

CAUSE NO. D-1-GV-13-000204

<p><b>THE STATE OF TEXAS,</b> <b>Plaintiff</b></p> <p>v.</p> <p><b>SANTA FE AUTO INSURANCE</b> <b>COMPANY</b> <b>Defendant</b></p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p><b>IN THE DISTRICT COURT OF</b></p> <p><b>TRAVIS COUNTY, TEXAS</b></p> <p><b>419<sup>th</sup> JUDICIAL DISTRICT</b></p>
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**SPECIAL DEPUTY RECEIVER’S SECOND REPORT PURSUANT  
TO TEXAS INSURANCE CODE §443.303(C)**

TO THE HONORABLE JUDGE OF SAID COURT:

CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company (the “SDR” and “Santa Fe” respectively), files its *Second Report Pursuant to TEX. INS. CODE § 443.303(c)* (the “Second Report”).

**I. INTRODUCTION**

1.1 Pursuant to TEX. INS. CODE § 443.303(c), the SDR reports that, based on financial reporting required by Section 443.016, at this time there are no distributable assets for early access payments. However, as detailed below, the SDR anticipates that the estate will be able to make a distribution upon the recovery of certain assets.

**II. BACKGROUND**

2.1 On March 8, 2013, the Court entered an *Order Appointing Rehabilitator and Permanent Injunction*, appointing the Texas Commissioner of Insurance as Rehabilitator of Santa Fe. Effective March 8, 2013, the Rehabilitator appointed CANTILO & BENNETT, L.L.P., as SDR of Santa Fe.

2.2 On April 5, 2013, the Court entered an *Order Appointing Liquidator and Permanent Injunction* (the “Liquidation Order”), placing Santa Fe in liquidation and appointing the Commissioner as Liquidator of Santa Fe.

### **III. JURISDICTION AND STATUTORY AUTHORITY**

3.1 The SDR is mandated to file this Second Report pursuant to TEX. INS. CODE § 443.303. On August 5, 2013, the SDR filed its initial Report pursuant to TEX. INS. CODE § 443.303(c). In April 2014, the SDR is required to file this Second Report pursuant to TEX. INS. CODE § 443.303(c).

3.2 This Court has exclusive jurisdiction over the subject matter of this Second Report pursuant to TEX. INS. CODE § 443.005.

3.3 This Second Report has been referred to the Special Master appointed in this proceeding in accordance with the *Amended Order of Reference to Master* entered on April 5, 2013.

### **IV. REPORT OF NO DISTRIBUTABLE ASSETS AT THIS TIME**

4.1 Pursuant to TEX. INS. CODE § 443.303(c), the SDR is required to make an early access payment or “report that there are no distributable assets at that time based on financial reporting as required in Section 443.016.” The statute further provides that the SDR “may apply to the receivership court for approval to make early access payments more frequently than annually based on additional information or the recovery of material assets.” The SDR hereby reports that there are no distributable assets at this time, but believes that an application for approval of an early access distribution will be filed later in 2014.

4.2 SFAIC was a property and casualty insurance company that wrote only non-standard automobile insurance. It was licensed and issued policies in eight states: Arkansas,

Arizona, Georgia, Nevada, New Mexico, Oklahoma, Texas and Utah. Following entry of the Liquidation Order, the Commissioner designated Santa Fe an “impaired insurer” under TEX. INS. CODE Chapter 462, effective April 5, 2013. The Texas Property and Casualty Insurance Guaranty Association (“TPCIGA”) and guaranty associations in Arkansas, Arizona, Georgia, Nevada, New Mexico, Oklahoma and Utah (collectively, the “Affected Associations”) are now responsible for “covered claims” in accordance with their states’ governing statutes.

4.3 The SDR’s current financial reports pursuant to Section 443.016, the Statement of Assets and Statement of Liabilities as of February 28, 2014, are attached as Exhibits 1-A and 1-B, respectively. All eight Affected Associations have submitted loss and reserve information to the SDR.

4.4 Santa Fe maintained deposits in four states as set out below.

Texas	\$2,000,000
Nevada	\$312,326
Georgia	\$25,009
New Mexico	\$211,600

The Nevada deposit has been assigned to that state’s association by the Nevada Commissioner of Insurance. The New Mexico Superintendent of Insurance initiated an ancillary receivership, in part, to recover that statutory deposit. As of the date of this Second Report, the New Mexico deposit has not been recovered by the New Mexico Ancillary Receiver.

4.5 TEX. INS. CODE § 443.303(a) defines “distributable assets” as all general assets of the receivership estate, less necessary and appropriate amounts reserved for expenses of liquidation through and after its closure and reserves for distributions on claims other than those of the guaranty associations under Section 443.301(b).

4.6 Exhibit 1-A shows that as of February 28, 2014, the date of the SDR’s most recent financial report filed with the Receivership Court, the cash assets of the SFAIC

receivership estate were \$4,889,644. To calculate distributable assets, the SDR must estimate the amount that should be reserved for the entire expense of the liquidation through and after closure. The SDR estimates the expenses of liquidation through and after closure, including maintenance of a prudent reserve, to be approximately \$5.2 million. Thus, given the available cash, the SDR has calculated that there are no distributable assets at this time.

4.7 However, the SDR projects that it will be able to begin making early access distributions after accounting for recovery of statutory deposits and determining potential reinsurance and preferential transfer recoveries. Specifically, the SDR anticipates recovering the \$2 million Texas deposit, after which it will submit an application to make a distribution of the funds. The timing for recovery of these funds is not certain, but the SDR believes that the estate will be in a position to seek approval of an early access application later in 2014.

4.8 In conclusion, the SDR reports that there are no distributable assets at this time to make an early access distribution to the Affected Associations.

## **V. NOTICE**

5.1 The SDR has served this Second Report to all known parties in interest and all individuals and entities identified by the SDR in the Certificate of Service by e-mail and, as noted, by mail or overnight delivery to certain state and federal agencies. All Affected Associations have been served. The thirty (30) day notice requirement in Section 443.303(e) is not applicable because this is not an “application” to make an early access distribution.

## **VI. OFFER OF PROOF AND VERIFICATION**

6.1 This Second Report is verified by the affidavit and certification pursuant to TEX. INS. CODE § 443.017(b) of Susan E. Salch, designated representative of CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company.

## VII. NOTICE OF ELECTRONIC SERVICE REQUIREMENT

7.1 All pleadings filed in response to this Second Report shall be served by e-mail on the undersigned counsel and all parties shown in the attached Certificate of Service.

### PRAYER

WHEREFORE, PREMISES CONSIDERED, CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company, prays that the Court and all parties in interest take notice of this Second Report and that the SDR obtain such other and further relief to which it may be justly entitled.

Respectfully submitted,

FULLER LAW GROUP

By: /s/Christopher Fuller  
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**ATTORNEY FOR CANTILO & BENNETT,  
LLP, SPECIAL DEPUTY RECEIVER OF  
SANTA FE AUTO INSURANCE COMPANY**

## CERTIFICATE OF SERVICE

I certify that on April 28, 2014, a true and correct copy of this Report was served pursuant to the Texas Rules of Civil Procedure and TEX. INS. CODE ANN. SEC. 443.007(d) on the following by email, except as specifically otherwise noted.

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/s/Christopher Fuller

Christopher Fuller

**SPECIAL DEPUTY RECEIVER'S CERTIFICATION PURSUANT TO  
TEX. INS. CODE ANN. § 443.017(b)  
AFFIDAVIT OF SUSAN E. SALCH**

State of Texas

County of Travis

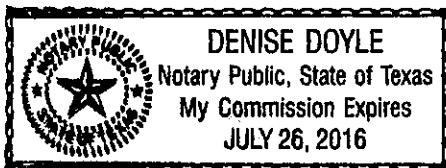
BEFORE ME, the undersigned authority appeared Susan E. Salch, who after being by me duly sworn, stated the following under oath:

1. My name is Susan E. Salch. I am competent to make this affidavit. The statements of fact set forth herein are true and correct, and are within my personal knowledge.
2. I am a partner in CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company (the "SDR" and "SFAIC" respectively). I am duly authorized to make this Certification and Affidavit on behalf of the SDR.
3. I certify that the exhibits, books, accounts, records, papers, correspondence, and/or other records and documents attached hereto were produced pursuant to TEX. INS. CODE ANN. § 443.017, are either true and correct copies of records of the insurer and were received from the custody of the insurer or found among its effects or were created by and filed with the Receiver's office in connection with the receivership of this delinquent insurer, and are held by the Special Deputy Receiver in its official capacity.
4. I have read the foregoing Report and the facts stated therein are true and correct based on my personal knowledge, my review of estate records and my consultation with my staff and sub-contractors.

By: \_\_\_\_\_

Susan E. Salch

**SUBSCRIBED AND SWORN TO BEFORE ME** on April 7, 2014, by Susan E. Salch, on behalf of CANTILO & BENNETT, L.L.P., solely in its capacity as Special Deputy Receiver of Santa Fe Auto Insurance Company.



\_\_\_\_\_  
Notary Public

R-554

**Santa Fe Auto Insurance Company  
Statement of Net Assets**

**For the Period Ending  
02/28/14**

Line		02/28/14
<b>Cash</b>		
1	Cash	
	Cash - Unrestricted	4,889,644
	APF Funds (Loan proceeds)	
<b>Investments</b>		
2	Short-Term Investments	
3	Bonds	
4	Stocks - Preferred & Common	
5	Investments in Subsidiaries, Controlled or Affiliated Entities	
6	Mortgage Loans	
7	Real Estate	
8	Policy Loans	
9	Other Invested Assets	
<b>Restricted Assets</b>		
10	Statutory Deposits	2,235,472
11	Funds held by or deposited with Reinsured Companies	
12	Restricted - Other	
<b>Reinsurance Receivable</b>		
13	Reinsurance Recoverables on Paid Losses & LAE (net of allowance)	
14	Reinsurance Recoverables on Unpaid Losses & LAE (net of allowance)	
15	Reinsurance Recoverables on UEP & Contingent Commissions	
<b>Other Receivables</b>		
16	Salvage & Subrogation Recoveries	
17	Premiums Due from Agents & Policyholders	
18	Receivable from Parents, Subsidiaries & Affiliates	
19	Receivable from Guaranty Associations - Early Access Payments	311,163
20	Other Receivables	
<b>Other Assets</b>		
21	FF&E	480,670
22	Other Assets	
	<b>Total Assets</b>	<b>7,916,949</b>

**NOTES**

Ref No.

- 10 Represents statutory deposits held with various states as follows: Texas \$2,000,000, New Mexico \$211,600, and Georgia \$25,012.

**Exhibit  
1-A**

R-554

**Santa Fe Auto Insurance Company  
Statement of Net Liabilities**

**For Period Ending  
02/28/14**

Line		02/28/14
1	Secured Claims	
2	APF Loan	
3	Special Deposit Claims	
<b>Administrative Claims - Class 1</b>		
4	Administrative Claims - State/Receiver	
	Special Deputy Receiver, Subcontractors Fees & Expenses	87,070
	Liquidation Oversight	7,055
	Special Master's Fees	
5	Administrative Claims - Guaranty Assns	
	Administrative Expense Paid	
	Administrative Expense Reserves	
6	LAE - Guaranty Assns	
	LAE Paid	
	LAE Reserves	
<b>Policy Claims - Class 2</b>		
7	Loss Claims - Guaranty Assns	
	Loss Claims Paid	4,919,327
	Loss Claims Reserves	18,159,074
8	Loss Claims - Other	
	Other Loss Claims Paid	
	Other Loss Claims Reserves	303,278
9	LAE - Other	
10	Unearned & Advance Premium Claims - GA	239,185
11	Unearned & Advance Premium Claims - Other	
<b>Other Liabilities</b>		
12	Class 3 Claims	
13	Class 4 Claims	
14	Class 5 General Unsecured Creditor Claims	630,200
15	Class 5 Reinsurance Related Unsecured Claims	7,483,000
16	Class 6 Claims	
17	Class 7 Claims	
18	Class 8 Claims	
19	Class 9 Claims	
20	Class 10 Interest	
21	Class 11 Claims	
22	Other Liabilities	
	<b>Total Liabilities</b>	<b>31,828,189</b>
23	Total Equity/(Deficit) Excess (Deficiency) of Assets over Liabilities	<b>(23,911,240)</b>
	<b>Total Liabilities &amp; Equity</b>	<b>7,916,949</b>

**Exhibit  
1-B**