvency”). FSS’s admitted assets do not exceed its liabilities plus any capital and surplus required by law.

WHEREFORE, The Statutory Liquidator of First Sealord Surety, Inc. (In Liquidation) respectfully requests that the Insurance Commissioner issue a summary order finding that First Sealord Surety, Inc. (In Liquidation) is insolvent.

Respectfully submitted,



PRESTON M. BUCKMAN (I.D. #57570)

Insurance Department Counsel

Office of Liquidations, Rehabilitations
& Special Funds

Governor’s Office of General Counsel

Capital Associates Building

901 North 7th Street

Harrisburg, PA 17102

(717) 787-6009

Counsel for the Statutory Liquidator of First Sealord
Surety, Inc. (In Liquidation)

DATED: _____

2/29/12

EXHIBIT A

ASSETS OF THE ESTATE

4. The Liquidator is vested with title to all property, assets, contracts and rights of actions (collectively "assets") of First Sealord of whatever nature and wherever located, as of the date of filing of the Petition for Liquidation. All assets of First Sealord are hereby found to be *in custodia legis* of this Court and this Court asserts jurisdiction as follows: (a) *in rem* jurisdiction over all assets of First Sealord wherever they may be located and regardless of whether they are held in the name of First Sealord or in any other name; (b) exclusive jurisdiction over all determinations as to whether assets belong to First Sealord or to another party; (c) exclusive jurisdiction over all determinations of the validity and amounts of claims against First Sealord; and (d) exclusive jurisdiction over the determination of the priority of all claims against First Sealord.

5. The filing or recording of this Order with the Clerk of the Commonwealth Court or with the Recorder of Deeds of the county in which First Sealord's principal office or place of business is located (Delaware County), shall impart the same notice as is imparted by any deed, bill of sale or other evidence of title duly filed or recorded with that Recorder of Deeds.

6. The Liquidator is directed to take possession of all assets that are the property of First Sealord.

7. The Liquidator is directed to continue telephone, data-processing, water, electric, sewage, garbage, delivery, trash removal and utility services needed by the estate of First Sealord by establishing a new account for the Liquidator as of the date of this Order.

8. First Sealord's directors, officers and employees shall: (a) surrender peaceably to the Liquidator the premises where First Sealord conducts its business; (b) deliver all keys or access codes thereto and to any safe deposit boxes;

(c) advise the Liquidator of the combinations and access codes of any safe or safekeeping devices of First Sealord or any password or authorization code or access code required for access to data processing equipment; and (d) deliver and surrender peaceably to the Liquidator all the assets, books, records, files, credit cards, and other property of First Sealord in their possession or control, wherever located, and otherwise advise and cooperate with the Liquidator in identifying and locating any of the foregoing.

9. First Sealord's directors, officers and employees are enjoined from taking any action, without approval of the Liquidator, to transact further business on behalf of First Sealord. They are further enjoined from taking any action that would waste the assets of First Sealord or would interfere with the Liquidator's efforts to wind up the affairs of First Sealord.

10. Except as otherwise provided in this Order, executory contracts to which First Sealord is a party as of the date of this Order may be affirmed or disavowed by the Liquidator.

11. All banks, investment bankers, companies, other entities or other persons having in their possession assets which are, or may be, the property of First Sealord, shall, unless otherwise instructed by the Liquidator, deliver the possession of the same immediately to the Liquidator, and shall not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of, or unless directed in writing by, the Liquidator.

12. All persons and entities are enjoined from disposing of or destroying any records pertaining to any transactions between First Sealord and any party.

13. The amount recoverable by the Liquidator from any reinsurer shall not be reduced as a result of this Order of Liquidation, regardless of any provision in a reinsurance contract or other agreement. Payment made directly by the reinsurer to an insured or other creditor of First Sealord shall not diminish the reinsurer's obligation to First Sealord, except to the extent provided by law.

TERMINATION OF POLICIES

14. Any First Sealord surety bond, surety undertaking or policy still in force at the time of the Liquidation will continue only until the earlier of the following: (1) thirty (30) days after the entry of this order; (2) the expiration of the bond, undertaking or policy by its own terms; or (3) the date when the obligee or insured replaces the surety bond, surety undertaking or policy with equivalent coverage in another reinsurer or surety, or otherwise terminates the policy.

PROOF OF CLAIM FILING

15. All claims against the estate of First Sealord, together with proper proof thereof, shall be filed on or before October 5, 2012. No person shall participate in any distribution of the assets of First Sealord unless his, her or its claim has been filed with the Liquidator in accordance with the time limit established by the Liquidator, subject to the provisions for the late filing of claims pursuant to Section 537 of the Act, 40 P.S. §221.37.

16. No judgment or order against First Sealord or its insureds entered after the date of filing of the Petition for Liquidation, and no judgment or order against First Sealord or its insureds entered at any time by default or by collusion, will be considered as evidence of liability or quantum of damages by the Liquidator in evaluating a claim against the estate of First Sealord.

17. In addition to the notice requirements of Section 524 of the Act, 40 P.S. §221.24, the Liquidator shall publish notice in newspapers of general circulation, where First Sealord has its principal places of business, and in the national edition of a national publication such as USA Today that: (a) specifies the last day for the filing of claims; (b) explains the procedure by which claims may be submitted to the Liquidator; (c) provides the address of the Liquidator's office for the submission of claims; and (d) notifies the public of the right to present a claim, or claims, to the Liquidator.

18. Within thirty (30) days of giving notice of the order of liquidation, as set forth in Section 524 of the Act, 40 P.S. §221.24, and of the procedures for filing claims against the estate of First Sealord, the Liquidator shall file a compliance report with the Court noting, in reasonable detail, the date that and manner by which these notices were given.

ADMINISTRATIVE EXPENSES

19. The Liquidator shall pay as costs and expenses of administration pursuant to Section 544 of the Act, 40 P.S. §221.44, the actual, reasonable and necessary costs of preserving or recovering the assets of First Sealord.

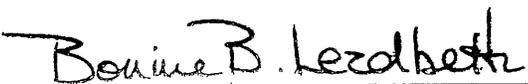
20. Distribution of the assets of First Sealord in payment of the costs and expenses of estate administration including, but not limited to, compensation for services of employees and professional consultants, such as attorneys, actuaries and accountants, shall be made under the direction and approval of the Court. This includes reimbursement to the Pennsylvania Insurance Department for expenses it has incurred in compensating professional consultants,

attorneys and other persons it has engaged on behalf of First Sealord for the preservation of its assets.

STAY OF LITIGATION

21. Unless the Liquidator consents thereto in writing, no action at law or in equity, including, but not limited to, an arbitration or mediation, the filing of any judgment, attachment, garnishment, lien or levy of execution process against First Sealord or its assets, shall be brought against First Sealord or the Liquidator, whether in this Commonwealth or elsewhere, nor shall any such existing action be maintained or further prosecuted after the effective date of this Order. All above-enumerated actions currently pending against First Sealord in the courts of the Commonwealth of Pennsylvania or elsewhere are hereby stayed; relief sought in these actions shall be pursued, as is appropriate, either by filing a proof of claim against the estate of First Sealord pursuant to Section 538 of the Act, 40 P.S. §221.38, or by applying to intervene.

22. All secured creditors or parties, pledges, lienholders, collateral holders or other person claiming secured, priority or preferred interests in any property or assets of First Sealord are hereby enjoined from taking any steps whatsoever to transfer, sell, assign, encumber, attach, dispose of, or exercise, purported rights in or against any property or assets of First Sealord except as provided in Section 543 of the Act, 40 P.S. §221.43.



BONNIE BRIGANCE LEADBETTER,
Judge

Certified from the Record

EXHIBIT B

BEFORE THE INSURANCE COMMISSIONER
OF THE
COMMONWEALTH OF PENNSYLVANIA

IN RE: : SUMMARY ORDER
: :
First Sealord Surety, Inc. (in liquidation) : Pursuant to Sections 503, 510 and 520(f) of
789 E. Lancaster Avenue : Article V of the Insurance Department Act of
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: 221.10, 221.20(f).
: :
: Confidential Docket No.

**AFFIDAVIT OF ROBERT W. GHEGAN IN SUPPORT OF THE
PETITION FOR ENTRY OF SUMMARY ORDER FINDING
FIRST SEALORD INSURANCE COMPANY, INC. (IN
LIQUIDATION) INSOLVENT**

I, Robert W. Ghegan, hereby depose and state as follows:

1. I was the Chief Financial Officer of First Sealord Surety, Inc. prior to it being placed in liquidation by the Commonwealth Court of Pennsylvania by order dated February 8, 2012, and I remain employed as the Chief Financial Officer of First Sealord Surety, Inc. (in liquidation) ("FSS") as of the date of this affidavit.

2. In my capacity as Chief Financial Officer, I am familiar with the financial condition of FSS and its financial statements.

3. I have read the Petition for Entry of Summary Order Finding First Sealord Surety, Inc. (in liquidation) Insolvent ("Petition").

4. The insolvency figure of (\$16,671,152) contained in the Petition is based upon the 12/31/11 statutory financial statement of the company. A true and correct copy of the

12/31/11 statutory financial statement of the Company is attached as Exhibit A to this Affidavit and incorporated here by reference.

5. Based on my knowledge, information and belief, the 12/31/11 statutory financial statement of the company is a full and true statement of all the assets and liabilities and of the conditions and affairs of First Sealord Security, Inc. as of 12/31/11. Moreover, the described assets were the absolute property of FSS, free and clear from any liens or claims thereon, and the income and deductions for the period ended 12/31/11 were completed in accordance with the NAIC Annual Statement Instructions and Accounting Practices and Procedures manual except to the extent that: (1) state law may differ; or, (2) that state rules or regulations require differences in reporting not related to accounting practices and procedures.

6. I acknowledge that I make the statements contained herein subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.


ROBERT W. GHEGAN

Sworn to and subscribed before me
this 27 day of February 2012.


NOTARY PUBLIC

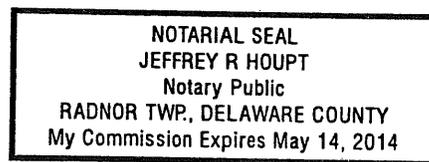


EXHIBIT A

First Sealord Surety, Inc.
Statement as of December 31, 2011

ASSETS

Line#		Current Statement Date			December 31 Prior Year Net Admitted Assets
		Assets	Nonadmitted Assets	Net Admitted Assets	
1	Bonds				204,401
5	Cash	3,912,176		3,912,176	5,462,735
8	Other invested assets	3,551,251	839,676	2,711,575	2,711,575
12	Subtotals, cash and invested assets	7,463,427	839,676	6,623,751	8,378,711
14	Investment income due and accrued	5,283	-	5,283	2,258
15	Premiums and considerations				
15.1	Uncollected premiums	2,715,153	351,400	2,363,754	2,256,576
16	Reinsurance				
16.1	Amounts recoverable from reinsurers	102,772	-	102,772	84,410
18.1	Current federal & foreign income tax recoverable				
18.2	Net deferred tax asset	845,845	-	845,845	830,502
20	Electronic data processing equipment and software	206,939	-	206,939	215,092
21	Furniture & equipment	56,468	56,468	-	-
23	Receivables from parent, subsidiaries and affiliates	736,256	-	736,256	-
25	Aggregate write-ins for other than invested assets	760,270	440,249	320,021	292,613
26	Total assets excluding Separate Accounts, Segregated Accounts and Protected Cell Accounts	12,892,414	1,687,793	11,204,621	12,060,162
28	Total Assets	12,892,414	1,687,793	11,204,621	12,060,162
DETAILS OF WRITE-INS					
2501	Rent Deposits & Other Assets	99,653	89,816	9,837	20,124
2502	Prepaid Expenses	64,953	64,953	-	-
2503	Bonded Escrow Fees Receivable	595,665	285,481	310,185	272,489
2598	Summary of remaining write-ins	-	-	-	-
2599	Totals	760,270	440,249	320,021	292,613

First Sealord Surety, Inc.
Statement as of December 31, 2011

LIABILITIES, SURPLUS AND OTHER FUNDS

Line#		Current Statement Date	December 31 Prior Year
1	Losses	13,397,824	(3,361,505)
3	Loss adjustment expenses	4,226,466	604,500
4	Commissions payable, contingent commissions and other	188,770	34,789
5	Other expenses (excluding taxes, licenses and fees)	313,561	172,152
6	Taxes, licenses and fees (excluding federal & foreign income taxes)	122,718	107,859
7.1	Current federal & foreign income taxes	472,948	472,948
9	Unearned premiums (after deducting unearned premiums for ceded reinsurance)	(2)	3,021,984
12	Ceded reinsurance premiums payable	4,400,204	20,238
14	Amounts withheld or retained by company for account of others	3,443,891	364,541
25	Aggregate write-ins for liabilities	184,394	510,259
26	Total liabilities excluding protected cells	26,750,773	1,947,765
28	Total liabilities	26,750,773	1,947,765
30	Common capital stock	2,022,300	2,022,300
34	Gross paid in and contributed surplus	7,977,700	7,977,700
35	Unassigned funds (surplus)	(25,546,153)	112,398
37	Surplus as regards to policyholders	(15,546,153)	10,112,398
38	Totals	11,204,621	12,060,163
DETAILS OF WRITE-INS			
2501	Florida Hurricane Surcharge	8,427	6,605
2502	Deferred Bonded Escrow Fees	195,534	-
2503	Other Liabilities	(19,567)	(19,567)
2598	Summary of remaining write-ins	523,221	523,221
2599	Totals	184,394	510,259

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 1 Pa. Code Chapter 33 in the following manner:

Service by first-class mail, addressed as follows:

Deborah Metzger Mulvey, Esquire
Segal McCambridge Singer & Mahoney
1818 Market Street, Suite 2600
Philadelphia, PA 19103

A. Scott Webster, Executive Director
Kentucky Insurance Guaranty Association
10605 Shelbyville Road, Suite 101
Louisville, KY 40222

Jeffrey M. Lesser, Esquire
39040 West Seven Mile Road
Livonia, Michigan 48152

Joseph R. Petr, President
Property & Casualty Insurance Guaranty
Corporation
305 Washington Avenue, Suite 600
Towson, MD 21204-4715

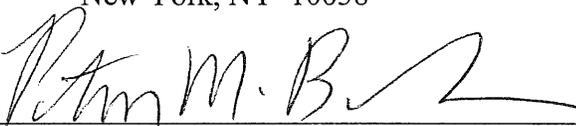
David L. Swimmer, Esquire
7990 SW 117th Avenue, Suite 100
Miami, FL 33183

Thomas R. Kujawa, Executive Director
Michigan Property & Casualty Guaranty
Association
P.O. Box 531266
Livonia, MI 48153-1266

Steve A. Uhrynowycz, Administrator
Arkansas Property & Casualty Guaranty Fund
1023 West Capitol Avenue, Suite 2
Little Rock, AR 72201

Jonathan Bing, Special Deputy Superintendent
New York Liquidation Bureau
110 William Street, 15th Floor
New York, NY 10038

David C. Edwards, President
Western Guaranty Fund Services
1720 South Bellaire Street, Suite 408
Denver, CO 80222



PRESTON M. BUCKMAN (I.D. #57570)
Insurance Department Counsel
Office of Liquidations, Rehabilitations
& Special Funds
Governor's Office of General Counsel
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

DATED: _____

2/29/12

Counsel for the Statutory Liquidator of First Sealord
Surety, Inc. (In Liquidation)