

NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

SUPERIOR COURT DIVISION

03 CVS 15525

200 MAR -1 P 2 48

STATE OF NORTH CAROLINA, WAKE COUNTY, CSC  
COMMISSIONER OF INSURANCE )  
OF NORTH CAROLINA, )

Petitioner, )

v. )

COMMERCIAL CASUALTY )  
INSURANCE COMPANY OF )  
NORTH CAROLINA, )

Respondent. )

DOMICILIARY LIQUIDATOR'S  
QUARTERLY REPORT

[AOC Cover Sheet Code OTHER – Report]

NOW COMES the Commissioner of Insurance of North Carolina and Liquidator of Commercial Casualty Insurance Company of North Carolina (Liquidator), and hereby makes this report pursuant to North Carolina General Statute § 58-30-105 and the Order of this Court dated April 2, 2004, which requires the Liquidator to make a quarterly report to the Court including a statement of receipts and disbursements to date and a statement of financial position. Attached hereto and incorporated herein by reference as Exhibit A is the statement of financial position as of December 31, 2009, and the statement of receipts and disbursements of Commercial Casualty Insurance Company of North Carolina for the three months ending December 31, 2009, and for the period from November 17, 2003, the date of rehabilitation, through December 31, 2009, as prepared by the Special Deputy Insurance Commissioner on behalf of the Liquidator.

This the 15<sup>th</sup> day of March, 2010.

Roy Cooper  
Attorney General

David W. Boone  
Assistant Attorney General  
N. C. State Bar No. 8648  
N. C. Department of Justice  
P. O. Box 629  
Raleigh, NC 27602-0629  
(919) 716-6610

**COMMERCIAL CASUALTY INSURANCE COMPANY OF NORTH CAROLINA**  
**NORTH CAROLINA COMMISSIONER OF INSURANCE AS RECEIVER**

**STATEMENT OF FINANCIAL POSITION**

**AS OF DECEMBER 31, 2009**

**STATEMENT OF RECEIPTS AND DISBURSEMENTS**

**FOR THE THREE MONTHS ENDING DECEMBER 31, 2009**

**AND FOR THE PERIOD FROM NOVEMBER 17, 2003,**

**THROUGH DECEMBER 31, 2009**

**INTRODUCTION TO COMMERCIAL CASUALTY INSURANCE COMPANY  
OF NORTH CAROLINA  
FINANCIAL STATEMENTS**

**DECEMBER 31, 2009**

Introduction and Basis of Presentation: Commercial Casualty Insurance Company of North Carolina (Company) is a North Carolina domiciled property and casualty insurance company that was placed into rehabilitation by the Wake County Superior Court on November 17, 2003, and subsequently placed into liquidation on April 2, 2004. Accordingly, the Company is under the control of the Commissioner of Insurance of the State of North Carolina, who is the Liquidator of the Company. It is the Liquidator's responsibility to recover and liquidate assets and to investigate the events that led to the insolvency of the Company.

The accompanying statement of financial position reflects general ledger balances of the Company as of December 31, 2009, adjusted to reflect circumstances currently known to the Liquidator. Amounts will be further adjusted prospectively as deemed appropriate based on the Liquidator's continued investigation. The amounts reflected on the statement of financial position represent the Liquidator's best estimate, as explained in the accompanying notes, of the Company's assets and liabilities as of December 31, 2009. The accompanying statement of receipts and disbursements presents all actual cash receipts and disbursements for the three months ending December 31, 2009, and for the period from November 17, 2003, the date of rehabilitation, through December 31, 2009.

COMMERCIAL CASUALTY INSURANCE COMPANY of NORTH CAROLINA  
NORTH CAROLINA COMMISSIONER OF INSURANCE AS RECEIVER  
Statement of Financial Position  
As of December 31, 2009

<b>Assets</b>		
Cash on Hand and Deposit	(Note A)	\$ 42,448,073
Bonds	(Note B)	1,258,450
Reinsurance Recoverable	(Note C)	6,258,311
Distributions to Guaranty Associations	(Note D)	642,334
Other Assets	(Note E)	<u>58,724</u>
<b>Total Assets</b>		<b><u>50,665,892</u></b>
<b>Liabilities</b>		
Reserve for Loss and Loss Adjustment Expenses	(Note F)	18,369,285
Reinsurance Balances Payable	(Note G)	5,669,917
Payable to Guaranty Associations	(Note H)	46,013,653
Taxes Licenses & Fees Payable		125,938
Other Liabilities	(Note I)	<u>4,317,189</u>
<b>Total Liabilities</b>		<b><u>74,495,982</u></b>
<b>Excess of Liabilities Over Assets</b>		<b>\$ <u>(23,830,090)</u></b>

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

**COMMERCIAL CASUALTY INSURANCE COMPANY OF NORTH CAROLINA**  
**NORTH CAROLINA COMMISSIONER OF INSURANCE AS RECEIVER**  
**Statement of Receipts and Disbursements**

	<u>For the Three Months Ended December 31, 2009</u>	<u>Cumulative For the Period November 17, 2003- December 31, 2009</u>
<b>OPERATING ACTIVITIES</b>		
<b><u>Receipts</u></b>		
Premium Receipts	\$ 0	458,778
Recoveries on Paid Claims (Note C)	32,643	22,726,340
Proceeds from Sale of Other Investments	0	52,368
Proceeds from Sale of Subsidiary Investment	0	2,918,091
Proceeds from Sale of Home Office Real Estate	0	2,485,786
Federal Income Tax Recovered	127,424	1,785,344
Other Receipts	700	1,604,513
<b>Total Receipts</b>	<b>160,767</b>	<b>32,031,220</b>
<b><u>Disbursements</u></b>		
<u>Distributions to Guaranty Associations</u> (Note D)	0	642,334
<b><u>Claim Payments</u></b>		
Losses	0	2,816,006
Loss Adjustment Expenses	0	2,877,710
	0	5,693,716
<b><u>General Expenses and Other</u></b> (Note J)		
Accounting & Legal Services	64,997	3,114,675
Professional Services	43,323	2,248,647
Personnel Expense	67,546	2,841,916
Rent	41,423	1,057,374
Office Expenses	1,224	781,224
Travel	63	12,996
Taxes, Licenses & Fees	0	466,314
Real Estate Expenses	0	75,000
Boards, Bureaus & Associations	0	(3,166)
Other Expenses	0	(22,323)
Other Refunds & Deposits	0	80,783
Other Disbursements	0	412,445
<b>Total Operating Disbursements</b>	<b>218,576</b>	<b>11,065,885</b>
	<b>218,576</b>	<b>17,401,935</b>

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

<b>Net Cash Provided by Operating Activities</b>	(57,809)	14,629,285
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**INVESTING ACTIVITIES**

Net (Purchases)/Sales of Invested Assets	75,000	3,865,442
Net Investment Income	33,666	5,705,180
Redemption of CDs backing LOCs	0	(4,739,098)
<b>Net Cash Provided by Investing Activities</b>	<u>108,666</u>	<u>4,831,524</u>
<b>Net Change in Cash and Cash Equivalents</b>	50,857	19,460,809
<b>Cash and Cash Equivalents at Beginning of Period</b>	42,397,216	22,987,264
<b>Cash and Cash Equivalents at End of Period</b>	<u>\$ 42,448,073</u>	<u>42,448,073</u>

The financial statements should be read together with the notes to the financial statements which are an integral part of this statement.

NOTES TO FINANCIAL STATEMENTS

**Note A:** All cash and cash equivalents have a maturity of less than 1 year and are carried at cost which approximates market value. Included in cash is \$828,087 held on deposit at various banks for the states of Georgia, South Carolina, and Massachusetts.

**Note B:** Bonds are stated at fair market value. All bonds are investment grade. Bonds totaling \$1,189,161 are held on deposit by various state insurance departments and bonds totaling \$69,289 are held on deposit in the Company's BB&T trust account.

**Note C:** Reinsurance Recoverable represents the Liquidator's current best estimate of the amount of future recoveries from reinsurers for paid losses and loss adjustment expenses. The accompanying statement of receipts and disbursements presents actual recoveries for the period. These amounts are subject to change as the Liquidator submits additional claims for payment to reinsurers and reacts to the reinsurers' responses to claims. During the quarter, the recoverable was reduced by corrections of \$37,785 as a result of review of the recoverable accounts.

During the quarter, an error was discovered in the calculation of the amounts recoverable under the quota share treaties on the artisan business. Correction of the recoverable resulted in a decrease in the total amount due of \$420,968. Additional reinsurance billings for the excess of loss and Hudson quota share treaties in the amount of \$24,891 were submitted during the quarter and cash recoveries from reinsurers in the amount of \$32,643 were received during the quarter.

**Note D:** Distributions to Guaranty Associations represent the release of the Company's statutory deposits to the insurance guaranty association in each of the following states:

State of Louisiana	\$ 72,215
State of Nevada	230,180
State of Florida	<u>339,939</u>
Total	<u>\$642,334</u>

Each deposit was held for the benefit of the policyholders in that state. The distributions to these guaranty associations will be used to offset the liability to these associations when the estate makes a distribution to all guaranty associations.

NOTES TO FINANCIAL STATEMENTS

**Note E:** Other Assets include the following items:

RAD Trust deposit	\$ 58,000
Miscellaneous other assets	<u>724</u>
Total	<u>\$ 58,724</u>

**Note F:** Reserves for loss and loss adjustment expenses is primarily comprised of case reserves of \$1,536,419, as reported by the various guaranty associations, plus \$164,474 of case reserves reported by Hudson Insurance Company (Hudson) (the Company reinsured certain insurance policies written by Hudson in the state of New York), and net incurred but not reported (IBNR) reserves of \$15,194,037. The amounts are adjusted for anticipated recoverables from reinsurers.

As previously reported, the IBNR reserves were originally derived from the actuarial review of loss and loss expense reserves as of December 31, 2003, issued by Merlino and Associates, Inc. (Merlino Report) and were adjusted for case development. The Merlino Report was prepared under the assumption that CCIC would continue as a going concern and therefore did not consider the impact of statutory defenses available to the various guaranty associations which allow the guaranty associations to avoid certain liabilities that would have otherwise been the liabilities of the Company.

The Liquidator obtained an actuarial review of loss and loss expense reserves as of December 31, 2006, issued by MBA Actuaries (MBA Report). As a result of the actuarial review, the Liquidator revised the reserves as of March 31, 2008, for loss and loss adjustment expenses, and will update reserves in the future as needed.

As of December 31, 2009, \$1,474,355 of policyholder level claims for which no guaranty association protection was available are included in the reserves for loss and loss adjustment expenses.

As amounts for losses and loss adjustment expenses are paid by the various guaranty associations, the Liquidator reclassifies these amounts from reserve for loss and loss adjustment expense to payable to guaranty associations to reflect the estate's liability to reimburse the various guaranty associations for the payments made.

For the quarter ended December 31, 2009, the reduction in reserves from the quarter ended December 31, 2008, was \$3,146,789. This amount is comprised of

**NOTES TO FINANCIAL STATEMENTS**

payments for losses of \$271,692, ALAE of \$789,055, ULAE of \$669,801, and payments due Hudson of \$223,386. Case reserves were decreased by the various guaranty associations by \$1,311,163 and decreased by Hudson by \$313,447. These decreases were partially offset by expected reinsurance recoveries of approximately \$431,754.

**Note G:** Reinsurance balances payable consists of commissions due reinsurers on unprofitable lines of business covered by reinsurance and other net amounts reported as due by the Company to reinsurers as of the date of liquidation. These amounts are subject to change as the Liquidator continues to investigate the balance in the account.

The balance in this line also includes amounts due Hudson. The balance increased from the prior quarter by \$36,367 due to payments made by Hudson during the quarter.

**Note H:** As amounts for losses and loss adjustment expenses are paid by the various guaranty associations, the Liquidator reclassifies these amounts from reserve for loss and loss adjustment expense to payable to guaranty associations to reflect the estate's liability to reimburse the various guaranty associations for the payments made.

As a result of the investigation reported in Note F, additional amounts have been moved in this line for the administrative expenses (ULAE) incurred by the various guaranty associations. ULAE amounts were included in reserves in both the Merlino Report and the MBA Report but had not previously been moved from the losses and loss adjustment expenses to the payable to guaranty associations.

Claims covered by the various guaranty associations are paid on behalf of the Company. As such, these payments are reported to the Company and recorded as a liability to the various guaranty associations. These amounts are subject to change as the Liquidator receives updated financial reporting from the various guaranty associations.

**Note I:** Other liabilities include the following items:

Accounts payable to general creditors	\$3,364,249
Escheat balance for un-cashed checks	394,169
Due policyholders for return premiums	417,427
Balance due to Georgia Mutual for paid losses and LAE	98,850
Miscellaneous funds held	<u>42,494</u>
<b>Total</b>	<b><u>\$4,317,189</u></b>

**NOTES TO FINANCIAL STATEMENTS**

The escheats balance has been determined to include checks that should be reissued. During 2009 \$32,017 of checks have been reissued or voided as a result of the payee indicating the amount had been cleared. Additionally, another \$189,003 has been written off for checks that had been on the outstanding list at the Company prior to liquidation and for which the Company had not included any detail. The Liquidator has no way of knowing the payees names or addresses. Additionally, the listings from the Company did not even include the bank. These amounts could not be escheated without this information. These accounts do not fall in the Class 5 priority of distribution pursuant to N.C. Gen. Stat. §58-30-220.

These amounts are subject to change as the Liquidator continues to investigate the balances in the Company's ledger accounts and the documentation supporting the amounts.

**Note J:** During the quarter the Liquidator paid:

- \$110,055 to RAD Trust for various expenses, including rent and salaries.
- \$62,204 to Nelson Mullins Riley & Scarborough LLP for fees and expenses incurred in his lawsuit against the former officers and directors of the Company.
- \$26,125 to Rudmose & Noller for accounting services and expenses related to his lawsuit against the former officers and directors of the Company.
- \$17,198 to MBA for actuarial fees and expenses incurred in his pursuit of reinsurance collections and actuarial fees and expenses related to his lawsuit against the former officers and directors of the Company.
- \$1,200 to Batchelor, Tillery & Roberts, LLP for the annual audit.
- \$1,089 to Thompson, Slagle & Hannon, LLC for assistance with collections.
- \$705 to other parties for services including storage, parking, postage and shipping.

**NORTH CAROLINA**

**WAKE COUNTY**

**VERIFICATION**

JEFFREY A. TRENDEL, being first duly sworn, deposes and says that he is a Deputy Commissioner of Insurance for the North Carolina Department of Insurance and appointed as Special Deputy Insurance Commissioner of Commercial Casualty Insurance Company of North Carolina by the Commissioner of Insurance and Liquidator, that he has read the foregoing Statement of Financial Position as of December 31, 2009, and the Statement of Receipts and Disbursements for the three months ending December 31, 2009, and for the period from November 17, 2003, the date of rehabilitation, through December 31, 2009, and that the contents of same are true and correct to the best of his knowledge and belief.

This the 1<sup>st</sup> day of March, 2010.

\_\_\_\_\_  
Deputy Commissioner of Insurance and  
Special Deputy Insurance Commissioner for  
Commercial Casualty Insurance Company  
of North Carolina

**NORTH CAROLINA**

**WAKE COUNTY**

Sworn to and subscribed before me this

the 1<sup>st</sup> day of March, 2010.

PEGGY HOUSTON DEHART  
NOTARY PUBLIC  
(Official Seal)  
JOHNSTON COUNTY, N.C.  
My Commission Expires \_\_\_\_\_

Notary Public

My Commission Expires: 5-4-2013

## CERTIFICATE OF SERVICE

This is to certify that the original Domiciliary Liquidator's Quarterly Report was this day filed with the Wake County Clerk of Superior Court and that a copy of the Report was sent by first class United States mail to the following persons:

Honorable Donald W. Stephens  
Senior Resident Judge  
Wake County Superior Court  
Post Office Box 351  
Raleigh, NC 27602-0351

Christopher J. Blake  
Joseph Eason  
Attorneys for NCIGA  
Nelson Mullins Riley & Scarborough LLP  
4140 Parklake Avenue  
Raleigh, North Carolina 27612

This the 1<sup>st</sup> day of March, 2010.

ROY COOPER  
Attorney General

David W. Boone  
Assistant Attorney General  
N. C. State Bar No. 8648  
N. C. Department of Justice  
P. O. Box 629  
Raleigh, NC 27602-0629  
(919) 716-6610