

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X      **Index No.: 703264/2017**

In the Matter of  
  
the Liquidation of

FIDUCIARY INSURANCE COMPANY OF  
AMERICA.

**AFFIRMATION  
IN SUPPORT OF THE  
SUPERINTENDENT'S  
APPLICATION TO APPROVE  
ADJUDICATION PROCEDURE**

-----X  
  
Melvin Browning, an attorney at law, duly admitted to practice before the Courts  
of the State of New York, hereby affirms the following to be true under penalties of perjury:

1.      I am an attorney with the New York Liquidation Bureau (the "NYLB"), which serves as the staff of Maria T. Vullo, Superintendent of Financial Services of the State of New York ("Superintendent") in her capacity as liquidator (the "Liquidator") of Fiduciary Insurance Company of America ("Fiduciary") and administrator (the "Administrator") of the New York Public Motor Vehicle Liability Security Fund (the "Security Fund"), and submit this affirmation upon information and belief, the sources of which are the Fiduciary files maintained by the NYLB and conversations I have had with the employees of the Liquidator, in support of the Liquidator's application to approve a procedure for judicial review of claims against the Fiduciary estate. Claims against the estate fall into two categories: (1) claims covered and paid by the Security Fund in accordance with New York Insurance Law ("Insurance Law") §§ 7601 - 7602; 7604 ("Fund Covered Claims")<sup>1</sup> or (2) claims directly against the estate that are not

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<sup>1</sup> Fund-covered claims that are allowed are paid by the Security Fund which is administered by the Superintendent in her capacity as Administrator. The Security Fund is a reserve of money, from which covered claims that are allowed are paid up to the policy limit or the statutory cap of \$1,000,000, whichever is less. N.Y. Ins. L. §

covered by the Security Fund and are eligible to be paid in accordance with the priority scheme set forth in Insurance Law § 7434 (“Estate Claims”). The proposed adjudication procedures for Fund Covered Claims and Estate Claims are substantially similar but not identical. Claimant objections under both procedures may be heard by the same court-appointed referee (“Referee”).

### **THE ADJUDICATION PROCEDURES FOR FUND COVERED CLAIMS**

2. Claims that are potentially covered by the Security Fund are referred to the Administrator, whose staff will determine fund coverage and either allow or deny the claim in whole or part. If the Administrator’s staff denies coverage for a claim, in whole or part, the claimant will receive a letter in substantially the form of the examples attached hereto as Exhibit A (“Denial Letter”) or in the case of No-Fault claims, Exhibit B (“Denial of Claim Form”), indicating the reason for the denial. If the Administrator determines there is fund coverage for a claim but the Administrator and claimant have, in the reasonable opinion of the Administrator, reached an impasse as to the value of such claim, a letter will be sent to the claimant in substantially the form attached hereto as Exhibit C (“Final Determination Letter”), indicating the final amount proposed to be paid from the Security Fund. The Final Determination Letter advises the claimant of the right to object and be heard by a court-appointed Referee who will make a recommendation subject to Court approval.

3. The Adjudication Procedure for Fund Covered Claims is as follows:

A. This Adjudication Procedure shall apply to disputes arising out of the issuance of a Denial Letter, Denial of Claim Form<sup>2</sup> and a Final Determination Letter to

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7602(g)(2)(B).

<sup>2</sup> The Denial of Claim Form applies to No-Fault claims only. The first and second page of the Denial of Claim Form is completed by the Administrator prior to being mailed to the claimant. The third and fourth page of the

a claimant.

B. References to "claimant" shall mean those individuals or entities with the legal standing to maintain a claim under an insurance policy issued by Fiduciary. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or expand any right of an individual or entity under applicable law or any provision of an insurance policy or contract.

C. Denial Letter and Denial of Claim Form.

- i. The Administrator shall serve a Denial Letter or Denial of Claim Form on each claimant whose coverage for a claim is denied in whole or in part. Service of the Denial Letter or Denial of Claim Form will be made by first-class, certified mail, return receipt requested, or such other form of communication as may have been agreed to by the Administrator and the claimant, in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Denial Letter or Denial of Claim Form may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Administrator.
- ii. The Denial Letter or Denial of Claim Form shall advise each claimant of the following:
  - a. No further action by the claimant is required if the claimant accepts the Administrator's grounds for denial as set forth in the Denial Letter or Denial of Claim Form;
  - b. The claimant has the right to object to the Denial Letter or Denial of Claim Form, and can do so by serving a written objection on the Administrator within sixty (60) days after the date of mailing the Denial Letter or Denial of Claim Form, as set forth in the Denial Letter or Denial of Claim Form;
  - c. If the claimant makes a timely written objection, the Administrator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;

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Denial of Claim Form is filled out by the claimant if the claimant chooses to object to the denial of coverage.

- d. The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
- e. Either the claimant or the Administrator may petition the Court supervising the Fiduciary liquidation proceeding (the "Supervising Court"), on notice, for an order confirming or denying the Referee's report.

D. Final Determination Letter.

- i. The Administrator shall serve a Final Determination Letter on each claimant with a claim in respect of which the Administrator and claimant have, in the reasonable opinion of the Administrator, reached an impasse as to the value of such claim. Service of the Final Determination Letter will be made by first-class, certified mail, return receipt requested, or such other form of communication as may have been agreed to by the Administrator and the claimant, in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The Final Determination Letter may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Administrator.
- ii. The Final Determination Letter advises each claimant of the following:
  - a. If the claimant accepts the Administrator's valuation of the claim as set forth in the Final Determination Letter, the claimant may execute the enclosed settlement documents, including a release of further rights pertaining to the adjudicated claim, and return such documents to the Administrator;
  - b. If the claimant accepts the Administrator's valuation of the claim as set forth in the Final Determination Letter and returns the settlement documents, application will be made to this Court or to the Superintendent, depending upon the agreed amount, to allow the claim in the amount specified in the Final Determination Letter and, upon such allowance, payment will be made as soon as reasonably practical;
  - c. The claimant has the right to object to the Final Determination Letter, and may do so by serving a written objection on the Administrator within sixty (60) days after the date of mailing the Final Determination Letter, as set forth in the Final Determination Letter;
  - d. If the claimant makes a timely written objection, the Administrator

will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;

- e. The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections;
  - f. Either the claimant or the Administrator may petition the Supervising Court, on notice, for an order confirming or denying the Referee's report; and
  - g. If the claimant fails to object and fails to provide fully executed settlement documents within ninety (90) days from the date of mailing of the Final Determination Letter, the Administrator may deem the claim abandoned and may seek an *ex parte* order of the Supervising Court approving the denial of the claim.
- E. In the event that the claimant requests a hearing, the Administrator's staff will contact the claimant in writing at the address set forth on the Denial Letter or Denial of Claim Form or Final Determination Letter (or such other address as the claimant has provided to the Administrator in writing for the purpose of providing communications), as applicable, to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five (5) business days prior to the pre-hearing conference and the claimant fails to attend such conference, the claimant's objection is forfeited and the Denial Letter or Denial of Claim Form or Final Determination Letter is deemed accepted.
- F. In the event that the claimant fails to object to a Denial Letter or Denial of Claim Form or Final Determination Letter within the sixty (60) day period, the claim shall either be denied and subject to approval by the Supervising Court or the Superintendent shall allow the claim in the amount stated in the Final Determination Letter or seek this Court's approval of the claim in the amount stated in the Final Determination Letter as required by Insurance Law Section 7602(g).
- G. If a claimant fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a dismissal of the objection and deem the Denial Letter or Denial of Claim Form or Final Determination Letter to be accepted.
- H. The Administrator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with New York Insurance Law Section 7602(g).

- I. In the event the Administrator fails to timely meet any of the time periods set for mailing or delivering a notice required by the Order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the Adjudication Procedure until it receives the required notice.

### **THE ADJUDICATION PROCEDURES FOR ESTATE CLAIMS**

6. The Liquidator classifies Estate Claims in accordance with Insurance Law § 7434(a)(1) as follows:

#### Class One – Administrative Claims

Claims with respect to the actual and necessary costs and expenses of administration incurred by the Liquidator;

#### Class Two – Claim and Related Costs

All claims under policies including claims of the federal, state or local government for losses incurred, third-party claims, claims for unearned premiums, and all claims of the security fund guaranty associations, but excluding claims arising under reinsurance contracts;

#### Class Three – Federal and Government Claims

Claims of the federal government, except those stated above in Class two;

#### Class Four – Employee Claims

Claims for wages owing to employees of an insurer against whom an Article 74 proceeding is commenced and claims for unemployment insurance contributions required by Article 18 of the New York Labor Law;

#### Class Five – State and Local Government Claims

Claims of state and local governments, except those stated above in Class two;

#### Class Six – General Creditor Claims

Claims of general creditors, including, but not limited to, claims under reinsurance

contracts;

Class Seven – Late Filed Claims

Claims filed late or any other claims other than claims under Class eight or Class nine below;

Class Eight – Section 1307 Loans

Claims for advanced or borrowed funds made pursuant to Insurance Law Section 1307; and

Class Nine – Shareholder Claims

Claims of shareholders or other owners in their capacity as shareholders.

7. Once Estate Claims are classified, the Liquidator advises claimants of the categorization. A copy of the template letter to be used by the Liquidator is attached hereto as Exhibit D (“Classification Letter”). When Estate Claims are adjudicated, the Liquidator reviews each claim and determines the amount to be allowed or disallowed. A notice of determination (“NOD”) is then issued to the claimant, which is subject to objection under the Adjudication Procedure. Templates of the NODs for allowance and disallowance are attached hereto as Exhibit E.

8. As authorized in Paragraph 16 of the order of liquidation, dated July 25, 2017, the Liquidator may decline to adjudicate claims below class two unless the Liquidator believes there will be sufficient assets to pay class two claims in whole and make some payment to lower classes – or if the Liquidator otherwise determines that such adjudication is in the best interests of the estate.

### **The Adjudication Procedure For Estate Claims**

9. The Adjudication Procedure for Estate Claims is as follows:
- A. This Adjudication Procedure shall apply to disputes arising out of the issuance of an NOD and Classification Letter to a claimant.
  - B. References to "claimant" shall mean those individuals or entities with the legal standing to maintain a claim against Fiduciary that is not covered by the Security Fund. Nothing contained herein shall or shall be deemed to confer standing upon any individual or entity or expand any right of an individual or entity under applicable law or any provision of an insurance policy or contract.
  - C. The Liquidator shall serve either or both an NOD and a Classification Letter, as the case may be, on each claimant with a claim timely filed or deemed timely filed in the liquidation proceeding. Service of the NOD and/or Classification Letter will be made by first class mail, return receipt requested, or such other form of communication as may have been agreed to by the Liquidator and the claimant, in writing, to the claimant's last known address, and if a representative, such as an attorney or broker, submits a claim on a claimant's behalf, to the address of such representative. The NOD or Classification Letter may also be copied to such individuals or entities as may be required by law or as may be deemed advisable in the reasonable opinion of the Liquidator.
  - D. The Classification Letter advises each claimant of the following:
    - i. The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
    - ii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the Classification Letter;
    - iii. The claimant has the right to object to the Classification Letter, and may do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing of the Classification Letter, as set forth in the Classification Letter;
    - iv. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator



will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;

- v. The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and
- vi. Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order confirming or denying the Referee's report.

E. The NOD advises each claimant of the following:

- i. The Liquidator's determination of the specific class of claim under Insurance Law Section 7434 in which the claim falls;
- ii. The Liquidator's recommendation that the claim be allowed and the amount of the recommended allowance, or that the claim be disallowed, in whole or in part, and the reason therefor;
- iii. No further action by the claimant is required if the claimant accepts the Liquidator's recommendation as set forth in the NOD;
- iv. The claimant has the right to object to the NOD, and may do so by serving a written objection on the Liquidator within sixty (60) days after the date of mailing the NOD, as expressly set forth in the NOD;
- v. Unless the claimant objects, the Liquidator's recommendation in the NOD will be presented to this Court for approval and the claimant's right to share in a distribution of assets, if any, pursuant to Insurance Law Section 7434, will be fully and finally determined;
- vi. If the claimant makes a timely written objection, the Liquidator will contact the claimant to attempt to resolve the objection and, if resolved, will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved and the claimant requests a hearing, then the Liquidator will contact the claimant and the court-appointed Referee to initiate a pre-hearing conference;
- vii. The court-appointed Referee will hear and report on the validity of the claimant's unresolved objections; and

- viii. Either the claimant or the Liquidator may petition the Supervising Court, on notice, for an order either confirming or denying the Referee's report.
- F. The Liquidator shall move, *ex-parte*, at least seventy-five (75) days, or a lesser period if agreed upon by the claimant, after the date of the NOD, for an order approving the Liquidator's recommendations for adjudication of all claims for which no objections are timely received.
- G. In the event that a claimant requests a hearing, the Liquidator will contact the claimant in writing at the address set forth on the Classification Letter or NOD (or such other address as the claimant has provided to the Liquidator in writing for the purpose of providing communication in respect of such Classification Letter or NOD) to schedule a pre-hearing conference. If the claimant fails to request an adjournment of the pre-hearing conference in writing at least five business days prior to the pre-hearing conference and the claimant fails to show up for the pre-hearing conference, then the claimant's objection to the Classification Letter or NOD is forfeited and the Classification Letter or NOD is deemed accepted.
- H. If a claimant fails to take the steps necessary to have its objection heard, the court-appointed Referee may issue a dismissal of the objection and deem the Classification Letter or NOD to be accepted.
- I. The Liquidator may settle objections in her sole discretion, at any time, without the necessity of receiving a report from the Referee; however, any settlement above \$25,000 is subject to approval by this Court, in accordance with New York Insurance Law Section 7428(b).
- J. In the event the Liquidator fails to timely meet any of the time periods set for mailing or delivering a notice required by the Order, it shall not affect the validity of the denial/determination but shall entitle the party that did not receive timely notice to toll its further obligations under the Adjudication Procedure until it receives the required notice.

**THE APPOINTMENT OF A REFEREE TO HEAR AND MAKE  
RECOMMENDATIONS ON ANY DISPUTES REGARDING  
FUND COVERED CLAIMS AND ESTATE CLAIMS**

10. The Liquidator respectfully requests that this Court appoint a Referee to hear and take evidence on any issues or objections raised by holders of Fund Covered Claims or Estate Claims, and to report the Referee's findings to this Court. Either the claimant or the

Administrator/Liquidator may petition this Court, on notice, for an order confirming or denying the Referee's report.

11. The Liquidator respectfully requests that the Referee appointed by this Court be paid a reasonable hourly rate and requests that this Court set the rate at \$200 per hour, payable as a loss adjustment expense of the Fiduciary estate.

12. In addition, in order to reduce administrative expenses, the Liquidator respectfully requests that the Referee be directed to conduct all hearings at the place of business of the Superintendent as Administrator of the Security Fund and as Liquidator of Fiduciary, currently located at 110 William Street in the Borough of Manhattan in the City, County and State of New York.

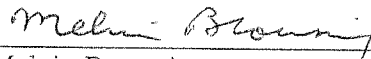
#### MISCELLANEOUS

13. The Liquidator also requests that this Court issue the accompanying Order to Show Cause approving: (i) a return date (the "Return Date") for a hearing (the "Hearing") on the Liquidator's application to be held before this Court at least forty-five (45) days after the date of issuance of the Order to Show Cause; (ii) the form of notice to be given to Fiduciary policyholders, creditors and others interested in the affairs of Fiduciary regarding the Liquidator's application and the Hearing (the "Notice"), a copy of which is attached hereto as Exhibit F; and (iii) the method of service of the Notice, *i.e.*, by: (a) posting on the Internet web page maintained by the NYLB at <http://www.nylb.org> at least fifteen (15) days before the Return Date and (b) publishing in *New York Post*, or a publication of similar circulation, such publication to commence within the fifteen (15) days following entry of the Order to Show Cause.

14. There has been no previous application for the relief requested herein.

WHEREFORE, it is respectfully requested that this Court enter an order: (i) approving the Adjudication Procedure and granting the relief requested herein; (ii) appointing a Referee to hear and take evidence on issues raised by claimants' objections, and to report thereon to this Court, which may thereafter, on motion, confirm or deny any decision issued by the court-appointed Referee; and (iii) granting the Liquidator such other and further relief as this Court may deem just and proper.

Dated: New York, New York  
April 18, 2018

  
\_\_\_\_\_  
Melvin Browning

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Index No. 703264

Year 2017

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF QUEENS

In the Matter of

the Liquidation of

FIDUCIARY INSURANCE COMPANY OF AMERICA.

**ORDER TO SHOW CAUSE AND AFFIRMATION FOR AN ORDER  
APPROVING THE PROCEDURE FOR THE SUPERINTENDENT'S ADJUDICATION OF  
SECURITY FUND COVERED CLAIMS AND ESTATE CLAIMS**

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial Services of the State of New York as Liquidator


*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
(212) 341-6755  
Fax (212) 608-3398

**ATTORNEY CERTIFICATION**

The undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information, belief and reasonable inquiry, the contentions in the above referenced document(s) are not frivolous.

Dated: April 18, 2018  
New York, New York

  
Melvin Browning

☐ NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on the      day of      20

☐ NOTICE OF SETTLEMENT

that an order  
settlement to the HON.

of which the within is a true copy will be presented for  
one of the judges of the within named court, at  
20      at

Dated:

, on

Yours, etc.

**JOHN PEARSON KELLY**

Attorney for Superintendent of Financial  
Services of the State of New York as  
Liquidator

*Office and Post Office Address, Telephone*

New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
(212) 341-6755  
Fax (212) 608-3398

## Exhibit A



## New York Liquidation Bureau

**MARIA T. VULLO**

Superintendent as Receiver

[Date]

Certified Mail

Return Receipt Requested

[Insured or Insured's representative]

[Address]

Re: Fiduciary Insurance Company of America in Liquidation  
Claim Number:  
Insured:  
Claimant:  
Date of Loss:

Dear [ ]:

The New York Liquidation Bureau ("NYLB") carries out the duties of the Superintendent of Financial Services of the State of New York ("Superintendent") in her capacity as Liquidator of Fiduciary Insurance Company of America ("Fiduciary") and, in the administration of claims, in her capacity as Administrator of the New York Security Funds.

The claimant, [insert name], is alleging [insert brief statement of claim alleged and date of loss].

Fiduciary insured [insert insured, insured location, specific vehicle, etc.] under [insert type] policy number [insert policy number] effective from [date] to [date].

The plaintiff's claim is not covered by your Fiduciary policy because *[state reasons why not covered, specifying policy and/or statutory language, cancellation dates, etc., where necessary.]*

[Choose Option 1 or Option 2 or Option 3]

### Option 1.

Based upon the information we have received, we have confirmed that the above-mentioned [type] insurance policy, issued to [insured], was written by [company name] and was not an admitted carrier in the State of New York.

Article 76 of the New York Insurance Law provides that the New York Public Motor Vehicle Liability Security Fund ("PMV Fund") shall be used in the payment of allowed claims for

the insolvency of an authorized insurer. An "authorized" insurer is an insurer licensed to transact insurance business in the State of New York.

Therefore, because the policy was issued by [name], which was not licensed in New York, there is no PMV Fund coverage for the above-captioned claim.

#### **Option 2**

In order for there to be coverage from the New York Public Motor Vehicle Liability Security Fund ("PMV Fund"), there must first be valid coverage under a policy. Because there is no policy coverage afforded to this loss, the PMV Fund will not cover the loss.

Therefore, the PMV Fund will not defend, indemnify, or make any payments on [insert insured name] behalf regarding the above-captioned claim.

#### **Option 3**

[Other basis]

If you wish to make an objection to this denial, please submit your objection in accordance with the instructions set forth in the attached Notice of Denial within sixty (60) days of the date of this letter.

If you have any questions regarding this matter or other information for our review, please feel free to contact me 212-xxx-xxxx.

Very truly yours,

[Name]

[Title]

cc: [Insured if not addressee above]  
[Legal representative for plaintiff]  
[Plaintiff]



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

In the Matter of the  
LIQUIDATION OF FIDUCIARY INSURANCE COMPANY OF AMERICA

[[SUIT CAPTION]      Index No.      (      County)]

Policy No.:

Claim No.:

NOTICE OF DENIAL

Maria T. Vullo, Superintendent of the Department of Financial Services of the State of New York as Administrator of the New York New York Public Motor Vehicle Liability Security Fund ("the Administrator") hereby gives notice that the claim set forth above has been adjudicated and denied for the reason(s) as stated in the accompanying disclaimer letter.

If you accept the Administrator's adjudication, you are not required to take any further action.

If you object to the Administrator's adjudication, you must set forth your objections and supporting reasons in writing and mail them to:

New York Liquidation Bureau  
Claims Division  
110 William Street, 16<sup>th</sup> floor  
New York, NY 10038-3889  
Att: [Claims Examiner]

All documents that support your objection must be provided to the Administrator with your objection. **Objections must be received by the Administrator within sixty (60) days of the date of this notice and accompanying letter.**

If you make timely objection, the Administrator's staff will contact you. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the supervising court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

If you have any questions regarding this Notice, you may contact [Examiner] at [telephone].

Dated:

Maria T. Vullo  
Superintendent as Administrator

## Exhibit B

**NEW YORK MOTOR VEHICLE NO-FAULT INSURANCE LAW  
DENIAL OF CLAIM FORM**

TO INSURER: Complete this form, including item 33. Send two copies to applicant. Upon the request of the injured person, the insurer should send to the injured person a copy of all prescribed claim forms and documents submitted by or on behalf of the injured person.

NAME, ADDRESS AND NAIC NUMBER OF INSURER OR NAME AND ADDRESS OF SELF-INSURER

|                 |  |                     |   |
|-----------------|--|---------------------|---|
| A. POLICYHOLDER | B. POLICY NUMBER                             | C. DATE OF ACCIDENT | D. INJURED PERSON   |
| E. CLAIM NUMBER | F. APPLICANT FOR BENEFITS (Name and address) |                     | G. AS ASSIGNEE<br>YES <input type="checkbox"/><br>NO <input type="checkbox"/> |

TO APPLICANT: SEE REVERSE SIDE IF YOU WISH TO CONTEST THIS DENIAL

YOU ARE ADVISED THAT FOR REASONS NOTED BELOW:

- ☐ 1. Your entire claim is denied as follows:  
☐ 2. A portion of your claim is denied as follows:

|  |    |  |    |
|--|----|--|----|
| <input type="checkbox"/> A. Loss of Earnings         | \$ | <input type="checkbox"/> D. Interest       | \$ |
| <input type="checkbox"/> B. Health Service Benefits  | \$ | <input type="checkbox"/> E. Attorney's Fee | \$ |
| <input type="checkbox"/> C. Other Necessary Expenses | \$ | <input type="checkbox"/> F. Death Benefit  | \$ |

REASON(S) FOR DENIAL OF CLAIM (Check reasons and explain below in item 33)

**POLICY ISSUES**

- |   |   |
|---|---|
| <input type="checkbox"/> 3. Policy not in force on date of accident   | <input type="checkbox"/> 6. Injured person not an "Eligible Injured Person"   |
| <input type="checkbox"/> 4. Injured person excluded under policy conditions or exclusion  | <input type="checkbox"/> 7. Injuries did not arise out of use or operation of a motor vehicle                       |
| <input type="checkbox"/> 5. Policy conditions violated:   | <input type="checkbox"/> 8. Claim not within the scope of your election under Optional Basic Economic Loss coverage |
| <input type="checkbox"/> a. No reasonable justification given for late notice of claim  |   |
| <input type="checkbox"/> b. Reasonable justification not established--You may qualify for special expedited arbitration-- See page 2 of this form for instructions. |   |

**LOSS OF EARNINGS BENEFITS DENIED**

- |   |   |
|---|---|
| <input type="checkbox"/> 9. Period of disability contested: period in dispute<br>From _____ Through _____ | <input type="checkbox"/> 11. Exaggerated earnings claim<br>of \$ _____ per month denied |
| <input type="checkbox"/> 10. Claimed loss not proven  | <input type="checkbox"/> 12. Statutory offset taken                                     |
|   | <input type="checkbox"/> 13. Other, explained below                                     |

**OTHER REASONABLE AND NECESSARY EXPENSES DENIED**

- |  |  |
|--|--|
| <input type="checkbox"/> 14. Amount of claim exceeds daily limit of coverage | <input type="checkbox"/> 16. Incurred after one year from date of accident |
| <input type="checkbox"/> 15. Unreasonable or unnecessary expenses            | <input type="checkbox"/> 17. Other, explained below                        |

**HEALTH SERVICE BENEFITS DENIED**

- |  |  |
|--|--|
| <input type="checkbox"/> 18. Fees not in accordance with fee schedules                                   | <input type="checkbox"/> 20. Treatment not related to accident   |
| <input type="checkbox"/> 19. Excessive treatment, service or hospitalization<br>From _____ Through _____ | <input type="checkbox"/> 21. Unnecessary treatment, service or hospitalization<br>From _____ Through _____ |
|  | <input type="checkbox"/> 22. Other, explained below  |

COMPLETE ITEMS 23 THROUGH 32 IF CLAIM FOR HEALTH SERVICE BENEFITS IS DENIED

|   |                                       |                                      |
|---|---------------------------------------|--------------------------------------|
| 23. Provider of Health Service (Name, Address and Zip Code) | 25. Period of bill - treatment dates  | 29. Date final verification received |
|   | 26. Date of bill                      | 30. Amount of bill<br>\$             |
| 24. Type of service rendered                                | 27. Date bill received by insurer     | 31. Amount paid by insurer<br>\$     |
|   | 28. Date final verification requested | 32. Amount in dispute<br>\$          |

33. State reason for denial, fully and explicitly (attach extra sheets if needed):

|  |   |  |
|--|---|--|
| DATE   | Name and Title of Representative of Insurer | Telephone No. & Ext. and Email Address |
| Name and address of Insurer claim processor (Third Party Administrator), if applicable |   | Telephone No. & Ext.                   |

**DENIAL OF CLAIM FORM -- PAGE TWO**

**IF YOU WISH TO CONTEST THIS DENIAL, YOU HAVE THE FOLLOWING OPTION:**

You may submit this dispute to a hearing in the liquidation/ancillary receivership proceeding of [ Company ]. At this time, arbitration against [ Company ] is permanently stayed pursuant to the court order establishing [ Company ]'s liquidation/ancillary receivership proceeding. Adjudication of any objection must be made by submitting your objection to a hearing before a referee appointed by the court overseeing [ Company ]'s liquidation/ancillary receivership proceeding. If you wish to have a hearing regarding your objection, you must complete the form on page three and state on the accompanying sheet the reason(s) you believe the denied benefits should be paid on page four, attach proof of your disability and/or verification of loss of earnings in dispute, sign below and mail the completed form to the address given on the front of this form or e-mail it to [ examiner's email address ] within sixty (60) days of receipt of this Denial of Claim Form. You or your attorney (if you are represented by legal counsel) will be contacted by someone from the New York Liquidation Bureau. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the Court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

|                       |            |                          |      |
|-----------------------|------------|--------------------------|------|
| HEARING REQUESTED BY: |            |                          |      |
| LAST NAME             | FIRST NAME | NAME OF LAW FIRM, IF ANY |      |
| TELEPHONE NUMBER:     |            | ADDRESS                  |      |
| FAX NUMBER:           |            |                          |      |
| EMAIL ADDRESS:        |            |                          |      |
| SIGNATURE             |            | ARE YOU AN ATTORNEY?     | DATE |
|                       |            | YES<br>NO                |      |

**DENIAL OF CLAIM FORM -- PAGE THREE**

Loss of earnings:      Date claim made: \_\_\_\_\_      Gross earnings per month \$ \_\_\_\_\_

Period of dispute:      From \_\_\_\_\_ Through \_\_\_\_\_      Amount claimed: \$ \_\_\_\_\_

Health Services: (Attach bills in dispute and list each one separately)

| Name of Provider(s) | Date of Service | Amount of Bill | Amount in Dispute | Date Claim Mailed |
|---------------------|-----------------|----------------|-------------------|-------------------|
|                     |                 |                |                   |                   |
|                     |                 |                |                   |                   |
|                     |                 |                |                   |                   |

Other Necessary Expenses: (Attach bills in dispute and list each one separately)

| Type of Expenses Claimed | Amount Claimed | Date Incurred | Date Claim Mailed | Amount in Dispute |
|--------------------------|----------------|---------------|-------------------|-------------------|
|                          |                |               |                   |                   |
|                          |                |               |                   |                   |

Other: (attach additional sheet if necessary)

**IMPORTANT NOTICE TO APPLICANT**

If box number 3 ("Policy not in force on date of accident") on the front of this form is checked as a reason for this denial, you may be entitled to No-Fault benefits from the Motor Vehicle Accident Indemnification Corporation (M.V.A.I.C.) (646-205-7800) located at 100 William Street, New York, New York 10038. The Insurance Law requires that you must file an Affidavit of Intention to Make Claim with M.V.A.I.C. Therefore, it is in your best interest to contact the M.V.A.I.C. immediately and file such an affidavit, even if you intend to contest this denial.

ANY PERSON WHO KNOWINGLY AND WITH INTENT TO DEFRAUD ANY INSURANCE COMPANY OR OTHER PERSON FILES AN APPLICATION FOR COMMERCIAL INSURANCE OR A STATEMENT OF CLAIM FOR ANY COMMERCIAL OR PERSONAL INSURANCE BENEFITS CONTAINING ANY MATERIALLY FALSE INFORMATION, OR CONCEALS FOR THE PURPOSE OF MISLEADING, INFORMATION CONCERNING ANY FACT MATERIAL THERETO, AND ANY PERSON WHO, IN CONNECTION WITH SUCH APPLICATION OR CLAIM, KNOWINGLY MAKES OR KNOWINGLY ASSISTS, ABETS, SOLICITS OR CONSPIRES WITH ANOTHER TO MAKE A FALSE REPORT OF THE THEFT, DESTRUCTION, DAMAGE OR CONVERSION OF ANY MOTOR VEHICLE TO A LAW ENFORCEMENT AGENCY, THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURANCE COMPANY, COMMITS A FRAUDULENT INSURANCE ACT, WHICH IS A CRIME, AND SHALL ALSO BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS AND THE VALUE OF THE SUBJECT MOTOR VEHICLE OR STATED CLAIM FOR EACH VIOLATION.

## This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

## Exhibit C

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

In the Matter of the  
LIQUIDATION OF FIDUCIARY INSURANCE COMPANY OF AMERICA

[SUIT CAPTION OR NAME OF  
CLAIMANT/PROVIDER IF FIRST  
PARTY CLAIM]

Index No.

( County)

Policy No.:

Claim No.:

**FINAL DETERMINATION LETTER**

Maria T. Vullo, Superintendent of the Department of Financial Services of the State of New York as Administrator of the New York Public Motor Vehicle Liability Security Fund ("the Administrator") hereby gives notice that the claim set forth above has been adjudicated based upon the information obtained by the New York Liquidation Bureau and valued at the following amount:

\$

If you accept the Administrator's adjudication, please sign and date the enclosed documentation, and return the fully signed documents to the New York Liquidation Bureau at the address below. Promptly upon receipt of fully signed documents, in the form attached, application will be made to the court supervising the Fiduciary Insurance Company of America liquidation proceeding or the Superintendent, as appropriate pursuant to Section 7602(g) of the New York Insurance Law, for allowance. Provided allowance is granted, payment will be made in the amount above as soon as reasonably practical thereafter.

In the event that you do not provide fully signed documents **within ninety (90) days** of the mailing of this letter, the Administrator may deem the claim abandoned and may seek an order of the court supervising the Fiduciary Insurance Company of America liquidation proceeding closing the claim and discharging the New York Public Motor Vehicle Liability Security Fund from liability for such claim.

If you object to the Administrator's adjudication, you or your legal representative must set forth your objections in writing together with any and all documents supporting your written objections and mail the written objections and supporting documentation:

New York Liquidation Bureau  
Claims Division  
110 William Street, 16<sup>th</sup> floor  
New York, NY 10038-3889  
Attn.: [Claims Examiner]



Your written objections and documents that support your objection must be provided to the Administrator with your objection. **Objections must be received by the Administrator within sixty (60) days of the date of this notice.**

If you make timely objection, the Administrator's staff will contact you. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the supervising court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

If you have any questions regarding this Notice, you may contact [Examiner] at [telephone].

Dated:

Maria T. Vullo  
Superintendent as Administrator

## Exhibit D

Date

Address

Re: FIDUCIARY INSURANCE COMPANY OF AMERICA

Liquidator No.:

Claim #:

Policy#:

Dear Sir or Madam:

On May 15, 2015 by order of the Supreme Court, State of New York, Fiduciary Insurance Company of America was placed into liquidation and the Superintendent of Financial Services of the State of New York and her successors in office were appointed Liquidator and vested with title to all its assets and property.

As a claimant in the proceeding, we have assigned the above captioned liquidator number to your claim.

Please be advised that your claim is deemed a Class \_\_ claim, meaning each class before you must be paid in full before your claim will be considered for review and allowance.

Pursuant to Insurance Law Section 7434, the priority of distribution of claims shall be in accordance with the order in which each class of claims is set forth below:

- |             |  |
|-------------|--|
| Class One   | Expenses and Costs incurred by the Liquidator;   |
| Class Two   | All Policy Claims including claims of the Federal, State and Local Governments, Third Party, Unearned Premiums, NY Security Fund and Guaranty Associations but excluding claims arising under reinsurance contracts; |
| Class Three | Claims of the Federal Government except those under Class Two;   |
| Class Four  | Salary Claims (for services rendered within one year before commencement of rehabilitation, liquidation or conservation and not to exceed \$1,200) and Unemployment Insurance Claims;                                |
| Class Five  | Claims of state and local governments except those under Class Two;  |
| Class Six   | General Creditor Claims including claims arising under reinsurance contracts;  |
| Class Seven | Claims filed late (deferred) and any other claims other than those under Class Eight or Nine;  |

Class Eight            Section 1307 (Shareholder) loans;

Class Nine            Shareholder Claims

We are currently marshalling assets and determining liabilities and cannot at this time predict if assets will be available for distribution to Class \_\_ claimants.

It is suggested you provide us with any supporting documentation relative to your claim for evaluation at a future date, if assets permit.

Please refer to the above captioned liquidator number when corresponding with us regarding this matter.

If you accept the Liquidator's classification, you are not required to take any further action.

If you object to the Liquidator's classification, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing this letter by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Receiver Administration, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the supervising court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

If you have any questions, please do not hesitate to contact the undersigned at 212-341-\_\_\_\_ or \_\_\_\_\_@nylb.org

Very truly yours,

---

Assistant Manager, Receiver Administration  
Creditor & Ancillary Operation

**ACKNOWLEDGEMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [INSERT DATE] Classification Letter as a claimant. By signing this Acknowledgement of Receipt, I understand and **agree** to the content of the Classification Letter.

\_\_\_\_\_ I object to the classification of my claim. My reason for objection is \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

I request that Fiduciary Insurance Company of America in Liquidation ("Fiduciary") mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

This Acknowledgement of Receipt must be completed, signed and returned to Fiduciary.

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant/Authorized Representative  
(Please Sign)

\_\_\_\_\_  
(Please Print Name)

## Exhibit E

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
In the Matter of

Notice of Determination  
of Allowance

the Liquidation of

Index No.: 703264/2017

FIDUCIARY INSURANCE COMPANY OF AMERICA.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Fiduciary Insurance Company of America hereby gives notice that the claim set forth below has been examined and he will recommend to the Court that it be allowed as a Class \_\_\_\_ claim in the amount set forth below. You will be entitled to share in distributions of assets, if any, pursuant to New York Insurance Law ("Insurance Law") Section 7434, to be made by the Liquidator based on the amount allowed.

If you accept the Liquidator's recommendation, you are not required to take any further action. However, if you fail to disclose, in writing, to the Liquidator any payment you receive on this claim from any other source, the NOD is voidable and the amount allowed may be adjusted at the Liquidator's discretion. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection is resolved, the Liquidator will seek allowance of the agreed upon amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the supervising court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

If you have any questions concerning this notice, you may contact \_\_\_\_\_ at (212) 341-  
\_\_\_\_\_ or \_\_\_\_\_@nylb.org.

Dated:  
New York, New York

Maria T. Vullo  
Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
Fiduciary Insurance Company of America

Claimant:  
Liq No.:  
Policy No.  
Claim No.  
Amount Allowed:



Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request the Superintendent of Financial Services of the State of New York as liquidator of Fiduciary Insurance Company of America ("Liquidator") mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Acknowledgment of Receipt must be completed, signed and returned to the Liquidator in order to be eligible for future distributions, if any, as directed by the Supervising Court.

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print Name)

Claimant Name  
Claimant Address  
Claimant Address  
Attn:

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

-----X  
In the Matter of

Notice of Determination  
of Disallowance

the Liquidation of

Index No.: 703264/2017

FIDUCIARY INSURANCE COMPANY OF AMERICA.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York as liquidator ("Liquidator") of Fiduciary Insurance Company of America hereby gives notice that the claim set forth below has been examined and that he will recommend to the Court that the claim be disallowed for the reason(s) set forth below.

If you accept the Liquidator's recommendation, you are not required to take any further action. The recommendation will be presented to the Supervising Court for approval and your rights, pursuant to Article 74 of the New York Insurance Law, will be fully and finally determined.

If you object to the Liquidator's recommendation, the Liquidator must receive your written objection(s) and all supporting documentation within 60 days after the date of mailing the NOD by U.S. mail at the address below:

**Creditor and Ancillary Operations Division  
New York Liquidation Bureau  
110 William Street  
New York, NY 10038-3889  
Attn: Objection Unit, 16th Floor**

If you make a timely written objection, the Liquidator's staff will contact you. If the objection is resolved, the Liquidator will seek allowance of the agreed amount of the claim. If the objection cannot be resolved, and you request a hearing, the Liquidator will contact you and the court-appointed referee to initiate a pre-hearing conference. If the objection cannot be resolved, the Administrator will schedule, on notice to you, a hearing before a referee to resolve any disputed issues. The referee will hear your objection and make a recommendation to the supervising court. Either you or the Administrator may make a motion to the court to confirm or deny the referee's recommendation.

The Liquidator reserves the right to raise any other reasons in support of his denial of your claim(s) as further defenses arise during litigation.

If you have any questions concerning this notice you may contact \_\_\_\_\_ at (212) 341-\_\_\_\_\_  
\_\_\_\_\_ or \_\_\_\_\_@nylb.org.

Dated:  
New York, New York

Maria T. Vullo  
Superintendent of Financial Services  
of the State of New York  
as Liquidator of  
Fiduciary Insurance Company of America

Claimant Name:  
Liq Claim No.:  
Policy No.  
Co. Claim No.  
Amount Recommended for Disallowance:  
Reason for Disallowance:

Claimant Name  
Claimant Address  
Claimant Address

Attn:

Notice of Determination and Acknowledgement

**ACKNOWLEDGMENT OF RECEIPT**

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **agree** to the content of the Notice of Determination.

\_\_\_\_\_ I hereby acknowledge receipt of the [Date] Notice of Determination as a claimant. By signing this Acknowledgment of Receipt, I understand and **object** to the content of the Notice of Determination. My reason for objection is \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request the Superintendent of Financial Services of the State of New York as liquidator of Fiduciary Insurance Company of America mail future correspondence to:

\_\_\_\_\_ Same address as above

\_\_\_\_\_ New address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

\_\_\_\_\_  
Claimant  
(Please Sign)

\_\_\_\_\_  
(Please Print)

## Exhibit F

**IN THE MATTER OF THE LIQUIDATION OF  
FIDUCIARY INSURANCE COMPANY OF AMERICA  
Supreme Court, County of Queens  
Index No.: 703264/2017**

**NOTICE**

By order of liquidation, entered on July 25, 2017, Fiduciary Insurance Company of America ("Fiduciary") was placed into liquidation and, the Superintendent of Financial Services of the State of New York and her successors in office are serving as liquidator ("Liquidator") of Fiduciary and as administrator ("Administrator") of the New York Public Motor Vehicle Liability Security Fund ("Security Fund") in connection with the liquidation proceeding of Fiduciary.

The Liquidator has, pursuant to New York Insurance Law Article 74, appointed David Axinn, Special Deputy Superintendent ("Special Deputy"), as her agent to liquidate the business of Fiduciary. The Special Deputy carries out his duties through the New York Liquidation Bureau, 110 William Street, New York, New York 10038. The Liquidator has submitted an application to the Court for an order: (1) approving a procedure for judicial review of (i) the Administrator's denial, in whole or in part, of claims under Fiduciary policies that are presented for payment from the Security Fund and (ii) the Liquidator's adjudication and classification of claims against the Fiduciary estate that are not covered by the Security Fund; (2) appointing a referee to hear and take evidence on issues raised by claimants' objections, and to report thereon to this Court, which may thereafter, on motion, confirm or deny any decision issued by the court-appointed referee; and (3) granting the Liquidator such other and further relief as may be just and proper.

A hearing on the application is scheduled for the \_\_\_\_ day of \_\_\_\_\_, 201\_\_, ("Return Date") at \_\_:\_\_\_\_m., before the Court at the Courthouse, Centralized Motion Part, Courtroom 25, 88-11 Sutphin Boulevard, Jamaica, New York. If you wish to object to the relief sought, you or your counsel must serve a written statement setting forth your objections and all supporting documentation ("Answering Papers") upon the Liquidator at least seven (7) days prior to the Return Date and file the Answering Papers, together with an affidavit of service, with the Court on or before the Return Date. Service on the Superintendent shall be made at the following address:

Superintendent of Financial Services of the State of New York as  
Liquidator of Fiduciary Insurance Company  
110 William Street, 15<sup>th</sup> Floor  
New York, New York 10038  
Attention: General Counsel

The Liquidator's application is available for inspection at <http://www.nylb.org>. In the event of any discrepancy between this notice and the documents submitted to Court, the documents control.

Requests for further information should be directed to the New York Liquidation Bureau, Creditor and Ancillary Operations Division, at (212) 341-6489.

Dated: \_\_\_\_\_

MARIA T. VULLO  
Superintendent of Financial Services of the State  
of New York as Liquidator of  
Fiduciary Insurance Company of America