

## **Frequently Asked Questions About Merced Property & Casualty in Liquidation ("Merced")**

On November 30, 2018, California Insurance Commissioner Dave Jones filed a petition to place Merced Property and Casualty Company ("Merced") into liquidation. On December 3, 2018, the Superior Court of the State of California, County of Merced is expected to enter an Order Appointing Liquidator, in the case entitled *Insurance Commissioner of the State of California v. Merced Property and Casualty Company*, Case No. 18CV-04739 ("Liquidation Order"). Pursuant to the Liquidation Order, the California Insurance Commissioner will be appointed as the statutory Liquidator of Merced Property and Casualty Company. The Liquidation Order authorizes and empowers the Commissioner, through his Conservation & Liquidation Office, to liquidate Merced and its assets for the benefit of Merced's claimants, creditors and shareholder, as provided in Sections 1010 through 1062 of the Insurance Code of the State of California. Merced is expected to be found to be statutorily insolvent. This finding of insolvency triggers the California Insurance Guarantee Association to begin paying covered claims to Merced's claimants up to statutory limits.

### **Q. Why was Merced placed into Liquidation?**

A. On November 8, 2018 the Camp Fire started in Butte County, California, creating horrific devastation to the area. As of November 26, 2018 the Camp Fire was estimated to have burned approximately 153,000 acres causing 88 civilian casualties and destroying 18,793 structures, including 13,696 single-family houses, 276 apartment buildings, and 528 commercial buildings. Merced incurred significant losses as a result of the Camp Fire. Based upon preliminary confirmation of multiple total losses and mounting claims, the financial condition of Merced deteriorated rapidly. After a review of the financial records of Merced, the California Department of Insurance concluded that Merced was insolvent, that it did not have sufficient liquid assets to pay its liabilities as they became due, and that further efforts to rehabilitate Merced would not be feasible. The Court is expected to find that Merced is statutorily and legally insolvent and, therefore, sufficient grounds exist in accordance with Insurance Code section 1016 for entry of an order of liquidation of Merced.

### **Q. What is a liquidation proceeding?**

A. Liquidation is similar to bankruptcy. When an insurance company is insolvent, the California Insurance Code authorizes the Insurance Commissioner of the state of California to ask the Superior Court (the "Court") for an Order appointing the Insurance Commissioner as the Liquidator and instructing him/her to liquidate the insurance company. The Liquidation Order directs the Liquidator, to (i) take or maintain possession of the property of the insurer, (ii) conduct the insurer's business, and (iii) take such steps to liquidate (wind-up the affairs of) the business of the insurer as the Court shall direct.

### **Q. Who is in charge of Merced during Liquidation?**

A. The Insurance Commissioner is appointed Liquidator of Merced as set forth in Insurance Code section 1016, with (1) David E. Wilson to serve as the Special Deputy Insurance Commissioner in charge of the Merced liquidation and (2) Scott Pearce to serve as Liquidation Manager for Special Deputy Insurance Commissioner Wilson (hereinafter, collectively with the Commissioner, the "Liquidator");

### **Q. What will happen to my claim?**

A. Merced insurance policy claims qualify for coverage from the California Insurance Guarantee Association ("CIGA") and will be transferred immediately to CIGA upon the entry of the order of liquidation and a finding of insolvency.

### **Q. What is a Guaranty Association (CIGA) and what does it do?**

A. CIGA was created by state law to provide protection to policyholders and claimants in the event of a member insurer's liquidation. The state law which created CIGA has limitations and other eligibility requirements, including certain limitations on the amount of coverage available or the types of policyholders or claims covered. The Liquidator cannot make a determination concerning the amount of guaranty association coverage available to a policyholder or claimant. That determination will be made by the guaranty association. Contact information for CIGA:

#### **California Insurance Guarantee Association**

P.O. Box 29066

Glendale, CA 91209-9066

818-844-4300 (office) 818-291-1863 (fax)

[assistance@caiga.org](mailto:assistance@caiga.org)

**Q. Will my claim(s) be paid in full by the insurance guaranty associations?**

A. By statute, CIGA has maximum benefit limitations. You may access more information regarding specific CIGA regulations and coverage limitations at [www.caiga.org](http://www.caiga.org). If it ends up that you have a claim in excess of CIGA's limits, the excess will be a claim against the assets of Merced.

**Q. What will happen to my active policy with Merced?**

A. All Merced insurance policies are required by statute to be cancelled effective 30 days from the date of the liquidation date. CIGA is statutorily responsible to pay the unearned premium that is due back to insureds for coverage that extends beyond the cancellation date. Insureds are encouraged to work with your insurance broker to replace your Merced insurance coverage immediately. If you have difficulty in procuring replacement coverage in the normal market, you possibly may obtain basic fire insurance coverages through the California FAIR Plan Association. Insurance through the Association is available only in certain areas of the state. For more information or assistance in obtaining basic property insurance through the FAIR Plan, please contact your agent or broker or the Fair Plan at (800)339-4099 or [www.cfpnet.com](http://www.cfpnet.com).

**Q. Am I required to file a Proof of Claim with the Liquidator by the Bar Date of June 30, 2019?**

A. If you have a claim against Merced and wish to pursue that claim, you must file a Proof of Claim by the Bar Date of June 30, 2019 for your claim to be considered in one of the priority classes. **Policy claimants (including claims for unearned premium refunds) are not required to file a proof of claim since their claim is automatically deemed filed by the Liquidator. Additional information concerning the Proof of Claim process will be available around December 31, 2018 on our website at [www.caclo.org/Merced](http://www.caclo.org/Merced).**

**Q. What happens to my general creditor ("non-policy related") claim against Merced?**

A. The Liquidation Order includes injunctions against certain conduct. Please read the Liquidation Order carefully as there are penalties for violations of the injunctions. As a result of the entry of the Liquidation Order, Merced is not able to pay its claims at this time. Over time the Liquidator will liquidate the assets of Merced and evaluate the claims against Merced. Once the Liquidator evaluates all claims, the Liquidator will make recommendations to the Court. Once the process of liquidating Merced's assets and determining Merced's liabilities is complete, the remaining available assets will be distributed to classes of claimants with approved proofs of claim in the priority order established in the California Insurance Code. Certain claims might qualify for coverage from a guaranty association.

**Q. What happens if I have or want to bring a lawsuit against Merced?**

A. No action at law or equity or in arbitration shall be brought against Merced or the Liquidator, whether in California or elsewhere, nor shall any such existing actions be maintained or further presented after issuance of the Liquidation Order. The Liquidator may intervene in any action against Merced in order to protect Merced's assets. If your lawsuit is against a policyholder of Merced, then – at the election of CIGA – the association may seek a stay of that litigation until such time as claim files are received by CIGA and the claim is evaluated for coverage.

**Q. Where can I find additional information regarding Merced and/or the Liquidation Proceeding?**

A. Additional information regarding the Merced liquidation can be found at [www.caclo.org/Merced](http://www.caclo.org/Merced). The Liquidator will update this webpage with frequently asked questions and more information as it becomes available.

Dated: November 30, 2018