

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF COLORADO**

In re:	)	
	)	
FIRST ASSURED WARRANTY CORPORATION,	)	Case No. 06-13669 MER
a Colorado corporation,	)	
	)	Chapter 11
EIN: 84-1366869	)	
	)	
Debtor.	)	

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**NOTICE PURSUANT TO LOCAL BANKRUPTCY RULE 202 OF MOTION FOR  
ORDER APPROVING: (I) COMPROMISE OF CONTROVERSY WITH THE  
INSURANCE COMMISSIONER FOR THE STATE OF HAWAII; AND (II)  
CONDITIONAL DISMISSAL OF THE BANKRUPTCY CASE**

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TO ALL PARTIES IN INTEREST:

NOTICE IS HEREBY GIVEN that on January 11, 2008, Debtor has filed its Motion for Order Approving: (I) Compromise of Controversy with the Insurance Commissioner for the State of Hawaii; and (II) Conditional Dismissal of the Bankruptcy Case (the "Motion") in the United States Bankruptcy Court for the District of Colorado (the "Bankruptcy Court").

The Motion requests approval of a Settlement Agreement and Mutual Releases (the "Agreement") between Debtor, J.P. Schmidt, Insurance Commissioner for the State of Hawaii (the "Commissioner"), Warrantee Wise, Inc. ("Warrantee Wise"); 1SourceAutoWarranty.com, Inc. ("1Source"); and Ralph Holden, Nancy Perna, F. Mitchell Howell, Ronny Howell, Lisa Holden, Amy Sandifer and Joshua Howell (collectively, the "Holden Family"). If approved, the Agreement will effectively resolve all matters in this bankruptcy case and all related litigation.

Pursuant to the Agreement, Debtor shall cease prosecution of its Plan of Reorganization and Disclosure Statement dated October 16, 2006, and shall seek dismissal of the bankruptcy case. All properties of Debtor's estate (the "Bankruptcy Estate"), including any and all assets of any type in which Debtor has, asserts, or may assert an ownership interest (to the extent not released by the Agreement) shall be under the sole and exclusive jurisdiction of the Circuit Court of the First Circuit for the State of Hawaii ("Hawaii Court") and the Hawaii Court shall have sole and exclusive jurisdiction over Debtor and the Bankruptcy Estate. The Bankruptcy Estate, along with 1Source and Warranty Wise will then be administered and liquidated as part of the liquidation proceedings of PrimeGuard Insurance Company (the "PrimeGuard Liquidation") before the Hawaii Court under such terms and conditions as specified by the Hawaii Court.

The Agreement provides for specific conditions to occur in order for the Agreement to become effective. The Agreement specifically provides that the date that all of the conditions have been satisfied shall be the "Effective Date" of the Agreement. The conditions, without limitation, include: (i) payment of \$150,000 from the Holden Family to Debtor (the "Holden Payment") within thirty days of execution of the Agreement; (ii) approval by the Hawaii Court of a motion filed by the Commissioner disclosing the terms of the Agreement, seeking approval of the Agreement and seeking an order for the determination of good faith settlement in

accordance with Haw. Rev. Stat. § 663-15.5; and (iii) approval of the Motion by the Bankruptcy Court.

Upon the Effective Date, Debtor shall file a notice of the Effective Date with this Bankruptcy Court. Such notice is defined in the Agreement as the "Dismissal Notice." The Dismissal Notice shall provide that all of the conditions required to reach the Effective Date have occurred and therefore Debtor is requesting dismissal of the bankruptcy case.

Creditor's claims will be addressed and paid as part of the Agreement and the PrimeGuard Liquidation as follows:

First, upon the Effective Date, Debtor shall transfer the Holden Payment to the Commissioner of Insurance of the State of Colorado (the "Ancillary Receiver") pursuant to the terms of that certain Ancillary Deposit Agreement. The Ancillary Receiver shall distribute \$140,000 of the Holden Payment to "Allowed Unsecured Trade Creditors" claims on a pro-rata basis. "Allowed Unsecured Trade Creditors" is defined in the Agreement as those creditors who filed a proof of claim in the Debtor's bankruptcy case asserting an unsecured claim and whose claim is not a VSC Claim (as defined in the Agreement and Motion) or a Tax Claim (as defined in the Agreement and Motion) and whose claim is listed on Exhibit 1 to the Ancillary Deposit Agreement. A corresponding list of Allowed Unsecured Trade Creditors is attached to the Motion as **Exhibit A**.

Second, each creditor that has filed a proof of claim in Debtor's bankruptcy case that is properly classified as a secured claim (each, a "Secured Claim") shall be addressed and treated in the liquidation of Debtor in the Hawaii Court. Debtor is aware of only one Secured Claim creditor, the State of Wisconsin, Department of Justice ("Wisconsin"). In its proof of claim filed in Debtors' bankruptcy case, Wisconsin asserts that it holds a "cash equivalent deposit" in the amount of approximately \$128,000 "to secure Debtor's obligations under warranty policies sold to Wisconsin residents." Pursuant to the Agreement, Debtor and the Commissioner shall jointly cooperate to resolve the Wisconsin claim prior to the Dismissal Date. If Debtor and the Commission are unable to resolve the Wisconsin claim, such claim shall be addressed and treated in the PrimeGuard Liquidation proceedings. Any and all other Secured Claims, if any, will be addressed in the same manner.

Third, the Agreement provides that Debtor shall pay administrative expense claims (the "Administrative Claims") and the allowed claims, if any, asserted by the IRS and other taxing authorities (the "Tax Claims") from the cash in Debtor's possession, which as of July 31, 2007, totaled \$394,120.87 (the "Cash Collateral"). The Administrative Claims are described in the Agreement. A list of Tax Claims is attached to the Motion as **Exhibit B**.

Finally, all creditors with claims arising under vehicle service contracts ("VSCs") and who have filed a proof of claim in Debtors' bankruptcy case (each, a "VSC Claim"), regardless of whether such claims have been filed in the PrimeGuard Liquidation, shall be treated as if such claims were timely filed on an appropriate proof of claim form; and the Commissioner shall treat all such VSC Claims the same as similarly situated claims timely filed with the Commissioner on proper forms. All creditors that have filed a proof of claim in Debtor's bankruptcy case and who are not listed on Exhibits A or B to the Motion are being treated by Debtor as a holder of a VSC claim; however the Liquidator reserves all rights regarding the VSC Claims, including without

limitation, the right to object to any VSC claim pursuant to the Hawaii Insurers Supervision Rehabilitation and Liquidation Act, 431:15-301 *et seq.*

The Agreement further provides for a number of releases that will effectively resolve all of the litigation between the parties. The releases include: (i) the Commissioner's release of the Holden Family; (ii) the Holden Family's release of the Commissioner; (iii) Debtor's, 1Source's and Warranty Wise's release of the Holden Family; (iv) the Holden Family's release of Debtor, 1Source and Warranty Wise; (v) the Commissioner's release of Debtor, 1Source and Warranty Wise for actions related to the bankruptcy case; and (vi) Debtor's, 1Source's and Warranty Wise's release of the Commissioner related to the seizure and the liquidation.

Both the Agreement and the Motion are available for inspection on the website hosted by CPT Group, Inc., Debtor's approved notice and claim agent. The website address is <http://www.cptgroup.com/cases>. A copy of the Motion is also available for inspection in the Bankruptcy Court Clerk's Office, 721 Nineteenth Street, Denver, Colorado, or upon request from the undersigned attorney.

Pursuant to Rule 202 of the Local Rules of Bankruptcy Procedure, if you desire to oppose the Motion, you must file a written objection and a request for hearing with the Court on or before **February 15, 2008**, and serve a copy of the objection and written request for hearing upon the attorney named below and counsel for the Commissioner: Joel Glover, Esq. Rothgerber, Johnson and Lyons, LLP, 1200 17<sup>th</sup> Street, Suite 3000, Denver, Colorado 80202.

Objections and requests for hearing shall clearly specify the grounds upon which they are based, including the citation of supporting legal authority, if any. General objections will not be considered by the Court.

In the absence of a timely and substantiated objection and request for hearing by an interested party, the Court may approve or sustain the Motion without any further notice to creditors or other interested parties.

DATED this 11<sup>th</sup> day of January, 2008.

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CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the within **NOTICE PURSUANT TO LOCAL BANKRUPTCY RULE 202 OF MOTION FOR ORDER APPROVING: (I) COMPROMISE OF CONTROVERSY WITH THE INSURANCE COMMISSIONER FOR THE STATE OF HAWAII; AND (II) CONDITIONAL DISMISSAL OF THE BANKRUPTCY CASE**, have been mailed, by placing the same in a U. S. Mail Depository, postage prepaid, this 11<sup>th</sup> day of January, 2008, addressed to the parties on the attached list:

/s/ Kathleen M. Gerwin

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