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MARK J. BENNETT 2672-0  
Attorney General of Hawaii

DAVID A. WEBBER 5161-0  
Deputy Attorney General  
Department of the Attorney General,  
State of Hawaii  
425 Queen Street  
Honolulu, Hawaii 96813  
Telephone: (808) 586-1180  
Facsimile: (808) 586-1205

KOBAYASHI, SUGITA & GODA  
WENDELL H. FUJI 4222-0  
CLIFFORD K. HIGA 2950-0  
LANSON K. KUPAU 5687-0  
First Hawaiian Center  
999 Bishop Street, Suite 2600  
Honolulu, Hawaii 96813-3889  
Telephone: 539-8700

Attorneys for Petitioner J.P. Schmidt  
Insurance Commissioner of the State of Hawaii

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

J.P. SCHMIDT, in his capacity as Insurance	)	S.P. No <u>06-1-0225</u> V SM .
Commissioner of the State of Hawaii,	)	(Special Proceedings)
	)	
Petitioner,	)	
	)	<b>STIPULATED REHABILITATION</b>
vs.	)	<b>ORDER</b>
	)	
HAWAIIAN INSURANCE & GUARANTY	)	
COMPANY LIMITED,	)	
	)	
Respondent.	)	
	)	

**STIPULATED REHABILITATION ORDER**

COMES NOW, Petitioner, J.P. SCHMIDT, IN HIS CAPACITY AS  
INSURANCE COMMISSIONER OF THE STATE OF HAWAII ("Commissioner"), and

I do hereby certify that this is a full, true, and  
correct copy of the original on file in this office.

  
Clerk, Circuit Court, First Circuit

Respondent HAWAIIAN INSURANCE & GUARANTY COMPANY LIMITED, by and through their respective attorneys and hereby request the Court to enter a Stipulated Rehabilitation Order pursuant to the provisions of Hawaii Revised Statutes (“Haw. Rev. Stat.”) § 431:15-301(a)13.

Based upon the STIPULATION AND CONSENT TO REHABILITATION ORDER, and Exhibit, the Court finds as follows:

1. Respondent HAWAIIAN INSURANCE & GUARANTY COMPANY LIMITED (“HIG” or the “Company”), is a Hawaii corporation that is duly authorized to engage in the sale of insurance pursuant to the provisions of Haw. Rev. Stat. Chapter 431. The Company is licensed as a property and casualty insurer and sells homeowners’ and automobile insurance policies in Hawaii and California.

2. Respondent HIG has engaged in the insurance business, as defined in Haw. Rev. Stat. § 431:1-215, and is subject to the Insurers Supervision, Rehabilitation and Liquidation Act set forth in Haw. Rev. Stat., Chapter 431, Article 15.

3. The parties agree that under present circumstances that Respondent HIG’s financial condition is such that any further transaction of its business would be hazardous to its policyholders, creditors and the public and therefore is subject to rehabilitation pursuant to Haw. Rev. Stat. § 431:15-301(a)(2).

4. Under the provisions of Haw. Rev. Stat. § 431:15-301(a)(13), an Order to rehabilitate a domestic insurer may be entered by the Court if the Board of Directors or the holders of a majority of the shares entitled to vote, or a majority of those individuals entitled to the control of those entities request or consent to rehabilitation under Article 15 of the Insurance Code;

5. The Board has requested and consented to Rehabilitation Proceedings under Haw. Rev. Stat. Chapter 431, Article 15 (See, Exhibit “H”) and the Commissioner is therefore authorized to rehabilitate Respondent HIG pursuant to the provisions of Haw. Rev. Stat. Chapter 431, Section 431:15-301.

6. The Court finds that the grounds for the issuance of a Rehabilitation Order under the provisions of Haw. Rev. Stat. § 431:15-301 have been met and that an Order appointing the Commissioner as the Rehabilitator and directing the Commissioner to forthwith take possession of the assets of Respondent HIG and to administer them in accordance with the provisions of Haw. Rev. Stat. § 431:15-302 shall be entered.

The Commissioner having satisfied the requirements of Haw. Rev. Stat. § 431:15-301 for the entry forthwith of a Rehabilitation Order, and Respondent HIG consenting and stipulating thereto,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

1. **Stipulated Appointment and Rehabilitation Order**. The Commissioner is hereby appointed Rehabilitator of Respondent HIG. Respondent HIG stipulates and agrees that until further order of the Court, the Rehabilitator, including his authorized agents and representatives, is hereby authorized and directed to take possession and control of all of the assets, real and personal property, books, accounts, documents, and other records (collectively, “Property”) of Respondent HIG, and of the premises occupied by HIG or its agents and affiliates for the transaction of business.

Respondent HIG stipulates and agrees that this Rehabilitation Order shall also apply, but is not limited, to any and all of Respondent HIG’s Property held in various financial institutions, including but not limited to the following accounts:

Financial Institution	Account No.
First Hawaiian Bank Cash Account	#01-072617
First Hawaiian Bank Cash Account	#01-116924
First Hawaiian Bank Cash Account	#88-022548
First Hawaiian Bank Investment Account	#73-4971-01-3
First Hawaiian Bank Investment Account	#01-063700
Bank of America	#1459000344 #1459000325 #1459133962 #1459000349.
First Commercial Bank	#106-003-186-5 #106-003-185-4 #046-000-265-5 #906-003-185-4 #946-000-265-5 #000-312-345-2
Northern Trust	#2605357

2. **Recording of Order and Title to Property.** In accordance with the provisions of Haw. Rev. Stat. § 431:15-302, the filing or recording of this order with the Clerk of the Circuit Court of the First Judicial Circuit or at the Bureau of Conveyances shall impart the same notice as evidence of title. The Order to rehabilitate Respondent HIG shall by operation of law vest title to all assets of Respondent HIG in the Rehabilitator.

3. **Injunction and Automatic Stay.** In accordance with the provisions of Haw. Rev. Stat. § 431:15-304, any Court in this State before which any action or proceeding in which Respondent HIG is a party or is obligated to defend a party is pending when this Rehabilitation Order against Respondent HIG is entered, shall stay the action or

proceeding for ninety (90) days and such additional time as is necessary for the Rehabilitator to obtain proper representation and prepare for further proceedings. The Rehabilitator shall take such action respecting the pending litigation as the rehabilitator deems necessary in the interests of justice and for the protection of creditors, policyholders and the public. The Rehabilitator shall immediately consider all litigation pending outside this State and shall petition the courts having jurisdiction over the litigation for stays whenever necessary to protect the estate of the insurer.

No statute of limitations or defense of laches shall run with respect to any action by or against an insurer between the filing of a petition for appointment of a Rehabilitator for that insurer and the order granting or denying that petition. Any action by or against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty days after the order [of] rehabilitation is entered or the petition is denied.

Respondent stipulates and agrees that until further ordered by the Court, Respondent HIG and its officers, directors, managers, agents, shareholders, employees, affiliates, subsidiaries, parent entities, and fiduciaries, will refrain from the disposition of Respondent HIG's Property, including but not limited to the above referenced accounts, and from the transaction of Respondent HIG's business except with the written consent of the Commissioner.

4. **Prohibited Acts.** Respondent HIG agrees that it shall be prohibited from any of the following activities by or on behalf of HIG without the prior written approval of the Commissioner or the Commissioner's designee:

- a. Dispose of, convey or encumber any of its assets or its business in force;
- b. Withdraw funds from any of its bank accounts;
- c. Lend any of its funds;
- d. Invest any of its funds;
- e. Transfer any of its property;
- f. Incur any debt, obligation or liability;
- g. Merge or consolidate with another company; or
- h. Enter into any new reinsurance contract or treaty.

5. **Immediate effect.** Respondent stipulates and agrees that this Rehabilitation Order shall be effective immediately and shall expire if it is vacated by a formal order entered pursuant to Haw. Rev. Stat. § 431:15-306.

6. **Powers of Rehabilitator.** The Commissioner, in his capacity as Rehabilitator, has all the powers set forth Haw. Rev. Stat. § 431:15-303, including the ability to take such action as the rehabilitator deems necessary or appropriate to reform and revitalize the insurer. The Rehabilitator is expressly authorized to undertake those actions that are permitted by Haw. Rev. Stat. Chapter 431, Article 15 including but not limited to the submission of a formal rehabilitation plan pursuant to the provisions of Haw. Rev. Stat. § 431:15-303(d). The rehabilitator shall have all the powers of the directors, officers, and managers, whose authority shall be suspended, except as they are redelegated by the rehabilitator. The rehabilitator shall have full powers to direct and manage, to hire and discharge employees subject to any contract rights they may have, and to deal with the property and business of the insurer.


7. **Reports to the Court.** Pursuant to Haw. Rev. Stat. § 431:15-302 an accounting of Respondent HIG's assets and liabilities shall be submitted to the Court within six-months of the entry of this Order. The Rehabilitator agrees to file further accounting reports at intervals not exceeding six months thereafter. Financial reports filed with the Court may be filed under seal and kept confidential until the Court rules otherwise or the Commissioner, in his capacity as Rehabilitator, believes that the reports should be made public.

8. **Effect of Rehabilitation Order.** Pursuant to Haw. Rev. Stat. § 431:15-302 entry of an order of rehabilitation shall not constitute an anticipatory breach of any contracts of the insurer.

Dated: Honolulu, Hawaii, June 29, 2006.

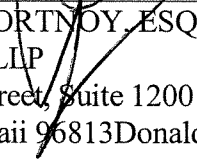
MARK J. BENNETT  
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AND

KOBAYASHI, SUGITA & GODA

  
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Attorneys for Plaintiff J.P.  
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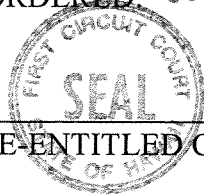
AND

  
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JEFFREY S. PORTNOY, ESQ.  
Cades Schutte LLP  
1000 Bishop Street, Suite 1200  
Honolulu, Hawaii 96813 Donald  
Thornton, Esq.  
Attorneys for HAWAIIAN  
INSURANCE & GUARANTY  
COMPANY LIMITED, Inc.

APPROVED AND SO ORDERED: JUN 30 2006

VICTORIA S. MARKS

\_\_\_\_\_  
JUDGE OF THE ABOVE-ENTITLED COURT



\_\_\_\_\_  
*J.P. Schmidt, in his capacity as Insurance Commissioner of the State of Hawaii, vs. HIG Insurance Company, Inc., S.P. No. \_\_\_\_\_; STIPULATED REHABILITATION ORDER FILED June \_\_\_\_ 2006.*