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The following constitutes
the order of the court. Signed September 7, 2012

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Roger L. Efremsky
U.S. Bankruptcy Judge

12 *Counsel for CFB Liquidating Corporation,*
f/k/a Chicago Fire Brick Company,
13 *and WFB Liquidating Corporation, f/k/a*
Wellsville Firebrick Company

14 **IN THE UNITED STATES BANKRUPTCY COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

16 **OAKLAND DIVISION**

17 **In re**
18 **CFB LIQUIDATING CORPORATION,**
19 **f/k/a CHICAGO FIRE BRICK CO., an**
20 **Illinois Corporation, et al.,**
21 **Debtors.**

Case No. 01-45483 RLE
Chapter 11
Jointly Administered
Honorable Roger L. Efremsky

22 **FINDINGS OF FACT AND**
23 **CONCLUSIONS OF LAW REGARDING**
24 **CONFIRMATION OF THE JOINT**
25 **CHAPTER 11 PLAN OF CFB**
26 **LIQUIDATING CORPORATION, F/K/A**
27 **CHICAGO FIRE BRICK COMPANY,**
28 **AND WFB LIQUIDATING**
CORPORATION, F/K/A WELLSVILLE
FIRE BRICK COMPANY, AS
MODIFIED

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1 This matter came before the Court for hearing on September 6, 2012 (the “Confirmation
2 Hearing”), on the request of CFB Liquidating Corporation f/k/a Chicago Fire Brick Company
3 (“CFB”) and WFB Liquidating Corporation f/k/a Wellsville Fire Brick Company (“WFB” and,
4 together with CFB, the “Debtors”) for entry of an order confirming the Joint Chapter 11 Plan of
5 Liquidation of CFB Liquidating Corporation f/k/a Chicago Fire Brick Company and WFB
6 Liquidating Corporation, f/k/a Wellsville Fire Brick Company as Modified (as it may be further
7 modified or amended, the “Plan”) and approval of the transactions set forth therein, pursuant to
8 sections 363 and 1129 of the United States Bankruptcy Code, (11 U.S.C. §§ 101 *et seq.*, hereinafter
9 the “Bankruptcy Code”),¹ and Rule 9019 of the Federal Rules of Bankruptcy Procedure.²
10

11 The Court has considered the Plan, the Declarations submitted in support of the Plan by the
12 Debtors, the Memorandum of Points and Authorities in Support of Confirmation of the Joint Chapter
13 11 Plan of Liquidation of CFB Liquidating Corporation f/k/a Chicago Fire Brick Company and WFB
14 Liquidating Corporation, f/k/a Wellsville Fire Brick Company as Modified [Docket No. 444] (the
15 “Brief”) and the statements of all interested counsel with respect to the foregoing.
16

17 The Court has also reviewed the Debtor’s Certificate of Service filed with respect to service
18 of the court-approved notice of the Confirmation Hearing (the “Confirmation Hearing Notice”) and
19 solicitation packages, to the extent appropriate [Docket No. 431], the Affidavit and Verification of
20 Publication, confirming publication of the Confirmation Hearing Notice in the national edition of
21 *USA Today* on June 12, 2012, and again on June 15, 2012 [Docket No. 432], the Debtors’ Ballot
22 Tabulation Report [Docket No. 447], the Declaration of Jeremy C. Kleinman, certifying the
23 acceptances and rejections of the Plan [Docket No. 448], all in accordance with the Court’s Order: (I)
24 Approving the Debtors’ Disclosure Statement with Respect to the Joint Chapter 11 Plan of CFB
25

26 _____
27 ¹ All section references herein, if not otherwise designated, refer to the Bankruptcy Code.

28 ² Capitalized terms not otherwise defined herein shall have the meanings given to them in the Plan.

1 Liquidating Corporation f/k/a/ Chicago Fire Brick Company and WFB Liquidating Corporation f/k/a
2 Wellsville Fire Brick Company, as Modified; (II) Setting Hearing on Confirmation of the Debtors'
3 Proposed Plan and (III) Setting Deadlines and Approving Procedures, Forms of Notice and Ballots
4 Relating thereto [Docket No. 424] (the "Disclosure Statement Approval Order"), and concludes that
5 good and sufficient notice of the Confirmation Hearing was given to all parties in interest.

6 After due deliberation and sufficient cause appearing therefor, the Court hereby makes the
7 following Findings of Fact and Conclusions of Law (the "Findings and Conclusions").³
8

9 **I. PRELIMINARY FINDINGS AND CONCLUSIONS**

10 **A. Jurisdiction.**

11 1. The Court has jurisdiction to conduct the Confirmation Hearing and to confirm the
12 Plan pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C.
13 § 157(b), and this Court has jurisdiction to enter a final order with respect thereto.

14 2. Each of the Debtors was and is qualified to be a debtor under section 109(a) of the
15 Bankruptcy Code, and each of the Debtors is a proper proponent of the Plan under section 1121(a) of
16 the Bankruptcy Code.

17 3. Each of the conditions precedent to confirmation of the Plan and entry of the
18 Confirmation Order has been satisfied in accordance with section 14.1 of the Plan.

19 **B. Judicial Notice.**

20 4. This Court takes judicial notice of the docket of the Debtors' chapter 11 cases (the
21 "Cases") maintained by the Clerk of the Court, and all pleadings and other documents filed, all orders
22 entered, and evidence and arguments made, proffered or adduced at the hearings held before the
23 Court during the pendency of the Cases.
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26 _____
27 ³ These Findings and Conclusions constitute the Court's findings of fact and conclusions of law under
28 Rule 52 of the Federal Rules of Civil Procedure, as made applicable by Bankruptcy Rules 7052 and 9014.
Any finding of fact shall constitute a finding of fact even if it is stated as a conclusion of law, and any
conclusion of law shall constitute a conclusion of law even if it is stated as a finding of fact.

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II. FINDINGS OF FACT

A. Procedural Background

5. The Debtors filed voluntary petitions for relief under the Bankruptcy Code on October 10, 2001 (the “Petition Date”), in the United States Bankruptcy Court for the Northern District of California (the “Bankruptcy Court”). The Debtors’ parent, National Refractories and Minerals Corporation, (“NRMC”), and affiliates NAT Liquidation Corporation, f/k/a National Affiliated Technologies, Inc. (“NAT”), and National Refractories and Minerals, Inc. (“NRMI”) (collectively, the “National Refractories Debtors”) also filed voluntary petitions on the Petition Date.

6. As of the Petition Date, the Debtors were subject to thousands of asbestos-related personal injury claims (“Asbestos Claims”) asserting millions of dollars of liabilities. The Bankruptcy Court established a bar date of February 18, 2002 for the assertion of claims in each of the Debtors’ and National Refractories Debtors’ bankruptcy cases. Because February 18, 2002 was a federal holiday, the bar date for the filing of claims was extended to February 19, 2002 (the “Bar Date”). Over 1,300 claims were filed against the Debtors prior to the Bar Date. Among these claims were claims filed by law firms that each filed a single claim on behalf of hundreds of claimants. As a result, on or before the Bar Date, the Debtors received claims filed by, or on behalf of, over 20,000 holders of Asbestos Claims.

7. On September 18, 2002, the Bankruptcy Court approved the appointment of Bradley L. Sharp as the Responsible Individual for the chapter 11 estates of each of the Debtors and the National Refractories Debtors. Mr. Sharp has continued in that capacity throughout the duration of the Debtors’ cases.

8. Following his appointment, Mr. Sharp pursued the sale of the operating assets of the Debtors and the National Refractories Debtors. After substantial marketing efforts, Mr. Sharp completed sales of those assets in late 2002 and early 2003 (collectively, the “Asset Sales”).

1 9. Following the Asset Sales, the Debtors and National Refractories Debtors possessed
2 few remaining assets. These assets consisted primarily of the proceeds from the Asset Sales and
3 certain insurance policies that provide coverage for Asbestos Claims that have been asserted against
4 CFB.

5 10. On December 15, 2006, the Debtors and the National Refractories Debtors filed their
6 Motion for Order Authorizing (I) Pro-Rata Distribution on Account of Allowed Chapter 11 Expenses of
7 Administration, (II) Dismissing Chapter 11 Cases Pursuant to 11 U.S.C. §§ 105(a), 349(b) and 1112(b);
8 and (III) Directing Post-Dismissal Service of Notice of Insurance-Related Claims [*In re National*
9 *Refractories and Minerals Corporation, et al.*, Case No. 01-45482, Docket No. 1366] (the “Distribution
10 Motion”). In the Distribution Motion, the Debtors and National Refractories Debtors sought authority to
11 wind down their estates by making *pro rata* distributions from available assets to administrative expense
12 claimants, designating a service agent for complaints against the Debtors asserting Asbestos Claims and,
13 thereafter, dismissing the Debtors’ and the National Refractories Debtors’ bankruptcy cases.

14 11. On January 4, 2007, the Bankruptcy Court entered the Order Granting Debtors’ Motion
15 for Order Authorizing (I) Pro-Rata Distribution on Account of Allowed Chapter 11 Expenses of
16 Administration, (II) Dismissing Chapter 11 Cases Pursuant to 11 U.S.C. §§ 105(a), 349(b) and 1112(b);
17 and (III) Directing Post-Dismissal Service of Notice of Insurance-Related Claims [*In re National*
18 *Refractories and Minerals Corporation, et al.*, Case No. 01-45482, Docket No. 1369]. (the “Distribution
19 Order”). Pursuant to the Distribution Order, the Debtors and the National Refractories Debtors made *pro-*
20 *rata* distributions to holders of allowed administrative claims.

21 12. On November 17, 2008, Mr. Sharp dismissed only the bankruptcy cases of the
22 National Refractories Debtors, explaining to the Bankruptcy Court that, in light of productive
23 settlement discussions with the Debtors’ insurance carriers, Mr. Sharp wished to keep the Debtors’
24 cases open.

1 13. After CFB filed its own proposed chapter 11 plan in 2009 and received objections to
2 that plan, the Debtors filed the current Plan, as modified, on June 1, 2012. The Plan is dated and
3 identifies the name of the submitting entity, in accordance with Bankruptcy Rule 3016(b).

4 14. On June 4, 2012, the Bankruptcy Court entered an order establishing a supplemental
5 bar date of July 16, 2012 (the “Supplemental Bar Date”), for any claimant holding an Asbestos Claim
6 who was unaware of the condition(s) giving rise to his or her claim on or before February 19, 2002.
7 The Debtors received over 700 additional claims prior to the Supplemental Bar Date.

8
9 **B. Summary of the Plan**

10 15. The cornerstones of the Plan are (i) the creation of a liquidating trust (the
11 “Liquidating Trust”), to which all of the Class 3 Bar Date Asbestos Personal Injury Claims, and all
12 Class 4 Supplemental Bar Date Asbestos Personal Injury Claims against the Debtors (collectively,
13 “Trust Claims”) will be channeled for resolution and payment, and (ii) the proposed insurance policy
14 buyback settlement transactions with four insurance carriers (collectively, the “Insurance
15 Settlements”) which will provide over \$16 million from which the Liquidating Trust can fund
16 distributions to holders of Trust Claims.
17

18 16. The Plan also includes a settlement option granted in favor of a fifth insurer,
19 Continental Casualty Company (“Continental”), pursuant to which Continental may elect, at any time
20 prior to the Effective Date of the Plan, to enter into an insurance policy buyback and settlement
21 transaction similar in form to the Debtors’ Insurance Settlements, in exchange for the payment of
22 100% of remaining policy limits (the “Continental Settlement Option”).
23

24 17. The Plan requires all holders of Trust Claims to file a claim form with the Liquidating
25 Trust, together with supporting documentation, as required by the Debtors’ proposed Liquidating
26 Trust Distribution Procedures (the “TDP”). The Liquidating Trust shall resolve and pay the Trust
27 Claims in accordance with the TDP.
28

1 18. The Liquidating Trust will be funded from the proceeds of the insurance settlements
2 incorporated into the Plan and the proceeds from the Debtors' additional claims and rights against
3 non-settling insurers. Because the Debtors lack assets unrelated to their insurance rights, unsecured
4 trade creditors will not receive any payment on account of their claims.

5 **C. The Plan Solicitation Process**

6 19. On June 4, 2012, the Bankruptcy Court entered the Disclosure Statement Approval
7 Order, establishing requirements and approved forms of notice for the solicitation of votes on the
8 Plan among those classes of creditors entitled to vote.

9
10 20. Consistent with the requirements of the Disclosure Statement Approval Order, on June
11 14, 2012, the Debtors provided the Confirmation Hearing Notice to all known creditors and other
12 parties in interest and mailed 46 solicitation packages by first-class mail, postage prepaid to those
13 creditors entitled to vote, either directly or through counsel. In addition, the Confirmation Hearing
14 Notice, was published in USA Today on June 12, 2012 and June 15, 2012.

15 **D. Balloting Results With Respect to the Plan**

16 21. As set forth in the Ballot Tabulation Report, Ballots were received from or on behalf
17 of 4,374 holders of Class 3 Bar Date Asbestos Personal Injury Claims. Of these ballots, 100% were
18 cast in favor of the Plan. Ballots were also received from or on behalf of 664 holders of Class 4
19 Supplemental Bar Date Asbestos Personal Injury Claims. Of these ballots, 100% were cast in favor
20 of the Plan.

21
22 22. Based on the votes cast in favor of the Plan by the Class 3 and Class 4 Claimants who
23 voted and the assigned value of the claims underlying such ballots, as provided for in the Solicitation
24 Procedures previously approved by this Court, the Plan has received sufficient votes to have been
25 accepted by holders of not less than two-thirds (2/3) in amount and one-half (1/2) in number of Class
26 3 Bar Date Asbestos Personal Injury Claims, and at least two-thirds in amount and one-half in
27 number of Class 4 Supplemental Bar Date Asbestos Personal Injury Claims.
28

1 **E. Required Findings Under The Plan**

2 23. As required by Section 14.1 of the Plan, and based upon the Court’s review of the
3 record in this case and the evidence adduced at the Confirmation Hearing, the Court makes the legal
4 conclusions enumerated below:

5 **III. CONCLUSIONS OF LAW**

6 **A. Compliance of the Plan With Requirements for Confirmation under Section**
7 **1129**

8 **1. Section 1129(a)(1) – Plan Compliance with the Provisions of the**
9 **Bankruptcy Code**

10 24. The Plan complies with all applicable provisions of the Bankruptcy Code as required
11 by section 1129(a)(1).

12 25. As required by section 1122(a), Article 4 of the Plan classifies each Claim against and
13 Equity Interest in the Debtors into a class containing only substantially similar Claims or Equity
14 Interests. A reasonable basis exists for the classification scheme employed by the Plan, and the
15 Debtors’ classification of Claims and Equity Interests is fair and reasonable.

16 26. Pursuant to section 1123(a)(1), Article 4 of the Plan properly classifies all Claims
17 against the Debtors, excepting Claims of a kind specified in sections 507(a)(1), 507(a)(2), or
18 507(a)(8) of the Bankruptcy Code.

19 27. Pursuant to section 1123(a)(2), Article 5 of the Plan properly identifies and describes
20 the treatment of each class of Claims and Equity Interests that is not impaired under the Plan.

21 28. Pursuant to section 1123(a)(3), Article 5 of the Plan properly identifies and describes
22 the treatment of each class of Claims or Equity Interests that is impaired under the Plan.

23 29. Pursuant to section 1123(a)(4), the Plan provides the same treatment for each Claim or
24 Equity Interest in a particular class, unless the holder of a particular Claim or Equity Interest agrees
25 to a less favorable treatment of such particular Claim or Equity Interest.
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1 30. In accordance with section 1123(a)(5), the Plan provides adequate means for its
2 execution and implementation, including, without limitation, the creation of the Liquidating Trust,
3 the transfers of assets from which Trust Claims can be paid on and after the Effective Date to the
4 Liquidating Trust by the Debtors and Settling Insurers, and the adoption and implementation of the
5 TDP to govern the evaluation and payment of Trust Claims.

6 31. Pursuant to section 1123(a)(6), the Plan does not involve or contemplate the issuance
7 of non-voting equity securities in the Debtors or the Liquidating Trust.

8 32. In accordance with section 1123(a)(7), the provisions of the Plan, the Liquidating
9 Trust Agreement and the TDP regarding the selection of the initial Trustee of the Liquidating Trust
10 are consistent with the interests of the holders of Claims and Equity Interests and with public policy.

11 33. Pursuant to section 1123(b)(1), the Plan impairs or leaves unimpaired, each class of
12 Claims, secured or unsecured, or of Interests.

13 34. In accordance with section 1123(b)(2), the Plan provides for the rejection of any
14 unexpired lease or executory contract that has not been assumed by the Debtors with the Court's
15 approval on or prior to the Effective Date, except those executory contracts and unexpired leases that
16 the Debtors designate as being subject to assumption in connection with the Effective Date.

17 35. In accordance with section 1123(b)(3), the Plan provides for the settlement,
18 adjustment or pursuit of all claims and interests belonging to the Debtors or their Estates.

19 36. In accordance with section 1123(b)(6), the Plan includes other appropriate provisions
20 not inconsistent with the Bankruptcy Code, including, without limitation:

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- 24 a. The Debtors and/or Liquidating Trust will possess Cash necessary to satisfy
25 Allowed Administrative Expense Claims on the Effective Date, or as otherwise
26 required by the Plan;
- 27 b. The Debtors and/or Liquidating Trust will possess Cash necessary to satisfy
28 Allowed Claims in Classes 1 and 2 on the Effective Date;

- 1 c. The Debtors and/or Liquidating Trust will possess Cash necessary to cure any
2 existing defaults relating to all executory contracts and unexpired leases
3 assumed pursuant to the terms of the Plan; and
4 d. The Plan consists of and incorporates a series of agreements negotiated among
5 the Debtors and other entities to ensure the success and the feasibility of the
6 Plan.

7 **2. Section 1129(a)(2) – Debtors’ Compliance with the Provisions of**
8 **the Bankruptcy Code**

9 37. The Debtors have complied with all applicable provisions of the Bankruptcy Code, as
10 required by section 1129(a)(2).

11 38. Mr. Sharp, as the Responsible Individual for the Debtors, has the authority to propose
12 and execute the Plan on the Debtors’ behalf and to enter into the transactions proposed therein.

13 **3. Section 1129(a)(3) – Proposal of the Plan is in Good Faith**

14 39. The Plan, including each of the Insurance Settlements and the Continental Settlement
15 Option incorporated therein, has been proposed in good faith and not by any means forbidden by law
16 in accordance with section 1129(a)(3).

17 **4. Section 1129(a)(4) – Approval of Certain Payments as Reasonable.**

18 40. All payments by the Debtors’ bankruptcy estates for costs and services to the estates in
19 connection with the Debtors’ bankruptcy cases, or in connection with the Plan and incident to the
20 these cases, to representatives, consultants, professionals and others, the approval of which is
21 required under the Bankruptcy Code, either have previously been approved by the Court or remain
22 subject to approval by the Court as reasonable, and were adequately disclosed in the Plan and the
23 Disclosure Statement and exhibits thereto or have been disclosed prior to or at the Confirmation
24 Hearing.

1 **5. Section 1129(a)(5) – Disclosure of Identity and Affiliations of**
2 **Proposed Liquidating Trustee and Proposed Compensation of**
3 **Insiders is Consistent with The Interests of Creditors and Equity**
4 **Interests and Public Policy**

5 41. The Debtors have duly and properly disclosed the identity and affiliations of the
6 proposed initial trustee of the Liquidating Trust. The appointment of the initial trustee is consistent
7 with the interests of the Creditors and Equity Interests and with public policy.

8 **6. Section 1129(a)(6) – Approval of Rate Changes**

9 42. The Debtors are not operating any business, will not operate a business after Plan
10 confirmation and do not, in the Plan, provide for the establishment of rates over which any regulatory
11 commission has or will have jurisdiction after confirmation of the Plan.

12 **7. Section 1129(a)(7) – Best Interests of Holders of Claims and Equity**
13 **Interests**

14 43. In accordance with section 1129(a)(7), each holder of a claim or interest in an
15 impaired class has accepted the plan or will receive at least as much under the plan as such holder
16 would in a liquidation of the debtors under chapter 7 of the Bankruptcy Code.

17 **8. Section 1129(a)(8) and Section 1129(b) – Acceptance of the Plan**
18 **and/or Cramdown by Each Class Entitled to Vote for the Plan**

19 44. With respect to Classes 3 and 4, Creditors that hold at least two-thirds in amount and
20 more than one-half in number of the Allowed Claims have accepted the Plan. Holders of Claims in
21 Class 5 are not expected to receive any distribution on account of their claims and are therefore
22 deemed to reject the Plan.

23 45. Although the Debtors cannot satisfy the requirements of section 1129(a)(8) with
24 respect to Class 5 Claimants, the Debtors have elected to “cram down” Class 5 pursuant to section
25 1129(b)(1). In connection therewith, this Court finds that the Plan is fair and equitable with respect
26 to Class 5 Claimants and does not discriminate unfairly against Class 5 Claimants.

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9. Section 1129(a)(9) – Treatment of Priority Claims

46. The Plan provides for the treatment of Administrative Expense Claims, Priority Tax Claims and Claims entitled to priority pursuant to sections 507(a)(3) – (8) of the Bankruptcy Code in the manner required by section 1129(a)(9).

10. Section 1129(a)(10) – Acceptance of the Plan by at Least One Impaired Class

47. The Plan has been accepted by both Classes 3 and 4, as determined without including any acceptance of the Plan by any insider.

11. Section 1129(a)(11) – Feasibility of the Plan

48. Confirmation of the Plan is not likely to be followed by the subsequent liquidation, or the need for further financial reorganization of the Debtors or the Liquidating Trust.

12. Section 1129(a)(12) – Payment of Bankruptcy Fees

49. All fees payable under 28 U.S.C. § 1930, if any, have been paid or will be paid on the Effective Date. The Debtors and/or Liquidating Trust will possess Cash necessary to pay any fees payable under 28 U.S.C. § 1930, as determined by the Court at the Confirmation Hearing.

13. Section 1129(a)(13) – Retiree Benefits

50. The Debtors have no obligation to pay retiree benefits, as that term is defined in section 1114.

14. Section 1129(d) – Principal Purpose Not Tax Avoidance

51. No party in interest, including, without limitation, any governmental unit or taxing authority, has requested that the Court deny confirmation of the Plan on grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933 and the primary purpose of the Plan is not such avoidance. Accordingly, the Plan satisfies the requirements of section 1129(d).

1 **B. Approval of the Transactions, Settlements, Releases And Injunctions Provided**
2 **Under the Plan**

3 52. Pursuant to Section 8.1 of the Plan, on the Effective Date, the Debtors shall be
4 authorized to transfer all property of their estates, including the proceeds from the Insurance
5 Settlements, to the Liquidating Trust, free and clear of all Claims and interests, but subject to the
6 obligations and provisions set forth in the Plan and this Confirmation Order. Effective upon the
7 Effective Date, these transfers constitute legal, valid and effective transfers of property that vest the
8 Liquidating Trust with good title to such property free and clear of all liens, claims, encumbrances or
9 interests of any person, except as expressly provided in the Plan or this Confirmation Order.

10 53. The Plan incorporates the Debtors' Insurance Settlements with four insurers: Hartford
11 Accident and Indemnity Company ("Hartford"), Bituminous Casualty Corporation ("Bituminous"),
12 ACE Insurance Company ("ACE") and Safety National Casualty Company ("Safety National," and
13 together with Hartford, Bituminous and ACE, the "Settling Insurers"). Each of these Insurance
14 Settlements involves the Debtors' sale pursuant to section 363(b) of the insurance policies issued to
15 or for the benefit of the Debtors by the particular Settling Insurer, free and clear of all liens, claims
16 and interests pursuant to section 363(f), with such liens, claims and interests attaching to the proceeds
17 thereof. Each Insurance Settlement also contemplates the settlement and resolution of all of the
18 Debtors' claims relating to these policies, pursuant to Bankruptcy Rule 9019.

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21 **1. The Debtors' Settlement with Hartford**

22 54. As set forth in section 9.1 of the Plan, Hartford has agreed to pay \$9,191,305.20 (the
23 "Hartford Payment") in order to repurchase the policies it issued to, or for the benefit of the Debtors
24 (the "Hartford Policies") and in resolution of all claims relating to those policies. The Court finds that
25 the Hartford Payment constitutes good and fair consideration for the sale of the Hartford Policies.

26 55. Furthermore, the Hartford Policies may be sold free and clear of liens, claims, interests
27 and encumbrances under section 363(f) because, in each case, one or more of the criteria set forth in
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1 sections 363(f)(1)-(5) have been satisfied. Without limiting the generality of the foregoing, those
2 holders of interests in or against any of the Hartford Policies who did not object, or who withdrew
3 their objections, to the Plan or the relief requested therein, are deemed to have consented pursuant to
4 section 363(f)(2). Any holder of an interest in the Hartford Policies may also be compelled, in a legal
5 or equitable proceeding, to accept a money satisfaction of such Interest as contemplated by section
6 363(f)(5) of the Bankruptcy Code. Accordingly, as part of the Plan, the Court hereby approves the
7 sale of Hartford Policies to Hartford free and clear of all liens, claims and interests pursuant to
8 sections 363(b) and (f).
9

10 56. To the extent that Persons hold an interest in the individual Hartford Policies, such
11 interest is adequately protected as required by section 363(e) by the attachment of such interest to the
12 proceeds of sale.

13 57. The Debtors' Insurance Settlement with Hartford provides substantial benefits and
14 reasonably equivalent value to the Debtors' estates, eliminates the delay, uncertainty and expense of
15 further litigation among the Debtors, Hartford and Trust Claimants regarding the parties' obligations
16 under the Hartford Policies or otherwise regarding the subject matter of the Agreement, and advances
17 the orderly, economical and expeditious resolution of the Debtors' cases. The results obtained
18 through the Insurance Settlement with Hartford are within the reasonable range of potential outcomes
19 if the Debtors were to litigate the matters resolved by this Insurance Settlement, represent fair and
20 reasonable consideration for the sale of the Hartford Policies, and ensure a substantial payment to the
21 Debtors that will be used to enhance distributions to holders of Trust Claims, which payment is
22 reasonable in relation to the potential results that could be achieved by the Debtors pursuing their
23 claims against Hartford in litigation.
24

25 58. The sale of the Hartford Policies constitutes a good faith transfer for reasonably
26 equivalent value and fair consideration for purposes of section 548 of the Bankruptcy Code and/or
27 comparable provisions of applicable non-bankruptcy law.
28

1 59. The Debtors’ Insurance Settlement with Hartford is a fair, reasonable and equitable
2 compromise and settlement of Hartford’s Policies and the Debtors’ claims thereunder, after
3 consideration of: (a) the Debtors’ probability of success in litigation, with due consideration for
4 uncertainties in fact and law; (b) the complexity and likely duration of litigation and any attendant
5 expenses, inconvenience and delay; (c) the interests of creditors; and (d) the extent to which the
6 Insurance Settlement is the product of arm’s-length bargaining and not the product of fraud or
7 collusion. The Insurance Settlement between the Debtors and Hartford has been reached in good
8 faith and, when consummated in accordance with this Order, will have been consummated in good
9 faith. The Insurance Settlement represents a valid and proper exercise of the Debtors’ sound business
10 judgment. There has been no self-dealing, bad faith, fraud or undue influence in connection with the
11 Insurance Settlement, the Plan, or the implementation of the compromise settlement thereby. The
12 Insurance Settlement was negotiated and proposed, and has been entered into by the parties, in good
13 faith, from arm’s-length bargaining positions, and without collusion. Each Party to the Insurance
14 Settlement was represented by independent and experienced counsel of their own choice during the
15 negotiations. The sale consideration to be realized by the Debtors pursuant to the Insurance
16 Settlement with Hartford is fair, reasonable and adequate. All payments to be made by Hartford and
17 any other agreements entered into by Hartford in connection with this transaction have been
18 disclosed. As such, Hartford is a good faith purchaser within the meaning of section 363(m) of the
19 Bankruptcy Code and a “Released Party” as defined in section 1.69 of the Plan and is entitled to all of
20 the protections provided under section 363(m) and section 7.3 of the Plan. Neither the Debtors nor
21 Hartford has engaged in any conduct that would cause or permit the Plan, the Insurance Settlement,
22 or the sale of the Hartford Policies, to be avoided under section 363(n).

26 **2. The Debtors’ Settlement with Bituminous**

27 60. As set forth in section 9.2 of the Plan, Bituminous has agreed to pay \$1,585,394.63
28 (the “Bituminous Payment”) in order to repurchase the policies it issued to, or for the benefit of the

1 Debtors (the “Bituminous Policies”) and in resolution of all claims relating to those policies. The
2 Court finds that the Bituminous Payment constitutes good and fair consideration for the sale of the
3 Bituminous Policies. Furthermore, the Bituminous Policies may be sold free and clear of liens,
4 claims, interests and encumbrances under section 363(f) because, in each case, one or more of the
5 criteria set forth in sections 363(f)(1)-(5) have been satisfied. Without limiting the generality of the
6 foregoing, those holders of interests in or against any of the Bituminous Policies who did not object,
7 or who withdrew their objections, to the Plan or the relief requested therein, are deemed to have
8 consented pursuant to section 363(f)(2). Any holder of an interest in the Bituminous Policies may
9 also be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such Interest
10 as contemplated by section 363(f)(5). Accordingly, as part of the Plan, the Court hereby approves the
11 sale of Bituminous Policies to Bituminous free and clear of all liens, claims and interests pursuant to
12 sections 363(b) and (f).
13

14 61. To the extent that Persons hold an interest in the individual Bituminous Policies, such
15 interest is adequately protected as required by section 363(e) by the attachment of such interest to the
16 proceeds of sale.
17

18 62. The Debtors’ Insurance Settlement with Bituminous provides substantial benefits and
19 reasonably equivalent value to the Debtors’ estates, eliminates the delay, uncertainty and expense of
20 further litigation among the Debtors, Bituminous and Trust Claimants regarding the parties’
21 obligations under the Bituminous Policies or otherwise regarding the subject matter of the
22 Agreement, and advances the orderly, economical and expeditious resolution of the Debtors’ cases.
23 The results obtained from the Insurance Settlement with Bituminous are within the reasonable range
24 of potential outcomes if the Debtors were to litigate the matters resolved by this Insurance
25 Settlement, represent a fair and reasonable consideration for the sale of the Bituminous Policies, and
26 ensure a substantial payment to the Debtors that will be used to enhance distributions to holders of
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1 Trust Claims, which payment is reasonable in relation to the potential results that could be achieved
2 by the Debtors pursuing their claims against Bituminous in litigation.

3 63. The sale of the Bituminous Policies constitutes a good faith transfer for reasonably
4 equivalent value and fair consideration for purposes of section 548 and/or comparable provisions of
5 applicable non-bankruptcy law.

6 64. The Debtors' Insurance Settlement with Bituminous is a fair, reasonable and equitable
7 compromise and settlement of the Bituminous Policies and the Debtors' claims thereunder, after
8 consideration of: (a) the Debtors' probability of success in litigation, with due consideration for
9 uncertainties in fact and law; (b) the complexity and likely duration of litigation and any attendant
10 expenses, inconvenience and delay; (c) the interests of creditors; and (d) the extent to which the
11 Insurance Settlement is the product of arm's length bargaining and not the product of fraud or
12 collusion. The Insurance Settlement between the Debtors and Bituminous has been reached in good
13 faith and, when consummated in accordance with this Order, will have been consummated in good
14 faith. The Insurance Settlement represents a valid and proper exercise of the Debtors' sound business
15 judgment. There has been no self-dealing, bad faith, fraud or undue influence in connection with the
16 Insurance Settlement, the Plan, or the implementation of the compromise settlement thereby. The
17 Insurance Settlement was negotiated and proposed, and has been entered into by the parties, in good
18 faith, from arm's-length bargaining positions, and without collusion. Each Party to the Insurance
19 Settlement was represented by independent and experienced counsel of their own choice during the
20 negotiations. The sale consideration to be realized by the Debtors pursuant to the Insurance
21 Settlement with Bituminous is fair, reasonable and adequate. All payments to be made by
22 Bituminous and any other agreements entered into by Bituminous in connection with this transaction
23 have been disclosed. As such, Bituminous is a good faith purchaser within the meaning of section
24 363(m) and a "Released Party" as defined in section 1.69 of the Plan and is entitled to all of the
25 protections provided under section 363(m) of the Bankruptcy Code and section 7.3 of the Plan.
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1 Neither the Debtors nor Bituminous has engaged in any conduct that would cause or permit the Plan,
2 the Insurance Settlement, or the sale of the Bituminous Policies, to be avoided under section 363(n).

3 **3. The Debtors' Settlement with ACE**

4 65. As set forth in section 9.3 of the Plan, ACE has agreed to pay \$797,296.54 (the "ACE
5 Payment") in order to repurchase the policies it issued to, or for the benefit of the Debtors (the "ACE
6 Policies") and in resolution of all claims relating to those policies. The Court finds that the ACE
7 Payment constitutes good and fair consideration for the sale of the ACE Policies. Furthermore, the
8 ACE Policies may be sold free and clear of liens, claims, interests and encumbrances under section
9 363(f) because, in each case, one or more of the criteria set forth in sections 363(f)(1)-(5) have been
10 satisfied. Without limiting the generality of the foregoing, those holders of interests in or against any
11 of the ACE Policies who did not object, or who withdrew their objections, to the Plan or the relief
12 requested therein, are deemed to have consented pursuant to section 363(f)(2). Any holder of an
13 interest in the ACE Policies may also be compelled, in a legal or equitable proceeding, to accept a
14 money satisfaction of such Interest as contemplated by section 363(f)(5) of the Bankruptcy Code.
15 Accordingly, as part of the Plan, the Court hereby approves the sale of the ACE Policies to ACE free
16 and clear of all liens, claims and interests pursuant to sections 363(b) and (f).
17

18
19 66. To the extent that Persons hold an interest in the individual ACE Policies, such interest
20 is adequately protected as required by section 363(e) of the Bankruptcy Code by the attachment of
21 such interest to the proceeds of sale.

22
23 67. The Debtors' Insurance Settlement with ACE provides substantial benefits and
24 reasonably equivalent value to the Debtors' estates, eliminates the delay, uncertainty and expense of
25 further litigation among the Debtors, ACE and Trust Claimants regarding the parties' obligations
26 under the ACE Policies or otherwise regarding the subject matter of the Agreement, and advances the
27 orderly, economical and expeditious resolution of the Debtors' cases. The results obtained from the
28 Insurance Settlement with ACE are within the reasonable range of potential outcomes if the Debtors

1 were to litigate the matters resolved by this Insurance Settlement, represent fair and reasonable
2 consideration for the sale of the ACE Policies, and ensure a substantial payment to the Debtors that
3 will be used to enhance distributions to holders of Trust Claims, which payment is reasonable in
4 relation to the potential results that could be achieved by the Debtors pursuing their claims against
5 ACE in litigation.

6 68. The sale of the ACE Policies constitutes a good faith transfer for reasonably
7 equivalent value and fair consideration for purposes of section 548 of the Bankruptcy Code and/or
8 comparable provisions of applicable non-bankruptcy law.

9 69. The Debtors' Insurance Settlement with ACE is a fair, reasonable and equitable
10 compromise and settlement of the ACE Policies and the Debtors' claims thereunder, after
11 consideration of: (a) the Debtors' probability of success in litigation, with due consideration for
12 uncertainties in fact and law; (b) the complexity and likely duration of litigation and any attendant
13 expenses, inconvenience and delay; (c) the interests of creditors; and (d) the extent to which the
14 Insurance Settlement is the product of arm's-length bargaining and not the product of fraud or
15 collusion. The Insurance Settlement between the Debtors and ACE has been reached in good faith
16 and, when consummated in accordance with this Order, will have been consummated in good faith.
17 The Insurance Settlement represents a valid and proper exercise of the Debtors' sound business
18 judgment. There has been no self-dealing, bad faith, fraud or undue influence in connection with the
19 Insurance Settlement, the Plan, or the implementation of the compromise settlement thereby. The
20 Insurance Settlement was negotiated and proposed, and has been entered into by the parties, in good
21 faith, from arm's-length bargaining positions, and without collusion. Each Party to the Insurance
22 Settlement was represented by independent and experienced counsel of their own choice during the
23 negotiations. The sale consideration to be realized by the Debtors pursuant to the Insurance
24 Settlement with ACE is fair, reasonable and adequate. All payments to be made by ACE and any
25 other agreements entered into by ACE in connection with this transaction have been disclosed. As
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1 such, ACE is a good faith purchaser within the meaning of section 363(m) and a “Released Party” as
2 defined in section 1.69 of the Plan and is entitled to all of the protections provided under section
3 363(m) and section 7.3 of the Plan. Neither the Debtors nor ACE has engaged in any conduct that
4 would cause or permit the Plan, the Insurance Settlement, or the sale of the ACE Policies, to be
5 avoided under section 363(n).

6 **4. The Debtors’ Settlement with Safety National**

7
8 70. As set forth in section 9.4 of the Plan, Safety National has agreed to pay
9 \$4,900,000.00 (the “Safety National Payment”) in order to repurchase the policies it issued to, or for
10 the benefit of the Debtors (the “Safety National Policies”) and in resolution of all claims relating to
11 those policies. The Court finds that the Safety National Payment constitutes good and fair
12 consideration for the sale of the Safety National Policies. Furthermore, the Safety National Policies
13 may be sold free and clear of liens, claims, interests and encumbrances under section 363(f) because,
14 in each case, one or more of the criteria set forth in sections 363(f)(1)-(5) have been satisfied.
15 Without limiting the generality of the foregoing, those holders of interests in, or against any of the
16 Safety National Policies who did not object, or who withdrew their objections, to the Plan or the
17 relief requested therein, are deemed to have consented pursuant to section 363(f)(2). Any holder of
18 an interest in the Safety National Policies may also be compelled, in a legal or equitable proceeding,
19 to accept a money satisfaction of such Interest as contemplated by section 363(f)(5). Accordingly, as
20 part of the Plan, the Court hereby approves the sale of the Safety National Policies to Safety National,
21 free and clear of all liens, claims and interests pursuant to sections 363(b) and (f).
22

23
24 71. To the extent that Persons hold an interest in the individual Safety National Policies,
25 such interest is adequately protected as required by section 363(e) by the attachment of such interest
26 to the proceeds of sale.

27 72. The Debtors’ Insurance Settlement with Safety National provides substantial benefits
28 and reasonably equivalent value to the Debtors’ estates, eliminates the delay, uncertainty and expense

1 of further litigation among the Debtors, Safety National and Trust Claimants regarding the parties'
2 obligations under the Safety National Policies or otherwise regarding the subject matter of the
3 Agreement, and advances the orderly, economical and expeditious resolution of the Debtors' cases.
4 The results obtained from the Insurance Settlement with Safety National are within the reasonable
5 range of potential outcomes if the Debtors were to litigate the matters resolved pursuant to this
6 settlement and represent a fair and reasonable consideration for the sale of the Safety National
7 Policies. The compromise settlement ensures a substantial payment to the Debtors that will be used
8 to enhance distributions to holders of Trust Claims against the Debtors, which payment is reasonable
9 in relation to the potential results that could be achieved by the Debtors pursuing their claims against
10 Safety National in litigation.
11

12 73. The sale of the Safety National Policies constitutes a good faith transfer for reasonably
13 equivalent value and fair consideration for purposes of section 548 and/or comparable provisions of
14 applicable non-bankruptcy law.
15

16 74. The Debtors' Insurance Settlement with Safety National is a fair, reasonable and
17 equitable compromise and settlement of the Safety National Policies and the Debtors' claims
18 thereunder, after consideration of: (a) the Debtors' probability of success in litigation, with due
19 consideration for uncertainties in fact and law; (b) the complexity and likely duration of litigation and
20 any attendant expenses, inconvenience and delay; (c) the interests of creditors; and (d) the extent to
21 which the Insurance Settlement is the product of arm's-length bargaining and not the product of fraud
22 or collusion. The Insurance Settlement with Safety National has been reached in good faith and,
23 when consummated in accordance with this Order, will have been consummated in good faith. The
24 Insurance Settlement represents a valid and proper exercise of the Debtors' sound business judgment.
25 There has been no self-dealing, bad faith, fraud or undue influence in connection with the Insurance
26 Settlement, the Plan, or the implementation of the compromise settlement thereby. The Insurance
27 Settlement was negotiated and proposed, and has been entered into by the parties, in good faith, from
28

1 arm's-length bargaining positions, and without collusion. Each Party to the Insurance Settlement was
2 represented by independent and experienced counsel of their own choice during the negotiations.

3 The sale consideration to be realized by the Debtors pursuant to the Insurance Settlement with Safety
4 National is fair, reasonable and adequate. All payments to be made by Safety National and any other
5 agreements entered into by Safety National in connection with this transaction have been disclosed.

6 As such, Safety National is a good faith purchaser within the meaning of section 363(m) of the
7 Bankruptcy Code and a "Released Party" as defined in section 1.69 of the Plan and is entitled to all of
8 the protections provided under section 363(m) and section 7.3 of the Plan. Neither the Debtors nor
9 Safety National has engaged in any conduct that would cause or permit the Plan, the Insurance
10 Settlement, or the sale of the Safety National Policies, to be avoided under section 363(n).

12 75. Any liabilities or obligations arising under the Medicare Secondary Payment Act of
13 1980, as amended, and/or the Medicare, Medicaid and SCHIP Act of 2007, with respect to (i) Safety
14 National Payment, or (ii) the use of the Safety National Payment to pay Trust Claims, shall attach to
15 the Safety National Payment. Furthermore, any rights that the Center for Medicare and Medicaid
16 Services has with respect to the Safety National Policies shall attach to the proceeds of the Safety
17 National Policies.
18

19 76. In any proceeding, suit or action between the Debtors or the Liquidating Trust and any
20 insurance carrier other than Safety National, where such other insurance carrier has asserted, asserts,
21 or could assert that it has or may have a contribution claim against Safety National, any judgment
22 obtained by the Debtors or the Liquidating Trust against, or settlement with, such other insurance
23 carrier shall be reduced by the amount, if any, that Safety National would have been liable to pay the
24 other insurance carrier as a result of the other insurance carrier's contribution claim, so that the
25 contribution claim against Safety National is thereby satisfied and extinguished.
26

27 77. In order to effectuate the preceding paragraph, the Debtors or the Trust, as applicable,
28 shall obtain a determination from the court issuing the judgment against the other insurance carrier,

1 or a release in the settlement, of the amount, if any, which Safety National would have otherwise
2 been required to pay such other insurance carrier for its contribution claim, but for the Insurance
3 Settlement with Safety National, and shall hold any money paid by such other insurance carrier in
4 escrow until these judgment reduction provisions can be applied.

5 78. Safety National shall not seek reimbursement for any payments it makes under its
6 Insurance Settlement, whether by way of a contribution claim from any other insurance carrier, other
7 than its reinsurers in such capacity, to the extent such other insurance carrier agrees also to waive any
8 contribution claims against Safety National. Notwithstanding the foregoing, if a Person pursues a
9 contribution claim against Safety National, then Safety National specifically reserves all of its
10 contribution claims against such Person and shall be free to assert its contribution claims against such
11 Person. The Debtors and the Liquidating Trust shall use their reasonable best efforts to obtain, from
12 all other insurance carriers with which either or both of them executes a settlement after the Effective
13 Date, similar agreements regarding contribution claims.

14
15 79. With respect to each of the Insurance Settlements, this Court has considered the
16 probability of each Party's success in litigating the issues of disputed coverage under the Policies; the
17 difficulties, if any, to be encountered in collection; the complexity of any litigation of the Asbestos
18 Claims and the expense, inconvenience and delay necessarily attending it; and the best interests of the
19 creditors, and finds that each compromise settlement is fair, reasonable and equitable in accordance
20 with the requirements of Bankruptcy Rule 9019, and approval of each of the Insurance Settlements is
21 in the best interests of the Debtors' estates and their creditors, and will substantially enhance the
22 Debtors' ability to implement their Plan.

23
24 80. Notwithstanding anything to the contrary in this Confirmation Order, the Plan, the
25 Trust Distribution Procedures, or any settlement agreement, nothing in this Confirmation Order, the
26 Plan, the Trust Distribution Procedures or any settlement agreement (including any other provision
27 that purports to be preemptory or supervening) shall in any way operate to impair, or have the effect
28

1 of impairing either (a) an insurer's legal, equitable or contractual rights, if any, in any respect, except
2 to the extent that such insurer's rights are expressly impaired or limited in a settlement agreement to
3 which it is a party, or, in the case of Continental, by section 8.3 of the Plan, or (b) the legal, equitable
4 or contractual rights of the Debtors and/or the Liquidating Trust against the Debtors' insurers, if any,
5 in any respect, except to the extent that such rights are expressly impaired or limited in a settlement
6 agreement to which the Debtors and/or the Liquidating Trust are parties.

7
8 **5. The Debtors' Granting of the Continental Settlement Option**

9 81. As set forth in section 9.5 of the Plan, the Debtors have granted Continental the
10 Continental Settlement Option, pursuant to which, Continental has the option at any time prior to the
11 Effective Date, to repurchase the policies it issued to, or for the benefit of the Debtors and to resolve
12 all claims relating to those policies in exchange for the payment of the remaining coverage limits
13 available under those policies. The parties have agreed that the remaining limits on those policies
14 total approximately \$2.56 million (the "Continental Option Payment"). The Court finds that, if the
15 Continental Settlement Option is timely exercised, the Continental Option Payment shall constitute
16 good and fair consideration for the sale of the policies issued by Continental. Accordingly, the Court
17 hereby approves and authorizes the Debtors' granting of the Continental Settlement Option and,
18 contingent upon Continental's timely exercise of the Continental Settlement Option, approves the
19 sale of those policies to Continental free and clear of all liens, claims and interests pursuant to
20 sections 363(b) and (f) and finds that Continental is a good-faith purchaser entitled to the protections
21 of section 363(m).
22

23
24 82. With respect to each of the Insurance Settlements and the Continental Settlement
25 Option, if exercised, the sale of the subject insurance policies does not and will not subject or expose
26 the Settling Insurer to any liability, claim, cause of action or remedy by reason of such transfer under
27 (a) the laws of the United States, any state, territory, or possession thereof, or the District of
28 Columbia, based on, in whole or in part, directly or indirectly, including, without limitation, any

1 theory of tort, creditors' rights, equity, antitrust, environmental, successor or transferee liability, labor
2 law, *de facto* merger, or substantial continuity, or (b) any employment contract, understanding or
3 agreement, including, without limitation, collective bargaining agreements, employee pension plans,
4 or employee welfare or benefit plans.

5 83. The Settling Insurers are not assuming any of the Debtors' obligations to their former
6 employees (including without limitation any obligations under the Debtors' collective bargaining
7 agreements, if any) by reason of the repurchase of their respective policies as part of the Insurance
8 Settlements.

9
10 84. No common identity of officers or directors exists between the Debtors and any of the
11 Settling Insurers or Continental.

12 85. The Settling Insurers are repurchasing their respective policies pursuant to the
13 Insurance Settlements incorporated into the Plan. The Settling Insurers are not purchasing any other
14 assets of the Debtors and are not a continuation of the Debtors or engaging in a continuation of the
15 Debtors' business. The Settling Insurers shall not have any responsibility or liability with respect to
16 any of the Debtors' other assets.

17
18 86. The Settling Insurers are not, and shall not be deemed to be, a successor to the Debtors
19 by reason of any theory of law or equity or as a result of the consummation of the transactions
20 contemplated in the Plan or otherwise. The Settling Insurers shall not assume, or be deemed to have
21 assumed, any liabilities or other obligations of the Debtors.

22 87. Due and adequate notice of each of the Debtor's Insurance Settlements was provided
23 to both known and unknown creditors.

24
25 88. The appointment of Barry A. Chatz as the initial trustee of the Liquidating Trust is
26 hereby authorized and approved as consistent with interests of creditors and public policy. Mr. Chatz
27 and any other individuals retained or appointed by the Liquidating Trust are authorized and directed
28

1 to perform their obligations under the Plan and Insurance Settlements, and/or any remaining
2 obligations of the Debtors under the Plan or the Insurance Settlements.

3 89. Pursuant to sections 1123(b) and Bankruptcy Rule 9019(a), and in consideration of the
4 classification, distributions, and other benefits provided under the Plan, the provisions of the Plan
5 constitute a good faith compromise and settlement of all the Claims and controversies resolved
6 pursuant to the Plan.

7 90. Section 7.3 of the Plan provided for certain releases in favor of the Debtors, Mr.
8 Sharp, the Debtor's officers, directors and professionals, and the Settling Insurers. Each non-debtor
9 entity that will benefit from the releases, waivers of claims, exculpations, indemnities and injunctions
10 contained in the Plan either shares an identity of interest with the Debtors, was instrumental to the
11 successful prosecution of the Debtors' bankruptcy cases, provided necessary funding to the Debtors
12 and/or has contributed substantial assets or other benefits to the Debtors' Plan, which value will allow
13 for distributions that would not otherwise be available, but for the contribution made by such non-
14 Debtor parties. The releases provided by certain of the Debtors' creditors under section 7.3 of the
15 Plan are voluntary and non-coercive. Such releases, waivers, exculpations, indemnities and
16 injunctions are essential to the Debtors' Plan and are consistent with applicable laws, and each of the
17 impacted classes has voted to accept its proposed treatment under the Plan.
18

19 91. All releases and injunctions with respect to claims and causes of action against the
20 Released Parties set forth in the Plan are inextricably intertwined, are an integral part of the Plan, are
21 fair, equitable, reasonable, and in the best interests of the Debtors, the Liquidating Trust, and holders
22 of Claims, including holders of Trust Claims, providing releases and are effective and binding on all
23 of the Entities who may have had standing to assert such Claims or causes of action.
24

25 92. Neither the Released Parties, nor the Liquidating Trust, shall be, a successor to the
26 Debtors by reason of any theory of law or equity, and none shall have any successor or transferee
27
28

1 liability of any kind or character, except that the Liquidating Trust shall assume the obligations
2 specified in this Plan and this Order.

3 93. Except as otherwise provided in the Plan, on the Effective Date, title to all of the
4 Debtors' assets and properties and interests in property, including the proceeds from the Insurance
5 Settlements shall vest in the Liquidating Trust, free and clear of all Claims, Equity Interests,
6 encumbrances and other interests, except as set forth in the Plan.

7 94. Pursuant to section 1125(d), the Debtors' transmittal of Solicitation Packages and their
8 solicitation of acceptances of the Plan are not, and will not be, governed by or subject to any
9 otherwise applicable law, rule or regulation governing the solicitation of acceptance or rejection of a
10 plan of reorganization or the offer, issuance, sale, or purchase of securities.

11 95. Pursuant to Section 1146(c), the issuance, transfer or exchange of any security
12 contemplated by the Plan, or the making or delivery of an instrument of transfer under the Plan, may
13 not be taxed under any law imposing a stamp tax or similar tax.
14

15 96. Pursuant to the terms of the Plan, the Debtors shall not be reinstated as corporations or
16 otherwise under applicable state law.
17

18 **C. Conditions to the Effective Date**

19 97. The Debtors have stated that they have no reason to believe that all conditions to the
20 Effective Date will not be satisfied or duly waived in accordance with Section 14.1 and 14.3 of the
21 Plan.

22 98. Due notice of the Confirmation Hearing has been given to all parties in interest.

23 99. The evidence presented by the Debtors at the Confirmation Hearing provided an
24 adequate and competent basis for the findings of fact and conclusions of law contained herein.
25

26 100. Each of the conditions precedent to the entry of the Confirmation Order, as set forth in
27 Article 14.1 of the Plan, has been satisfied or waived.
28

D. Retention of Jurisdiction

1
2 101. The Court will retain jurisdiction after the Confirmation Date to determine all: (i)
3 questions and disputes regarding title to the assets of the Debtors; (ii) disputes concerning the
4 allowance of Claims and Interests, except as otherwise provided in the Trust Distribution Procedures
5 or Section 8.3 hereof; and (iii) all causes of action, controversies, disputes, or conflicts, whether or
6 not subject to any pending action as of the Confirmation Date, in which the Debtors or Liquidating
7 Trustee seek to recover assets or otherwise pursue their rights pursuant to the provisions of the
8 Bankruptcy Code.

9
10 102. In addition, the Court will retain jurisdiction after the Effective Date for the following
11 additional purposes:

12 (a) to hear and determine any modification of this Plan pursuant to section 1127 of the
13 Bankruptcy Code, to cure any defect or omission or reconcile any inconsistency in this Plan, the
14 Disclosure Statement, or any order of the Court, including the Confirmation Order, in such a manner
15 as may be necessary or appropriate to carry out the purposes and effects thereof;

16 (b) to assure the performance by the Liquidating Trustee of his or her obligations to make
17 Distributions under the Plan;

18 (c) to issue injunctions, enter and implement other orders and take such other actions as
19 may be necessary or appropriate to execute, interpret, implement, consummate, or enforce the terms
20 and conditions of the Plan and the transactions contemplated thereunder, the Confirmation Order, or
21 any other order of the Court, or to maintain the integrity of the Plan following Confirmation;

22 (d) to hear and determine disputes arising in connection with the execution, interpretation,
23 implementation, consummation, or enforcement of the Plan, the Confirmation Order, any transactions
24 or payments contemplated hereby, or any agreement, instrument or other document governing or
25 relating to any of the foregoing;

26 (e) to construe and apply any findings of fact and/or conclusions of law made in this
27 Confirmation Order;

28 (f) to adjudicate matters arising in the Cases, including matters relating to the formulation
and consummation of this Plan;

(g) to enter any orders, including injunctions, as are necessary to enforce the title, rights,
and powers of the Debtors and/or the Liquidating Trustee and to impose any limitations, restrictions,
terms and conditions on the title, rights, and powers as the Court may deem necessary;

(h) to hear and determine any dispute involving or affecting the validity and enforceability
of the discharges, releases, injunctions, and exculpatory relief set forth in Article 7 of the Plan;

- 1 (i) to enter a Final Decree closing the Cases;
- 2 (j) to correct any defect, cure any omission, or reconcile any inconsistency in this Plan or
the Confirmation Order as may be necessary to carry out the purposes and intent of this Plan;
- 3 (k) to enter, implement, or enforce such orders as may be appropriate in the event the
4 Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- 5 (l) to hear and allow applications for fees and expenses of Professionals pursuant to
6 sections 330, 331, 503(b), 1103 and 1129(a)(4) of the Bankruptcy Code;
- 7 (m) to adjudicate any adversary proceedings brought by the Debtors, or the Liquidating
Trustee, whether or not such adversary proceedings have been commenced before or after the
8 Effective Date;
- 9 (n) to decide issues concerning federal tax reporting and withholding that arise in
connection with the confirmation or consummation of this Plan;
- 10 (o) to decide issues concerning state, local, and federal taxes in accordance with sections
11 346, 505 and 1146;
- 12 (p) to adjudicate any issues concerning assumption or rejection of any executory contracts
13 and unexpired leases, including any disputes concerning Rejection Damage Claims or Cure Claims;
- 14 (q) to hear and determine any and all objections to any Claims, including Administrative
15 Claims, or Interests, including the allowance, classification, priority, secured status, compromise,
estimation, or payment thereof;
- 16 (r) to hear and determine any litigation or causes of action belonging to the Debtors or
17 their successors and assigns, the Estates or to the Liquidating Trust;
- 18 (s) to consider and, to the extent appropriate, approve proposed amendments to the Trust
Distribution Procedures; and
- 19 (t) to hear and determine any other matter related hereto and not inconsistent with the
20 Bankruptcy Code and title 28 of the United States Code.

21 **E. Confirmation of the Plan**

22 103. Based on the Findings and Conclusions set forth above, the Debtors' Plan is hereby
23 confirmed.

24 It is SO ORDERED, ADJUDGED AND DECREED in Oakland, California.

25 ** END OF FINDINGS OF FACT AND CONCLUSIONS OF LAW **
26
27
28

SERVICE LIST

In re CFB Liquidating Corporation, Case No. 01-45483
In re WFB Liquidating Corporation, Case No. 01-45484

ECF

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