

RECEIVED

Nov 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2020-CP-40-02098

Appellate Case No. 2024-000674

Covil Corporation, by and through its duly appointed Receiver, Peter D. Protopapas, Respondent,

v.

Pennsylvania National Mutual Casualty Insurance Company; Sam J. Crain & Co., Inc.; and
South Carolina Property and Casualty Insurance Guaranty Association..... Defendants,

Of which Pennsylvania National Mutual Casualty Insurance Company is the Appellant.

**RECORD ON APPEAL
VOLUME 45**

Kirby D. Shealy III (S.C. Bar No. 11556)
ADAMS AND REESE LLP
1221 Main Street, Suite 1200
Columbia, SC 29201
P: 803-254-4190
kirby.shealy@arlaw.com

David Grant Harris, II (S.C. Bar No. 101951)
Alexander Erwin Davis (S.C. Bar No. 100061)
Brady A. Yntema, admitted pro hac vice
(N.C. Bar No. 25771)
David L. Brown, admitted pro hac vice (N.C. Bar
No. 18942)
GOLDBERG SEGALLA LLP

701 Green Valley Road, Suite 310
Greensboro, NC 27408

dharris@goldbergsegalla.com

aedavis@goldbergsegalla.com

byntema@goldbergsegalla.com

dbrown@goldbergsegalla.com

*Attorneys for Appellant Pennsylvania National
Mutual Casualty Insurance Company*

INDEX

ORDERS

2021.11.05 Discovery ORDER Granting Covil's Motions to Compel Penn National	1
2022.02.11 Proposed ORDER on Covil's Motion for Protective ORDER.....	5
2022.05.05 ORDER on Discovery Motions	10
2022.05.26 ORDER on Motion for Reconsideration.....	26
2022.09.16 Proposed Scheduling ORDER	30
2022.11.16 ORDER on Discovery Motions	33
2022.12.06 ORDER on Penn Nationals Motion to Confirm Jury Trial Demand	37
2023.05.11 ORDER Granting Covil's Motion for Attorneys' Fees and Cost	40
2023.06.08 Form 4 Judgment in a Civil Case.....	54
2023.06.16 Scheduling ORDER	58
2023.09.06 ORDER Scheduling	61
2024.03.01 Final ORDER on Findings of Fact and Conclusions of Law.....	64
2024.04.05 ORDER Approving Covils Report on Attorney's Fees and Costs.....	167
2024.04.05 ORDER Denying PN Post-Trial Motions.....	170

PLEADINGS, MOTIONS, AND OTHER FILINGS

2020.04.27 Summons and Complaint	177
2020.06.01 Defendant Penn National's Answer to Complaint for Declaratory Judgment and Breach of Contract	193
2021.03.31 Penn National Answer to Complaint for Declaratory Judgment and Breach of Contract.....	203
2021.08.20 Covil's Notice of Motion and Motion to Compel w Exhibits	211
2021.09.08 Covil's Second Supplemental Motion to Compel and for Sanctions w Exhibits..	277
2021.09.08 Stipulation of Dismissal of SC Property	310

2021.10.05 Covil's Notice of Third Supplemental Motion to Compel w Exhibits	311
2021.10.25 Penn National Memorandum in Opposition to Motion to Compel w Exhibits	334
2021.12.07 Interim Report Regarding Progress of Document Sampling	409
2021.12.10 Covil's Notice of Motion and Motion for Protective ORDER w Exhibits.....	412
2021.12.15 Penn National's Response to Pl's Motion for Protective ORDER	429
2021.12.21 Covil's Supplemental Motion for Discovery ORDER on Costs of Policy Search w Exhibits	434
2021.12.22 Penn National's Motion to Quash Covil's Notice of 30(b)(6) Deposition	442
2021.12.28 Covil's Opposition to Penn Nationals Motion to Quash Rule 30(b)(6) Deposition w Exhibits	453
2021.12.29 Covil's Notice of Motion and Motion to Compel w Exhibits	548
2022.01.03 Receiver's Motion for Evidentiary Hearing on the Scope of Penn National's Spoliation of Evidence	709
2022.01.07 Penn National's Reply to Pl's Opposition to Motion to Quash and for Protective ORDER w Exhibits.....	715
2022.01.07 Second Interim Report	785
2022.02.07 Third Interim Report Regarding Progress of Document Sampling	788
2022.02.24 Covil's Notice of Motion and Motion to Compel w Exhibits	790
2022.03.07 Fourth Interim Report Regarding Progress of Document Sampling.....	845
2022.03.23 Notice of Filing of Ellis & Winters Report.....	847
2022.04.01 Covil's Supplemental Notice of Motion and Motion to Compel w Exhibits	854
2022.04.07 Notice of Filing of Documents in Support of Penn National's Response in Opposition to Third Motion to Compel w Exhibits	921
2022.04.07 Penn National's Response in Opposition to Plaintiff's Third Motion to Compel .	980
2022.05.12 Supplemental Notice of Filing w Exhibits.....	991
2022.05.16 Penn National's Motion for Reconsideration	997

2022.05.18 Covil's Opposition to Penn National's Motion for Reconsideration of Court's May 5, 2022 ORDER	1058
2022.05.19 Notice of filing of Documents in Support of Penn National's Motion for Reconsideration.....	1064
2022.05.31 Letter re Notice of Appeal	1084
2022.05.31 Notice of Appeal	1085
2022.07.19 Report on Receivership Covil Corporation w Exhibits	1109
2022.09.06 Receiver for Covil Status Report	1142
2022.11.04 Receiver for Covil Motion to Compel Discovery with exhibits	1147
2022.11.07 Jury Demand Letter to Judge Toal	1233
2022.11.08 Poswal email regarding preserving Penn National's position on its right to a jury trial	1234
2022.11.10 Penn National Response in Opp to Motion to Compel.....	1236
2022.11.10 Receiver for Covil Pre-Trial Hearing Status Report.....	1278
2022.11.11 Penn National Response to Pre-Trial Status Report	1328
2022.11.23 Penn National Pre-Marked Trial Exhibit and Witness List	1332
2022.11.23 Receiver for Covil Trial Exhibit List	1337
2022.11.23 Receiver for Covil Trial Witness List.....	1354
2022.11.30 Penn National Motion in Limine to Exclude Certain Opinions and Testimony of Sharla Frost	1356
2022.11.30 Penn National Motion in Limine to Exclude Testimony of Charles M. Miller and Related Evidence.....	1565
2022.11.30 Penn National's Objections to Receiver's Designation of Trial Exhibits.....	1758
2022.11.30 Receiver's Motion in Limine to Exclude Evidence of the Receiver's Compensation and Qualified Settlement Fund	1776
2022.11.30 Receiver for Covil Objections to Pre-Marked Trial Exhibits	1780

2022.12.02 Penn Nationals Motion to Confirm Jury Trial Demand.....	1785
2022.12.05 Receiver for Covil Amended Trial Exhibit List.....	1803
2022.12.05 Receiver for Covil Proposed Findings of Fact and Conclusions of Law.....	1821
2022.12.05 Penn National's Deposition Designations.....	1893
2022.12.05 Penn National Proposed Conclusions of Fact and Law	2411
2022.12.06 Notice of Dismissal of Sam J. Crain & Co	2434
2022.12.06 Plaintiff Notice That It Seeks Only Declarations Concerning Its Policies with Penn National	2435
2022.12.07 Notice of Appeal of 12.6.22 ORDER	2437
2022.12.08 Letter from Retired Chief Justice Toal	2446
2023.01.17 Motion to Enforce May 5, 2022 Discovery ORDER and Establish Schedule for Compliance	2447
2023.02.17 Motion for Attorney's Fees and Cost	2476
2023.04.18 Defendants Memorandum in Response to Motion for Attorney's Fees and Cost.....	2573
2023.04.26 Supplemental Declaration of Jonathan M. Robinson in Support of Motion for Attorney's Fees and Costs with Exhibits	2589
2023.04.26 Supplemental Declaration of Marghretta H. Shisko in Support of Receiver's Motion for Attorney's Fees and Cost	2656
2023.05.22 Defendant's Motion to Reconsider with Exhibit 1	2680
2023.05.23 Report of the Receiver for Covil Corporation with Exhibits 1-2.....	2754
2023.05.25 Interim Status Report of Penn National	2835
2023.06.02 Receiver's Opposition to Penn National Motion for Reconsideration of the Court's May 12, 2023 Order with Exhibits 1-6	2838
2023.06.08 Second Interim Status Report of Penn National	2900
2023.06.23 Third Interim Status Report of Penn National	2902

2023.07.05 Letter from K. Shealy to J. Robinson Forwarding Attorney Fees	2905
2023.07.06 Fourth Interim Status Report of Penn National	2906
2023.07.20 Fifth Interim Status Report of Penn National	2909
2023.07.20 Receipt and Satisfaction of Judgment with Exhibit A	2912
2023.08.03 Final Report of Penn National re Status of Compliance	2928
2023.08.10 Report of the Receiver for Covil Corporation with Exhibits 1-4.....	2931
2023.08.11 Affidavit of Reifsnyder	3091
2023.09.11 Affidavit of Brent Reifsnyder	3093
2023.09.11 Ninth Interim Status Report of Penn National	3095
2023.09.25 Tenth Interim Status Report of Penn National	3099
2023.10.09 Eleventh Interim Status Report of Penn National	3102
2023.10.24 Receiver for Covil Pre-Trial Hearing Status Report.....	3107
2023.10.24 Twelfth Interim Status Report of Penn National	3113
2023.11.02 Receiver for Covil Amended Fact and Expert Disclosures	3117
2023.11.02 Receiver for Covil Amended Trial Exhibit List.....	3122
2023.11.03 Plaintiff's Opposition to Penn National's Motion in Limine to Exclude Testimony of Charles Miller and Related Evidence.....	3143
2023.11.03 Plaintiff's Response to Penn National's Motion in Limine to Exclude Testimony of Sharla Frost and Related Evidence	3167
2023.11.07 Thirteenth Interim Status Report.....	3196
2023.11.17 Penn National Amended Pre-Marked Trial Exhibit and Trial Witness List.....	3200
2023.11.17 Penn National Cross Deposition Designations and Objections	3205
2023.11.17 Penn National Motion for Summary Judgment	3217
2023.11.20 Covil Third Amended Trial Exhibit List.....	3238

2023.11.20 Covil’s Trial Witness List	3259
2023.11.21 Covil’s Status Report	3261
2023.11.21 Penn National’s Memorandum of Law in Support of Motion for Summary Judgment	3267
2023.11.22 Covil’s Opposition to Penn National’s Motion for Summary Judgment.....	3421
2023.11.22 Penn Nationals Second Amended Trial Exhibit List	3469
2023.12.05 Fifteenth Interim Status Report of Penn National.....	3474
2023.12.19 Sixteenth Interim Status Report	3479
2024.01.02 Seventeenth Interim Status Report.....	3484
2024.01.12 Receiver for Covil Corporation's Proposed Findings of Fact and Conclusions of Law.....	3489
2024.01.12 Penn National's Findings of Fact and Conclusions of Law Proposed	3592
2024.01.16 Eighteenth Interim Status Report.....	3628
2024.01.30 Nineteenth Interim Status Report.....	3633
2024.02.13 Twentieth Interim Status Report	3638
2024.02.27 Twenty-First Interim Status Report	3643
2024.03.08 Penn Nationals Final Status Report	3648
2024.03.11 Penn National's Post-Trial Motions	3653
2024.03.29 Receiver's Report on Attorney's Fees and Cost w Exhibits	3666
2024.04.25 COA - Notice of Appeal w Exhibit.....	3950
COURT OF APPEAL	
2022.06.06 Petition for Writ of Certiorari, Appellate Case No. 2022-000785.....	4125
2022.08.09 Appellate Case 2022-000761 Order Granting Motion to Dismiss Appeal	4156
2022.08.23 ORDER Denying Petition for Writ of Certiorari	4158
2022.08.24 Appellant's Petition for Rehearing and Suggestion for Rehearing En Banc.....	4160

2022.11.15 Appellate Case 2022-000761 Order Denying Petition for Rehearing	4194
2022.12.14 Motion to Dismiss & Expedite.....	4196
2022.12.16 Petition for Writ of Certiorari, Appellate Case No. 2022-001764.....	4404
2023.01.12 Appellate Case 2022-001764 ORDER Denying Petition for Writ of Certiorari	4434
2023.02.08 ORDER Granting Covil Motion to Dismiss	4436
2023.02.23 Appellant's Petition for Rehearing and Suggestion for Rehearing <i>En Banc</i>	4437
2023.06.06 ORDER Denying Petition for Rehearing.....	4458
2023.06.30 Remittitur from Court of Appeals to Lower court	4460
2023.07.06 Petition for Writ of Certiorari	4462
2023.11.07 SC Supreme Court Order Denying Petition for Writ	4484
2024.01.19 Remittitur from Court of Appeals.....	4486
TRANSCRIPTS - HEARING/TRIAL	
2022.01.11 Motions Hearing	4488
2022.04.11 Motions Hearing	4583
2022.09.08 Transcript of Record	4603
2022.11.14 Transcript of Record	4621
2023.10.25 Hearing Transcript	4732
2023.11.27 Trial Transcript - Day 1 AM	4743
Opening Statements	
By Mr. Nes.....	4789
By Mr. Shealy	4831
Testimony of Boyd Wright	
Direct Examination	4838
Cross-Examination.....	4856
Redirect Examination.....	4865
Testimony of Peter Protopapas	
Direct Examination	4869
Cross-Examination.....	4887

2023.11.27 Trial Transcript - Day 1 PM.....	4923
Continued Cross-Examination.....	4926
Testimony of Sharla Jo Frost	
Direct Examination.....	4953
Cross-Examination.....	5003
2023.11.28 Trial Transcript - Day 2 AM.....	5014
Testimony of Bernie Heinze	
Direct Examination.....	5020
Cross-Examination.....	5041
Examination by the Court.....	5067
Testimony of James Robertson, CPCU, ARM	
Direct Examination.....	5074
Cross-Examination.....	5108
Further Testimony of Boyd Wirght	
Examination by the Court.....	5120
Further Examination by Mr. Nes.....	5127
2023.11.28 Trial Transcript - Day 2 PM.....	5139
Closing Arguments	
By Mr. Nes.....	5142
By Mr. Brown.....	5181
By Mr. Shealy.....	5207
PENN NATIONAL TRIAL EXHIBITS	
Exhibit 1 - Complaint.....	5225
Exhibit 2 - Penn National's Answer to Complaint.....	5226
Exhibit 3 - Subpoena 5.29.2018 (Finch).....	5227
Exhibit 4 - Letter from Boyd Wright to Sabrina Stone with attached documents in Response to Subpoena 6.15.2018 (Finch).....	5242
Exhibit 5 - Penn National's Policy 1986-1987, Bates No. Penn National Policies 000001-43.....	5255
Exhibit 6 - Penn National's Policy 1987-1988, Bates No. Penn National Policies 000044-91.....	5298
Exhibit 7 - Covil's General Liability Underwriting Materials, Bates No. PNI-0304-392	5346
Exhibit 8 - Non-CGL Policy Documents Produced by Penn National, Bates No. PNI-0001-0303, PNI-0393-596, PNI-1162-1611	5435

Exhibit 9 - Covil's Policy Charts.....	6392
Exhibit 10 - Subpoena Duces Tecum to Penn National 2.8.2021	6394
Exhibit 11 - Brady Yntema's Letter to Marghretta Shisko 2.12.2021	6424
Exhibit 12 - Receiver's Responses to Penn National's First Set of Interrogatories.....	6426
Exhibit 13 - Receiver's Responses to Penn National's First Request for Production of Documents	6439
Exhibit 14 - Affidavit of Boyd Wright 6.3.2021.....	6452
Exhibit 15 - Affidavit of Boyd Wright 6.11.2021.....	6459
Exhibit 16 - Brent Reifsnyder Affidavit 7.9.2021	6466
Exhibit 17 - Brent Reifsnyder Affidavit 7.23.2021	6471
Exhibit 18 - Brent Reifsnyder Affidavit 12.22.2021	6475
Exhibit 18a - Brent Reifsnyder Affidavit 9.11.2023.....	6478
Exhibit 19 - Penn National's Document Retention Policy, Bates No. PNI-0598-1158	6480
Exhibit 20 - Penn National's Litigation Hold Policy, Bates No. PNI-1159-1161.....	7041
Exhibit 21 - Penn National's Litigation Hold Notice 12.17.2021	7044
Exhibit 22 - Ellis & Winters Report 3.22.2022	7046
Exhibit 23 - Y2K10 Database Spreadsheet - Microfiche Destruction Dates Spreadsheet (PNI-00597)	7051
Exhibit 24 - Impairment Letter from Penn National to Receiver 9.1.2022	9130
Exhibit 25 - Order Granting Joint Motions to Establish Covil QSF.....	9132
Exhibit 26 - QSF Operating Agreement	9162
Exhibit 27 - Motions to Compel/Sanctions by Receiver Against Other Insurers	9179
Exhibit 28 - Deposition Transcript and exhibits of Boyd Wright (Finch) 1.7.2021	9639
Direct Examination	9643
Exhibit 29 - Deposition Transcript and exhibits of Boyd Wright 8.26.2021.....	9789

Direct Examination	9793
Cross-Examination.....	9834
Exhibit 30 - Deposition Transcript and exhibits of Boyd Wright 11.30.2022.....	9901
Direct Examination	9905
Exhibit 31 - Deposition Transcript and exhibits of Brent Reifsnyder 8.3.2021	10051
Direct Examination	10055
Cross-Examination.....	10117
Re-Direct Examination	10121
Exhibit 32 - Deposition Transcript and exhibits of Brent Reifsnyder 11.10.2022	10166
Direct Examination	10172
Exhibit 33 - Deposition Transcript and exhibits of Bernd Heinze 12.7.2022.....	10341
Direct Examination	10347
Exhibit 34 - Deposition Transcript and exhibits of Charles Miller 11.28.2022.....	10899
Direct Examination	10903
Cross-Examination.....	11042
Exhibit 35 - Deposition Transcript and exhibits of Charles Miller 11.3.2023.....	11166
Direct Examination	11169
Exhibit 36 - Deposition Transcript and exhibits of James Robertson 12.06.2022.....	11342
Direct Examination	11345
Exhibit 37 - Deposition Transcript and exhibits of Peter Protopapas 11.17.2022.....	11525
Direct Examination	11528
Exhibit 38 - Deposition Transcript and exhibits of Scott Maier dated 11.21.2022	11805
Direct Examination	11809
Cross-Examination.....	11908
Exhibit 39 - Deposition Transcript and exhibits of Sharla Frost 11.9.2022	12071
Direct Examination	12074
Exhibit 40 - Bernd G. Heinze - CV.....	12319
Exhibit 41 - James A. Robertson - CV.....	12333
Exhibit 42 - Joint Stipulation Regarding Finch	12339
Exhibit 43 - Penn National's Responses to First Set of Interrogatories	12342
Exhibit 44 - Penn National's Responses to First Request for Production of Documents....	12369

Exhibit 45 - Penn National’s Supplemental Responses to First Set of Interrogatories.....	12393
Exhibit 46 - Penn National’s First Supplemental Responses to First Request for Production of Documents	12412
Exhibit 47 - Penn National’s Responses to Second Set of Interrogatories	12455
Exhibit 48 - Penn National’s Response to Plaintiff’s Second Set of Request for Production	12467
Exhibit 49 - Penn National’s Response to Third Set of Request for Production	12474
Exhibit 50 - Penn National’s Supplemental Response to Third Set of Requests for Production	12489
Exhibit 51 - Penn National’s Responses to Requests for Admission	12506
Exhibit 52 - Penn National's Objection to Subpoena (Finch) 2.22.2021	12515
Exhibit 53 - Penn National's Supplemental Objections to Subpoena (Finch) 3.9.2021	12524
Exhibit 54 - Penn National Interim Reports.....	12536
Exhibit 55 - Report of Receiver for Covil.....	12550
Exhibit 56 - Covil Corporation's Amended Expert Disclosures	12551
Exhibit 57 - Defendant's Fact and Expert Witness Disclosures.....	12556
Exhibit 58 - 2023-11-22 KDS Letter to Counsel re Supplemental Covil	12582
COVIL TRIAL EXHIBITS	
Exhibit 1 - GL Policy Number 515 50 28 53-7 (Penn National Policies 000001 – 000043)	12618
Exhibit 2 - GL Policy Number 515 50 28 53-8 (Penn National Policies 000044 – 000091)	12619
Exhibit 3 - Boyd Wright Affidavit in Opposition to Receiver’s Motion for Summary Judgment, dated October 22, 2021	12620
Exhibit 4 - Inland Marine Policy (PNI-1225 – 1324)	12751
Exhibit 5 - Auto Policy (PNI-1325 – 1611).....	12752
Exhibit 6 - Auto, Inland Marine, and Workers Compensation Policies (PNI-0393 – 0596)	12753

Exhibit 7 - Penn National-Covil Underwriting File (PNI-0304 – 0392)	12754
Exhibit 8 - Penn National Document Retention Policies (PNI-0598 – 1158)	12755
Exhibit 9 - Litigation Hold Procedure (PNI-1159 – 1161)	12756
Exhibit 10 - Dec. 17, 2021 Litigation Hold Email.....	12757
Exhibit 11 - Microfiche Destruction Dates Spreadsheet (PNI-0597)	12758
Exhibit 12 - Underlying subpoena served in <i>Finch</i> asbestos suit dated May 29, 2018	12759
Exhibit 13 - Penn National’s June 15, 2018 letter and documents served in response to subpoena in <i>Finch</i> asbestos suit.....	12760
Exhibit 14 - Sept. 1, 2022 Letter from Boyd Wright to Peter Protopapas - Covil v Penn 2098_000001 – 000002.....	12761
Exhibit 15a - Archer Complaint - Covil v. Penn 2098_000003-68	12763
Exhibit 15b - Archer Work Sites - Covil v Penn 2098_000069	12829
Exhibit 15c - Archer Plaintiff’s Responses to Interrogatories - Covil v Penn 2098_000070-81	12830
Exhibit 15d - Archer Plaintiff’s Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_000082-147.....	12842
Exhibit 15e - Archer Deposition transcript of B. Glenn – dated July 28, 2010 - Covil v Penn 2098_000148-66	12908
Exhibit 16a - Ashworth Complaint - Covil v Penn 2098_000167-215.....	12927
Exhibit 16b - Ashworth Work Sites - Covil v Penn 2098_000216-17	12976
Exhibit 16c - Ashworth Plaintiff’s Responses to Interrogatories - Covil v Penn 2098_000218-29	12978
Exhibit 16d - Ashworth Plaintiff’s Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_000230-85	12990
Exhibit 16e - Ashworth Covil Motion for Summary Judgment - Covil v Penn 2098_000286-90	13046
Exhibit 16f - Ashworth Deposition transcript excerpt of D. Rollins – dated June 7, 2019 - Covil v Penn 2098_000291-96	13051

Exhibit 16g - Ashworth Plaintiff's Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_000297-303	13057
Exhibit 16h - Ashworth Deposition transcript of D. Rollins – dated Feb. 18, 2019 - Covil v. Penn 2098_000304-441	13064
Exhibit 16i - Ashworth Deposition transcript of D. Rollins – dated Feb. 19, 2019 - Covil v. Penn 2098_000442-528	13202
Exhibit 16j - Ashworth Invoices - Covil v. Penn 2098_000529-36.....	13289
Exhibit 16k - Ashworth Project listings document - Covil v. Penn 2098_000537-42.....	13297
Exhibit 16l - Ashworth Deposition transcript of R. Ashworth – dated Aug. 2, 2017 (de bene esse) - Covil v Penn 2098_000543-588	13303
Exhibit 16m - Ashworth Deposition transcript of R. Ashworth – dated Aug. 2, 2017 (discovery) - Covil v Penn 2098_000589-638	13349
Exhibit 17a - Aspray Complaint - Covil v Penn 2098_000639-99.....	13399
Exhibit 17b - Aspray Work History - Covil v Penn 2098_000700-3	13460
Exhibit 17c - Aspray Second Amended Complaint - Covil v Penn 2098_000704-52	13464
Exhibit 17d - Aspray Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_000753-66	13513
Exhibit 17e - Aspray Covil's Amended Motion for Summary Judgment - Covil v Penn 2098_000767-70	13527
Exhibit 17f - Aspray Plaintiff's Response in Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_000771-87.....	13531
Exhibit 17g - Aspray Deposition transcript of P. Haynes – dated June 30, 2020 - Covil v Penn 2098_000788-829	13548
Exhibit 18a - Campbell Complaint - Covil v Penn 2098_000830-912.....	13590
Exhibit 18b - Campbell First Amended Complaint - Covil v Penn 2098_000913-1002.....	13673
Exhibit 18c - Campbell Work Sites - Covil v Penn 2098_001003	13763
Exhibit 18d - Campbell Plaintiffs' Answers to Standard Interrogatories - Covil v Penn 2098_001004-1013	13764

Exhibit 18e - Campbell Plaintiffs' Responses to Master Interrogatories and Request for Production of Documents- Covil v Penn 2098_001014-1156	13774
Exhibit 18f - Campbell Plaintiffs' Supplemental Answers to Standard Interrogatories - Covil v Penn 2098_001157-58	13917
Exhibit 18g - Campbell Plaintiffs' Supplemental Responses to Master Interrogatories and Requests for Production - Covil v Penn 2098_001159-1210	13919
Exhibit 18h - Campbell Covil's Motion for Summary Judgment - Covil v Penn 2098_001211-16.....	13971
Exhibit 18i - Campbell Deposition transcript of M. Sanders – dated Feb. 1, 2022 - Covil v Penn 2098_001217-55	13977
Exhibit 18j - Campbell Deposition transcript of M. Sanders – dated Feb. 2, 2022 - Covil v Penn 2098_001256-1303	14016
Exhibit 18k - Campbell Deposition transcript of M. Sanders – dated Feb. 4, 2022 - Covil v Penn 2098_001304-51	14064
Exhibit 18l - Campbell Deposition transcript of J. Campbell – dated Oct. 21, 1999 - Covil v Penn 2098_001352-1402	14112
Exhibit 18m - Campbell Deposition transcript of J. Campbell – dated July 28, 2021 - Covil v Penn 2098_001403-41	14163
Exhibit 19a - D'Amico Complaint - Covil v Penn 2098_001442-1517	14202
Exhibit 19b - D'Amico Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_001518-1531	14278
Exhibit 19c - D'Amico Plaintiff's Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_001532-1609	14292
Exhibit 19d - D'Amico Covil's Motion for Summary Judgment - Covil v Penn 2098_001610-13	14370
Exhibit 19e - D'Amico Plaintiff's Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_001614-24	14374
Exhibit 19f - D'Amico Deposition transcript of J. D'Amico – dated Oct. 11, 1999- Covil v Penn 2098_001625-43	14385
Exhibit 19g - D'Amico Deposition transcript of J. D'Amico – dated Oct. 26, 1994 - Covil v Penn 2098_001644-1881	14404

Exhibit 19h - D'Amico Deposition transcript of J. D'Amico – Jan. 30, 2001 - Covil v Penn 2098_001882-1918	14642
Exhibit 20a - Garren Complaint - Covil v Penn 2098_001919-84	14679
Exhibit 20b - Garren Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_001985-97	14745
Exhibit 20c - Garren Plaintiff's Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_001998-2014.....	14758
Exhibit 20d - Garren Covil's Motion for Summary Judgment - Covil v Penn 2098_002015-20	14775
Exhibit 20e - Garren Deposition transcript of G. Garren – dated Oct. 13, 2021 - Covil v Penn 2098_002021-2104	14781
Exhibit 20f - Garren Deposition transcript of G. Garren – dated Oct. 14, 2021 - Covil v Penn 2098_002105-29	14865
Exhibit 21a - Jolly Complaint - Covil v Penn 2098_002130-71.....	14890
Exhibit 21b - Jolly Second Amended Complaint - Covil v Penn 2098_002172-2213	14932
Exhibit 21c - Jolly Work Sites- Covil v Penn 2098_002214.....	14974
Exhibit 21d - Jolly Plaintiffs' Responses to Standard Interrogatories - Covil v Penn 2098_002215-45	14975
Exhibit 21e - Jolly Covil's Motion for Summary Judgment- Covil v Penn 2098_002246-55	15006
Exhibit 21f - Jolly Covil's Amended Motion for Summary Judgment - Covil v Penn 2098_002256-66	15016
Exhibit 22a - Jonas Complaint - Covil v Penn 2098_002267-2341	15027
Exhibit 22b - Jonas Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_002342-55	15102
Exhibit 22c - Jonas Plaintiff's Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_002356-2426.....	15116
Exhibit 22d - Jonas Covil's Motion for Summary Judgment - Covil v Penn 2098_002427-31	15187

Exhibit 22e - Jonas Plaintiff's Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_002432-2442	15192
Exhibit 22f - Jonas Deposition transcript of George Fincher – dated Oct. 22, 2020 - Covil v Penn 2098_002443-2569	15203
Exhibit 22g - Jonas Deposition transcript of C. Bell – dated Nov. 20, 2020- Covil v Penn 2098_002570-2683	15330
Exhibit 23a - Knight Complaint - Covil v Penn 2098_002684-2748	15444
Exhibit 23b - Knight Work Sites - Covil v Penn 2098_002749-51	15509
Exhibit 23c - Knight Plaintiffs' Responses to Standard Interrogatories - Covil v Penn 2098_002752-63	15512
Exhibit 23d - Knight Plaintiffs' Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_002764-2842.....	15524
Exhibit 23e - Knight Covil's Amended Motion for Summary Judgment - Covil v Penn 2098_002843-48	15603
Exhibit 23f - Knight Plaintiffs' Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_002849-58	15609
Exhibit 23g - Knight Deposition transcript of R. Cassidy – dated March 19, 2020 - Covil v Penn 2098_002859-2950	15619
Exhibit 23h - Knight Deposition transcript of K. Knight – dated March 19, 2020 - Covil v Penn 2098_002951-3194	15711
Exhibit 24a - Morgan Complaint - Covil v Penn 2098_003195-3292.....	15955
Exhibit 24b - Morgan First Amended Complaint - Covil v Penn 2098_003293-3396.....	16053
Exhibit 24c - Morgan Plaintiffs' Responses to Standard Interrogatories - Covil v Penn 2098_003397-3460	16157
Exhibit 24d - Morgan Plaintiffs' Responses to Standard Interrogatories - Covil v Penn 2098_003461-72	16221
Exhibit 24e - Morgan Covil's Motion for Summary Judgment - Covil v Penn 2098_003473-79	16233
Exhibit 24f - Morgan Plaintiffs' Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_003480-93	16240

Exhibit 24g - Morgan Opposition exhibits excerpts - Covil v Penn 2098_003494-3772....	16254
Exhibit 24h - Morgan Deposition transcript of E. Morgan – dated Feb. 22, 2021 - Covil v Penn 2098_003773-3809	16533
Exhibit 24i - Morgan Deposition transcript of E. Morgan – dated Feb. 23, 2021 (preservation) - Covil v Penn 2098_003810-55	16570
Exhibit 24j - Morgan Deposition transcript of E. Morgan – dated Feb. 23, 2021 - Covil v Penn 2098_003856-3920	16616
Exhibit 24k - Morgan Deposition transcript of E. Morgan – dated Feb. 26, 2021 - Covil v Penn 2098_003921-4023	16681
Exhibit 24l - Morgan Deposition transcript of E. Morgan – dated March 1, 2021 - Covil v Penn 2098_004024-93	16784
Exhibit 24m - Morgan Deposition transcript of E. Morgan – dated March 2, 2021 (preservation) - Covil v Penn 2098_004094-4100	16854
Exhibit 24n - Morgan Deposition transcript of E. Morgan – dated March 2, 2021 - Covil v Penn 2098_004101-4118	16861
Exhibit 25a - Moss Complaint - Covil v Penn 2098_004119-4204.....	16879
Exhibit 25b - Moss Amended Complaint - Covil v Penn 2098_004205-89.....	16965
Exhibit 25c - Moss Plaintiff’s Responses to Standard Interrogatories - Covil v Penn 2098_004290-4303	17050
Exhibit 25d - Moss Plaintiff’s Responses to Master Interrogatories and Requests for Production of Documents - Covil v Penn 2098_004304-7.....	17064
Exhibit 25e - Moss Covil’s Motion for Summary Judgment - Covil v Penn 2098_004375-79	17135
Exhibit 25f - Moss Deposition transcript of G. Moss – dated April 6, 2010 - Covil v Penn 2098_004380-4459	17140
Exhibit 26a - Murphy Complaint - Covil v Penn 2098_004460-4537	17220
Exhibit 26b - Murphy First Amended Complaint - Covil v Penn 2098_004538-4620	17298
Exhibit 26c - Murphy Second Amended Complaint - Covil v Penn 2098_004621-4704 ...	17381

Exhibit 26d - Murphy Plaintiffs' Responses to Standard Interrogatories - Covil v Penn 2098_004705-79	17465
Exhibit 26e - Murphy Covil's Motion for Summary Judgment - Covil v Penn 2098_004792-96	17540
Exhibit 26f - Murphy Deposition transcript of N. Murphy – dated April 28, 2020 - Covil v Penn 2098_004797-4834	17545
Exhibit 26g - Murphy Deposition transcript of N. Murphy – dated April 29, 2020 - Covil v Penn 2098_004835-69	17583
Exhibit 26h - Murphy Deposition transcript of N. Murphy – dated April 30, 2020 - Covil v Penn 2098_004870-95	17618
Exhibit 26i - Murphy Deposition transcript of N. Murphy – dated May 1, 2020 - Covil v Penn 2098_004896-4927	17644
Exhibit 26j - Murphy Deposition transcript of N. Murphy – dated May 7, 2020 - Covil v Penn 2098_004928-69	17676
Exhibit 26k - Murphy Deposition transcript of N. Murphy – dated May 8, 2020 - Covil v Penn 2098_004970-5005	17718
Exhibit 27a - Sims Complaint - Covil v Penn 2098_005006-73	17754
Exhibit 27b - Sims Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_005074-85	17822
Exhibit 27c - Sims Plaintiffs' Responses to Master Interrogatories and Request for Production of Documents - Covil v Penn 2098_005086-5156.....	17834
Exhibit 27d - Sims Covil's Motion for Summary Judgment - Covil v Penn 2098_005157-62	17905
Exhibit 27e - Sims Plaintiff's Opposition to Covil's Motion for Summary Judgment - Covil v Penn 2098_005163-81	17911
Exhibit 28a - Wannamaker Complaint - Covil v Penn 2098_005182-5265	17930
Exhibit 28b - Wannamaker Second Amended Complaint - Covil v Penn 2098_005266-5345	18014
Exhibit 28c - Wannamaker Third Amended Complaint - Covil v Penn 2098_005346-5418.....	18094

Exhibit 28d - Wannamaker Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_005419-34	18167
Exhibit 28e - Wannamaker Plaintiff's Responses to Standard Interrogatories - Covil v Penn 2098_005435-45	18183
Exhibit 28f - Wannamaker Covil's Motion for Summary Judgment - Covil v Penn 2098_005446-50	18194
Exhibit 28g - Wannamaker Deposition transcript of T. Wannamaker – dated April 1, 2021 - Covil v Penn 2098_005451-97	18199
Exhibit 28h - Wannamaker Deposition of T. Wannamaker: Statement on the Record – dated April 2, 2021 - Covil v Penn 2098_005498-5508.....	18246
Exhibit 28i - Wannamaker Deposition transcript of T. Wannamaker – dated April 13, 2021 - Covil v Penn 2098_005509-5626	18257
Exhibit 28j - Wannamaker Deposition transcript of T. Wannamaker – dated April 14, 2021 - Covil v Penn 2098_005627-5730	18375
Exhibit 29 - Article: Assessing the Coverage Carnage: Asbestos Liability and Insurance After Three Decades of Dispute, 12 Conn. Ins. L. J. 349 (20052006) (MILLER 00841-916).....	18479
Exhibit 30 - Insurance Protection for Products Liability and Completed Operations – What Every Lawyer Should Know, Nebraska Law Review, Vol. 50, No. 3, Spring 1971 (MILLER 00211-43).....	18555
Exhibit 31 - Risk and Insurance: Sixth Edition, James L. Athearn and S. Travis Pritchett (University of South Carolina) (MILLER 00146-8).....	18588
Exhibit 32 - Introduction to Risk Management and Insurance: Seventh Edition, Mark Dorfman (University of North Carolina at Charlotte (MILLER 00196-8)	18591
Exhibit 33 - General Liability Coverage, 1986: 3rd Edition (1985) (MILLER 00203-9)...	18594
Exhibit 34 - Risk & Insurance (IRM – Insurance Glossary - definition of “premises-operations”) (MILLER 00210)	18601
Exhibit 35 - Comprehensive General Liability Insurance: FC&S Bulletins, National Underwriter Co. (1985 (MILLER 00199-202)	18602
Exhibit 36 - P. Protopapas email to F. Benedek, Penn National's VP of Claims, regarding tender of Timothy Howe v. Air & Liquid Systems Corporation, et al. (York County, SC, 2015-CP-46- 03456, dated August 5, 2019.	18606

Exhibit 37 - B. Wright letter to P. Protopapas in response to August 5, 2019 letter regarding tender of Timothy Howe v. Air & Liquid Systems Corporation, et al. (York County, SC, 2015-CP-46-03456, dated August 21, 2019.....	18607
Exhibit 38 - Hartford Accident and Indemnity Company's Third-Party Complaint (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated October 2, 2019.....	18618
Exhibit 39 - Summons on Penn National (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated October 3, 2019.	18626
Exhibit 40 - Covil's 30(b)(6) notice of deposition of Penn National, dated November 19, 2019	18628
Exhibit 41 - Penn National's Motion to Dismiss Hartford's Third-Party Complaint (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated November 21, 2019.....	18632
Exhibit 42 - Penn National's Answers to Covil's First Set of Interrogatories (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated December 18, 2019.....	18660
Exhibit 43 - Penn National's Responses to Covil's First Set of Requests for Admission (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated December 18, 2019.....	18684
Exhibit 44 - 30(b)(6) deposition notice served on Penn National (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated November 5, 2019.....	18706
Exhibit 45 - B. Yntema letter to B. Edwards objecting to 30(b)(6) deposition notice served on Penn National (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated November 12, 2019.	18711
Exhibit 46 - B. Edwards email to B. Yntema re Zurich v. Covil (North Carolina, dated November 15, 2019.....	18742
Exhibit 47 - Covil's subpoena duces tecum to Penn National, dated November 25, 2019 (Hopper v. Air & Liquid Systems Corporation, et al., No. 19-CP-40-00076.	18744
Exhibit 48 - South Carolina Department of Insurance's notification of acceptance of service of Covil's 11/25/2019 subpoena duces tecum to Penn National, dated November 26, 2019 (Hopper v. Air & Liquid Systems Corporation, et al., No. 19-CP-40-00076.	18750
Exhibit 49 - Penn National's responses to Covil's subpoena duces tecum, dated December 9, 2019 (Hopper v. Air & Liquid Systems Corporation, et al., No. 19-CP-40-00076.	18751

Exhibit 50 - Penn National's Answers to Covil's First Set of Interrogatories and Responses to Covil's First Set of Requests for Admission, dated December 18, 2019 (Zurich American Insurance Company v. Covil Corporation, et al., MDNC No. 1:18-cv-000932.	18785
Exhibit 51 - Penn National's Answers to Covil's First Set of Interrogatories, dated May 15, 2020 (Covil v. Penn National, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2020-CP-40-01226.	18832
Exhibit 52 - Penn National's Responses to Covil's First Set of Requests for Production, dated May 15, 2020 (Covil v. Penn National, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2020-CP-40-01226.	18833
Exhibit 53 - Covil's subpoena duces tecum to Penn National, dated February 8, 2021 (Finch and Covil v. USF&G, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2019-CP-40-03003.	18860
Exhibit 54 - Letter from D. Harris to M. Shisko dated Feb. 12, 2021	18891
Exhibit 55 - Penn National's objections to Covil's subpoena duces tecum to Penn National, dated February 22, 2021 (Finch and Covil v. USF&G, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2019-CP-40-03003.	18892
Exhibit 56 - Penn National's supplemental objections to Covil's subpoena duces tecum to Penn National, dated March 9, 2021 (Finch and Covil v. USF&G, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2019-CP-40-03003.	18893
Exhibit 57 - Penn National's Answers to the Receiver of Covil Corporation's First Set of Interrogatories, dated May 10, 2021	18894
Exhibit 58 - Penn National's Responses to the Receiver of Covil Corporation's Request for Production, dated May 10, 2021	18916
Exhibit 59 - Penn National's Supplemental Answers to the Receiver of Covil Corporation's First Set of Interrogatories, dated June 11, 2021	18917
Exhibit 60 - Penn National's Supplemental Responses to the Receiver of Covil Corporation's Request for Production, dated June 11, 2021.	18918
Exhibit 61 - Receiver's Notice of Filing of Late-Produced Policies, dated June 15, 2021 (Finch and Covil v. USF&G, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2019-CP-40-03003.	18919
Exhibit 62 - Order granting Covil's motions to compel, dated July 1, 2021 (Finch and Covil v. USF&G, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2019-CP-40-03003.	19273

Exhibit 63 - Order granting Covil's motions to compel and ordering Ellis & Winters' review of Penn National's documents, dated November 5, 2021.	19281
Exhibit 64 - Penn National's Responses to Plaintiff's Second Set of Requests for Production, dated December 20, 2021.....	19282
Exhibit 65 - B. Yntema letter to B. Nes regarding Penn National's litigation hold and document retention policy, dated December 28, 2021.	19283
Exhibit 66 - Order granting Receiver's Motion for Protective Order requiring Penn National to preserve all historic insurance policies, dated February 11, 2022	19302
Exhibit 67 - Penn National's Responses to the Receiver for Covil's Third Set of Requests for Production dated Feb. 17, 2022	19303
Exhibit 68 - Penn National's Responses to the Receiver of Covil Corporation's First Set of Requests for Admission, dated February 17, 2022	19304
Exhibit 69 - Penn National's Answers to the Receiver of Covil Corporation's Second Set of Interrogatories, dated February 17, 2022	19305
Exhibit 70 - Notice of Filing of Ellis & Winters, LLP Report Identifying Three Additional Covil Insurance Policies After One Day of Searching (attaching Ellis & Winters March 22, 2022 Letter Report to the Court	19306
Exhibit 71 - Order on Discovery Motions, dated May 5, 2022	19307
Exhibit 72 - 6/11/2021 Affidavit of B. Wright	19308
Exhibit 73 - 7/9/2021 Affidavit of B. Reifsnyder	19309
Exhibit 74 - 7/23/2021 Affidavit of B. Reifsnyder	19310
Exhibit 75 - 12/22/2021 Affidavit of B. Reifsnyder	19311
Exhibit 76 - 1/7/2021 Deposition Transcript of B. Wright	19314
Exhibit 77 - 8/3/2021 Deposition Transcript of B. Reifsnyder.....	19406
Exhibit 78 - 8/26/2021 Deposition Transcript of B. Wright.....	19499
Exhibit 79 - 7/13/1977 Deposition Transcript Excerpts of P. Covil.....	19577
Exhibit 80 - Covil Corporation Certificate of Incorporation - Covil v. Penn 2098_005893-4	19581

Exhibit 81 - Resume of Work Performed by Covil Corporation - Covil v. Penn 2098_005895-9	19583
Exhibit 82 - Order on Discovery Motions, dated November 16, 2022	19588
Exhibit 83 - Deposition Transcript of Edwin L. Rice, dated October 3, 1991 (MILLER 00766-824)	19589
Exhibit 84 - 11/10/2022 Deposition Transcript of B. Reifsnyder	19648
Exhibit 85 - Pretrial Report of Gary J. Moss dated 9/27/21 - Covil v. Penn 2098_005900-24	19811
Exhibit 86 - Pretrial Report of Jerry W. Archer dated 7/24/20 - Covil v. Penn 2098_005925-38	19836
Exhibit 87 - Initial Report of Nicholas L. Murphy dated 7/22/21 - Covil v. Penn 2098_005939-51	19850
Exhibit 88 - Initial Report of Tommy D. Wannamaker dated 5/5/22 - Covil v. Penn 2098_005952-70	19863
Exhibit 89 - Initial Report of Waymon F. Sims dated 2/9/22 - Covil v. Penn 2098_005971-9	19882
Exhibit 90 - Covil Certificate Revocation of Authority dated 7/30/93	19891
Exhibit 91 - Court Order (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated February 24, 2020.	19892
Exhibit 92 - Court Order (Zurich American Insurance Company v. Hartford Accident and Indemnity Company, MDNC, No. 1:18-cv-932, dated April 22, 2020.	19894
Exhibit 93 - Penn National's Interim Report Regarding Progress of Document Sampling/Review of Penn National's Insurance Policy Related Documents, Pursuant to the November 5, 2021 Order of the Court, dated December 7, 2021	19897
Exhibit 94 - Sharla J. Frost CV (FROST 0999-1008)	19898
Exhibit 95 - Charles M. Miller, Esq. CV (MILLER 01350-59)	19899
Exhibit 96 - Deposition Transcript of Sharla J. Frost, dated November 9, 2022	19909
Exhibit 97 - Deposition Transcript of Scott Maier, dated November 21, 2022	19910
Exhibit 98 - Deposition Transcript of Charles M. Miller, dated November 28, 2022	20129

Exhibit 99 - Deposition Transcript of Boyd Wright, dated November 30, 2022.....	20130
Exhibit 100 - Hearing Transcript, dated January 25, 2021	20214
Exhibit 101 - Covil Certificate of Administrative Dissolution.....	20421
Exhibit 102 - Article: A New Set of Hurdles for Manville (the New York Times, by Tamar Lewin: dated Feb. 17, 1986.....	20422
Exhibit 103 - Declaration of Sharla Frost, dated December 5, 2022	20426
Exhibit 104 - Policy Number AC 219 02 88 60.....	20450
Exhibit 105 - Opening Brief of Defendant in support of Its Motion to Dismiss Plaintiffs' Second Amended Complaint and Exhibit E Policy Number 307 0 35 14 73 (Tawa, PLC v. Pennsylvania National Mutual Casualty Insurance Company, D. Del., No. 1:13-cv-01427, dated March 10, 2014.....	20496
Exhibit 106 - Amended Complaint and Exhibit A Policy Number 307 0354912 (Pennsylvania National Mutual Casualty Insurance Company v. Perlberg, D. Md., No. 1:09-cv-01698, dated October 7, 2009.....	20588
Exhibit 107 - Policy Number AU9 00 01 85 16-9 (PNI-0281-87; COV_005912; COV_005914; COV_005925; COV_005929; COV_005931; COV_005943; PNI-0001-41; PNI-0050-75; PNI-0099; COV_005897-5911).....	20689
Exhibit 108 - Policy Number AU9 00 01 85 16-0 (PNI-0042-49; PNI-0076-98; PNI-0100-01; PNI-0108-09; PNI-0116-22; PNI-0144).....	20714
Exhibit 109 - Policy Number AU9 00 01 85 16-1 (COV_005821-33; PNI-0102-0107; PNI-0110-15; PNI-0123-43; PNI-0145-54).....	20720
Exhibit 110 - Policy Number 450 00 01 00 7 (PNI-1163-1244).....	20737
Exhibit 111 - Policy Number SU 219 001 85 16-9 (COV_005820; PNI-0273-80).....	20738
Exhibit 112 - Policy Number SU 219 001 85 16-00 (PNI-0272; PNI-0264-65)	20740
Exhibit 113 - Policy Number SU 219 001 85 16-01 (PNI-0266-71)	20742
Exhibit 114 - Policy Number IM9 001 85 16-9 (COV_005988-6009; PNI- 0247-63)	20743
Exhibit 115 - Policy Number IM9 001 85 16-0 (PNI-0242-46; PNI-0292-0303).....	20766
Exhibit 116 - Policy Number IM9 001 85 16-1 (PNI-0288-90).....	20768

Exhibit 117 - Policy Number CL 219 01 85 16 9 (COV_005834–96; PNI-0165–69; PNI-0173–74; PNI-0191–97)	20769
Exhibit 118 - Policy Number CL 219 01 85 16 0 (PNI-0162–67, PNI-0206–08; PNI-0211–14; PNI-0217–18; PNI-0221; PNI-0223).....	20835
Exhibit 119 - Policy Number 515 50 28 53 8 (PNI-0193; PNI-1190–92).....	20841
Exhibit 120 - Policy Number BC9 0018516 (COV_005973–87).....	20843
Exhibit 121 - Order granting Covil’s Motion for Attorneys’ Fees and Costs, dated May 12, 2023	20858
Exhibit 122 - Post-Trial Motions and Punitive Damages Order (Portrait Homes -South Carolina, LLC v. Penn. Nat’l Mut. Cas. Ins. Com., Court of Common Pleas for the Ninth Judicial Circuit, County of Berkeley, SC, No. 2014-CP- 08-2757, dated Mar. 23, 2020	20859
Exhibit 123 - Penn National’s First Interim Report regarding Status of Compliance, dated May 25, 2023.....	20939
Exhibit 124 - Penn National’s Second Interim Report regarding Status of Compliance, dated June 8, 2023	20940
Exhibit 125 - Penn National’s Third Interim Report regarding Status of Compliance, dated June 22, 2023.....	20941
Exhibit 126 - Penn National’s Fourth Interim Report regarding Status of Compliance, dated July 6, 2023	20942
Exhibit 127 - Penn National’s Fifth Interim Report regarding Status of Compliance, dated July 20, 2023.....	20943
Exhibit 128 - Penn National’s Sixth Interim Report regarding Status of Compliance, dated August 3, 2023	20944
Exhibit 129 - Penn National’s Ninth Interim Report regarding Status of Compliance, dated September 11, 2023.....	20945
Exhibit 130 - Penn National’s Tenth Interim Report regarding Status of Compliance, dated September 25, 2023.....	20946
Exhibit 131 - Penn National’s Eleventh Interim Report regarding Status of Compliance, dated October 9, 2023.....	20947
Exhibit 132 - Penn National’s Twelfth Interim Report regarding Status of Compliance, dated October 24, 2023.....	20948

Exhibit 133 - Sharla J. Frost Trial List from 1987 to 2020 (COVIL - FROST - 001041-48)	20949
Exhibit 134 - Charles Miller Outline of Opinions (Miller 01376-82)	20957
Exhibit 135 - Charles Miller Outline of Industry Standards regarding Lost Policies (Miller 01365-75)	20964
Exhibit 136 - Covil's 30(b)(6) notice of deposition of Penn National, dated November 3, 2022	20975
Exhibit 137 - Order Appointing a Receiver for Covil Corporation, dated November 2, 2018 (Taylor v. Air & Liquid Systems Corporation, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2018-CP-40- 04940	20981
Exhibit 138 - Order Granting the Receiver for Covil Corporation's Motion to Clarify the Receiver Order, dated March 4, 2019 (Taylor v. Air & Liquid Systems Corporation, Court of Common Pleas for the Fifth Judicial Circuit, County of Richland, SC, 2018-CP-40-04940	20984
Certificate of Counsel.....	20987



**PENN NATIONAL
INSURANCE**

Pennsylvania National Mutual Casualty Insurance Company
 Penn National Security Insurance Company
 P.O. Box 2361 - Harrisburg, PA 17105-2361

COMMERCIAL GENERAL LIABILITY POLICY DECLARATIONS

ENDORSEMENT NUMBER 05 EFFECTIVE DATE 07/01/93

NON-ASSESSABLE

POLICY NUMBER	FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94	PA NATIONAL MUTUAL CAS INS CO	000130540	
NAMED INSURED AND ADDRESS			AGENCY		
WENDY'S REALTY 701 N HOWARD ST BALTIMORE MD 21201			CENTRAL MD INS GROUP 8320 BELLONA AVENUE STE 200 TOWSON MD 21204		

It is agreed that this policy is hereby amended as indicated below:

PREMISES NUMBER 17 IS DELETED.

PREMISES NO. 17 : 1806 LOMBARD STREET
BALTIMORE CITY MD 21201

THE FOLLOWING CLASSIFICATION IS DELETED:

CODE	PREMIUM BASIS	PER	RATES PREMS/OPS	PRODUCTS	ADVANCE PREMIUM PREMS/OPS	PRODUCTS
63010	1 UNIT(S)	EACH	VARIOUS		INCLUDED	

DWELLINGS - ONE FAMILY (LESSOR'S RISK ONLY)
INCLUDING PRODUCTS-COMPLETED OPERATIONS

NEW ANNUAL PREMIUM:	\$18,961.00	TOTAL PREMIUM THIS ENDORSEMENT	REFUND DUE
			\$137.00

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS A PART OF THE POLICY DESCRIBED HEREIN.

PRO-RATA PERCENTAGE: 100.0%

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____





**PENN NATIONAL
INSURANCE**

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
P.O. Box 2561 • Harrisburg, PA 17105-2361

COMMERCIAL GENERAL LIABILITY POLICY DECLARATIONS

ENDORSEMENT NUMBER 04 EFFECTIVE DATE 07/01/93

NON-ASSESSABLE

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94		PA NATIONAL MUTUAL CAS INS CO	0001305	40
NAMED INSURED AND ADDRESS				AGENCY		
WENDY'S REALTY 701 N HOWARD ST BALTIMORE MD 21201				CENTRAL MD INS GROUP 8320 BELLONA AVENUE STE 200 TOWSON MD 21204		

It is agreed that this policy is hereby amended as indicated below:

THE NAMED INSURED AND/OR ADDRESS IS CHANGED.

NEW ANNUAL PREMIUM: \$19,098.00		TOTAL PREMIUM THIS ENDORSEMENT	ADDITIONAL PREMIUM \$0.00

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS A PART OF THE POLICY DESCRIBED HEREIN.

PRO-RATA PERCENTAGE: **100.0%**

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

POLICY SCHEDULE OF NAMES AND ADDRESSES AMENDMENT

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94		PA NATIONAL MUTUAL CAS INS CO	0001305	40

THE FOLLOWING ARE INSURED ON THIS POLICY

COMMERCIAL GENERAL LIABILITY NAMES AND ADDRESSES

THE FOLLOWING IS AMENDED:

NELSON REALTY INC
GEISHA IMPROVEMENT, INC.

CONTINUED NAMED INSURED



**PENN NATIONAL
INSURANCE**

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
P.O. Box 2351 • Harrisburg, PA 17103-2351

20684
COMMERCIAL GENERAL LIABILITY POLICY DECLARATIONS

ENDORSEMENT NUMBER 03 EFFECTIVE DATE 07/01/93

NON-ASSESSABLE

POLICY NUMBER	FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94	PA NATIONAL MUTUAL CAS INS CO	000130540	
NAMED INSURED AND ADDRESS			AGENCY		
WENDY'S REALTY 710 N HOWARD STREET BALTIMORE MD 21201			CENTRAL MD INS GROUP 8320 BELLONA AVENUE STE 200 TOWSON MD 21204		

It is agreed that this policy is hereby amended as indicated below:

PREMISES NUMBER 129 IS DELETED.

PREMISES NO. 129 : 2405 WESTWOOD AVENUE
BALTIMORE CITY MD 21201

THE FOLLOWING CLASSIFICATION IS DELETED:

CODE	PREMIUM BASIS	PER	RATES PREMS/OPS	PRODUCTS	ADVANCE PREMIUM PREMS/OPS	PRODUCTS
63010	1 UNIT(S)	EACH	VARIOUS		INCLUDED	
DWELLINGS - ONE FAMILY (LESSOR'S RISK ONLY) INCLUDING PRODUCTS-COMPLETED OPERATIONS						

NEW ANNUAL PREMIUM:

\$19,098.00

TOTAL PREMIUM THIS ENDORSEMENT

REFUND
DUE

\$137.00

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS A PART OF THE POLICY DESCRIBED HEREIN.

PRO-RATA PERCENTAGE: 100.0%

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

20685

POLICY SCHEDULE OF NAMES AND ADDRESSES AMENDMENT

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94		PA NATIONAL MUTUAL CAS INS CO	0001305	40

THE FOLLOWING PREMISES ADDRESSES ARE CHANGED

COMMERCIAL GENERAL LIABILITY NAMES AND ADDRESSES

PREMISES NO. 63: 5206 BEAUFORT AVENUE
BALTIMORE CITY MD 21201

PREMISES NO. 64: 5102 BEAUFORT AVENUE
BALTIMORE CITY MD 21201

PREMISES NO. 98: 1605 GORSUCH AVENUE
BALTIMORE CITY MD 21201

PREMISES NO. 103: 1516 W PRATT STREET
BALTIMORE CITY MD 21201



**PENN NATIONAL
INSURANCE**

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105-2361

20686
COMMERCIAL GENERAL LIABILITY POLICY DECLARATIONS

ENDORSEMENT NUMBER 01 EFFECTIVE DATE 10/05/93

NON-ASSESSABLE

POLICY NUMBER	POLICY PERIOD FROM TO		COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94	PA NATIONAL MUTUAL CAS INS CO	0001305	40
NAMED INSURED AND ADDRESS			AGENCY		
WENDY'S REALTY 710 N HOWARD STREET BALTIMORE MD 21201			CENTRAL MD INS GROUP 8320 BELLONA AVENUE STE 200 TOWSON MD 21204		

It is agreed that this policy is hereby amended as indicated below:

PREMISES NUMBER 134 IS ADDED.

PREMISES NO. 134 : 722 ALLENDALE ST
BALTIMORE CITY MD
OWNER: NELSON REALTY INC. 21201

THE FOLLOWING CLASSIFICATION IS ADDED:

CODE	PREMIUM BASIS	PER EACH	RATES PREMS/OPS VARIOUS	PRODUCTS	ADVANCE PREMIUM PREMS/OPS INCLUDED
63010	1 UNIT(S)				

DWELLINGS - ONE FAMILY (LESSOR'S RISK ONLY)
INCLUDING PRODUCTS-COMPLETED OPERATIONS

SEE SUPPLEMENTAL DECLARATIONS, FORM 71-0050S

NEW ANNUAL PREMIUM: \$19,235.00		TOTAL PREMIUM THIS ENDORSEMENT	ADDITIONAL PREMIUM
			\$202.00

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS A PART OF THE POLICY DESCRIBED HEREIN.

PRO-RATA PERCENTAGE: 73.6%

SIGNATURE OF AUTHORIZED REPRESENTATIVE _____

POLICY NUMBER	FROM POLICY PERIOD TO		COVERAGE IS PROVIDED IN	AGENCY	BR
307 0354912	07/01/93	07/01/94	PA NATIONAL MUTUAL CAS INS CO	0001305	40

PREMISES NUMBER 135 IS ADDED.

PREMISES NO. 135 : 504 COVENTRY RD
BALTIMORE CITY MD
OWNER: NELSON REALTY INC. 21201

THE FOLLOWING CLASSIFICATION IS ADDED:

CODE	PREMIUM BASIS	PER	RATES		ADVANCE PREMIUM
			PREMS/OPS	PRODUCTS	PREMS/OPS
		EACH	VARIOUS		INCLUDED
63010	1 UNIT(S)				
DWELLINGS - ONE FAMILY (LESSOR'S RISK ONLY)					
INCLUDING PRODUCTS-COMPLETED OPERATIONS					

NAMED INSURED AND MAILING ADDRESS

WENDY'S REALTY
710 N. HOWARD STREET
BALTIMORE MD 21201

AGENCY

CENTRAL MD INS GROUP
8320 BELLONA AVENUE STE 200
TOWSON MD 21204

REINSTATEMENT ENDORSEMENT

It is agreed that policy number 307 0354912, previously cancelled by Pennsylvania National Mutual Casualty Insurance Company effective 10/25/93 is reinstated and remains in full force as of 07/01/93 the effective date of the policy.

Lisa Ruppel / KC
(Authorized Representative)

LOSS PAYEE NAME AND MAILING ADDRESS

MORTGAGE HOLDER NAME AND MAILING ADDRESS

ADDITIONAL INSURED/LESSOR NAME AND MAILING ADDRESS

Covil Trial Exhibit 107 pp. 1-7

Duplicative of Penn National Trial Exhibit 8 pp. 281-287

See R. pp. 5715-5721

POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	3/31/88	
Named Insured Covil Corp., Inc. (See 70-53)		Countersigned by

(Authorized Representative)

SCHEDULE

Insurance Company Pa. Nat. Mut. Cas. Ins. Co.
Policy Number AU9-0-01 85 16 9
Effective Date 3/31/88

Expiration Date 3/31/89

Named Insured Covil Corp., Inc. (See 70-53)
Address P.O. Box 1804, Greenville, SC 29602
Additional Insured (Lessor) C & S Nat. Bk. Leasing Dept., P.O. Box 22203, Columbia, SC
Designation or Description of Leased "Autos"
1985 Ford F-150 1FTEF15N1FNA42848

Coverages	Limit of Insurance
Liability	\$ 1,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS: MINUS: \$ ACV 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS: MINUS: \$ 500 For Each Covered "Auto"
Specified Causes of Loss.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER MINUS: \$ For Each Covered "Auto"

POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective 3/31/88	AU9-0-01 85 16 9
Named Insured Covil Corp., Inc. (See 70-53)	Countersigned by

(Authorized Representative)

SCHEDULE

Insurance Company Pa. Nat. Mut. Cas. Ins. Co.
Policy Number AU9-0-01 85 16 9
Effective Date 3/31/88

Expiration Date 3/31/89

Named Insured Covil Corp., Inc.
Address P.O. Box 1804, Greenville, SC 29602
Additional Insured (Lessor) C & S Nat. Leasing Co., P.O. Box 22379, Columbia, SC 29222
Designation or Description of Leased "Autos"
1985 Ford F50 1FTTEF15N1FNA42848
1985 Ford Van 1FTDF15N5FNA5054422

Coverages	Limit of Insurance
Liability	\$ 1,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ ACV 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 500. ded. For Each Covered "Auto"
Specified Causes of Loss.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER MINUS: \$ For Each Covered "Auto"



Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

VEHICLE GENERAL CHANGE ENDORSEMENT

INSURED Covil Corp., Inc.		BRANCH OFFICE CB0 025		POLICY NUMBER AU9 0 01 85 16-9	
AGENCY Sam J Crain & Co., Inc.		AGENCY NUMBER 22 6729	PROOF ID 5	END. EFF. DATE 8/12/88	POLICY EXP. DATE 3/31/89

It is agreed that this policy is hereby amended as indicated by (X):

- ☐ Name of Insured amended to read: _____
- ☐ Mailing Address of Insured amended to read: _____
- ☐ Garage location amended to read: _____
- ☐ Policy period amended to read: From: _____ To: _____
- ☐ Legal status amended to: ☐ Individual ☐ Partnership ☐ Corporation ☐ Other _____
- ☐ Classification(s) and/or Rate(s) amended as stated below, regarding Unit(s) No. _____
- ☒ Re Unit(s) No. 40 ☒ Loss Payee ☒ Individual Insured-Lessor is added: Name C & S National Bank
Mailing Address: Leasing Dept., PO Box 22203, Columbia, SC 29222
- ☒ Re Unit(s) No. 41 ☒ Loss Payee ☒ Individual Insured-Lessor is added: Name (added) Ryder Truck Co.
Mailing Address: PO Box 16007, Greensboro, NC 27406
- ☐ Limit(s) of coverage amended to read as stated below.
- ☐

UNIT(S) ADDED										
UNIT NUMBER	YEAR	TRADE NAME	BODY TYPE / GROSS VEHICLE WEIGHT (GVW) / GROSS COMBINATION WEIGHT (GCW) / TANK GALLONAGE / BUS SEATING CAPACITY	VEHICLE IDENTIFICATION NUMBER / SERIAL NUMBER / MOTOR NUMBER				ORIGINAL COST NEW		
40	85	Ford	F150	1FTEF15N1FNA42848				\$ 9,000		
41	87	Mack	22 Ft. Van Trk	VG6M111B6HB026618				\$ 33,446		
								\$		
UNIT NUMBER	STATE	TERRITORY	COMMERCIAL CLASS	STATED AMOUNT		PRIVATE PASSENGER CLASS	MULTI-CAR	SAFE DRIVER	SYM	AGE
40	39	073	01489	\$						4
41	39	073	33489	\$						2
				\$						

UNIT(S) ELIMINATED				
UNIT NUMBER	YEAR	TRADE NAME	BODY TYPE / GROSS VEHICLE WEIGHT (GVW) / GROSS COMBINATION WEIGHT (GCW) / TANK GALLONAGE / BUS SEATING CAPACITY	VEHICLE IDENTIFICATION NUMBER / SERIAL NUMBER / MOTOR NUMBER
27	85	Ford	Van	1FTDF15N5FNA5054422

PREMIUM ADJUSTMENT								
COVERAGE		SPLIT LIMITS	COMBINED SINGLE LIMIT	FULL POLICY PERIOD PREMIUM			ADDITIONAL PREMIUM	RETURN PREMIUM
				UNIT NO: 40	UNIT NO: 41	UNIT NO:		
LIABILITY	BODILY INJURY			578	1252		793	
	PROPERTY DAMAGE		1,000,000					
	PERSONAL INJURY PROTECTION (PIP)		1,000	8	8		5	
	ADDITIONAL PERSONAL INJURY PROTECTION (PIP)							
	MEDICAL PAYMENTS / MEDICAL EXPENSE							
	UNINSURED MOTORISTS / FAMILY PROTECTION		1,000,000	33	33		21	
		SC Road Tax	1	1		1		
PHYSICAL DAMAGE	FIRE AND THEFT							
	COMPREHENSIVE SUBJECT TO DEDUCTIBLE OF \$		100	86	376		216	
	SPECIFIED CAUSES OF LOSS							
	COLLISION SUBJECT TO DEDUCTIBLE OF \$		500	157	631		363	
	TOWING AND LABOR							

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HEREWITH, AND WHEN COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS A PART OF THE POLICY DESCRIBED HEREIN.

DATE ENDORSEMENT ISSUED 11/11/88tr #5280

TOTAL LIABILITY PREMIUM		820	
TOTAL PHYSICAL DAMAGE PREMIUM		579	
TOTAL ENDORSEMENT PREMIUM		\$ 1399	
PRO-RATA PERCENTAGE	.633 %	☒ ADDITIONAL	☐ RETURN

SIGNATURE OF AUTHORIZED REPRESENTATIVE

M. Eldred Taylor

POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	8/12/88	AU9 0 01 85 16-9
Named Insured	Covil Corp., Inc	Countersigned by <i>Michael T. Taylor</i>

(Authorized Representative)

SCHEDULE

Insurance Company PA NAT MUT CAS INS CO
Policy Number AU9 0 01 85 16-9
Effective Date 3/31/88

Expiration Date 3/31/89

Named Insured Covil Corp., Inc.
Address PO Box 1804, Greenville, SC 29602
Additional Insured (Lessor) C & S National Bank Leasing Dept., PO Box 22203, Columbia, SC 29222
Designation or Description of Leased "Autos" 1985 Ford F150 1FTEF15N1FNA42848

Coverages	Limit of Insurance
Liability	\$ 1,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$ 1,000
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 500 For Each Covered "Auto"
Specified Causes of Loss.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER MINUS: \$ For Each Covered "Auto"



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
This endorsement changes the policy effective on the inception date of the policy or as of the date indicated below.

AU9 0 01 85 16-9	3/31/88	3/31/89	Covil Corp, Inc.
Policy Number	Effective	Expiring	Issued to
XX		8/12/88	Sam J Crain & Co., Inc.
Endorsement No.	Effective		Agent

Michael T. Crayton
Authorized Representative

LOSS PAYABLE CLAUSE

BUSINESS AUTO COVERAGE FORM - TRUCKERS COVERAGE FORM - GARAGE COVERAGE FORM

- A. We will pay you and the loss payee named below for "loss" to a covered "auto", as interest may appear.
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C. We may cancel the policy as allowed by the CANCEL-
- LATION COMMON POLICY CONDITION. Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notice.
- D. If we make any payment to the loss payee, we will obtain his rights against any other party.

Loss Payee C &S National Bank-Leasing Dept.

Address PO Box 22203

Columbia, SC 29222

APPLICABLE TO THE FOLLOWING COVERED AUTOS						
YEAR MODEL; TRADE NAME; BODY TYPE; SERIAL NUMBER(S); VEHICLE IDENTIFICATION NUMBER(S)	COMPREHENSIVE DED.	SPECIFIED CAUSES OF LOSS	COLLISION DED.	FIRE	FIRE AND THEFT	
1985 Ford F150 1FTFF15N1FNA42848	ACV 100		500			

Covil Trial Exhibit 107 pp. 14-54

Duplicative of Penn National Trial Exhibit 8 pp. 1-41

See R. pp. 5435-5475

Covil Trial Exhibit 107 pp. 55-80

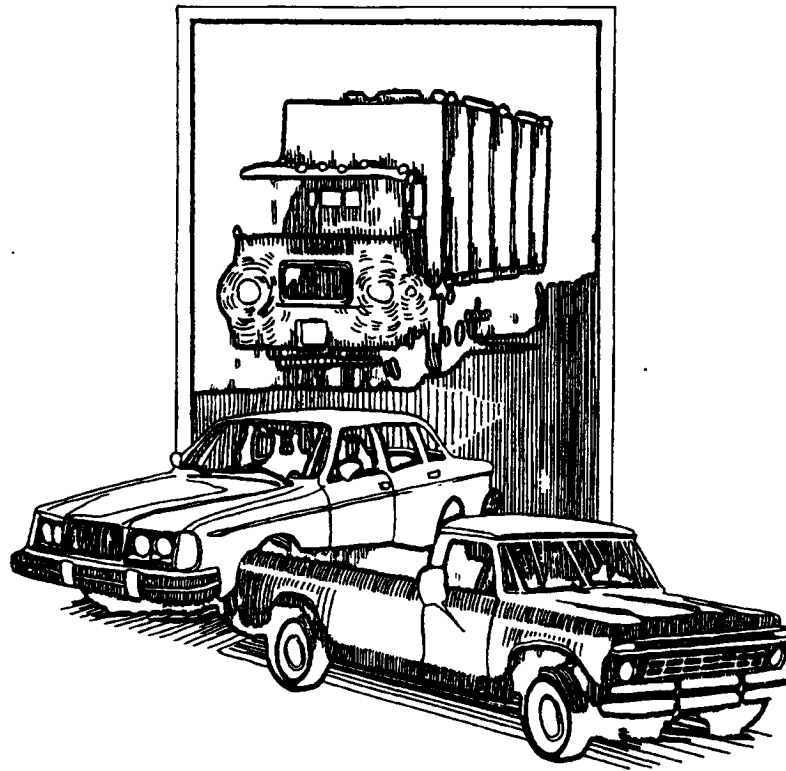
Duplicative of Penn National Trial Exhibit 8 pp. 50-75

See R. pp. 5484-5509

Covil Trial Exhibit 107 p. 81

Duplicative of Penn National Trial Exhibit 8 p. 99

See R. p. 5533



AUTOMOBILE

AUTOMOBILE

FORM 70-421

COV_INS_000102

COV_005897

NAMED
INSURED

POLICY
PERIOD

AGENCY

Pennsylvania National



Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

LINES OF INSURANCE WRITTEN:

Homeowners	Workers' Compensation	Automobile
•	•	•
Inland Marine	General Liability	Fidelity Bonds
•	•	•
Plate Glass	Fire and Allied Lines	Surety Bonds
•	•	•
Multi-Peril	Umbrella Liability	Burglary
•	•	•
Boiler and Machinery	Businessowners	Earthquake
•	•	•
Pollution Liability	Small Business Computer	Dwelling
	•	
	Voluntary Emergency Service	
	Organization Errors &	
	Omissions Liability	

THIS POLICY JACKET WITH THE DECLARATIONS PAGE, POLICY, FORMS AND
ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES
THIS POLICY.

FORM 70-327 (REV. 11/88)

COV_INS_000103

COV_005898

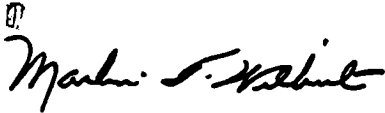
MUTUAL POLICY CONDITIONS

THIS POLICY IS NON-ASSESSABLE. THE POLICYHOLDER IS A MEMBER OF THE COMPANY AND SHALL PARTICIPATE TO THE EXTENT AND UPON THE CONDITIONS FIXED AND DETERMINED BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH THE PROVISIONS OF LAW, IN THE DISTRIBUTION OF DIVIDENDS SO FIXED AND DETERMINED.

ANNUAL MEETING

THE INSURED IS HEREBY NOTIFIED THAT BY VIRTUE OF THIS POLICY, HE IS A MEMBER OF THE PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY AND IS ENTITLED TO VOTE EITHER IN PERSON OR BY PROXY AT ANY AND ALL MEETINGS OF SAID COMPANY. THE ANNUAL MEETINGS OF THE COMPANY ARE HELD AT ITS HOME OFFICE IN THE CITY OF HARRISBURG, PA. ON THE SECOND MONDAY OF APRIL IN EACH YEAR, AT 10:00 O'CLOCK A.M., AND THE INCLUSION OF THIS NOTICE IN THIS POLICY SHALL CONSTITUTE NOTICE TO THE MEMBER OF THE ANNUAL MEETING.

IN WITNESS WHEREOF, The company has caused this policy to be signed by its president and secretary but this policy shall not be valid unless completed by the attachment hereto of a Declarations Page, Policy or Coverage Part(s) and Endorsements, if any, and countersigned on the aforesaid declarations page by a duly authorized representative of the company.

 Secretary

 President

DECLARATIONS

BUSINESS AUTO
COVERAGE FORM
NON-ASSESSABLE

**Pennsylvania
National**
Insurance Companies
Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

POLICY NO.

A 09 0 0 1 8 5 1 6 9

REGIONAL OFFICE CBO		IN LIEU OF 130 03 87 00 8	
INSURED'S NAME AND MAILING ADDRESS (IF INDIVIDUAL, LAST NAME FIRST) Covill Corp., Inc. (See 70-53) P.O. Box 1804 Greenville, Greenville, SC 29602		COMPANY USE ONLY 2 3 0000 6567	
POLICY PERIOD: *POLICY COVERS FROM: 3/31/88 TO: 3/31/89 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE INSURED AS STATED HEREIN			
AGENCY NUMBER 22 6729		ISSUING DATE 5/20/88ap	
PRODUCER I.D. 025			

FORM OF NAMED INSURED'S BUSINESS: ☒ CORPORATION; ☐ PARTNERSHIP; ☐ INDIVIDUAL OR ☐ OTHER

NAMED INSURED'S BUSINESS: Insulation Contractor

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

ITEM TWO, SCHEDULE OF COVERAGES AND COVERED AUTOS.

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos." "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTO Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form shows which autos are covered autos)	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
LIABILITY	1	\$ 1,000,000	\$ 20,391.00
PERSONAL INJURY PROTECTION (P.I.P.) (or equivalent No-fault coverage)	5	SEPARATELY STATED IN EACH P.I.P. ENDORSEMENT MINUS \$ DED.	\$ 178.00
ADDED P.I.P. (or equivalent added No-fault coverage)		SEPARATELY STATED IN EACH ADDED P.I.P. ENDORSEMENT	\$
*UTO MEDICAL PAYMENTS			\$
INSURED MOTORISTS	6	\$ 1,000,000	\$ 609.00
UNDERINSURED MOTORISTS	6	\$ 1,000,000	\$ Incl.
COMPREHENSIVE	PHYSICAL DAMAGE COVERAGE	SEE APPLICABLE DED. BELOW. NO DED. APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS MINUS DED. FOR EACH COVERED AUTO
SPECIFIED CAUSES OF LOSS		\$ 25 DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM	\$
COLLISION		SEE APPLICABLE DED. BELOW	\$ 9,920.00
TOWING AND LABOR		\$ FOR EACH DISABLEMENT OF A PRIVATE PASSENGER AUTO	\$
FORMS AND ENDORSEMENTS CONTAINED IN THIS POLICY AT ITS INCEPTION CA130 1/87, CA0001 1/87, 70-53, IL0017 11/85, IL0021 11/85, CA0230 1/87, CA0150 1/87, CA2241 1/87, CA2119 1/87, 70-2223 70-388 (7), CA2001 1/87, NCRF 4/87, 70-1984, CA2116 1/87, CO. USE ONLY CA0126 1/87, CA2171 1/88, CA0029 1/88		TOTAL PREMIUM ITEM TWO	\$ 36,275.00
		PREMIUM FOR ENDORSEMENTS *	\$ 27.26
		SC Road Tax	\$ 18.00
		ESTIMATED TOTAL POLICY PREMIUM	\$ 36,320.26

ITEM THREE, SCHEDULE OF COVERED AUTOS YOU OWN.

*NCRF 4/87

COVERED AUTO NO.	DESCRIPTION Year Model, Trade Name, Body Type, Serial Number(s); Vehicle Identification Number(s)	Size GVW, GCW or Vehicle Seat- ing Capacity	Original Cost New	Business Use + = commercial - = noncommercial	Term.	Radius of Operation	Code	Sym./ Age
1								
2								
3	See 70-1968							

COVERAGES-PREMIUMS, AND DEDUCTIBLES

(Absence of a deductible entry in any column below means that the deductible entry in the corresponding ITEM TWO column applies instead).

COVERED AUTO NO.	LIABILITY PREMIUM	P.I.P. PREM.	ADDED P.I.P. PREMIUM	AUTO MED. PAY. PREMIUM	U.M. PREMIUM	COMPREHENSIVE \$ DED. PREMIUM	SPECIFIED CAUSES OF LOSS PREMIUM	COLLISION \$ DED. PREMIUM	TOWING & LABOR PREMIUM
1									
2									
3									
TOTAL PREMIUM									

THIS POLICY PROVIDES LIMITED COVERAGE FOR POLLUTION
LIABILITY. READ YOUR POLICY CAREFULLY.

*INFORMATION OMITTED IF SHOWN IN COMMON DECLARATIONS.

Sam J. Crain
AUTHORIZED REPRESENTATIVE

TERRITORY: Town & State Where the Covered Auto will be principally garaged.

DED. means DEDUCTIBLE

Except for Towing, all physical damage loss is payable to you and the loss payee, if any, named on the attached loss payable clause(s) as interests may appear at the time of the loss.

00.25

Base Loss Limit

68,888.88

COMMERCIAL AUTO INSURANCE SUMMARY OF BROADENINGS, RESTRICTIONS AND CLARIFICATIONS IN COVERAGE IN SIMPLIFIED COMMERCIAL AUTO FORMS

We are renewing your Commercial Auto insurance with a new policy in simplified language. The new policy will result in some coverage broadenings, restrictions and clarifications in certain areas.

The following summary is a brief synopsis of the broadenings, restrictions and clarifications in the various Commercial Auto coverages subject to the simplification program. This summary applies to your policy to the extent that your new policy affords the coverage(s) discussed herein.

NO COVERAGE IS PROVIDED BY THIS SUMMARY NOR CAN IT BE CONSTRUED TO REPLACE ANY PROVISIONS OF YOUR POLICY. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE FOR COMPLETE INFORMATION ON THE COVERAGES YOU ARE PROVIDED. IF THERE IS ANY CONFLICT BETWEEN THE POLICY AND THIS SUMMARY, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

BROADENINGS IN COVERAGE

CA 00 01 01 87—BUSINESS AUTO COVERAGE FORM

CA 00 05 01 87—GARAGE COVERAGE FORM

CA 00 12 01 87—TRUCKERS COVERAGE FORM

- Automatic liability coverage for temporary substitute autos has been added on an excess basis.
- Under Coverage extensions in the Liability Coverage Section, loss of earnings has been increased to a maximum of \$100 per day.
- In the Cancellation Common Policy Condition, notice of cancellation to the named insured is extended to 30 days for any reason other than nonpayment of premium.
- In the Garage Coverage Form, liability coverage is broadened by including an exception to the Expected or Intended Injury exclusion. In addition, liability coverage is broadened by including an exception to the Watercraft or Aircraft exclusion which provides coverage for watercraft ashore on premises where the insured conducts garage operations.
- Garagekeepers coverage is broadened to include damage to auto equipment.
- An exception is added to the Garage Coverage Form's pollution exclusion for heat, smoke or fumes from a hostile fire and applies to garage operations other than the use of covered autos.
- A revised definition of "loss" is included in garagekeepers coverage to broaden the coverage to also apply to loss of use.

CA 25 03 01 87—FALSE PRETENSE COVERAGE

The Limits of Insurance provision and the schedule have been revised to indicate that the "per crook/per year" limit is either \$25,000 or a higher optional limit shown in the schedule. The current endorsement provides only a built-in limit of \$25,000.

CA 25 08 01 87—PERSONAL INJURY LIABILITY COVERAGE

CA 25 10 01 87—FIRE LEGAL LIABILITY COVERAGE

These endorsements are revised to track the equivalent coverages provided in the new CGL Coverage Form. The change to CA 25 08 is that the exclusion relating to personal injury suffered by any person resulting from the named insured's employment of such person is eliminated. The change to CA 25 10 is that the limit of liability will now apply to each fire.

CA 99 17 01 87—INDIVIDUAL NAMED INSURED

Damage to non-owned autos has been transferred from liability coverage to physical damage coverage in the Personal Auto Policy. Endorsement CA 99 17 has been revised to track this change in the PAP. A new paragraph has been included to provide physical damage coverage for non-owned autos. This change makes the current liability coverage for damage to non-owned autos (provided by an exception to the care, custody or control exclusion) unnecessary.

Copyright, Insurance Services Office, Inc., 1987

CA 130 (Ed. 1-87) UNIFORM PRINTING AND SUPPLY, INC.

(over)

COV_INS_000107

COV_005902

CA 99 47 01 87—EMPLOYEE AS LESSOR

This new form modifies the coverage form to allow an employee who leases his/her owned auto the employee to be included as an insured on the employer's policy.

REDUCTIONS IN COVERAGE

CA 00 01 01 87—BUSINESS AUTO COVERAGE FORM

CA 00 05 01 87—GARAGE COVERAGE FORM

CA 00 12 01 87—TRUCKERS COVERAGE FORM

- An exclusion for intentional injury or damage has been added in the Liability Coverage Section.
- The contractual exclusion contained in the amendatory endorsements to the current policies is now included as an exclusion in the Liability Coverage Section. In addition, the employee indemnification and employers' liability exclusion and the care, custody or control exclusion include the same contractual liability exclusion mentioned above.
- The pollution and war exclusions contained in the amendatory endorsements to the current policies are now included as exclusions in the Liability Coverage Section.
- Under the Exclusions paragraph in the Physical Damage Coverage Section, concurrent cause of loss language has been added to the nuclear hazard or war exclusions.

CA 25 08 01 87—PERSONAL INJURY LIABILITY COVERAGE

CA 25 10 01 87—FIRE LEGAL LIABILITY COVERAGE

These endorsements are revised to track the equivalent coverages provided in the new CGL Coverage Form. The change to CA 25 08 is that the insured's participation option is eliminated. The change to CA 25 10 is the Garage Coverage Form's Expected or Intended Injury and Contractual exclusions apply.

CLARIFICATIONS OF COVERAGE

CA 00 01 01 87—BUSINESS AUTO COVERAGE FORM

CA 00 05 01 87—GARAGE COVERAGE FORM

CA 00 12 01 87—TRUCKERS COVERAGE FORM

- The Out of State Extension of Coverage (in Coverage extension in the Liability Coverage Section) refers only to a "standard" financial responsibility law and does not apply to a law governing motor carriers of passengers or property.
- The pollution exclusion's reference to "pollutants that are, or that are contained in any property that is . . . otherwise in the course of transit" applies only in the course of transit by the insured.
- Under the Appraisal for Physical Damage Loss condition, the award of any two of the appraisers and the umpire is not required to be in writing.
- Under the Duties in the Event of Accident, Claim, Suit or Loss condition, a new provision requires the insured to agree to examinations under oath, to give the insurer a signed statement of their answers and to keep a record of expenses for consideration in settlement of the claim.
- In the Cancellation Common Policy Condition, the first named insured must now cancel in writing.
- A Concealment, Misrepresentation or Fraud condition is added to track the format of other coverage parts in the Commercial Package Policy. The current policy relies on contract law.

CA 99 27 01 87—SPLIT LIABILITY LIMITS

CA 99 38 01 87—SPLIT LIABILITY LIMITS—GARAGES

To track a change in the Split Uninsured Motorists Limits endorsement, these forms now specifically state that the "each person" bodily injury limit is the maximum limit for all damages, including damages for care, loss of services or death, resulting from bodily injury claimed by any one person or organization in any one accident.

CA 99 44 01 87—LOSS PAYABLE CLAUSE

This form currently applies in a few states but will now replace CA 99 19 in all jurisdictions. CA 99 44 specifically excludes coverage for the loss payee if the loss results from the named insured's "conversion, secretion or embezzlement" (as opposed to CA 99 19's reference to "fraudulent acts or omissions" of the named insured).

IL 00 03 11 85—CALCULATION OF PREMIUMS

This form states that the company will use the rules and rates in effect at the time of renewal, continuation or anniversary date of the policy.

DECLARATIONS—BUSINESS AUTO COVERAGE FORM—(Continued)

ITEM FOUR, SCHEDULE OF HIRED OR BORROWED COVERED AUTO COVERAGE AND PREMIUMS.

POLICY NO. _____

LIABILITY COVERAGE-RATING BASIS, COST OF HIRE				
STATE	ESTIMATED COST OF HIRE FOR EACH STATE	RATES PER EACH \$100 COST OF HIRE	FACTOR (If liability coverage is primary)	PREMIUM
T39-073	if any 6619	.754		\$ 29. mp

Cost of hire means the total amount you incur for the hire of "autos" you don't own (not including "autos" you borrow or rent from your partners or employees or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

PHYSICAL DAMAGE INSURANCE				
COVERAGES	LIMIT OF INSURANCE-THE MOST WE WILL PAY DEDUCTIBLE	RATE	MINIMUM PREMIUM	PREMIUM
COMPREHENSIVE	ACTUAL CASH VALUE, COST OF REPAIRS OR \$ WHICHEVER IS LESS MINUS DED. FOR EACH COVERED AUTO. BUT, NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING		\$	\$
SPECIFIED CAUSES OF LOSS	ACTUAL CASH VALUE, COST OF REPAIRS OR \$ WHICHEVER IS LESS, MINUS \$25 DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM		\$	\$
COLLISION	ACTUAL CASH VALUE, COST OF REPAIRS OR \$ WHICHEVER IS LESS, MINUS DED. FOR EACH COVERED AUTO		\$	\$
TOTAL PREMIUM ITEM FOUR ▶				\$ 29. mp

PHYSICAL DAMAGE COVERAGE for covered "autos" you hire or borrow is excess unless indicated below by "X".

☐ If this box is checked, PHYSICAL DAMAGE COVERAGE applies on a direct primary basis and for purposes of the condition entitled OTHER INSURANCE, any covered "auto" you hire or borrow is deemed to be a covered "auto" you own.

ITEM FIVE, SCHEDULE FOR NON-OWNERSHIP LIABILITY

NAMED INSURED'S BUSINESS	RATING BASIS	CLASS	PREMIUM
OTHER THAN A SOCIAL SERVICE AGENCY	EST. NUMBER OF EMPLOYEES: 26-100	6602	\$ 72.
	EST. NUMBER OF PARTNERS:		\$
SOCIAL SERVICE AGENCY	EST. NUMBER OF EMPLOYEES:		\$
	EST. NUMBER OF VOLUNTEERS:		\$
TOTAL PREMIUM ITEM FIVE ▶			\$ 72.

ITEM SIX, SCHEDULE FOR GROSS RECEIPTS OR MILEAGE BASIS—LIABILITY COVERAGE—PUBLIC AUTO, LEASING OR RENTAL CONCERNS

PREMIUM BASIS	RATES			PREMIUMS		
Estimated Yearly	☐ Per \$100 of Gross Receipts					
☐ Gross Receipts	☐ Per Mile					
☐ Mileage	LIABILITY COVERAGE	P.I.P.	AUTO MEDICAL PAYMENTS	LIABILITY COVERAGE	P.I.P.	AUTO MEDICAL PAYMENTS
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
				\$	\$	\$
TOTAL PREMIUMS ITEM SIX				\$	\$	\$
MINIMUM PREMIUMS				\$	\$	\$

When used as a premium basis:

FOR PUBLIC AUTOS

Gross Receipts means the total amount to which you are entitled for transporting passengers, mail or merchandise during the policy period regardless of whether you or any other carrier originate the transportation. Gross Receipts does not include:

- A. Amounts you pay to railroads, steamship lines, airlines and other motor carriers operating under their own ICC or PUC permits.
- B. Advertising Revenue.
- C. Taxes which you collect as a separate item and remit directly to a governmental division.
- D. C.O.D. collections for cost of mail or merchandise including collection fees.

Mileage means the total live and dead mileage of all revenue producing units operated during the policy period.

FOR RENTAL OR LEASING CONCERNS

Gross Receipts means the total amount to which you are entitled for the leasing or rental of "autos" during the policy period and includes taxes except those taxes which you collect as a separate item and remit directly to a governmental division.

Mileage means the total of all live and dead mileage developed by all the "autos" you leased or rented to others during the policy period.

**Pennsylvania
National**

Insurance Companies
Pennsylvania National Group, Inc. and its subsidiaries
1710 Locust St., Philadelphia, PA 19103

SCHEDULE OF COVERED AUTOS YOU OWN

BUSINESS AUTO COVERAGE FORM—GARAGE COVERAGE FORM—TRUCKERS COVERAGE FORM

POLICY NO. _____

U N O.	YEAR MODEL—TRADE NAME	VIN NO.(S) SERIAL NO.(S) MOTOR NO.(M)	PURPOSE OF USE*	SYMBOL/AGE	Pur- chased Mo./Yr.	RATING TERRITORY	STATISTICAL TERRITORY+
	Body type; Gross vehicle weight (GVW); Gross combination weight (GCW); Tank gallonage capacity; Bus seating capacity.	GARAGE LOCATION (TOWN—CITY—STATE)	CLASSIFICATION	COST NEW	NEW (N) USED (U)	RADIUS OF OPERATION	
1.	1952 Kingham Mobile Trlr.	24080 Greenville, SC	S 67489	-6 3000		39-073 Loc.	
2.	1969 Fruehauf Trlr.	AUK215020 Greenville, SC	S 68489	-6 4250		39-073 Loc.	
3.	1962 Fruehauf Trlr.	FWC561747 Greenville, SC	S 68489	-6 4500		39-073 Loc.	
4.	1964 Strick Van Trlr.	55123 Greenville, SC	S 68489	-6 3500		39-073 Loc.	
5.	1958 Trailmobile Van	134916 Greenville, SC	S 68489	-6 4500		39-073 Loc.	
6.	1971 Fruehauf Trlr.	HOK186795 Greenville, SC	S 68489	-6 6000		39-073 Loc.	
7.	1969 Office Trlr.	WC1315 Greenville, SC	S 68489	-6 2989		39-073 Loc.	
8.	1958 Trailmobile 40' Trl. Van Body	134915 Greenville, SC	S 68489	-6 4500		39-073 Loc.	
9.	1987 Inter. Van	1HTLDUXN7HHA28598 Greenville, SC	C 334-89	-2 39,000		39-073 Loc.	
10.	1977 Ford Stake Body	F37HEV04407 Greenville, SC	C 23489	-6 4950		39-073 Loc.	
11.	1964 Ford Brown Van Trlr.	21102 Greenville, SC	C 68489	-6 7750		39-073 Loc.	

*INDICATE "P & B" FOR "PLEASURE AND BUSINESS", "B" FOR "BUS", "SB" FOR "SCHOOL BUS". FOR COMMERCIAL AUTOMOBILES INDICATE "S" FOR "SERVICE USE", "R" FOR "RETAIL USE" AND "C" FOR ALL OTHERS.

+ INDICATE IF STATISTICAL TERRITORY IS OTHER THAN RATING TERRITORY.

ENCUMBERED AUTOMOBILES—UNITS NO. _____

SEE LOSS PAYABLE CLAUSE(S) ATTACHED

PREMIUMS AND COVERAGES															
UNIT NO.	BODILY INJURY AND PROPERTY DAMAGE		PERSONAL INJURY PROTECTION	ADDED P.I.P.	MED. PAY.	UNINSURED MOTORISTS	Road Tax	LIMITS OF LIABILITY PHYSICAL DAMAGE (EXCLUDING COLL.)	COMPREHENSIVE			SPECIFIED CAUSES OF LOSS		COLLISION (ACV)	
	COMBINED SINGLE LIMIT	SPLIT LIMITS							\$ DED.	RATE	PREMIUM	RATE	PREMIUM	\$ DED.	PREMIUM
1.	145.		2.			--	--	ACV	100		20.				
2.	87.		1.			--	--	ACV	100		16.				
3.	87.		1.			--	--	ACV	100		16.				
4.	87.		1.			--	--	ACV	100		16.				
5.	87.		1.			--	--	ACV	100		16.				
6.	87.		1.			--	--	ACV	100		24.				
7.	87.		1.			--	--	ACV	100		16.				
8.	87.		1.			--	--	ACV	100		16.				
	1252.		8.			33.	1.	ACV	100		376.			500	632.
10.	780.		8.			33.	1.	ACV	100		36.			500	70.
11.	87.		1.			--	--	ACV	100		33.				

FORM 70-1968 (ED. 1/87)

COV_INS_000110

COV_005905



SCHEDULE OF COVERED AUTOS YOU OWN

BUSINESS AUTO COVERAGE FORM-GARAGE COVERAGE FORM-TRUCKERS COVERAGE FORM

POLICY NO.

U N I T N O.	YEAR MODEL-TRADE NAME	VIN NO.(S) SERIAL NO.(S) MOTOR NO.(M)	PURPOSE OF USE*	SYMBOL/AGE	Pur- chased Mo./Yr.	RATING TERRITORY	STATISTICAL TERRITORY +
	Body type; Gross vehicle weight (GVW); Gross combination weight (GCW); Tank gallonage capacity; Bus seating capacity.	GARAGE LOCATION (TOWN-CITY-STATE)	CLASSIFICATION	COST NEW	NEW (N) USED (U)	RADIUS OF OPERATION	
12.	1976 Ford Van	E03BHC54242	C	6		39-073	
		Greenville, SC	23489	4927		Loc.	
13.	1978 Ford	E37HHAET908	S	-6		39-073	
	Van	Greenville, SC	01489	4157		Loc.	
14.	1969 Office	WC2425	S	-6		39-073	
	Trlr.	Greenville, SC	68489	5000		Loc.	
15.	1981 Peterbilt	1X202X4BN129692	S	-6		39-073	
	Trac GVW 50,000	Greenville, SC	40489	56,680		Loc.	
16.	1969 Princeton	2432209	S	-6		39-073	
	Semi Trlr.	Greenville, SC	67489	3500		Loc.	
17.	1981 Ford	1FDNF70HXB0J08126	S	6		39-073	
	F700 Trk. Van GVW 15,000	Greenville, SC	23489	15,600		Loc.	
18.	1984 Inter.	1HTAA19E5EHA18059	C	5		32-014	
	Van GVW 27,000	Greensboro, NC	33489	33,176		Loc.	
19.	1988 Inter. Tractor	1HTLCCFN67H568512	C	-1		39-073	
		Greenville, SC	36589	38,000		Inter.	
20.	1984 Dodge	1B7GD14T855273907	S	-5		39-073	
	1/2 T. Dkp GVW 9,000	Greenville, SC	01489	10,007		Loc.	
21.	1980 Great Dane	105070	S	-6		39-073	
	45' Trlr.	Greenville, SC	67589	20,400		Inter.	
22.	1980 Great Dane	B18508	C	-6		39-073	
	Trlr.	Greenville, SC	67589	9850		Inter.	

*INDICATE "P & B" FOR "PLEASURE AND BUSINESS", "B" FOR "BUS", "SB" FOR "SCHOOL BUS", FOR COMMERCIAL AUTOMOBILES INDICATE "S" FOR "SERVICE USE", "R" FOR "RETAIL USE" AND "C" FOR ALL OTHERS.

+ INDICATE IF STATISTICAL TERRITORY IS OTHER THAN RATING TERRITORY.

ENCUMBERED AUTOMOBILES-UNITS NO. 15, 17

SEE LOSS PAYABLE CLAUSE(S) ATTACHED

PREMIUMS AND COVERAGES

U N I T N O.	BODILY INJURY AND PROPERTY DAMAGE	PER- SONAL INJURY PROTEC- TION	ADDED P.I.P.	MED. PAY.	UNIN- SURED MOTOR- ISTS	Road Tax	LIMITS OF LIABILITY PHYSICAL DAMAGE (EXCLUDING COLL.)	COMPREHENSIVE			SPECIFIED CAUSES OF LOSS		COLLISION (ACV)	
	COMBINED SINGLE LIMIT	SPLIT LIMITS						S DED	RATE	PREMIUM	RATE	PREMIUM	S DED	PREMIUM
12.	780.		8.			33.	1.	ACV	100		36.		500	70.
13.	578.		8.			33.	1.	ACV	100		24.		500	52.
14.	87.		1.			--	--	ACV	100		24.		500	48.
15.	1816.		8.			33.	1..	ACV	100		457.		500	757.
16.	145.		2.			--	ACV	100			20.		500	44.
17.	780.		8.			33.	1.	ACV	100		124.		500	214.
18.	1348.		--			15.	--	ACV	100		209.		500	365.
19.	1808.		8.			33.	1.	ACV	100		546.		500	1375.
	578.		8.			33.	1.	ACV	100		107.		500	188.
21.	173.		2.			--	--	ACV	100		177.		500	301.
22.	173.		2.			--	--	ACV	100		70.		500	126.

FORM 70-1968 (ED. 1/87)

COV_INS_000111

COV_005906



SCHEDULE OF COVERED AUTOS YOU OWN

BUSINESS AUTO COVERAGE FORM - GARAGE COVERAGE FORM - TRUCKERS COVERAGE FORM

POLICY NO. _____

U N I T N O.	YEAR MODEL - TRADE NAME	VIN NO.(S) SERIAL NO.(S) MOTOR NO.(M)	PURPOSE OF USE*	SYMBOL/AGE	Pur- chased Mo./Yr.	RATING TERRITORY	STATISTICAL TERRITORY +
	Body type; Gross vehicle weight (GVW); Gross combination weight (GCW); Tank gallonage capacity; Bus seating capacity.	GARAGE LOCATION (TOWN - CITY - STATE)	CLASSIFICATION	COST NEW	NEW (N) USED (U)	RADIUS OF OPERATION	
23.	1985 GMC	1GTCE14N4FF707987	S	-4		39-073	
		Greenville, SC	01489	9749		Loc.	
24.	1985 Dodge 4800	1B7FD14T6FS505398	S	-4		39-073	
		Greenville, SC	01489	10,080		Loc.	
25.	1971 Fruehauf Trlr.	HPK186705	S	6		39-073	
		Greenville, SC	67489	6000		Loc.	
26.	1985 Ford F150	1FTEF15NFA42848	S	5-6		39-073	
		Greenville, SC	01489	9000		Loc.	
27.	1985 Ford Van	1FTDF15N5FNA5054422	S	-4		39-073	
		Greenville, SC	01489	10,700		Loc.	
28.	1973 Ford 3/4 T. Trk.	V1NF10GCS5093	S	6		39-073	
		Greenville, SC	01489	8500		Loc.	
29.	1973 Totem-All trlr. 45 Ft.	KHC8053	S	-6		39-073	
		Greenville, SC	67489	2054		Loc.	
30.	1987 Inter. 22 ft. Van	1NTLDTVP2HHA25560	C	-2		39-073	
		Greenville, SC	33489	37,713		Loc.	
31.	1987 BMW 528	WBADC840H172231	P&B	-2		39-073	
		Greenville, SC	7398	35,000		Loc.	
32.	1987 BMW L-6	WBADC8402H3265340	P&B	-2		39-073	
		Greenville, SC	7398	50,000		Loc.	
33.	1988 Inter. GVW 32,000	1HTLDTVN4JH553408	C	-1		39-073	
		Greenville, SC	36589	38,000		Inter.	

*INDICATE "P & B" FOR "PLEASURE AND BUSINESS", "B" FOR "BUS", "SB" FOR "SCHOOL BUS". FOR COMMERCIAL AUTOMOBILES INDICATE "S" FOR "SERVICE USE", "R" FOR "RETAIL USE" AND "C" FOR ALL OTHERS.

+ INDICATE IF STATISTICAL TERRITORY IS OTHER THAN RATING TERRITORY.

ENCUMBERED AUTOMOBILES - UNITS NO. _____

SEE LOSS PAYABLE CLAUSE(S) ATTACHED

PREMIUMS AND COVERAGES

U N I T N O.	BODILY INJURY AND PROPERTY DAMAGE		PER- SONAL INJURY PROTEC- TION	ADDED P.I.P.	MED. PAY.	UNIN- SURED MOTOR- ISTS	Road Tax	LIMITS OF LIABILITY PHYSICAL DAMAGE (EXCLUDING COLL.)	COMPREHENSIVE			SPECIFIED CAUSES OF LOSS		COLLISION (ACV)	
	COMBINED SINGLE LIMIT	SPLIT LIMITS							\$ DED.	RATE.	PREMIUM	RATE	PREMIUM	\$ DED.	PREMIUM
23.	578.		8.			33.	1.	ACV	100		86.			500	157.
24.	578.		8.			33.	1.	ACV	100		121.			500	214.
25.	145.		2.			33.	--	ACV	100		32.			500	63.
26.	578.		8.			33.	1.	ACV	100		86.			500	157.
27.	578.		8.			33.	1.	ACV	100		121.			500	214.
28.	578.		8.			33.	1.	ACV	100		66.			500	120.
29.	145.		2.			33.	--	ACV	100		20.			500	44.
30.	1252.		8.			33.	1.	ACV	100		376.			500	632.
	508.		14.			33.	1.	ACV	100		313.			500	598.
32.	508.		14.			33.	1.	ACV	100		485.			500	729.
33.	1808.		8.			33.	1.	ACV	100		546.			500	1375.

FORM 70-1968 (ED. 1/87)

COV_INS_000112

COV_005907

Vehicle #36 is
on Policy but
the premium has not
been charged

6/2/88

MT



SCHEDULE OF COVERED AUTOS YOU OWN
BUSINESS AUTO POLICY — GARAGE POLICY — TRUCKERS POLICY

POLICY NO.

[illegible]

*INDICATE "P & B" FOR "PLEASURE AND BUSINESS", "B" FOR "BUS", "SB" FOR "SCHOOL BUS". FOR COMMERCIAL AUTOMOBILES INDICATE "S" FOR "SERVICE USE", "R" FOR "RETAIL USE" AND "C" FOR ALL OTHERS.

+ INDICATE IF STATISTICAL TERRITORY IS OTHER THAN RATING TERRITORY.

ENCUMBERED AUTOMOBILES - UNITS NO.

SEE LOSS PAYABLE CLAUSE(S) ATTACHED

PREMIUMS AND COVERAGES

[illegible]

FORM 70-335 (REV. 8/83)

COV INS 000114

COV_005909

POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective 3/31/88	
Named Insured Covil Corp., Inc. (See 70-53)	Countersigned by

(Authorized Representative)

SCHEDULE

Insurance Company Pa. Nat. Mut. Cas. Ins. Co.
Policy Number AU9-0-01 85 16 9
Effective Date 3/31/88

Expiration Date 3/31/89

Named Insured Covil Corp., Inc.
Address P.O. Box 1804, Greenville, SC 29602
Additional Insured (Lessor) BMW Leasing, P.O. Box 490, Springfield, Ohio 45501
Designation or Description of Leased "Autos"
1987 BMW 528 WBADC840H172231
1987 BMW L-6 WBAEC8402H3265340

Coverages	Limit of Insurance
Liability	\$ Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 500 For Each Covered "Auto"
Specified Causes of Loss.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER MINUS: \$ For Each Covered "Auto"

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow. For a covered "auto" that is a "leased auto" WHO IS AN INSURED is changed to include as an "insured" the lessor named in the Schedule.

B. LOSS PAYABLE CLAUSE

1. We will pay you and the lessor named in this endorsement for "loss" to a "leased auto," as interest may appear.
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. CANCELLATION

1. If we cancel the policy, we will mail notice to the lessor in accordance with the CANCELLATION Common Policy Condition.
2. If you cancel the policy, we will mail notice to the lessor.
3. Cancellation ends this agreement.

D. The lessor is not liable for payment of your premiums.

E. ADDITIONAL DEFINITION

The following is added to the DEFINITIONS Section:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.

Covil Trial Exhibit 108 pp. 1-8

Duplicative of Penn National Trial Exhibit 8 pp. 42-49

See R. pp. 5476-5483

Covil Trial Exhibit 108 pp. 9-31

Duplicative of Penn National Trial Exhibit 8 pp. 76-98

See R. pp. 5510-5532

Covil Trial Exhibit 108 pp. 32-33

Duplicative of Penn National Trial Exhibit 8 pp. 100-101

See R. pp. 5534-5535

Covil Trial Exhibit 108 pp. 34-35

Duplicative of Penn National Trial Exhibit 8 pp. 108-109

See R. pp. 5542-5543

Covil Trial Exhibit 108 pp. 36-42

Duplicative of Penn National Trial Exhibit 8 pp. 116-122

See R. pp. 5550-5556

Covil Trial Exhibit 108 p. 43

Duplicative of Penn National Trial Exhibit 8 p. 144

See R. p. 5578

VEHICLE GENERAL CHANGE ENDORSEMENT

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
PO Box 2361 • Harrisburg, PA 17108
(717) 224-4941

** ENDORSEMENT NUMBER 10 ** EFFECTIVE DATE 12/13/90

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
AU9 0018516	03/31/90	03/31/91		PA NATIONAL MUTUAL CAS INS CO	2226729	00
NAMED INSURED AND ADDRESS				AGENCY		
COVIL CORP., INC. SEE 70-53 PO BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 29602		

It is agreed that this policy is hereby amended as indicated below:

AUTO NUMBER 046 ADDITIONAL INSURED-LESSOR IS DELETED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 LOSS PAYEE IS DELETED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 IS DELETED: 90 HONDA ACCORD 1HGC87661LA058386

TOTAL PREMIUM THIS ENDORSEMENT

ADDITIONAL PREMIUM	REFUND DUE
	\$273.00

PRO-RATA PERCENTAGE 29.6 %

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER
TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN
COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS
A PART OF THE POLICY DESCRIBED HEREIN.

SIGNATURE OF AUTHORIZED REPRESENTATIVE

INSURED COPY

ISSUED 04/19/91

FORM 70-2599

COV_INS_000026

PLAINTIFF'S
EXHIBIT

109

COV_005821

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

GECAL, Inc.
PO Box 490
Springfield, Ohio 45501

Branch Office
GB0 025
Agency
Sam J. Crain & Co., Inc.
Agency No.
22 6729

90 Honda Accord 8386 Eff. 12/13/90

Date: 4/29/91ab

Re: Cancellation of Certificate of Insurance and/or
Additional Insured-Lessor Endorsement

Our Certificate of Insurance and/or Additional Insured-Lessor Endorsement, issued under Policy
Number AU9 0 018516 to Covil Corp., Inc. (See 70-53)
(Name)

PO Box 1804
Greenville, SC 29602
(Address)

, is withdrawn and cancelled

effective 5/14/91
(Date)

Yours truly,

C. Preble

C. Preble
Underwriter (ab)

VEHICLE GENERAL CHANGE ENDORSEMENT

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
Penn National Security Insurance Company
PO Box 2281 • Harrisburg, PA 17105
(717) 234-6961

** ENDORSEMENT NUMBER 11 ** EFFECTIVE DATE 02/13/91

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
AU9 0018516	03/31/90	03/31/91		PA NATIONAL MUTUAL CAS INS CO	2226729	00
NAMED INSURED AND ADDRESS				AGENCY		
COVIL CORP., INC. SEE 70-53 PO BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 29602		

It is agreed that this policy is hereby amended as indicated below:

AUTO NUMBER 046 ADDITIONAL INSURED-LESSOR IS ADDED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 LOSS PAYEE IS ADDED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 IS ADDED PER ATTACHED SCHEDULE

TOTAL PREMIUM THIS ENDORSEMENT

ADDITIONAL PREMIUM	REFUND DUE
\$116.00	

PRO-RATA PERCENTAGE 12.6 %

FORM 70-2599

SIGNATURE OF AUTHORIZED REPRESENTATIVE

INSURED COPY

DATE ENDORSEMENT ISSUED 04/22/91

THIS ENDORSEMENT IS SUBJECT TO THE DECLARATIONS, CONDITIONS AND OTHER
TERMS OF THE POLICY WHICH ARE NOT INCONSISTENT HERewith AND WHEN
COUNTERSIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE COMPANY, FORMS
A PART OF THE POLICY DESCRIBED HEREIN.

COV_INS_000028

COV_005823

POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	2/13/91
Named Insured	Countersigned by <i>M. Delaney</i>

(Authorized Representative)

SCHEDULE

Insurance Company PNI
Policy Number AU9 0 018516
Effective Date 3/31/90

Expiration Date 3/31/91

Named Insured Covil Corp., Inc. (See 70-53)
Address PO Box 1804, Greenville, SC 29602
Additional Insured (Lessor) GECAL - PO Box 490, Springfield, Ohio 45501
Designation or Description of Leased "Autos"

Unit 046)1990 Honda Accord 1HGCB7661LA058386

Coverages	Limit of Insurance
Liability	\$ 1,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$ 1,000
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ 500 For Each Covered "Auto"
Specified Causes of Loss	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS; MINUS: \$ For Each Covered "Auto"

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

A. Any "leased auto" designated or described in the Schedule will be considered a covered "auto" you own and not a covered "auto" you hire or borrow. For a covered "auto" that is a "leased auto" WHO IS AN INSURED is changed to include as an "insured" the lessor named in the Schedule.

B. LOSS PAYABLE CLAUSE

1. We will pay you and the lessor named in this endorsement for "loss" to a "leased auto," as interest may appear.
2. The insurance covers the interest of the lessor unless the "loss" results from fraudulent acts or omissions on your part.
3. If we make any payment to the lessor, we will obtain his or her rights against any other party.

C. CANCELLATION

1. If we cancel the policy, we will mail notice to the lessor in accordance with the CANCELLATION Common Policy Condition.
 2. If you cancel the policy, we will mail notice to the lessor.
 3. Cancellation ends this agreement.
- D. The lessor is not liable for payment of your premiums.

E. ADDITIONAL DEFINITION

The following is added to the DEFINITIONS Section:

"Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
This endorsement changes the policy effective on the inception date of the policy or as of the date indicated below.

AUG 0 018516 3/31/90 3/31/91 Covil Corp., Inc. (See 70-53)
Policy Number Effective Expiring Issued to
..... 2/13/91 Sam J. Crain & Co., Inc. 22 6729
Endorsement No. Effective Agent

Sam J. Crain
Authorized Representative

LOSS PAYABLE CLAUSE

BUSINESS AUTO COVERAGE FORM - TRUCKERS COVERAGE FORM - GARAGE COVERAGE FORM

- A. We will pay you and the loss payee named below for "loss" to a covered "auto", as interest may appear.
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C. We may cancel the policy as allowed by the CANCELLATION COMMON POLICY CONDITION. Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notice.
- D. If we make any payment to the loss payee, we will obtain his rights against any other party.

Loss Payee GECAL

Address P0 Box 490
Springfield, Ohio 45501

APPLICABLE TO THE FOLLOWING COVERED AUTOS						
YEAR MODEL; TRADE NAME; BODY TYPE; SERIAL NUMBER(S); VEHICLE IDENTIFICATION NUMBER(S)	COMPREHENSIVE DED.	SPECIFIED CAUSES OF LOSS	COLLISION DED.	FIRE	FIRE AND THEFT	Unit #
90 honda Accord 1HGCB7661LA058386	100		500			046

VEHICLE GENERAL CHANGE ENDORSEMENT

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
Penn National Securities Insurance Company
PO Box 2261 • Harrisburg, PA 17108
(717) 231-4941

** ENDORSEMENT NUMBER 08 ** EFFECTIVE DATE 12/13/90

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
AU9 0018516	03/31/90	03/31/91		PA NATIONAL MUTUAL CAS INS CO	222672900	
NAMED INSURED AND ADDRESS				AGENCY		
COVIL CORP., INC. SEE 70-53 PO BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 29602		

It is agreed that this policy is hereby amended as indicated below:

ADDING FORM CA2001 TO POLICY

AUTO NUMBER 046 ADDITIONAL INSURED-LESSOR IS ADDED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 LOSS PAYEE IS ADDED:

GEAL
PO BOX 490
SPRINGFIELD, OHIO 45501

AUTO NUMBER 046 IS ADDED PER ATTACHED SCHEDULE

TOTAL PREMIUM THIS ENDORSEMENT

ADDITIONAL PREMIUM	REFUND DUE
\$273.00	

PRO-RATA PERCENTAGE 29.6 %

SIGNATURE OF AUTHORIZED REPRESENTATIVE

INSURED COPY

DATE ENDORSEMENT ISSUED 02/21/91

FORM 70-2599

COV_INS_000033

COV_005828



POLICY NUMBER:

COMMERCIAL AUTO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - LESSOR

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement effective	12/13/90	
Named Insured	Covil Corp., Inc See 70-53	Countersigned <i>Michael Taylor</i> (Authorized Representative)

SCHEDULE

Insurance Company PA NAT MUT CAS INS CO
Policy Number AU9 0 018516
Effective Date 3/31/90

Expiration Date 3/31/91

Named Insured Covil Corp., Inc See 70-53
Address PO Box 1804, Greenville, SC 29602
Additional Insured (Lessor) GECAL, PO bx 490, Springfield, Ohio 45501
Designation or Description of Leased "Autos"

Unit 046 1990 Honda Accord 1HGCB87661LA058386

Coverages	Limit of Insurance
Liability	\$ 1,000,000 Each "Accident"
Personal Injury Protection (or equivalent no-fault coverage)	\$ 1,000
Comprehensive	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS: MINUS: \$ 100 For Each Covered "Auto"
Collision	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER IS LESS: MINUS: \$ 500 For Each Covered "Auto"
Specified Causes of Loss.	ACTUAL CASH VALUE OR COST OF REPAIR WHICHEVER MINUS: \$ For Each Covered "Auto"



C. CANCELLATION

- D. The lessor is not liable for payment of your premiums.

E. ADDITIONAL DEFINITION

- The following is added to the DEFINITIONS Section:

- "Leased auto" means an "auto" leased or rented to you, including any substitute, replacement or extra "auto" needed to meet seasonal or other needs, under a leasing or rental agreement that requires you to provide direct primary insurance for the lessor.**

- 87-10541 29-00000-1

[illegible]

1970-1971

Copyright © 2001 by John Wiley & Sons, Inc.

[illegible]



Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 3261 - Harrisburg, PA 17105

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement changes the policy effective on the inception date of the policy or as of the date indicated below.

AU9 0 018516 3/31/90 3/31/91 Covil Corp., Inc See 70-53
Policy Number Effective Expiring Issued to
XXX 12/31/90 Sam J Crain & Co Inc 22 6729
Endorsement No. Effective Agent

Sam J Crain
Authorized Representative

LOSS PAYABLE CLAUSE

BUSINESS AUTO COVERAGE FORM - TRUCKERS COVERAGE FORM - GARAGE COVERAGE FORM

- A. We will pay you and the loss payee named below for "loss" to a covered "auto", as interest may appear.
- B. The insurance covers the interest of the loss payee unless the "loss" results from conversion, secretion or embezzlement on your part.
- C. We may cancel the policy as allowed by the CANCEL-

LATION COMMON POLICY CONDITION. Cancellation ends this agreement as to the loss payee's interest. If we cancel the policy we will mail you and the loss payee the same advance notice.

- D. If we make any payment to the loss payee, we will obtain his rights against any other party.

Loss Payee GECAI

Address PO Box 490

Springfield, Ohio 45501

APPLICABLE TO THE FOLLOWING COVERED AUTOS						
YEAR MODEL; TRADE NAME; BODY TYPE; SERIAL NUMBER(S); VEHICLE IDENTIFICATION NUMBER(S)	COMPREHENSIVE DED.	SPECIFIED CAUSES OF LOSS	COLLISION DED.	FIRE	FIRE AND THEFT	Unit #
1990 Honda Accord 1HGCB7661LA058386	100	-	500			046

The Attaching Clause need be completed only when any of these endorsements are issued subsequent to preparation of the policy.

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number	Effective	Expiring	Issued to
Endorsement No.	Effective	Agent	
Authorized Representative			

SPECIAL NAMED INSURED ENDORSEMENT

It is agreed that the person(s) or organization(s) named in the Declarations of this policy is(are) as follows:

Covil Corp., Inc., ... Covil Construction Co., Inc. (Domant Corp.), John Hamrick Link-President, James P. Covil - Vice President, Yvonne W. Ward - Corporate Secretary and Treasurer, Charles McWhorter - Assistant Corporate Secretary

It is further agreed that all named insureds are owned and controlled by the same financial interest.

It is further agreed that the inclusion of more than one insured shall not operate to increase the limits of the Company's liability.

Form 70-53 (Rev. 4/64)

COV_005833

COV_INS_000038

Covil Trial Exhibit 109 pp. 14-19

Duplicative of Penn National Trial Exhibit 8 pp. 102-107

See R. pp. 5536-5541

Covil Trial Exhibit 109 pp. 20-25

Duplicative of Penn National Trial Exhibit 8 pp. 110-115

See R. pp. 5544-5549

Covil Trial Exhibit 109 pp. 26-46

Duplicative of Penn National Trial Exhibit 8 pp. 123-143

See R. pp. 5557-5577

Covil Trial Exhibit 109 pp. 47-56

Duplicative of Penn National Trial Exhibit 8 pp. 145-154

See R. pp. 5579-5588

Covil Trial Exhibit 110

Duplicative of Penn National Trial Exhibit 8 pp. 509-590

See R. pp. 5943-6024

POLICY NO. SU2190 01 85 16-9
TYPE LAST DIGIT OF EXPIRATION YEAR →

COMMERCIAL PROTECTION PACKAGE



Mutual Casualty
INSURANCE COMPANY

1800 GERRY STREET, HARRISBURG, PENNSYLVANIA

REGIONAL OFFICE CBO		IN LIEU OF New	
ITEM 1. INSURED'S NAME AND MAILING ADDRESS (LAST NAME FIRST) Covil Corporation, Inc. (See 70-53) P.O. Box 1804 Greenville, Greenville, SC 29602		COMPANY USE ONLY 99	
		COMPANY USE ONLY 23 2163 6567	
ITEM 2. POLICY PERIOD: FROM: 3/31/88 TO 3/31/89 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE INSURED AS STATED HEREIN.			
AGENCY Sam J. Crain & Co.		AGENCY NUMBER 22 6729	
		ISSUING DATE 5/20/88dp	
		PRODUCER ID 025	
		COMPANY USE ONLY	

SUMMARY OF INSURANCE

Item 3. Such insurance as is afforded under this package program is identified below by an [X]. Each coverage is subject to the terms and conditions of the individual policy forms contained herein.

Fire and Allied Lines []	Workers' Compensation []
Property—Liability Combination []	Umbrella Liability []
Building [X]	Inland Marine []
Contents [X]	Accounts Receivable []
Time Element []	Annual Transit []
Automobile []	Bailees' Customers []
General Liability []	Contractors' Equipment [X]
Crime [X]	Equipment Dealers []
Boiler and Machinery [X]	Installation Floater (Builders Risk) [X]
General Liability []	Motor Truck Cargo []
Comprehensive General Liability []	Others (specify) Sched., Ppty., Fltr. [X]
Premises Operations []	Others []
Contractual []	Boiler and Machinery []
Completed Operations/Products []	Broad Form Storekeepers []
Premises Medical Payments []	Comprehensive Crime []
Others (specify) []	Comprehensive Glass []
Automobile []	Mercantile Open Stock Burglary []
Automobile Liability [X]	Mercantile Robbery []
Automobile Physical Damage [X]	Pollution Liability []
Dealers' Physical Damage []	Public Officials and Employees Liability []
Garage Liability []	Storekeepers Burglary & Robbery []
Others (specify) []	Others (specify) Sm., Business Computer [X]

FORM 70-82 (REV. 3/84)

PLAINTIFF'S
EXHIBIT

111

COV_INS_000025

COV_005820

Covil Trial Exhibit 111 pp 2-9

Duplicative of Penn National Trial Exhibit 8 pp. 273-280

See R. pp. 5707-5714

Covil Trial Exhibit 112 p 1

Duplicative of Penn National Trial Exhibit 8 p. 272

See R. p. 5706

Covil Trial Exhibit 112 pp 2-3

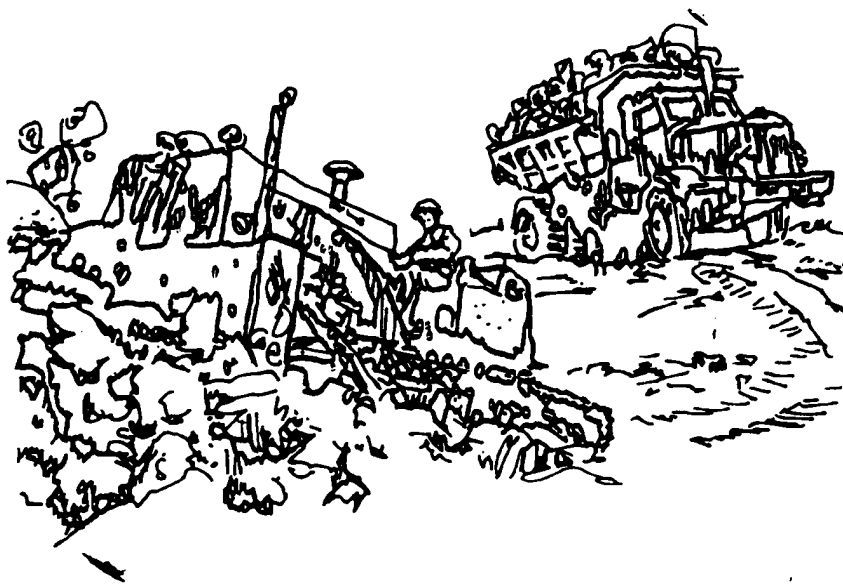
Duplicative of Penn National Trial Exhibit 8 pp. 264-265

See R. pp. 5698-5699

Covil Trial Exhibit 113

Duplicative of Penn National Trial Exhibit 8 pp. 266-271

See R. pp. 5700-5705



INLAND MARINE

FORM 70-95

COV_INS_000193

COV_005988

INLAND

PLAINTIFF'S
EXHIBIT

114

Pennsylvania National

Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

THIS POLICY JACKET WITH THE DECLARATIONS PAGE, POLICY, FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A
PART THEREOF, COMPLETES THIS POLICY.

FORM 70-1572J (REV. 8/87)

COV_INS_000194

COV_005989

MUTUAL POLICY CONDITIONS

THIS POLICY IS NON-ASSESSABLE. THE POLICYHOLDER IS A MEMBER OF THE COMPANY AND SHALL PARTICIPATE TO THE EXTENT AND UPON THE CONDITIONS FIXED AND DETERMINED BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH THE PROVISIONS OF LAW, IN THE DISTRIBUTION OF DIVIDENDS SO FIXED AND DETERMINED.

ANNUAL MEETING

THE INSURED IS HEREBY NOTIFIED THAT BY VIRTUE OF THIS POLICY, HE IS A MEMBER OF THE PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY AND IS ENTITLED TO VOTE EITHER IN PERSON OR BY PROXY AT ANY AND ALL MEETINGS OF SAID COMPANY. THE ANNUAL MEETINGS OF THE COMPANY ARE HELD AT ITS HOME OFFICE IN THE CITY OF HARRISBURG, PA. ON THE SECOND MONDAY OF APRIL IN EACH YEAR, AT 10:00 O'CLOCK A.M., AND THE INCLUSION OF THIS NOTICE IN THIS POLICY SHALL CONSTITUTE NOTICE TO THE MEMBER OF THE ANNUAL MEETING.

IN WITNESS WHEREOF, The company has caused this policy to be signed by its president and secretary but this policy shall not be valid unless completed by the attachment hereto of a Declarations Page, Policy or Coverage Part(s) and Endorsements, if any, and countersigned on the aforesaid declarations page by a duly authorized representative of the company.

 Secretary

 President

DECLARATIONS

INLAND MARINE POLICY

RENEWAL DECLARATION * * * * * 03/31/88

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
IM9 0018516	03/31/88	03/31/89		PA NATIONAL MUTUAL CAS INS CO	222672900	
NAMED INSURED AND ADDRESS				AGENCY		
ITEM COVIL CORPORATION, INC. ONE. (SEE 70-53) P.O. BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 29602		

PAGE 1 OF 2

POLICY PERIOD: NOON STD. TIME AT THE ADDRESS OF THE INSURED AS STATED HEREIN.

PART TWO: "THIS DECLARATION PAGE WITH POLICY PROVISIONS-PART ONE (ALONG WITH APPENDED FLOATERS, FORMS OR ENDORSEMENTS) COMPLETES THE ABOVE NUMBERED POLICY".

AMOUNT\$ SEE FORM
RATE VARIOUS
PREMIUM\$ 9,214.00

IN CONSIDERATION OF THE STIPULATIONS HEREIN NAMED AND OF THE PREMIUM ABOVE SPECIFIED THE COMPANY DOES INSURE THE ABOVE NAMED INSURED, HEREINAFTER CALLED THE INSURED, WHOSE ADDRESS IS SHOWN ABOVE, FROM THE INCEPTION DATE SHOWN ABOVE, AT NOON (STD. TIME), TO THE EXPIRATION DATE SHOWN ABOVE, AT NOON (STD. TIME), AT PLACE OF ISSUANCE TO AN AMOUNT NOT EXCEEDING THE AMOUNT(S) ABOVE SPECIFIED, ON PROPERTY DESCRIBED BELOW OR IN SCHEDULE ATTACHED.

ITEM NO.	AMOUNT INSURED	SCHEDULE: DETAILED DESCRIPTION
1.	SEE FORM	70-1071 PREMIUM \$ 650
2.	SEE FORM	70-1279 PREMIUM \$2270
3.	SEE FORM	70-1283 PREMIUM \$ 313
4.	SEE FORM	
TOTAL POLICY PREMIUM: 9,214.00		
SEE PROVISIONS ATTACHED HERETO		

SEE PAGE TWO (CONT)

Pennsylvania
National
Insurance Companies

PMS

DECLARATIONS

INLAND MARINE POLICY

RENEWAL DECLARATION * * * * * 03/31/88

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
IM9 0018516	03/31/88	03/31/89		PA NATIONAL MUTUAL CAS INS CO	222672900	
NAMED INSURED AND ADDRESS				AGENCY		
ITEM COVIL CORPORATION, INC. ONE. (SEE 70-53) P.O. BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 029602		

PAGE 2 OF 2

THIS POLICY IS MADE AND ACCEPTED SUBJECT TO THE FOREGOING PROVISIONS AND STIPULATIONS AND THOSE HEREINAFTER STATED, WHICH ARE HEREBY MADE A PART OF THIS POLICY, TOGETHER WITH SUCH OTHER PROVISIONS, STIPULATIONS AND AGREEMENTS AS MAY BE ADDED HERETO, AS PROVIDED IN THIS POLICY.

DOCUMENT NUMBER:

APPLICABLE FORMS- 70-53, 70-1283, 05/84 70-1279, 05/84 IM2006
70-1071, IM322, 12/83 70-16, IM226, 03/77 70-1831
70-1682, 07/85 IL0249, 08/86

-PREMIUM CHANGE SUMMARY-

PREMIUM DUE ----- 00

INVOICE AND PAYMENT STATEMENT ENCLOSED

THANK YOU FOR LETTING US SERVE YOU

Pennsylvania
National
Insurance Companies

 05/12/88
AUTHORIZED SIGNATURE DATE

IM9 0018516 01 20 ACCOUNT CUR
COVIL CORPORATION, INC.

PREMIUM DUE ---
PLEASE MAKE CHECK PAYABLE TO-
AND MAIL TO-
SAM J CRAIN & CO INC
PO BOX 2563
GREENVILLE SC 029602

INLAND MARINE

SCHEDULE

IM 2006
(Ed. 1-2-44)

Attached to and forming part of Policy Number.....issued to
by.....at its Agency
located (city and state).....Date of Endorsement.....

Item No.	ARTICLE	AMOUNT INSURED
	<u>Description</u>	
1.	Pneu. Air Drill 3 @ 600.00	1,800.00
2.	H.B. Jones Pin Welder S#6339 Mdl. PW-800	2,000.00
3.	H.B. Jones Pin Welder S#6340 Mdl. PW-800	2,000.00
4.	H.B. Jones Pin Welder S#5942 Mdl. PW-801	2,000.00
5.	H.B. Jones Pin Welder S#5243 Mdl. PW-800	2,000.00
6.	H.B. Jones Pin Welder S#4608 Mdl. PW-800	2,000.00
7.	H.B. Jones Pin Welder S#3102 Mdl. PW-800	2,000.00
8.	Pittsburgh Machine Mdl. 20410 3 @1200.00	3,600.00
9.	Miller Electric Welder 2 @ 600.00	1,200.00
10.	Floor Saw Mdl. 113-299131	500.00
11.	A-Frames 14 Ft. 2 @ 275.00	550.00
12.	A-Frames 12 Ft. 10 @ 250.00	2,500.00
13.	A Frames 10 Ft. 17 @ 202.00	3,434.00
14.	Aluminum Walk Boards 12 x 16	225.00
15.	Aluminum Walk Boards 12 x 18 3 @ 250.00	750.00
16.	Aluminum Walk Boards 12 x 20 2 @ 300.00	600.00
17.	Aluminum Walk Boards 12 x 24 4 @ 350.00	1,400.00
18.	Aluminum Walk Boards 20 x 16	375.00
19.	Aluminum Walk Boards 20 x 20	350.00
20.	Aluminum Walk Boards 20 x 22 3 @ 425.00	1,275.00
21.	Aluminum Walk Boards 20 x 24 5 @ 425.00	2,125.00
22.	Aluminum Walk Boards 24 x 12 3 @ 400.00	1,200.00
23.	Aluminum Walk Boards 24 x 20 4 @ 600.00	2,400.00
24.	Aluminum Walk Boards 24 x 24 6 @ 675.00	4,050.00
25.	Aluminum Walk Boards 28 x 28 7 @ 1000.00	7,000.00
26.	Aluminum Walk Boards 28 x 30 4 @ 1000.00	4,000.00
27.	Aluminum Walk Boards 28 x 36	1,000.00
28.	Rolling Scaffold 5 Ft.	400.00
29.	Metal Brake Machine 10 Ft.	2,400.00
30.	Metal Barke Machine 4 Ft. 2 @ 175.00	350.00
31.	Metal Barke Machine 3 Ft. 2 @ 125.00	250.00
32.	Cutting Tables 48 In. 3 @ 200.00	600.00
33.	Cable Climbers 36 In. 4 @ 250.00	1,000.00
34.	Wisconsin Engine 8 HP	400.00
35.	Power Climbers Mdl. 57-1880 2 @ 890.00	9,780.00
36.	Power Climbers Mdl. 56-1711 2 @ 4890.00	9,780.00
37.	Miller Twin Electric Welder Mdl. HD699580	600.00
38.	Omark Pin Welder 2 @ 5000.00	10,000.00
39.	Pittsburgh Machine Mdl. 204107	2,000.00
40.	Metal Shear Machine Mdl. 636	1,500.00
41.	4' Gold Metal Tubelox Mdl. ET204 44 @ 15.50	682.00
42.	8' Gold Metal Buelox Mdl. ET208 224 @ 20.70	4,636.80
43.	Tubelox Wrench Mdl. TWO25 2 @ 49.70	99.40
44.	Connecting Pins Mdl. QHP 300 @ .22	66.00
	3/8" V-S HD Hologun Mdl. 1179 2 @ 116.00	232.00

Signature for the Company

COV_INS_000198

COV_005993

INLAND MARINE

SCHEDULE

IM 2006
(Ed. 1-2-44)

Attached to and forming part of Policy Number.....issued to
.....
by.....at its Agency
located (city and state).....Date of Endorsement.....

Item No.	ARTICLE	AMOUNT INSURED
46.	HP-2 HD Hand Riveter Mdl. RW134008000 2 @ 29.25	59.00
47.	Cordless Driver-Frill Screw Gun S#40263 1 @ 119.00	119.00
48.	Cordless Driver-Frill Screw Gun S#39911	119.00
49.	250B Rivet Gun S#3247A and S#3248A 2 @ 115.00	230.00
50.	80' Simon Manlift Mdl. SHC1140	80,000.00
51.	Misc. tools & equipment - See 70-16 attached	4,000.00
	TOTAL	181,637.20

.....
Signature for the Company

COV_INS_000199

COV_005994



CONTRACTORS' EQUIPMENT FORM
(ALL RISKS)

Attached to and forming part of Policy No
of the
issued to
at its

Code 205+
rate 1.25

Agency Dated

1 THIS POLICY COVERS

On the property described below or in the schedule attached, not to exceed the amount specified in respect of each item described against loss or damage thereto, directly caused by the risks and perils insured against

Description of Property	Manufacturer	Identifying Marks and Numbers	Amount of Insurance
See IM 2006			181,637.

2 DISASTER LIMIT

One hundred eighty-one thousand six hundred

The Company shall not be liable for more than thirty seven dollars (\$ 181,637. in any one occurrence, regardless of the number of items of insured property involved, either in the case of partial or total loss or salvage charges or any other charges or all combined.

3. DEDUCTIBLE

\$ 250. shall be deducted from the amount of each loss which would be recoverable under this policy in the absence of this clause.

4. THIS POLICY INSURES AGAINST:

All risks of direct physical loss of or damage to the insured property from any external cause, except as hereinafter provided.

5. THIS POLICY DOES NOT INSURE AGAINST:

- Loss or damage occasioned by the weight of a load exceeding the registered lifting or supporting capacity of any machine;
- Loss or damage due to explosion of any steam boiler, steam piping or pressure vessel owned, used or operated by the Insured;
- Loss or damage, except by fire, while the insured property is being waterborne;
- Loss or damage to property while located underground, in caissons or under water;
- Loss or damage to any property which has become a permanent part of any structure;
- Loss or damage by electrical injury or disturbance to electrical appliances or devices of any kind (including wiring) caused by electrical currents artificially generated, unless fire or explosion (except explosion otherwise excluded) ensues, and then only for direct loss or damage caused by such ensuing fire or explosion;
- Loss or damage due and confined to wear and tear, freezing, overheating, mechanical breakdown, inherent vice, latent defect, gradual deterioration or depreciation, insects or vermin;
- Infidelity of Insured's employees or persons to whom the insured property is entrusted;
- Unexplained loss, mysterious disappearance, nor loss or shortage disclosed upon taking inventory;
- Loss or damage to plans, blueprints, designs and specifications, aircraft and watercraft, automobiles, motor trucks and conveyances designed for highway use;
- Loss or damage to tires or tubes unless damaged by fire or stolen, or unless the loss be coincident with other loss covered by this policy;
- Loss occasioned by the neglect of the Insured to use all reasonable means to save and preserve the insured property from impending loss or damage and during and after the occurrence of a loss;
- Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this policy, however, subject to the foregoing and all provisions of this policy, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy;
- Loss or damage caused by or resulting from:
 - hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (A) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces, or (B) by military, naval or air forces; or (C) by an agent of any government, power, authority or forces;
 - any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

6. SPECIAL CONDITIONS

- It is a condition of this insurance that all property insured hereunder is in sound condition at the time of attachment of this insurance.
- This policy covers only within the limits of the Continental United States (excluding Alaska) and Canada.
- Any act or agreement by the Insured prior or subsequent hereto whereby any right of the Insured to recover the full amount of any loss or damage to property insured hereunder from any carrier, bailee or other party liable therefor is released, impaired or lost, except a provision included in a written contract under which the Insured undertakes to perform work, shall make such loss or damage uncollectible hereunder, but the right of the Company to retain or recover the premium shall not be affected.
- The Company shall not be liable for a greater proportion of any loss or damage to the property described herein than the lesser of the following:
 - the proportion that the amount of insurance under this policy applicable to the property actually lost or damaged bears to 100% of the actual aggregate value of that property, or
 - the proportion that the total amount of insurance under this policy bears to 100% of the actual aggregate value of all of the property insured under this policy, whether or not involved in the loss or damage, at all places where coverage is afforded herein at the time such loss shall occur.
- In consideration of the agreement by the Insured to report additional property of the kind insured hereunder, ownership of which is acquired by the Insured subsequent to the attachment date of this policy, within thirty (30) days from the date acquired and to pay full premium thereon from the date acquired at pro rata of the current rate of the Company for such insurance, this policy covers such additional acquired property for not exceeding the lesser of (1) \$25,000 or (2) 25% of the amount of insurance exclusive of this provision. It is specifically understood and agreed by the Insured that this policy shall cease to cover such additionally acquired property if it is not reported to the Company within the stated thirty (30) day period.

All other terms and conditions of this policy remain unchanged.

Form 70-1279 (Ed. 5/84)

Agent

COV_INS_000200

COV_005995



Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 - Harrisburg, PA 17105

SCHEDULED PROPERTY FLOATER
(All Risks Form)

Attached to and forming part of Policy No.

Code 798+

rate 1.25

to
at its

Agency. Dated

PROPERTY COVERED AND AMOUNT OF INSURANCE

1. Item No. Description Amount of Insurance \$.....25,000.....

Telephone System located 131 Pensley Circle, Greenville, SC

TERRITORIAL LIMITS

2. This policy covers within the limits of the Continental United States and Canada.

THIS POLICY INSURES AGAINST

3. All risks of direct loss or damage from any external cause except as hereinafter provided.

THIS POLICY DOES NOT INSURE AGAINST

- (a) Loss or damage caused by wear and tear, gradual deterioration, insects, vermin, inherent vice, latent defect, mechanical breakdown or faulty manufacture;
- (b) Damage sustained due to or resulting from any repairing, restoration or retouching process;
- (c) Breakage, unless caused by any of the following perils: fire, lightning, aircraft, theft or attempted theft, cyclone, tornado, windstorm, earthquake, flood, explosion, malicious damage, or collision, derailment or overturning of conveyance;
- (d) Loss of market, damage or deterioration arising from delay;
- (e) Loss or damage by theft by any person in the Insured's service or employment;
- (f) Loss by disappearance; loss or shortage disclosed upon taking inventory; or unexplained loss;
- (g) Loss resulting from any electrical injury or disturbance to electrical appliances, devices or wiring from artificial causes unless fire ensues, and if fire does ensue, the company shall be liable only for its proportion of loss caused by such ensuing fire;
- (h) Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by the peril(s) insured against in this policy, however, subject to the foregoing and all provisions of this policy, direct loss by fire resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy;
- (i) Loss or damage caused by or resulting from:
 - (1) hostile or warlike action in time of peace or war, including action in hindering, combating or defending against an actual, impending or expected attack, (A) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (B) by military, naval or air forces; or (C) by an agent of any government, power, authority or forces;
 - (2) any weapon of war employing atomic fission or radioactive force whether in time of peace or war;
 - (3) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, combating or defending against such an occurrence, seizure or destruction under quarantine or customs regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.

COINSURANCE

5. In no event shall the company be liable for a greater proportion of any loss or damage to the property described herein than the amount hereby insured bears to the actual value of such property at the time when such loss or damage shall occur. If this policy covers two or more items, this condition shall apply to each item separately.

DEDUCTIBLE CLAUSE

6. Each claim for loss or damage shall be adjusted separately and from the amount of each such adjusted claim the sum of \$50. shall be deducted.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED

INLAND MARINE

IM 322
(Ed. 12-83)

CM 01 04 (Ed. 12 83)

COMMERCIAL INLAND MARINE AMENDATORY ENDORSEMENT

This endorsement, effective
mental endorsement (form) No.
issued to

, forms a part of policy No.
attached to policy No.

or supple-

by
located

Date of endorsement

at its Agency

City and State

.....Agent

(When this endorsement forms a part of a supplemental endorsement (form) the word "policy" wherever appearing in the following provisions is to be construed to mean "supplemental endorsement (form)".)

The provisions of the following forms are amended as indicated: (ENTER BELOW)

70-1279 5/84

1. PERILS INSURED

The Perils Insured section of the above forms is deleted and replaced by the following:

This policy insures against risks of direct physical loss or damage to the insured property unless the loss or damage is excluded under the Perils Excluded section of this policy.

2. PERILS EXCLUDED

The following are added to the Perils Excluded section:

A. When any of the following Perils Excluded apply:

- (1) Earthquake;
- (2) Flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray;
- (3) Water which backs up through sewers or drains;
- (4) Water below the surface of the ground;
- (5) War risk and governmental action;
- (6) Nuclear reaction or radiation;

Such loss or damage is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss or damage.

B. This policy does not insure against loss or damage caused by any of the following. However, any ensuing loss or damage not excluded or excepted in this policy is covered.

1. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with any of the following Perils Excluded in this policy relating to:

- a. Earthquake;
- b. Flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray;
- c. Water which backs up through sewers or drains;
- d. Water below the surface of the ground;
- e. War risk and governmental action;
- f. Nuclear reaction or radiation;

(over)



Copyright, Insurance Services Office, 1983

COV_005997

COV_INS_000202

2. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body;
 3. Faulty, inadequate or defective:
 - a. Planning, zoning, development; surveying, siting;
 - b. Design, specifications, workmanship, repair, constructions, renovation, remodeling, grading, compaction;
 - c. Materials used in repair, construction, renovation or remodeling; or
 - d. Maintenance;
of part or all of any property wherever located.
 4. Collapse except as provided in the Additional Coverage—Collapse section of this endorsement.
3. **THE FOLLOWING IS ADDED:**
Additional Coverage—Collapse. This policy insures against risk of direct physical loss or damage involving collapse of a building or structure or any part thereof caused by one or more of the following:
- a. Fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism or malicious mischief; breakage of glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this policy;
 - b. Hidden decay;
 - c. Hidden insect or vermin damage;
 - d. Weight of people or personal property;
 - e. Weight of rain which collects on a roof;
 - f. Use of defective materials or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.
- This Additional Coverage does not increase the limits of liability provided in this policy.

All other terms and conditions remain unchanged.

COV_005998

COV_INS_000203

2. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body;
 3. Faulty, inadequate or defective:
 - a. Planning, zoning, development; surveying, siting;
 - b. Design, specifications, workmanship, repair, constructions, renovation, remodeling, grading, compaction;
 - c. Materials used in repair, construction, renovation or remodeling; or
 - d. Maintenance;of part or all of any property wherever located.
 4. Collapse except as provided in the Additional Coverage—Collapse section of this endorsement.
- 3. THE FOLLOWING IS ADDED:**
- Additional Coverage—Collapse.** This policy insures against risk of direct physical loss or damage involving collapse of a building or structure or any part thereof caused by one or more of the following:
- a. Fire; lightning; windstorm; hail; explosion; smoke; aircraft; vehicles; riot; civil commotion; vandalism or malicious mischief; breakage of glass; falling objects; weight of snow, ice or sleet; water damage; all only as insured against in this policy;
 - b. Hidden decay;
 - c. Hidden insect or vermin damage;
 - d. Weight of people or personal property;
 - e. Weight of rain which collects on a roof;
 - f. Use of defective materials or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.
- This Additional Coverage does not increase the limits of liability provided in this policy.

All other terms and conditions remain unchanged.

COV_005999

COV_INS_000204

INLAND MARINE

IM 322
(Ed. 12-83)

CM 01 04 (Ed. 12 83)

COMMERCIAL INLAND MARINE AMENDATORY ENDORSEMENT

This endorsement, effective _____, forms a part of policy No. _____ or supplemental endorsement (form) No. _____ attached to policy No. _____ issued to _____

by _____ at its Agency located _____ Date of endorsement _____

City and State

_____. Agent

(When this endorsement forms a part of a supplemental endorsement (form) the word "policy" wherever appearing in the following provisions is to be construed to mean "supplemental endorsement (form)".)

The provisions of the following forms are amended as indicated: (ENTER BELOW)

70-1279 5/84

1. PERILS INSURED

The Perils Insured section of the above forms is deleted and replaced by the following:

This policy insures against risks of direct physical loss or damage to the insured property unless the loss or damage is excluded under the Perils Excluded section of this policy.

2. PERILS EXCLUDED

The following are added to the Perils Excluded section:

A. When any of the following Perils Excluded apply:

- (1) Earthquake;
- (2) Flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray;
- (3) Water which backs up through sewers or drains;
- (4) Water below the surface of the ground;
- (5) War risk and governmental action;
- (6) Nuclear reaction or radiation;

Such loss or damage is excluded regardless of any other cause or event contributing concurrently or in any sequence to the loss or damage.

B. This policy does not insure against loss or damage caused by any of the following. However, any ensuing loss or damage not excluded or excepted in this policy is covered.

1. Weather conditions. However, this exclusion only applies if weather conditions contribute in any way with any of the following Perils Excluded in this policy relating to:

- a. Earthquake;
- b. Flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray;
- c. Water which backs up through sewers or drains;
- d. Water below the surface of the ground;
- e. War risk and governmental action;
- f. Nuclear reaction or radiation;

(over)



Copyright, Insurance Services Office, 1983

COV_006000

COV_INS_000205

The Attaching Clause need be completed only when any of these endorsements are issued subsequent to preparation of the policy.

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number	Effective	Expiring	Issued to
Endorsement No.	Effective	Agent	Authorized Representative

SPECIAL NAMED INSURED ENDORSEMENT

It is agreed that the person(s) or organization(s) named in the Declarations of this policy is(are) as follows:

Covil Corp., Inc., Covil Construction Co., Inc. (Domant Corp.), John Hamrick Link-President, James P. Covil-Vice President, Yvonne W. Ward - Corporate Secretary and Treasurer, Charles McWhorter - Assistant Corporate Secretary

It is further agreed that all named insureds are owned and controlled by the same financial interest.

It is further agreed that the inclusion of more than one insured shall not operate to increase the limits of the Company's liability.

Form 70-53 (Rev. 4/84)

COV_006001

COV_INS_000206

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number	Effective	Expiring	Issued to
Endorsement No.	Effective	Agent	
Authorized Representative			

AMENDATORY ENDORSEMENT

1. This policy also covers items of mobile Contractors' Equipment set forth below, the property of the Insured, to an amount not exceeding:

\$4000. On miscellaneous hand tools and equipment including wheelbarrows, hand trucks, dollies, screw jacks, picks and shovels, lanterns, sledge hammers, crowbars, sheaves, chain slings, snatch blocks, beam clamps, tongs, vises, special wrenches, bolt cutters, pipe cutters, die and die stocks, gasoline fire pots, fire furnaces and salamanders, special carpentry tools, acetylene-oxygen outfits, cable, rope, coffering hoists, hydraulic jacks, concrete buggies, blasting machines, electric drills, hand electric saws, block and tackle, chain falls, ladders, river forge, T jacks, form ties, and form readers, pneumatic pavement breakers, pneumatic hand saws, power driven chain saws, riveting hammers. 244

2. The company, under this endorsement, shall be liable in the event of the loss for:

a) No greater proportion thereof than the amount hereby insured bears to 80% of the actual cash value of the property insured hereunder at the time such loss happen:

c) not to exceed \$1,000 on any one article or, if a part, on the whole item of equipment of which it is a part.

3. The insurance of this endorsement does not apply to:

a) Losses by disappearance or determined by inventory shortage:

All other terms and conditions remain unchanged.

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

..... Policy Number Effective Expiring Issued to
..... Endorsement No. Effective Agent
..... Authorized Representative

BUILDERS' RISK / INSTALLATION FLOATER

Code 382+

SCHEDULE:		Limits of Liability
The Company shall not be liable for more than:		
☐ ITEM 1.		
\$ _____ at the construction site located at _____		
and described as: _____		
OR		
☐ ITEM 2.		
\$ <u>100,000</u> at any one construction site;		
\$ <u>-0-</u> at any one temporary storage location;		
\$ <u>15,000</u> in transit in or on any one conveyance or combination thereof;		
\$ <u>100,000</u> any one loss, disaster or casualty, including general average, salvage charges or other expenses.		
Premium Payment Basis:		
☒ Flat Premium	Deposit Premium \$ <u>650.</u>	
Completed Value Reporting	Rate per \$100 of Completed Value \$ <u>Incl.</u>	Deductible Amount
☐ Monthly	Minimum Annual Premium \$ <u>500.</u>	\$ <u>250.</u>
☐ Quarterly	Date First Report Due <u>N/A</u>	(See Clause H)
(See Clause M)		

A. BEGINNING AND TERMINATION OF COVERAGE

This policy covers from the time property is at the risk of the insured during transit, while temporarily detained at locations and thereafter at construction site, but coverage will cease:

1. Upon acceptance of the property by the owner or purchaser, or
 2. When the insured's interest ceases, or
 3. 60 days after completion of the project unless written consent of the Company is obtained, or
 4. On each building, structure or addition when occupied for its intended purpose unless written consent of the Company is obtained, or
 5. Upon expiration or termination of this policy;
- whichever first occurs.

B. PROPERTY INSURED

This policy insures, except as otherwise provided:

1. Materials, supplies, machinery, equipment, fixtures designated to become a permanent part of:
 - a. the construction, installation or completion of buildings or structures, including foundations;
 - b. the improvement, alteration, repair or addition to existing buildings or structures.
2. Similar property of others for which the insured has prior to loss assumed liability therefore, but only to the extent of the insured's liability.
3. Temporary structures (excluding inflatable structures).

C. PROPERTY EXCLUDED

This policy does not cover:

1. Machinery, tools, equipment, or any other property (except temporary structures at the construction site), not designated to become a permanent part of the building or structure;
2. Existing buildings or structures to which improvements, alterations, repairs or additions are being made;
3. Trees, shrubs, lawns, or plants;
4. Blueprints, plans, mechanical drawings, architects' drawings, designs or specifications, accounts, bills, deeds, evidence of debt, currency, securities or notes;
5. Property while waterborne other than by a regular scheduled ferry boat;
6. Property while airborne via unscheduled airlines or private aircraft.

D. INSURING AGREEMENT

This policy insures against all risk of direct physical loss or damage to the insured property from any external cause except as otherwise provided.

E. DEBRIS REMOVAL EXTENSION

This policy covers expense incurred in the removal of debris of property covered hereunder which may be occasioned by loss caused by any of the perils insured against in this policy. The total amount recoverable for both loss to property and debris removal expense shall not exceed the actual limit of liability applying at the time of loss to the item of insurance in the application of this clause.

F. This policy does not insure against:

1. Any unexplained loss, mysterious disappearance of property (except property in the custody of carriers or bailees for hire) or shortage disclosed on taking inventory;
2. Loss or damage caused by or resulting from earthquake, volcanic action, mudflow, earth sinking, earth rising or shifting, landslide or other earth movement, except for property in due course of transit or unless loss by fire or explosion ensues, and then only for such ensuing loss;
3. Loss or damage caused by or resulting from:
 - a. flood, surface water, waves, tidal water or tidal wave, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not;
 - b. water which backs up through sewers or drains;
 - c. water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors, or through doors, windows or any other openings;
 - d. release of water impounded by a dam or reservoir regardless of cause;unless loss by fire or explosion ensues, and then only for such ensuing loss. This exclusion shall not apply to property in due course of transit.
4. Loss or damage caused by or resulting from rain, snow, sleet, (whether driven by wind or not) unless the property is contained in a permanently enclosed building, and then only for such loss or damage caused by rain, snow or sleet entering through an opening made by wind or hail; however, loss or damage to property insured due to collapse of a building caused by the weight of snow, ice or rainwater is covered. This exclusion shall not apply to property in the custody of carriers for hire;
5. The cost of making good any faulty or defective workmanship or material, but this exclusion shall not apply to physical damage directly resulting from such faulty or defective workmanship or material;
6. Loss or damage caused by or resulting from fault, defect, error or omission in design, plan or specifications, but this exclusion shall not apply to loss or damage by fire, lightning, wind, hail, aircraft, vehicles, smoke, discharge from fire protection or building service equipment, explosion, riot or civil commotion, to the extent that such perils are insured against in this policy;
7. Loss or damage caused by or resulting from inherent vice, latent defect, wear and tear, deterioration, rust, corrosion, dampness or dryness of atmosphere, wet or dry rot, mold, extremes or changes of temperature, freezing, insects or vermin;
8. Loss or damage resulting from short circuit, blow-out, or other electrical disturbance caused by electrical currents artificially generated, unless fire or explosion ensues, and then only for loss or damage caused by such ensuing fire or explosion;
9. Loss or damage caused by or resulting from mechanical breakdown or derangement including rupture, bursting or disintegration of the rotating or moving parts of machines or machinery resulting from centrifugal or reciprocating force, unless loss by a peril not otherwise excluded ensues, and then only for such ensuing loss;
10. Misappropriation, secretion, conversion, infidelity or any other dishonest act on the part of the Insured or other party of interest, his or their employees or others to whom the property may be entrusted, whether or not such acts are committed during working hours, (carriers for hire excepted);
11. Loss occasioned directly or indirectly by order of any government authority or by enforcement of any local or state ordinance or law regulating the construction, repair, or demolition of building(s) and structure(s);
12. Loss of use, delay, loss of market, penalties for noncompletion or non-compliance with contract conditions, or consequential loss of any kind;
13. Loss or damage caused by or resulting from subsidence, settling, cracking, shrinkage or expansion of walls, pavements, foundations, sidewalks, driveways, patios, floors, roofs or ceilings;
14. Loss or damage covered under any guarantee, warranty or similar obligation (expressed or implied) by any contractor, manufacturer or supplier, whether or not such contractor, manufacturer or supplier is an insured under this policy.
15. Loss or damage caused by or resulting from testing, unless fire or explosion ensues, and then only for the ensuing fire or explosion.
16. Loss or damage to steam boilers, steam pipes, steam turbines, or steam engines caused by or resulting from bursting, rupture or explosion of such objects, whether during testing or otherwise.

G. VALUATION AND LIMITS OF LIABILITY

This Company shall be liable for the full replacement cost of the property at the time of loss, including labor and other charges and expenses accrued thereto but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss; and in no event shall this Company be liable in any one loss for more than the limits stated in the Schedule.

The term "Replacement Cost" shall not include:

1. Penalties for or expenses incurred as a result of delay in completion or incompletion of contract terms or conditions or noncompliance with contract terms or conditions or from any guarantee of performance or production;

2. Cost of land clearing; cost of excavations for foundations; sidewalk paving, street or parking lot paving or curbing, cost of landscaping;
3. Interest on money loaned or advanced.

H. DEDUCTIBLE

Each claim for loss or damage (separately occurring), shall be adjusted separately and from the amount of each such adjusted claim, the amount stated in the Schedule shall be deducted.

I. TERRITORIAL LIMITS

This policy covers only while the property is within and between the contiguous states of the United States of America and the District of Columbia, excluding Alaska and Hawaii.

J. OTHER INSURANCE

If at the time of loss or damage there is available to a named or unnamed insured or any other interested party any other insurance which would apply in the absence of this policy, the insurance under this policy shall apply only as excess insurance over such other insurance.

K. IMPAIRMENT OF RECOVERY RIGHTS

This policy shall not cover a loss:

- a. if any act or agreement of the Insured after such loss impairs the Insured's rights of recovery from others for the loss; or
- b. if any act or agreement of the Insured, either before or after such loss, with any architect, engineer or other party or entity responsible for any design, specifications or plans relating to the property insured hereunder impairs the Insured's rights of recovery from such parties.

This insurance, however, shall not be invalidated should the Insured waive in writing, prior to a loss, its rights of recovery against any party (except those listed in b. above) for loss occurring to the property insured hereunder.

L. FLAT PREMIUM BASIS

If this policy is issued on a flat premium basis the following clause applies:

1. COINSURANCE

This Company shall be liable for no greater proportion of any loss than the limit of liability at construction site, as stated in the Schedule, bears to the projected full value of insured property at date of completion. If this policy covers two or more structures under construction, the foregoing shall apply to each structure separately.

M. COMPLETED VALUE REPORTING BASIS

If this policy is issued on a completed value reporting basis the following clauses apply:

1. REPORTING CLAUSE

The Insured agrees to report in writing to the Company or its authorized agent not later than the date specified in the Schedule, and thereafter within fifteen (15) days following the last day of the reporting period specified:

- a. The projected total completed value of each structure at risk under this insurance during the reporting period.
- b. The address or location of the construction site(s).

2. PREMIUM ADJUSTMENT

- a. The deposit premium specified in the Schedule is due and payable as of the inception date of this policy.
- b. Earned premium shall be computed at the rate specified in the Schedule and shall be applied against the deposit premium. If earned premiums exceed the deposit premium such additional premium shall be due and payable to the Company as of the date of each report as herein required. If the total earned premium for the term of the policy is less than the deposit premium, a return premium equal to the difference shall be due the Insured by the Company. The annual premium for this policy shall in no event be less than the minimum Annual Premium specified in the Schedule.

3. FULL REPORTING

In the event of loss or damage to property covered hereunder, the Company shall be liable for no greater proportion of such loss or damage at the location reported than the Completed Value reported by the Insured prior to the loss or damage bears to the projected value at date of completion. This clause shall apply separately to each building or structure insured under this policy.

4. OTHER REPORTING CONDITIONS

- a. AT THE TIME OF ANY LOSS, IF THE INSURED HAS FAILED TO FILE WITH THIS COMPANY REPORTS OF VALUES AS ABOVE REQUIRED THIS POLICY SHALL COVER ONLY AT THE LOCATIONS REPORTED AND FOR NOT MORE THAN THE AMOUNTS INCLUDED IN THE LAST REPORT OF VALUES FILED PRIOR TO THE LOSS.
- b. Notwithstanding the requirements of this policy that premium be paid upon the projected total completed values at risk thereunder, the Company's liability shall in no event exceed the limits of liability as specified in the policy.
- c. The Company or its authorized representatives, shall at all reasonable times have access to the Insured's books and records for the purpose of determining the actual premium due hereunder or any other matter pertaining to this insurance.
- d. In the event of cancellation, the Insured shall report the Completed Value of all property covered by this policy as of the date of cancellation and premium shall be adjusted on a pro rata basis.

All other terms, conditions and exclusions of the policy not in conflict herewith remain unchanged.

Form 70-1071 (Ed. 4/83)

COV_INS_000209

COV_006004

IL 02 49
(Ed. 7-86)

SOUTH CAROLINA CANCELLATION AMENDATORY ENDORSEMENT

A. The provisions of this policy pertaining to cancellation by the Company are amended as follows:

1. This policy may be cancelled by the Company by mailing to the **named insured** and the agent, if any, written notice of cancellation at least:

- a. 10 days prior to the effective date of cancellation if the company cancels for nonpayment of premium; or
- b. 30 days prior to the effective date of cancellation if the company cancels for any other reason.

Any notice of cancellation will be mailed or delivered to the **named insured's** and agent's last known addresses. Proof of mailing is sufficient proof of notice.

2. **CANCELLATION OF POLICIES IN EFFECT FOR 90 DAYS OR MORE**

If this policy has been in effect for 90 days or more, or if this policy is a renewal or continuation of a policy issued by the Company, it may be cancelled by the Company only for one or more of the following reasons:

- a. Nonpayment of premium;
- b. Material misrepresentation of fact which, if known to the Company, would have caused the Company not to issue the policy;
- c. Substantial change in the risk assumed, except to the extent that the Company should reasonably have foreseen the change or contemplated the risk in writing the policy;
- d. Substantial breaches of contractual duties, conditions or warranties; or
- e. Loss of the Company's reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the policy would imperil the Company's solvency or place the Company in violation of the insurance laws of South Carolina.

Notice of cancellation will state the reason for cancellation.

B. The following provision is added:

NONRENEWAL OF POLICY

1. If the Company elects not to renew this policy, it shall mail or deliver to the **named insured** and agent, if any, written notice of nonrenewal, along with the reason for nonrenewal, at least 30 days prior to:

- (a) The expiration date; or
- (b) The anniversary date if this is a continuous policy.

2. Any notice of nonrenewal will be mailed or delivered to the **named insured's** and agent's last known addresses. If notice is mailed, proof of mailing will be sufficient proof of notice.

INLAND MARINE

IM 226
(Ed. 3-77)

MF 99 02 (Ed. 03 77)
MAF 06 19 (Ed. 3-1-77)

EFFECTIVE TIME ENDORSEMENT

This endorsement, effective _____, forms a part of
policy No. _____ or supplemental endorsement No. _____ attached to
policy No. _____ issued to _____
by _____ at its Agency
located _____ Date of endorsement _____
CITY AND STATE

.....Agent

(When this endorsement forms a part of a supplemental endorsement the word "policy" wherever appearing in the following provisions is to be construed to mean "supplemental endorsement".)

The time of inception and the time of expiration or termination of this policy and of any schedule or endorsement attached shall be 12:01 a.m. standard time.

To the extent that coverage in this policy replaces coverage in other policies terminating noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.



Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 21727 • Greensboro, North Carolina 27429

INLAND MARINE POLICY PROVISIONS PART ONE

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY HARRISBURG, PENNSYLVANIA

(A mutual insurance Company, herein called the Company)

CONDITIONS

1. **MISREPRESENTATION AND FRAUD.** This entire policy shall be void if, whether before or after a loss, the Insured has concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the Insured therein, or in case of any fraud, attempted fraud, or false swearing by the Insured relating thereto.
2. **CHANGES.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of this policy, nor shall the terms of this policy be waived or changed, except by endorsement issued to form a part of this policy.
3. **COLLECTION FROM OTHERS.** No loss shall be paid or made good hereunder if the Insured has collected the same from others.
4. **NOTICE OF LOSS.** The Insured shall as soon as practicable report in writing to the Company or its agent every loss which may become a claim under this policy and shall also file with the Company or its agent within ninety (90) days from date of discovery of loss a detailed sworn proof of loss. Failure by the Insured to report the said loss and to file such sworn proof of loss as hereinbefore provided shall invalidate any claim under this policy for such loss.
5. **SUE AND LABOR.** In the event of loss to property covered under this policy, the Insured, his employees, factors and assigns shall sue, labor and travel in efforts to recover, safeguard and defend the said property. Such action shall not prejudice this insurance or constitute a waiver of any rights of the Insured.
6. **EXAMINATION UNDER OATH.** The Insured, as often as may be reasonably required, shall exhibit to any person designated by the Company all that remains of any property herein described, and shall submit, and in so far as is within his or their power cause his or their employees, members of the household and others to submit to examinations under oath by any person named by the Company and subscribe the same; and, as often as may be reasonably required, shall produce for examination all writings, books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by the Company or its representative, and shall permit extracts and copies thereof to be made. No such examination under oath or examination of books or documents, nor any other act of the Company or any of its employees or representatives in connection with the investigation of any loss or claim hereunder, shall be deemed a waiver of any defense which the Company might otherwise have with respect to any loss or claim, but all such examinations and acts shall be deemed to have been made or done without prejudice to the Company's liability.
7. **NO BENEFIT TO BAILEE.** This insurance shall in no wise insure directly or indirectly to the benefit of any carrier or other bailee.
8. **ABANDONMENT.** There can be no abandonment to the Company of any property.
9. **PAIR, SET OR PARTS.** In the event of loss to:
 - (a) any article or articles which are a part of a pair or set, the measure of loss to such article or articles shall be a reasonable and fair proportion of the total value of the pair or set, giving consideration to the importance of said article or articles, but in no event shall such loss be construed to mean total loss of the pair or set; or
 - (b) any part of property covered consisting, when complete for use, of several parts, the Company shall only be liable for the value of the part lost or damaged.
10. **VALUATION.** The Company shall not be liable beyond the actual cash value of the property at the time any loss occurs. The loss shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would then cost to repair or replace the same with material of like kind and quality.
11. **APPRAISAL.** If the Insured and the Company fail to agree as to the amount of loss, each shall, on the written demand of either, made within sixty (60) days after receipt of proof of loss by the Company, select a competent and disinterested appraiser, and the appraisal shall be made at a reasonable time and place. The appraisers shall first select a competent and disinterested umpire, and failing for fifteen (15) days to agree upon such umpire, then, on the request of the Insured or the Company, such umpire shall be selected by a judge of a court of record in the state in which such appraisal is pending. The appraisers shall then appraise the loss, stating separately the actual cash value at the time of loss and the amount of loss, and failing to agree shall submit their differences to the umpire. An award in writing of any two shall determine the amount of loss. The Insured and the Company shall each pay his or its chosen appraiser and shall bear equally the other expenses of the appraisal and umpire. The Company shall not be held to have waived any of its rights by any act relating to appraisal.
12. **COMPANY'S OPTIONS.** It shall be optional with the Company to take all, or any part, of the property at the agreed or appraised value, or to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within sixty (60) days after the receipt of the proof of loss herein required.
13. **OTHER INSURANCE.** The Company shall not be liable for loss if, at the time of loss, there is any other insurance which would attach if this insurance had not been effected, except that this insurance shall apply only as excess and in no event as contributing insurance, and then only after all other insurance has been exhausted.
14. **SETTLEMENT OF CLAIMS.** All adjusted claims shall be paid or made good to the Insured within sixty (60) days after presentation and acceptance of satisfactory proof of interest and loss at the office of the Company.
15. **SUIT.** No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the same be commenced within twelve (12) months next after discovery by the Insured of the occurrence which gives rise to the claim, provided, however, that if by the laws of the state within which this policy is issued such limitation is invalid, then any such claims shall be void unless such action, suit or proceeding be commenced within the shortest limit of time permitted by the laws of such state.
16. **LOSS CLAUSE.** Any loss hereunder shall not reduce the amount of this policy.
17. **SUBROGATION.** In the event of any payment under this policy the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.

18. CANCELATION. This policy may be canceled by the Insured by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective.

This policy may be canceled by the Company by mailing to the Insured at the address shown in this policy, written notice stating when not less than ten days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.

If the Insured cancels, earned premium shall be computed in accordance with the customary short rate table and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustment may be made either at the time of cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

19. CONFORMITY TO STATUTE. Terms of this policy which are in conflict with the statutes of the state wherein this policy is issued are hereby amended to conform to such statutes.

KANSAS SPECIAL PROVISION

The paragraph of the "Conditions" of this policy, entitled "Suit," is amended to read:

"No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the same be commenced within sixty (60) months next after discovery by the Insured of the occurrence which gives rise to the claim."

MISSOURI SPECIAL PROVISION

Upon acceptance of this policy, the Insured becomes a member of the Company and is entitled to vote at all meetings of the Company

NORTH CAROLINA SPECIAL PROVISION

Proofs of Loss—If this policy is written in the State of North Carolina the failure of the Insured to furnish proofs of loss as required by the terms of this policy shall not debar him from recovery hereunder unless within fifteen (15) days after receipt of notice of loss the Company or its representatives shall provide the Insured with a blank or blanks in duplicate, to be used for the purpose of making such proofs of loss.

TEXAS SPECIAL PROVISION

1. In the Condition referring to "Notice of Loss" the first sentence is deleted and the following sentence substituted:
"NOTICE OF LOSS — The Insured shall as soon as practicable report to this Company or its agent every loss or damage which may become a claim under this policy and shall also file with the Company or its agent within ninety-one (91) days from date of loss a detailed sworn proof of loss."
2. The Condition referring to "Sue and Labor" is amended to read:
"SUE AND LABOR — In the event of loss to property covered under this policy, the Insured, his employees, factors and assigns shall sue, labor and travel in efforts to recover, safeguard and defend the said property. Such action shall not prejudice this insurance or constitute a waiver of any rights of the Insured. The expenses so incurred shall be borne by the Insured and the Company proportionately to the extent of their respective interests."
3. The Condition referring to "Other Insurance" is deleted.
4. The Condition referring to "Suit" is amended to read:
"SUIT — No suit, action or proceeding for the recovery of any claim under this policy shall be sustainable in any court of law or equity unless the same be commenced within two (2) years and one (1) day next after discovery by the Insured of the occurrence which gives rise to the claim."
5. The Condition referring to "Loss Clause" is deleted and the following Condition substituted:
"LOSS CLAUSE — Any loss hereunder shall not reduce the amount of this policy, except in the event of payment of claim for total loss of an item specifically scheduled hereon. If claim is paid for total loss of one or more scheduled items, the unearned premium applicable to such items will be refunded to the Insured or applied to the premium due on item(s) replacing those on which the claim was paid."



(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

..... Policy Number	 Effective	 Expiring	 Issued to
..... Endorsement No.	 Effective	 Agent	 Authorized Representative

AMENDATORY ENDORSEMENT
LOCKED VEHICLE, PREMISES WARRANTY

It is hereby agreed that this policy does not insure against loss or damage caused by or resulting from theft, attempted theft or removal of insured property from a vehicle or premises, unless such vehicle or premises were locked and there is visible evidence of violent or forcible entry.

All other terms, conditions and exclusions of the policy, not in conflict herewith, remain unchanged.

Covil Trial Exhibit 114 pp 23-39

Duplicative of Penn National Trial Exhibit 8 pp. 247-263

See R. pp. 5681-5697

Covil Trial Exhibit 115 pp 1-5

Duplicative of Penn National Trial Exhibit 8 pp. 242-246

See R. pp. 5676-5680

Covil Trial Exhibit 115 pp 6-17

Duplicative of Penn National Trial Exhibit 8 pp. 292-303

See R. pp. 5726-5737

Covil Trial Exhibit 116

Duplicative of Penn National Trial Exhibit 8 pp. 288-290

See R. pp. 5722-5724

IMPORTANT MESSAGE

DON'T PAY MORE PREMIUM THAN NECESSARY ON YOUR WORKERS' COMPENSATION OR GENERAL LIABILITY INSURANCE

1. If you employ a sub-contractor who has employees, but who does not have a Workers' Compensation Policy, the Law holds you responsible for injuries to the sub-contractor's employees.

Further, since the sub-contractor does not carry Workers' Compensation insurance, Part Five - Premium (under C-2 - Remuneration) of your policy states that you will pay an additional Workers' Compensation premium under your policy for the sub-contractor's payroll - or the contract price, if you do not have payroll records.

Therefore, in order to avoid payment of any additional premium on your part, have the sub-contractor secure a Certificate of Insurance from his insurance carrier which states that the sub-contractor has Workers' Compensation insurance in force. Keep this Certificate of Insurance in your file for examination by a Pennsylvania National auditor.

2. Your Workers' Compensation and/or General Liability Policy may have been assigned two (2) or more classifications of operations. Therefore, you, as the employer, must keep appropriate records showing a correct and verifiable segregation of payroll among those classifications assigned. If it is determined that your records fail to properly separate the payroll among the assigned classifications, the payroll of all employees will have to be assigned to the classification of operations carrying the highest rate.



Form 70-1496 (Rev. 4/88)

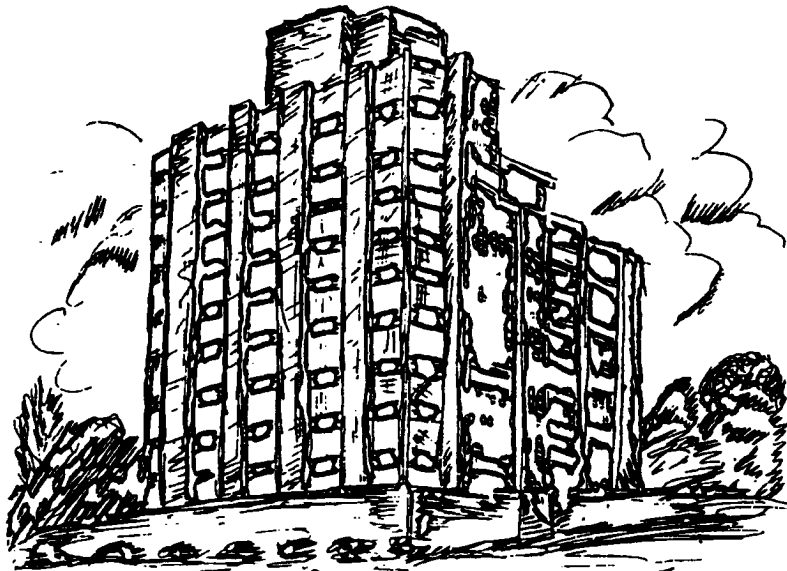
COV_005834

COV_INS_000039

PLAINTIFF'S
EXHIBIT

117

PROPERTY - LIABILITY COMBINATION



PROPERTY - LIABILITY COMBINATION

FORM 70-91

COV_INS_000040

COV_005835

NAMED
INSURED

POLICY
PERIOD

AGENCY

Pennsylvania National



Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

LINES OF INSURANCE WRITTEN:

Homeowners	Workers' Compensation	Automobile
•	•	•
Inland Marine	General Liability	Fidelity Bonds
•	•	•
Plate Glass	Fire and Allied Lines	Surety Bonds
•	•	•
Multi-Peril	Umbrella Liability	Burglary
•	•	•
Boiler and Machinery	Businessowners	Earthquake
•	•	•
Pollution Liability	Small Business Computer	Dwelling
	•	
	Voluntary Emergency Service	
	Organization Errors &	
	Omissions Liability	

THIS POLICY JACKET WITH THE DECLARATIONS PAGE, POLICY, FORMS AND
ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETES
THIS POLICY.

FORM 70-327 (REV. 11/86)

COV_INS_000041

COV_005836

MUTUAL POLI

THIS POLICY IS NON-ASSESSABLE. THE POLICYHOLDER IS A MEMBER (CONDITIONS FIXED AND DETERMINED BY THE BOARD OF DIRECTORS (DIVIDENDS SO FIXED AND DETERMINED.

ANNUAI

THE INSURED IS HEREBY NOTIFIED THAT BY VIRTUE OF THIS POLICY INSURANCE COMPANY AND IS ENTITLED TO VOTE EITHER IN PERSON O MEETINGS OF THE COMPANY ARE HELD AT ITS HOME OFFICE IN THE YEAR, AT 10:00 O'CLOCK A.M., AND THE INCLUSION OF THIS NOTICE ANNUAL MEETING.

IN WITNESS WHEREOF, The company has caused this policy valid unless completed by the attachment hereto of a Declaratio countersigned on the aforesaid declarations page by a duly authori

Marlin F. Schubert Secretary

The Attaching Clause need be completed only when any of these endorsements are issued subsequent to preparation of the policy.

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number	Effective	Expiring	Issued to
Endorsement No.	Effective		Agent
Authorized Representative			

SPECIAL NAMED INSURED ENDORSEMENT

It is agreed that the person(s) or organization(s) named in the Declarations of this policy is(are) as follows:

Covil Corp., Inc., Covil Construction
Co., Inc. (Domant Corp.), John Hamrick Link-President, James P. Covil -
Vice President, Yvonne W. Ward - Corporate Secretary and Treasurer,
Charles McWhorter - Assistant Corporate Secretary

It is further agreed that all named insureds are owned and controlled by the same financial interest.

It is further agreed that the inclusion of more than one insured shall not operate to increase the limits of the Company's liability.

Form 70-53 (Rev. 4/84)

COV_005839

COV_INS_000044

COMMON POLICY CONDITIONS

All Coverage Parts included in this policy are subject to the following conditions.

A. CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. CHANGES

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. EXAMINATION OF YOUR BOOKS AND RECORDS

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. INSPECTIONS AND SURVEYS

We have the right but are not obligated to:

1. Make inspections and surveys at any time;
2. Give you reports on the conditions we find; and
3. Recommend changes.

Any inspections, surveys, reports or recommendations relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:

1. Are safe or healthful; or
2. Comply with laws, regulations, codes or standards.

This condition applies not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

E. PREMIUMS

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. TRANSFER OF YOUR RIGHTS AND DUTIES UNDER THIS POLICY

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SOUTH CAROLINA CHANGES - CANCELLATION

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
COMMERCIAL CRIME COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A. Paragraphs 2. and 3. of CANCELLATION Common Policy Condition are replaced by the following:
2. We may cancel this policy by mailing or delivering to the first Named Insured and the agent, if any, written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
 3. We will mail or deliver our notice to the first Named Insured's and agent's last known addresses.
- B. The following is added to the CANCELLATION Common Policy Condition:
7. CANCELLATION OF POLICIES IN EFFECT FOR 90 DAYS OR MORE
- If this policy has been in effect for 90 days or more, or is a renewal or continuation of a policy we issued, we may cancel this policy only for one or more of the following reasons:
- a. Nonpayment of premium;
 - b. Material misrepresentation of fact which, if known to us, would have caused us not to issue the policy;
 - c. Substantial change in the risk assumed, except to the extent that we should reasonably have foreseen the change or contemplated the risk in writing the policy;
 - d. Substantial breaches of contractual duties, conditions or warranties; or
 - e. Loss of our reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the policy would imperil our solvency or place us in violation of the insurance laws of South Carolina.
- Notice of cancellation will state the reason for cancellation.
- C. The following is added and supersedes any provisions to the contrary:
- NONRENEWAL
1. If we decide not to renew this policy we will mail or deliver written notice of nonrenewal, along with the reason for nonrenewal, to the first Named Insured, and the agent, if any, at least 30 days before:
 - a. The expiration date; or
 - b. The anniversary date if this is a continuous policy.
 2. Any notice of nonrenewal will be mailed or delivered to the first Named Insured's and agent's last known addresses. If notice is mailed, proof of mailing will be sufficient proof of notice.

FIRE & ALLIED LINES



FIRE & ALLIED LINES

FORM 70-90

COV_INS_000047

COV_005842

COMMERCIAL PROPERTY
COVERAGE PART DECLARATIONS
NON-ASSESSABLE

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

POLICY NO. CL 219 0 01 85 169

REGIONAL OFFICE CBO		IN LIEU OF 515 50 28 53 8	
ITEM 1. INSURED'S NAME AND * MAILING ADDRESS (LAST NAME FIRST) Covil Corp., Inc. (See 70-53)		COMPANY USE ONLY 99	
		COMPANY USE ONLY 2 3 2163 5567	
ITEM 2. * POLICY PERIOD FROM: 3/31/88 TO: 3/31/89			
AT 12:01 AM STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.			
A G E N C Y	AGENCY NUMBER 22 6729		
	ISSUING DATE 5/20/88dp		PRODUCER ID. 025

Item No.	IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.						
3.	DESCRIPTION OF PREMISES						
	PREM. NO.	BLDG. NO.	LOCATION, CONSTRUCTION AND OCCUPANCY				TAX DIST.
	1	1	131 Pensley Cir., Greenville, Greenville Co., SC - NCII - office/warehouse				
	☒ *X* IF SUPPLEMENTAL DECLARATIONS IS ATTACHED						
4.	COVERAGES PROVIDED - INSURANCE AT THE DESCRIBED PREMISES APPLIES ONLY FOR COVERAGES FOR WHICH A LIMIT OF INSURANCE IS SHOWN.						
	PREM. NO.	BLDG. NO.	COVERAGE	LIMIT OF INSURANCE	COVERED CAUSES OF LOSS	COINSURANCE	RATES
	1	1	Building	963,000	Special	80	
	1	1	Your Business	1,200,000	Special	80	
			Personal Property				
	South Carolina: Valuation Clause \$ 963,000				* IF EXTRA EXPENSE COVERAGE, LIMITS ON LOSS PAYMENT		
5.	OPTIONAL COVERAGES - APPLICABLE ONLY WHEN ENTRIES ARE MADE IN THE SCHEDULE BELOW.						
	REM. NO.	BLDG. NO.	AGREED VALUE EXPIRATION DATE	COVERAGE	AMOUNT	BUILDING REPLACEMENT COST (X)	PERSONAL PROPERTY INCLUDING "STOCK"
	1	1				X	
	1	1					X
	PREM. NO.	BLDG. NO.	INFLATION GUARD (PERCENTAGE)		* MONTHLY LIMIT OF INDEMNITY (FRACTION)	* MAXIMUM PERIOD OF INDEMNITY (X)	* EXTENDED PERIOD OF INDEMNITY (DAYS)
	1	1	BUILDING PERSONAL PROPERTY				
	1	1					
	* APPLIES TO BUSINESS INCOME ONLY						
6.	MORTGAGE HOLDER(S)						
	PREM. NO.	BLDG. NO.	MORTGAGE HOLDER NAME AND MAILING ADDRESS				
	1	1	Community Bank, P.O. Box 6807, Greenville, SC 29602				
	1	1	First Federal of SC, 2304 W. Parker Rd., Greenville, SC 29602				
7.	DEDUCTIBLE						
	THE DEDUCTIBLE AMOUNT IS \$250. UNLESS OTHERWISE STATED:						\$ 1,000
8.	FORMS AND ENDORSEMENTS						
	APPLICABLE TO ALL COVERAGES: CF130 1/86, 70-1707 1/86, CP1030 11/85, CP0090 11/85, CP0010 11/85, CP0186 4/86, CP0110 11/85, 70-53 4/84						
	APPLICABLE TO SPECIFIC PREMISES COVERAGES: PREM. NO. BLDG. NO. COVERAGES						
9.	PREMIUM FOR THIS COVERAGE PART*						
	TOTAL \$ 11,934.		Payable at inception \$		1st Anniversary \$		2nd Anniversary \$

Countersigned By: Sam J. Crain
Authorized Representative

THESE DECLARATIONS AND THE COMMON DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

* INFORMATION OMITTED IF SHOWN IN COMMON DECLARATIONS.

COMMERCIAL PROPERTY INSURANCE SUMMARY OF SIGNIFICANT BROADENED AND RESTRICTIVE FEATURES OF SIMPLIFIED COMMERCIAL FIRE, ALLIED LINES AND GLASS FORMS

We are renewing your Commercial Fire, Allied Lines and/or Glass insurance with a new policy in simplified language. The new policy will result in some coverage broadenings and reductions in certain areas.

Following is a summary of the broadenings and reductions in the various Commercial Fire, Allied Lines and Glass coverages subject to the simplification program. This summary applies to your policy to the extent that your new policy affords the coverage(s) discussed herein.

NO COVERAGE IS PROVIDED BY THIS SUMMARY NOR CAN IT BE CONSTRUED TO REPLACE ANY PROVISIONS OF YOUR POLICY. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE FOR COMPLETE INFORMATION ON THE COVERAGES YOU ARE PROVIDED. IF THERE IS ANY CONFLICT BETWEEN THE POLICY AND THIS SUMMARY, **THE PROVISIONS OF THE POLICY SHALL PREVAIL.**

BROADENED FEATURES

Conditions

- The Cancellation Condition of the Common Policy Conditions broadens coverage in most states by establishing that the company will give:
 - 10 days' advance notice of cancellation in the event of nonpayment of premium, and
 - 30 days' notice in all other cases.

These provisions are reduced, however, in the Cancellation Changes Form for several specified conditions.

- In the Legal Action Against Us Commercial Property Condition (formerly Suit condition), the time period within which a suit may be brought is extended from 12 to 24 months.
- In the Policy Period, Coverage Territory Commercial Property Condition, the coverage territory is expanded to include Puerto Rico (not included in the General Property Form) and Canada (for incidental exposures only).

Property Damage Coverages

- Outdoor fixtures and incidental personal property which services the premises are included in the Building coverage.
- The Duration of the Preservation of Property Additional Coverage (previously the peril of Removal) is increased from five to ten days.
- Fire Department Service Charge Additional Coverage is introduced subject to a \$1,000 limit.
- The Newly Acquired or Constructed Property Coverage Extension limit for personal property is increased from \$10,000 to \$100,000.
- With respect to the Personal Effects and Property of Others Extension (currently referred to as Personal Property of Others or Non-Owned Personal Property):
 - Business Personal Property coverage is no longer limited to "property similar to that covered by this policy".
 - Business Personal Property coverage is no longer limited to 2% of the personal property amount and the \$2,000 limit is increased to \$2,500.
 - Coverage for personal effects is increased from \$100 per person/\$500 per occurrence to the same \$2,500 cumulative per occurrence limit applicable to business personal property of others, and coverage is no longer voided by specific insurance.
- The Valuable Papers and Records Coverage Extension limit is increased from \$500 to \$1,000.
- The Property Off-Premises extension of coverage restriction of 2% is lifted. The restriction that building property must be undergoing cleaning, repair, restoration or construction is waived. Coverage for personal property off-premises under this extension is liberalized to include loss by theft if "all risk" coverage applies.

- The Outdoor Property Coverage Extension revises the previous Trees, Shrubs and Plants extension to include coverage for outdoor radio and television antennas, fences and detached signs. Additionally, the 5% limitation found in some current forms is withdrawn.
- The \$1,000 limit on the Replacement Cost coverage in the current Special Building Form is increased to \$2,500 and this coverage now applies to named perils.
- Up to \$1,000 full coverage on outdoor signs attached to buildings is introduced.
- An additional limit of \$5,000 is provided under Debris Removal if the amount of loss and the cost to remove the debris exhausts the limit.
- The percentage increase applicable to the Inflation Guard Optional Coverage (formerly Automatic Increase in Insurance Endorsement) is revised to apply on a prorated instead of a quarterly basis.
- Under the Replacement Cost Coverage Option, the Coinsurance Clause is revised to apply on an Actual Cash Value basis if you elect to apply actual cash value to loss adjustment instead of replacement cost.
- The "per item" application of the current deductible and the \$1,000 per occurrence aggregate are withdrawn.
- In the Loss Payment condition, the time period for payment of loss is reduced from 60 to 30 days.
- Time limits are withdrawn in the Appraisal condition.
- Under the Glass Coverage Form:
 - Glass coverage is broadened to include debris removal expenses and a Newly Acquired Glass extension of coverage.
 - Dollar limits on additional coverages are withdrawn.
- In the simplified Builders' Risk Coverage Form, the Building Materials and Supplies of Others Coverage Extension limit is increased from \$2,000 to \$2,500 and the current 2% limitation is withdrawn.

Business Income Coverage

- Extra Expense coverage without special monthly limitations is included in the Business Income Limit of Insurance.
- The Civil Authority Additional Coverage applies whether or not loss occurs at an "adjacent" building.
- 30 days' Extended Business Income (Extended Period of Indemnity) coverage is included as an automatic feature of coverage.
- A Newly Acquired Locations Coverage Extension is introduced.
- The Electronic Media and Records coverage is increased from 30 to 60 days.

Leasehold Interest Coverage

- Coverage is no longer conditional upon cancellation of the lease through application of a Fire Clause.
- Coverage is activated by any reason outside of your control if the direct physical damage is brought on by a covered cause of loss.
- The Building Ordinance exclusion is no longer applicable.

Causes of Loss Forms

- Accidents involving an atomic weapon in peacetime may be covered so long as nuclear reaction (or any other exclusion) does not occur.
- The exclusion of loss by vehicles owned or operated by tenants is withdrawn under the Aircraft or Vehicles peril.
- Current exclusions of loss or damage due to changes in temperature or humidity and interruption of operations are withdrawn under the Riot or Civil Commotion peril.
- Exclusions of sonic boom and water hammer are withdrawn under the Explosion peril.
- With respect to Vandalism, the exclusion of loss by depreciation is withdrawn and the grace period for vacancy is extended to 60 days.

- The grace period for vacancy is also extended to 60 days for sprinkler leakage, glass breakage, water damage and theft.
- The alterations and repairs exclusion is withdrawn under the Sprinkler Leakage peril.
- New perils of Sinkhole Collapse and Volcanic Action are introduced.
- Limits for payment are increased from \$50 to \$100 for each plate or pane and from \$250 to \$500 for any one occurrence under the Breakage of Glass peril.
- Under the Causes of Loss—Special Form, coverage for resulting perils in several exclusions is broadened to include coverage at least as broad as the Causes of Loss—Broad Form.

Other Forms Changes

- Simplified Building Ordinance Coverage provides a single limit of insurance for all loss or damage. Coverage arising from enforcement of zoning or land use laws is included.
- Under the Business Income from Dependent Properties Forms (formerly Contingent Business Interruption Insurance):
 - An automatic extension of coverage for miscellaneous locations is introduced;
 - Period of Indemnity extensions are introduced; and
 - Extra expense coverage is included in the Limit of Insurance.
- Business Interruption Premium Adjustment coverage provides that election of the 125% coinsurance clause permits coverage to extend beyond 12 months.
- The penalty for underreporting in the Business Income Agreed Value Coverage Option is withdrawn.

PRINCIPAL RESTRICTIVE FEATURES

Property Damage Coverage

- The basic policy deductible is increased from \$100 to \$250 with an option to buy back the \$100 deductible. The deductible applies only **after** any Coinsurance penalty is taken, which formerly only applied to optional "large" deductibles.
- Several types of property, now excluded with respect to certain perils, are excluded entirely with provision for a buy-back to full coverage.
- A dollar limitation (\$250,000) on buildings for the Newly Acquired or Constructed Property Coverage Extension is introduced.
- The Extra Expense and Damage to Buildings from Theft, Burglary and Robbery extensions of coverage are withdrawn.
- Coverage for Builders' Machinery and Equipment as a separate item in Builders' Risk coverage is not provided.
- The 10% penalty in the Value Reporting Form for failure to submit initial reports of value is increased to 25%.

Causes of Loss Forms

- The following exclusions are made general exclusions because they apply to more than one cause of loss:
 - Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you or operated under your control;
 - Electric arcing;
 - Rupture or bursting of rotating or moving machine parts caused by centrifugal force or mechanical breakdown;
 - Rupture of water pipes.
- Under the Causes of Loss—Special Form:
 - An exclusion is added to exclude losses caused by environmental contamination.

- An exclusion for loss to property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions is introduced.

Business Income

The Duties in Event of Loss Condition is revised to require you to do what you can to resume business operations.

OTHER RESTRICTIVE FEATURES

- In the Examination of Your Books and Records Common Policy Condition (previously the Verification of Values condition), the extension of the permitted period for our examination is extended from one year to three years.
- In the Causes of Loss—Basic and Special Forms, the exclusion of loss due to freezing no longer applies only if the premises are vacant or unoccupied.
- A mudslide and mudflow exclusion is added to the Water Exclusion under the Causes of Loss—Basic, Broad and Special Forms.
- An exclusion of ice is added to the Rain, Snow or Sleet exclusion of the Causes of Loss—Special Form.
- In the Special Causes of Loss Form, loss by vapor or gas from agricultural smudging or industrial operations now applies to personal property. Also, loss by resultant named perils is no longer covered.

Also in the Special Form, the exclusion of loss by settling, cracking, shrinking or expansion now applies to all property—previously it applied only to certain structural items such as foundations, walls and ceilings.

- The Theft Exclusion Endorsement excludes all loss by theft regardless of whether or not the property involved is attached to and made a part of the building.
- Under the Causes of Loss—Earthquake Form, an exclusion is added with respect to any earthquake or volcanic eruption that begins prior to the inception of the policy period. This counterbalances the extension in the description of the Covered Causes of Loss that covers losses that may occur after the policy period.
- Unless an additional premium is paid, Glass coverage is suspended in buildings that have been vacant more than 60 days.
- If you obtain consequential loss coverage for failure of off-premises services, no Business Income or Extra Expense incurred in the first 12 hours will be covered, regardless of the cause.



COMMERCIAL PROPERTY COVERAGE PART
SUPPLEMENTAL DECLARATIONS

POLICY NO.

1. NAMED INSURED:							
3. DESCRIPTION OF PREMISES							
PREM. NO.	BLDG. NO.	LOCATION, CONSTRUCTION AND OCCUPANCY					
1	2	Same, NC II, Garage					
2	1	130 Pensley Cir., Greenville, Greenville, SC - JM - warehouse					
3	1	149 Industrial Blvd., Greensboro, Guilford Co., NC - JM - warehouse					
4. COVERAGES PROVIDED — INSURANCE AT THE DESCRIBED PREMISES APPLIES ONLY FOR COVERAGES FOR WHICH A LIMIT OF INSURANCE IS SHOWN.							
PREM. NO.	BLDG. NO.	COVERAGE	LIMIT OF INSURANCE	COVERED CAUSES OF LOSS	COINSURANCE†	RATES	
1	2	Building	5,000	Special	80		
1	2	Your Business	2,000	Special	80		
		Personal Property					
2	1	Your Business	31,000	Special	80		
		Personal Property					
3	1	Your Business	100,000	Special	80		
		Personal Property					
†IF EXTRA EXPENSE COVERAGE, LIMITS ON LOSS PAYMENT							
5. OPTIONAL COVERAGES — APPLICABLE ONLY WHEN ENTRIES ARE MADE IN THE SCHEDULE BELOW.							
PREM. NO.	BLDG. NO.	AGREED VALUE EXPIRATION DATE	COVERAGE	AMOUNT	BUILDING	REPLACEMENT COST (X)	
						PERSONAL PROPERTY	INCLUDING "STOCK"
1	2				X		
1	2					X	
2	1					X	
3	1					X	
PREM. NO.	BLDG. NO.	INFLATION GUARD (PERCENTAGE)		* MONTHLY LIMIT OF INDEMNITY (FRACTION)	* MAXIMUM PERIOD OF INDEMNITY (X)	* EXTENDED PERIOD OF INDEMNITY (DAYS)	
		BUILDING	PERSONAL PROPERTY				
1	2						
1	2						
2	1						
3	1						

* APPLIES TO BUSINESS INCOME ONLY

COMMERCIAL PROPERTY

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to SECTION H—DEFINITION.

A. COVERAGE

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means the following types of property for which a Limit of Insurance is shown in the Declarations:

a. Building, meaning the building or structure described in the Declarations, including:

- (1) Completed additions;
- (2) Permanently installed fixtures, machinery and equipment;
- (3) Outdoor fixtures;
- (4) Personal property owned by you that is used to maintain or service the building or structure or its premises, including:
 - (a) Fire extinguishing equipment;
 - (b) Outdoor furniture;
 - (c) Floor coverings; and
 - (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;
- (5) If not covered by other insurance:
 - (a) Additions under construction, alterations and repairs to the building or structure;
 - (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the building or structure.

b. Your Business Personal Property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises, consisting of the following unless otherwise specified in the Declarations or on the Your Business Personal Property—Separation of Coverage form:

- (1) Furniture and fixtures;
- (2) Machinery and equipment;
- (3) "Stock";
- (4) All other personal property owned by you and used in your business;
- (5) Labor, materials or services furnished or arranged by you on personal property of others; and
- (6) Your use interest as tenant in improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:
 - (a) Made a part of the building or structure you occupy but do not own; and
 - (b) You acquired or made at your expense but cannot legally remove.

c. Personal Property of Others that is:

- (1) In your care, custody or control; and
- (2) Located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises.

However, our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

2. Property Not Covered

Covered Property does not include:

- a. Accounts, bills, currency, deeds, evidences of debt, money, notes or securities;
- b. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings;
- c. Automobiles held for sale;
- d. Bridges, roadways, walks, patios or other paved surfaces;
- e. Contraband, or property in the course of illegal transportation or trade;
- f. The cost of excavations, grading, backfilling or filling;
- g. Foundations of buildings, structures, machinery or boilers if their foundations are below:
 - (1) The lowest basement floor; or
 - (2) The surface of the ground, if there is no basement;
- h. Land (including land on which the property is located), growing crops or lawns;
- i. Personal property while airborne or waterborne;
- j. Pilings, piers, wharves or docks;
- k. Property that is covered under another coverage form of this or any other policy in which it is more specifically described, except for the excess of the amount due (whether you can collect on it or not) from that other insurance;
- l. Retaining walls that are not part of the building described in the Declarations;
- m. Underground pipes, flues or drains;
- n. The cost to research, replace or restore the information on valuable papers and records, including those which exist on electronic or magnetic media, except as provided in the Coverage Extensions;
- o. Vehicles or self-propelled machines (including aircraft or watercraft) that:
 - (1) Are licensed for use on public roads;
 - (2) Are operated principally away from the described premises; or
 - (3) You do not manufacture, process, warehouse or hold for sale. But this paragraph does not apply to rowboats or canoes out of the water at the described premises;
- p. The following property while outside of buildings:
 - (1) Grain, hay, straw or other crops;

- (2) Fences, radio or television antennas, including their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants, all except as provided in the Coverage Extensions.

3. Covered Causes Of Loss

See applicable Causes of Loss Form as shown in the Declarations.

4. Additional Coverages

a. Debris Removal

We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss.

b. Preservation of Property

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 10 days after the property is first moved.

c. Fire Department Service Charge

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$1,000 for your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

No Deductible applies to this Additional Coverage.

5. Coverage Extensions

If a Coinsurance percentage of 80% or more is shown in the Declarations, you may extend the insurance provided by this Coverage Part as follows:

a. Newly Acquired or Constructed Property

- (1) You may extend the insurance that applies to Building to apply to:
 - (a) Your new buildings while being built on the described premises; and
 - (b) Buildings you acquire at locations, other than the described premises, intended for:
 - (i) Similar use as the building described in the Declarations; or

(ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is 25% of the Limit of Insurance for Building shown in the Declarations, but not more than \$250,000 at each building.

- (2) You may extend the insurance that applies to Your Business Personal Property to apply to that property at any location you acquire other than at fairs or exhibitions.

The most we will pay for loss or damage under this Extension is 10% of the Limit of Insurance for Your Business Personal Property shown in the Declarations, but not more than \$100,000 at each building.

- (3) Insurance under this Extension for each newly acquired or constructed property will end when any of the following first occurs:

- (a) This policy expires.
- (b) 30 days expire after you acquire or begin to construct the property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date construction begins or you acquire the property.

b. Personal Effects and Property of Others.

You may extend the insurance that applies to Your Business Personal Property to apply to:

- (1) Personal effects owned by you, your officers, your partners or your employees. This extension does not apply to loss or damage by theft.
- (2) Personal property of others in your care, custody or control.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises. Our payment for loss of or damage to personal property of others will only be for the account of the owner of the property.

c. Valuable Papers and Records—Cost of Research.

You may extend the insurance that applies to Your Business Personal Property to apply to your costs to research, replace or restore the lost information on lost or damaged valuable papers and records, including those which exist on electronic or magnetic media, for which duplicates do not exist. The most we will pay under this Extension is \$1,000 at each described premises.

d. Property Off-Premises

You may extend the insurance provided by this Coverage Form to apply to your Covered Property, other than "stock", that is temporarily at a location you do not own, lease or operate. This Extension applies only if loss or damage is caused by a Covered Cause of Loss. This Extension does not apply to Covered Property:

- (1) In or on a vehicle;
- (2) In the care, custody or control of your salespersons; or
- (3) At any fair or exhibition.

The most we will pay for loss or damage under this Extension is \$5,000.

e. Outdoor Property

You may extend the insurance provided by this Coverage Form to apply to your outdoor fences, radio and television antennas, signs (other than signs attached to buildings), trees, shrubs and plants, including debris removal expense, caused by or resulting from any of the following causes of loss if they are Covered Causes of Loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$1,000, but not more than \$250 for any one tree, shrub or plant.

Each of these Extensions is additional insurance. The Additional Condition, Coinsurance, does not apply to these Extensions.

B. EXCLUSIONS

See applicable Causes of Loss Form as shown in the Declarations.

C. LIMITS OF INSURANCE

The most we will pay for loss or damage in any one occurrence is the applicable Limit of Insurance shown in the Declarations.

The most we will pay for loss or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

The limits applicable to the Coverage Extensions and the Fire Department Service Charge Additional Coverage are in addition to the Limits of Insurance.

Payments under the following Additional Coverages will not increase the applicable Limit of Insurance:

1. Preservation of Property; or
2. Debris Removal; but if the sum of loss or damage and debris removal expense exceeds the Limit of Insurance, we will pay up to an additional \$5,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

D. DEDUCTIBLE

We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible, up to the applicable Limit of Insurance.

E. LOSS CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Abandonment

There can be no abandonment of any property to us.

2. Appraisal

If we and you disagree on the value of the property or the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the value of the property and amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

3. Duties In The Event Of Loss Or Damage

You must see that the following are done in the event of loss or damage to Covered Property:

- a. Notify the police if a law may have been broken.
- b. Give us prompt notice of the loss or damage. Include a description of the property involved.
- c. As soon as possible, give us a description of how, when and where the loss or damage occurred.
- d. Take all reasonable steps to protect the Covered Property from further damage. If feasible, set the damaged property aside and in the best possible order for examination. Also keep a record of your expenses, for consideration in the settlement of the claim.
- e. At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- f. Permit us to inspect the property and records proving the loss or damage.
- g. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. In such event, your answers must be signed.
- h. Send us a signed, sworn statement of loss containing the information we request to settle the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- i. Cooperate with us in the investigation or settlement of the claim.

4. Loss Payment

- a. In the event of loss or damage covered by this Coverage Form, we will either:
 - (1) Pay the value of lost or damaged property;
 - (2) Pay the cost of repairing or replacing the lost or damaged property, plus any reduction in value of repaired items;
 - (3) Take all or any part of the property at an agreed or appraised value; or
 - (4) Repair, rebuild or replace the property with other property of like kind and quality.
- b. We will not pay you more than your financial interest in the Covered Property.

- c. We will give notice of our intentions within 30 days after we receive the sworn statement of loss.
- d. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- e. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- f. We will pay for covered loss or damage within 30 days after we receive the sworn statement of loss, if:
 - (1) You have complied with all of the terms of this Coverage Part; and
 - (2) (a) We have reached agreement with you on the amount of loss; or
 - (b) An appraisal award has been made.

5. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, the property will be returned to you. You must then return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limit of Insurance.

6. Vacancy

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage, we will:

- a. Not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
 - (1) Vandalism;
 - (2) Sprinkler leakage, unless you have protected the system against freezing;
 - (3) Building glass breakage;
 - (4) Water damage;
 - (5) Theft; or
 - (6) Attempted theft.
- b. Reduce the amount we would otherwise pay for the loss or damage by 15%.

Buildings under construction are not considered vacant.

7. Valuation

We will determine the value of Covered Property in the event of loss or damage as follows:

- a. At actual cash value as of the time of loss or damage, except as provided in b., c., d., e. and f. below.
- b. If the Limit of Insurance for Building satisfies the Additional Condition, Coinsurance, and the cost to repair or replace the damaged building property is \$2,500 or less, we will pay the cost of building repairs or replacement.

This provision does not apply to the following even when attached to the building:

- (1) Awnings or floor coverings;
 - (2) Appliances for refrigerating, ventilating, cooking, dishwashing or laundering; or
 - (3) Outdoor equipment or furniture.
 - c. "Stock" you have sold but not delivered at the selling price less discounts and expenses you otherwise would have had.
 - d. Glass at the cost of replacement with safety glazing material if required by law.
 - e. Tenant's Improvements and Betterments at:
 - (1) Actual cash value of the lost or damaged property if you make repairs promptly.
 - (2) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
 - (a) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
 - (b) Divide the amount determined in (a) above by the number of days from the installation of improvements to the expiration of the lease.
- If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
- (3) Nothing if others pay for repairs or replacement.

f. Valuable Papers and Records, including those which exist on electronic or magnetic media (other than prepackaged software programs), at the cost of:

- (1) Blank materials for reproducing the records; and
- (2) Labor to transcribe or copy the records when there is a duplicate.

F. ADDITIONAL CONDITIONS

The following conditions apply in addition to the Common Policy Conditions and the Commercial Property Conditions.

1. Coinsurance

If a Coinsurance percentage is shown in the Declarations, the following condition applies.

- a. We will not pay the full amount of any loss if the value of Covered Property at the time of loss times the Coinsurance percentage shown for it in the Declarations is greater than the Limit of Insurance for the property.

Instead, we will determine the most we will pay using the following steps:

- (1) Multiply the value of Covered Property at the time of loss by the Coinsurance percentage;
- (2) Divide the Limit of Insurance of the property by the figure determined in step (1);
- (3) Multiply the total amount of the covered loss, before the application of any deductible, by the figure determined in step (2); and
- (4) Subtract the deductible from the figure determined in step (3).

The amount determined in step (4) is the most we will pay. For the remainder, you will either have to rely on other insurance or absorb the loss yourself.

Example No. 1 (Underinsurance):

When: The value of the property is \$250,000
 The Coinsurance percentage for it is 80%
 The Limit of Insurance for it is \$100,000
 The Deductible is \$250
 The amount of loss is \$ 40,000

Step (1): $\$250,000 \times 80\% = \$200,000$
 (the minimum amount of insurance to meet your Coinsurance requirements)

Step (2): $\$100,000 \div \$200,000 = .50$

Step (3): $\$ 40,000 \times .50 = \$20,000$

Step (4): $\$20,000 - \$250 = \$19,750$

We will pay no more than \$19,750. The remaining \$20,250 is not covered.

Example No. 2 (Adequate Insurance):

When: The value of the property is \$250,000
 The Coinsurance percentage for it is 80%
 The Limit of Insurance for it is \$200,000
 The Deductible is \$250
 The amount of loss is \$ 40,000

Step (1): $\$250,000 \times 80\% = \$200,000$
 (the minimum amount of insurance to meet your Coinsurance requirements)

Step (2): $\$200,000 \div \$200,000 = 1.00$

Step (3): $\$ 40,000 \times 1.00 = \$40,000$

Step (4): $\$40,000 - \$250 = \$39,750$

We will cover the \$39,750 loss in excess of the Deductible. No penalty applies.

- b. If one Limit of Insurance applies to two or more separate items, this condition will apply to the total of all property to which the limit applies.

Example No. 3:

When: The value of the property is:
 Bldg. at Location No. 1 \$ 75,000
 Bldg. at Location No. 2 100,000
 Personal Property at Location No. 2 75,000
 \$250,000

The Coinsurance percentage for it is 90%

The Limit of Insurance for Buildings and Personal Property at Location Nos. 1 and 2 is \$180,000

The Deductible is \$1,000

The amount of loss is

Bldg. at Location No. 2 \$30,000

Personal Property at Location No. 2 20,000
 \$50,000

Step (1): $\$250,000 \times 90\% = \$225,000$
(the minimum amount of insurance to meet your Coinsurance requirements and to avoid the penalty shown below)

Step (2): $\$180,000 \div \$225,000 = .80$

Step (3): $\$50,000 \times .80 = \$40,000$

Step (4): $\$40,000 - \$1,000 = \$39,000$

We will pay no more than \$39,000. The remaining \$11,000 is not covered.

2. Mortgage Holders

- a. The term "mortgage holder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgage holder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgage holder has the right to receive loss payment even if the mortgage holder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this Coverage Part, the mortgage holder will still have the right to receive loss payment if the mortgage holder:
 - (1) Pays any premium due under this Coverage Part at our request if you have failed to do so;
 - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
 - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgage holder.All of the terms of this Coverage Part will then apply directly to the mortgage holder.
- e. If we pay the mortgage holder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this Coverage Part:
 - (1) The mortgage holder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
 - (2) The mortgage holder's right to recover the full amount of the mortgage holder's claim will not be impaired.

At our option, we may pay to the mortgage holder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

- f. If we cancel this policy, we will give written notice to the mortgage holder at least:
 - (1) 10 days before the effective date of cancellation if we cancel for your non-payment of premium; or
 - (2) 30 days before the effective date of cancellation if we cancel for any other reason.
- g. If we do not renew this policy, we will give written notice to the mortgage holder at least 10 days before the expiration date of this policy.

G. OPTIONAL COVERAGES

If shown in the Declarations, the following Optional Coverages apply separately to each item.

1. Agreed Value

- a. The Additional Condition, Coinsurance, does not apply to Covered Property to which this Optional Coverage applies. We will pay no more for loss of or damage to that property than the proportion that the Limit of Insurance under this Coverage Part for the property bears to the Agreed Value shown for it in the Declarations.
- b. If the expiration date for this Optional Coverage shown in the Declarations is not extended, the Additional Condition, Coinsurance, is reinstated and this Optional Coverage expires.
- c. The terms of this Optional Coverage apply only to loss or damage that occurs:
 - (1) On or after the effective date of this Optional Coverage; and
 - (2) Before the Agreed Value expiration date shown in the Declarations or the policy expiration date, whichever occurs first.

2. Inflation Guard

- a. The Limit of Insurance for property to which this Optional Coverage applies will automatically increase by the annual percentage shown in the Declarations.
- b. The amount of increase will be:
 - (1) The most recent Limit of Insurance exclusive of this optional coverage, multiplied by
 - (2) The percentage of annual increase shown in the Declarations applied pro rata during each year.

3. Replacement Cost

- a. Replacement Cost (without deduction for depreciation) replaces Actual Cash Value in the Loss Condition, Valuation, of this Coverage Form.
- b. This Optional Coverage does not apply to:
 - (1) Property of others;
 - (2) Contents of a residence;
 - (3) Manuscripts;
 - (4) Works of art, antiques or rare articles, including etchings, pictures, statuary, marbles, bronzes, porcelains and bric-a-brac; or
 - (5) "Stock", unless the Including "Stock" option is shown in the Declarations.
- c. You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim for the additional coverage this Optional Coverage provides if you notify us of your intent to do so within 180 days after the loss or damage.

- d. We will not pay on a replacement cost basis for any loss or damage:

- (1) Until the lost or damaged property is actually repaired or replaced; and
- (2) Unless the repairs or replacement are made as soon as reasonably possible after the loss or damage.

- e. We will not pay more for loss or damage on a replacement cost basis than the least of:

- (1) The Limit of Insurance applicable to the lost or damaged property;
- (2) The cost to replace, on the same premises, the lost or damaged property with other property:
 - (a) Of comparable material and quality; and
 - (b) Used for the same purpose; or
- (3) The amount you actually spend that is necessary to repair or replace the lost or damaged property.

H. DEFINITIONS

"Stock" means merchandise held in storage or for sale, raw materials and in-process or finished goods, including supplies used in their packing or shipping.

POLICY NUMBER:

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

SOUTH CAROLINA CHANGES — VALUATION

This endorsement modifies insurance provided under the following:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM
BUILDERS' RISK COVERAGE FORM
CONDOMINIUM ASSOCIATION COVERAGE FORM

SCHEDULE*

Prem. No.	Bldg. No.	Agreed Value of Buildings	Total Amount of Insurance to be Carried

The following is added to VALUATION Loss Condition:

- A. For loss or damage to buildings caused by or resulting from fire or lightning, you and we agree that:
 - 1. The value of buildings described in this Coverage Part; and
 - 2. The total amount of insurance to be carried on the buildings, including this Coverage Part;are the amounts shown in the Schedule.
- B. The following applies to the Builders' Risk Coverage Form, if applicable:
The Agreed Value of Buildings represents the value of the building when it is completed.

*Information required to complete this Schedule, if not shown on this endorsement, will be shown in the Declarations.

CP 01 10 11 85

Copyright, ISO Commercial Risk Services, Inc., 1984

□

CAUSES OF LOSS—SPECIAL FORM

Words and phrases that appear in quotation marks have special meaning. Refer to Section F.—Definitions.

A. COVERED CAUSES OF LOSS

When Special is shown in the Declarations, Covered Causes of Loss means RISKS OF DIRECT PHYSICAL LOSS unless the loss is:

1. Excluded in Section B., Exclusions; or
2. Limited in Section C., Limitations; that follow.

B. EXCLUSIONS

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

a. Building Ordinance

The enforcement of any ordinance or law:

- (1) Regulating the construction, use or repair of any property; or
- (2) Requiring the tearing down of any property, including the cost of removing its debris.

b. Earth Movement

- (1) Any earth movement (other than sink-hole collapse), such as an earthquake, landslide, or earth sinking, rising or shifting. But if loss or damage by fire or explosion results, we will pay for that resulting loss or damage.

- (2) Volcanic eruption, explosion or effusion. But if loss or damage by fire, building glass breakage or volcanic action results, we will pay for that resulting loss or damage.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

- (a) Airborne volcanic blast or airborne shock waves;
- (b) Ash, dust or particulate matter; or
- (c) Lava flow.

All volcanic eruptions that occur within any 72-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss or damage to the described property.

c. Governmental Action

Seizure or destruction of property by order of governmental authority.

But we will pay for acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this Coverage Part.

d. Nuclear Hazard

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if loss or damage by fire results, we will pay for that resulting loss or damage.

e. Power Failure

The failure of power or other utility service supplied to the described premises, however caused, if the failure occurs away from the described premises.

But if loss or damage by a Covered Cause of Loss results, we will pay for that resulting loss or damage.

f. War And Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

g. Water

- (1) Flood, surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not;
- (2) Mudslide or mudflow;
- (3) Water that backs up from a sewer or drain; or
- (4) Water under the ground surface pressing on, or flowing or seeping through:
 - (a) Foundations, walls, floors or paved surfaces;
 - (b) Basements, whether paved or not; or

- (c) Doors, windows or other openings.

But if loss or damage by fire, explosion or sprinkler leakage results, we will pay for that resulting loss or damage.

- 2. We will not pay for loss or damage caused by or resulting from any of the following:

- a. Artificially generated electric current, including electric arcing, that disturbs electrical devices, appliances or wires.

But if loss or damage by fire results, we will pay for that resulting loss or damage.

- b. Delay, loss of use or loss of market.
- c. Smoke, vapor or gas from agricultural smudging or industrial operations.
- d. (1) Wear and tear;
(2) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
(3) Smog;
(4) Release, discharge or dispersal of contaminants or pollutants;
(5) Settling, cracking, shrinking or expansion;
(6) Insects, birds, rodents or other animals;
(7) Mechanical breakdown, including rupture or bursting caused by centrifugal force; or
(8) The following causes of loss to personal property:
 - (a) Dampness or dryness of atmosphere;
 - (b) Changes in or extremes of temperature; or
 - (c) Marring or scratching.

But if loss or damage by the "specified causes of loss" or building glass breakage results, we will pay for that resulting loss or damage.

- e. Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if loss or damage by fire or combustion explosion results, we will pay for that resulting loss or damage. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- f. Continuous or repeated seepage or leakage of water that occurs over a period of 14 days or more.

- g. Water that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the water supply if the heat is not maintained.

- h. Dishonest or criminal act by you, any of your partners, employees, directors, trustees, authorized representatives or anyone to whom you entrust the property for any purpose:

- (1) Acting alone or in collusion with others; or
- (2) Whether or not occurring during the hours of employment.

This exclusion does not apply to acts of destruction by your employees; but theft by employees is not covered.

- i. Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.
- j. Rain, snow, ice or sleet to personal property in the open.
- k. Collapse, except as provided below in the Additional Coverage for Collapse. But if loss or damage by a Covered Cause of Loss results at the described premises, we will pay for that resulting loss or damage.

- 3. We will not pay for loss or damage caused by or resulting from any of the following. But if loss or damage by a Covered Cause of Loss results, we will pay for that resulting loss or damage.

- a. Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in paragraph 1. above to produce the loss or damage.
- b. Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.
- c. Faulty, inadequate or defective:
 - (1) Planning, zoning, development, surveying, siting;
 - (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;

(3) Materials used in repair, construction, renovation or remodeling; or

(4) Maintenance;

of part or all of any property on or off the described premises.

4. Special Exclusions

The following provisions apply only to the specified Coverage Forms.

a. Business Income Coverage Form or Extra Expense Coverage Form

We will not pay for:

(1) Any loss caused by or resulting from:

(a) Damage or destruction of "finished stock"; or

(b) The time required to reproduce "finished stock".

This exclusion does not apply to Extra Expense.

(2) Any loss caused by or resulting from direct physical loss or damage to radio or television antennas, including their lead-in wiring, masts or towers. . .

(3) Any increase of loss caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration".

(4) Any Extra Expense caused by or resulting from suspension, lapse or cancellation of any license, lease or contract beyond the "period of restoration".

(5) Any other consequential loss.

b. Leasehold Interest Coverage Form

(1) Paragraph B.1.a., Building Ordinance, does not apply to insurance under this Coverage Form.

(2) We will not pay for any loss caused by:

(a) Your cancelling the lease;

(b) The suspension, lapse or cancellation of any license; or

(c) Any other consequential loss.

c. Legal Liability Coverage Form

(1) The following Exclusions do not apply to insurance under this Coverage Form:

(a) Paragraph B.1.a., Building Ordinance;

(b) Paragraph B.1.c., Governmental Action;

(c) Paragraph B.1.d., Nuclear Hazard;

(d) Paragraph B.1.e., Power Failure; and

(e) Paragraph B.1.f., War and Military Action.

(2) Contractual Liability

We will not defend any claim or "suit", or pay damages that you are legally liable to pay, solely by reason of your assumption of liability in a contract or agreement.

(3) Nuclear Hazard

We will not defend any claim or "suit", or pay any damages, loss, expense or obligation, resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

C. LIMITATIONS

1. We will not pay for loss of or damage to:

a. Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

b. Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.

c. The interior of any building or structure caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:

(1) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

(2) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.

- d. Building materials and supplies not attached as part of the building or structure caused by or resulting from theft.
 - e. Property that is missing, but there is no physical evidence to show what happened to it, such as shortage disclosed on taking inventory.
 - f. Gutters and downspouts caused by or resulting from weight of snow, ice or sleet.
 - g. Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
2. We will not pay more for loss of or damage to glass that is part of a building or structure than \$100 for each plate, pane, multiple plate insulating unit, radiant or solar heating panel, jalousie, louver or shutter. We will not pay more than \$500 for all loss of or damage to building glass that occurs at any one time.
- This Limitation does not apply to loss or damage by the "specified causes of loss", except vandalism.
3. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
- a. Valuable papers and records, such as books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, cell or other data processing, recording or storage media, and other records.
 - b. Animals, and then only if they are killed or their destruction is made necessary.
 - c. Fragile articles such as glassware, statuary, marbles, chinaware and porcelains, if broken. This restriction does not apply to:
 - (1) Glass that is part of a building or structure;
 - (2) Containers of property held for sale; or
 - (3) Photographic or scientific instrument lenses.
 - d. Builders' machinery, tools, and equipment you own or that are entrusted to you, unless held for sale by you.
4. For loss or damage by theft, the following types of property are covered only up to the limits shown:
- a. \$2,500 for furs, fur garments and garments trimmed with fur.

- b. \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semi-precious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
- c. \$2,500 for patterns, dies, molds and forms.
- d. \$250 for stamps, tickets and letters of credit.

D. ADDITIONAL COVERAGE—COLLAPSE

We will pay for loss or damage caused by or resulting from risks of direct physical loss involving collapse of a building or any part of a building caused only by one or more of the following:

- 1. The "specified causes of loss" or breakage of building glass, all only as insured against in this Coverage Part;
- 2. Hidden decay;
- 3. Hidden insect or vermin damage;
- 4. Weight of people or personal property;
- 5. Weight of rain that collects on a roof;
- 6. Use of defective material or methods in construction, remodeling or renovation if the collapse occurs during the course of the construction, remodeling or renovation.

We will not pay for loss or damage to the following types of property, if otherwise covered in this Coverage Part, under items 2., 3., 4., 5. and 6. unless the loss or damage is a direct result of the collapse of a building:

outdoor radio or television antennas, including their lead-in wiring, masts or towers; awnings; gutters and downspouts; yard fixtures; outdoor swimming pools; fences; piers, wharves and docks; beach or diving platforms or appurtenances; retaining walls; walks, roadways and other paved surfaces.

Collapse does not include settling, cracking, shrinkage, bulging or expansion.

This Additional Coverage will not increase the Limits of Insurance provided in this Coverage Part.

E. ADDITIONAL COVERAGE EXTENSIONS

1. Property in Transit. This Extension applies only to your personal property to which this form applies.

- a. You may extend the insurance provided by this Coverage Part to apply to your personal property (other than property in the care, custody or control of your salespersons) in transit more than 100 feet from the described premises. Property must be in or on a motor vehicle you own, lease or operate while between points in the coverage territory.
- b. Loss or damage must be caused by or result from one of the following causes of loss:
 - (1) Fire, lightning, explosion, windstorm or hail, riot or civil commotion, or vandalism.
 - (2) Vehicle collision, upset or overturn. Collision means accidental contact of your vehicle with another vehicle or object. It does not mean your vehicle's contact with the road bed.
 - (3) Theft of an entire bale, case or package by forced entry into a securely locked body or compartment of the vehicle. There must be visible marks of the forced entry.
- c. The most we will pay for loss or damage under this Extension is \$1000.

This Coverage Extension is additional insurance. The Additional Condition, Coinsurance, does not apply to this Extension.

2. Water Damage. If loss or damage caused by or resulting from a covered water damage loss occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or steam escapes.

We will not pay the cost of repairing or replacing the system or appliance itself; but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- a. Results in sprinkler leakage; or
- b. Is directly caused by freezing.

F. DEFINITIONS

"Specified Causes of Loss" means the following: Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

1. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or similar rock formations. It does not include the cost of filling sinkholes.
2. Falling objects does not include loss or damage to:
 - a. Personal property in the open; or
 - b. The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.
3. Water damage means accidental discharge or leakage of water or steam as the direct result of the breaking or cracking of any part of a system or appliance containing water or steam.

COMMERCIAL PROPERTY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CHANGES - POLLUTANTS

This endorsement modifies insurance provided under the following:

COMMERCIAL PROPERTY COVERAGE PART

A. The changes below apply to the following forms:

BUILDING AND PERSONAL PROPERTY COVERAGE FORM

CONDOMINIUM ASSOCIATION COVERAGE FORM

CONDOMINIUM COMMERCIAL UNIT-OWNERS COVERAGE FORM

BUILDERS' RISK COVERAGE FORM

TOBACCO SALES WAREHOUSES COVERAGE FORM

1. Under PROPERTY NOT COVERED, the following is added:

Covered Property does not include water.

2. The DEBRIS REMOVAL Additional Coverage is replaced by the following:

Debris Removal

a. We will pay your expense to remove debris of Covered Property caused by or resulting from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us within 180 days of the earlier of:

(1) The date of direct physical loss or damage; or

(2) The end of the policy period.

b. The most we will pay under this Additional Coverage is 25% of:

(1) The amount we pay for the direct loss or damage; plus

(2) The deductible in this policy applicable to that loss or damage.

But this limitation does not apply to any additional debris removal limit provided in the Limit of Insurance section.

c. This Additional Coverage does not apply to costs to:

(1) Extract "pollutants" from land or water; or

(2) Remove, restore or replace polluted land or water.

3. The following Additional Coverage is added:

Pollutant Clean Up and Removal

We will pay your expense to extract "pollutants" from land or water at the described premises if the release, discharge or dispersal of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us within 180 days of the earlier of:

a. The date of direct physical loss or damage; or

b. The end of the policy period.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12 month period of this policy. This limit is in addition to the Limits of Insurance.

4. Paragraph 2. of the LIMITS OF INSURANCE Section is replaced by the following:

2. Debris Removal; but if:

a. The sum of loss or damage and debris removal expense exceeds the Limit of Insurance; or

b. The debris removal expense exceeds the amount payable under the 25% Debris Removal coverage limitation in paragraph 2.b. above;

we will pay up to an additional \$5,000 for each location in any one occurrence under the Debris Removal Additional Coverage.

5. The following DEFINITION is added:

"Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

COMMERCIAL PROPERTY

B. The PERIOD OF RESTORATION definition is revised to include the following in the:

BUSINESS INCOME COVERAGE FORM

EXTRA EXPENSE COVERAGE FORM

BUSINESS INCOME FROM DEPENDENT PROPERTIES - BROAD FORM

BUSINESS INCOME FROM DEPENDENT PROPERTIES - LIMITED FORM

EXTRA EXPENSE FROM DEPENDENT PROPERTIES FORM

"Period of restoration" does not include any increased period required due to the enforcement of any law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Regulates the prevention, control, repair, clean-up or restoration of environmental damage.

C. The CAUSES OF LOSS - SPECIAL FORM is revised as follows:

1. The exclusion of, "Release, discharge or dispersal of contaminants or pollutants" in paragraph B.2.d.(4) is deleted.

2. The following Exclusion is added:

We will not pay for loss or damage caused by or resulting from the release, discharge or dispersal of "pollutants" unless the release, discharge or dispersal is itself caused by any of the "specified causes of loss". But if loss or damage by the "specified causes of loss" results, we will pay for the resulting damage caused by the "specified cause of loss".

COMMERCIAL PROPERTY

COMMERCIAL PROPERTY CONDITIONS

This Coverage Part is subject to the following conditions, the Common Policy Conditions and applicable Loss Conditions and Additional Conditions in Commercial Property Coverage Forms.

A. CONCEALMENT, MISREPRESENTATION OR FRAUD

This Coverage Part is void in any case of fraud by you relating to it. It is also void if you intentionally conceal or misrepresent a material fact concerning:

1. This Coverage Part;
2. The Covered Property; or
3. Your interest in the Covered Property.

B. CONTROL OF PROPERTY

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

If you violate a condition of this Coverage Part, we will not pay for loss or damage at the involved location. But your coverage will continue for other locations at which the violation does not apply.

C. INSURANCE UNDER TWO OR MORE COVERAGES

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

D. LEGAL ACTION AGAINST US

No one may bring a legal action against us under this Coverage Part unless:

1. There has been full compliance with all of the terms of this Coverage Part; and
2. The action is brought within 2 years after the date on which the direct physical loss or damage occurred.

E. LIBERALIZATION

If we adopt any revision that would broaden the coverage under this Coverage Part without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this Coverage Part.

F. NO BENEFIT TO BAILEE

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

G. OTHER INSURANCE

1. You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered

loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.

2. If there is other insurance covering the same loss or damage, other than that described in 1. above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance.

H. POLICY PERIOD, COVERAGE TERRITORY

Under this Coverage Part:

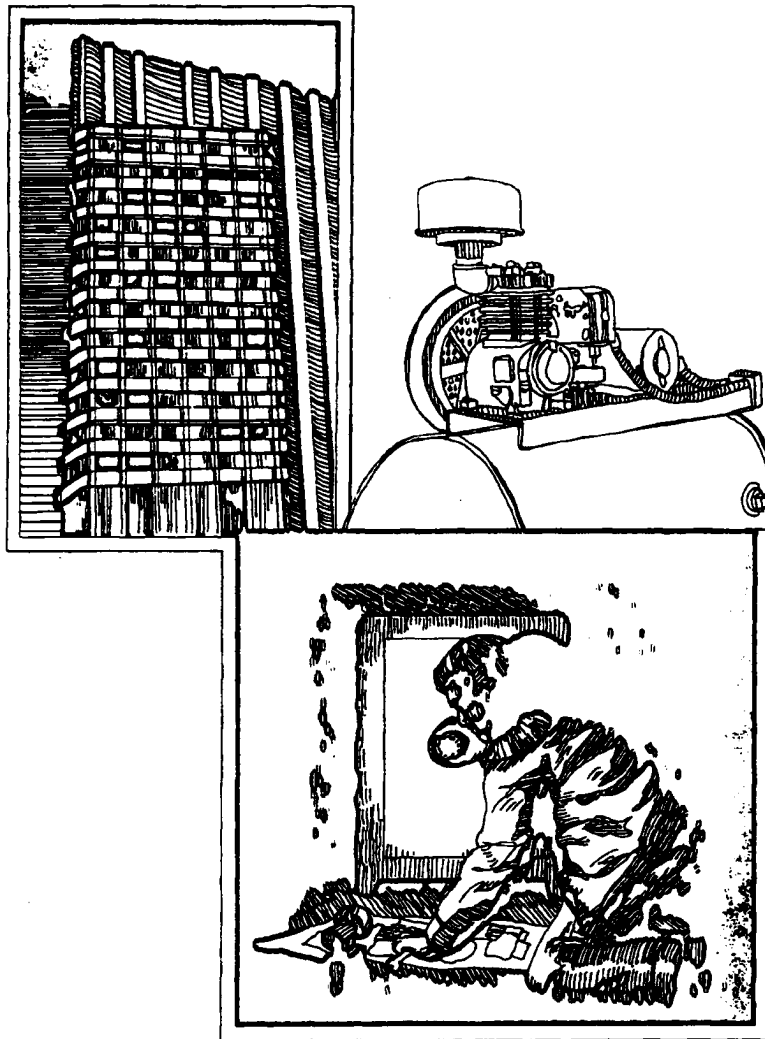
1. We cover loss or damage commencing:
 - a. During the policy period shown in the Declarations; and
 - b. Within the coverage territory.
2. The coverage territory is:
 - a. The United States of America;
 - b. Puerto Rico; and
 - c. Canada.

I. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

1. Prior to a loss to your Covered Property or Covered Income.
2. After a loss to your Covered Property or Covered Income only if, at time of loss, that party is one of the following:
 - a. Someone insured by this insurance;
 - b. A business firm:
 - (1) Owned or controlled by you; or
 - (2) That owns or controls you; or
 - c. Your tenant.

This will not restrict your insurance.



OTHER

OTHER

FORM 70-96 (REV. 7/78)

COV_INS_000071

COV_005866

COMMERCIAL CRIME
COVERAGE PART DECLARATIONS

NON-ASSESSABLE

**Pennsylvania
National**

Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

POLICY NO.

CL 2 1 9 0 0 1 8 5 1 6 9

REGIONAL OFFICE CBO	IN LIEU OF 515 50 28 53 8
ITEM 1. INSURED'S NAME AND * MAILING ADDRESS (LAST NAME FIRST) Covil Corp., Inc. (See 70-53)	COMPANY USE ONLY 99
	COMPANY USE ONLY 213 2163 6567
ITEM 2. * POLICY PERIOD FROM: 3/31/88 TO: 3/31/89 AT 12:01 AM STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.	
AGENCY Sam J. Crain & Co., Inc.	AGENCY NUMBER 22 6729
	ISSUING DATE 5/20/88dp
	PRODUCER ID. 025

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

3. COVERAGE, LIMITS OF INSURANCE AND DEDUCTIBLE																				
<table border="1"><thead><tr><th>Coverage Form(s) Forming Part of This Coverage Part</th><th>Limit of Insurance</th><th>Deductible Amount</th><th>Premium</th></tr></thead><tbody><tr><td>A Employees Dishonesty</td><td>50,000</td><td>250.</td><td>1708.</td></tr><tr><td>B Forgery & Alteration</td><td>50,000</td><td>250.</td><td>453.</td></tr><tr><td>D-1 Robbery of Custodian (inside)</td><td>5,000</td><td>250.</td><td>52.</td></tr><tr><td>D-2 Robbery of Messenger (outside)</td><td>5,000</td><td>250.</td><td>21.</td></tr></tbody></table>	Coverage Form(s) Forming Part of This Coverage Part	Limit of Insurance	Deductible Amount	Premium	A Employees Dishonesty	50,000	250.	1708.	B Forgery & Alteration	50,000	250.	453.	D-1 Robbery of Custodian (inside)	5,000	250.	52.	D-2 Robbery of Messenger (outside)	5,000	250.	21.
Coverage Form(s) Forming Part of This Coverage Part	Limit of Insurance	Deductible Amount	Premium																	
A Employees Dishonesty	50,000	250.	1708.																	
B Forgery & Alteration	50,000	250.	453.																	
D-1 Robbery of Custodian (inside)	5,000	250.	52.																	
D-2 Robbery of Messenger (outside)	5,000	250.	21.																	
TOTAL \$ 2234.																				
4. PREMIUM *																				
Premium for this Coverage Part \$ 2234.																				
Premium shown is payable: \$ at inception: \$ 1st Anniversary: \$ 2nd Anniversary																				
5. FORMS AND ENDORSEMENTS																				
Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue: CC130 1/86, CR1000 1/86, CR0001 1/86, CR0003 1/86, CR0005 1/86, CR1535 1/86																				
6. CANCELLATION OF PRIOR INSURANCE																				
By acceptance of this Policy you give us notice cancelling prior policy or bond numbers, _____ the cancellation to be effective at the time this Policy becomes effective.																				

COMPANY USE ONLY					

Countersigned By: *Sam J. Crain*

Authorized Representative *

THESE DECLARATIONS AND THE COMMON DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

* INFORMATION OMITTED IF SHOWN IN COMMON DECLARATIONS.

COV_INS_000072

COV_005867

COMMERCIAL CRIME INSURANCE IMPORTANT CHANGES IN YOUR COVERAGE

We are renewing or replacing your Commercial Crime insurance with a new policy in simplified language. The new policy will result in some coverage broadenings and reductions in certain areas.

Following is a summary of the broadenings and reductions in the various Crime coverages subject to the simplification program. The commentary relative to each of the indicated Coverage Forms applies to your policy only to the extent that the coverage of one or more of the indicated Coverage Forms is afforded under your policy.

NO COVERAGE IS PROVIDED BY THIS SUMMARY NOR CAN IT BE CONSTRUED TO REPLACE ANY PROVISIONS OF YOUR POLICY. YOU SHOULD READ YOUR POLICY AND REVIEW YOUR DECLARATIONS PAGE FOR COMPLETE INFORMATION ON THE COVERAGES YOU ARE PROVIDED. IF THERE IS ANY CONFLICT BETWEEN THE POLICY AND THIS SUMMARY, THE PROVISIONS OF THE POLICY SHALL PREVAIL.

COMMON POLICY CONDITIONS

I. Broadening of Coverage

The time frames for notice of cancellation have been expanded to 30 days notice of cancellation (10 days for nonpayment of premium) whereas the current conditions give either 10 or 15 days notice of cancellation under all circumstances.

II. Reduction of Coverage

None.

CRIME GENERAL PROVISIONS FORM

I. Broadening of Coverage

- a. The Consolidation-Merger provision is a new condition for certain coverages that expands coverage by providing automatic insurance for newly acquired employees and premises.
- b. The definition of "securities" has been expanded to include evidences of debt pertaining to credit or charge cards.

II. Reduction of Coverage

- a. A Governmental Action exclusion is added to clarify that this exposure is not intended to be covered under a Crime policy.
- b. The Indirect Loss exclusion is a new exclusion for certain coverages to clarify that coverage is provided for direct losses only.
- c. The Legal Expenses exclusion is a new exclusion for certain coverages that excludes losses related to any legal action.
- d. In the Valuation-Settlement condition, the insured is no longer able, for certain coverages, to approve of any settlements by the company.

THEFT, DISAPPEARANCE AND DESTRUCTION COVERAGE FORM

I. Broadening of Coverage

- a. Reference to a locked safe or vault was added

to the Containers of Covered Property Coverage Extension to expand coverage.

- b. In the Section 2 Covered Property provision the references to "while being conveyed by a messenger" and "while within the living quarters in the home of any messenger" were replaced by "in the care and custody" to expand coverage.

II. Reduction of Coverage

- a. In the Sections 1 & 2 Covered Property provisions, coverage for "other property" is now provided in separate coverage forms.
- b. The Acts of Employees, Directors, Trustees or Representatives exclusion now excludes losses due to safe burglary and robbery.
- c. The Fire exclusion was revised to clarify that no fire damage to the "premises" is covered.
- d. The Voluntary Parting of Title to or Possession of Property exclusion is contained in the current forms that provide theft coverage for property other than money and securities and is added to this coverage form.

ROBBERY AND SAFE BURGLARY COVERAGE FORM

I. Broadening of Coverage

- a. In the Premises, Safe and Vault Damage Coverage Extension coverage is expanded to include damage to a safe or vault.
- b. In the Section 2 Covered Property provision the reference "while being conveyed" is replaced by "in the care and custody" to expand coverage.
- c. The Conveyance of Property by Armored Motor Vehicle Company Coverage Extension is added to expand coverage.
- d. Manuscripts, books of account and records are now covered and a \$1,000 special limit applies.

II. Reduction of Coverage

- a. A Property Not Covered provision is added to Sections 1 & 2 to clarify that motor vehicles and related property are not intended to be covered under a Crime policy.
- b. An Acts of Employees, Directors, Trustees or Representatives exclusion is added to clarify that acts of the above people are not intended to be covered.
- c. A Fire exclusion is added to clarify that only fire damage to a safe or vault is covered.
- d. A Vandalism exclusion is added to clarify that coverage against vandalism is provided under the Commercial Property forms and not under this form.
- e. A Special Limit of Insurance for Specified Property condition is added that limits coverage for certain items of extraordinary value to \$1,000 for any one occurrence.

PREMISES BURGLARY COVERAGE FORM

I. Broadening of Coverage

- a. Coverage is expanded to include all property other than money and securities, except for motor vehicle related property, for loss or damage inside the premises.
- b. In the Covered Causes of Loss provision, robbery coverage is expanded by deleting the reference "while the premises are not open for business".
- c. The Changes in Conditions provision was made less restrictive by adding the phrase "within your control, etc."
- d. Manuscripts, books of account and records are now covered and a \$1,000 special limit applies.
- e. Furs are no longer excluded by removal from a showcase or show window but a \$1,000 special limit applies.
- f. In the Duties in the Event of Loss condition, the reference to the insured furnishing a complete inventory of all property not stolen or damaged, etc., was deleted to expand coverage.
- g. The definition of "robbery" was expanded to include reference to "an obviously unlawful act witnessed".

II. Reduction of Coverage

- a. Coverage is no longer provided as respects showcases or show windows located outside the premises but inside the building line.
- b. However, coverage can be provided by endorsement.
- b. A Property Not Covered provision is added to

clarify that motor vehicles and related property are not intended to be covered under a Crime policy.

- c. A Special Limit of Insurance for Specified Property condition is added that limits coverage for certain items of extraordinary value to \$1,000 for any one occurrence.

COMPUTER FRAUD COVERAGE FORM

I. Broadening of Coverage

Manuscripts and records are now covered and a \$1,000 special limit applies.

II. Reduction of Coverage

Drawings are now subject to a \$1,000 special limit.

EXTORTION COVERAGE FORM

I. Broadening of Coverage

None.

II. Reduction of Coverage

None.

PREMISES THEFT AND ROBBERY OUTSIDE THE PREMISES COVERAGE FORM

I. Broadening of Coverage

None.

II. Reduction of Coverage

An Exchanges or Purchases exclusion is added that excludes coverage for losses resulting from the giving or surrendering of property in any exchange or purchase.

LESSEES OF SAFE DEPOSIT BOXES COVERAGE FORM

I. Broadening of Coverage

- a. In the Section 1 Covered Property provision, coverage is expanded to apply to securities.
- b. In the Section 1 Covered Causes of Loss provision, coverage against theft, disappearance and destruction is now provided to expand coverage.

II. Reduction of Coverage

- a. The Fire exclusion was revised to clarify that no fire damage to the "premises" is covered.
- b. A Transfer or Surrender of Property exclusion is added to clarify that losses that result from unauthorized instructions or from a threat to do bodily harm or to damage property were never intended to be covered under this coverage form.
- c. The Voluntary Parting of Title to or Possession of Property exclusion is contained in the current forms that provide theft coverage for

property other than money and securities and is added to this coverage form.

SECURITIES DEPOSITED WITH OTHERS COVERAGE FORM

I. Broadening of Coverage

- a. The definition of "custodian" no longer requires that a custodian be a public official.
- b. The definition of "premises" no longer requires that the custodian or depository premises be in the banking or safe deposit business.

II. Reduction of Coverage

- a. A Transfer or Surrender of Property exclusion is added to clarify that losses that result from unauthorized instructions or from a threat to do bodily harm or to damage property were never intended to be covered under this coverage form.
- b. The Voluntary Parting of Title to or Possession of Property exclusion is contained in the current forms that provide theft coverage for property other than money and securities and is added to this coverage form.

LIABILITY FOR GUESTS' PROPERTY— SAFE DEPOSIT BOX COVERAGE FORM

I. Broadening of Coverage

- a. Coverage is expanded by including loss of earnings.
- b. Coverage is expanded by including pre-judgment interest on the amount of the company's payment for damages.
- c. Coverage is expanded by including loss of wages or salary up to \$100 per day.

II. Reduction of Coverage

- a. A Fire exclusion is added to clarify that coverage for fire is provided under the Commercial Property forms and not under this form.
- b. A Governmental Action exclusion is added to clarify that this exposure is not intended to be covered under a Crime policy.
- c. An Inherent Vice exclusion is added to clarify that coverage for such Inherent Vice is not intended to be covered under this form.
- d. A Release of Others From Liability exclusion is added to clarify that coverage for the release of others from liability is not intended to be covered under this form.
- e. In the Defense, Investigation and Settlement provision, the reference to "... settle any claim or suit as we deem expedient" replaces the reference to "but the company shall not,

without the written consent of the insured, settle. . . . Also, a reference that the company's right and duty to defend ends when the Limit of Insurance has been exhausted is added to clarify intent.

LIABILITY FOR GUESTS' PROPERTY— PREMISES COVERAGE FORM

I. Broadening of Coverage

- a. Coverage is expanded by including loss of earnings.
- b. Coverage is expanded by including pre-judgment interest on the amount of the company's payment for damages.
- c. Coverage is expanded by including loss of wages or salary up to \$100 per day.
- d. In the Limit of Insurance provision, payment made by the company no longer reduces the policy period limit of insurance.
- e. In the Duties in the Event of Loss, Claim or Suit condition, notice of loss, destruction or damage no longer needs to be in writing. A specific requirement is added that the insured authorize the company to obtain records or other information.

II. Reduction of Coverage

- a. An Acts Committed By You Or Your Partners exclusion is added to clarify that acts of the above people are not intended to be covered.
- b. A Fire exclusion is added to clarify that coverage for fire is provided under the Commercial Property forms and not under this form.
- c. A Governmental Action exclusion is added to clarify that this exposure is not intended to be covered under a Crime policy.
- d. Inherent Vice, Nuclear and War and Similar Actions exclusions are added to clarify that these exposures are not intended to be covered.
- e. In the Defense, Investigation and Settlement provision, a reference that the company's right and duty to defend ends when the Limit of Insurance has been exhausted is added to clarify intent.

SAFE DEPOSITORY GENERAL PROVISIONS FORM

I. Broadening of Coverage

None.

II. Reduction of Coverage

- a. An Acts Committed by You or Your Partners exclusion is added as respects the Safe Depository Liability Coverage Form to clarify that coverage for such acts is not intended to be covered.

- b. A Governmental Action and Nuclear exclusion are added to clarify that these exposures are not intended to be covered.
- c. A War and Similar Actions exclusion is added as respects the Safe Depository Liability Coverage Form to clarify that this exposure is not intended to be covered.

SAFE DEPOSITORY LIABILITY COVERAGE FORM

I. Broadening of Coverage

- a. Coverage is expanded by including loss of earnings.
- b. Coverage is expanded by including prejudgment interest on the amount of the company's payment for damages.
- c. Coverage is expanded by including loss of wages or salary up to \$100 per day.

II. Reduction of Coverage

- a. In the Defense, Investigation and Settlement

provision, the reference to "... settle any claim or suit as we deem expedient" replaces the reference to "but the company shall not, without the written consent of the insured, settle. ...". Also, a reference that the company's right and duty to defend ends when the Limit of Insurance has been exhausted is added to clarify intent.

- b. Coverage is no longer provided for officers and employees.

SAFE DEPOSITORY DIRECT LOSS COVERAGE FORM

I. Broadening of Coverage

None.

II. Reduction of Coverage

- a. The Fire exclusion was revised to clarify that no fire damage to the "premises" is covered.
- b. An Indirect Loss exclusion is added to clarify that coverage is provided for direct losses only.

CC 234
(1-86)

POLICY NUMBER:

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CR 15 35 01 86

**INCLUDE AS COVERED PROPERTY OR LIMIT COVERED
PROPERTY TO MONEY AND SECURITIES**

This endorsement applies only to the ROBBERY AND SAFE BURGLARY COVERAGE FORM D.

A. SCHEDULE*

1. **Covered Property** in item A, 1.a. (1) ☒ includes ☐ is limited to: ☒ "Money" and "Securities" ☐ "Money"
☐ "Securities" inside the "premises" in the care and custody of a "custodian".
2. **Covered Property** in item A, 1.b. (1) ☒ includes ☐ is limited to: ☒ "Money" and "Securities" ☐ "Money"
☐ "Securities" in a safe or vault within the "premises" or "banking premises".
3. **Covered Property** in item A, 2.a. ☒ includes ☐ is limited to: ☒ "Money" and "Securities" ☐ "Money"
☐ "Securities" outside the "premises" in the care and custody of a "messenger".

B. PROVISIONS

1. **Covered Property** is amended as shown in the SCHEDULE.
2. If the amendment made in item 2 of the SCHEDULE limits Covered Property to "money" and "securities", "money" or "securities", we will also pay under the **Premises, Safe and Vault Damage** Coverage Extension in Item A, 1.b. (3) for loss of a locked safe located within the "premises" resulting directly from the Covered Cause of Loss, if you are the owner of the safe.
3. The **Fire** Additional Exclusion is changed to:
 - b. **Fire:** loss resulting from fire, however caused, except loss of "money" or "securities" or loss from damage to a safe or vault from fire that is incidental to a Covered Cause of Loss.
4. The following Additional Exclusion is added:

Money Operated Devices: loss of "money" contained in any money operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.
5. The following Additional Definition is added:

"Banking Premises" means the interior of that portion of any building occupied by a banking institution or similar safe depository.

*Information required to complete this SCHEDULE, if not shown on this endorsement, will be shown in the Declarations.

CC 115
(1-86)

CR 10 00 01 86

CRIME GENERAL PROVISIONS FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is or is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Words and phrases in quotation marks are defined in the policy.

Unless stated otherwise in any Crime Coverage Form, Declarations or endorsement, the following General Exclusions, General Conditions and General Definitions apply to all Crime Coverage Forms forming part of this policy.

A. GENERAL EXCLUSIONS

We will not pay for loss as specified below:

1. **Acts Committed by You or Your Partners:** Loss resulting from any dishonest or criminal act committed by you or any of your partners whether acting alone or in collusion with other persons.
2. **Governmental Action:** Loss resulting from seizure or destruction of property by order of governmental authority.
3. **Indirect Loss:** Loss that is an indirect result of any act or "occurrence" covered by this insurance including, but not limited to, loss resulting from:
 - a. Your inability to realize income that you would have realized had there been no loss of, or loss from damage to, Covered Property.
 - b. Payment of damages of any type for which you are legally liable. But, we will pay compensatory damages arising directly from a loss covered under this insurance.
 - c. Payment of costs, fees or other expenses you incur in establishing either the existence or the amount of loss under this insurance.
4. **Legal Expenses:** Expenses related to any legal action.
5. **Nuclear:** Loss resulting from nuclear reaction, nuclear radiation or radioactive contamination, or any related act or incident.
6. **War and Similar Actions:** Loss resulting from war, whether or not declared, warlike action, insurrection, rebellion or revolution, or any related act or incident.

B. GENERAL CONDITIONS

1. **Consolidation—Merger:** If through consolidation or merger with, or purchase of assets of, some other entity:
 - a. Any additional persons become "employees"; or

b. You acquire the use and control of any additional "premises";

any insurance afforded for "employees" or "premises" also applies to those additional "employees" and "premises", but only if you:

- a. Give us written notice within 30 days thereafter; and
- b. Pay us an additional premium.

2. **Coverage Extensions:** Unless stated otherwise in the Coverage Form, our liability under any Coverage Extension is part of, not in addition to, the Limit of Insurance applying to the Coverage or Coverage Section.

3. **Discovery Period for Loss:** We will pay only for covered loss discovered no later than one year from the end of the policy period.

4. Duties in the Event of Loss

After you discover a loss or a situation that may result in loss of, or loss from damage to, Covered Property you must:

- a. Notify us as soon as possible.
- b. Submit to examination under oath at our request and give us a signed statement of your answers.
- c. Give us a detailed, sworn proof of loss within 120 days.
- d. Cooperate with us in the investigation and settlement of any claim.

5. Joint Insured

a. If more than one Insured is named in the Declarations, the first Named Insured will act for itself and for every other Insured for all purposes of this insurance. If the first Named Insured ceases to be covered, then the next Named Insured will become the first Named Insured.

b. If any Insured or partner or officer of that Insured has knowledge of any information relevant to this insurance, that knowledge is considered knowledge of every Insured.

AUTHENTIC

Copyright, Insurance Services Office, 1984

COV_INS_000078

COV_005873

- c. An "employee" of any Insured is considered to be an "employee" of every Insured.
- d. If this insurance or any of its coverages is cancelled or terminated as to any Insured, loss sustained by that Insured is covered only if discovered no later than one year from the date of that cancellation or termination.
- e. We will not pay more for loss sustained by more than one Insured than the amount we would pay if all the loss had been sustained by one Insured.

6. Legal Action Against Us: You may not bring any legal action against us involving loss:

- a. Unless you have complied with all the terms of this insurance; and
- b. Until 90 days after you have filed proof of loss with us; and
- c. Unless brought within 2 years from the date you discover the loss.

7. Loss Covered Under More Than One Coverage of This Insurance

If two or more coverages of this insurance apply to the same loss, we will pay the lesser of:

- a. The actual amount of loss; or
- b. The sum of the Limits of Insurance applicable to those coverages.

8. Loss Sustained During Prior Insurance

- a. If you, or any predecessor in interest, sustained loss during the period of any prior insurance that you or any predecessor in interest could have recovered under that insurance except that the time within which to discover loss had expired, we will pay for it under this insurance, provided:

(1) This insurance became effective at the time of cancellation or termination of the prior insurance; and

(2) The loss would have been covered by this insurance had it been in effect when the acts or events causing the loss were committed or occurred.

- b. The insurance under this Condition is part of, not in addition to, the Limits of Insurance applying to this insurance and is limited to the lesser of the amount recoverable under:

- (1) This insurance as of its effective date; or
- (2) The prior insurance had it remained in effect.

9. Loss Covered Under This Insurance and Prior Insurance Issued by Us or Any-Affiliate

If any loss is covered:

- a. Partly by this insurance; and
- b. Partly by any prior cancelled or terminated

insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

10. Non-Cumulation of Limit of Insurance

Regardless of the number of years this insurance remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

- 11. Other Insurance:** This insurance does not apply to loss recoverable or recovered under other insurance or indemnity. However, if the limit of the other insurance or indemnity is insufficient to cover the entire amount of the loss, this insurance will apply to that part of the loss, other than that falling within any Deductible Amount, not recoverable or recovered under the other insurance or indemnity, but not for more than the Limit of Insurance.

12. Ownership of Property; Interests Covered: The property covered under this insurance is limited to property:

- a. That you own or hold; or
- b. For which you are legally liable.

However, this insurance is for your benefit only. It provides no rights or benefits to any other person or organization.

13. Policy Period

- a. The Policy Period is shown in the Declarations.
- b. Subject to the Loss Sustained During Prior Insurance condition, we will pay only for loss that you sustain through acts committed or events occurring during the Policy Period.

14. Records: You must keep records of all Covered Property so we can verify the amount of any loss.

15. Recoveries

- a. Any recoveries, less the cost of obtaining them, made after settlement of loss covered by this insurance will be distributed as follows:

- (1) To you, until you are reimbursed for any loss that you sustain that exceeds the Limit of Insurance and the Deductible Amount, if any;
- (2) Then to us, until we are reimbursed for the settlement made;
- (3) Then to you, until you are reimbursed for that part of the loss equal to the Deductible Amount, if any.

b. Recoveries do not include any recovery:

- (1) From insurance, suretyship, reinsurance, security or indemnity taken for our benefit; or
- (2) Of original "securities" after duplicates of them have been issued.

16. Territory: This insurance covers only acts committed or events occurring within the United States of America, U.S. Virgin Islands, Puerto Rico, Canal Zone or Canada.

17. Transfer of Your Rights of Recovery Against Others to Us

You must transfer to us all your rights of recovery against any person or organization for any loss you sustained and for which we have paid or settled. You must also do everything necessary to secure those rights and do nothing after loss to impair them.

18. Valuation—Settlement

a. Subject to the applicable Limit of Insurance provision we will pay for:

- (1) Loss of "money" for not more than its face value. We may, at our option, pay for loss of "money" issued by any country other than the United States of America:

- (a) At face value in the "money" issued by that country; or
- (b) In the United States of America dollar equivalent determined by the rate of exchange on the day the loss was discovered.

- (2) Loss of "securities" for not more than their value at the close of business on the day the loss was discovered. We may, at our option:

- (a) Pay the value of such "securities" or replace them in kind, in which event you must assign to us all your rights, title and interest in and to those "securities";

- (b) Pay the cost of any Lost Securities Bond required in connection with issuing duplicates of the "securities". However, we will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the:

- i. Value of the "securities" at the close of business on the day the loss was discovered; or
- ii. Limit of Insurance.

- (3) Loss of, or loss from damage to, "property other than money and securities" or

loss from damage to the "premises" for not more than the:

- (a) Actual cash value of the property on the day the loss was discovered;
- (b) Cost of repairing the property or "premises"; or
- (c) Cost of replacing the property with property of like kind and quality.

We may, at our option, pay the actual cash value of the property or repair or replace it.

If we cannot agree with you upon the actual cash value or the cost of repair or replacement, the value or cost will be determined by arbitration.

- b. We may, at our option, pay for loss of, or loss from damage to, property other than "money":

- (1) In the "money" of the country in which the loss occurred; or
- (2) In the United States of America dollar equivalent of the "money" of the country in which the loss occurred determined by the rate of exchange on the day the loss was discovered.

- c. Any property that we pay for or replace becomes our property.

C. GENERAL DEFINITIONS

1. "Employee" means:

a. Any natural person:

- (1) While in your service (and for 30 days after termination of service); and
- (2) Whom you compensate directly by salary, wages or commissions; and
- (3) Whom you have the right to direct and control while performing services for you.

- b. Any natural person employed by an employment contractor while that person is subject to your direction and control and performing services for you excluding, however, any such person while having care and custody of property outside the "premises".

But "employee" does not mean any:

- (1) Agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or
- (2) Director or trustee except while performing acts coming within the scope of the usual duties of an "employee".

2. "Money" means:

- a. Currency, coins and bank notes in current use and having a face value; and

b. Travelers checks, register checks and money orders held for sale to the public.

3. "Property Other Than Money and Securities" means any tangible property other than "money" and "securities" that has intrinsic value but does not include any property listed in any Coverage Form as Property Not Covered.

4. "Securities" means negotiable and non-negotiable instruments or contracts representing either

"money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

5. "Vehicles" means any motor vehicle, trailer, semitrailer, motor home, travel trailer, camper, or other vehicle, including any attached equipment, that is used for the purpose of transporting persons or property on a highway.

6. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

7. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

8. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

9. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

10. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

11. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

12. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

13. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

14. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

15. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

16. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

17. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

18. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

19. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

20. "Vehicles" does not include any vehicle that is used for the purpose of transporting persons or property on a highway.

CC 100
(1-86)

CR 00 01 01 86

EMPLOYEE DISHONESTY COVERAGE FORM
(Coverage Form A—Blanket)

A. COVERAGE

We will pay for loss of, and loss from damage to, Covered Property resulting directly from the Covered Cause of Loss.

1. **Covered Property:** "Money", "securities", and "property other than money and securities".
2. **Covered Cause of Loss:** "Employee dishonesty".
3. **Coverage Extension**

Employees Temporarily Outside Coverage Territory:
We will pay for loss caused by any "employee" while temporarily outside the territory specified in the Territory General Condition for a period not more than 90 days.

B. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the applicable Limit of Insurance shown in the Declarations.

C. DEDUCTIBLE

1. We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance.
2. You must:
 - a. Give us notice as soon as possible of any loss of the type insured under this Coverage Form even though it falls entirely within the Deductible Amount.
 - b. Upon our request, give us a statement describing the loss.

D. ADDITIONAL EXCLUSIONS, CONDITION AND DEFINITIONS: In addition to the provisions in the Crime General Provisions Form, this Coverage Form is subject to the following:

1. **Additional Exclusions:** We will not pay for loss as specified below:
 - a. **Employee Cancelled Under Prior Insurance:** loss caused by any "employee" for whom similar prior insurance has been cancelled and not reinstated since the last such cancellation.
 - b. **Inventory Shortages:** loss, or that part of any loss, the proof of which as to its existence or

amount is dependent upon:

- (1) An inventory computation; or
- (2) A profit and loss computation.

2. Additional Condition

Cancellation As To Any Employee: This insurance is cancelled as to any "employee":

- a. Immediately upon discovery by:
 - (1) You; or
 - (2) Any of your partners, officers or directors not in collusion with the "employee";

of any dishonest act committed by that "employee" whether before or after becoming employed by you.

- b. On the date specified in a notice mailed to you. That date will be at least 30 days after the date of mailing.

The mailing of notice to you at the last mailing address known to us will be sufficient proof of notice. Delivery of notice is the same as mailing.

3. Additional Definitions

- a. **"Employee Dishonesty"** in paragraph A.2. means only dishonest acts committed by an "employee", whether identified or not, acting alone or in collusion with other persons, except you or a partner, with the manifest intent to:

- (1) Cause you to sustain loss; and also
- (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
 - (a) The "employee"; or
 - (b) Any person or organization intended by the "employee" to receive that benefit.

- b. **"Occurrence"** means all loss caused by, or involving, one or more "employees", whether the result of a single act or series of acts.



CC 102
(1-86)

CR 00 03 01 86

FORGERY OR ALTERATION COVERAGE FORM
(Coverage Form B)

A. COVERAGE

We will pay for loss involving Covered Instruments resulting directly from the Covered Causes of Loss.

1. **Covered Instruments:** Checks, drafts, promissory notes, or similar written promises, orders or directions to pay a sum certain in "money" that are:

- a. Made or drawn by or drawn upon you;
- b. Made or drawn by one acting as your agent; or that are purported to have been so made or drawn.

2. **Covered Causes Of Loss:** Forgery or alteration of, on or in any Covered Instrument.

3. **Coverage Extension**

Legal Expenses: If you are sued for refusing to pay any Covered Instrument on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur and pay in that defense. The amount we will pay under this extension is in addition to the Limit of Insurance applicable to this insurance.

B. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the applicable Limit of Insurance shown in the Declarations.

C. DEDUCTIBLE

We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the Declarations. We will then pay the amount of loss in excess of the Deductible Amount, up to the Limit of Insurance. This provision does not apply to legal expenses paid under the Coverage Extension.

D. ADDITIONAL EXCLUSION, CONDITIONS AND DEFINITION

In addition to the provisions in the Crime General Provisions Form, this Coverage Form is also subject to the following:

1. **Additional Exclusion**

Acts of Employees, Directors, or Trustees: We will not pay for loss resulting from any dishonest or criminal act committed by any of your "employees", directors, or trustees:

- a. Whether acting alone or in collusion with other persons;
or
- b. Whether while performing services for you or otherwise.

2. **Additional Conditions**

- a. **Facsimile Signatures:** We will treat mechanically reproduced facsimile signatures the same as handwritten signatures.
- b. **General Amendment:** As respects this Coverage Form, the words Covered Property in the Crime General Provisions Form mean Covered Instruments.
- c. **Proof of Loss:** You must include with your proof of loss any instrument involved in that loss, or, if that is not possible, an affidavit setting forth the amount and cause of loss.
- d. **Territory:** We will cover loss you sustain anywhere in the world.

The Territory General Condition does not apply to this Coverage Form.

3. **Additional Definition**

"Occurrence" means all loss caused by any person or in which that person is involved, whether the loss involves one or more instruments.



COV_INS_000083

COV_005878

CC 118
(2-87)

CR 00 05 02 87

ROBBERY AND SAFE BURGLARY COVERAGE FORM

(Coverage Form D)

A. COVERAGE

We will pay for loss of, and loss from damage to, Covered Property resulting directly from the Covered Causes of Loss.

1. Section 1.—Inside The Premises

a. Robbery Of A Custodian

(1) **Covered Property:** "Property other than money and securities" inside the "premises" in the care and custody of a "custodian".

(2) **Property Not Covered:** Motor vehicles, trailers, or semi-trailers or equipment and accessories attached to them.

(3) **Covered Cause of Loss:** Actual or attempted "robbery".

(4) Coverage Extension

Premises Damage: We will pay for loss from damage to the "premises" or its exterior resulting directly from the Covered Cause of Loss, if you are the owner of the "premises" or are liable for damage to it.

b. Safe Burglary

(1) **Covered Property:** "Property other than money and securities" inside the "premises" in a safe or vault.

(2) **Covered Cause of Loss:** Actual or attempted "safe burglary".

(3) Coverage Extension

Premises, Safe and Vault Damage: We will pay for loss from damage to:

- (a) The "premises" or its exterior; or
- (b) A locked safe or vault located inside the "premises";

resulting directly from the Covered Cause of Loss, if you are the owner of the property or liable for damage to it.

2. Section 2.—Outside The Premises

a. **Covered Property:** "Property other than money and securities" outside the "premises" in the care and custody of a "messenger".

b. **Property Not Covered:** Motor vehicles, trailers or semi-trailers or equipment and accessories attached to them.

c. **Covered Cause of Loss:** Actual or attempted "robbery".

d. Coverage Extension

Conveyance Of Property By Armored Motor Vehicle Company: We will pay for loss of, and loss from damage to, Covered Property resulting directly from the Covered Cause of Loss while outside the "premises" in the care and custody of an armored motor vehicle company.

But, we will pay only for the amount of loss you cannot recover:

- (1) Under your contract with the armored motor vehicle company; and
- (2) From any insurance or indemnity carried by, or for the benefit of customers of, the armored motor vehicle company.

B. LIMIT OF INSURANCE

The most we will pay for loss in any one "occurrence" is the applicable Limit of Insurance shown in the DECLARATIONS.

C. DEDUCTIBLE

We will not pay for loss in any one "occurrence" unless the amount of loss exceeds the Deductible Amount shown in the DECLARATIONS. We will then pay the amount of loss in excess of the Deductible Amount up to the Limit of Insurance.

D. **ADDITIONAL EXCLUSIONS, CONDITIONS AND DEFINITIONS:** In addition to the provisions in the Crime General Provisions form, this Coverage Form is subject to the following:

1. **Additional Exclusions:** We will not pay for loss as specified below:

a. **Acts of Employees, Directors, Trustees or Representatives:** Loss resulting from any dishonest or criminal act committed by any of your "employees", directors, trustees or authorized representatives:

- (1) Acting alone or in collusion with other persons; or
- (2) While performing services for you or otherwise.

b. **Fire:** Loss resulting from fire, however caused, except loss from damage to a safe or vault.

(over)



Copyright, Insurance Services Office, Inc., 1984, 1987

COV_INS_000084

COV_005879

c. Transfer or Surrender of Property

(1) Loss of, or loss from damage to, property after it has been transferred or surrendered to a person or place outside the "premises":

- (a) On the basis of unauthorized instructions; or
- (b) As a result of a threat to do:
 - i. Bodily harm to any person; or
 - ii. Damage to any property.

(2) But, this exclusion does not apply under COVERAGE, Section 2, to loss of Covered Property while outside the "premises" in the care and custody of a "messenger" if you:

- (a) Had no knowledge of any threat at the time the conveyance began; or
- (b) Had knowledge of a threat at the time the conveyance began, but the loss was not related to the threat.

d. **Vandalism:** Loss from damage to any property by vandalism or malicious mischief.

2. Additional Conditions

a. **Duties in the Event of Loss:** If you have reason to believe that any loss of, or loss from damage to, Covered Property involves a violation of law, you must notify the police.

b. **Special Limit of Insurance for Specified Property:** We will only pay up to \$1,000 for any one "occurrence" of loss of, and loss from damage to:

- (1) Precious metals, precious or semi-precious stones, pearls, furs, or completed or partially completed articles made of or containing such materials that constitute the principal value of such articles; or
- (2) Manuscripts, drawings, or records of any kind or the cost of reconstructing

them or reproducing any information contained in them.

3. Additional Definitions

a. **"Custodian"** means you, any of your partners or any "employee" while having care and custody of the property inside the "premises", excluding any person while acting as a "watchperson" or janitor.

b. **"Messenger"** means you, any of your partners or any "employee" while having care and custody of the property outside the "premises".

c. **"Occurrence"** means an:

- (1) act or series of related acts involving one or more persons; or
- (2) act or event, or a series of related acts or events not involving any person.

d. **"Premises"** means the interior of that portion of any building you occupy in conducting your business.

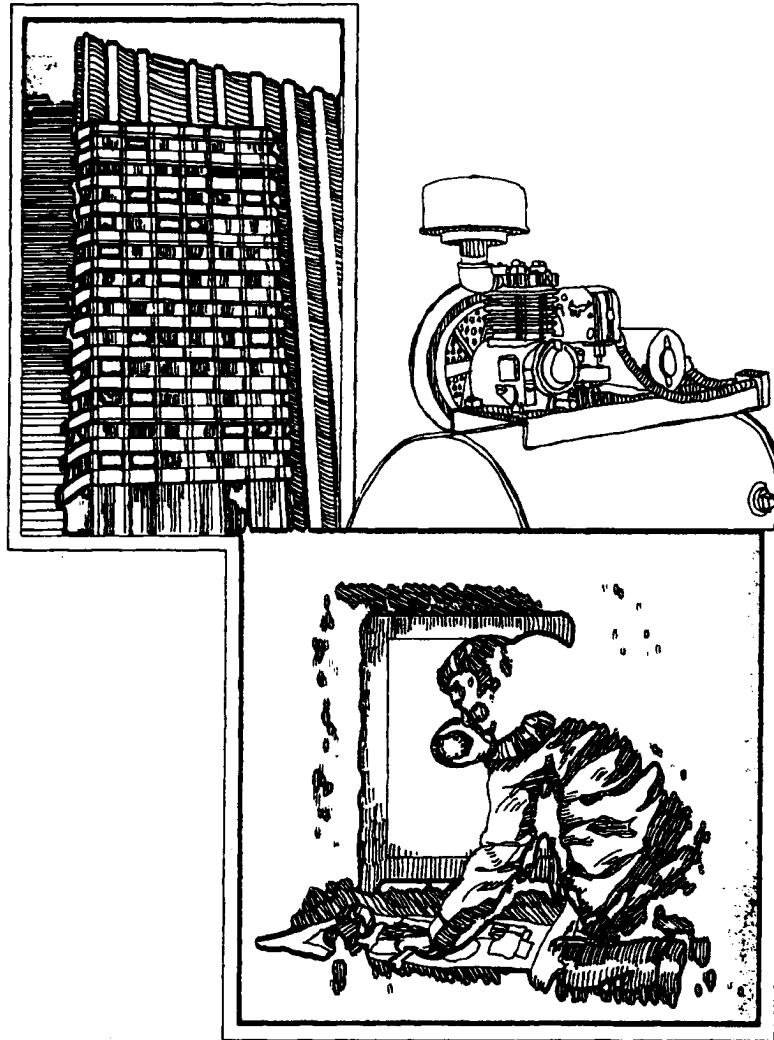
e. **"Robbery"** means the taking of property from the care and custody of a person by one who has:

- (1) Caused or threatened to cause that person bodily harm; or
- (2) Committed an obviously unlawful act witnessed by that person.

f. **"Safe Burglary"** means the taking of:

- (1) Property from within a locked safe or vault by a person unlawfully entering the safe or vault as evidenced by marks of forcible entry upon its exterior; or
- (2) A safe or vault from inside the "premises".

g. **"Watchperson"** means any person you retain specifically to have care and custody of property inside the "premises" and who has no other duties.



OTHER

OTHER

FORM 70-96 (REV. 7/78)

COV_INS_000086

COV_005881

SMALL BUSINESS
BOILER AND MACHINERY
COVERAGE PART DECLARATIONS

NON-ASSESSABLE

**Pennsylvania
National**
Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

POLICY NO. CL 219 0 01 85 169

REGIONAL OFFICE CBO		IN LIEU OF 450 00 01 00 8	
ITEM 1. INSURED'S NAME AND MAILING ADDRESS (LAST NAME FIRST) Covil Corp., Inc. (See 70-53)		COMPANY USE ONLY 99	
		COMPANY USE ONLY 23 0000 6567	
ITEM 2. POLICY PERIOD FROM: 3/31/88 TO: 3/31/89 AT 12:01 AM STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE.			
A G E N C Y	AGENCY NUMBER 22 6729		
	ISSUING DATE 5/20/88dp		PRODUCER ID. 025
	Sam J. Crain & Co., Inc.		

Item No.	IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.			
3.	LIMIT OF INSURANCE AND PREMIUM			
	Limit of Insurance \$ 1,000,000	Limit of Spoilage Coverage \$ N/A		
	Deductible \$ 1,000	Spoilage Deductible \$ N/A	Coverage Part Premium \$ 667.	
4.	MORTGAGEE/LOSS PAYEE			
	Mortgage Holder's Name and Address: Community Bank Loss Payee's Name and Address: P.O. Box 6807, Greenville, SC 29602			
5.	SCHEDULE			
	Locations of the "Objects" Shown Below: 1. 131 Pensley Cir. Greenville, SC 2. _____ 3. _____ 4. _____			
	Coverage: ☐ Basic Coverage ☒ Broad Coverage ☐ Spoilage Coverage			
	Selection of Covered "Objects" and Insurance:			
	☐ Boiler and Pressure Vessels (including heating boilers) ☐ Property Damage Covered ☐ Business Interruption and Extra Expense Covered			
	☐ Boiler and Pressure Vessels (without heating boilers) ☐ Property Damage Covered ☐ Business Interruption and Extra Expense Covered			
	☒ Air Conditioning and Air Compressing Units ☒ Property Damage Covered ☒ Business Interruption and Extra Expense Covered			
6.	FORMS AND ENDORSEMENTS			
	Forms and Endorsements applying to this Coverage Part and made part of this Policy at time of issue: CB130 1/86, BM0045 11/85, BM0025 11/85			
7.	SPECIAL PROVISIONS (if any)			

Countersigned By:

Sam J. Crain
Authorized Representative *

THESE DECLARATIONS AND THE COMMON DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

*INFORMATION OMITTED IF SHOWN IN COMMON DECLARATIONS.

BOILER AND MACHINERY INSURANCE IMPORTANT CHANGES IN YOUR COVERAGE

We are renewing or replacing your Boiler and Machinery insurance with a new policy in simplified language. The new policy will result in some coverage broadenings and reductions in certain areas.

Following is a summary of the broadenings and reductions in the various Boiler and Machinery coverages subject to the simplification program. The commentary relative to each of the Coverage Forms applies to your policy only to the extent that the indicated coverages or provisions have application to your policy.

COMMON POLICY CONDITIONS

I. Broadening of Coverage

The time frames for notice of cancellation have been expanded to 10 days for non-payment of premium and 30 days for any other reason.

II. Reduction of Coverage

None.

BOILER AND MACHINERY COVERAGE FORM

I. Broadening of Coverage

- a. Expediting Expense coverage is broadened to include:
 1. permanent repairs
 2. expediting permanent replacement of damaged property.
- b. Under Automatic Coverage, there is no longer a \$100,000 limit applicable to object at new locations. The limit of insurance in the Coverage Form applies.
- c. Coverage territory is expanded to include Alaska.
- d. In the Valuation Condition the time limit for repair or replacement is increased from 12 months to 18 months.
- e. In the Legal Action Against Us Condition the time period within which a suit may be brought is extended from 14 months to 2 years.

II. Reduction of Coverage

- a. Explosion exclusion is modified to eliminate overlap with property insurance.
- b. A lightning exclusion is added to eliminate joint losses with property insurance.
- c. Loss due to concurrent cause is excluded.
- d. Ammonia Contamination Limitation to loss (\$5,000) applies to any "object" and not only to refrigerating and air conditioning vessels and piping.
- e. Loss due to the testing of any "object" is excluded.

OBJECT DEFINITION NO. 1

I. Broadening of Coverage

Canned pumps are added to coverage for absorption units.

II. Reduction of Coverage

- a. Buried piping is excluded for Boiler and Pressure Vessels.
- b. Buried vessels and piping are excluded for unfired vessels.
- c. Buried piping is excluded for auxiliary piping.

OBJECT DEFINITION NO. 2

I. Broadening of Coverage

Maintenance type equipment such as a lubricating oil pump are newly covered.

II. Reduction of Coverage

None.

OBJECT DEFINITION NO. 3 and NO. 4

I. Broadening of Coverage

None.

II. Reduction of Coverage

None.

SMALL BUSINESS BOILER AND MACHINERY COVERAGE FORM

I. Broadening of Coverage

- a. Expediting Expense coverage is broadened to include:
 1. permanent repairs
 2. expediting permanent replacement of damaged property
- b. In the Legal Action Against Us Condition the time period within which a suit may be brought is extended from 14 months to 2 years.

(over)

Copyright, Insurance Services Office, Inc., 1984, 1985.

CB 130 (1-86) UNIFORM PRINTING AND SUPPLY, INC.

COV_INS_000088

COV_005883

II. Reduction of Coverage

- a. Explosion exclusion is broadened to eliminate overlap with property insurance.
- b. A lightning exclusion is added to eliminate joint losses with property insurance.
- c. Loss due to concurrent cause is eliminated.

**SMALL BUSINESS BOILER AND MACHINERY
BROAD COVERAGE FORM**

I. Broadening of Coverage

Coverage for Business Interruption and Extra

Expense broadened to time of accident.

II. Reduction of Coverage

- a. Explosion exclusion is broadened to eliminate overlap with property insurance.
- b. Loss due to concurrent cause is eliminated.
- c. Hazardous Substance Limitation coverage limit is reduced from \$25,000 to \$5,000.
- d. Ammonia Contamination Limitation to loss applies to any "Object" and not only to refrigerating and air conditioning vessels and piping.

BM 00 45 01 86

SMALL BUSINESS BOILER AND MACHINERY BROAD COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section F—DEFINITIONS.

A. COVERAGE

We will pay for direct damage to Covered Property caused by a Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means any property that:

- a. You own; or
- b. Is in your care, custody or control and for which you are legally liable. In addition to paying for loss to this property, we will defend you against any claim or "suit" alleging liability for damage to this property, subject to the Defense and the Supplementary Payments provisions.

2. Covered Cause Of Loss

A Covered Cause of Loss is an "accident" to an "object". An "object" must be in use or connected ready for use at the location specified for it at the time of the "accident".

3. Coverage Extensions

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs;
- (2) Expedite permanent repairs; and
- (3) Expedite permanent replacement.

We restrict the amount payable for Expediting Expenses as explained in the Limits of Insurance section of this Coverage Form.

b. Business Interruption and Extra Expense Coverage

We will pay:

- (1) Your actual loss from a total or partial interruption of business; and
- (2) The reasonable extra expense to run your business during the interruption; caused solely by an "accident" to:
 - (1) An "object", or

- (2) Any transformer or electrical apparatus that is:

- (a) Located on or within 500 feet of the "location";
- (b) Owned by a public utility company; and
- (c) Used to supply electrical power solely to that "location".

The "accident" must occur during the Policy Period but expiration of the policy does not limit our liability under this coverage.

c. Spoilage

Spoilage insurance applies at any "location" for which a Spoilage Limit is shown in the Declarations. At each "location" where coverage is provided, we will pay for your loss of perishable goods due to spoilage resulting from lack of power, light, heat, steam or refrigeration caused solely by an "accident" to:

- (1) An "object"; or
- (2) Any transformer or electrical apparatus that is:
 - (a) Located on or within 500 feet of that "location";
 - (b) Owned by a public utility company; and
 - (c) Used to supply electrical power solely to that "location";

provided that the "accident" occurs during the Policy Period.

d. Defense

If a claim or "suit" is brought against you alleging that you are liable for damage to property of another in your care, custody or control, that was directly caused by an "accident" to an "object", we will either:

- (1) Settle the claim or "suit"; or
- (2) Defend you against the claim or "suit",



Copyright, Insurance Services Office, Inc., 1983, 1984, 1985

COV_INS_000090

COV_005885

but keep for ourselves the right to settle it at any point.

e. Supplementary Payments

We will pay with respect to any claim or "suit" we defend:

- (1) All expenses we incur;
- (2) The cost of bonds to release attachments, but only for bond amounts within the Limit of Insurance. We do not have to furnish these bonds;
- (3) All reasonable expenses incurred by you at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$100 a day because of time off from work;
- (4) All costs taxed against you in any "suit" we defend;
- (5) Pre-judgment interest awarded against you on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the Limit of Insurance shown in the Declarations.

These payments will not reduce the Limit of Insurance shown in the Declarations.

B. EXCLUSIONS

We will not pay for:

1. Ordinance Or Law

Any increase in loss caused by or resulting from enforcement of any ordinance, law, regulation, rule or ruling regulating or restricting repair, alteration, use, operation, construction or installation.

2. Nuclear Hazard

Loss caused by or resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

3. War And Military Action

Loss caused by or resulting from:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

4. Other Exclusions

Loss caused by or resulting from:

- a. An explosion. However, we will pay for loss caused by or resulting from an explosion of an "object" of a kind described below and only to "objects" covered by this insurance and as described on an Object Definitions Endorsement:

Explosion of any:

- (1) Steam boiler;
- (2) Electric steam generator;
- (3) Steam piping;
- (4) Moving and rotating machinery caused by centrifugal force or mechanical breakdown.

- b. Fire or explosion that occurs at the same time as an "accident" or that ensues from an "accident". With respects to any electrical equipment forming a part of an "object", this exclusion is changed to read:

Fire or explosion outside the "object" that occurs at the same time as an "accident" or ensues from an "accident".

- c. An "accident" that is the direct or indirect result of an explosion or fire;
- d. Water or other means used to extinguish a fire, even when such an attempt is unsuccessful;
- e. Lightning, if coverage for that type of loss is provided by another policy of insurance you have;
- f. Flood. However, if an "accident" results from a flood, we will pay for direct damage to Covered Property caused by the "accident";
- g. An "accident" to any "object" while being tested;
- h. An "accident" caused directly or indirectly by earth movement, including but not limited to earthquake, landslide, mudslide, subsidence or volcanic eruption;
- i. Lack of power, light, heat, steam or refrigeration;
- j. A delay in, or an interruption of, any business, manufacturing or processing activity; or
- k. Any other indirect result of an "accident" to an "object".

5. Exclusions Applying To Business Interruption And Extra Expense Insurance

All the exclusions in Section B except Exclu-

sions 4h., 4i., and 4j. apply to Business Interruption and Extra Expense Coverage. In addition, we will not pay for:

- a. The interruption of business that would not or could not have been carried on if the "accident" had not occurred;
- b. Your failure to use due diligence and dispatch and all reasonable means to resume business at the "location(s)" shown in the Declarations; or
- c. That part of any loss or expense that is due solely to the suspension, lapse or cancellation of a contract following an "accident" extending beyond the time business could have resumed if the contract had not lapsed, been suspended or cancelled.

6. Exclusion Applying To Spoilage

All the exclusions in Section B except Exclusion 4i. apply to Spoilage Coverage. In addition, we will not pay for loss or damage as a result of your failure to use all reasonable means to protect the perishable goods from damage following an "accident".

We will not pay for any loss excluded above even though any other cause or event contributes concurrently or in any sequence to the loss.

C. LIMITS OF INSURANCE

1. We will not pay more than the applicable Limit of Insurance shown in the Declarations for all direct damage to Covered Property that results from any "one accident". Our payment will not increase if more than one insured is shown in the Declarations.
2. The following coverage limitations to our payment for direct damage to Covered Property are part of and not in addition to the Limit of Insurance for this Coverage Part.
 - a. **Expediting Expenses**

Our payment for Expediting Expenses will be limited to:

 - (1) \$25,000; or
 - (2) What is left of the Limit of Insurance after we pay your loss for Covered Property damaged by an "accident";whichever is less.
 - b. **Hazardous Substance Limitation**

The following applies despite the operation of the Ordinance or Law Exclusion. This limitation does not apply to damage, contamination or pollution caused by ammonia.

If Covered Property is damaged, contaminated or polluted as a result of an "accident" to an "object" by a substance declared to be

hazardous to health by an authorized governmental agency, the most we will pay for any additional expenses incurred by you for clean up, repair or replacement or disposal of that property is \$5,000. As used here, additional expenses mean expenses incurred beyond those for which we would be liable if no substance hazardous to health had been involved.

c. Ammonia Contamination Limitation

If Covered Property is contaminated by ammonia as a result of an "accident" to an "object", the most we will pay for this kind of damage, including salvage expense, is \$25,000.

d. Water Damage Limitation

If Covered Property is damaged by water as a result of an "accident" to a covered refrigerating or air conditioning system, the most we will pay for this kind of damage, including salvage expense, is \$25,000.

3. Business Interruption And Extra Expense Limit

As regards Business Interruption and Extra Expense Coverage, our limit of liability for any "one accident" is equal to 25% of the Limit of Insurance. The limit for Business Interruption and Extra Expense is in addition to the Limit of Insurance.

4. Spoilage Limit

The limit of your insurance against loss under Spoilage coverage from any "one accident" is the amount shown as Spoilage Limit in the Declarations for the "location" where the "accident" occurs. This limit is in addition to the limits that apply to the Property Damage and Business Interruption/Extra Expense coverages.

The amount of our payment, that will be determined on the basis of the actual cash value of the damaged goods at the time of the "accident", will not exceed the Spoilage Limit specified for the "location" where the "accident" occurs.

Any payment made under Section C will not increase if more than one insured is shown in the Declarations.

D. DEDUCTIBLE

1. Property Damage

We will first subtract the deductible amount shown in the Declarations from the amount we would otherwise pay as a result of direct damage to Covered Property arising from an "accident". If more than one "object" is involved in "one accident", only the highest deductible will apply.

2. Business Interruption And Extra Expense

We will not pay for Business Interruption and

Extra Expense in any "one accident" occurring during the:

- a. 12 hours after the time of the "accident"; or
- b. 24 hours before we receive notice of "accident";

whichever is later.

3. Spoilage

We will first subtract the Spoilage deductible amount shown in the Declarations from the amount of Spoilage loss we would otherwise pay under the Spoilage Coverage Provision of this Coverage Form. If more than one "object" is involved in "one accident", only one deductible amount will be subtracted from the total of all Spoilage resulting from the "one accident".

These Deductibles apply separately to each applicable coverage.

E. BOILER AND MACHINERY CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

1. Loss Conditions

a. Duties in the Event of Loss or Damage

You must see that the following are done in the event of loss or damage:

- (1) Give us a prompt notice of the loss or damage. Include a description of the property involved;
- (2) As soon as possible, give us a description of how, when and where the loss or damage occurred;
- (3) Allow us a reasonable time and opportunity to examine the property and premises before repairs are undertaken or physical evidence of the "accident" is removed. You must take whatever measures are necessary for protection from further damage;
- (4) Permit us to inspect the property and records;
- (5) If requested, permit us to question you under oath, at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. In such event, your answers must be signed;
- (6) Send us a signed, sworn statement of loss containing the information we request to settle the claim. You must do this within 60 days after our request; and
- (7) Cooperate with us in the investigation and settlement of the claim.

b. Insurance Under 2 or More Coverages

If 2 or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage, subject to the Limit of Insurance.

c. Legal Action Against Us

No one may bring a legal action against us under this Coverage Part unless:

- (1) There has been full compliance with all the terms of this Coverage Part; and
- (2) The action is brought within 2 years after the date of the "accident"; or
- (3) We agree in writing that you have an obligation to pay for damage to Covered Property of others or until the amount of that obligation has been determined by final judgment or arbitration award. No one has the right under this policy to bring us into an action to determine your liability.

d. Loss Payable Clause

- (1) We will pay you and the loss payee shown in the Declarations for loss due to an "accident" to an "object", as interests may appear. The insurance covers the interest of the loss payee unless the loss results from conversion, secretion or embezzlement on your part.
- (2) We may cancel this policy as allowed by the Cancellation Condition. Cancellation ends this agreement as to the loss payee's interest.
If we cancel we will mail you and the loss payee the same advance notice.
- (3) If we make any payment to a loss payee, we will obtain their rights against any other party.

e. Other Insurance

- (1) You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.
- (2) If there is other insurance covering the same loss or damage, other than that described in (1) above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not.

In no case will we pay more than the applicable Limit of Insurance.

f. Transfer of Rights of Recovery Against Others to Us

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them.

g. Valuation

(1) We will pay you the amount you spend to repair or replace your property directly damaged by the "accident". Our payment will be the smallest of:

- (a) The Limit of Insurance;
- (b) The cost at the time of the "accident" to repair the damaged property with property of like kind, capacity, size and quality.
- (c) The cost at the time of the "accident" to replace the damaged property on the same site, with other property:
 - (i) Of like kind, capacity, size and quality; and
 - (ii) Used for the same purpose;
- (d) The amount you actually spend that is necessary to repair or replace the damaged property.

(2) As respects any "object", if the cost of repairing or replacing only a part of the "object" is greater than:

- (a) The cost of repairing the "object"; or
 - (b) The cost of replacing the entire "object" on the same site;
- we will pay only the smallest amount. The repair parts or replacement "object" must be:
- (c) Of like kind, capacity, size and quality; and
 - (d) Used for the same purpose.

(3) We will not pay you:

- (a) If the loss or damage is to property that is obsolete or useless to you; or
- (b) For any extra cost if you decide to repair or replace the damaged property with property of a better kind or quality or of larger capacity;

(4) If you do not repair or replace the damaged property within 18 months after the date of the "accident", then we will pay only the smaller of the:

(a) Cost it would have taken to repair; or

(b) Actual cash value; at the time of the "accident".

Paragraph (4) does not apply to any time period beyond the 18 months that we agree to in writing.

2. General Conditions

a. Additional Insured

If a person or organization is designated in this Coverage Part as an additional insured, we will consider them to be an insured under this Coverage Part to the extent of their interest.

b. Bankruptcy

The bankruptcy or insolvency of you or your estate will not relieve us of any obligation under this Coverage Part.

c. Policy Period, Coverage Territory

Under this Coverage Part:

(1) The "accident" must occur:

- (a) During the Policy Period shown in the Declarations; and
- (b) Within the Coverage Territory.

(2) The Coverage Territory is:

- (a) The United States of America; and
- (b) Puerto Rico.

d. Representations

By accepting this Coverage Part you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this Coverage Part in reliance upon your representations.

e. Refillable "Objects"

Refillable "objects" used for the storage of gas or liquid and movable in normal service are considered to satisfy the connected ready for use policy requirement.

f. Suspension

Whenever an "object" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "object". This can be done by delivering or mailing a written notice of suspension to:

- (1) Your last known address; or
- (2) The address where the "object" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "object".

If we suspend your insurance, you will get a pro rata refund of premium for that "object". But the suspension will be effective even if we have not yet made or offered a refund.

Condition Applying Only to Business Interruption and Extra Expense Insurance

g. Notice of "Accident"

At our expense, you must immediately give notice of "accident" to any of our offices. You must confirm any notice in writing. Our liability under this coverage starts:

- (1) At the time of the "accident"; or
- (2) 24 hours before we receive notice of "accident";

whichever is later.

Condition Applying Only to Business Interruption, Extra Expense and Spoilage Insurance

h. Reducing Your Loss

You must reduce your loss, if possible, by:

- (1) Resuming business, partially or completely;
- (2) Using merchandise or other property available to you; and
- (3) Using the property or services of others.

F. DEFINITIONS

1. "Accident" means a sudden and accidental breakdown of the "object" or a part of the "object". At the time the breakdown occurs, it must manifest itself by physical damage to the "object" that necessitates repair or replacement.

None of the following is an "accident":

- a. Depletion, deterioration, corrosion or erosion;
- b. Wear and tear;
- c. Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- d. Breakdown of any structure or foundation supporting the "object" or any of its parts;
- e. The functioning of any safety or protective device.

If a strike, riot, civil commotion, act of sabotage or vandalism results in an "accident" this insurance applies. However, the War or Military Action Exclusion and the conditions of this Coverage Part still apply.

2. "Location" means the premises at the address shown in the Declarations.
3. "Object" means any of the following equipment owned or leased by you or operated under your

control:

- a. Any boiler;
- b. Any fired or unfired vessel subject to vacuum or internal pressure other than weight of contents;
- c. Any refrigerating or air conditioning system;
- d. Any piping and its accessory equipment;
- e. Any compressor, pump, engine, turbine, motor, generator, gear, gear set, fan or blower, including any shaft forming a part of the "object", together with any coupling, clutch, wheel or bearing on that shaft;
- f. Any transformer or electrical distribution equipment; and
- g. Any other mechanical or electrical equipment used for maintenance or service of the premises, but not used for processing or manufacturing;

However, "object" does not mean any:

- (1) Oven, or stove or furnace;
- (2) Structure, foundation or setting supporting or housing an "object";
- (3) Insulating or refractory material;
- (4) Computer or data processing equipment (unless used only to control or operate another "object" covered by this Coverage Part);
- (5) Equipment for communication, lighting, advertising, display, testing, experimental, research, diagnostic, therapeutic, surgical, dental, or pathological purposes;
- (6) Sewer piping;
- (7) Underground gas piping;
- (8) Piping forming part of a sprinkler system;
- (9) Water piping other than boiler feed-water piping, boiler condensate return piping or water piping forming part of a refrigerating or air conditioning system used for cooling, humidifying or space heating;
- (10) "Object" that is being, or has been, manufactured for sale;
- (11) Vehicle, elevator, escalator, conveyor, hoist or crane; or
- (12) Other mechanical or electrical equipment used for processing or manufacturing.

4. "One Accident" means:

If an initial accident causes other accidents all will be considered "one accident". All accidents at any one location that manifest themselves at

the same time and are the result of the same cause will be considered "one accident".

5. "Suit" means a civil proceeding to which this

insurance applies and that may include an arbitration proceeding to which you must submit or submit with our consent.

CB 100
(11-85)

BM 00 25 11 85

BOILER AND MACHINERY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to section F—DEFINITIONS.

A. COVERAGE

We will pay for direct damage to Covered Property caused by a Covered Cause of Loss.

1. Covered Property

Covered Property, as used in this Coverage Part, means any property that:

- a. You own; or
- b. Is in your care, custody or control and for which you are legally liable. In addition to paying for loss to this property, we will defend you against any claim or "suit" alleging liability for damage to this property, subject to the Defense and the Supplementary Payments provisions.

2. Covered Cause Of Loss

A Covered Cause of Loss is an "accident" to an "object" shown in the Declarations. An "object" must be in use or connected ready for use at the location specified for it at the time of the "accident".

3. Coverage Extensions

a. Expediting Expenses

With respect to your damaged Covered Property, we will pay the reasonable extra cost to:

- (1) Make temporary repairs;
- (2) Expedite permanent repairs; and
- (3) Expedite permanent replacement.

We restrict the amount payable for Expediting Expenses as explained in the Limits of Insurance section of this Coverage Form.

b. Automatic Coverage for a Newly Acquired Location

We will automatically cover an "accident" to an "object" at a newly acquired location. This automatic coverage begins at the time you acquire the property and continues for 90 days under the following conditions:

- (1) You must inform us, in writing, of the newly acquired location within 90 days of the date you acquire it;
- (2) The "object" must be in use or con-

nected ready for use at the time of acquisition and throughout the period of automatic coverage and be of a type that would be included in any "Object" Group Description shown in the Declarations;

- (3) The Limit of Insurance and Deductible amount will be the highest amounts shown in the Declarations for the same type of "object";

- (4) We will not be liable under this coverage for Consequential Damage, Business Interruption or any other indirect loss resulting from an "accident" to an "object"; and

- (5) You agree to pay an additional premium as determined by us.

c. Defense

If a claim or "suit" is brought against you alleging that you are liable for damage to property of another in your care, custody or control, that was directly caused by an "accident" to an "object", we will either:

- (1) Settle the claim or "suit"; or
- (2) Defend you against the claim or "suit", but keep for ourselves the right to settle it at any point.

d. Supplementary Payments

We will pay with respect to any claim or "suit" we defend:

- (1) All expenses we incur;
- (2) The cost of bonds to release attachments, but only for bond amounts within the Limit of Insurance. We do not have to furnish these bonds;
- (3) All reasonable expenses incurred by you at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$100 a day because of time off from work;
- (4) All costs taxed against you in any "suit" we defend;



Copyright, Insurance Services Office, Inc., 1983, 1984, 1985

COV_INS_000097

COV_005892

(5) Pre-judgment interest awarded against you on that part of the judgment we pay. If we make an offer to pay the applicable Limit of Insurance, we will not pay any pre-judgment interest based on that period of time after the offer; and

(6) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the Limit of Insurance shown in the Declarations.

These payments will not reduce the Limit of Insurance.

B. EXCLUSIONS

We will not pay for:

1. Ordinance Or Law

Any increase in loss caused by or resulting from the enforcement of any ordinance, law, regulation, rule or ruling regulating or restricting repair, alteration, use, operation, construction or installation.

2. Nuclear Hazard

Loss caused by or resulting from nuclear reaction or radiation, or radioactive contamination, however caused.

3. War And Military Action

Loss caused by or resulting from:

- a. War, including undeclared or civil war;
- b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- c. Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

4. Other Exclusions

Loss caused by or resulting from:

- a. An explosion. However, we will pay for loss caused by or resulting from an explosion of an "object" of a kind described below and only to "objects" covered by this insurance and as described on an Object Definitions Endorsement:

Explosion of any:

- (1) Steam boiler;
- (2) Electric steam generator;
- (3) Steam piping;
- (4) Steam turbine;
- (5) Steam engine;

(6) Gas turbine; or

(7) Moving or rotating machinery caused by centrifugal force or mechanical breakdown;

b. Fire or explosion that occurs at the same time as an "accident" or that ensues from an "accident". With respects to any electrical equipment forming a part of an "object", this exclusion is changed to read:

Fire or explosion outside the "object" that occurs at the same time as an "accident" or ensues from an "accident";

c. An "accident" that is the direct or indirect result of an explosion or fire;

d. Water or other means used to extinguish a fire, even when the attempt is unsuccessful;

e. Lightning, if coverage for that cause of loss is provided by another policy of insurance you have;

f. Flood. However, if an "accident" results from a flood, we will pay for direct damage to Covered Property caused by the "accident";

g. An "accident" to any "object" while being tested;

h. An "accident" caused directly or indirectly by earth movement, including but not limited to earthquake, landslide, mudslide, subsidence or volcanic eruption;

i. Lack of power, light, heat, steam or refrigeration;

j. A delay in, or an interruption of, any business, manufacturing or processing activity; or

k. Any other indirect result of an "accident" to an "object".

We will not pay for any loss excluded above even though any other cause or event contributes concurrently or in any sequence to the loss.

C. LIMITS OF INSURANCE

1. We will not pay more than the applicable Limit of Insurance shown in the Declarations for all direct damage to Covered Property that results from any "one accident".

2. The following coverage limitations to our payment for direct damage to Covered Property are part of and not in addition to the Limit of Insurance for this Coverage Form.

a. Expediting Expenses

Our payment for Expediting Expenses will be limited to:

(1) \$5,000; or

(2) What is left of the Limit of Insurance after we pay your loss for Covered Prop-

erty damaged by an "accident";
whichever is less.

b. Hazardous Substance Limitation

The following applies despite the operation of the Ordinance or Law Exclusion. This Limitation does not apply to damage, contamination or pollution caused by ammonia.

If Covered Property is damaged, contaminated or polluted as a result of an "accident" to an "object" by a substance declared to be hazardous to health by an authorized governmental agency, the most we will pay for any additional expenses incurred by you for clean up, repair or replacement or disposal of that property is \$5,000. As used here, additional expenses mean expenses incurred beyond those for which we would be liable if no substance hazardous to health had been involved.

c. Ammonia Contamination Limitation

If Covered Property is contaminated by ammonia as a result of an "accident" to an "object", the most we will pay for this kind of damage, including salvage expense, is \$5,000.

d. Water Damage Limitation

If Covered Property is damaged by water as a result of an "accident" to covered refrigerating or air conditioning vessels and piping, the most we will pay for this kind of damage, including salvage expense, is \$5,000.

Any payment made under Section C will not increase if more than one insured is shown in the Declarations.

D. DEDUCTIBLE

We will first subtract the deductible amount shown in the Declarations from the amount we would otherwise pay as a result of direct damage to Covered Property arising from an "accident". If more than one "object" is involved in "one accident", only the highest deductible will apply.

E. BOILER AND MACHINERY CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

1. Loss Conditions

a. Duties In the Event of Loss or Damage

You must see that the following are done in the event of loss or damage;

- (1) Give us a prompt notice of the loss or damage. Include a description of the property involved;
- (2) As soon as possible, give us a description of how, when and where the loss or damage occurred;

(3) Allow us a reasonable time and opportunity to examine the property and premises before repairs are undertaken or physical evidence of the "accident" is removed. You must take whatever measures are necessary for protection from further damage;

(4) Permit us to inspect the property and records;

(5) If requested, permit us to question you under oath, at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. In such event, your answers must be signed;

(6) Send us a signed, sworn statement of loss containing the information we request to settle the claim. You must do this within 60 days after our request; and

(7) Cooperate with us in the investigation and settlement of the claim.

b. Insurance Under Two or More Coverages

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage subject to the Limit of Insurance.

c. Legal Action Against Us

No one may bring a legal action against us under this Coverage Part unless:

- (1) There has been full compliance with all the terms of this Coverage Part; and
- (2) The action is brought within 2 years after the date of the "accident"; or
- (3) We agree in writing that you have an obligation to pay for damage to Covered Property of others or until the amount of that obligation has been determined by final judgment or arbitration award. No one has the right under this policy to bring us into an action to determine your liability.

d. Loss Payable Clause

- (1) We will pay you and the loss payee shown in the Declarations for loss due to an "accident" to an "object", as interests may appear. The insurance covers the interest of the loss payee unless the loss results from conversion, secretion or embezzlement on your part.
- (2) We may cancel the policy as allowed by the Cancellation Condition. Cancellation ends this agreement as to the loss payee's interest.

If we cancel we will mail you and the

loss payee the same advance notice.

- (3) If we make payment to the loss payee, we will obtain their rights against any other party.

e. Other Insurance

- (1) You may have other insurance subject to the same plan, terms, conditions and provisions as the insurance under this Coverage Part. If you do, we will pay our share of the covered loss or damage. Our share is the proportion that the applicable Limit of Insurance under this Coverage Part bears to the Limits of Insurance of all insurance covering on the same basis.
- (2) If there is other insurance covering the same loss or damage, other than that described in (1) above, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not.

In no case will we pay more than the applicable Limit of Insurance.

f. Transfer of Rights of Recovery Against Others to Us

If any person or organization to or for whom we make payment under this Coverage Part has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them.

g. Valuation

- (1) We will pay you the amount you spend to repair or replace your property directly damaged by an "accident". Our payment will be the smallest of:
- (a) The Limit of Insurance;
 - (b) The cost at the time of the "accident" to repair the damaged property with property of like kind, capacity, size and quality;
 - (c) The cost at the time of the "accident" to replace the damaged property on the same site with other property:
 - (i) Of like kind, capacity, size and quality; and
 - (ii) Used for the same purpose;
 - (d) The amount you actually spend that is necessary to repair or replace the damaged property.
- (2) As respects any "object", if the cost of

repairing or replacing only a part of the "object" is greater than:

- (a) The cost of repairing the "object"; or
 - (b) The cost of replacing the entire "object" on the same site;
- we will pay only the smaller of (a) or (b). The repair parts or replacement "object" must be:
- (c) Of like kind, capacity, size and quality; and
 - (d) Used for the same purpose.
- (3) We will not pay you:
- (a) If the loss or damage is to property that is obsolete or useless to you; or
 - (b) For any extra cost if you decide to repair or replace the damaged property with property of a better kind or quality or of larger capacity.
- (4) If you do not repair or replace the damaged property within 18 months after the date of the "accident", then we will pay only the smaller of the:
- (a) Cost it would have taken to repair; or
 - (b) Actual cash value;
- at the time of the "accident".
- Paragraph (4) does not apply to any time period beyond 18 months that we agree to in writing.

2. General Conditions

a. Additional Insured

If a person or organization is designated in this Coverage Part as an additional insured, we will consider them to be an insured under this Coverage Part to the extent of their interest.

b. Bankruptcy

The bankruptcy or insolvency of you or your estate will not relieve us of any obligation under this Coverage Part.

c. Object Group

All "objects" in use or connected ready for use and included in an "Object" Group Definition will be considered as individually described in the Declarations. The premiums for "objects" included in an "Object" Group Description will be adjusted as follows:

- (1) We will base the initial premium for these "objects" on information we obtain. The rates charged will be those in effect on the first day of coverage.
- (2) We will charge an additional premium

for "objects" that are added to the policy after the effective date of this policy. The additional premium for these "objects" will be computed pro rata.

- (3) We will allow a return premium for "objects" that are removed from the policy after the effective date of the policy. The return premium will be computed pro rata from the time the "objects" are disconnected.

d. Policy Period, Coverage Territory

Under this Coverage Part:

- (1) The "accident" must occur:
- (a) During the Policy Period shown in the Declarations; and
 - (b) Within the coverage territory.
- (2) The coverage territory is:
- (a) The United States of America; and
 - (b) Puerto Rico.

e. Representations

By accepting this policy, you agree:

- (1) The statements in the Declarations are accurate and complete;
- (2) Those statements are based upon representations you made to us; and
- (3) We have issued this policy in reliance upon your representations.

f. Suspension

Whenever an "object" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" to that "object". This can be done by delivering or mailing a written notice of suspension to:

- (1) Your last known address; or
- (2) The address where the "object" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "object".

If we suspend your insurance, you will get a pro rata refund of premium for that "object". But the suspension will be effective even if

we have not yet made or offered a refund.

F. DEFINITIONS

1. "Accident" means a sudden and accidental breakdown of the "object" or a part of the "object". At the time the breakdown occurs, it must manifest itself by physical damage to the "object" that necessitates repair or replacement.

None of the following is an "accident":

- a. Depletion, deterioration, corrosion or erosion;
- b. Wear and tear;
- c. Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;
- d. Breakdown of any vacuum tube, gas tube or brush;
- e. Breakdown of any electronic computer or electronic data processing equipment;
- f. Breakdown of any structure or foundation supporting the "object" or any of its parts;
- g. The functioning of any safety or protective device.

Turbine Units have separate definitions of "accident". If insured, refer to the Turbine Units Object Definitions Endorsement.

If a strike, riot, civil commotion, act of sabotage or vandalism results in an "accident" this insurance applies. However, the War or Military Action Exclusion and the conditions of this Coverage Part still apply.

2. "Object" means the equipment shown in the Declarations. Full description of specific "object" categories are found in the Object Definitions endorsement attached to this Coverage Form.
3. "One Accident" means:
- If an initial accident causes other accidents all will be considered "one accident". All accidents at any one location that manifest themselves at the same time and are the result of the same cause will be considered "one accident".
4. "Suit" means a civil proceeding to which this insurance applies and that may include an arbitration proceeding to which you must submit or submit with our consent.

Covil Trial Exhibit 117 pp. 64-68

Duplicative of Penn National Trial Exhibit 8 pp. 165-169

See R. pp. 5599-5603

Covil Trial Exhibit 117 pp. 69-70

Duplicative of Penn National Trial Exhibit 8 pp. 173-174

See R. pp. 5607-5608

Covil Trial Exhibit 117 pp. 71-77

Duplicative of Penn National Trial Exhibit 8 pp. 191-197

See R. pp. 5625-5631

Covil Trial Exhibit 118 pp. 1-6

Duplicative of Penn National Trial Exhibit 8 pp. 162-167

See R. pp. 5596-5601

Covil Trial Exhibit 118 pp. 7-9

Duplicative of Penn National Trial Exhibit 8 pp. 206-208

See R. pp. 5640-5642

Covil Trial Exhibit 118 pp. 10-13

Duplicative of Penn National Trial Exhibit 8 pp. 211-214

See R. pp. 5645-567748

Covil Trial Exhibit 118 pp. 14-15

Duplicative of Penn National Trial Exhibit 8 pp. 217-218

See R. pp. 5651-5652

Covil Trial Exhibit 118 p. 16

Duplicative of Penn National Trial Exhibit 8 p. 221

See R. p. 5655

Covil Trial Exhibit 118 p. 17

Duplicative of Penn National Trial Exhibit 8 p. 223

See R. p. 5657

Covil Trial Exhibit 119 p. 1

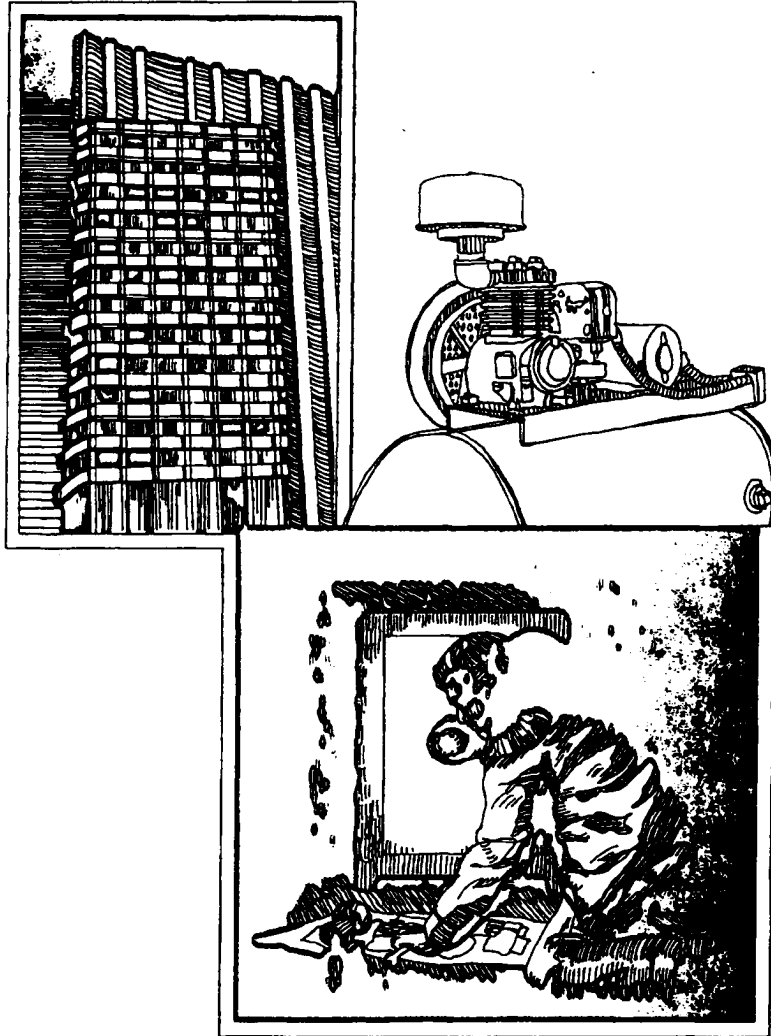
Duplicative of Penn National Trial Exhibit 8 p. 193

See R. p. 5627

Covil Trial Exhibit 119 pp. 2-4

Duplicative of Penn National Trial Exhibit 8 pp. 536-538

See R. pp. 5970-5972



OTHER

OTHER

FORM 70-96 (REV. 7/78)

PLAINTIFF'S
EXHIBIT

120

COV_INS_000178

COV_005973

Pennsylvania National

Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2361 • Harrisburg, PA 17105

THIS POLICY JACKET WITH THE DECLARATIONS PAGE, POLICY, FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A
PART THEREOF, COMPLETES THIS POLICY.

FORM 70-1572j (REV. 8/87)

COV_INS_000179

COV_005974

MUTUAL POLICY CONDITIONS

THIS POLICY IS NON-ASSESSABLE. THE POLICYHOLDER IS A MEMBER OF THE COMPANY AND SHALL PARTICIPATE TO THE EXTENT AND UPON THE CONDITIONS FIXED AND DETERMINED BY THE BOARD OF DIRECTORS IN ACCORDANCE WITH THE PROVISIONS OF LAW, IN THE DISTRIBUTION OF DIVIDENDS SO FIXED AND DETERMINED.

ANNUAL MEETING

THE INSURED IS HEREBY NOTIFIED THAT BY VIRTUE OF THIS POLICY, HE IS A MEMBER OF THE PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY AND IS ENTITLED TO VOTE EITHER IN PERSON OR BY PROXY AT ANY AND ALL MEETINGS OF SAID COMPANY. THE ANNUAL MEETINGS OF THE COMPANY ARE HELD AT ITS HOME OFFICE IN THE CITY OF HARRISBURG, PA. ON THE SECOND MONDAY OF APRIL IN EACH YEAR, AT 10:00 O'CLOCK A.M., AND THE INCLUSION OF THIS NOTICE IN THIS POLICY SHALL CONSTITUTE NOTICE TO THE MEMBER OF THE ANNUAL MEETING.

IN WITNESS WHEREOF, The company has caused this policy to be signed by its president and secretary but this policy shall not be valid unless completed by the attachment hereto of a Declarations Page, Policy or Coverage Part(s) and Endorsements, if any, and countersigned on the aforesaid declarations page by a duly authorized representative of the company.

 Secretary

 President

DECLARATIONS

SMALL BUSINESS COMPUTER POLICY

NEW DECLARATION * * * * * EFFECTIVE 03/31/88

POLICY NUMBER	FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
BC9 0018516	03/31/88	03/31/89	PA NATIONAL MUTUAL CAS INS CO	222672900	
NAMED INSURED AND ADDRESS			AGENCY		
ITEM COVIL CORPORATION, INC. ONE. (SEE 70-53) P.O. BOX 1804 GREENVILLE, GREENVILLE, SC 29602			SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 029602		

PAGE 1 OF 3

ITEM TWO - POLICY PERIOD: 12:01 A.M. STANDARD TIME AT THE ADDRESS OF THE INSURED AS STATED HEREIN.

ITEM THREE - LIMITS OF LIABILITY

LOCATION (NUMBER, STREET, CITY, COUNTY, STATE, ZIP CODE) 131 PENSLEY CIRCLE, GREENVILLE, GREENVILLE, SC			
VALUATION \$ 50,000 EQUIPMENT CLAUSE: (X) ACTUAL CASH VALUE () REPLACEMENT COST (80% COINSURANCE) (100% COINSURANCE) CODE 901			
LOC. NO. 1	() VALUABLE PAPERS, RECORDS AND MEDIA COVERAGE (FORM 70-1231)		
OPTIONAL COVERAGES:	LOSS OF EARNINGS \$	EXTRA EXPENSE \$	LOSS OF EARNINGS AND EXTRA EXPENSE \$
	DATA PROCESSORS ERRORS AND OMISSIONS \$ PER CLAIM \$ AGGREGATE		
ITEM THREE CONTINUED ON PAGE 2			

Pennsylvania
National
Insurance Companies



PMS

FORM 70-1572

COV_INS_000181

COV_005976

DECLARATIONS				
SMALL BUSINESS COMPUTER POLICY				
NEW DECLARATION * * * * * EFFECTIVE 03/31/88				
POLICY NUMBER	FROM	POLICY PERIOD TO	COVERAGE IS PROVIDED IN THE	AGENCY
BC9 0018516	03/31/88	03/31/89	PA NATIONAL MUTUAL CAS INS CO	222672900
NAMED INSURED AND ADDRESS			AGENCY	
ITEM COVIL CORPORATION, INC. ONE. (SEE 70-53) P.O. BOX 1804 GREENVILLE, GREENVILLE, SC 29602			SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 029602	
ITEM THREE (CONTINUED) PAGE 2 OF 3				
LOCATION (NUMBER, STREET, CITY, COUNTY, STATE, ZIP CODE) VALUATION CLAUSE: \$ EQUIPMENT () ACTUAL CASH VALUE (80% COINSURANCE) () REPLACEMENT COST (100% COINSURANCE) LOC. NO. () VALUABLE PAPERS, RECORDS AND MEDIA COVERAGE (FORM 70-1231) OPTIONAL COVERAGES: LOSS OF EARNINGS \$ EXTRA EXPENSE \$ LOSS OF EARNINGS AND EXTRA EXPENSE \$ DATA PROCESSORS ERRORS AND OMISSIONS \$ PER CLAIM AGGREGATE \$				



Pennsylvania National Insurance Companies
 Pennsylvania National Mutual Insurance Company
 1000 Market Street, Philadelphia, PA 19103

FORM 70-1572

COV_INS_000182

COV_005977

DECLARATIONS

SMALL BUSINESS COMPUTER POLICY

NEW DECLARATION * * * * * EFFECTIVE 03/31/88

POLICY NUMBER	FROM	POLICY PERIOD	TO	COVERAGE IS PROVIDED IN THE	AGENCY	P
BC9 0018516	03/31/88	03/31/89		PA NATIONAL MUTUAL CAS INS CO	222672900	
NAMED INSURED AND ADDRESS				AGENCY		
ITEM COVIL CORPORATION, INC. ONE. (SEE 70-53) P.O. BOX 1804 GREENVILLE, GREENVILLE, SC 29602				SAM J CRAIN & CO INC PO BOX 2563 GREENVILLE SC 029602		

ITEM FOUR -

PAGE 3 OF 3

INSTALLMENT SERVICE FEE : \$ 16 TOTAL PREMIUM \$ 452
IF POLICY PERIOD IS MORE THAN ONE YEAR AND PREMIUM IS TO BE PAID IN
INSTALLMENTS, PREMIUM IS PAYABLE:

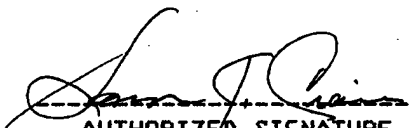
ON EFFECTIVE DATE OF POLICY \$; \$ FIRST ANNIVERSARY; \$ SECOND ANNIVERSARY

THIS POLICY SHALL NOT BE VALID UNLESS COUNTERSIGNED BY OUR AUTHORIZED
REPRESENTATIVE. DOCUMENT NUMBER:

APPLICABLE FORMS- 70-53 70-1861 07/85 70-1219 07/87 70-1376 01/84
70-267 00/0 70-1226

LOSS PAYEE(S) UNIT 001
SOUTHERN BANK & TRUST CO.
P.O. BOX 1329
GREENVILLE, SC

029602

 05/11/88
AUTHORIZED SIGNATURE DATE

-PREMIUM CHANGE SUMMARY-

PREMIUM DUE ----- \$452.00

INVOICE AND PAYMENT STATEMENT ENCLOSED

THANK YOU FOR LETTING US SERVE YOU

Pennsylvania
National
Insurance Companies
Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2563 Greenville SC 29602

BC9 0018516 00 20 ACCOUNT CUR
COVIL CORPORATION, INC.

PREMIUM DUE --- \$452.00
PLEASE MAKE CHECK PAYABLE TO-
AND MAIL TO-
SAM J CRAIN & CO INC
PO BOX 2563
GREENVILLE SC 029602

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number	Effective	Expiring	Issued to
Endorsement No.	Effective	Agent	
Authorized Representative			

SMALL BUSINESS COMPUTER POLICY
EQUIPMENT SCHEDULE

Loc. No.	Description	Manufacturer	Model Number	Serial Number	Limit of Liability
1	Computer	Cato	20280080	SE510	50,000.
1	Computer w/floppy Drive	IBM		1877239	Incl.
1	Colo Monitor	IBM		1055124	Incl.
1	Pro-printer & accessories	IBM		---	<u>Incl.</u>
				TOTAL	50,000..

The Attaching Clause need be completed only when any of these endorsements are issued subsequent to preparation of the policy.

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

Policy Number Effective Expiring Issued to
Endorsement No. Effective Agent
..... Authorized Representative

SPECIAL NAMED INSURED ENDORSEMENT

It is agreed that the person(s) or organization(s) named in the Declarations of this policy is(are) as follows:

Covil Corp., Inc., ... Covil Construction Co., Inc. (Domant Corp.), John Hamrick Link-President, James P. Covil - Vice President, Yvonne W. Ward - Corporate Secretary and Treasurer, Charles McWhorter - Assistant Corporate Secretary

It is further agreed that all named insureds are owned and controlled by the same financial interest.

It is further agreed that the inclusion of more than one insured shall not operate to increase the limits of the Company's liability.

Form 70-53 (Rev. 4/84)

COV_005980

COV_INS_000185

(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY
HARRISBURG, PENNSYLVANIA

BC9 0 01 85 16 9	3/31/88	3/31/89	Covil Corp., Inc.
Policy Number	Effective	Expiring	Issued to
XXX	3/31/88		Sam J. Crain & Co., Inc.
Endorsement No.	Effective		Agent

Authorized Representative

LOSS PAYABLE CLAUSE

Loss or damage, if any, under the policy shall be payable as interest may appear to _____
(LIENHOLDER)
Southern Bank & Trust Co.,
P.O. Box 1329, Greenville, SC 29602
(ADDRESS)

and this insurance as to the interest of the Bailment Lessor, Conditional Vendor or Mortgagee or Assignee of Bailment Lessor, Conditional Vendor or Mortgagee (herein called the Lienholder) shall not be invalidated by any act or neglect of the Lessee, Mortgagor or Owner of the within described property; provided, however, that the conversion, embezzlement or secretion by the Lessee, Mortgagor or Purchaser in possession of the property insured under a bailment lease, conditional sale, mortgage or other encumbrance is not covered under such policy, unless specifically insured against and premium paid therefor.

The Company reserves the right to cancel such policy at any time as provided by its terms, but in such case the Company shall notify the Lienholder when not less than ten days thereafter such cancellation shall be effective as to the interest of said Lienholder therein and the Company shall have the right, on like notice, to cancel this agreement.

If the insured fails to render proof of loss within the time granted in the policy conditions, such Lienholder shall do so within sixty days thereafter, in form and manner as provided by the policy, and further, shall be subject to the provisions of the policy relating to appraisal and time of payment and of bringing suit.

Whenever the Company shall pay the Lienholder any sum for loss or damage under such policy and shall claim that, as to the Lessee, Mortgagor, or Owner, no liability therefor existed, the Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the debt, or may at its option, pay to the Lienholder the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the Lienholder to recover the full amount of its claim.

Whenever a payment of any nature becomes due under the policy, separate payment may be made to each party at interest provided the Company protects the equity of all parties.

Nothing herein contained shall be held to vary, alter, waive or extend any of the terms, conditions, agreements or limitations of such policy, other than as above stated.

APPLICABLE TO THE FOLLOWING PROPERTY

Description of Property	Manufacturer	Identifying Marks and Numbers	Amount of Insurance	Type of Coverage
1 computer	Cato	SE510	50,000	Small Business
1 Computer w/floppy drive	IBM	1877239	Incl.	Computer pol.
1 Color monitor	IBM	1055124	Incl.	
1 pro-printer & accessories	IBM	---	Incl.	

Form 70-267

COV_INS_000186

COV_005981



(The Attaching Clause need be completed only when this endorsement is issued subsequent to preparation of the policy.)

..... Policy Number	 Effective	 Expiring	 Issued to
..... Endorsement No.	 Effective	 Agent	 Authorized Representative

**SMALL BUSINESS COMPUTER POLICY
DEDUCTIBLE ENDORSEMENT**

In consideration of the premium charged, it is agreed that the deductible amount in Item 4, Deductible Clause of the Small Business Computer Policy Provisions is amended to:

- ☒ \$250.
☐ \$500.
☐ \$1,000.



SMALL BUSINESS COMPUTER POLICY
PERSONAL PROPERTY COVERAGE FORM

I. PROPERTY COVERED

This policy covers:

1. **Personal property of the insured:** Personal property owned by the insured consisting of computers, terminals, printers, teleprinters, readers, electronic cash registers, automobile diagnostic equipment, word processing equipment and related equipment usual to electronic data processing, valuable papers, records and media as described and covered on attached endorsement.

2. **Personal property of others:** This insurance shall cover for account of the owner electronic data processing equipment described in the care, custody and control of the insured.

All of the above property is insured while in or on the building(s) or in the open (including in vehicles) on or within 100 feet of the designated premises.

II. PROPERTY NOT COVERED

This policy does not cover:

1. Household and personal effects contained in living quarters occupied by the insured, any officer, director, stockholder or partner of the insured or relatives of any of the foregoing, except as provided in the extensions of coverage;

2. Accounts, bills, currency, deeds, evidences of debt, money and securities;

3. Property insured against loss caused by rupture, bursting or disintegration of their rotating or moving parts resulting from centrifugal or reciprocating force.

III. EXTENSIONS OF COVERAGE

Each of the limits of liability specified for the following extensions of coverage applies as an additional amount of insurance. The coinsurance clause shall not apply to loss under the extensions of coverage.

The total amount recoverable under the extensions of coverage in this form and extensions of coverage in any other form made a part of this policy are not cumulative and shall not exceed the largest amount recoverable under any single form made a part of this policy.

1. **Newly Acquired Property.** The insured may apply up to 10% of the limit of liability specified for each kind of property covered, but not exceeding \$25,000, to cover direct loss in any one occurrence by a peril not otherwise excluded to such property at any location within the territorial limits of this policy (except at fairs and exhibitions). This coverage shall cease thirty (30) days from the date of such acquisition or on the date values at such locations are reported to the Company, or on the expiration date of the policy, whichever occurs first. Additional premium shall be due and payable for values so reported from the date the property is acquired.

2. **Extra Expense.** The insured may apply up to \$5,000 to cover the necessary extra expense incurred by the insured in order to continue as nearly as practicable the normal operations of the insured's business immediately following damage by a peril not otherwise excluded under this form to the personal property covered at the designated premises.

"Extra expense" means the excess of the total cost incurred during the period of restoration chargeable to the operations of

the insured's electronic data processing function over and above the total cost that would normally have been incurred to conduct the function during the same period had no loss occurred. Any salvage value of property obtained for temporary use during the period of restoration which remains after the resumption of normal operations, shall be taken into consideration in the adjustment of any loss hereunder.

"Period of restoration" means that period of time, commencing with the date of damage and not limited by the date of expiration of this policy, as would be required with the exercise of due diligence and dispatch to repair, rebuild or replace such part of the personal property as has been damaged.

The Company shall not be liable under this extension of coverage for:

- loss of income;
- the cost of repairing or replacing any of the described property, or the cost of research or other expense necessary to replace or restore books of account, manuscripts, abstracts, drawings, card index systems, film, tape, disc, drum, coil and other magnetic recording or storage media for electronic data processing, and other records that have been damaged by a peril not otherwise excluded;
- any other consequential or remote loss.

3. **Damage to Buildings from Theft, Burglary or Robbery:** This policy includes loss (except by fires or explosion) to that part of the building occupied by the insured and containing property covered, and to equipment therein pertaining to the service of the building but not building property or equipment removed from premises, directly resulting from theft, burglary or robbery (including attempt thereof), provided the insured is the owner of such building or equipment or is liable for such damage.

4. **Transportation.** The insured may apply up to \$25,000 to cover insured personal property (other than property in the care, custody or control of salesmen) during transportation by motor vehicles owned, leased or operated by the insured for loss in any one occurrence caused by:

- fire, lightning, windstorm and hail, explosion, smoke, riot, riot attending a strike and civil commotion, vandalism and malicious mischief; or
- collision, overturning or upset of the vehicle, meaning thereby the violent and accidental contact of the vehicle conveying the property described herein with any other vehicle or object excluding any loss or damage done by means other than as expressly indicated; or
- theft of an entire shipping bale, case or package from a vehicle while such property is contained in a fully enclosed and securely locked body or compartment and theft results from forcible entry evidenced by visible marks upon such body or compartment.

5. **Fire Suppression Equipment.** The insured may apply up to \$1,500 to cover the cost incurred in any one loss to recharge or refill any fire suppression equipment designed specifically to protect the data processing equipment insured by this policy when these devices have been used in a covered loss.

IV. VALUATION CLAUSE

- a. **ACTUAL CASH VALUE CLAUSE** (applies if indicated in Item 3.) - The limit of this Company's liability for loss shall not exceed the actual cash value of the covered property or, if the loss is a part thereof, the actual cash value of such part, at time of loss, or in any event in excess of the applicable amount of insurance stated in Item 3.
- b. **REPLACEMENT COST CLAUSE** (applies if indicated in Item 3.) - The limit of this Company's liability for loss shall not exceed the actual cost to replace the covered property at time of loss. The loss shall be ascertained or estimated on the basis of the actual cost to replace with property similar in kind to that insured at the place of and immediately preceding the time of such loss. However, in no event shall this Company's liability exceed the applicable amount of insurance stated in Item 3. or the amount actually and necessarily expended by the insured.

V. PERILS INSURED AGAINST

This policy insures against all risks of direct physical loss subject to the provisions and stipulations herein and in the policy of which this form is made a part.

VI. EXCLUSIONS

1. This policy does not insure under this form against loss caused by:

- a. enforcement of any ordinance or law regulating the use, construction, repair, or demolition of property, including debris removal expense;
- b. unexplained or mysterious disappearance of property, or shortage of property disclosed on taking inventory;
- c. actual work upon, installation or testing of property covered, failure, breakdown or derangement of machines or machinery, error, omission or deficiency in design, specifications, workmanship or materials, unless loss by fire or explosion not otherwise excluded ensues and then the Company shall be liable for only such ensuing loss;
- d. leakage or overflow from plumbing, heating, air conditioning or other equipment or appliances (except fire protective systems) caused by or resulting from freezing while the described building is vacant or unoccupied, unless the insured shall have exercised due diligence with respect to maintaining heat in the buildings or unless such equipment and appliances had been drained and the water supply shut off during such vacancy or unoccupancy;
- e. delay, loss of market, interruption of business, or consequential loss of any nature;
- f. (1) wear and tear,
(2) deterioration, inherent vice, latent defect,
(3) rust, mold, wet or dry rot, contamination,
(4) dampness or dryness of atmosphere, changes in or extremes of temperature;

unless loss by fire, smoke (other than smoke from agricultural smudging or industrial operations), explosion, collapse of a building, glass breakage or water not otherwise excluded ensues, then this policy shall cover only such ensuing loss.

If loss by water not otherwise excluded ensues, this policy shall also cover the cost of tearing out and replacing of

any part of the building covered required to effect repairs to the plumbing, heating or air conditioning system or domestic appliance but excluding loss to the system or appliance from which the water escapes;

- g. explosion of steam boilers, steam pipes, steam turbines or steam engines (except direct loss resulting from the explosion of accumulated gases or unconsumed fuel within the firebox, or combustion chamber of any fired vessel or within the flues or passages which conduct the gases of combustion therefrom) if owned by, leased by or operated under the control of the insured, or for any ensuing loss except by fire or explosion not otherwise excluded, and then the Company shall be liable for only such ensuing loss;
- h. voluntary parting with title or possession of any property by the insured or others to whom the property may be entrusted if induced to do so by any fraudulent scheme, trick, device or false pretense;
- i. any fraudulent, dishonest or criminal act done by or at the instigation of any insured, partner or joint adventurer in or of any insured, an officer, director or trustee of any insured, pilferage, appropriation or concealment of any property covered due to any fraudulent, dishonest or criminal act of any employee while working or otherwise, or agent of any insured, or any person to whom the property covered may be entrusted;
- j. continuous or repeated seepage or leakage of water or steam from within a plumbing, heating or air conditioning system or from within a domestic appliance which occurs over a period of weeks, months or years; or
- k. rain, snow or sleet to property in the open.

2. This policy does not insure against loss caused directly or indirectly by the interruption of power or other utility service furnished to the designated premises if the interruption takes place away from the designated premises. If a peril insured against ensues on the designated premises, this Company will pay only for loss caused by the ensuing peril.

3. This policy does not insure under this form against loss caused by, resulting from, contributed to or aggravated by any of the following:

- (a) earth movement, including but not limited to earthquake, landslide, mudflow, earth sinking, earth rising or shifting;
- (b) flood, surface water, waves, tidal water or tidal waves, overflow of streams or other bodies of water, or spray from any of the foregoing, all whether driven by wind or not;
- (c) water which backs up through sewers or drains; or
- (d) water below the surface of the ground including that which exerts pressure on or flows, seeps or leaks through sidewalks, driveways, foundations, walls, basement or other floors or through doors, windows or any other openings in such sidewalks, driveways, foundations, walls or floors;

unless fire or explosion as insured against ensues and then this Company shall be liable for only loss caused by the ensuing fire or explosion, but these exclusions shall not apply to loss from theft.

Pennsylvania National

Insurance Companies

Pennsylvania National Mutual Casualty Insurance Company
P.O. Box 2961 • Harrisburg, PA 17105

SMALL BUSINESS COMPUTER POLICY PROVISIONS

In consideration of the payment of the premium, in reliance upon the statements in the declarations made a part hereof and subject to all of the terms of this policy, agrees with the Insured as follows:

GENERAL CONDITIONS

1. **Premium.** All premiums for this policy shall be computed in accordance with the Company's rules, rates, rating plans, premiums and minimum premiums applicable to the insurance afforded herein.
2. **Policy Period, Territory.** This policy applies only to loss to property during the policy period while such property is within or between the fifty states of the United States of America, the District of Columbia and Puerto Rico.
3. **Time of Inception.** To the extent that coverage in this policy replaces coverage in other policies terminating noon standard time on the inception date of this policy, coverage under this policy shall not become effective until such other coverage has terminated.
4. **Deductible Clause.** All claims for loss, damage or expense arising out of any one occurrence shall be adjusted as one claim, and from the amount of such adjusted claim there shall be deducted the sum of \$100.
5. **Coinsurance Clause.** The Company shall not be liable for a greater proportion of any loss to property covered (except valuable papers, records and media) than the limit of liability under this policy for such property bears to the amount produced by multiplying the replacement cost (without deduction for depreciation) of such property at the time of the loss by the coinsurance percentage stated in the Declarations.

The value of property covered under extensions of coverage and cost of debris removal, shall not be considered in the determination of replacement cost when applying the coinsurance clause. In the event that the aggregate claim for any loss is less than \$2,000, and less than 2% of the limit of liability for all contributing insurance applicable to the property involved at the time such loss occurs, no special inventory or appraisal of the undamaged property shall be required providing that nothing herein shall be construed to waive the application of the first paragraph of this clause.

In the event it is impossible to replace the damaged or destroyed property the Company shall have the option of replacing it with property of like kind and quality or paying the amount shown as "Limit of Liability."

If insurance for personal property of the Insured of this policy is divided into separate limits of liability, the foregoing shall apply separately to the property covered under each such limit of liability.
6. **Cancellation.** This policy may be cancelled by the Insured by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing to the Insured at the mailing address shown in the Declarations, written notice stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Insured or by the Company shall be equivalent to mailing.
7. **Concealment or Fraud.** This policy is void if any Insured has intentionally concealed or misrepresented any material fact or circumstances relating to this insurance.
8. **Assignment.** Assignment of interest under this policy shall not bind the Company until its consent is endorsed hereon. However, if the Insured shall die, this insurance shall apply:
 - (a) to the Insured's legal representative, as the Insured, but only while acting within the scope of his duties as such; or
 - (b) to the person having temporary custody of the property of the Insured but only until the appointment and qualification of legal representative.

Notice of cancellation addressed to the Insured and mailed to the mailing address shown in the Declarations shall be sufficient notice to effect cancellation of this policy.
9. **Removal.** This policy covers loss by removal of the property covered hereunder from premises endangered by the perils insured against, and the amount of insurance applies pro rata for thirty (30) days at each proper place to which such property shall necessarily be removed for preservation.
10. **Debris Removal.** This policy covers expense incurred in the removal of debris of the property covered which may be occasioned by loss by any of the perils insured against in this policy. The total amount recoverable under this policy for both loss to property and debris removal expense shall not exceed the limit of liability applying to the property. Cost of removal of debris shall not be considered in the determination of replacement cost when applying the Coinsurance Clause.
11. **War Risk and Governmental Action Exclusion.** This policy shall not apply to loss caused, directly or indirectly, by or due to any act or condition incident to the following:
 - (a) hostile or warlike action in time of peace or war including action in hindering, combating or defending against an actual, impending or expected attack (i) by any government or sovereign power (de jure or de facto), or by any authority maintaining or using military, naval or air forces; or (ii) by military, naval, or air forces, or (iii) by an agent of any such government, power authority, or forces, it being understood that any discharge, explosion or use of any weapon of war employing nuclear fission or fusion shall be conclusively presumed to be such hostile or warlike action by such a government, power, authority or forces;
 - (b) insurrection, rebellion, revolution, civil war, usurped power, or action taken by governmental authority in hindering, com-

- bating or defending against such an occurrence, seizure or destruction under guarantee or custom's regulations, confiscation by order of any government or public authority, or risks of contraband or illegal transportation or trade.
12. **Nuclear Clause and Nuclear Exclusion.**
- (a) **Nuclear Clause.** The word "fire" in this policy is not intended to and does not embrace nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, and loss by nuclear reaction or nuclear radiation or radioactive contamination is not intended to be and is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by "fire" or any other perils insured against by this policy. However, subject to the foregoing and all provisions of this policy, direct loss by "fire" resulting from nuclear reaction or nuclear radiation or radioactive contamination is insured against by this policy.
- (b) **Nuclear Exclusion.** Loss by nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, or due to any act or condition incident to any of the foregoing is not insured against by this policy, whether such loss be direct or indirect, proximate or remote, or be in whole or in part caused by, contributed to, or aggravated by any of the perils insured against by this policy; and nuclear reaction or nuclear radiation or radioactive contamination, all whether controlled or uncontrolled, is not "explosion" or "smoke." This clause applies to all perils insured against hereunder except the peril of fire, which is otherwise provided for in the nuclear clause above.
13. **Other Insurance.**
- (a) If at the time of loss there is other insurance written in the name of the Insured upon the same plan, terms, conditions and provisions as contained in this policy, herein referred to as Contributing Insurance, this Company shall be liable for no greater proportion of any loss, than the amount of insurance under this policy bears to the whole of amount of insurance covering such loss.
- (b) If at the time of loss there is other insurance other than that as described in (a) above, this Company shall not be liable for any loss hereunder until:
- (1) the Liability of such other insurance has been exhausted, and
 - (2) then for only such amount as may exceed the due from other insurances, whether collectible or not.
14. **Subrogation.**
- (a) In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery against any person or organization and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing after loss to prejudice such rights.
- (b) The Company shall not be bound to pay any loss if the Insured has impaired any right of recovery for loss; however, it is agreed that the Insured may:
- (1) as respects property while on the premises of the Insured, release others in writing from liability for loss prior to loss, and such release shall not affect the right of the Insured to recover hereunder, and
 - (2) as respects property in transit, accept such bills of lading, receipts or contracts of transportation as are ordinarily issued by carriers containing a limitation as to the value of such goods or merchandise.
15. **Duties of the Insured After a Loss.** In case of loss, the Insured shall:
- (a) give immediate written notice of such loss to the Company;
 - (b) protect the personal property from further damage, make reasonable temporary repairs required to protect the property, and keep an accurate record of repair expenditures;
 - (c) prepare an inventory of damaged personal property showing in detail, quantity, description, replacement cost and amount of loss, attach to the inventory all bills, receipts and related documents that substantiate the figures in the inventory;
 - (d) exhibit the remains of the damaged property as often as may be reasonably required by the Company and submit to examination under oath;
 - (e) submit to the Company within sixty (60) days after requested a signed, sworn statement of loss that sets forth to the best of the Insured's knowledge and belief:
 - (1) the time and cause of loss;
 - (2) interest of the Insured and all others in the property involved and all encumbrances on the property;
 - (3) other policies of insurance that may cover the loss;
 - (4) changes in title or occupancy of the property during the term of the policy;
 - (5) an inventory of damaged personal property described in (2) above;
 - (f) give notice of such loss to the proper police authority if loss is due to a violation of law.
16. **Payment of Loss.** The Company will pay all adjusted claims within thirty (30) days after presentation and acceptance of the proof of loss.
17. **Privilege to Adjust With Owner.**
- (a) Except as provided in (b) below, or unless another payee is specifically named in the policy, loss, if any, shall be adjusted with and payable to the Insured.
- (b) In the event claim is made for damage to property of others held by the Insured, the right to adjust such loss or damage with the owner or owners of the property is reserved to the Company and the receipt of payment by such owner or owners in satisfaction thereof shall be in full satisfaction of any claim of the Insured for which such payment has been made.
- If legal proceedings be taken to enforce a claim against the Insured as respects any such loss or damage, the Company reserves the right at its option without expense to the Insured to conduct and control the defense on behalf of and in the name of the Insured. No action of the Company in such regard shall increase the liability of the Company under this policy, nor increase the limits of liability specified in the policy.
18. **Abandonment of Property.** The Company need not accept any property abandoned by an Insured.
19. **Company Options.** If the Company gives notice within thirty (30) days after it has received a signed, sworn statement of loss, it shall have the option to take all or any part of the property damaged at an agreed value, or to repair, rebuild or replace it with equivalent property.
20. **Insurance Under More Than One Coverage, Part or Endorsement.** In the event that more than one coverage, part or endorsement of this policy insures the same loss, damage or claim, the Company shall not be liable for more than the actual loss or damage sustained by the Insured.
21. **Appraisal.** If the Insured and the Company fail to agree on the amount of the loss, either can demand that the amount of loss be set by appraisal. If either party makes a written demand for appraisal, each shall select a competent independent appraiser. Each shall notify the other of the selected appraiser's identity within twenty (20) days of the receipt of the written demand.
- The two appraisers shall select a competent, impartial umpire. If the appraisers are unable to agree upon an umpire within fifteen (15) days, the Insured or the Company may petition a judge of a Court of Record in the state where the insured premises is located to select an umpire.
- The appraisers shall then set the amount of the loss. If the appraisers submit a written report of an agreement to the Company, the amount agreed upon shall be the amount of the loss. If the appraisers fail to agree within a reasonable time, they shall submit their differences to the umpire. Written agreement signed by any two of these three shall set the amount of loss.
- Each appraiser shall be paid by the party selecting that appraiser. Other expenses of the appraisal and compensation of the umpire shall be paid equally by the Insured and the Company.

22. **Inspection and Audit.** The Company shall be permitted but not obligated to inspect the Insured's property and operations at any time. Neither the Company's right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the Insured or others to determine or warrant that such property or operations are safe or healthful or are in compliance with any law, rule or regulations.
- The Company may examine and audit the Insured's books and records at any time during the policy period and extensions and within three years after the final termination of this policy, as far as they relate to the subject matter of this insurance.
23. **Liberalization Clause.** In the event any filing is submitted to the insurance supervisory authorities on behalf of the Company, and
- (a) the filing is approved or accepted by the insurance authorities to be effective while this policy is in force or within forty-five (45) days prior to its inception; and
 - (b) the filing includes insurance forms or other provisions that would extend or broaden this insurance by endorsement or substitution of form, without additional premium;
- the benefit of such extended or broadened insurance shall inure to the benefit of the Insured as though the endorsement or substitution of form had been made.
24. **Waiver or Change of Provisions.** The terms of this insurance shall not be waived, changed or modified except by endorsement issued to form a part of this policy.
25. **Suit.** No suit shall be brought on this policy unless the Insured has complied with all the policy provisions and has commenced the suit within one year after the loss occurs.
26. **Permits and Use.** Except as otherwise provided, permission is granted, in the event of loss hereunder, to make reasonable repairs, temporary or permanent, provided such repairs are confined solely to the protection of the property from further damage, and provided further that the Insured shall keep an accurate record of such repair expenditures. The cost of any such repairs directly attributable to damage by any peril insured against shall be included in determining the amount of loss hereunder. Nothing herein contained is intended to modify the policy requirements applicable in case loss occurs, and in particular the requirement that, in case loss occurs, the Insured shall protect the property from further damage.
27. **Vacancy, Unoccupancy and Increase of Hazard.**
- (a) This Company shall not be liable for loss occurring while a described building, whether intended for occupancy by owner or tenant is vacant beyond a period of sixty (60) consecutive days. "Vacant" or "Vacancy" means containing no contents pertaining to operations or activities customary to occupancy of the building, but a building in process of construction shall not be deemed vacant.
 - (b) Permission is granted for unoccupancy.
 - (c) Unless otherwise provided in writing added hereto, this Company shall not be liable for loss occurring while the hazard is increased by any means within the control or knowledge of the Insured.
28. **Protective Safeguards.** It is a condition of this insurance that the Insured shall maintain so far as is within his control such protective safeguards as are set forth by endorsement hereto.
- Failure to maintain such protective safeguards shall suspend this insurance only as respects the location or situation affected for the time of such discontinuance.
29. **Recoveries.** In the event the Company has made a payment for loss under the policy and a subsequent recovery is made of the lost or damaged property, the Insured shall be entitled to all recoveries in excess of the amount paid by the Company, less only the actual cost of effecting such recoveries.
30. **Loss Clause.** Any loss hereunder shall not reduce the amount of this insurance.
31. **No Benefit To Bailee.** This insurance shall not inure directly or indirectly to the benefit of any carrier or other bailee.
32. **No Control.** This insurance shall not be prejudiced:
- (a) by any act or neglect of the owner of any building if the Insured is not the owner thereof, or by any act or neglect of any occupant (other than the Insured) of any building when such act or neglect of the owner or occupant is not within the control of the Insured, of
 - (b) by failure of the Insured to comply with any warranty or condition contained in any endorsement attached to this policy with regard to any portion of the premises over which the Insured has no control.

Covil Trial Exhibit 121

Duplicative of 2023.05.11 Order

See R. pp. 40-53

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-08-2757

COUNTY OF BERKELEY

Portrait Homes - South Carolina, LLC and
Portrait Homes - Persimmon Hill, LLC,

Plaintiffs,

v.

Pennsylvania National Mutual Casualty
Insurance Company and The Persimmon
Hill Homeowners Association, Inc.,

Defendants,

Post-Trial Motions and
Punitive Damages Order

The Persimmon Hill Homeowners
Association, Inc.,

Third-Party Plaintiff,

v.

Jose Castillo d/b/a JJA Framing and JJA
Construction, Inc. d/b/a JJA Framing,

Third-Party Defendants.

Before the Court are four matters: (I) Penn National's Motion to Alter or, in the Alternative, to Amend Judgment Pursuant to Rule 59(e), SCRPC; (II) Portrait Homes's request for attorney's fees and costs; (III) Persimmon Hill HOA's request for attorney's fees and costs; and (IV) Punitive Damages determination. With the exception of an issue relating to the interplay between the award to Portrait Homes for breach of contract relating to the duty to indemnify and the award to Persimmon Hill HOA as a judgment creditor, the Court denies Penn National's motion. The Court

awards attorney's fees and costs to Portrait Homes and to Persimmon Hill HOA. The Court awards punitive damages to Portrait Homes and to Persimmon Hill HOA.

I. Penn National's Motion to Alter or Amend

A. As to Portrait Homes

Penn National asserts the Court erred in a number of ways in the Order Regarding Additional Insured Coverage. To the extent an argument by Penn National is not specifically addressed in this current Order, the argument is rejected.

1. Coverage Under Additional Insured Endorsements

The Court found Portrait Homes qualified as an additional insured under three of the Penn National policies based on endorsement 71 11 45 entitled Automatic Additional Insureds - Owners, Contractors and Subcontractors (Completed Operations); and under two policies based on endorsement CG 20 37 entitled Additional Insured - Owners, Lessees or Contractors - Completed Operations. Penn National argues both findings were in error.

(a) Endorsement 71 11 45

A critical issue under this endorsement was determining who was intended to be included as named insured on the three policies containing endorsement 71 11 45. The named insured on the Declarations Pages was listed as "JJA CONSTRUCTION INC". However, on each Declarations Page, following the preprinted category FORM OF BUSINESS, the following is typed in: INDIVIDUAL. The discrepancy between the named insured being listed with "INC" in its name and the form of the business being classified as an individual (as opposed to a corporation) created an ambiguity. *See Estate of Revis By Revis v. Revis*, 326 S.C. 470, 478, 484 S.E.2d 112, 116 (Ct. App. 1997) ("An ambiguous contract is one capable of being understood in more ways than one, an agreement obscure in meaning through indefiniteness of expression, or having a

double meaning.”) (quoting *Ebert v. Ebert*, 320 S.C. 331, 338, 465 S.E.2d 121, 125 (Ct. App. 1995)). The documents from Penn National’s underwriting file introduced at trial showed that Jose Castillo dba JJA Framing was intended by both the insured and the insurer to continue to be insured under the policies issued to JJA Construction Inc.

Furthermore, even if Jose Castillo dba JJA Framing was not considered to be included as a named insured under the policies issued to JJA Construction Inc., the terms of endorsement 71 11 45 were still satisfied because JJA Construction Inc.—the named insured—did have a contract with Portrait Homes. Not only was it alleged in the amended complaints in the underlying construction defect cases that Jose Castillo and JJA Construction Inc. both did business as JJA Framing, the evidence at trial established the allegations were in fact true. If Jose Castillo and JJA Construction Inc. both did business as JJA Framing, then a contract in the name of JJA Framing bound both Jose Castillo and JJA Construction Inc. *See Long v. Carolina Baking Co.*, 190 S.C. 367, 377, 3 S.E.2d 46, 50 (1939) (““A corporation, as well as individuals, may have or be known by several names in the transaction of its general business so that it may enforce, as well as be bound by, contracts entered into in an adopted name other than the regular name under which it was incorporated.””); *see generally McCall v. IKON, d/b/a IKON Educational Services*, 363 S.C. 646, 652, 611 S.E.2d 315, 318 (Ct. App. 2005) (holding default judgment obtained against trade name rather than actual legal entity nevertheless bound affiliated entities who were existing corporations recognized under South Carolina law, and noting: ““If a corporation has acquired a name by usage, an adjudication against it by the name so acquired is valid and binding.””). The contracts between Portrait Homes and Jose Castillo dba JJA Framing, therefore, also bound JJA Construction Inc. Because the contracts between Portrait Homes and Jose Castillo dba JJA

Framing also bound JJA Construction Inc., the requirement under endorsement 71 11 45 that there be a written contract with the named insured (“you”) was satisfied.

Penn National asserted in its brief: “The evidence indisputably shows that ‘JJA Construction, Inc.’ is a separate legal entity for *all* purposes, including insurance.” *Penn National’s Memorandum of Law in Support of Motion to Alter or, in the Alternative, to Amend Judgment*, p. 19 (emphasis in original). As a matter of fact, just the opposite is true: The evidence convincingly shows that JJA Construction Inc. was not a separate legal entity for any purpose, especially not for purposes of insurance.

At oral arguments on post-trial motions Penn National’s attorney argued:

[T]his argument about Castillo and JJA Construction being one in the same, it doesn’t matter.

I mean -- let’s assume they are one in the same. The Court found they are one in the same; fine, they are one in the same....

It also doesn’t change the fact that on the 71-1145 endorsement the requirement of the contractual obligation on the Persimmon Hill project to provide additional insured coverage for products completed operations hazard it does not exist. It didn’t happen.

So the result -- maybe they got to it in a roundabout way and a lazy way and an untimely way, but ultimately the result was accurate.

(Transcript from Hearing on January 15, 2020, p. 66, lines 2-17). The “Contract Insufficient Because Completed Operations Coverage Not Required” Theory now appears to be Penn National’s leading contender for why there is no additional insured coverage under endorsement 71 11 45. This alternative theory is not mentioned in the denial letter.¹ The first time Penn National asserted the theory to Portrait Homes appears to have been over four years later during the trial in

¹ Greg Gross, the author of the denial letter, concluded during his investigation the contract *did* satisfy the requirements of endorsement 71 11 45 (See HOA Exhibit 78, p. 5; Trial Transcript, p. 429, line 19 - p. 432, line 12).

2019. Adam Parsons, Penn National's home office counsel and the person who made the decision to deny Portrait Homes's additional insured tender, testified endorsement 71 11 45 did not provide additional insured coverage to Portrait Homes because there was no written contract between Portrait Homes and the named insured under the three policies containing the endorsement (Trial Transcript II, p. 60, line 21 - p. 68, line 18). Penn National's counsel asked Parsons on direct examination to assume for the sake of argument that basis for denying coverage was invalid. Parsons then set out the "Contract Insufficient Because Completed Operations Coverage Not Required" Theory. Parsons testified the only contract he considered was the Housing and Purchase Order Contract (Plaintiff's Exhibit 38), which does not have an explicit requirement for completed operations coverage. Parsons concluded that because the underlying construction defect cases involved a claim implicating completed operations (as opposed to ongoing operations), the Housing and Purchase Order Contract was insufficient for that reason as well to satisfy endorsement 71 11 45 (Trial Transcript II, p. 68, line 19 - p. 71, line 5). Parsons rejected the idea the Master Agreement (Plaintiff's Exhibit 37), which did explicitly require completed operations coverage for the additional insured, should be considered in the analysis (Trial Transcript II, p. 71, line 18 - p. 72, line 18). Parsons summarized:

My conclusion was limited to the tendering parties, but the tendering parties did not qualify as an additional insured for the products operation hazard under this endorsement because those tendering parties have no written contract with JJA Construction, Inc. to buy completed operations hazard insurance at all and it does not require JJA Construction, Inc. to name them as additional insured for the products completed operation hazard largely because that concept came after they had drafted that contract.

(Trial Transcript II, p. 73, lines 4-14).

The Court has found as a matter of fact that the Master Agreement and the Housing and Purchase Order Contract both apply to the Persimmon Hill project.² Even if the Master Agreement (Plaintiff's Exhibit 37) is determined not to have applied to the Persimmon Hill project because that Master Agreement was dated after the Housing and Purchase Order Contract was initially signed, two other independent grounds support the Court's finding that the contract between Portrait Homes and JJA Framing required the additional insured coverage to include completed operations.

First, the evidence at trial establishes as a matter of fact that there would have been another Master Agreement in place between Portrait Homes and JJA Framing before the Housing and Purchase Order Contract was initially signed. Shawn Belcher was the purchasing and estimating manager for Portrait Homes from January 2004 through June 2009. One of his main responsibilities was to execute the contracts with subcontractors and to manage those contracts (and the contracts already in place when he arrived) during the course of a project. Belcher testified about the contractual relationships between Portrait Homes and its subcontractors. Belcher testified that for every subcontractor there were two types of contracts entered. First, a contract called a Master Agreement, which was a gateway document that qualified a subcontractor to work for Portrait Homes on any project, was executed. Second, a contract called a Housing and Purchase Order Contract, which was specific to a particular project, was executed. Belcher testified both contracts had to be in place before a subcontractor could work on a project or get

² The Housing and Purchase Order Contract was amended on August 15, 2003 and on February 2, 2004 after the Master Agreement was initially signed (Plaintiff's Exhibit 38, p. 6 and testimony of Shawn Belcher in Trial Transcript, p. 468, line 9 - p. 470, line 4). Gross noted in the claim file that "the applicable contract for the site between Portrait Homes and the insured was executed on 8-15-03" (HOA Exhibit 78, p. 5). The Court continues to be unpersuaded by Penn National's contention that the Master Agreement did not apply to the Persimmon Hill project simply because it was signed after the Housing and Purchase Order Contract was initially signed.

paid for any work on a particular project. Belcher testified the form of the contracts would be periodically updated, but the substance of the hold harmless and insurance requirements did not change. Belcher testified both contracts governed a subcontractor's work at a particular project (Trial Transcript, p. 449, line 1 - p. 451, line 3), and the hold harmless and insurance obligations in the Housing and Purchase Order Contract and in the Master Agreement were intended to be complementary (Trial Transcript, p. 436, lines 2-21). Specifically, Belcher testified:

Q. Did a sub have to have both a master agreement and a housing purchase order contract specific to a project in place in order to work on the project?

A. Yes, sir.

Q. Would they get paid if they didn't have those two documents in place?

A. No, sir.

Q. Okay. Did those documents ever change in form over time?

A. There were small changes along the way, but nothing of -- nothing substantial.

Q. Okay. And did those contracts -- and we'll look at them for this particular project. They contained defense and indemnification obligations?

A. Yes, sir.

Q. That ran both to the subcontractor and to the subcontractor's insurance company? That was the goal?

A. Yes, sir.

(Trial Transcript, p. 450, line 8 - p. 451, line 3).³ The Court finds as a matter of fact that before the Housing and Purchase Order Contract for Persimmon Hill was entered into, there would have

³ The Court notes that Penn National's attorneys did not pose a single question to Belcher about the Master Agreement.

been an earlier Master Agreement in place between Portrait Homes and JJA Framing containing the same requirement of additional insured coverage for completed operations.

Second, as noted in the Order Regarding Additional Insured Coverage, the certificate of insurance issued by the Taylor Agency to Portrait Homes relating to additional insured coverage under endorsement 71 11 45 shows that everyone involved (Taylor Agency, JJA Framing, Portrait Homes) believed Portrait Homes was covered for completed operations because endorsement 71 11 45 was attached to the certificate of insurance and was titled “Automatic Additional Insured -- Owners, Contractors And Subcontractors (*Completed Operations*)” (Plaintiff’s Exhibit 5) (emphasis added). At the hearing on Penn National’s Motion to Alter or, in the Alternative, to Amend Judgment, Penn National’s counsel seemed to indicate the certificates of insurance are relevant to the coverage analysis. Specifically, as to the certificate of insurance relating to endorsement 71 11 45, Penn National’s counsel stated:

At some point Portrait Homes decided they wanted a different kind of endorsement, an additional -- a different kind of additional insured endorsement.

And at Portrait Homes’ Exhibit 5 is a new certificate of insurance dated December 6, 2005. So basically the year after the first one.

The same thing that happens. They say a -- Mr. Castillo you need to update your insurance information, it is a year later, here is what we want as additional insured, take it to the agency.

And again they say, here is exactly what we want, we want a 71-1145 and the entities we want named are identified. And at that point they do say we want Portrait’s Homes-South Carolina, LLC identified. So they do it, but they don’t want it on the 2037 anymore. They want a different form. They want the 71-1145. And again they attach it. There should be no doubt to anybody what we, Portrait Homes, want; we want this 71-1145 endorsement.

It then is sent from the Taylor Agency to Penn National. It then goes on the policy exactly as requested, not -- no change, no alteration. Penn National

did exactly what it was asked to do. It provides that 71-1145 coverage.

And we see that again in multiple policy years. But initially we see it at Portrait Homes' Exhibit 21, Page 29. So for the policy year from December '05 to December '06 we now have that 71-1145 endorsement.

(Transcript from Hearing on January 15, 2020, p. 76, line 19 - p. 77, line 19).

The Court agrees the certificate of insurance should be considered in determining the contractual requirements for the additional insured coverage because the certificate of insurance was in essence a part of the contractual relationship. The Housing and Purchase Order Contract provides:

Subcontractor shall not commence the Work unless and until it has obtained the above insurance and *delivered to Contractor a certificate or memorandum evidencing such coverage* (including the name of the carrier, policy number, limits and expiration date) and evidencing payment thereof by Subcontractor, *and naming the Contractor*, the owner of the project and any additional parties, *as additional insured*.

All insurance and coverages shall be in form and substance, and issued by credit rated companies, satisfactory to Contractor.

(Plaintiff's Exhibit 38, p. 4) (emphasis added). The contract required JJA Framing to provide Portrait Homes with the certificate of insurance confirming additional insured coverage for Portrait Homes, and the certificate of insurance provided to Portrait Homes confirmed the additional insured coverage included completed operations. The form and substance of the insurance coverage satisfactory to Portrait Homes included completed operations. Construing the Housing and Purchase Order Contract (Plaintiff's Exhibit 38) and the certificate of insurance (Plaintiff's Exhibit 5) together further supports the Court's finding the contractual relationship between Portrait Homes and JJA Framing required the additional insured coverage to include completed operations.

(b) Endorsement CG 20 37

Penn National repeats its position presented at trial and in the submittals associated with the proposed orders for why Portrait Homes does not qualify as an additional insured under endorsement CG 20 37. The Order (pp. 27-34) adequately explains why the Court ruled to the contrary.

2. The Relevance of Waiver

Penn National contends “[t]he court improperly found that Penn National waived its right to contest coverage and that such waiver operated to extend coverage to uncovered risks, in reliance on *Harleysville Group Ins. v. Heritage Communities, Inc.*, 420 S.C. 321, 336-44, 803 S.E.2d 288, 296-301 (2017) decision.” *Penn National’s Memorandum of Law in Support of Motion to Alter or, in the Alternative, to Amend Judgment*, p. 22. Penn National contends the requirements discussed in *Harleysville* for reservation of rights letters do not apply to denial letters. The Court disagrees for two reasons, the first being general in nature and the second being specific to this case.

Before addressing those two reasons, a partial review of the Court’s discussion of the *Harleysville* decision is useful:

The Supreme Court [in *Harleysville*] noted that “it is axiomatic that an insured must be provided sufficient information to understand the reasons the insurer believes the policy may not provide coverage.” *Id.* at 337-38, 803 S.E.2d at 297. The Supreme Court noted: “‘A reservation of rights letter must give fair notice to the insured that the insurer intends to assert defenses to coverage or to pursue a declaratory relief action at a later date.’” *Id.* at 338, 803 S.E.2d at 297. The explanation has to be unambiguous and “[g]rounds not identified in the reservation of rights may not be asserted later by the insurer[.]” *Id.* at 339, 803 S.E.2d at 298. Concluding *Harleysville* failed to meet the required standard, the Supreme Court affirmed “the Special Referee’s finding that *Harleysville*’s reservation letters were insufficient to reserve its right to contest

coverage of actual damages”. *Id.* at 343, 803 S.E.2d at 300. The Supreme Court continued: “Because we find Harleysville did not effectively reserve the right to contest coverage, we need not address Harleysville’s claims of error regarding various policy exclusions.” *Id.* at 343-44, 803 S.E.2d at 300-01; *see Washington v. National Service Fire Insurance Co.*, 252 S.C. 635, 641, 168 S.E.2d 90, 92 (1969) (“It is well settled that an insurer which has denied coverage on some other basis is precluded from defending against an action on a liability policy on the ground that the insured failed to comply with its requirements as to notice and forwarding of suit papers.”).

Order Regarding Additional Insured Coverage, p. 37 (footnote at end omitted).

The Court concludes the requirements discussed in *Harleysville* apply to coverage communications in general from an insurer to an insured, not just to a reservation of rights letter. Support for this conclusion can be found in our statutory law. “[I]f committed without just cause and performed with such frequency as to indicate a general business practice,” one example of an improper claim practice is “[k]nowingly misrepresenting to insureds or third-party claimants pertinent facts or policy provisions relating to coverages at issue or providing deceptive or misleading information with respect to coverages.” S.C. Code Ann. § 38-59-20(1) (Rev. 2015). The statutory prohibition against knowingly misrepresenting coverages is not limited to statements in reservation of rights letters. It would be a poor policy indeed to allow insurers to make misrepresentations in denial letters with impunity. The Court rejects any such notion.

Even if the requirements as discussed in *Harleysville* do not apply to a letter containing a denial of coverage rather than a reservation of rights, the requirements nevertheless apply to Penn National’s letter to Portrait Homes. As stated in the Order:

Each of those witnesses [claims adjuster Greg Gross, in-house counsel Adam Parsons, and expert Bernd Heinze] testified that in responding to Portrait Homes’s tender, Penn National had an obligation to thoroughly explain the grounds for the denial (Trial Transcript, p. 211, lines 13-19: Greg Gross; Trial Transcript II, p. 165, line 14 - p. 166, line 3: Adam Parsons; Trial Transcript II, p.

480, line 24 - p. 481, line 3: Bernd Heinze). Heinze also expressed an obvious corollary: Penn National had an obligation to provide an explanation of its decision that was accurate (Trial Transcript II, p. 482, lines 10-13). Thus, we have a recognized duty on the part of Penn National to thoroughly and accurately explain the grounds for the decision to deny Portrait Homes's additional insured tender, and we have the testimony at trial of all the witnesses associated with Penn National that the denial letter did not comply with that duty.

Order Regarding Additional Insured Coverage, p. 35. Even if the requirements discussed in *Harleysville* do not apply to denial letters in general, the requirements apply to Penn National in this case because Penn National agreed the obligations to thoroughly and accurately explain the grounds for its decision applied to the denial letter to Portrait Homes. *See generally Roddey v. Wal-Mart Stores East, LP*, 415 S.C. 580, 589, 784 S.E.2d 670, 675 (2016) ("Evidence of a company's deviation from its own internal policies is relevant to show the company deviated from the standard care"); *Madison ex rel. Bryant v. Babcock Center, Inc.*, 371 S.C. 123, 141, 638 S.E.2d 650, 659 (2006) ("The standard of care in a given case may be established and defined by the common law, statutes, administrative regulations, industry standards, or a defendant's own policies and guidelines."); *Newbern v. Ford Motor Co.*, 428 S.C. 310, 319, 833 S.E.2d 861, 866 (Ct. App. 2019) ("Several South Carolina cases support the [plaintiffs'] position that deviation from a company's own policies is relevant to show that the company deviated from the standard of care.").

In addition, Penn National contends the Court applied the waiver doctrine impermissibly to grant coverage to Portrait Homes that would not otherwise have existed. Penn National misconstrues the Court's discussion of waiver. The Court did not rule Portrait Homes was entitled to coverage under the Penn National policies based on the doctrine of waiver. The Order notes:

And yet the concept of waiver has its limits even in the context of an insurance coverage dispute. "South Carolina courts have

repeatedly and explicitly held that “[w]aiver cannot create coverage and cannot bring into existence something not covered in the policy.” *Liberty Mutual Insurance Co., v. Westport Insurance Corp.*, 664 F. Supp. 2d 587, 594 (D.S.C.) (2009) (Judge P. Michael Duffy) (quoting *Laidlaw Environmental Services (TOC), Inc. v. Aetna Casualty & Surety Co.*, 338 S.C. 43, 51, 524 S.E.2d 847, 852 (Ct. App. 1999)).

Order Regarding Additional Insured Coverage, pp. 37-38. Portrait Homes was required to prove it met the requirements to trigger coverage under the additional insured endorsements and the insuring agreements, and the Court found Portrait Homes met its burden of proof to do so. The Court did not rule coverage was created by waiver.

3. Portrait Homes is Proper Party

Penn National again⁴ argues Portrait Homes’s claim for breach of the duty to indemnify fails as a matter of law because the settlement on behalf of Portrait Homes was paid by insurers (mainly Admiral Insurance Company) who issued policies directly to Portrait Homes, rather than having been paid by Portrait Homes personally. Portrait Homes acknowledged at trial that any recovery for breach of the duty to indemnify would indeed flow back to Admiral Insurance Company, but Portrait Homes also benefits from the recovery because the funds would replenish the Admiral insurance policies protecting Portrait Homes against other claims (Trial Transcript, p. 188, l. 20 - p. 189, l. 16). Penn National asserts:

The court’s entry of damages on Portrait Homes’ breach of contract claim is at odds with published South Carolina case law finding that a party completely indemnified for his loss sustains no damage for breach of an insurance contract. *See, e.g., Sloan Const. Co., Inc. v. Central Nat. Ins. Co. of Omaha*, 269 S.C. 183, 187, 236 S.E.2d 818,

⁴ See Penn National’s Motion in Limine and Incorporated Memorandum in Support filed November 29, 2018; Memorandum of Law in Support of Penn National’s Motion for Partial Summary Judgment Against Portrait Homes filed January 31, 2019; Penn National’s Proposed Findings of Fact, Conclusions of Law, and Order (pages 57-61) submitted to the Court by email dated September 18, 2019; and Penn National’s Memorandum of Law in Support of Penn National’s Proposed Post-Trial Order (pages 29-31) submitted to the Court by email dated October 3, 2019, all of which preceded the Order Regarding Additional Insured Coverage filed on October 22, 2019.

820 (1977) (finding that the insured sustained no damage where one of its two insurers defended and the other refused to do so where the insured sought to collect its attorneys fees for defending the underlying action); *Hartford Accident and Indemnity Company v. South Carolina Ins. Co.*, 252 S.C. 428, 436, 166 S.E.2d 762, 765 (1969) (excess carrier standing in the shoes of the insured could not collect defense fees because insured did not sustain that damage where the defense was provided to it without cost).

Defendant Penn National's Motion to Alter or, in the Alternative, to Amend Judgment, p. 4. After again considering Penn National's argument, the Court adheres to its original ruling. Penn National's argument is not supported by binding South Carolina precedent. The two cases cited by Penn National above—*Sloan* and *Hartford Accident*—are distinguishable because they involve a party seeking to recover for defense costs, not for indemnity. See *Hartford Accident*, 252 S.C. at 434, 166 S.E.2d at 764 (“The contention of Hartford is that Carolina [Insurance Company] is indebted to it for the expenses incurred in the defense of the action”); *Sloan*, 269 S.C. at 187, 236 S.E.2d at 820 (“We hold where two companies insure the identical risk and both policies provide for furnishing the insured with a defense, neither company, absent a contractual relationship, can require contribution from the other for the expenses of the defense where one denies liability and refuses to defend.”).

The Supreme Court in *Sloan* noted the distinction between the duty to defend and the duty to indemnify:

A liability insurance policy contains two insuring provisions of major significance: one, providing for the payment by the insurer of sums the insured shall become obligated to pay, the other providing, in substance, for the defense of any suit alleging bodily injury or property damage and seeking damages payable under the terms of the policy.

269 S.C. at 186, 236 S.E.2d at 820. The Supreme Court continued: “The duty to defend is separate and distinct from the obligation to pay a judgment rendered against the insured.” *Id.* at 186, 236 S.E.2d at 820.

A more instructive case for the present situation is *Otis Elevator, Inc. v. Hardin Construction Co.*, 316 S.C. 292, 450 S.E.2d 41 (1994). Otis Elevator sought contractual indemnification from Hardin Construction for a settlement paid to a third party. Otis Elevator had been installing elevators as a subcontractor to Hardin Construction on a project. Otis Elevator permitted Hardin Construction to use one of the elevators on a temporary basis, but required that Hardin Construction execute an indemnification agreement. An employee of another subcontractor was injured when he fell down the elevator shaft after accessing the elevator using a key provided by Hardin Construction. *Id.* at 294-95, 450 S.E.2d at 42-43.

The injured workman sued Otis Elevator. Hardin Construction refused Otis Elevator’s request for a defense and indemnity. Otis Elevator eventually settled the case for \$892,000. Otis Elevator’s insurer, Liberty Mutual Insurance Company, contributed \$642,000 to the settlement. Otis Elevator sued Hardin Construction for indemnification. *Id.* at 295, 450 S.E.2d at 43.

In Otis Elevator’s action against Hardin Construction for indemnification, the jury returned a verdict against Hardin Construction for \$892,000. The trial court reduced the jury’s verdict from \$892,000 to \$250,000 to offset the amount paid by Otis Elevator’s insurer, Liberty Mutual. *Id.* at 295, 450 S.E.2d at 43.

One issue on appeal was the propriety of the offset by the trial court based on the portion of the underlying settlement that had been paid by Otis Elevator’s insurer, Liberty Mutual. The Supreme Court reversed: “Otis Elevator contends the trial court erred in reducing the jury’s verdict to \$250,000 to offset the amount that Otis Elevator’s insurer, Liberty Mutual, paid in [settlement].

We agree.” *Id.* at 300, 450 S.E.2d at 45. The Supreme Court concluded that “Hardin Construction should not receive the benefit of an insurance contract for which Otis Elevator paid the premiums.” *Id.* at 300, 450 S.E.2d at 45. The Supreme Court announced the general rule: “[I]f one party is entitled to indemnity from another, the right to indemnity is not defeated by the fact that the loss to be indemnified for was actually paid by an insurance company.” *Id.* at 300, 450 S.E.2d at 45-46 (quoting *Tillman v. Wheaton - Haven Recreation Ass’n*, 580 F.2d 1222, 1230 (4th Cir. 1978)).

Penn National argues the opposite: If one party (Portrait Homes) is entitled to indemnity from another (Penn National), the right to indemnity is defeated by the fact that the loss being indemnified for was actually paid by an insurance company (Admiral). The Court continues to be unpersuaded by Penn National’s argument.

Penn National also presented the Court with a recent decision by a federal district court judge in South Carolina in a substantially similar case in which Penn National was granted summary judgment on this very issue. See Opinion and Order filed September 16, 2019 in *Summer Wood Property Owners Association, Inc. v. Pennsylvania National Mutual Casualty Insurance Company*, civil action no. 2:17-cv-3504-BHH. The Court notes the *Summer Wood* insurance coverage case began over two years *after* this case. It took over four years to get this coverage case involving Persimmon Hill to trial, but once that point was reached, the parties aggressively and exhaustively tried the merits of the dispute. Over the course of seven days of trial, twelve witnesses testified, each subjected to rigorous cross examination, and approximately ninety exhibits were introduced. In contrast, in the *Summer Wood* case, Judge Hendricks ruled on a summary judgment motion. The Court has considered Judge Hendricks’s Opinion and Order, but declines to follow the reasoning in that decision.

During the hearing on January 15, 2020, Penn National expanded its argument to include the damages awarded for breach of the duty to defend. Penn National's counsel asserted the entire cost of the defense of Portrait Homes in the underlying construction defect cases had been paid by Portrait Homes's insurer Admiral Insurance Company and thus Portrait Homes had no damages to recover. The premise of Penn National's argument is factually incorrect. The evidence established at trial that the total cost of the defense of Portrait Homes in the underlying cases was \$394,791.24. Of that total amount, Portrait Homes personally paid \$42,791.24, the amount sought to be recovered by Portrait Homes at trial and the amount the Court awarded.⁵ The Court's award of \$42,791.24 for breach of the duty to defend does not run afoul of the Supreme Court's decisions in *Sloan* and *Hartford Accident*.

4. Modified Time on Risk Analysis

Penn National contends that in awarding damages for breach of the duty to indemnify, the Court improperly applied the time on risk doctrine adopted in *Crossmann Communities of North Carolina, Inc. v. Harleysville Mutual Insurance Co.*, 395 S.C. 40, 717 S.E.2d 589 (2011) (*Crossmann II*). As stated in the Order: "The fundamental basis for the [time on risk] doctrine rests in the language of the liability policies at issue in *Crossmann II*, which required coverage only for property damage that occurred during the policy period." *Order Regarding Additional Insured Coverage*, p. 48. The Order continues in part:

The textual analysis stressed in *Crossmann II* is consistent with South Carolina's long-standing rule that an insurance policy is a contract whose meaning depends first and foremost on the language used. *See, e.g., Whitlock v. Stewart Title Guaranty Co.*, 399 S.C. 610, 614, 732 S.E.2d 626, 628 (2018). The time on risk doctrine

⁵ The testimony at trial was that the balance of \$352,000 that had been paid by Admiral had been recovered from other insurers alleged to owe coverage to Portrait Homes as an additional insured and had been applied to repay Admiral (Trial Transcript, p. 186, line 15 - p. 187, line 24).

adopted in *Crossmann II* depended on the language of the particular policies at issue in that case.

While the policies at issue were liability policies containing standard language in the insuring agreement, it is critical to note that all the policies preceded the new edition of the standard coverage form promulgated by the Insurance Services Office in October 2001.⁶ The insuring agreement in the October 2001 edition of the CG 00 01 commercial general liability coverage form included a brand new provision: “[P]roperty damage’ which occurs during the policy period ... includes any continuation, change or resumption of that ... ‘property damage’ after the end of the policy period.” Compare Plaintiff’s Exhibit 27, p. 31 (October 2001 edition of CG 00 01) with Plaintiff’s Exhibit 64, p. 1 (July 1998 edition).

Order Regarding Additional Insured Coverage, p. 49. The Court concluded the change in policy language meant the time on risk analysis changed as well, such that “the progressive property damage caused by continuous or repeated exposure to water intrusion occurring *after* the end of a policy period is deemed to be included in what is covered by the policy.” *Id.* at 50.

Penn National states it “is unaware of any court adopting the analysis that the court did here.” *Penn National’s Memorandum of Law in Support of Motion to Alter or, in the Alternative, to Amend Judgment*, p. 36. However, Penn National has called to the Court’s attention no cases in South Carolina or anywhere else in the country rejecting the Court’s modified time on risk analysis.

Penn National states the Court’s orders do not explain how the time on risk approach set out in *Crossman II* has changed. A detailed explanation showing how the modified time on risk analysis applied to the buildings on which JJA Framing worked at Persimmon Hill was referenced

⁶ The effective dates of the liability policies being construed in *Crossmann II* are listed in *Crossmann Communities of North Carolina, Inc. v. Harleysville Mutual Insurance Co.*, 411 S.C. 506, 512, 769 S.E.2d 453, 456 (Ct. App. 2015) (*Crossmann III*).

in the Order Regarding Additional Insured Coverage (p. 51), but was inadvertently not attached to the Order that was filed. The attachment—entitled “Time on Risk Analysis Based on Policy Form CG 0001 (10/01)”—is attached to this Order as Exhibit A.

Penn National seems to recognize the new language in the policy may warrant a modification of the time on risk analysis adopted in *Crossmann II*. Penn National contends: “If anything, the plain language of the added clause indicates that because continuing property damage is deemed to have occurred in the policy period during which it commenced, all continuing property damage is limited to the first policy triggered after damage commenced. Rather than triggering subsequent policies, therefore, this language has the effect of limiting Plaintiffs to the occurrence limit of the policy in effect at the time the progressive damage began.” *Penn National’s Memorandum of Law in Support of Motion to Alter or, in the Alternative, to Amend Judgment*, pp. 36-37. Penn National’s alternative interpretation of the new language is not supported by the language used. Penn National’s alternative interpretation might be reasonable if the provision read: “Property damage which *first* occurs during the policy period includes any continuation, change or resumption of that property damage after the end of the policy period. Property damage which is a continuation, change or resumption of property damage that first occurred during a prior policy period will be deemed to have occurred exclusively within that prior policy period.” Even if Penn National’s alternative interpretation were reasonable, the interpretation applied by the Court would be mandated “in the light of the well settled rule that the terms of an insurance policy must be construed most liberally in favor of the insured and where the words of the policy are ambiguous, or where they are capable of two reasonable interpretations that construction will be adopted which is most favorable to the insured.” *Kingman v. Nationwide Mutual Insurance Co.*, 243 S.C. 405, 411, 134 S.E.2d 217, 220 (1964); *see also Whittington v. Ranger Insurance Co.*, 261

S.C. 582, 587, 201 S.E.2d 620, 622 (1973) (“It is elementary and requires no citation of authority that the provisions of an insurance policy are to be liberally construed in favor of the insured and strictly construed against the company which prepared the policy.”).

5. Single Per Occurrence Limit Applies to Recovery Under Five Policies

The Court awarded the per occurrence policy limit of \$500,000 to Portrait Homes for breach of the duty to indemnify under five policies (03-04, 04-05, 05-06, 06-07, 07-08). The Court awarded the per occurrence policy limit of \$500,000 to the Persimmon Hill HOA on the judgment creditor claim under those same five policies and under three additional policies. Portrait Homes and the Persimmon Hill HOA agree they cannot both recover the per occurrence policy limit of \$500,000 under the same five policies (03-04, 04-05, 05-06, 06-07, 07-08). Therefore, the two Orders are altered as follows: To the extent Penn National pays the \$2,500,000 awarded to Portrait Homes for breach of the duty to indemnify, Penn National will be entitled to a credit against the award to the Persimmon Hill HOA as judgment creditor. The reverse is also true: To the extent Penn National pays to the Persimmon Hill HOA as judgment creditor the \$2,500,000 allocable to the five policies under which Portrait Homes also seeks recovery, Penn National will be entitled to a credit against the award of \$2,500,000 to Portrait Homes for breach of the duty to indemnify.

6. Bad Faith

In South Carolina, bad faith refusal to pay benefits under a contract of insurance includes: (1) the existence of a mutually binding contract of insurance between the plaintiff and the defendant; (2) refusal by the insurer to pay benefits due under the contract; (3) resulting from the insurer’s bad faith or unreasonable action in breach of the implied covenant of good faith and fair dealing on the contract; (4) causing damage to the insured. *Howard v. State Farm Mut. Auto Ins. Co.*, 316 S.C. 445, 450 S.E.2d. 582 (1994). Whether an insurance company is liable for bad faith

must be judged by the evidence before it at the time it denied the claim. *Id.* In South Carolina, “there is an implied covenant of good faith and fair dealing in every insurance contract ‘that neither party will do anything to impair the other’s rights to receive benefits under the contract.’” *Tadlock Painting Co. v. Maryland Cas. Co.*, 322 S.C. 498, 500, 473 S.E.2d 52, 53 (1996) (quoting *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 339, 306 S.E.2d 616, 618 (1983)). “[I]f an insured can demonstrate bad faith or unreasonable action by the insurer in processing a claim under their mutually binding insurance contract, he can recover consequential damages in a tort action.” *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 340, 306 S.E.2d 616, 619 (1983). “Further, if [the insured] can demonstrate the insurer’s actions were willful or in reckless disregard of the insured’s rights, he can recover punitive damages.” *Id.*

First, as to Portrait’s claim of bad faith, Penn National acknowledges that it did not handle Portrait’s request for policy benefits in a timely manner but contends that the lack of timeliness in processing the claim is essentially irrelevant because there is no additional insured coverage for Portrait under the policies in the first place. (Transcript from Hearing on January 15, 2020, p. 11, lines 22-25). The Court is not persuaded by this argument and has found Portrait to be an additional insured under five (5) Penn National policies.

While S.C. Code Ann. § 38-59-20 does not give rise to a private cause of action, it is instructive in evaluating the conduct of Penn National. It took nearly seventeen (17) months from the time of Portrait’s first tender on June 5, 2013, until Penn National denied Portrait’s claim by denial letter dated September 30, 2014. This denial letter was the only written communication Portrait received from Penn National since the initial tender. Seventeen (17) months is not a reasonably prompt response time to Portrait’s tender. During this seventeen-month period, Penn National failed to adequately investigate Portrait’s request for additional insured status including

neglecting to review and evaluate its own underwriting file and other information that was reasonably available to Penn National as noted in the prior Order. *Order Regarding Additional Insured Coverage*, pp. 53-54. Had Penn National done so, it should have concluded that Portrait met the policy terms as an additional insured.

Furthermore, Penn National acknowledges that it should communicate accurate information and not provide misleading information in the claims handling process, which is also, a requirement of S.C. Code Ann. § 38-59-20. The basis for denial of Portrait's claim as set forth in Penn National's letter dated September 30, 2014 was "... the sole avenue to additional insured status would be through an endorsement providing additional insured status for completed operations. The above policies do not contain such an endorsement." (Pl. Ex. 9). This basis for denial was simply untrue, and this misrepresentation was conceded by Greg Gross in his testimony to be "not right", by Adam Parsons to be "inaccurate" and by Penn National's expert, Bernd Heinze, to be the "opposite of what was true". *Order Regarding Additional Insured Coverage*, p. 35.

As Portrait has been found to be an additional insured under JJA's policies, there is a mutually binding contract of insurance between Portrait and Penn National. Second, Penn National has refused to pay benefits due to Portrait as the additional insured under the contract. Third, this resulted from Penn National's bad faith or unreasonable action in breach of the implied covenant of good faith and fair dealing of the contract as described above. Finally, Penn National's bad faith caused damage to Portrait. *See Order Regarding Additional Insured Coverage*, pp. 43-56.

B. As to Persimmon Hill HOA

1. Duty to Defend

Penn National contends that the Court failed to find Penn National was relieved of its duty to defend. In asserting this argument, Penn National relies upon the “similarities” between *Twin City Fire Ins. Co. v. Ben-Arnold-Sunbelt Beverage Co. of S.C.*, 433 F.3d 365, 374 (4th Cir. 2005) and the facts in this case to support its position that JJA knowingly and voluntarily waived his right to a defense. *Twin City* deals with a different fact scenario than that in this case in that the insurance company in *Twin City* hired counsel to provide a defense for its insureds unlike what Penn National did in this case. In *Twin City*, the insureds, however, refused to work with the attorney hired by the insurance company, and instead, hired their own counsel. Penn National similarly relies on *State National Ins. Co. v. Eastwood Construction, LLC*, C/A No. 6:16-cv-02607-AMQ, 2018 WL 8787543, at *16 (D.S.C. Sept. 5, 2018), which is another case wherein the insurer hired counsel to defend its insured again unlike what Penn National did in this case; however, the insured refused to work with the attorney hired by the insurance company, and instead, hired their own counsel. Here, Penn National did not hire counsel for JJA even though coverage was triggered by the allegations in the Complaint. See Trial Tr. vol. 1, 295-96; Trial Tr. vol. 2, 169-70. Therefore, contrary to Penn National’s assertion, *Twin City* and *Eastwood Construction* are not supportive of Penn National being relieved of its duty to defend in this case.

Penn National further relied on *Tucker v. State Farm Mut. Auto. Ins. Co.*, 232 S.C. 615, 103 S.E.2d. 272 (1958). In *Tucker*, the insurance company also hired an attorney to defend the insured and to meet with the insured in person. The insured in *Tucker* attended a hearing and told the Court that he refused to verify a pleading. *Id.* While there are very few similarities between *Twin City*, *Eastwood Construction* and *Tucker* and the facts of this case, the common thread in these cases that Penn National relies on is that each of the carriers hired their insureds counsel to provide a defense, something that Penn National made a conscious decision not to do in this case.

Moreover, Penn National relies on Gayle McLeod to establish that Penn National through its agent conveyed full and complete information to JJA regarding pertinent facts of the claim, policy provisions and information regarding coverages. The Court remains unpersuaded by this argument. "In a bench trial, the judge, as the finder of fact, may believe all, some, or none of the testimony, even when it is not contradicted." *Lollis v. Dutton*, 421 S.C. 467, 483, 807 S.E.2d 723, 731 (Ct. App. 2017). A review of Ms. McLeod's testimony shows it is exceedingly reasonable that the Court found that Mr. Castillo was misled by Penn National not providing him with all the pertinent factual information as to coverages available to him for which he had already paid premiums for along with not disclosing this claim was a multi-million dollar liability exposure:

Q. Any information they asked you to gather from Mr. Castillo when you finally got face-to-face with him, you would have done your best to ask those questions and gather that information?

A. Correct.

Q. And the reason you didn't ask those things is because Penn National did not include that in your assignment, correct?

A. That's true.

Trial Tr. vol. 2, 100:24-101:7 (Testimony of Gayle McLeod). Moreover, Mr. Castillo testified that had he been provided with important information regarding his coverages to include that a defense would be provided as part of the policy benefits for which he has already paid premiums, he would have responded that he wanted Penn National to provide a defense:

Q. If she had told you, Mr. Castillo, you have paid for a defense each year of these eight-year policy premiums and we, Penn National, will provide you this defense because you paid for it if you want it, you would tell her, of course, would you not?

A. Yes.

Q. Do you recall her ever telling you that you had already paid for a defense?

A. No.

Q. That would be important to you, wouldn't it?

A. Yes.

Trial Tr. vol. 2, 369:4-14 (Testimony of Jose Castillo). Furthermore, Mr. Gross testified that there was “no downside” to an insured being provided a defense in light of the fact that they have already paid for it with their premium. Trial Tr. vol. 1, 365:25-366:6 (Testimony of Greg Gross).

There were also inconsistencies in Ms. McLeod’s testimony. She agreed that “if it’s not in the claims file, it either was not important or it didn’t happen[.]” Trial Tr. vol. 2, 104:13-17 (Testimony of Gayle McLeod). Ms. McLeod’s reports to Penn National, and affidavit filed with this Court do not mention nor document that Ms. McLeod informed Mr. Castillo of any policy coverages or facts of the claim. At trial, Ms. McLeod testified:

Q. So you had a discussion with Mr. Castillo about the possibility that if he ignored the lawsuit, he could have a judgment entered against him and they could take everything he owned, correct?
A. Well, I didn’t put it that way.

Trial Tr. vol. 2, 93:9-13 (Testimony of Gayle McLeod).

Q. When you were trying to persuade him, as you’ve testified today about all this stuff, did you tell him he had already paid his insurance premiums and the lawyer would be provided to him at no charge?
A. No. . . .
Q. Did you tell him he had a free lawyer, all he had to do was let the lawyer do his job?
A. To me, I was to instruct him to call Penn National and that’s what I did.

Trial Tr. vol. 2, 125:11-14; 125:25-126:3 (Testimony of Gayle McLeod).

Q: You were asked about your interaction with Mr. Castillo. Before you interacted with Mr. Castillo, you got an assignment from Penn National to do certain things?
A: Correct.
Q: And you attempted to scrupulously do what they asked you to do? You attempted to accomplish the task they asked you to accomplish?
A: Yes.
Q: Did they say word one to you about asking Mr. Castillo about any contracts he had entered with Portrait Homes?
A: No.

Q: Did they ask you to ask him about the substance of his work at the project, what he had done?

A: No.

Q: If they had asked you to do that, you would have asked him, wouldn't you?

A: Yes.

Q: Right. If that had been part of your assignment, you would have attempted to accomplish your assignment. If they had handed you a contract and said how about ask Mr. Castillo - - when you get in front of him and you have 10 minutes to talk to him, how about ask him about this contract. You would have done that if they had asked you to do it, wouldn't you?

A: Yes.

Q: Any information they asked you to gather from Mr. Castillo when you finally got face-to-face with him, you would have done your best to ask those questions and gather that information?

A: Correct.

Q: And the reason you didn't ask about those things is because Penn National did not include that in your assignment, correct?

A: That's true.

Trial Tr. vol. 2,99:23-101:7 (Testimony of Gayle McLeod). Therefore, the findings of this Court that Penn National misled JJA regarding the information that Penn National provided about the facts of the claim, policy provisions and coverages will not be altered or amended.

Penn National further asserts that the Court failed to find that Mr. Castillo violated his duty to provide notice and his duty to cooperate, and therefore, the duty to defend was not triggered. This argument, however, fails to account for the fact that the analysis of this Court did not stop at whether there was a breach or not of the policy Notice Conditions. Rather, even if there was a breach, it must be determined if Penn National was substantially prejudiced thereby. "The driving force behind the notice-prejudice rule is that there is 'no sound reason . . . to permit a mere technical noncompliance to deprive an innocent third party of benefits to which he would otherwise be entitled.'" *Neumayer v. Phila. Indem. Ins. Co.*, 427 S.C. 261, 272, 831 S.E.2d 406, 411 (2019) (quoting *Factory Mut. Liab. Ins. Co. of Am. v. Kennedy*, 256 S.C. 376, 381, 182 S.E.2d 727, 729

(1971)). “Rather than provide a ‘technical escape-hatch’ for the insurer to deny coverage, the notice-prejudice rule balances both interests without a wholesale prohibition of these clauses.” *Id.*

In South Carolina, “[w]hether [the] insurer suffered prejudice from [the insured’s] alleged failure to cooperate is an issue to be determined by the trier of fact on the merits of the action” *Puckett v. State Farm Gen. Ins. Co.*, 314 S.C. 371, 374, 444 S.E.2d 523, 524 (1994). This Court has evaluated the testimony including that of Greg Gross who testified that Penn National made the decision to not conduct any investigation of this claim. *See* Trial Tr. vol. 1, 370:1-17 (Testimony of Greg Gross). Penn National had opportunities to investigate as set forth in the Order of this Court but chose not to do so including when its independent adjuster, Gayle McLeod, made a cold call on Mr. Castillo in his garage. The testimony of Greg Gross was there was nothing that Penn National had asked JJA to do that JJA refused to do. Trial Tr. vol. 1, 371:4-8; 371:25-372:8 (Testimony of Greg Gross). Gayle McLeod further testified as to Mr. Castillo’s cooperation:

Q. Well, what had he not done prior to that moment in your mind that led you to the belief he was not cooperating? Is there anything other than Penn National telling you that he wasn’t cooperating?

A. Correct. . . .

Q. So, at least, for the conversation before he starting walking back inside, he answered every question you asked him?

A. He did.

Trial Tr. vol. 2, 121:24-122:3; 118:13-16 (Testimony of Gayle McLeod).

Penn National further argues that the mere fact that there is a default in and of itself constitutes prejudice. Penn National was put on notice that a default would be sought if it did not hire counsel to appear for its insured and requested a 30-day extension from Plaintiff’s counsel to file an Answer which it never did. Penn National’s request for an extension to file an Answer was made after it knew its insured had been served. Penn National now complains it was prejudiced by the very course of conduct that it *affirmatively and knowingly* chose to undertake. The default is a

result of Penn National's own actions and/or inactions, and therefore, there was no substantial prejudice to Penn National. The irony here is that Penn National is the sole architect of the circumstances by which it now is trying to claim it was prejudiced in choosing not to file an Answer after being given a 30-day extension to do so, in refusing to investigate the claim, and in not filing a motion to lift the default after being provided notice of such.

Lastly, Penn National argues that they could not provide a defense because a lawyer is ethically prohibited from representing a client without his consent for representation. This argument from Penn National is not part of any reservation of rights letter and not contained anywhere within its claims log. At trial Penn National argued this as a basis for not providing JJA with a defense, and post-trial asserts it as a basis for which Penn National was prejudiced. (Transcript from Hearing on January 15, 2020, p. 9). The consent for representation and the contractual agreement for Penn National to provide representation for JJA is found in the insuring agreement: "We will have the right and duty to defend the insured against any "suit" seeking those damages. . . ." (Pl. Exs. 13A, at 25; 14, at 39; 17, at 21; 21, at 40; 27, at 31; 29, at 33; 33, at 33; and 34, at 26). In South Carolina Ethics Advisory Opinion 19-04, the question posed dealt with an attorney appearing on behalf of an insured at the request of the insurance carrier. The response provided: ". . . Attorney may appear for and defend Insured at the request of the Insurance Carrier if Insurance Carrier's insurance contract with the Insured gives it the right to retain counsel to defend claims made against the insured." S.C. Ethics Advisory Opinion 19-04. Furthermore, the Supreme Court of South Carolina has provided the following in regard to the intricacies between the insurer, insured, and defense attorney:

[A]n insurance company that hires an attorney to represent its insured is in a unique position in relation to the resulting attorney-client relationship. Pursuant to the insurance contract, the insurer

has a duty to defend its insured, and must compensate the attorney for his time in defense of his client. If the insured settles or has judgment imposed against him, the insurance contract ordinarily requires the insurer to pay the settlement or judgment. Many insurance contracts provide the insurer has a right to investigate and settle claims as a representative of its insured. Finally, the insurer's right to settle must be exercised in good faith, and that duty of good faith requires the insurer to act reasonably in protecting the insured from liability in excess of the policy limits.

Sentry Select Ins. Co. v. Maybank Law Firm, LLC, 426 S.C. 154, 157-58, 826 S.E.2d 270, 272 (2019) (citing *Tyger River Pine Co. v. Maryland Cas. Co.*, 163 S.C. 229, 234-35, 161 S.E. 491, 493-94 (1931)). In addition, while the HOA's counsel argued Penn National undertook a defense of JJA in *Lamney* without communicating with its insured due to service by publication, this Court withdraws any reference to *Lamney* and its finding associated therewith in its prior Order; however, this does not alter any other findings or conclusions in the Order regarding Penn National's breach of the duty to defend or Penn National's bad faith conduct which are conclusively supported by other extensive evidence considered by this Court.

2. Bad Faith

In order for there to be bad faith refusal to pay insurance benefits, the four (4) factor test must be met as set forth in *Howard v. State Farm Mut. Auto Ins. Co.*, 316 S.C. 445, 450 S.E.2d. 582 (1994). This Court found that the *Howard* four (4) factor test was met. Penn National contends though that the Court improperly found that Penn National engaged in insurance bad faith based upon Penn National's conduct in its Order, improperly found that Mr. Castillo sustained damages as a consequence of Penn National's bad faith and failed to show how Mr. Castillo was damaged.

While S.C. Code Ann. § 38-59-20 does not give rise to a private cause of action, it is instructive in evaluating the conduct of Penn National. Penn National did not undertake to perform an investigation of this claim as testified to by adjuster Greg Gross. Trial Tr. vol. 1, 370:1-17

(Testimony of Greg Gross). Penn National failed to contact witnesses, hire experts, ask Mr. Castillo for pertinent information when its independent adjuster was face-to-face with him, and failed to gather any information through its own investigative efforts of this claim which Penn National knew was a multi-million-dollar claim from the time it opened the claims file. See Trial Tr. vol. 1, 336:11-23, 370:1-17, 436:4-7; Trial Tr. vol. 2, 99:24-100:15, 121:16-19. Both S.C. Code Ann. § 38-59-20 and the case law of South Carolina require a good faith duty to perform a reasonable investigation of claims. *Flynn v. Nationwide Mut. Ins. Co.*, 281 S.C. 391, 395, 315 S.E.2d. 817, 820 (Ct. App. 1984). The reason Penn National refused to conduct any investigation of the claim was because Penn National required Mr. Castillo to specifically request a defense from Penn National prior to Penn National hiring counsel to provide a defense irrespective of whether the Complaint triggered coverage. Trial Tr. vol. 1, 331:8-13. This unilateral imposition by Penn National of the requirement that an insured must request a defense prior to being provided one was something Greg Gross believed was wrong and improper since it was not a term of the insuring agreement. Mr. Gross went to management with his concerns. Trial Tr. vol. 1, 332:16-333:6-17. While home office in-house claims counsel, Adam Parsons, tried to distance himself and Penn National from such a position in this claim by stating that Mr. Gross was mistaken and that Penn National requiring the insured to request a defense prior to counsel being hired was not Penn National's directive, the memorialization of the meeting Greg Gross, Gary Gibson and Adam Parsons had regarding this claim in the claims log note dated July 10, 2013 is contrary to Parsons' testimony at trial. Trial Tr. vol. 2, 143:23-144:10; 276:10-17. The July 10, 2013 claim note states "AP advises that if the NI has not been served and/or has not requested a defense we can not retain counsel on their behalf." (Pl. Ex. 58, 2). Additionally, the claims file is replete with claim notes that Mr. Castillo would not be provided a defense until he affirmatively requested one.

Further, Penn National touts all of its efforts as exceedingly reasonable in its attempt to contact Mr. Castillo about this claim. Penn National's underwriting file contains contact information, to include phone numbers and e-mails, none of which the claims file documents any attempt to utilize to reach him. Mr. Castillo testified that Penn National was able to reach him though when performing year end premium audits when Penn National was seeking to collect additional premiums. Trial Tr. vol. 2, 366:9-13. Penn National also contends that sending three (3) reservations of rights letters, the first two of which were mailed to an address that had been stale for four years and the other returned certified mail with no follow-up was reasonable conduct. Penn National contends this despite the fact that the day the first reservation of rights letter was sent there was a simultaneous claims log entry noting Mr. Castillo's correct address. Moreover, even after Penn National's independent adjuster had a face-to-face conversation with Mr. Castillo at his correct address in North Carolina, Penn National proceeded to send another ROR to the four years stale address in Ladson, South Carolina. (HOA Ex. 15). Penn National used the lack of responsiveness from JJA due to Penn National's own errors of sending the reservation of rights letters to the wrong address as supporting justification that JJA was non-cooperative.

An insurer should not knowingly misrepresent to its insureds pertinent facts or policy provisions relating to coverage at issue or provide deceptive or misleading information with respect to coverages. S.C. Code Ann. § 38-59-20. From the time Penn National opened a claim in this matter, it knew this was a multi-million-dollar claim and the magnitude of the defects and damages at the Persimmon Hill project. Trial Tr. vol. 1, 336:11-23, 436:4-7. Penn National never informed Mr. Castillo of these pertinent facts it possessed or asked Ms. McLeod to do so when face-to-face with Mr. Castillo. Trial Tr. vol. 2, 99:24-100:15; 101:4-7; 121:16-19. Penn National also failed to inform Mr. Castillo that a defense was a policy benefit for which JJA had paid and

was covered within the policy. Trial Tr. vol. 2, 122:14-20; 125:10-19. Mr. Castillo testified that had he been told a lawyer would have been hired at no cost to him since this had been paid for as part of his premium payments he would have responded differently to Ms. McLeod and would have told her JJA wanted a defense. Trial Tr. vol. 2, 397:12-398:2. Misrepresentation of policy benefits and deceptive acts regarding coverages and benefits can occur by both providing misleading information and by failing to disclose pertinent facts.

Penn National did not take and/or attempt to take a recorded statement of Mr. Castillo in contravention of its policy:

Q: Penn National's own claims manual says that initial contact, there should be a recorded statement, if possible, right?

A: Depends on the type of claim, **but, yes.**

Trial Tr. vol. 2, 309:21-24 (Testimony of Adam Parsons) (emphasis added). Penn National argues that Ms. McLeod did not have the opportunity to take a recorded statement since her meeting with Mr. Castillo lasted ten (10) minutes, but there is no credible evidence that she attempted or would have attempted to take a statement from Mr. Castillo. Taking a written or recorded statement from the insured was not part of her directive from Penn National, and Ms. McLeod testified that she did not undertake investigative measures because Penn National had not asked her to do so. Trial Tr. vol. 2, 99:23-101:7; 121:2-19. Irrespective of the testimony from Adam Parsons about taking recorded statements, Penn National contends that the portion of the claims manual requiring a recorded statement be taken was not properly authenticated at trial and should not have been considered by this Court in making the finding that Penn National violated its claims manual. Although the Court disagrees with Penn National's contention, this was not determinative of the finding that Penn National acted unreasonably, in bad faith and in breach of the duty of good faith

and fair dealing to its insured. This finding is conclusively supported by other extensive evidence considered by this Court.

Throughout this claim there were numerous other instances both individually and collectively of Penn National's unreasonable action in breach of the implied covenant of good faith and fair dealing. As noted previously, these include sending RORs to a knowingly incorrect address and using the insured not responding to said letters as a basis to assert insured non-cooperation, quoting incorrect policy language in the RORs that had been amended, noting in the claims log five (5) different times that JJA was required to request a defense before Penn National's duty to defend was triggered, noting in the claims log that the claim should be denied for non-cooperation just one week after Penn National knew the insured was served, violating its own policies and procedures, and requesting an extension to respond to the Complaint without any intention of filing an Answer. *Order as to Persimmon Hill Homeowners Association, Inc.'s Claims of Bad Faith, Breach of Contract and Declaratory Judgment Against Pennsylvania National Mutual Casualty Insurance Company*, pp. 40-41. Further, Penn National contends that the competent evidence does not support a finding that its conduct was willful or reckless. This Court disagrees. The Court found "that Penn National knowingly misrepresented to JJA the coverages and policy benefits for the policies at issue in this case by failing to disclose pertinent facts and information to JJA when asking whether JJA wanted a defense." *Order as to Persimmon Hill Homeowners Association, Inc.'s Claims of Bad Faith, Breach of Contract and Declaratory Judgment Against Pennsylvania National Mutual Casualty Insurance Company*, p. 40.

Penn National further argues that this Court improperly found Mr. Castillo sustained damage as a result of its bad faith conduct. This Court remains unpersuaded by this argument. Penn National also contends that the HOA failed to prove any of the damages were covered under

the Penn National policies. There was testimony at trial as to JJA's scope of work. See Trial Tr. vol. 1, 97:2-99:4 (Testimony of J. Blanton O'Neal, IV); Trial Tr. vol. 1, 458:1-16 (Testimony of Arthur Shawn Belcher); Trial Tr. vol. 2, 358:20-23 (Testimony of Jose Castillo). Testimony was also provided by J. Blanton O'Neal, IV, regarding the nature and extent of damages at the Persimmon Hill project, and Robert Sisnroy P.E. providing expert testimony on the nature, extent and causation of the damages. *Order as to Persimmon Hill Homeowners Association, Inc.'s Claims of Bad Faith, Breach of Contract and Declaratory Judgment Against Pennsylvania National Mutual Casualty Insurance Company*, p. 33. The judgment against JJA in the amount of \$4,156,976.89 was an exhibit at the trial. (HOA Ex. 13). The testimony supported damages claimed were covered under the Penn National policies.

3. Time-on-Risk

Penn National argues that this Court erred in its application of time-on-risk and that the Order for the HOA's case and Order for Portrait's case are inconsistent. The Court is not persuaded by these arguments. While both the HOA and Portrait seek indemnity under Penn National policies, the nature of the claims is different. South Carolina law is clear that when an insurer has a duty to defend, it must provide a defense for all claims asserted in the Complaint including both claims that are covered and uncovered by the policies. *Town of Duncan v. State Budget & Control Bd.*, 326 S.C. 6, 16, 482 S.E.2d 768, 773-74 (1997) (citing *Employers Mut. Liab. Ins. Co. v. Hendrix*, 199 F.2d 53 (4th Cir. 1952) (where a lawsuit contains several causes of action, some of which are covered under the policy and some of which are not, an insurer is not justified in refusing to defend the entire suit)). The defense provided by the insurer also defends the insured for damages that occur from an occurrence during the policy period and continuing damages thereafter under the modified continuous trigger even if the damage occurs during later uninsured periods.

Penn National had the opportunity to defend its insured but chose not to even after requesting a 30-day extension from Plaintiff's counsel to file an answer after its insured had been served. The HOA obtained a general verdict, and Penn National cannot now seek to allocate between covered and uncovered damages under the policy. *See Harleysville Group Ins. v. Heritage Cmtys., Inc.*, 420 S.C. 321, 343 n.11 803 S.E.2d 288, 300 n.11 (2017); *Auto Owners Ins. Co. v. Newman*, 385 S.C.187, 684 S.E.2d 541 (2009). Penn National had the opportunity to seek allocation of damages if it had provided a defense and participated in the underlying litigation on behalf of JJA.

Penn National further contends that a time-on-risk analysis using the default method should be applied to the HOA's award. This Court disagrees that the default method applies in this case given the plain meaning of language in Penn National's policies at issue as discussed at length in this Order. *See discussion supra* Section I.A.4. The facts in *Crossman II* were stipulated whereas the facts in this case are not. Further, the policy language before the South Carolina Supreme Court in *Crossman II* is different from the Penn National policies in this case. The Court concluded the change in policy language meant the time on risk analysis changed as well, such that "the progressive property damage caused by continuous or repeated exposure to water intrusion occurring *after* the end of a policy period is deemed to be included in what is covered by the policy." *Order Regarding Additional Insured Coverage*, p. 50. Moreover, this case involves a unique set of facts whereby Penn National refused to provide a defense or other policy benefits to JJA, and a judgment resulted. In addition to differing policy language, the facts and circumstances differ in this case from *Crossman II*. When the time-on-risk framework was developed in *Crossman II*, there was no need for the consideration of the insurer refusing to defend or indemnify because the carrier provided a defense for claims for damages that arose both during the insured and uninsured periods – the question was one of the amount of the indemnity obligation. Penn

National ignores that it made the decision to gamble not only for itself but also with Mr. Castillo's potential financial obligations by not providing Mr. Castillo a defense. Penn National knew this gamble could result in a default judgment for a liability exposure in the multi-millions of dollars. Penn National cannot now claim it should reap the benefits and protections of the default time-on-risk even if the default time-on-risk applied in this case which it does not. This would allow Penn National to benefit itself to the detriment of its insured by allocating the pro-rata uninsured period of time portion of the judgment to its insured when such allocated amount could have been significantly reduced or eliminated by defending the claim and/or by negotiated settlement should the Plaintiff have accepted a settlement offer made by Penn National. This though would have required Penn National to perform its defense and indemnity obligations. Penn National chose poorly in its gamble to refuse to defend or indemnify its insured and should not reap the benefits of its poor decision to the detriment of its insured. "An insurance company fails to defend at its own peril. . . ." *Stroup Sheet Metal Works, Inc. v. Aetna Cas. & Sur. Co.*, 268 S.C. 203, 212-13, 232 S.E.2d 885, 888 (1977). "Where an insurer refuses to undertake the defense of an action against the insured based upon a claim within the coverage of the insurance policy, it thereby breaches the contract of insurance and is liable to the insured for all damages resulting to such insured as a direct result of such refusal and breach." *Fuller v. Eastern Fire & Casualty Ins. Co.*, 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962) (citing *Liberty Mutual Ins. Co. v. Atlantic Coast Line Ry. Co.*, 66 Ga. App. 826, 19 S.E.2d 377 (1942); *Butler Bros. v. American Fidelity Co.*, 120 Minn. 157, 139 N.W. 355 (1913)). Further, "[a]n insurer who unreasonably refuses or fails to settle a covered claim within the policy limits is liable to the insured for the entire amount of the judgment obtained against the insured regardless of the limits contained in the policy." *Doe v. S.C. Med.*

Malpractice Liab. Joint Underwriting Ass'n, 347 S.C. 642, 649, 557 S.E.2d 670, 674 (2001) (citing *Trotter v. State Farm Mut. Auto Ins. Co.*, 297 S.C. 465, 475, 377 S.E.2d 343, 349 (Ct. App. 1988)).

4. As to Penn National's Factual Arguments

Penn National argues that certain facts are unsupported by the record. A discussion of these facts and the related testimony exists throughout this Order; therefore, the Court will not address them here again. Further, the Court declines to amend its Order to include additional facts.

II. Portrait Homes's Request for Attorney's Fees and Costs

A successful insured in coverage litigation can recover reasonable attorney's fees associated with the coverage litigation. *See Hegler v. Gulf Insurance Co.*, 270 S.C. 548, 550-51, 243 S.E.2d 443, 444 (1978) (insured entitled to recover attorney's fees from insurer who sued "to relieve itself of coverage"; the insurer's action "amounted to a wrongful breach of its contractual obligation to defend. The legal fees incurred by [the insured], in successfully asserting his rights against [the insurer's] attempt in the declaratory judgment action to avoid its obligation to defend, were damages arising directly as a result of the breach of the contract."); *Gordon-Gallup Realtors, Inc. v. Cincinnati Insurance Co.*, 274 S.C. 468, 471-72, 265 S.E.2d 38, 40 (1980) (applying *Hegler* to situation in which insured rather than insurer initiated coverage lawsuit). Having successfully proven Penn National breached the insurance contracts, Portrait Homes is entitled to recover reasonable attorney's fees and costs associated with prosecuting the claims against Penn National in this case. As set forth in *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989), there are six factors to be considered in awarding attorney's fees. "Consideration should be given to all six criteria in establishing reasonable attorney's fees; none of these six factors is controlling." *Id.* at 384, 377 S.E.2d at 297.

1. The Nature, Extent and Difficulty of the Legal Services Rendered

The liability issues in the additional insured case focused on whether Portrait Homes qualified as an additional insured under the Penn National policies. The determination of that issue was broken down into whether Portrait Homes qualified as an additional insured under a particular endorsement (CG 20 37) on two of the policies and whether Portrait Homes qualified as an additional insured under a separate endorsement (71 11 45) on three other policies. The determination under each endorsement was further broken down into sub-issues. With respect to endorsement 71 11 45, which was triggered by a contract between the named insured under the Penn National policies and Portrait Homes, a substantial issue in the case turned on whether Jose Castillo dba JJA Framing—with whom Portrait Homes had a contract—was in effect the same as JJA Construction Inc., the named insured under the policies having endorsement 71 11 45.

The determination of the critical issues in the case involved not only an examination of the insurance policies, but also a thorough examination of the documents in Penn National's underwriting file. There were many legal issues—both as to liability and damages—involved in the additional insured case. While the issues largely involved application of settled South Carolina law, the presentation of the evidence in a clear manner on some of the issues was nevertheless not a simple task.

2. The Time and Labor Necessarily Devoted to the Case

Stanley C. Rodgers represented Portrait Homes in this case. The dispute between Portrait Homes and Penn National was lengthy and hard fought. The case began in 2014 with multiple alleged additional insurers as Defendants. The claims against all the other insurer Defendants were eventually resolved. By October 2016—over three years ago—Penn National remained as the

only Defendant.⁷ From that point forward, multiple depositions were taken; extensive written discovery was exchanged; motions and pretrial briefs were submitted. The trial began in February. Following four days of testimony, the trial was recessed. The trial resumed in May and lasted another three days.

Mr. Rodgers spent 970.70 hours over the last three years working on this case. The amount of time and labor devoted to the case were reasonable in light of the issues of the case, the amount of money in dispute, and the tenacity of the defense put up by Penn National.

3. The Professional Standing of Counsel

Mr. Rodgers is an experienced, skilled attorney with an excellent reputation in the local legal community. He was admitted to the bar in 1992 and has practiced primarily in the Charleston area since 1993. The Court has had many interactions with Mr. Rodgers through the years. The Court finds Mr. Rodgers to be an extremely competent, well prepared attorney, and he tried this complex case in a competent, well prepared manner.

4. The Contingency of Compensation

Not applicable—the fee agreement was a billable hour arrangement, not a contingency.

5. The Fee Customarily Charged in the Locality for Similar Legal Services

Mr. Rodgers charged \$250 per hour, except for travel time, for which he charged \$125 per hour. Those hourly rates are well within the range customarily charged in this area. The overall fees being requested are reasonable for this case.

6. The Beneficial Results Obtained

⁷ Portrait Homes does not seek to be awarded any attorney's fees for work performed prior to the time Penn National became the only Defendant.

The results obtained were very beneficial.

Based on the Court's observations in this case and the updated affidavit submitted by Mr. Rodgers, the Court awards to Portrait Homes attorney's fees of \$237,462.50 and costs of \$12,540.76 for a total of \$250,003.26.

III. Persimmon Hill HOA's Request for Attorney's Fees and Costs

1. The Nature, Extent & Difficulty of the Case

The HOA initially brought an underlying action related to construction defects in the Persimmon Hill community in October of 2012. The prosecution of that case resulted in this declaratory judgment action being filed by Portrait Homes on December 29, 2014, against Penn National for Portrait's claim that it was an additional insured under various insurance policies issued to Jose Castillo d/b/a JJA Framing and JJA Construction, Inc. d/b/a JJA Framing (collectively referred to as "JJA"). The HOA was named a party in this declaratory judgment action and asserted crossclaims against Penn National seeking a declaratory judgment as to whether Penn National's policies provided insurance coverage to its insured, JJA. On July 13, 2016, a Default Judgment was entered against JJA in the underlying action in the amount of \$4,156,976.89. After the entry of the Judgment, Plaintiffs' counsel contacted JJA through Michael Sloop, a retired Mecklenburg County detective/police officer – now private investigator, and JJA assigned all of its rights under the Penn National policies to the HOA by written assignment dated December 13, 2016. The assignment provided that the HOA would attempt to collect the judgment amount from Penn National through this case prior to seeking to levy JJA's assets. The litigation was extremely complex and difficult and involved issues of insurance policy language construction, issues as to the duty to defend and duty to indemnify, issues as to coverage analysis, and issues as to the

validity of JJA's assignment to the HOA and the authenticity of Jose Castillo's signature on said assignment. The prosecution of this case resulted in an enormous amount of time being expended by the legal teams for all sides. The HOA engaged experts to discuss the manner in which claims against an insured under a commercial general liability policy should be adjusted, the industry standards and/or customs associated therewith, along with the financial status and profitability of Penn National. The trial of the case took seven (7) days over two (2) nonconsecutive weeks wherein these issues were rigorously argued by counsel for all sides.

2. The Time and Labor Necessarily Devoted to the Case

The trial of the case took seven (7) days over two (2) different terms of court wherein complex issues of law and disputed facts were rigorously argued by counsel. Pursuant to my observations at the trial of this case and the affidavit filed by the HOA's counsel, there was extensive time and labor necessarily devoted to the case. There were numerous depositions, along with tens of thousands of pages of documents exchanged and reviewed throughout the discovery process. Moreover, numerous motions were filed and heard before this Court during the prosecution of this case, which included Penn National's efforts to have the JJA assigned claims dismissed. Counsel prepared and attended mediation, hired and met with experts, prepared witnesses, reviewed voluminous document productions, and prepped for trial on numerous occasions, among other things. The complexity of the issues before the Court and extensiveness of time involved to review, prepare, develop, and prosecute the claims is also evident from the issues discussed in each parties' Pre-Trial Briefs and Motions in Limine.

3. Professional Standing of Counsel

The HOA's Counsel is represented by two (2) different firms, Segui Law Firm, PC, and Chakeris Law Firm, both of which are in good standing with the legal community and enjoy

excellent reputations. Among the HOA's counsel, the individual attorneys Phillip W. Segui, Jr., John T. Chakeris, and Alicia D. Petit have handled large and complicated construction deficiency cases ranging from single family residence to multi-family projects, along with separate insurance coverage litigation and similar breach of contract/bad faith claims. They are well known for their legal skills in these areas of the law and held in high regard by the Court.

4. The Contingency of Compensation

The Attorney-Client agreement between the HOA and its Counsel submitted into evidence at the trial of this case is for Counsel to be compensated one-third (1/3) of the gross award and to be reimbursed for case costs advanced, such as expert expenses. The HOA sought this contingency fee arrangement so that it would not have to assess the Persimmon Hill ownership a one-time assessment, multiple assessments, or have to increase the ownership monthly fees to cover the legal fees and other costs incurred in order to prosecute their claims. In this case, there were significant challenges asserted by Penn National regarding the assigned claims, validity of the assignment, insurance coverage and insurance availability with regards to JJA and other contingencies upon which a successful recovery depended. Penn National vigorously argued that there was no breach of the duty to defend, no bad faith and no coverage available to the HOA under JJA's policies. Had the Court found Penn National's arguments persuasive, which it did not, the HOA's counsel would not be compensated for their time and labor in this case. Despite these obstacles, the HOA's Counsel was able to affect a verdict in the HOA's favor.

5. Beneficial Results Obtained

Seven (7) days were spent in trial prosecuting this case. The verdict awarding \$5,370,147.29 for Breach of Duty to Defend and Duty to Indemnify, \$5,370,147.29 for Breach of

Duty of Good Faith and Fair Dealing/Bad Faith, and \$5,213,170.40 for the HOA's Judgment Creditor claim, plus attorneys' fees and punitive damages is an excellent result.

6. Legal Fees for Similar Services

Similar cases are typically handled on a contingency fee basis ranging from 33.33% to 40.00% in South Carolina. The Court finds that a contingency fee of thirty-three and one-third percent (33.33%) is fair and reasonable and should be approved by this Court.

Therefore, as to the HOA's assigned Breach of Duty to Defend and Duty to Indemnify, case costs in the amount of Fifty-One Thousand Three Hundred Thirty-Two and 03/100 Dollars (\$51,332.03) and Attorney's fees in the amount of One Million Seven Hundred Ninety Thousand Forty-Nine and 10/100 Dollars (\$1,790,049.10) is hereby declared reasonable and would be awarded should the HOA have elected the remedy of Breach of the Duty to Defend and Indemnify.⁸

IV. Punitive Damages

This court previously found that both Portrait and the HOA as assignee of Mr. Castillo's policy rights are entitled to recover punitive damages against Penn National. A subsequent hearing was held on January 15, 2020 to determine the amount of punitive damages pursuant to S.C. Code Ann. § 15-32-520. "Punitive damages may be awarded in South Carolina when there is clear and convincing evidence that the conduct of the defendant is willful, wanton, or in reckless disregard of the Plaintiff's rights." *Hawkins v. Pathology Assocs., P.A.*, 330 S.C. 92, 109, 498 S.E.2d 395, 405 (Ct. App. 1998) (citing S.C. Code Ann. § 15-33-135 (Supp. 1996); *McGee v. Bruce Hosp.*

⁸ Following the Court's Order being filed on October 22, 2019, the HOA filed an Election of Remedies on November 1, 2019, wherein the HOA elected the Breach of Duty of Good Faith & Fair Dealing/Bad Faith rather than the Breach of Duty to Defend and Duty to Indemnify. The Supreme Court has held that the attorney fees under S.C. Code Ann. § 38-59-40 only apply to breach of contract actions. *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 306 S.E. 2d 616 (1983).

System, 321 S.C. 340, 468 S.E.2d 633 (1996); *Taylor v. Medenica*, 324 S.C. 200, 479 S.E.2d 35 (1996)). “A conscious failure to exercise due care constitutes willfulness.” *Id.* at 110, 498 S.E.2d at 405 (citing *McCourt v. Abernathy*, 318 S.C. 301, 457 S.E.2d 603 (1995)). “A tort is characterized as reckless, willful or wanton if it was committed in such a manner or under such circumstances that a person of ordinary reason and prudence would have been conscious of it as an invasion of the plaintiff’s rights.” *Id.* (citing *Taylor v. Medenica*, 324 S.C. 200, 479 S.E.2d 35 (1996)).

Portrait’s request for additional insured coverage was initiated by a tender letter to Penn National from Portrait’s counsel dated June 5, 2013, in which Portrait requested additional insured coverage and provided Penn National information about the claim including the HOA’s forensic engineer’s report and the latest amended pleading. (Pl. Ex. 6). At the inception of this claim, Penn National knew that the claim related to its insured’s work was a multi-million-dollar claim. Trial Tr. vol. 1, 336:11-23, 436:4-7. Following the first date of entries in the claims log setting up the claim, a meeting took place between Greg Gross, the primary adjuster assigned to this claim, Gary Gibson, regional claim’s office team leader, and Adam Parsons, Home Office In-House Claims Counsel, at Penn National’s claims office located in Greensboro, North Carolina. *Order as to Persimmon Hill Homeowners Association, Inc.’s Claims of Bad Faith, Breach of Contract and Declaratory Judgment Against Pennsylvania National Mutual Casualty Insurance Company*, p. 4. At this meeting, Adam Parsons instructed Greg Gross and Gary Gibson as to how they are to adjust Portrait’s claim for additional insured status and the HOA’s claims against Castillo. (Pl. Ex. 58, 2). Gary Gibson memorializes this meeting and Parsons’ instructions on how these claims should be handled from the outset in the Penn National claims file:

GHG and I met with HOC AP here in the NCCSO on 7/9/13. AP advises that if the NI has not been served and/or has not requested a defense we can not retain counsel on their behalf. GHG to send

monthly letters to the NI advising them we are aware of the suit and asking NI to contact us. Re the tender by the GC, GHG will submit a CQR.

(Pl. Ex. 58, 2) (emphasis added). The testimony of adjuster Greg Gross also affirmed the claims log entry of July 10, 2013, that this meeting with Adam Parsons took place in which a plan was developed and put in place for Greg Gross as the frontline adjuster to implement:

Q. And this meeting between you, Gary Gibson, and Adam Parsons occurred and is the next entry after having received the Portrait tender; is that right?

A. Correct.

Q. And at that point in time, that claim was discussed and a plan to address that claim and how to adjust that claim was discussed between the three of you-all and was essentially left to you, the frontline adjuster, to implement that plan. Would you agree with that?

A. Correct.

Trial Tr. vol. 1, 340:2-13. Adam Parsons tried to distance himself as Penn National's home office in-house claims counsel from having such a meeting:

Q. Says you met. Yesterday, you tried to downplay that and say it wasn't a meeting?

A. Right, it wasn't a meeting.

Q. Why did they think it was a meeting?

A. I don't think they did.

Q. They used the word meet?

A. Met with. I meet plenty of people, it doesn't mean I have a meeting with them. I just met you, doesn't mean that I've had a meeting with you.

Trial Tr. vol. 2, 302:17-25. A closer examination of the July 10, 2013, claims log entry memorializing this meeting with Adam Parsons, subsequent claim log entries thereafter and testimony from the witnesses demonstrates by clear and convincing evidence that Penn National's conduct was willful, wanton or reckless in denying Portrait and JJA policy benefits to which they were entitled causing each insured harm as discussed further below.

A. Punitive Damages Awarded as to Portrait

From the outset of this claim, Adam Parsons instructed “Re the tender by the GC [Portrait], GHG [Greg H. Gross] will submit a CQR.” (Pl. Ex. 58, 2). A CQR is a coverage question report that is an internal Penn National document wherein the adjuster sends a coverage question to home office to be reviewed by Adam Parsons. Trial Tr. vol. 1, 301:5-22. When a CQR is submitted, it is more likely than not that the claim will be denied:

Q. And CQRs are only submitted when there’s coverage questions and it’s more likely than not that a claim may be denied. Would you agree with that?

A. Correct.

Trial Tr. vol. 1, 340:19-23 (Testimony of Greg Gross). This July 10, 2013, claims note is the second day that any notes were entered into the claims log. (Pl. Ex. 58). It was not until September 21, 2013, as reflected in the claims log, that Greg Gross performed or anyone else at Penn National performed any type of coverage analysis as to Portrait’s request for additional insured coverage. (Pl. Ex. 58). Hence some two (2) months prior to any coverage analysis taking place, Penn National had determined that it was more likely than not that the claim would be denied.

Portrait’s counsel not having received a response to its initial tender sent a second tender letter to Penn National dated May 23, 2014. (Pl. Ex. 8). Seventeen (17) months after Portrait’s initial tender, Portrait’s counsel received a letter dated September 30, 2014, from Penn National denying its claim for additional insured coverage claiming that Portrait did not qualify as an additional insured for this occurrence. The basis of the denial as stated in the letter is: “This is a completed operations type claim. As such, the sole avenue to additional insured status would be through an endorsement providing additional insured status for completed operations. The above noted policies do not contain such an endorsement.” (Pl. Ex. 9). This was the sole basis Penn

National communicated to Portrait for the denial at any time prior to the initiation of this lawsuit. *Order Regarding Additional Insured Coverage*, p. 11. Penn National's basis for the denial was untrue and a misrepresentation of the policy terms; the policies at issue did contain endorsements providing additional insured coverage for completed operations. When questioned at trial about Penn National asserting an untrue basis to deny Portrait's tender for additional insured coverage, Greg Gross referred to the untruth as and it's "not right"⁹; Adam Parsons describe the untruth as "inaccurate"¹⁰; and Penn National's expert, Bernd Heinze, referred to it as the "opposite of what was true".¹¹

At trial, however, Penn National did not rely on the lack of completed operations endorsements in the policies as the basis for why Portrait did not qualify as an additional insured. Rather Penn National relied on the following arguments: Jose Castillo d/b/a JJA Framing was a different entity and therefore a different insured than JJA Construction, Inc.; the written contract(s) qualifying Portrait as an additional insured were signed by Jose Castillo and not JJA Construction, Inc.; the contract requiring completed operations coverage did not apply to the Persimmon Hill project; the endorsements themselves did not identify qualifying Portrait projects (because the qualifying location was a scriveners' error listing Castillo's office address); and the names of the tendering parties did not exactly match the names listed in the endorsements. A comprehensive analysis of Penn National's basis for denial of Portrait's additional insured claim is set forth in the *Order as to Additional Insured Coverage*.

Penn National performed no meaningful investigation or analysis of the underwriting file and material that it had in its possession including the Amended Complaint to determine if Penn

⁹ Trial Tr. vol. 1, 434:23-24.

¹⁰ Trial Tr. vol. 2, 172:11-173:38

¹¹ Trial Tr. vol. 2, 520:8-22.

National's reasons for denial at trial were proper. Under South Carolina law, an insurer's duty to defend is based on the allegations in the underlying complaint. *B.L.G. Enterprises, Inc. v. First Financial Insurance Co.*, 334 S.C. 529, 535, 514 S.E.2d 327, 330 (1999). "If the underlying complaint creates a possibility of coverage under an insurance policy, the insurer is obligated to defend." *City of Hartsville v. South Carolina Municipal Insurance*, 382 S.C. 535, 544, 677 S.E.2d 574, 578 (2009). In determining whether a duty to defend exists, the allegations in the complaint must be taken as true. *Manufacturers and Merchants Mutual Insurance Co. v. Harvey*, 330 S.C. 152, 167, 498 S.E.2d 222, 230 (Ct. App. 1998). Had Penn taken the allegations in the Amended Complaint as true, both Jose Castillo and JJA Construction, Inc. were alleged to be doing business as JJA Framing, and therefore, Portrait should have been provided additional insured coverage for JJA Framing. Additionally, had Penn National reviewed its own underwriting file and certificates of insurance it should have reached the conclusion that Jose Castillo d/b/a JJA Framing and JJA Construction, Inc. are not two separate entities but rather operated as one in the same. The underwriting file contained a name change form specifically indicating a name change only from JJA Framing Company to JJA Construction Inc. (Plaintiff's Exhibit 18). On the audit documents and on the Declarations Page of *every* policy issued by Penn National after the name change effective March 2, 2005, Penn National identified the named insured, JJA Construction, Inc., as an Individual. The classification of the form of business as an Individual on the policies issued to JJA Construction Inc.—though seemingly contradictory—accurately reflected the substance of who the parties intended to be insured under the policies. *Order as to Additional Insured Coverage*, p. 19. Further, Penn National could have included in its assignment to Gayle McLeod to inquire of Mr. Castillo during her cold call as to any of these issues. Had Penn National asked her to do this, Mr. Castillo would have told her as he testified at trial that Jose Castillo d/b/a JJA Framing

and JJA Construction, Inc. d/b/a JJA Framing were operated as one business, had the same location, same employees, same trucks, same telephone number, and same Federal ID number. Trial Tr. vol. 2, 357:5-358:11.

Greg Gross testified as to his history of denying claims for additional insured status at Penn National:

Q. So I'll start that again. How many -- as of the time you sent this May 2014 [coverage question report], how many additional insured claims had you evaluated in the context of a construction defect case where the general contractor was making an additional insured claim under the subcontractor's policy?

A. My answer is, probably about 25 to 30.

Q. Okay. In every one of those claims as to the evaluation of the additional insured claim, did a coverage question report always go from you to Gary Gibson to Adam Parsons?

A. At Penn National, yes.

Q. Every time?

A. Every time.

Q. Do you remember Penn National ever picking up the defense for an additional insured in that context?

A. No.

Q. Never?

A. Not that I can recall.

Trial Tr. vol. 1, 315:16-316:10 (Testimony of Greg Gross). While the Court notes that Penn National was able to point to a single additional insured claim handled by Greg Gross that Penn National accepted, the Court still finds Mr. Gross' testimony convincing.

As noted in the Court's *Order Regarding Additional Insured Coverage*, Portrait Homes has been damaged by Penn National's bad faith conduct. Portrait paid \$3,850,000.00 in settlement and incurred \$42,791.24 in attorney's fees from Penn National's failure to defend and indemnify. At trial, Mr. O'Neal testified that JJA Framing was the biggest subcontractor on the job – as is generally the case on a job of this type – and “their work is integrated throughout the project.” Trial Tr. vol. 1, 113:7-19 (Testimony of J. Blanton O'Neal, IV). Mr. O'Neal further testified that

the entire amount of the \$3,850,000.00 settlement was attributable to JJA Framing's work. Trial Tr. vol. 1, 114:23-115:14 (Testimony of J. Blanton O'Neal, IV).

Portrait's claim for additional insured status was doomed for denial at the inception of the claim. This Court finds that Penn National's home office in-house claims counsel, Adam Parsons, instructed adjuster Greg Gross as to the plan for adjusting Portrait's claim and Greg Gross was charged with its implementation following Parsons' directive. The Court also finds that Penn National failed to perform a reasonable investigation of this claim and knowingly misrepresented coverages under the policies to Portrait in the claim denial. The Court further finds that Penn National's claim denial was unreasonable and untimely in taking seventeen (17) months following Portrait's initial tender to process the doomed claim. The evidence is clear and convincing that this conduct of Penn National was willful, wanton, or in reckless disregard of Portrait's rights causing harm.

Therefore, Portrait Homes is awarded punitive damages in the amount of \$3,892,791.24 (3,850,000.00 + 42,791.24).

B. Punitive Damages Awarded as to the HOA as Assignee of JJA's Claims

From the outset of this claim, Adam Parsons instructed "if the NI has not been served and/or requested a defense we can not retain counsel on their behalf." (Pl. Ex. 58, 2). As testified to by Greg Gross, this was because "an insured has to request a defense before Penn National will provide a defense, regardless of whether the pleadings trigger coverage or not." Trial Tr. vol. 1, 331:8-13. Penn National's requirement, however, was not contained in any of Mr. Castillo's insurance policies:

Q. There [are] no words in the insurance policy that says the insured has to pick up the phone, call, write a letter and say, Penn National,

provide me a defense. That is not contained within the policies of insurance at Penn National. Do you agree with that?

A. That is not contained in the policies that I ever saw at Penn National.

Q. So essentially by making that a requirement for a defense, it is the creation of an additional condition precedent to coverage and that's wrong.

A. If you say so.

Q. I'm asking your opinion. When you were a claims adjuster at Penn National.

A. I was doing what I was told to do.

Trial Tr. vol. 1, 332:16-333:6 (Testimony of Greg Gross). The front-line adjuster, Greg Gross, did not agree with Penn National's directive from its home office in-house claims counsel Adam Parsons:

Q. But Greg Gross' opinion at Penn National when he was told to not adjust a claim until an insured requested a defense, you went to management and you told them you didn't believe that was correct, that you didn't believe that was proper, you didn't believe that was right?

A. That is correct.

Q. And you were just following orders from above?

A. Correct.

Trial Tr. vol. 1, 333:8-17 (Testimony of Greg Gross). Adjuster Greg Gross further testified that it was not a requirement of any of the four (4) other insurance companies he had previously been employed at adjusting claims. *Id.* at 333. Imposing any requirements on an insured that are not contained in the policy of insurance as a condition to the insured being provided its policy benefits simply at best gives the insured what they have already bargained for and at worst deprives the insured of policy benefits to which it is entitled.

Penn National's adjusting of the HOA's claims against JJA included attempting to send correspondence to JJA on three (3) separate occasions and hiring an independent claims adjuster to cold call JJA to inquire whether JJA wanted Penn National to provide a defense. Penn National

did not make any meaningful effort to utilize the e-mail and phone number contact information that it already had in its possession and previously utilized to contact JJA when conducting year end premium audits where Penn National stood to collect additional premiums. The first Reservation of Rights letter was sent to a four-year-old stale address in Ladson, South Carolina although the same day this ROR letter was written the claim's log entry notes: "Effective 07/29/2009 the insured address is changed to 11227 Eastfield Rd., Huntersville, NC 28078." (Pl. Ex. 58, 7). On the same day the first ROR was sent to the Ladson, South Carolina address and not the North Carolina address, the following plan was noted in Penn National's claims log:

PLAN: ROR has been sent to the insured today via certified mail. If the insured receives and requests a defense on these complaints, there is a probable defense obligation due to the negligence count in the complaint and the trigger of coverage in South Carolina. Diaried two weeks for acceptance of ROR. If letter comes back unclaimed will issue CQR to HOC for review of coverage (i.e., insured has not demanded a defense to date).

(Pl. Ex. 58, 8). This correspondence was never received by JJA because Penn National sent it to a four (4) year old stale address.

Instead of attempting to contact Mr. Castillo through the e-mail addresses and phone numbers known to Penn National to determine if service had been perfected and to investigate the claim, Mr. Gross was directed to hire an independent adjuster to go to the Berkeley County Courthouse to review the Clerk of Court's file for an affidavit of service to see if and when JJA was served. (Pl. Ex. 58, 2; HOA Ex. 16; Penn Ex. 22). The independent adjuster hired was Gayle McLeod, of Capstone ISG. Following the independent adjuster's second trip to the courthouse, Ms. McLeod advised Penn National that JJA had been served.

There are five (5) different claims log entries from the time the claim was opened until the time Penn National was notified that JJA had been served noting that JJA was required to request

a defense before Penn National's duty to defend was triggered. (Pl. Ex. 58, at 2, 3, 8, and 9). The claim log entry reflecting Penn National's intent to deny the JJA claim prior to Penn National knowing that its insured had been served is telling. The claim log states: "I emailed IA today to check again to see if service has been perfected against the insured. If not, will send CQR to GG for review to send to HOC to recommend that no coverage be afforded any entity as the insured has not come forward requesting a defense and/or in violation of the conditions portion of the policy." (Pl. Ex. 58, 9).

After the independent adjuster informed Penn National that JJA had been served, Penn National's adjuster noted the following plan in the claim log on March 13, 2014:

PLAN:

I am going to have IA go to the home of the above and determine from the registered agent what their intentions are with this lawsuit. Are they requesting a defense? If no answer at that point, we have done everything we can do to discuss the case with the insured and will then issue a CQR requesting denial of coverage for defense of the lawsuit and the tender from the GC.

(Pl. Ex. 58, 9). The instructions given by Penn National to Gayle McLeod at Capstone ISG for her additional task were:

- 1) Make a cold call to the insured to inquire about suit representation,
- 2) Inquire if insured wishes that Penn National handle suit on their behalf.
- 3) Obtain contact information on Jose Castillo.

(HOA Ex. 7). At no time was Ms. McLeod asked by Penn National to make any inquiry to Mr. Castillo regarding the allegations in the lawsuit, regarding matters that may be useful to Penn National in conducting an investigation of the claim or providing Mr. Castillo relevant policy information or information in Penn National's possession that are important in determining how one should answer the question of whether he wants a defense.

Penn National received correspondence from counsel for the HOA dated April 24, 2014 advising that if no answer were filed within fifteen (15) days an Order of Default and Judgment would be sought against its insured. (HOA Ex. 8). Penn National acknowledged receipt of the correspondence from the HOA's counsel on May 8, 2014, e-mailing the HOA's counsel requesting a 30-day extension of time therein to respond to the complaint to which the HOA counsel agreed to the extension. (HOA Ex. 9). No Answer was ever filed although, by requesting a 30-day extension to file an Answer, it appeared that Penn National was engaging in providing a defense. An Order of Default was entered on December 22, 2014, more than seven (7) months after Penn National requested an extension to file an Answer. (HOA Ex. 12). At no point in time during the pendency of the underlying case is there any evidence that Penn National considered filing a declaratory judgment action or having separate adjusters for the liability and coverage aspects of the claim as is an insurance industry standard as testified to by the HOA's expert, Maurice Kraut. Trial Tr. vol. 1, 694:19-695:16; 924:17-925:13.

On the Saturday morning of May 10, 2014, Gayle McLeod made a cold call on JJA by showing up unannounced and walking into the open garage of Mr. Castillo's home in Huntersville, North Carolina, and knocking on his backdoor. She spoke with Mr. Castillo (JJA) in his garage for ten (10) minutes. Trial Tr. vol. 2, 96:18-20. During this ten (10) minute conversation, Ms. McLeod asked Mr. Castillo if JJA wanted Penn National to defend it in the underlying case but did not disclose any other relevant information regarding the claim that was known to Penn National. Trial Tr. vol. 2, 93:9-13; 99:23-101:7; 125:11-14; 125:25-126:3. Penn National could have had Ms. McLeod provide JJA with the HOA's forensic engineer's report, discuss the details of the HOA's forensic engineer report, and also could have disclosed that the liability exposure to JJA, including Mr. Castillo personally, was in the multi-millions of dollars; facts known to Penn National for over

eleven (11) months prior to Ms. McLeod's cold call. Penn National also could have had Ms. McLeod inform Mr. Castillo that the defense she was inquiring as to whether or not JJA wanted was a policy benefit that already existed as part of JJA paying insurance premiums to Penn National for eight (8) years and that JJA would be waiving a policy benefit to which it was entitled at no cost if JJA declined a defense. Trial Tr. vol. 2, 125:11-14; 125:25-126:3. Ms. McLeod did not provide this information to Mr. Castillo during the cold call because she was not asked to do so by Penn National. *Id.* Mr. Castillo (JJA) responded that he did not want a defense. Without providing JJA the requisite information that Penn National had in its possession, Penn National misled JJA with respect to the claim, coverage and policy benefits to which it was entitled. Mr. Castillo, a sixty-one (61) year old man with a 6th-grade education, testified at trial that had he been told that he had already paid for Penn National to hire a lawyer as part of his premium payments that he would have told Ms. McLeod yes to Penn National hiring counsel to defend JJA in the underlying case. Trial Tr. vol. 2, 397:12-398:2. Penn National acknowledged at this point when Mr. Castillo and Ms. McLeod had the discussion in his garage, there was not anything JJA had refused to do that Penn National had asked him to do. Trial Tr. vol. 1, 367:2-6. Greg Gross testified that the opportunity to investigate the claim existed but Penn National made the decision not to perform an investigation because the insured did not request a defense. Trial Tr. vol. 1, 370:1-17. On August 11, 2014, following the face-to-face meeting between Gayle McLeod and Jose Castillo in Huntersville, North Carolina, Penn National sent additional ROR correspondence by certified mail to JJA again to the four-years-stale prior old former Ladson, South Carolina address. (HOA Ex. 15). This correspondence was never received by JJA.

Penn National sent the third and final ROR correspondence to JJA on October 2, 2014. (Pl. Exs. 35 and 36). This correspondence was sent by certified mail to both the four-years-stale prior

Ladson, South Carolina, address and the correct Huntersville, North Carolina address. (Pl. Exs. 35 and 36). The certified letter mailed to the Huntersville, North Carolina, address was returned to sender as unclaimed. (Pl. Ex. 58, 16). Mr. Castillo testified that he leaves his house at sunup to go to work and returns home at sundown and is not at home during daytime hours when mail delivery occurs. His working hours were 7:00 am to 7:00 or 8:00 pm at this time. Trial Tr. vol. 2, 367:21-25. This correspondence also could have been sent with a carbon copy regular first-class mail which would have been delivered to his residence with regular postal delivery which does not require a signature, but it was not. The ROR provided the following reasoning for declining coverage:

Our office sent a representative of Capstone ISG to the residence of Jose Castillo located at 11227 Eastfield Road in Huntersville, North Carolina. Mr. Castillo explained to the representative of Capstone, ISG that he did not want Penn National to defend him or JJA for the aforementioned lawsuits. Therefore, Penn National Insurance will not provide a defense and/or indemnity for these lawsuits at this time.

(Pl. Exs. 35 and 36). The Penn National adjuster acknowledged that JJA never received this correspondence either. Trial Tr. vol. 1, 376:5-9. JJA was never informed by Penn National that it was denying coverage. Trial Tr. vol. 2, 372:14-23.

On December 16, 2014, Penn National's adjuster entered the following two (2) entries: 1) Coverage disclaimers in place. No further pushback. File closed to archives; 2) Coverage disclaimer; close if no push. (Pl. Ex. 58, 17). Thereafter on January 15, 2015, the adjuster's supervisor, Gary Gibson, entered the following entry:

Reviewed on TL diary. I note the activity since my last review. Coverage was previously declined. The NI has not pursued further. The file has been closed w/o payment.
I will not continue to follow this file. GHG should advise me of any adverse developments.

Id.

Penn National had the opportunity to investigate the claim and provide a defense to JJA but chose not to. As a result of Penn National's failure to provide JJA a defense, an Order of Default was entered against JJA on December 22, 2014, nearly nineteen (19) months after being on notice of the lawsuit. (HOA Ex. 12). Penn National was also put on notice of the entry of default by correspondence dated July 1, 2015, from HOA's Counsel, but did nothing. (Pl. Ex. 58, 17; HOA Ex. 12). Over a year later, on July 13, 2016, a Default Judgment was entered against JJA in the amount of \$4,156,976.89 by the Honorable Dale Van Slambrook. (HOA Ex. 13). Post judgment interest has been accruing at the statutory rate. After the entry of the Judgment, JJA assigned all of its rights under the Penn National policies to the HOA by written assignment dated December 13, 2006. (HOA Ex. 20).

This Court finds that Penn National's home office in-house claims counsel, Adam Parsons, instructed adjuster Greg Gross as to the plan for adjusting JJA's claim and Greg Gross was charged with its implementation following Parsons' directive. This Court finds that Penn National would not hire counsel to defend JJA or investigate the HOA's claim against JJA until JJA affirmatively requested a defense regardless of whether the complaint triggered coverage – a condition to being provided a defense that does not exist in the policy. This Court finds that Penn National put its interests ahead of its insured by asking JJA whether it was requesting the valuable policy benefit of a defense to which it was already entitled. The Court also finds that Penn National failed to perform a reasonable investigation of this claim and knowingly misrepresented coverages under the policies and failed to disclose important information that it had in its possession to Mr. Castillo. The evidence is clear and convincing that the conduct of Penn National was willful, wanton, and in reckless disregard of JJA's rights causing harm.

Penn National's insurance expert in this case, Bernd Heinze, testified Penn National acted in bad faith in a 2007 matter in Delaware County, Pennsylvania in the case of *Pennsylvania National v. Johnson*. Mr. Heinze testified that in this 2007 case, Penn National failed to conduct an investigation of the facts surrounding the claim which was in derogation of the standards and practices of the insurance industry constituting bad faith. Trial Tr. vol. 2, 605:1-19. Mr. Heinze further testified that in the 2007 case, Penn National willingly took no part in the arbitration letting a damage award be entered against their insured and made no efforts to protect its insureds rights constituting bad faith. Trial Tr. vol. 2, 607:15-609:9. Additionally, Mr. Heinze testified that the failure of Penn National to file a declaratory judgment action was in derogation of the standards and practices of the insurance industry and in bad faith. Trial Tr. vol. 2, 609:10-25. According to Mr. Heinze, \$6,000,000.00 in punitive damages were awarded against Penn National in this 2007 Pennsylvania case for purposes of punishing and deterring Penn National and other insurers in the same position from acting in a similar fashion in the future. Trial Tr. vol. 2, 610:1-10. Mr. Heinze sought to differentiate what appears to be similar conduct by Penn National in the instant case by relying on the insured tendering to Penn National in the 2007 Pennsylvania case. Trial Tr. vol. 2, 608:10-11.

Based on the foregoing, the HOA as assignee of JJA's policy rights is awarded punitive damages in the amount of \$5,370,147.29.

C. Punitive Damages Due Process Review

"The United States Supreme Court has also set forth three guideposts that trial courts must apply to an award of punitive damages to determine whether the award violates due process." *James v. Horace Mann Ins. Co.*, 371 S.C. 187, 194, 638 S.E.2d 667, 670 (2006) (citing *BMW of North America, Inc. v. Gore*, 517 U.S. 559, 575 (1996)). The *Gore* guideposts are: (1) the degree

of reprehensibility of the defendant's misconduct; (2) the disparity between the actual and potential harm suffered by the plaintiff and the punitive damages award; and (3) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases. *Id.* at 196, 638 S.E.2d at 671 (citing *Gore* at 575). "In considering reprehensibility, a court should consider whether: (i) the harm caused was physical as opposed to economic; (ii) the tortious conduct evinced an indifference to or a reckless disregard for the health or safety of others; (iii) the target of the conduct had financial vulnerability; (iv) the conduct involved repeated actions or was an isolated incident; and (v) the harm was the result of intentional malice, trickery, or deceit, rather than mere accident." *Mitchell v. Fortis Ins. Co.*, 385 S.C. 570, 587, 686 S.E.2d 176, 185 (2009) (citing *State Farm v. Campbell*, 538 U.S. 408, 419 (2003)). Moreover, "a court, when determining the reasonableness of a particular ratio of actual or potential harm to a punitive damages award, may consider: the likelihood that the award will deter the defendant from like conduct; whether the award is reasonably related to the harm likely to result from such conduct; and the defendant's ability to pay." *Id.* at 588, 686 S.E.2d at 185. "When identifying 'comparable cases' a court may consider: the type of harm suffered by the plaintiff or plaintiffs; the reprehensibility of the defendant's conduct; the ratio of actual or potential harm to the punitive damages award; the size of the award; and any other factors the court may deem relevant." *Id.* at 588-89, 686 S.E.2d at 186.

The Supreme Court of South Carolina has held that "*Gamble* remains relevant to the post-judgment due process analysis, but only insofar as it adds substance to the *Gore* guideposts." *Mitchell v. Fortis Ins. Co.*, 385 S.C. 570, 587, 686 S.E.2d 176, 185 (2009). "The *Gamble* factors are: (1) defendant's degree of culpability; (2) duration of the conduct; (3) defendant's awareness or concealment; (4) the existence of similar past conduct; (5) likelihood the award will deter the

defendant or others from like conduct; (6) whether the award is reasonably related to the harm likely to result from such conduct; (7) defendant's ability to pay; and (8) other factors deemed appropriate." *James v. Horace Mann Ins. Co.*, 371 S.C. 187, 194-95, 638 S.E.2d 667, 671 (2006) (citing *Gamble v. Stevenson*, 305 S.C. 104, 111-12, 406 S.E.2d 350, 354 (1991)). "The trial court is not required to make a finding of fact for each Gamble factor to uphold a punitive damages award." *Id.* at 195, 638 S.E.2d at 671 (citing *McGee v. Bruce Hosp. Sys.*, 321 S.C. 340, 346, 468 S.E.2d 633, 637 (1996)). Additionally, S.C. Code Ann. § 15-32-520 provides factors for analysis for a punitive damages award review.

A South Carolina statute also provides a cap on punitive damages:

- (A) Except as provided in subsections (B) and (C), an award of punitive damages may not exceed the greater of three times the amount of compensatory damages awarded to each claimant entitled thereto or the sum of five hundred thousand dollars.
- (B) . . . If the jury returns a verdict for punitive damages in excess of the maximum amount specified in subsection (A), the trial court should first determine whether:
 - (1) The wrongful conduct proven under this section was motivated primarily by unreasonable financial gain and determines that the unreasonably dangerous nature of the conduct, together with the high likelihood of injury resulting from the conduct, was known or approved by the managing agent, director, officer, or the person responsible for making policy decisions on behalf of the defendant . . .If the trial court determines that either item (1) or (2) apply, then punitive damages must not exceed the greater of four times the amount of compensatory damages awarded to each claimant entitled thereto or the sum of two million dollars.
- (C) However, when the trial court determines one of the following apply, there shall be no cap on punitive damages:
 - (1) At the time of injury, the defendant had an intent to harm and determines that the defendant's conduct did in fact harm the claimant; . . .

S.C. Code Ann. § 15-32-530.

In the hearing for punitive damages, Portrait and the HOA argued that the evidence supports both exceptions (B) and (C) of S.C. Code Ann. § 15-32-530. After considering the evidence including the testimony from Oliver G. Wood, Ph.D., an expert in the field of economics, and performing an analysis of the *Gore* and *Gamble* factors, along with an analysis of the punitive damages statutory factors set forth in S.C. Code Ann. § 15-32-520, this Court finds that a punitive damages award of an amount equal to the amount awarded in actual damages for bad faith to Portrait Homes (\$3,892,791.24) and an amount equal to the amount awarded in actual damages for bad faith to the HOA (\$5,370,147.29), as the assignee of JJA's claims, are appropriate and not violative of due process. Therefore, this Court does not need to determine whether exceptions (B) and (C) of S.C. Code Ann. § 15-32-530 are applicable.

1. As to Portrait Homes

a. *Gore* Factors

(1) *the degree of reprehensibility of the defendant's misconduct*

There is clear and convincing evidence that the conduct of Penn National was willful, wanton, and in reckless disregard of Portrait's rights. The harm caused to Portrait was economic:

After Penn National denied coverage to Portrait Homes in the fall of 2014, the defense of Portrait Homes in the underlying construction defect cases continued to be handled by Hood Law Firm. O'Neal testified that for the remainder of 2014 and 2015 and into 2016, they were "going hot and heavy in defending the case for our clients. There are tens of depositions going on, expert reviews, expert reports, discovery all over the place." (Trial Transcript, p. 106, line 2-10). O'Neal testified the prospects for the defense were grim. The Persimmon townhome community was a massive project and the construction defect litigation was one of the larger cases that had ever been filed in Berkeley County. O'Neal testified that "larger verdicts were starting to come out. And with the amount of damage that we saw in this, it was not a good outlook for the construction side of the case." (Trial Transcript, p. 107, line 19 – p. 108, line 14).

Order Regarding Additional Insured Coverage, p. 46. Mr. O’Neal further testified that the entire amount of the \$3,850,000.00 paid to settle the underlying case was attributable to JJA Framing’s work. Trial Tr. vol. 1, 114:23-115:14. Penn National knew at the inception of the claim that the liability exposure was in the multi-millions of dollars and sought to avoid its policy obligations. A plan by home office in-house claims counsel was implemented at the inception of the claim to deny Portrait policy benefits. The manner in which this claim was adjusted was contrary to S.C. Code Ann. § 38-59-20 although this Court recognizes that this statute is instructive and does not provide a private cause of action. Portrait’s claim for additional insured status was doomed for denial at the inception of the claim. Penn National failed to perform a reasonable investigation of this claim and knowingly misrepresented coverages under the policies to Portrait in the claim denial. Greg Gross referred to the untrue basis communicated to Portrait for denying its claim as “not right”¹²; Adam Parsons described it as “inaccurate”¹³; and Penn National’s expert, Bernd Heinze, referred to it as the “opposite of what was true”.

(2) the disparity between the actual and potential harm suffered by the plaintiff and the punitive damages award

The United States Supreme Court set forth in *Campbell*:

[W]e have been reluctant to identify concrete constitutional limits on the ratio between harm, or potential harm, to the plaintiff and the punitive damages award. We decline again to impose a bright-line ratio which a punitive damages award cannot exceed. Our jurisprudence and the principles it has now established demonstrate, however, that, in practice, few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process.

¹² Trial Tr. vol. 1, 434:23-24.

¹³ Trial Tr. vol. 2, 172:11-173:38

State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 424-25 (2003) (citations omitted). The punitive damages award of this Court is a single digit ratio of one which is within the statutory cap provided by the legislature in S.C. Code Ann. § 15-32-530. This award also comports with the single digit multiplier guidance set forth in *Campbell* and by the South Carolina Supreme Court in *James v. Horace Mann Ins. Co.*, 371 S.C. 187, 638 S.E.2d 667 (2006), wherein an award of 6.82 was upheld in that case wherein the insurer denied the insured's claim based on a false misrepresentation by the claims adjuster to the insured. Therefore, the disparity between the actual and potential harm suffered by Portrait and the punitive damages award comports with due process.

(3) *the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases.*

The director of the South Carolina Department of Insurance can impose administrative penalties on insurers for violations of the insurance law. As set forth in S.C. Code Ann. § 38-2-10 these penalties for each violation of the insurance laws are: (1) a fine not to exceed \$15,000 if the conduct was not willful or a fine not to exceed \$30,000 if the conduct was willful; (2) suspend or revoke the violator's authority to do business in the state; or (3) both. After reviewing this statute in *James v. Horace Mann Ins. Co.*, the South Carolina Supreme Court found that "the statutory penalties are set at 'such a low level, there is little basis for comparing it with any meaningful punitive damage award.'" 371 S.C. at 197, 638 S.E.2d at 672 (quoting *Collins Entertainment Corp. v. Coats & Coats Rental Amusement*, 355 S.C. 125, 142, 584 S.E.2d 120, 129 (Ct. App. 2003)). Therefore, the Court in *James* concluded "[t]he punitive damages award was reasonable; was not the result of passion, caprice, or prejudice; and d[id] not violate due process under *Gore*." *Id.* For the same reasoning, this Court finds the punitive damage award in this case is reasonable and does not violate due process under *Gore* also.

2. As to Persimmon HOA

a. *Gore Factors*

(1) the degree of reprehensibility of the defendant's misconduct:

There is clear and convincing evidence that the conduct of Penn National was willful, wanton, and in reckless disregard of JJA (Castillo's) rights. The harm caused was economic. Here, Jose Castillo, a 61-year-old man with a sixth-grade education that had accumulated significant assets, had financial vulnerability in that a judgment could and ultimately would be entered against him on July 13, 2016, in the amount of \$4,156,976.89 by the Honorable Dale Van Slambrook. (HOA Ex. 13). Protecting against this sort of harm by providing a defense to claims and indemnity payments is the essential purpose of policies of insurance. Moreover, the harm was not a mere accident on Penn National's part. Here, Penn had decided that it was not going to investigate and/or defend unless Mr. Castillo *affirmatively* asked for a Defense even though the duty to defend was triggered by the language of the underlying complaint – an obligation that is mentioned nowhere within any of the insurance policies for which Penn National issued to Mr. Castillo. Penn National's decision was not simply an oversight or mere inadvertence; it was a conscious and willful decision as reflected throughout Penn National's claim log and trial testimony. Greg Gross testified that it was Penn National's corporate policy that an insured must request a defense before Penn National will provide a defense, regardless of whether the pleadings trigger coverage or not and prior to adjusting and/or investigating the claim:

Q: Well, essentially, I'll say that if an insured is required to demand a defense, that is not a condition of the policy. There is no words in the insurance policy that says the insured has to pick up the phone, call, write a letter and say, Penn National, provide me a defense. That is not contained within the policies of insurance at Penn National. Do you agree with that?

A: That is not contained in the policies that I ever saw at Penn National.

Q: So essentially by making that a requirement for a defense, it is the creation of an additional condition precedent to coverage and that's wrong.

A: If you say so.

Q: I'm asking you your opinion. When you were a claims adjuster at Penn National.

A: I was doing what I was told to do.

Q: I understand that, and we're going to get to that. But Greg Gross's opinion at Penn National when he was told to not adjust a claim until an insured requested a defense, you went to management and you told them you didn't believe that was correct, that you didn't believe that was proper, you didn't believe that was right?

A: That is correct.

Q: And you were just following orders from above?

A: Correct.

Q: Okay. And we talked about these other insurance companies that you adjusted claims for Royal Sun, Hartford, Montgomery, Liberty. Did any of those carriers ever ask or try to impose that requirement that didn't exist in the policy?

A: No.

Trial Tr. vol. 1, 332:14-333:23 (Testimony of Greg Gross). Mr. Gross discussed his concerns about this inappropriate claim practice with management but was apparently ignored. Penn National consciously had its employees act in contravention of JJA's policy rights.

Penn National further misled Mr. Castillo by not disclosing any other relevant information regarding the claim known to Penn National during the face-to-face meeting with him in his garage. Trial Tr. vol. 2, 93:9-13; 99:23-101:7; 125:11-14; 125:25-126:3. Penn National could have had Ms. McLeod provide JJA with the HOA's forensic engineer's report, discuss the details of the HOA's forensic engineer report, and also could have disclosed that the liability exposure to JJA, including Mr. Castillo personally, was in the multi-millions of dollars; facts known to Penn National for over eleven (11) months prior to Ms. McLeod's cold call. Penn National also could have had Ms. McLeod inform Mr. Castillo that the defense she was inquiring as to whether or not

JJA wanted was a policy benefit that already existed as part of JJA paying insurance premiums to Penn National for eight (8) years and that JJA would be waiving a policy benefit to which it was entitled at no cost if JJA declined a defense. Trial Tr. vol. 2, 125:11-14; 125:25-126:3. Ms. McLeod did not provide this information to Mr. Castillo during the cold call because she was not asked to do so by Penn National. *Id.*

This Court found that Penn National put its interests ahead of its insured by asking JJA whether it was requesting the valuable policy benefit of a defense to which it was already entitled. The Court also found that Penn National failed to perform a reasonable investigation of this claim and knowingly misrepresented coverages under the policies and failed to disclose important information that it had in its possession to Mr. Castillo. The evidence is clear and convincing that the conduct of Penn National was willful, wanton, and in reckless disregard of JJA's rights causing harm.

"The insurance business is affected with a public interest." *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 340, 306 S.E.2d 616, 619 (1983) (citing *Hinds v. United Ins. Co. of America*, 248 S.C. 285, 149 S.E.2d 771 (1966)). "An insured ordinarily possesses no bargaining power and no means of protecting himself from the kind of treatment which Respondent complained. 'An insured does not contract to obtain any kind of commercial advantage or leverage but only to protect himself against the spectre of accidental [or unavoidable] loss.'" *Id.* (quoting *Trimper v. Nationwide Ins. Co.*, 540 F.Supp. 1188, 1193 (D.S.C. 1982)). Here, Penn National put its interests of attempting to avoid a multi-million-dollar liability exposure above those of JJA, an insured who contracted to protect himself from the type of claim which triggered coverage filed by the HOA's Complaint in the underlying case. Greg Gross moreover testified as to the manner in which a claim should be adjusted:

Q: When an adjustor for Penn National is investigating and deciding a claim, they've got to do it in a timely manner, correct?

A: Yes.

Q: They have to be thorough in their investigation and in their decision, correct?

A: Yes.

Q: And fairness requires them to be looking for coverage, not looking for a way to deny coverage, correct?

A: Under normal circumstances, yes.

Q: And resolving any doubts in favor of coverage and in favor of the insured, correct?

A: Under normal circumstances, yes.

...

Q: Help the insured get the maximum benefits to which they're entitled to under their contract of insurance?

A: Yes.

Q: Treat the insured how you would want to be treated?

A: Correct.

Q: Resolve ambiguities in favor of your insured?

A: Correct.

Q: And apply the terms and conditions of the policy fairly?

A: Correct.

Trial Tr. vol. 1, 293-294, 330. JJA's claim was not adjusted in the manner in which Greg Gross testified that claims should be handled.

(2) the disparity between the actual and potential harm suffered by the plaintiff and the punitive damages award:

As discussed above, the United States Supreme Court set forth in *Campbell*:

[W]e have been reluctant to identify concrete constitutional limits on the ratio between harm, or potential harm, to the plaintiff and the punitive damages award. We decline again to impose a bright-line ratio which a punitive damages award cannot exceed. Our jurisprudence and the principles it has now established demonstrate, however, that, in practice, few awards exceeding a single-digit ratio between punitive and compensatory damages, to a significant degree, will satisfy due process.

State Farm Mut. Auto. Ins. Co. v. Campbell, 538 U.S. 408, 424-25 (2003) (citations omitted). The punitive damages award of this Court is a single digit ratio of one which is within the statutory cap

provided by the legislature in S.C. Code Ann. § 15-32-530. This award also comports with the single digit multiplier guidance set forth in *Campbell* and by the South Carolina Supreme Court in *James v. Horace Mann Ins. Co.*, 371 S.C. 187, 638 S.E.2d 667 (2006), wherein an award of 6.82 was upheld in the case wherein the insurer denied the insured's claim based on a false misrepresentation by the claims adjuster to the insured. Therefore, the disparity between the actual and potential harm suffered by the HOA, as the assignee of JJA's policy rights, and the punitive damages award comports with due process.

(3) the difference between the punitive damages awarded by the jury and the civil penalties authorized or imposed in comparable cases:

As discussed above, the director of the South Carolina Department of Insurance can impose administrative penalties on insurers for violations of the insurance law. As set forth in S.C. Code Ann. § 38-2-10 these penalties for each violation of the insurance laws are: (1) a fine not to exceed \$15,000 if the conduct was not willful or a fine not to exceed \$30,000 if the conduct was willful; (2) suspend or revoke the violator's authority to do business in the state; or (3) both. After reviewing this statute in *James v. Horace Mann Ins. Co.*, the South Carolina Supreme Court found that "the statutory penalties are set at 'such a low level, there is little basis for comparing it with any meaningful punitive damage award.'" 371 S.C. at 197, 638 S.E.2d at 672 (quoting *Collins Entertainment Corp. v. Coats & Coats Rental Amusement*, 355 S.C. 125, 142, 584 S.E.2d 120, 129 (Ct. App. 2003)). Therefore, the Court in *James* concluded "[t]he punitive damages award was reasonable; was not the result of passion, caprice, or prejudice; and d[id] not violate due process under *Gore*." *Id.* This Court finds the punitive damage award in the case is reasonable and does not violate due process under *Gore* also.

3. Gamble Factors and S.C. Code Ann. § 15-32-520 Factors

In determining the punitive damages awards for Portrait and the HOA, the Court also evaluated the *Gamble* factors and S.C. Code Ann. § 15-32-520 as it would consider in performing a post-verdict review of a jury punitive damage award. After careful consideration of these factors, the Court finds that the punitive damages awards in the case are reasonable and do not violate due process.

To the extent an argument by Penn National is not specifically addressed in this Order, the argument is rejected.

THEREFORE, it is ordered that Portrait Homes is entitled to judgment in the following amounts:

Breach of Contract—Duty to Defend	\$ 42,791.24
Breach of Contract—Duty to Indemnify	\$ 2,500,000.00
Prejudgment Interest (8.75% x \$2,542,791.24 x 1,325 days [03/107/16 - 10/22/19]):	\$ 807,693.50
Attorney Fees/Costs	\$ 250,003.26
Bad Faith Refusal to Pay	\$ 3,892,791.24
Punitive Damages	\$ 3,892,791.24
Total:	\$ 11,386,070.48

THEREFORE, it is further ordered that the HOA is entitled to judgment in the following amounts:

Bad Faith Refusal to Pay	\$ 5,370,147.29
HOA's Judgment Creditor Claim	\$ 5,213,170.40
Punitive Damages	\$ 5,370,147.29
Total:	\$ 15,953,464.98

IT IS SO ORDERED.

Roger M. Young Sr.
Circuit Court Judge

Moncks Corner, SC

**TIME ON RISK ANALYSIS BASED ON POLICY FORM
CG 0001 (10/01)**

Summary		
Damages Allocated by Policy Year		
Units	Policy Year	Covered
43.75	2003 - 2004	\$ 500,000.00
43.75	2004 - 2005	\$ 500,000.00
43.75	2005 - 2006	\$ 500,000.00
58.25	2006 - 2007	\$ 500,000.00
58.25	2007 - 2008	\$ 500,000.00
Total Recoverable: \$ 2,500,000.00		
Damages Unrecoverable Because Exhausted		
Units	Category	Uncovered
2	Documented JJA with Documented C/O Dates	\$ 26,651.94
37	Documented JJA with Undocumented/Assigned C/O Dates	\$ 327,216.76
49	Undocumented Framer Assigned to JJA with Documented C/O Dates and Assigned C/O Dates	\$ 470,374.81
	Units Documented to be JJA with Documented C/O Dates But Portion of Damages Unrecoverable Because of Per Year Exhaustion	\$ 525,756.49
Total Unrecoverable: \$ 1,350,000.00		

Key Dates and Numbers for TOR Analysis	
Start Date:	C/O + 60 Days
End Date (Sisnroy Scope of Repair):	12/09/2012
Total Damages:	\$ 3,850,000.00
Total Documented JJA Units:	287
Total Undocumented Units Assigned to JJA:	49
Damage Per Unit:	\$ 11,458.33

**Damages Per Unit Documented to be JJA
Allocated by Policy Year: 2003 - 2004**

	Address	C/O	Plus 60 Days	Total	
172	Darcy	12/18/2003	02/16/2004	\$ 11,458.33	
173	Darcy	12/18/2003	02/16/2004	\$ 11,458.33	
100	Macy	12/23/2003	02/21/2004	\$ 11,458.33	
101	Macy	12/23/2003	02/21/2004	\$ 11,458.33	
175	Darcy	01/14/2004	03/14/2004	\$ 11,458.33	
123	Macy	01/23/2004	03/23/2004	\$ 11,458.33	
124	Macy	01/23/2004	03/23/2004	\$ 11,458.33	
127	Macy	01/27/2004	03/27/2004	\$ 11,458.33	
128	Macy	01/27/2004	03/27/2004	\$ 11,458.33	
125	Macy	01/29/2004	03/29/2004	\$ 11,458.33	
103	Macy	02/02/2004	04/02/2004	\$ 11,458.33	
145	Darcy	02/06/2004	04/06/2004	\$ 11,458.33	
148	Darcy	02/09/2004	04/09/2004	\$ 11,458.33	
144	Darcy	02/11/2004	04/11/2004	\$ 11,458.33	
147	Darcy	02/17/2004	04/17/2004	\$ 11,458.33	
146	Darcy	02/20/2004	04/20/2004	\$ 11,458.33	
176	Darcy	02/27/2004	04/27/2004	\$ 11,458.33	
137	Darcy	03/26/2004	05/25/2004	\$ 11,458.33	
138	Darcy	03/29/2004	05/28/2004	\$ 11,458.33	
139	Darcy	03/29/2004	05/28/2004	\$ 11,458.33	
141	Darcy	03/29/2004	05/28/2004	\$ 11,458.33	
142	Darcy	03/29/2004	05/28/2004	\$ 11,458.33	
101	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
102	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
103	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
104	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
105	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
106	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
108	Taylor	03/30/2004	05/29/2004	\$ 11,458.33	
134	Macy	04/23/2004	06/22/2004	\$ 11,458.33	
136	Macy	04/23/2004	06/22/2004	\$ 11,458.33	
137	Macy	04/23/2004	06/22/2004	\$ 11,458.33	
112	Brockman	04/25/2004	06/24/2004	\$ 11,458.33	
131	Brockman	04/28/2004	06/27/2004	\$ 11,458.33	
133	Macy	04/28/2004	06/27/2004	\$ 11,458.33	
114	Macy	04/29/2004	06/28/2004	\$ 11,458.33	
114	Macy	04/29/2004	06/28/2004	\$ 11,458.33	
116	Macy	05/03/2004	07/02/2004	\$ 11,458.33	
115	Macy	05/06/2004	07/05/2004	\$ 11,458.33	
125	Brockman	05/09/2004	07/08/2004	\$ 11,458.33	
101	Madison	05/14/2004	07/13/2004	\$ 11,458.33	
117	Macy	05/21/2004	07/20/2004	\$ 11,458.33	
100	Madison	05/21/2004	07/20/2004	\$ 11,458.33	
174	Darcy	05/26/2004	07/25/2004	\$ 7,291.81	(Exhaustion)

TOTAL UNITS: 43.5

TOTAL DAMAGES ALLOCATED: \$ 500,000.00

Damages Per Unit Documented to be JJA
Allocated by Policy Year: 2004 - 2005

	Address	C/O	Plus 60 Days	Total	
119	Brockman	11/18/2004	01/17/2005	\$ 11,458.33	
118	Brockman	11/22/2004	01/21/2005	\$ 11,458.33	
135	Darcy	11/22/2004	01/21/2005	\$ 11,458.33	
117	Brockman	12/08/2004	02/06/2005	\$ 11,458.33	
103	Darcy	12/14/2004	02/12/2005	\$ 11,458.33	
104	Darcy	12/14/2004	02/12/2005	\$ 11,458.33	
105	Darcy	12/14/2004	02/12/2005	\$ 11,458.33	
120	Darcy	12/16/2004	02/14/2005	\$ 11,458.33	
121	Darcy	12/16/2004	02/14/2005	\$ 11,458.33	
111	Darcy	12/19/2004	02/17/2005	\$ 11,458.33	
112	Darcy	12/19/2004	02/17/2005	\$ 11,458.33	
113	Darcy	12/19/2004	02/17/2005	\$ 11,458.33	
116	Darcy	12/19/2004	02/17/2005	\$ 11,458.33	
113	Brockman	12/22/2004	02/20/2005	\$ 11,458.33	
101	Darcy	12/23/2004	02/21/2005	\$ 11,458.33	
102	Darcy	12/27/2004	02/25/2005	\$ 11,458.33	
120	Brockman	12/29/2004	02/27/2005	\$ 11,458.33	
117	Darcy	12/29/2004	02/27/2005	\$ 11,458.33	
140	Darcy	12/30/2004	02/28/2005	\$ 11,458.33	
115	Darcy	01/24/2005	03/25/2005	\$ 11,458.33	
115	Brockman	01/28/2005	03/29/2005	\$ 11,458.33	
131	Darcy	01/28/2005	03/29/2005	\$ 11,458.33	
117	Davenport	01/28/2005	03/29/2005	\$ 11,458.33	
118	Davenport	02/01/2005	04/02/2005	\$ 11,458.33	
106	Madison	02/09/2005	04/10/2005	\$ 11,458.33	
122	Brockman	02/10/2005	04/11/2005	\$ 11,458.33	
139	Brockman	02/23/2005	04/24/2005	\$ 11,458.33	
141	Brockman	02/23/2005	04/24/2005	\$ 11,458.33	
109	Brockman	02/24/2005	04/25/2005	\$ 11,458.33	
137	Brockman	02/24/2005	04/25/2005	\$ 11,458.33	
138	Brockman	02/24/2005	04/25/2005	\$ 11,458.33	
142	Brockman	02/24/2005	04/25/2005	\$ 11,458.33	
110	Brockman	03/07/2005	05/06/2005	\$ 11,458.33	
111	Brockman	03/10/2005	05/09/2005	\$ 11,458.33	
111	Davenport	03/10/2005	05/09/2005	\$ 11,458.33	
126	Brockman	03/17/2005	05/16/2005	\$ 11,458.33	
116	Davenport	03/21/2005	05/20/2005	\$ 11,458.33	
108	Brockman	03/23/2005	05/22/2005	\$ 11,458.33	
129	Brockman	03/31/2005	05/30/2005	\$ 11,458.33	
100	Darcy	03/31/2005	05/30/2005	\$ 11,458.33	
123	Darcy	03/31/2005	05/30/2005	\$ 11,458.33	
124	Darcy	03/31/2005	05/30/2005	\$ 11,458.33	
125	Darcy	03/31/2005	05/30/2005	\$ 11,458.33	
126	Darcy	03/31/2005	05/30/2005	\$ 7,291.81	(Exhaustion)

TOTAL UNITS: 43.5

TOTAL DAMAGES ALLOCATED: \$ 500,000.00

Damages Per Unit Documented to be JJA
Allocated by Policy Year: 2005 - 2006

	Address	C/O	Plus 60 Days	Total	
112	Taylor	11/08/2005	01/07/2006	\$ 11,458.33	
116	Taylor	11/15/2005	01/14/2006	\$ 11,458.33	
139	Taylor	11/15/2005	01/14/2006	\$ 11,458.33	
114	Taylor	11/23/2005	01/22/2006	\$ 11,458.33	
225	Darcy	01/10/2006	03/11/2006	\$ 11,458.33	
226	Darcy	01/10/2006	03/11/2006	\$ 11,458.33	
227	Darcy	01/10/2006	03/11/2006	\$ 11,458.33	
230	Darcy	01/13/2006	03/14/2006	\$ 11,458.33	
231	Darcy	01/13/2006	03/14/2006	\$ 11,458.33	
237	Darcy	01/13/2006	03/14/2006	\$ 11,458.33	
228	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
229	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
232	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
233	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
234	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
235	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
236	Darcy	01/17/2006	03/18/2006	\$ 11,458.33	
238	Darcy	01/26/2006	03/27/2006	\$ 11,458.33	
239	Darcy	01/26/2006	03/27/2006	\$ 11,458.33	
240	Darcy	01/26/2006	03/27/2006	\$ 11,458.33	
241	Darcy	01/26/2006	03/27/2006	\$ 11,458.33	
242	Darcy	01/26/2006	03/27/2006	\$ 11,458.33	
245	Darcy	02/08/2006	04/09/2006	\$ 11,458.33	
246	Darcy	02/08/2006	04/09/2006	\$ 11,458.33	
247	Darcy	02/08/2006	04/09/2006	\$ 11,458.33	
243	Darcy	02/13/2006	04/14/2006	\$ 11,458.33	
244	Darcy	02/13/2006	04/14/2006	\$ 11,458.33	
198	Darcy	02/15/2006	04/16/2006	\$ 11,458.33	
199	Darcy	02/21/2006	04/22/2006	\$ 11,458.33	
200	Darcy	02/21/2006	04/22/2006	\$ 11,458.33	
220	Darcy	02/24/2006	04/25/2006	\$ 11,458.33	
221	Darcy	02/24/2006	04/25/2006	\$ 11,458.33	
222	Darcy	02/24/2006	04/25/2006	\$ 11,458.33	
223	Darcy	02/24/2006	04/25/2006	\$ 11,458.33	
224	Darcy	02/24/2006	04/25/2006	\$ 11,458.33	
180	Darcy	04/24/2006	06/23/2006	\$ 11,458.33	
182	Darcy	04/24/2006	06/23/2006	\$ 11,458.33	
205	Darcy	05/02/2006	07/01/2006	\$ 11,458.33	
202	Darcy	05/05/2006	07/04/2006	\$ 11,458.33	
203	Darcy	05/05/2006	07/04/2006	\$ 11,458.33	
186	Darcy	05/15/2006	07/14/2006	\$ 11,458.33	
187	Darcy	05/15/2006	07/14/2006	\$ 11,458.33	
188	Darcy	05/15/2006	07/14/2006	\$ 11,458.33	
189	Darcy	05/15/2006	07/14/2006	\$ 7,291.81	(Exhaustion)

TOTAL UNITS: 43.5

TOTAL DAMAGES ALLOCATED: \$ 500,000.00

Damages Per Unit Documented to be JJA Allocated by Policy Year: 2006 - 2007

	Address	C/O	Plus 60 Days	Total Days to 12/09/12	Total Per Diem	Days After 12/05/06	Modified TOR Calculation	Total
174	Darcy	05/26/2004	07/25/2004	3059	3.75	2196	N/A \$	933.91
100	Hornby	05/28/2004	07/27/2004	3057	3.75	2196	8231.11 \$	8,231.11
101	Hornby	05/28/2004	07/27/2004	3057	3.75	2196	8231.11 \$	8,231.11
102	Hornby	05/28/2004	07/27/2004	3057	3.75	2196	8231.11 \$	8,231.11
129	Hornby	06/23/2004	08/22/2004	3031	3.78	2196	8301.71 \$	8,301.71
127	Hornby	06/25/2004	08/24/2004	3029	3.78	2196	8307.19 \$	8,307.19
130	Hornby	06/25/2004	08/24/2004	3029	3.78	2196	8307.19 \$	8,307.19
126	Hornby	06/28/2004	08/27/2004	3026	3.79	2196	8315.43 \$	8,315.43
112	Davenport	06/30/2004	08/29/2004	3024	3.79	2196	8320.93 \$	8,320.93
113	Davenport	06/30/2004	08/29/2004	3024	3.79	2196	8320.93 \$	8,320.93
135	Macy	07/09/2004	09/07/2004	3015	3.80	2196	8345.77 \$	8,345.77
128	Hornby	07/19/2004	09/17/2004	3005	3.81	2196	8373.54 \$	8,373.54
126	Macy	07/20/2004	09/18/2004	3004	3.81	2196	8376.33 \$	8,376.33
131	Hornby	07/23/2004	09/21/2004	3001	3.82	2196	8384.70 \$	8,384.70
134	Hornby	07/23/2004	09/21/2004	3001	3.82	2196	8384.70 \$	8,384.70
138	Hornby	07/28/2004	09/26/2004	2996	3.82	2196	8398.70 \$	8,398.70
103	Hornby	07/30/2004	09/28/2004	2994	3.83	2196	8404.31 \$	8,404.31
137	Hornby	08/02/2004	10/01/2004	2991	3.83	2196	8412.74 \$	8,412.74
133	Hornby	08/18/2004	10/17/2004	2975	3.85	2196	8457.98 \$	8,457.98
135	Hornby	08/18/2004	10/17/2004	2975	3.85	2196	8457.98 \$	8,457.98
136	Hornby	08/18/2004	10/17/2004	2975	3.85	2196	8457.98 \$	8,457.98
122	Darcy	08/24/2004	10/23/2004	2969	3.86	2196	8475.07 \$	8,475.07
132	Hornby	08/25/2004	10/24/2004	2968	3.86	2196	8477.93 \$	8,477.93
103	Madison	08/25/2004	10/24/2004	2968	3.86	2196	8477.93 \$	8,477.93
134	Darcy	08/30/2004	10/29/2004	2963	3.87	2196	8492.24 \$	8,492.24
143	Darcy	08/30/2004	10/29/2004	2963	3.87	2196	8492.24 \$	8,492.24
130	Darcy	08/31/2004	10/30/2004	2962	3.87	2196	8495.10 \$	8,495.10
132	Darcy	08/31/2004	10/30/2004	2962	3.87	2196	8495.10 \$	8,495.10
133	Darcy	08/31/2004	10/30/2004	2962	3.87	2196	8495.10 \$	8,495.10
114	Davenport	09/01/2004	10/31/2004	2961	3.87	2196	8497.97 \$	8,497.97
101	Greyson	09/10/2004	11/09/2004	2952	3.88	2196	8523.88 \$	8,523.88
103	Greyson	09/10/2004	11/09/2004	2952	3.88	2196	8523.88 \$	8,523.88
107	Madison	09/17/2004	11/16/2004	2945	3.89	2196	8544.14 \$	8,544.14
108	Madison	09/20/2004	11/19/2004	2942	3.89	2196	8552.85 \$	8,552.85
100	Greyson	09/22/2004	11/21/2004	2940	3.90	2196	8558.67 \$	8,558.67
102	Greyson	09/22/2004	11/21/2004	2940	3.90	2196	8558.67 \$	8,558.67
119	Darcy	09/28/2004	11/27/2004	2934	3.91	2196	8576.17 \$	8,576.17
104	Madison	09/29/2004	11/28/2004	2933	3.91	2196	8579.10 \$	8,579.10
105	Madison	09/30/2004	11/29/2004	2932	3.91	2196	8582.02 \$	8,582.02
123	Brockman	10/26/2004	12/25/2004	2906	3.94	2196	8658.81 \$	8,658.81
102	Madison	10/26/2004	12/25/2004	2906	3.94	2196	8658.81 \$	8,658.81
126	Darcy	03/31/2005	05/30/2005	2750	4.17	2196	N/A \$	1,858.19
127	Darcy	03/31/2005	05/30/2005	2750	4.17	2196	9150.00 \$	9,150.00
129	Darcy	03/31/2005	05/30/2005	2750	4.17	2196	9150.00 \$	9,150.00
140	Brockman	04/06/2005	06/05/2005	2744	4.18	2196	9170.00 \$	9,170.00
128	Brockman	04/15/2005	06/14/2005	2735	4.19	2196	9200.18 \$	9,200.18
130	Brockman	04/25/2005	06/24/2005	2725	4.20	2196	9233.94 \$	9,233.94
143	Brockman	04/27/2005	06/26/2005	2723	4.21	2196	9240.72 \$	9,240.72
132	Brockman	04/28/2005	06/27/2005	2722	4.21	2196	9244.12 \$	9,244.12
115	Davenport	04/28/2005	06/27/2005	2722	4.21	2196	9244.12 \$	9,244.12
126	Davenport	04/28/2005	06/27/2005	2722	4.21	2196	9244.12 \$	9,244.12
127	Davenport	04/28/2005	06/27/2005	2722	4.21	2196	9244.12 \$	9,244.12
114	Brockman	04/29/2005	06/28/2005	2721	4.21	2196	9247.52 \$	9,247.52
136	Brockman	04/29/2005	06/28/2005	2721	4.21	2196	9247.52 \$	9,247.52
128	Davenport	04/29/2005	06/28/2005	2721	4.21	2196	9247.52 \$	9,247.52
132	Davenport	04/29/2005	06/28/2005	2721	4.21	2196	9247.52 \$	9,247.52
128	Darcy	05/16/2005	07/15/2005	2704	4.24	2196	9305.66 \$	9,305.66
134	Brockman	05/18/2005	07/17/2005	2702	4.24	2196	9312.54 \$	9,312.54
129	Davenport	05/18/2005	07/17/2005	2702	4.24	2196	9312.54 \$	9,312.54
133	Brockman	05/27/2005	07/26/2005	2702	4.24	2196	9312.54 \$	2,428.65 (Exhausted)

TOTAL UNITS: 57.75

TOTAL DAMAGES ALLOCATED: \$ 500,000.00

Damages Per Unit Documented to be JJA Allocated by Policy Year: 2007 - 2008

Address	C/O	Plus 60 Days	Total Days to 12/09/12	Total Per Diem	Days After 12/05/07	Modified TOR Calculation	Total
133 Brockman	05/27/2005	07/26/2005	2693	4.25	1831	N/A	\$ 6,883.89
119 Davenport	05/27/2005	07/26/2005	2693	4.25	1831	7790.64	\$ 7,790.64
104 Hornby	05/28/2005	07/27/2005	2692	4.26	1831	7793.54	\$ 7,793.54
131 Davenport	06/14/2005	08/13/2005	2675	4.28	1831	7843.07	\$ 7,843.07
107 Brockman	06/17/2005	08/16/2005	2672	4.29	1831	7851.87	\$ 7,851.87
114 Darcy	06/17/2005	08/16/2005	2672	4.29	1831	7851.87	\$ 7,851.87
101 Brockman	06/30/2005	08/29/2005	2659	4.31	1831	7890.26	\$ 7,890.26
105 Brockman	06/30/2005	08/29/2005	2659	4.31	1831	7890.26	\$ 7,890.26
106 Brockman	06/30/2005	08/29/2005	2659	4.31	1831	7890.26	\$ 7,890.26
135 Brockman	06/30/2005	08/29/2005	2659	4.31	1831	7890.26	\$ 7,890.26
100 Brockman	07/15/2005	09/13/2005	2644	4.33	1831	7935.02	\$ 7,935.02
104 Brockman	07/20/2005	09/18/2005	2639	4.34	1831	7950.06	\$ 7,950.06
120 Davenport	07/27/2005	09/25/2005	2632	4.35	1831	7971.20	\$ 7,971.20
122 Davenport	07/27/2005	09/25/2005	2632	4.35	1831	7971.20	\$ 7,971.20
124 Davenport	07/27/2005	09/25/2005	2632	4.35	1831	7971.20	\$ 7,971.20
125 Davenport	07/27/2005	09/25/2005	2632	4.35	1831	7971.20	\$ 7,971.20
121 Davenport	08/08/2005	10/07/2005	2620	4.37	1831	8007.71	\$ 8,007.71
130 Davenport	08/08/2005	10/07/2005	2620	4.37	1831	8007.71	\$ 8,007.71
102 Brockman	08/16/2005	10/15/2005	2612	4.39	1831	8032.24	\$ 8,032.24
108 Darcy	08/25/2005	10/24/2005	2603	4.40	1831	8060.01	\$ 8,060.01
110 Darcy	08/25/2005	10/24/2005	2603	4.40	1831	8060.01	\$ 8,060.01
107 Darcy	08/26/2005	10/25/2005	2602	4.40	1831	8063.11	\$ 8,063.11
103 Brockman	08/29/2005	10/28/2005	2599	4.41	1831	8072.41	\$ 8,072.41
106 Darcy	08/30/2005	10/29/2005	2598	4.41	1831	8075.52	\$ 8,075.52
127 Brockman	09/12/2005	11/11/2005	2585	4.43	1831	8116.13	\$ 8,116.13
123 Davenport	09/12/2005	11/11/2005	2585	4.43	1831	8116.13	\$ 8,116.13
140 Taylor	10/25/2005	12/24/2005	2542	4.51	1831	8253.42	\$ 8,253.42
142 Taylor	10/25/2005	12/24/2005	2542	4.51	1831	8253.42	\$ 8,253.42
113 Taylor	10/26/2005	12/25/2005	2541	4.51	1831	8256.67	\$ 8,256.67
115 Taylor	10/26/2005	12/25/2005	2541	4.51	1831	8256.67	\$ 8,256.67
137 Taylor	10/27/2005	12/26/2005	2540	4.51	1831	8259.92	\$ 8,259.92
136 Taylor	10/28/2005	12/27/2005	2539	4.51	1831	8263.18	\$ 8,263.18
138 Taylor	10/28/2005	12/27/2005	2539	4.51	1831	8263.18	\$ 8,263.18
141 Taylor	11/02/2005	01/01/2006	2534	4.52	1831	8279.48	\$ 8,279.48
189 Darcy	05/15/2006	07/14/2006	2340	4.90	1831	N/A	\$ 1,674.09
190 Darcy	05/15/2006	07/14/2006	2340	4.90	1831	8965.90	\$ 8,965.90
204 Darcy	06/06/2006	08/05/2006	2318	4.94	1831	9050.99	\$ 9,050.99
212 Darcy	06/20/2006	08/19/2006	2304	4.97	1831	9105.99	\$ 9,105.99
211 Darcy	06/21/2006	08/20/2006	2303	4.98	1831	9109.94	\$ 9,109.94
214 Darcy	06/21/2006	08/20/2006	2303	4.98	1831	9109.94	\$ 9,109.94
213 Darcy	06/23/2006	08/22/2006	2301	4.98	1831	9117.86	\$ 9,117.86
207 Darcy	06/27/2006	08/26/2006	2297	4.99	1831	9133.74	\$ 9,133.74
201 Darcy	06/28/2006	08/27/2006	2296	4.99	1831	9137.72	\$ 9,137.72
209 Darcy	06/28/2006	08/27/2006	2296	4.99	1831	9137.72	\$ 9,137.72
181 Darcy	06/29/2006	08/28/2006	2295	4.99	1831	9141.70	\$ 9,141.70
217 Darcy	07/12/2006	09/10/2006	2282	5.02	1831	9193.78	\$ 9,193.78
218 Darcy	07/12/2006	09/10/2006	2282	5.02	1831	9193.78	\$ 9,193.78
177 Darcy	07/19/2006	09/17/2006	2275	5.04	1831	9222.07	\$ 9,222.07
178 Darcy	07/19/2006	09/17/2006	2275	5.04	1831	9222.07	\$ 9,222.07
215 Darcy	07/20/2006	09/18/2006	2274	5.04	1831	9226.12	\$ 9,226.12
210 Darcy	07/25/2006	09/23/2006	2269	5.05	1831	9246.45	\$ 9,246.45
219 Darcy	07/27/2006	09/25/2006	2267	5.05	1831	9254.61	\$ 9,254.61
192 Darcy	07/31/2006	09/29/2006	2263	5.06	1831	9270.97	\$ 9,270.97
191 Darcy	08/01/2006	09/30/2006	2262	5.07	1831	9275.07	\$ 9,275.07
193 Darcy	08/01/2006	09/30/2006	2262	5.07	1831	9275.07	\$ 9,275.07
194 Darcy	08/10/2006	10/09/2006	2253	5.09	1831	9312.12	\$ 9,312.12
196 Darcy	08/11/2006	10/10/2006	2252	5.09	1831	9316.25	\$ 9,316.25
183 Darcy	08/15/2006	10/14/2006	2248	5.10	1831	9332.83	\$ 9,332.83
184 Darcy	08/15/2006	10/14/2006	2248	5.10	1831	9332.83	\$ 9,332.83
185 Darcy	08/15/2006	10/14/2006	2248	5.10	1831	9332.83	\$ 5,597.65

TOTAL UNITS: 57.75

TOTAL DAMAGES ALLOCATED: \$ 500,000.00

Damages Per Unit Documented to be JJA But Coverage
Unavailable Because Exhausted

Address		C/O	Plus 60 Days	Total
185	Darcy	08/15/2006	10/14/2006	\$ 3,735.18
195	Darcy	08/28/2006	10/27/2006	\$ 11,458.33
194	Darcy	09/13/2006	10/13/2006	\$ 11,458.33
TOTAL UNITS: 2.25		TOTAL DAMAGES ALLOCATED: \$ 26,651.84		

Documented JJA Units With Undocumented/Assigned C/O Dates
But Coverage Unavailable Because Exhausted

	Address	C/O	Plus 30 Days	Total
170	Darcy	[01/15/2004]	02/14/2004	\$ 7,812.01
171	Darcy	[01/15/2004]	02/14/2004	\$ 7,812.01
168	Darcy	[02/15/2004]	03/16/2004	\$ 7,887.93
169	Darcy	[02/15/2004]	03/16/2004	\$ 7,887.93
166	Darcy	[03/15/2004]	04/14/2004	\$ 7,960.30
167	Darcy	[03/15/2004]	04/14/2004	\$ 7,960.30
110	Davenport	[04/15/2004]	05/15/2004	\$ 8,039.14
102	macy	[04/15/2004]	05/15/2004	\$ 8,039.14
118	Darcy	[05/15/2004]	06/14/2004	\$ 8,116.93
105	Hornby	[05/15/2004]	06/14/2004	\$ 8,116.93
106	Hornby	[06/15/2004]	07/15/2004	\$ 8,198.92
107	Hornby	[06/15/2004]	07/15/2004	\$ 8,198.92
108	Hornby	[07/15/2004]	08/14/2004	\$ 8,279.86
109	Hornby	[07/15/2004]	08/14/2004	\$ 8,279.86
111	Hornby	[08/15/2004]	09/14/2004	\$ 8,365.19
110	Hornby	[08/15/2004]	09/14/2004	\$ 8,365.19
109	Darcy	[08/25/2004]	09/24/2004	\$ 8,393.09
124	Brockman	[09/15/2004]	10/15/2004	\$ 8,452.30
136	Darcy	[09/15/2004]	10/15/2004	\$ 8,452.30
116	Brockman	[10/15/2004]	11/14/2004	\$ 8,538.34
121	Brockman	[10/15/2004]	11/14/2004	\$ 8,538.34
100	Davenport	[11/15/2004]	12/15/2004	\$ 8,629.11
101	Davenport	[11/15/2004]	12/15/2004	\$ 8,629.11
102	Davenport	[12/15/2004]	01/14/2005	\$ 8,718.81
103	Davenport	[12/15/2004]	01/14/2005	\$ 8,718.81
197	Darcy	[01/15/2005]	02/14/2005	\$ 8,813.48
104	Davenport	[01/15/2005]	02/14/2005	\$ 8,813.48
206	Darcy	[02/15/2005]	03/17/2005	\$ 8,910.23
		[02/15/2005]	03/17/2005	\$ 8,910.23
216	Darcy	[03/15/2005]	04/14/2005	\$ 8,999.46
117	Taylor	[06/15/2006]	07/15/2006	\$ 10,757.80
208	Darcy	[06/28/2006]	07/28/2006	\$ 10,817.92
118	Taylor	[07/15/2006]	08/14/2006	\$ 10,897.57
119	Taylor	[07/15/2006]	08/14/2006	\$ 10,897.57
179	Darcy	[07/19/2006]	08/18/2006	\$ 10,916.48
120	Taylor	[08/15/2006]	09/14/2006	\$ 11,045.87
121	Taylor	[08/15/2006]	09/14/2006	\$ 11,045.87
TOTAL UNITS: 37		TOTAL DAMAGES ALLOCATED:		\$ 327,216.76

Undocumented Framer Assigned to JJA
(58 Unknown Units x 86% = 50 Units)
But Coverage Unavailable Because Exhausted

	Address	C/O	Plus 30 Days	Total
107	Taylor	03/30/2004	04/29/2004	\$ 7,998.25
109	Taylor	03/30/2004	04/29/2004	\$ 7,998.25
110	Taylor	03/30/2004	04/29/2004	\$ 7,998.25
105	Davenport	[05/30/2004]	06/29/2004	\$ 8,156.40
106	Davenport	[05/30/2004]	06/29/2004	\$ 8,156.40
107	Davenport	[05/30/2004]	06/29/2004	\$ 8,156.40
108	Davenport	[05/30/2004]	06/29/2004	\$ 8,156.40
109	Davenport	[05/30/2004]	06/29/2004	\$ 8,156.40
121	Greyson	[06/30/2004]	07/30/2004	\$ 8,239.19
122	Greyson	[06/30/2004]	07/30/2004	\$ 8,239.19
123	Greyson	[06/30/2004]	07/30/2004	\$ 8,239.19
124	Greyson	[06/30/2004]	07/30/2004	\$ 8,239.19
125	Greyson	[06/30/2004]	07/30/2004	\$ 8,239.19
117	Greyson	07/08/2004	08/07/2004	\$ 8,260.83
126	Greyson	[07/30/2004]	08/29/2004	\$ 8,320.93
127	Greyson	[07/30/2004]	08/29/2004	\$ 8,320.93
122	Taylor	03/15/2005	04/14/2005	\$ 8,999.46
123	Taylor	04/15/2005	05/15/2005	\$ 9,100.36
124	Taylor	04/15/2005	05/15/2005	\$ 9,100.36
125	Taylor	05/15/2005	06/14/2005	\$ 9,200.18
143	Taylor	[05/15/2005]	06/14/2005	\$ 9,200.18
144	Taylor	[06/15/2005]	07/15/2005	\$ 9,305.66
145	Taylor	[06/15/2005]	07/15/2005	\$ 9,305.66
146	Taylor	[07/15/2005]	08/14/2005	\$ 9,410.06
147	Taylor	[07/15/2005]	08/14/2005	\$ 9,410.06
148	Taylor	[08/15/2005]	09/14/2005	\$ 9,520.43
149	Taylor	[08/15/2005]	09/14/2005	\$ 9,520.43
131	Taylor	[09/15/2005]	10/15/2005	\$ 9,633.42
132	Taylor	[09/15/2005]	10/15/2005	\$ 9,633.42
133	Taylor	[10/15/2005]	11/14/2005	\$ 9,745.35
134	Taylor	[10/15/2005]	11/14/2005	\$ 9,745.35
104	Greyson	[11/15/2005]	12/15/2005	\$ 9,863.78
135	Taylor	[11/15/2005]	12/15/2005	\$ 9,863.78
105	Greyson	[12/15/2005]	01/14/2006	\$ 9,981.16
106	Greyson	[12/15/2005]	01/14/2006	\$ 9,981.16
107	Greyson	[01/15/2006]	02/14/2006	\$ 10,105.42
108	Greyson	[01/15/2006]	02/14/2006	\$ 10,105.42
109	Greyson	[02/15/2006]	03/17/2006	\$ 10,232.82
110	Greyson	[02/15/2006]	03/17/2006	\$ 10,232.82
104	Macy	[03/15/2006]	04/14/2006	\$ 10,350.68
105	Macy	[03/15/2006]	04/14/2006	\$ 10,350.68
106	Macy	[04/15/2006]	05/15/2006	\$ 10,484.37
107	Macy	[04/15/2006]	05/15/2006	\$ 10,484.37
108	Macy	[05/15/2006]	06/14/2006	\$ 10,617.09
109	Macy	[05/15/2006]	06/14/2006	\$ 10,617.09
111	Greyson	[06/15/2006]	07/15/2006	\$ 10,757.80
112	Greyson	[08/15/2006]	09/14/2006	\$ 11,045.87
113	Greyson	[09/15/2006]	10/15/2006	\$ 11,198.26
114	Greyson	[09/15/2006]	10/15/2006	\$ 11,198.26
115	Greyson	[09/15/2006]	10/15/2006	\$ 11,198.26

TOTAL UNITS: 50 TOTAL DAMAGES ALLOCATED: \$ 470,374.81



Berkeley Common Pleas

Case Caption: Portrait Homes-South Carolina, Llc , plaintiff, et al VS Pennsylvania National Mutual Casualty Insurance Company , defendant, et al

Case Number: 2014CP0802757

Type: Order/Other

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

Covil Trial Exhibit 123

Duplicative of 2023.05.25 Interim Report

See R. pp. 2835-2837

Covil Trial Exhibit 124

Duplicative of 2023.06.08 Interim Report

See R. pp. 2900-2901

Covil Trial Exhibit 125

Duplicative of 2023.06.22 Interim Report

See R. pp. 2902-2904

Covil Trial Exhibit 126

Duplicative of 2023.07.06 Interim Report

See R. pp. 2906-2908

Covil Trial Exhibit 127

Duplicative of 2023.07.20 Interim Report

See R. pp. 2909-2911

Covil Trial Exhibit 128

Duplicative of 2023.08.03 Interim Report

See R. pp. 2928-2930

Covil Trial Exhibit 129

Duplicative of 2023.09.11 Interim Report

See R. pp. 3095-3098

Covil Trial Exhibit 130

Duplicative of 2023.09.25 Interim Report

See R. pp. 3099-3102

Covil Trial Exhibit 131

Duplicative of 2023.10.09 Interim Report

See R. pp. 3103-3106

Covil Trial Exhibit 132

Duplicative of 2023.10.24 Interim Report

See R. pp. 3113-3116

Exhibit 2

Sharla J. Frost
Trial List 1987 to 2020

Plaintiff Eugene Roberto v. Boehringer Ingelheim Pharmaceuticals, Inc., et al, In the Superior Court of Hartford, CT – Complex Litigation Docket; Docket No. HHD-CV-16-6068484S; Judge Carl J. Schuman presiding (Personal Injury – Product Liability); April 22 – May 17, 2019 (First Chair for Boehringer Ingelheim [“B-I”]); Plaintiff verdict issued May 17, 2019; verdict revised on post-trial motions.

Plaintiff William Bedsole v. Boehringer Ingelheim Pharmaceuticals, Inc. and Boehringer Ingelheim International GMBH, In the Superior Court of Hartford, CT – Complex Litigation Docket; Docket No. HHD-CV-16-6070289S; Judge Carl J. Schuman presiding (Personal Injury – Product Liability); September 17 – October 4, 2018 (First Chair for Boehringer Ingelheim [“B-I”]); Obtained defense verdict for client.

Plaintiffs Tina Herford and Douglas Herford v. AT&T Corp., et al, In the Superior Court of the State of California – County of Los Angeles; Case No. BC646315; Judge Steven J. Kleifield presiding (Personal Injury – Talc Exposure case); October 2—November 16, 2017 (First Chair for Johnson & Johnson [“JNJ”]); Obtained defense verdict finding client was not negligent in the manufacture, design or marketing of its product and not liable for the plaintiff’s mesothelioma.

Plaintiffs Jesus Payan and Francisca Payan v. CBS Corporation, et al, In the Superior Court of the State of California – County of Los Angeles; Case No. BC608412; Judge Steven J. Kleifield presiding (Personal Injury – Talc Exposure case); September 26— October 4, 2016 (First Chair for Johnson & Johnson [“JNJ”]); Obtained dismissal for client.

Plaintiff Marsha K. Dugas, Individually and as Personal Representative of the Estate of Darryl Dugas, Deceased v. 3M Company, et al, In the United States District Court Middle District of Florida – Jacksonville Division; Case No. 3:14-cv-01096-BJD-JBT; Judge Brian J. Davis presiding (Deceased mesothelioma case); July 5-18, 2016 (First Chair for United Technologies Corporation [“UTC”]); Case settled two weeks into trial.



Plaintiffs Phillip Prokop, an Individual and Janet Prokop, an Individual v. Georgia-Pacific, et al In the Superior Court of Los Angeles – Central Civil West Division; Case J.C.C.P Case No. 4674; Judge Emilie H. Elias presiding (Living mesothelioma case); May 9-12, 2016 (First Chair for Georgia-Pacific); Case settled during jury selection.

Plaintiffs Louis Tyler and Becky Tyler v. American Optical Corporation, et al, In the Superior Court of Los Angeles – Central Civil West Division; Case No. BC588866; Judge John Kralik presiding (Living mesothelioma case); March 14-28, 2016 (First Chair for American Optical); Plaintiff verdict issued April 27, 2016.

Plaintiff Dorothy Boehm, Special Administrator of the Estate of Ronald B. Boehm v. A.W. Chesterton Company including Kelsey-Hayes Company, et al., In the Circuit Court of Cook County, Illinois, County Department-Law Division; No. 2014 L 010008; Judge Clare McWilliams presiding (Living mesothelioma case); December 1-9, 2015 (First Chair for Kelsey-Hayes); Case settled during hearings on Motions in Limine.

Plaintiff Charles McKinney v. John Crane, Inc. including Kelsey-Hayes Company, et al., In the Circuit Court of the Eleventh Judicial Circuit, County of McLean, Illinois; Case No. 2012 L 27; Judge Rebecca Foley presiding (Living mesothelioma case); September 30--October 6, 2015 (First Chair for Kelsey-Hayes); Case settled during pretrial hearings.

Plaintiff Anthony J. Ricci, as Executor of the Estate of Peter L. Ricci and Maria Ricci, Individually v. Pfizer, Inc., et al; In the Supreme Court of New York, County of New York; Index No.: 190424/13; Judge Martin Shulman presiding (Living mesothelioma case); July 13-17, 2015 (First Chair for Pfizer); Case settled during jury selection.

Plaintiff Katherine Lydon, Individually and as Executrix of the Estate of John T. Lydon, Jr., by her agent The Federal-Mogul Asbestos Personal Injury Trust v. T&N Limited and TAF International Limited; In the United States District Court of Massachusetts; Civil Action No.: 1:12-CV-10013-RWZ; Judge F. Dennis Saylor, IV presiding (Peritoneal mesothelioma death case); June 9, 2014 (First Chair for T&N and TAF); Plaintiff verdict issued June 20, 2014.

Plaintiffs Kenneth L. Robinette and Margaret L. Martinez v. T&N Limited, f/j/a T&N PLC, f/k/a Turner & Newall Limited, et al; In the United States District Court of Missouri; Case No. 4:12-cv-00409-ODS; Judge Ortrie D. Smith presiding (Mesothelioma death case); March 10, 2014 (First Chair for T&N Limited [last remaining defendant]); Case settled during jury selection.

Plaintiffs Leroy Boehm and Marlene Boehm v. Georgia-Pacific Corporation, et al; In the Circuit Court of Multnomah County, Oregon; Case No. 1301-01211; Honorable Jerry B. Hodson presiding (Living mesothelioma case); November 25, 2013 (First Chair for Georgia-Pacific); Case settled during jury selection.

Plaintiffs Patrick Claiborne, Brian Claiborne, and Deonna Powell, Individually and as Wrongful Death Beneficiaries of Lawrence Armstrong, Deceased, and on Behalf of All Wrongful Death Beneficiaries of Lawrence Armstrong v. Pangborn Corporation, et al; In the Circuit Court of Claiborne County, Mississippi; Civil Action No. 2011-189; Judge Lamar Pickard presiding (Lung cancer death case); September 3-11, 2013 (First Chair for American Optical [last remaining defendant]); Defense verdict.

Evelyn C. Molloy v. Crane Co., et al; In the Supreme Court of the State of New York; Index No. 190121-10; Judge Martin Shulman presiding (Living mesothelioma case); June 17-18, 2013. (Counsel for The Scotts Company); Case settled during jury selection.

Plaintiffs Frank Rugnetta, John Dellarata, Raymond Sabo and Murray Blonder v. Georgia-Pacific, LLC, et al; In the Supreme Court of the State of New York; Index No. 11190248; Judge Martin Shulman presiding; (Consolidation of six mesothelioma cases, four with claims against Georgia-Pacific; November 12, 2012 (First Chair for Georgia-Pacific); Case settled after sixteen weeks of trial.

Plaintiff Daniel Skinner v. Basco Drywall and Painting, et al; In the Superior Court of Alameda County, California; No. RG11599223; Judge Jo-Lynne Q. Lee presiding (Living mesothelioma case); October 9, 2012 (First Chair for Georgia-Pacific); Case settled after jury selection.

Plaintiffs O. David Durham and Keitha Durham v. General Electric Company, et al; In the Jefferson Circuit Court of Kentucky, Division Eleven (11); No. 09-CI-09756; Judge Brian C. Edwards presiding (Wrongful death case); May 8, 2012 (First Chair for Georgia-Pacific); Case settled during jury selection.

Plaintiff Charles Channing v. Brake & Clutch Supply, Inc., et al; In the Superior Court of Washington for Snohomish County; No. 11-2-06764-3; Judge Michael T. Downes presiding (Living mesothelioma case); April 2012 (First Chair for Brien Motors); Case settled during first week of trial.

Plaintiffs Cosimo Cotrona, et al v. Georgia-Pacific, et al; In the Supreme Court of the State of New York; Index No. 190377/10; Judge Martin Schulman presiding (consolidation of eleven mesothelioma cases, six with claims against Georgia Pacific); July 11, 2011 to August 22, 2011 (First Chair for Georgia-Pacific); Case settled after six weeks of trial.

Plaintiffs Embry. R. Trimble and Edna Trimble v. Georgia Pacific, et al.; In the State Court of Forsyth County, Georgia; Civil Action File No. 08SC-1831; Judge T. Russell McClelland presiding (Pleural mesothelioma death case); June 2011 (First Chair for Georgia-Pacific); Defense verdict.

Plaintiffs Leroy Moran, Thomas Simonvich and Mark Lonergan v. A.O. Smith Water Products Co., et al.; In the Supreme Court of the State of New York; Index No: 190433/09; Judge Judith Gische presiding (Consolidation of seven mesothelioma cases); March 2011 (First Chair for Georgia-Pacific); Case settled after five weeks of trial.

Violet Curry , as Personal Representative for the Estate of Michael Curry v. American Standard Inc., et al.; In the United States District Court Southern District of New York; Civ. No.: 08 CV 10228 (JSG); Judge James S. Gwin presiding (Mesothelioma death case) January 10-12, 2011 (Lead Trial Counsel for Georgia-Pacific); Case settled after Motions in Limine.

Annie Sue Chancellor, Individually and on Behalf of all Wrongful Death Beneficiaries of James L. Chancellor, Deceased, v. Pangborn Corporation, et al; In the Circuit Court of the Second Judicial District of Jones County, Mississippi; Civil Action No. 2007-48-CV5; Judge Billy Joe Landrum presiding (Silicosis/lung cancer death case); October 2010 (First Chair Trial Lawyer for American Optical); Case settled during Voir Dire.

D. Ann Dix, Individually and as Successor in Interest of Decedent William G. Dix, Holly L. Benardez and Donna A. Harkins v. Buffalo Pumps, Inc., et al, Case No. BC387848 Superior Court of California for the County of Los Angeles, Judge Michelle R. Rosenblatt presiding (Mesothelioma case); March 2010 (First Chair Trial Lawyer for Georgia-Pacific); Case settled during Jury Selection.

In re Quigley Company, Inc., Case No. 04-15739 (SMB) United States Bankruptcy Court Southern District of New York, Judge Stuart Bernstein presiding (Contested Bankruptcy Confirmation); September 23--December 16, 2009 (First Chair for Pfizer Inc., the parent company).

Mary Katherine Irwin v. General Motors Corporation, et al.; Cause No. CC-01-01955C; Metcalfe County, Louisville, Kentucky; Judge Phil Patton presiding (Living mesothelioma, household exposure case) (First Chair for Georgia Pacific) February 13- 24, 2007; Defense verdict.

Melody A. Dean, Individually and as Personal Representative of the Estate of Michael Mikul, Holly Mikul, and Paul Mikul v. American Standard, et al.; Cause No. BC 332247; Los Angeles County, California; Judge Ronald Sohigian presiding (Deceased mesothelioma case) (First Chair for Georgia Pacific) September 17-November 24, 2006. Defense verdict.

Saeed Behshid v. Bondex International Inc., et al; Case No.: BC 343 104; Los Angeles County, California; Hon. Ricardo Torres presiding (Living mesothelioma case) (First Chair for Georgia Pacific) June 5-12, 2006. Case settled during trial

Clarence Christian v. Phillips 66 Co, et al; Cause No. D-115,447; Ector County, TX; Judge John T. Lewis presiding (Multiple living asbestosis claimants) (First Chair for Union Carbide) June 27-July 8, 2005. Case settled during trial.

Johnny Jackson v. UCC; Cause No. 2003-30182; Harris County, TX; Judge John Coselli presiding (Living asbestosis case) (First Chair for Union Carbide) April 18-25, 2005. Defense verdict.

B.W. Richie v. UCC; Cause No. 2003-1225-CCL2-2; Gregg County, TX; Judge Alphonso Charles presiding (Two living asbestosis cases) (First Chair for Union Carbide) May 17-26, 2005. Defense verdict for Richie; plaintiff verdict for Brown, \$100,000.00 with no punitive damages.

William Hill v. UCC; Cause No. 2003-30179; Harris County, TX; Judge John Coselli presiding (Living asbestosis case) (First Chair for Union Carbide) May 3-16, 2005. Defense verdict.

Fred M. Wright, et al. v. A.C.andS., Inc., et al.; Cause No. D-167,964; Jefferson County, Texas; Judge M. Shuffield presiding (Living mesothelioma case)(First Chair for Pfizer Inc. and Quigley) April 26-27, 2004. Case settled after jury selection.

Micheal O'Reilly v. Robert A. Keasbey Co., et al.; Cause No. 103255-02; Supreme Court of the United States of New York, New York; Judge Martin Shulman presiding (Deceased lung cancer)(First Chair for Pfizer Inc. and Quigley) June 30-July 2003. Case settled during trial.

James Edward Hall and Margaret Jane Hall, et al. vs. GAF Corporation (f/k/a NEWCO Holdings, Inc.), et al.; Cause No.13805*BH00; Brazoria County, Texas; Judge Ogdan Bass presiding. (Living mesothelioma case) (First Chair for Union Carbide Corporation) April 28-May 1, 2003. Case settled during trial.

Harry Simkins and Janet Simkins v. ACandS, Inc., et al.; Cause No.: CC-02-07765-B; Dallas County Court at Law No. 2, Dallas County, Texas. Judge John B. Peyton presiding (Living mesothelioma) (First Chair for Quigley) February 24-March 3, 2003. Case settled during trial.

Susan MacDonald, et al. v. Bondex International, Inc., et al.; Cause No. BC 265537; Los Angeles County, California; Judge David Workman presiding. (Living household mesothelioma case) (First Chair for Quigley) July 29-August 8, 2002. Case settled during trial.

Donald Hill, et al. v. OCF, et al.; Cause No. 00CV0779; Galveston, Texas; Judge Wayne Mallia presiding. (Living mesothelioma case) (First Chair for Quigley and Pfizer Inc.) June 2002. Case settled during trial.

Sam G. Stathakos, et al. v. ACandS, Inc., et al.; Cause No. 00CV0342; Galveston, Texas; Judge Wayne Mallia presiding. (First Chair for Union Carbide Corporation) (Five non-malignant asbestos plaintiffs); June 5-13, 2002. Case settled during trial.

William Lee Roberts, Jr., et al vs. AP Green Industries, et al.; Cause No. 49D02-9601-MI-0001-687; Marion County, Indianapolis, Indiana; Judge Kenneth Johnson presiding (Living mesothelioma case) (First Chair for Pfizer Inc.) April 2002. Case settled during trial.

Donald Cipov v. ACandS, Inc., et al.; Cause No. 141-189827-01, Tarrant Co., Texas; Judge Ken Curry presiding. (Living mesothelioma) (First Chair for defendant Quigley) December 2002. Defense verdict.

Simeon Johnson v. ACandS, Inc.; Holmes County, Mississippi; Judge Jannie Holmes presiding. (Seven asbestosis claimaints) (First Chair for Quigley and Pfizer Inc.) October 8-11, 2001. Case settled during trial.

John Henderson v. Quigley; Cause No. 01-2-02403-5 SEA in the Superior Court of the State of Washington for King County. (Deceased mesothelioma case) (First Chair for Pfizer Inc. and Quigley) October 2001. Case non-suited as to Quigley following jury selection.

Diane Brooks v. ACandS, Inc., et al; Cause No. B-150,374-AG, Jefferson County, Texas; Judge Gary Sanderson presiding (10 household asbestos exposure claimants; one industrial exposure claimant) (First Chair for T&N) July 9-31, 2001. Nine defense verdicts for T&N; one award in favor of asbestotic plaintiff. Case settled for T&N during jury deliberation.

Rozella A. Fetterman, et al. v. Owens Corning (a/k/a Owens Corning Corporation), et al.; Cause No. DV98-01607-I; Dallas County, Texas (Four non-malignant asbestos claimants) (Co-counsel with JHP for Quigley) May 9-12, 2001. Case settled during trial.
Herman Wells v. Flexitallic; Cause No. A-161, 748; 58th JDC, Jefferson County, Texas; Judge James Mehaffy presiding (22 claimants with various asbestos related disease allegations) (First Chair for USG) January 16-February 8, 2001. Plaintiff verdict against all remaining defendants.

Brenda Bright, et al. vs. Owens Corning Fiberglas Corp., et al.; Cause No. 11414*BH00; 23rd Judicial District, Brazoria County, Texas; mesothelioma claimant; Jim Powers First Chair for U.S. Gypsum; Sharla Frost Chair for U.S. Gypsum; Mark Lanier, Lanier, Parker & Sullivan, for Plaintiff; January/February 2001 – settled during trial.

Jess Lemons v. ACandS, Inc.; Cause No. 3308 BH 97; Brazoria County, Texas; Judge Ben Hardin Presiding (Deceased lung cancer case) (First Chair for USG); October 9-24, 2000. Plaintiff verdict; however, percentage against USG below threshold for joint and several liability; no punitive damages.

Homer Screws v. PCC; Cause No. 96-47898; Harris County, Texas; Judge Brent Gamble Presiding; (First Chair for PCC) (20 Asbestosis Claimants) April 10-16, 2000. Case dismissed because PCC filed for bankruptcy.

Robert Lee Durham v. Able Supply; Cause No. 98-758-B, 188th Judicial District, Gregg County, Texas; Judge David Brabham presiding. (Two deceased lung cancer cases) (First Chair for PCC) February 14-28, 2000. Plaintiff's verdict for Durham only.

Kenneth Shirley v. PCC; Cause No. 95-10495; Travis County, Texas; Judge Scott McCowen presiding. (Asbestosis claimant) (First Chair for PCC) May 10-17, 1999. Defense verdict.

Graham v. PCC; Cause No. 25, 066; Milam County, Texas; Judge Charles Lance presiding (Four Asbestosis Claimants) (First Chair for PCC); April 6-10, 1999. Defense verdicts in three of four cases; no past damages or punitive damages assessed in plaintiff award

Raper v. PCC; Cause No. CC-98-8060-C; County Court of Law #3, Dallas County, Texas; Judge Robert Genavine presiding (Trial team with Rob Hamblett and Jeff; conducted the voir dire for PCC in living mesothelioma case) March 22-April 2, 1999. Plaintiff's verdict.

Kenneth Hunter, et al. v. Pittsburgh Corning Corporation, et al.; Cause No. 63954; 6th Judicial District, Lamar County, Texas; Judge Lovett presiding; Sharla Frost First Chair for Pittsburgh Corning Corporation; Andy Waters, Waters & Kraus, for Plaintiffs; 16 non-malignant plaintiffs; 1999 – Settled after jury selection.

Gerald Falgout v. Owens Illinois, et al., Cause No. 91CV1081, In the Judicial District of Galveston County, Texas; Sharla Frost First Chair, Gwen Frost Second Chair for Fibreboard Corporation; Bill Galerston, Brown, Sims, Wise & White, for the plaintiffs; 1995. Settled after jury selection.

Louella Coates et al. v. AC & S, INC., et al; Cause No. No. 90-1448; Federal District Court, New Orleans, Louisiana (First Chair for Fibreboard) November, 1994. Case settled after jury selection.

Horace Chatham v. ACandS; Cause Co. 85-185B; Harris County, Texas; Judge Don Wittig presiding; (The largest all issues asbestos trial in the United States; 289 individual claimants) (First Chair for Johns Manville Personal Injury Settlement Trust) September 1990 through February 1991. Plaintiff's verdict; case later overturned on appeal.

Funk v. ACandS; Cause No. 85-18238; Harris County, Texas; Judge Shern Smith presiding; (Four asbestosis claimants) (First Chair for Johns Manville Personal Injury Settlement Trust) May 1990. Defense verdict in three of four cases.

Bayou Woods Condominiums v. Tremco, 215th Harris County; Judge Eugene Chambers presiding (Second chair for defendant Tremco) (Construction Defect Case) September 1990. Case settled during jury deliberations.

Glenven Guy Sloan v. Eagle Picher, Cause No. 15586; Morris County, Texas; Judge Moyer presiding. (Living asbestosis case) (First Chair for Manville Personal Injury Settlement Trust) January 1990. Plaintiff's verdict for \$140,000.00.

Bob Kahlua Smith v. CRC Industries, Inc., Calhoun County, Texas; Judge Hunter presiding. (Trichloroethane exposure case) (First Chair for CRC) 1990. Case settled during jury deliberations.

Three-S Tavern, Inc. v. State Farm Insurance Company; Cause No. 86-51445; Harris County, Texas; Judge Loescher presiding (second chair for defendant State Farm) (First Party Insurance Dispute) 1989. Plaintiff's verdict.

OPINION OUTLINE
COVIL V. PENN. NATIONAL

I. The one million dollar aggregate on declarations pages of the Covil policies issued by Penn National does not apply to premises/operations coverage.

1. Aggregate limits were generally not made applicable to operations/premises coverage prior to 1986

However, aggregate limits were not the norm for general liability claims until the 1986 ISO revision of the standard CGL policy form. Prior to this point, many if not most insurers included an aggregate limit for claims arising from a “products” or “completed operations” hazard (discussed in more detail in Section V, *infra*) but had no aggregate limit for general liability claims that arose out of a policyholder’s ongoing operations rather than from sale or distribution of a product or the failings of a completed project causing injury at a later date. (Stempel 12 Conn. Ins. L.J. 349, *376).

The premises and operations hazard encompasses liability for accidental bodily injury or property damage that results from either a condition on the insured’s premises or the insured’s operation in progress, whether on or away from the insured’s premises.” (Public Liability B-3, FC&S Bulletins) Under the existing policy form [1973], the only limit that applies to some parts of the coverage is a per-occurrence limit, so the insurer’s liability for injury that occurs during the policy period increases with the number of “occurrences” held to have produced the injury....Both new policy forms [1986]-“claims made” and “occurrence”—put aggregate limits on all coverages to specify at the outset of the policy term the total amount available for indemnification’ (Commercial General Liability (ISO 3rd ed. 1986, and see “Understanding aggregate limits,” Independent Agent, Oct. 1988)). [NOTE: See also 1966 policy form]

At one time, insurers were willing to write coverage without aggregate limits for certain hazards—primarily premises/operations—that were expected to have low loss frequency.” (“Commercial General Liability Insurance,” (ISO 1986).



Under the former general liability policy provisions, no aggregate applies to bodily injury claims (other than for products-completed operations). ("Dealing with Aggregate limits under the new liability provisions," Malecki Donald, Rough Notes, Dec. 1986).

"[C]laims based exposure to asbestos released during insulation contracting operations, or exposure occurring on premises that the defendant, owned, rented, or controlled, are not subject to aggregate limits under pre-1986 policies, but instead are subject only to per occurrence limits. "Eleven Years after Frontier and Foret Hayden, Insurers Still Wrongfully Refuse to provide Premises-Operations Coverage: An Analysis of the Keasbey Decision," 18 Coverage 27 (July/Aug. 2006), and see "Products/Completed Operations Coverage 1997: Still Learning Professor Henderson's Lesson 25 Years Later," 7 Coverage 33 (ABA Nov/Dec. 1997). P. 11.

Insurers have acknowledged the foregoing. (Id. at pp. 5-6)

2. Penn National Policies provide that aggregate on declarations' pages only applies to property damage and not bodily injury.

1973 ISO Policy jacket provided that aggregates applied to completed operations and products and to general liability for property damage only.

The Penn National policies are identical to the 1973 policy. There is no aggregate for bodily injury arising from premises/operations (until 1986). NOTE: The Amendment-Limits of Liability Endorsements are the same.

Despite the fact that ISO issued new policy form in 1986 that applied aggregates to all covered hazards, including premises/operations bodily injury and property damage Penn National continued to use pre-1986 forms and endorsements I issuing its 1986 and 1987 policies to Covil.

See Amendment-Limits of Liability Endorsement, GL 99 17 03 81, Ed 03 81.

3. Plaintiffs who brought actions against Covil are bringing claims, for the most part, for injury arising from Covil's operations and therefore the claims are covered under the general bodily injury coverage which has no aggregate.

See New Appelman on Insurance law Library edition, Thomas, Jeffrey, et al. ed. (Sept. 2019). P. 16-28)

The Reference Handbook on the Commercial General Liability Policy, Rutkin, Alan S. et al., (ABA 2014), p. 45) "if the operation was still ongoing at the time the injury or damaged occurred, coverage for completed operations liability is no triggered."

See Frost deposition, pp. 78-112

See original complaints and related documents of underlying plaintiffs.

4. To the extent that Penn National claims that claims brought against Covil are completed operations/products claims that is contradicted by fact that Penn National has contributed toward settlements of those claims based on argument that there is only one \$1M aggregate in each of the two policies issued by Penn National.

II. Coverage for operations/premises claims do not convert to completed operations claims following expiration of policy during which operations claim arose.

- a. Scope of coverage involves two step process which includes (1) determining the source of the injury and then the time of the injury.

But although the time of injury to the third-party claimant is critical to the question of trigger, the time of injury does not have any bearing on the [*368] classification of the coverage. The source of the injury determines whether the loss is within coverage, is appropriately regarded as a general premise-operations liability matter or a products/completed operations hazard matter, or is subject to an exclusion. (Stempel, 12 Conn. Ins. L.J. 349, *367).

See also, "Products-Completed Operations Hazard," (IRMI, 2012) p. 2, "Products-Completed Operations Liability Coverage," (IRMI, 2011) p. VI.T.3).

- b. The source of the injury, once determined, does not change once it is established.

See CGL Policy Handbook, Weimer, Britton D. et al. (3rd ed. Wolters Kluwer, 2020) p. 4-46)

"The CGL policy definition of "bodily injury" makes clear that a death sustained at a later time caused by an injury occurring in an earlier period will be covered by the policy in effect at the time injury was sustained." ("Bodily Injury," IRMI, p. 1).

III. Penn National's search for policies it issued to Covil did not accord with insurance industry standards.

- a. Insurance industry standards for lost policy search

See attached

Industry standards for thorough and timely investigation

Standards applicable for lost policy searches

Obligation that insurer look for coverage

ARMA Generally accepted Recordkeeping Principles

Principle of Availability: An organization shall maintain its information assets in a manner that ensures their timely, efficient, and accurate retrieval.

Operational – An organization must determine how long information assets are needed to satisfy business needs. In some cases, the organization's actuarial or analytical needs for the information may be longer than the legal retention period. **Such needs are determined by interviewing those most knowledgeable about**

the operational value and risks associated with each information type.

("Implementing the Generally Accepted Recordkeeping principles," ARMA; emphasis added)

- b. Penn National did not comply with these standards.
- c. Penn National's search for lost Covil policies was seriously hampered if not prevented by Penn National's policy of only being able to search for policies by policy number between 1974 and 1991 and 1995.
 - 1. In my experience insurance companies begun to create data bases for insurance policy retention in the late 1970's and early 1980's
 - i. In my experience this practice initiated because of appearance of asbestos and other long tail claims in 1970s and 1980s.

However, by the mid or late-1970s, insurers logically should have seen a good deal of this coming because of coverage battles such as Forty-Eight Insulations v. INA and Keene Corporation v. Aetna being waged at the trial court level. By 1980, these coverage clashes had resulted in prominent appellate court opinions adopting broad trigger rules that were the talk of the industry. (Stempel 12 Conn. Ins. L.J. 349, *464).

"An organization's policies and procedures must mandate the suspension of ordinary destruction practices and procedures as necessary to comply with the preservation obligation related to actual and reasonable anticipated litigation, government investigation or audit. ("Formulating a Records Retention Policy," Jones, Thomas M. et al., *For The Defense*, Jan. 2008, p. 43).

Insurers should take into account statutes of limitation and discovery rule in setting any destruction dates. (Id.)

NOTE: Penn National set a 50 year
destruction date on workers comp policies.

Frost depo, pp. 12-13, 1982 Manville BK

- ii. In my experience these data bases provided for policy searches by at least policy number and named insured.
 - iii. Penn National provided for searches for prior policies by name and for policies stored in 1991 and 1995 but stopped that practice in between. (See Rice deposition, pp. 16-17).
- d. Penn National failed to timely issue a policy hold

Standards on spoliation

Insurers are advised that they “might be found liable if evidence is intentionally or negligently lost or destroyed. This is often referred to as spoliation of evidence” (Popow, Donna J. [Ed.], Property Claim Practices [The Institutes, 1st ed., 2011], §3.29, and see §6.18, and see “Litigation Hold,” IRMI 4/2014).

See Illinois Record Retention Manual, p. 4, “The destruction of ANY and ALL records, whether paper or electronic, must stop immediately when a company receives notice of pending or imminent litigation, government investigation or audit, even when destruction is otherwise permitted under this schedule”

Covil Litigation hold policy...where litigation is reasonable foreseeable “then the employee should immediately notify the legal department”

6/20/2018 Request for production of policies in Finch

10/2019 Covil named defendant in coverage litigation

Continued destruction until litigation hold (Receiver's Motion, pp. 1 & 4-5)

Did not look for Covil (Reifsnyder depo. P. 53)

No paper record of what was destroyed (Id. at 56 & 67)

12/17/2021 First litigation hold

Insurance Industry Standards Regarding Locating Old or Lost Policies.

It is critically important that an insurer commence a timely and thorough investigation of any asbestos claim where there is a lost policy (or policies). This is because such claims frequently span many years (referred to as long-tail claims) and can expose an insured to substantial damages. This is certainly the case with asbestos claims. Until the mid-1980's, there was no asbestos exclusion on the standard Insurance Services Office ("ISO") Comprehensive General Liability ("CGL") policy. Accordingly, pre-mid-1980's primary CGL policies are more likely to provide coverage for asbestos claims for an insured.

Reconstruction of older policies thus becomes an important if not critical objective where an insured faces claims arising from asbestos exposure over several years. Often, this reconstruction is done through the use of secondary evidence. Indeed, one insurance industry source offers that "greater weight might be accorded to secondary documents in the following order:

- (1) Insurer documents
- (2) broker document, or other third-party documents, and
- (3) policyholder documents.

(Talley, Douglas, "Proving the Existence of Past Policies with Secondary Evidence," IRMI, January 2011, p. 3)¹

¹ The International Risk Management Institute ("IRMI") publishes several volumes on various types of insurance policies, such as professional liability, commercial liability, commercial property, and personal property policies, including this volume on insurance claims handling. These volumes are also used widely in the insurance industry to assist claims personnel in the interpretation and application of insurance policies. According to the IRMI "Personal Risk Management & Insurance" publication, the publication "was designed, researched, and written by the staff of IRMI, with the assistance of technical advisers. . . . It is designed to be used by those with a working knowledge of

The foregoing order of importance is understandable, given that an insurance company commonly has the greater resources to keep and maintain policy records of many kinds for many years.

In terms of specific types of documents, the same author notes that certificates of insurance “will certainly be of **great probative value**, since such certificates by industry custom and practice are designed to evidence the existence and certain material terms of a policyholder’s insurance coverage” (Id., p. 4; emphasis added).

Other types of recognized secondary evidence that an insurer can seek include:

- Records produced by insurance brokers, including ledgers or schedules of insurance.

- Premium invoices.

- Loss prevention surveys conducted by insurers.^[2]

- Specimen or sample policies used by the insurer during the policy period in question.

- Loss history cards

- Broker “placing slips.”

- Broker and underwriter correspondence.

- Testimony of an insured’s employee.

- Testimony of an insurer’s employee.

(Id., pp. 4–5)³

insurance—insurance . . . adjusters—to give them detailed and practical information about specific topics on which they questions. . . . The research for the [publication] involved a thorough review of insurance literature, legal research, and interviews with many underwriters, agents, attorneys, and adjusters. Virtually all of the text was written by IRMI staff and has been extensively reviewed by insurance professionals not affiliated with the firm. In addition, each section written by us was carefully reviewed internally and revised as necessary” (1st reprint, September 2004, Preface).

² In this regard, underwriting files also become an important source of secondary evidence.

Another insurance industry source also provided the following potential sources of information that the insurer could access by “interviewing and obtaining documents from:

1. The risk manager or person responsible for the insurance program.
2. The broker
3. The insurer
4. Records retention personnel
5. Additional insureds
6. Outside counsel
7. Former employees.

(“Insurance Archaeology,” Practical Risk Management/Risk Management Activities – Topic A-24, IRMI, p. 4)

It is particularly important to note that “[o]btaining information from the state’s insurance regulatory body can be helpful as well. These government agencies require insurers admitted to conduct business in the state to file policy forms as a prerequisite to obtaining approval. . . . [S]tate regulatory bodies may be a valuable source of information” (Id.).

An insurer can also investigate various business records which can be a source of secondary evidence. The “[p]rimary method to prove the existence of a lost

³ Elsewhere, Talley points out that the “the majority rule appears to be that the burden of proof required to establish the issuance and terms of a lost policy is a ‘preponderance of the evidence’” (Talley, Douglas, “Judicial Reconstruction of Missing Insurance Policies,” IRMI, September 2010, p. 5; and see “Coverage for Pollution Claims Under Lost Policies,” IRMI, p. 3, “Most courts hold that policyholders are required to prove the existence and terms of lost insurance policies only to a preponderance of the evidence”). Any claims handler responsible for searching for lost policies must keep this standard in mind at all times in order to be able to objectively determine when he/she has sufficient evidence that likely will meet the standard.

insurance policy is to use ordinary business records that mention or pertain to the insurance provided there under,” such as,

- Accounting ledger sheets
- Canceled premium checks
- States of premium accounts
- Credit invoices
- Loss runs
- Settlement agreement
- Certificates of insurance
- Binders
- Correspondence
- Proofs of loss
- Premium audit records
- Premium refunds/dividends
- Minutes of board of directors meetings.

(Id., pp. 3–4)

In addition, the insured’s accountant may have records on the premiums paid to insurers for a particular period of time, if not also documents supporting the issuance of the lost policies.

“Another common means of proving the existence of a lost primary policy is to show that it was referenced on the schedule of underlying insurance in a contemporaneous umbrella or excess policy. Since the existence of primary coverage is so important to the operation of excess coverage, courts feel safe in presuming that, if the umbrella or excess insurer acknowledged them, the primary policies must have existed” (Id., p. 4).

“Another way to prove that lost insurance policies exist is to introduce the testimony of an eyewitness who was involved in the purchase of the insurance” (Id., p. 5).

As for the terms of a policy, it has been recognized that “the terms of a lost policy [can be determined] by introducing specimen copies of standard insurance forms commonly used in the industry and by showing that the insurer used such forms” (Id., p. 6).

In addition, claim files can also be a valuable source for information on lost policies, if not the lost policies themselves. It is not unknown in the insurance industry for claims handlers to copy and insert sections of an insured’s policy(ies) in a claim file involving a claim presented against an insured. Absent actual copies, claim files commonly contain information on the application policy(ies) such as the policy number, policy type, policy period and policy limits.

It is also important to consider reinsurance insurers as a source of policy information. Reinsurance is widely used in the insurance market place to provide additional underwriting capacity to many national insurance companies. “**Reinsurance** is the transfer of insurance risk from one insurer to another through a contractual agreement under which one insurer (**the reinsurer**)⁴ agrees, in return for a **reinsurance premium**, to indemnify another insurer (**the primary insurer**)⁵ for some

⁴ The reinsurer is defined as “[t]he insurer that accepts all or a portion of the liabilities of the ceding company.” (“Basic Reinsurance Terminology,” IRMI, p. 1).

or all of the financial consequences of certain loss exposures covered by the primary insurer's policies. Reinsurance is commonly referred to as "insurance for insurers." (Reinsurance Principles and Practices, Harrison, Connor M., ed. (The Institutes, 1st ed. 2004) §1.3 (Hereinafter, "Harrison")(emphasis in original). Because the reinsurer has assumed a certain amount of the risk of loss, the reinsurer will become involved in the underwriting and claims handling. In other words, to the extent the reinsurer has assumed a risk of loss, the reinsurer frequently acts as if it were the primary insurer.⁶

The reinsurer and primary insurer enter into a contract, not unlike an insurance policy, which shifts some of the risk of loss from the primary insurer to the reinsurer. There are two basic types of reinsurance contracts. The first is treaty reinsurance which "refers to arrangements in which groups of risks that fall within the terms of the agreement are normally insured automatically." ("Types of Reinsurance Contracts," International Risk Management Institute ("IRMI"), p. 1). Under treaty reinsurance the reinsurer is required to reinsure all risks that fall within that reinsured category.⁷

Therefore, the reinsurer may agree to reinsure all commercial property exposures in

⁵ The primary insurer is also referred to as the ceding company, which is "[t]he direct or primary insurer that contracts with a reinsurer to share all or a portion of its losses under insurance contracts it has issued to its insured in return for a stated premium." (Id.)

⁶ The "reinsurance market is of critical importance to the affordability and availability of all forms of insurance." ("Reinsurance," IRMI, p. 1). Indeed, primary insurers may not be able to underwrite certain lines of risk without access to reinsurance. For example, reinsurers paid "more than 60 percent of the total insured losses from hurricanes Katrina, Rita and Wilma in 2005." (Id.).

⁷ The two types of reinsurance contracts are also each divided into proportional and nonproportional reinsurance agreements. A discussion of these categories is not necessary for the purposes of this declaration. Nonetheless, it should be noted that each of these types of reinsurance policies provide that at some point, either measured by dollar amount or other factors, the reinsurer accepts a certain amount of the risk of loss.

excess of \$10 million per location. The second type of reinsurance contract is the facultative contract, in which “risk[s] are individually accepted or rejected according to specific terms that are unique to a given reinsurance transaction.” (Id.). Here, the reinsurer has the right to accept or reject any risk offered to it. Accordingly, the reinsurer may conduct extensive underwriting of the risk to determine whether to reinsure the risk.

The most important feature of reinsurance is that it reduces the risk of loss for the primary insurer. Accordingly, the primary insurer is highly motivated, regardless of the form of the reinsurance contract, to make sure that the reinsurer is provided with all material information to underwrite the risk as well as evaluate claims. (See “Reinsurance Principles,” FC&S, January 2007, p. 3, “[T]he reinsured must disclose to the reinsurer all material facts which may affect the subject risk,” and see *Infra* for discussion of specific reinsurance contracts). If this is not done the primary insurer is at risk of not being able to enforce the reinsurance contract, which would mean the primary insurer may have to pay the entire amount of the loss.

In order to accurately determine the obligations of both the primary insurer and the reinsurer it is necessary to obtain and examine the reinsurance contract; otherwise, any evaluation of the contract will be, for the most part, speculation.⁸

Primary insurers will conduct some degree of underwriting, in conjunction with the reinsurer, whether the reinsurance agreement is facultative or treaty. For example, with

⁸ There are some common provisions in reinsurance contracts, and these include notice of loss and retention and limits clauses.(See *infra* for discussion of other reinsurance policy provisions). These provisions may, however, vary slightly in their language from one reinsurance contract to another.

facultative reinsurance, “the reinsurer underwrites every loss exposure individually upon its submission from a ceding company [primary insurer]. The ceding company is normally required to furnish detailed information on each exposure.” (“Types of Reinsurance Contracts,” IRMI, p. 3, and see “Reinsurance Principles,” FC&S, January 2007, p. 12, “The underwriter examines the ceding company’s financial statements, management, and underwriting philosophy...[and] the qualifications of the personnel and the territories where the insurer does business.”). Accordingly, the reinsurer will review, sometimes in detail, the nature of the risk to be reinsured. (Id., “Each reinsurance submission involves extensive exchanges of information and negotiations between the ceding company and one or more reinsurers.”). In a first party policy, where the risk to be insured is a structure or building, the reinsurer’s underwriting file may contain detailed information on the risk, such as its size, construction, age, and similar information regarding the condition of the property. This information can be critical in evaluating the risk that both the primary insurer and reinsurer agreed to insure. For example, the primary insurer and reinsurer may have agreed to insure the property in the condition it was in at the time the insurance policy was written and not require that the insured perform any work, modification or improvements to the property. This fact will weigh heavily if a loss later occurs where the primary insurer (and/or reinsurer) decides to deny all or part of the claim because of some condition of the property that they originally agreed to insure.

Primary insurers commonly provide a reinsurer with several types of important documents concerning the handling of an individual claim. These can include the primary insurer’s written evaluations of liability, coverage and damages, reports from

counsel or other consultants, and documentary evidence concerning the nature and scope of the claim.

In addition, reinsurers will often conduct audits of the primary insurer's claims operations. (See *Infra* for discussion of specific reinsurance contracts). A number of issues are addressed in such audits, including the following:

- (1) The confirmation that coverage exists both under the reinsurance agreement as well as the underlying insurance policy;
 - (2) An evaluation of the claims data and information, including the completeness of the data and the adequacy of the investigation;
 - (3) Review of all paid losses to ensure adequate information and analysis were conducted;
 - (4) Review of defense counsel evaluations...; and
 - (5) The reserving practices of the insuring company.
- ("Claims Audits," IRMI, p. 1).

INVESTIGATION STANDARDS

“An investigation must often be undertaken to fully develop the facts needed to determine coverage. Good faith claim practices require that this investigation be objective, thorough, and timely.” Markham, James J. et al, ed., The Claims Environment (1st ed. 1993) Insurance Institute of America,, p. 29,

Jones, James R., Liability Claim Practices, (IIC, First ed., 2001) Section 1.14 (insurers have good faith duty to perform investigations promptly and thoroughly)(hereinafter “Jones”),

Rokes, Willis Park, Aggressive Good Faith and Successful Claims Handling (IIC, 1st ed., 1987) p. 114 (hereinafter “Rokes”)(insurers have duty to conduct prompt investigations).)

“[s]tatements are written or recorded accounts of the facts and circumstances involved in a claim; they are the principal investigative tool of the claim representative. The basic purpose of a statement is to gather information in a logical and orderly fashion so that claim representatives can make decisions necessary for the disposition of the claims.” (Markham, p. 46)

Another insurance industry text points out: “The adjuster must conduct a thorough investigation and do it promptly. Since property insurance policies are first party in nature, the law will require the insurer to deal fairly with its insureds once a loss occurs. Unjustified delays are not tolerated.” (Loss Adjustment And Subrogation, (AEI, 2006, 6th ed.) p. 52).

LOOK FOR COVERAGE

An insurer must look for coverage and not just ways to deny coverage (See Markham, p. 13, “[T]he claims representative’s chief task is to seek and find coverage, not to seek and find coverage controversies or to deny or dispute claims”; and p. 9, “[C]laim representatives must investigate the facts of each claim because policyholders do not know exactly what is covered, under exactly what circumstances it is covered, or exactly what amount should be paid”).

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Covil Corporation, by and through
its duly appointed Receiver Peter
D. Protopapas,

Plaintiff,

V s .

Pennsylvania National Mutual Casualty
Insurance Co.; Sam J. Crain & Co., Inc.;
and South Carolina Property and Casualty
Insurance Guaranty Association,

Civil Action No 2019-CP-40-2098

RECEIVER FOR COVIL
CORPORATION'S THIRD AMENDED
NOTICE OF VIDEOTAPED DEPOSITION
OF PENNSYLVANIA NATIONAL
MUTUAL CASUALTY INSURANCE
COMPANY PURSUANT TO S.C.R.C.P
30(b)(6)

TO: BRADY YNTEMA AND DAVID HARRIS, ATTORNEYS FOR PENNSYLVANIA
NATIONAL MUTUAL CASUALTY INSURANCE CO.:

YOU WILL PLEASE TAKE NOTICE that on **November 10-11, 2022 at 10:00 a.m. and continuing day to day until completed**, at the Hilton Harrisburg Hotel, One N. 2nd Street, Harrisburg, PA 17101 the attorneys for the Receiver for Covil Corporation (hereinafter "Covil"), will take the deposition of **PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY** (hereinafter "Penn National," "you," or "your"), on oral examination, pursuant to the South Carolina Rules of Civil Procedure, Rule 30, before a Notary Public or before some other officer authorized by law to take depositions, said deposition to continue from day to day until completed. The individual or individuals representing Penn National should be the **person or persons most knowledgeable concerning the subjects of examination listed below**.

PLAINTIFF'S
EXHIBIT

136

DEFINITIONS

1. The terms “Penn National,” “you,” or “your,” are defined to mean Pennsylvania National Mutual Casualty Insurance company, including its predecessors, parents, subsidiaries, and affiliate companies.

2. “Covil Litigation” is defined to mean individually or collectively the *Covil Corporation v. Penn National* matters ending in 1226 and 2098 as well as the subpoenas served on Penn National in the *Hopper*, *Pavlish*, and *Finch* matters related to Covil Corporation.

TOPICS

1. All litigation hold notices that YOU issued related to the Covil Litigation, including but not limited to the existence, contents, recipients and timing of any litigation holds.
2. All steps taken by YOU to preserve information and documents after any litigation hold notice was issued related to the Covil Litigation.
3. All automatic, routine, or otherwise systematic destruction or purging of YOUR insurance policy information, including but not limited to YOUR insurance policies, which has taken place since June 2018.
4. All correspondence regarding the litigation hold notices that YOU issued related to the Covil Litigation.
5. How YOUR litigation hold notices were implemented with respect to the Covil Litigation.
6. Identification of all insurance policies that were in Penn National’s possession, custody or control that have been destroyed, purged, or otherwise not retained since June 2018.
7. All steps taken to suspend or modify YOUR document retention or destruction policy or policies in response to the Covil Litigation.
8. All steps taken to suspend or modify YOUR document retention or destruction policy in response to any and all orders issued by Chief Justice (ret.) Jean Hoefer Toal related to the Covil Litigation.

9. All steps taken by YOU to review documents subject to YOUR document retention or destruction policy for information related to the Covil Litigation prior to destruction.
10. The reason(s) YOU use a terminal digit system to file YOUR historic insurance policies and policy-related documents.
11. All documents and communications between YOU and Ellis & Winters LLP related to the directives issued by Chief Justice (ret.) Jean Hoefer Toal in the November 5, 2021 and May 5, 2022 Orders, including but not limited to the documents and communications referred to and/or relied upon by Ellis & Winters in its March 22, 2022 letter report to the Court.
12. All code keys used for YOUR policy prefixes, including but not limited to the documentation identifying prefixes with policy lines of business identified in the Ellis & Winters' report.
13. All interim reports submitted by YOU to the Court in response to the directives issued by Chief Justice (ret.) Jean Hoefer Toal related to the Covil Litigation, including but not limited to Justice Toal's November 5, 2021 Order.
14. All steps taken in response to and/or to comply with the directives issued by Chief Justice (ret.) Jean Hoefer Toal related to the Covil Litigation, including but not limited to Justice Toal's November 5, 2021 and May 5, 2022 Orders.
15. YOUR Records Retention Policies produced in the Covil Litigation, including but not limited to:
 - 15.1 All "random" reviews conducted by Penn National from 2010 to the present, as required by Step 7 of its "Steps for evaluating whether to retain or destroy documents (electronic, paper or other)," in accordance with the Records Retention Policy.
 - 15.2 The "scheduled" reviews conducted by Penn National from 2010 to the present, as required by Step 7 of its "Steps for evaluating whether to retain or destroy documents (electronic, paper or other)," in accordance with the Records Retention Policy.
 - 15.3 Acknowledgment forms provided to Penn National employees as part of the Covil Litigation in accordance with Penn National's Litigation Hold policy.
 - 15.4 Acknowledgment forms or other confirmations in which a Penn National employee—including, but not limited to, Brent Reifsnnyder and Boyd Wright—

stated he or she “received, understands, and agrees to comply with the Litigation Hold” issued in the Covil Litigation or any prior lawsuit involving Covil Corporation. *See* PNI-1159.

15.5 All “brief summar[ies] of the location of information that would be covered by the Litigation Hold” provided by any Penn National employee in relation to the Covil Litigation or any prior lawsuit involving Covil Corporation. *See* PNI-1160.

15.6 All “custodial interview[s] with a member of the Legal Department” conducted in relation to the Covil Litigation or any prior lawsuit involving Covil Corporation. *See* PNI-1160.

16. All documents and communications produced by YOU in the Covil Litigation, including but not limited to insurance policies, underwriting files, document retention policies, internal legal hold policies, spreadsheets, and email.
17. All written responses to subpoenas and discovery requests produced by YOU in the Covil Litigation.
18. All affidavit testimony produced by YOU in the Covil Litigation.
19. All defenses, including affirmative defenses, YOU have asserted in this action.
20. The individuals involved in responding to and preparing YOUR responses to subpoenas and discovery requests in the Covil Litigation.
21. YOUR communications with other Covil insurers about Covil asbestos cases and/or insurance coverage from 2018 to present.
22. YOUR policyholder surplus from 2010 to present.
23. YOUR annual gross and net revenue from 2010 to the present.
24. YOUR liabilities from 2010 to the present.
25. YOUR indemnity reserves for cases pending against Covil.
26. YOUR net value from 2010 to the present.
27. The net value of YOUR parent company or companies from 2010 to the present.
28. The underwriting of all insurance policies YOU issued to or that otherwise cover Covil.

29. The analysis or analyses (past or present) employed by YOUR claims personnel to determine whether coverage was available under your insurance policy (or policies) applicable to the asbestos claims asserted against Covil.
30. YOUR handling of claims for coverage made under any liability insurance policy that you issued to or that otherwise covers Covil.
31. The existence and terms of all policies issued by YOU to, or protective of, Covil, and the obligations imposed by those policies.
32. YOUR experience in the handling of claims for coverage related to asbestos litigation.

Respectfully submitted,

SMITH ROBINSON, LLC

s/Jonathan M. Robinson

Jonathan M. Robinson

Shanon N. Peake

2530 Devine Street, Third Floor

Columbia, SC 29205

803-254-5445

G. Murrell Smith, Jr.

PO Box 580

Sumter, SC 29151-0580

803-778-2471

ATTORNEYS FOR RECEIVER FOR COVIL
CORPORATION

This 3rd Day of November,
2022

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Covil Corporation, by and through
its duly appointed Receiver Peter
D. Protopapas,

Plaintiff,

V s .

Pennsylvania National Mutual Casualty
Insurance Co.; Sam J. Crain & Co., Inc.;
and South Carolina Property and Casualty
Insurance Guaranty Association,

Civil Action No 2019-CP-40-2098

CERTIFICATE OF SERVICE

I, Dot Faulkenberry, Paralegal to the law offices of Smith Robinson, LLC, certify that I have served the foregoing RECEIVER FOR COVIL CORPORATION'S THIRD AMENDED NOTICE OF VIDEOTAPED DEPOSITION OF PENNSYLVANIA NATIONAL MUTUAL CASUALTY INSURANCE COMPANY PURSUANT TO S.C.R.C.P. 30(b)(6) upon the following counsel of record in the above referenced matter in the following prescribed means:

VIA EMAIL & US MAIL
Brady Yntema and Davis Harris
Goldberg Segalla
701 Green Valley Road, Suite 310
Greensboro, NC 27408
byntema@goldbergsegalla.com
dharris@goldbergsegalla.com


Dot Faulkenberry

This 3rd Day of November, 2022

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
DENVER D. TAYLOR and	)	
JANICE TAYLOR,	)	CASE NO. 2018-CP-40-04940
	)	
Plaintiffs,	)	Order Appointing a Receiver for Covil
	)	Corporation
v.	)	
	)	
AIR & LIQUID SYSTEMS	)	
CORPORATION, et al.	)	
	)	
Defendants.	)	

This matter comes before the Court by way of Plaintiff's Motion for Appointment of a Receiver pursuant to South Carolina Code § 15-65-10. This Court finds that the application is meritorious under the applicable statute because Covil Corporation has dissolved. Therefore, Plaintiff's motion is GRANTED.

This Court hereby appoints Attorney Peter Protopapas as Receiver at such rate of compensation as may be approved by the Court. Mr. Protopapas is hereby appointed Receiver in this case pursuant to § 15-65-10 with the power and authority to fully administer all assets of Covil Corporation ("Covil"). This order is inclusive of, but not limited to, the right and obligation to administer any insurance assets of Covil Corporation as well as any claims related to the actions or failure to act of Covil's insurance carriers.

In addition to the powers of the Receiver set forth herein, the Receiver shall have the following rights, authority and powers with respect to the Respondent's property, to: 1) collect all accounts receivable of Respondent and all rents due to the Respondent from any tenant; 2) to change locks to all premises at which any property is situated; 3) open any mail addressed to the defendant and addressed to any business owned by the Respondent; redirect the delivery of any

PLAINTIFF'S
EXHIBIT

137

mail addressed to the Respondent or any business of the Respondent, so that the mail may come directly to the receiver; 4) endorse and cash all checks and negotiable instruments payable to Respondent, except paychecks for current wages; 5) hire a real estate broker to sell any real property and mineral interest belonging to the Respondents; 6) hire any person or company to move and store the property of Respondent; 7) to insure any property belonging to the Respondents (but not the obligation); 8) obtain from any financial institution, bank, credit union, savings and loan or title company, credit bureau or any other third party, any financial records belonging to or pertaining to the Defendants; 9) obtain from any landlord, building owner or building manager where the Respondent or the Respondent's business is a tenant, copies of the Respondent's lease, lease application, credit application, payment history and copies of Respondent's checks for rent or other payments; 10) hire any person or company necessary to accomplish any right or power under this Order; and 11) take all action necessary to gain access to all storage facilities, safety-deposit boxes, real property, and leased premises wherein any property of Respondent may be situated, and to review and obtain copies of all documents related to same.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2018.

JEAN TOAL, CHIEF JUSTICE (Ret.)



Richland Common Pleas

Case Caption: Denver D Taylor , plaintiff, et al vs Air & Liquid Systems Corporation , defendant, et al

Case Number: 2018CP4004940

Type: Order/Appointment of Receiver

IT IS SO ORDERED.

s/ Jean H. Toal #2758

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

**DENVER D. TAYLOR and
JANICE R. TAYLOR,**

Plaintiffs,

v.

**AIR & LIQUID SYSTEMS
CORPORATION, et al.,**

Defendants.

Civil Action No: 2018-CP-40-04940

**ORDER GRANTING THE RECEIVER
FOR COVIL CORPORATION'S
MOTION TO CLARIFY THE
RECEIVER ORDER**

This matter comes before the Court by way of the Receiver for Covil Corporation's Motion to Clarify the Order Appointing a Receiver for Covil Corporation ("Covil"). The hearing on the Receiver's Motion took place on February 21, 2019. The Receiver's Motion is hereby GRANTED.

Peter D. Protopapas ("the Receiver") was appointed Receiver for Covil by this Court on November 2, 2018. This Order clarifies the appointment of the Receiver for Covil. Although the Receiver was appointed in the matter of *Denver D. Taylor v. Janice Taylor v. Air & Liquid Systems Corporation, et al.*, C/A No. 2018-CP-40-04940, the Receiver's appointment is not limited to the *Taylor* case. Rather, as stated in the initial Order Appointing a Receiver for Covil, Mr. Protopapas was appointed pursuant to S.C. Code § 15-65-10 with the power and authority to fully administer all assets of Covil, inclusive of, but not limited to, the right and obligation to administer any insurance assets of Covil as well as any claims related to the actions or failure to act of Covil's insurance carriers. This Court has jurisdiction over all asbestos related cases in South Carolina. Therefore, the Receiver is appointed in all asbestos related cases and for all asbestos related matters.

PLAINTIFF'S
EXHIBIT

138

In addition to the rights and powers of the Receiver set forth in the Order Appointing the Receiver, the Receiver is hereby vested with all rights of Covil as the client in any attorney-client relationship between Covil and any attorney or counselor hired or retained by Covil or hired and retained to represent Covil by Covil's insurers. The Receiver's rights include, but are not limited to, access to all documents, business records, reports and correspondence contained in any prior, present or future attorney file related to representation of Covil.

Specifically, the Receiver is entitled to review and obtain the entire file contents related to representation of Covil in the possession of Wall Templeton Attorneys and Gallivan, White & Boyd, PA., including but not limited to all Covil business records, reports, correspondence, litigation materials, transcripts, fee agreements, insurance policies, information related to prior and pending claims, and written and electronic correspondence to Covil's insurers. The Receiver has the right to take possession of all Covil documents and correspondence and to protect or assert attorney-client privilege and work product doctrine on behalf of Covil. The Court is aware that retained counsel's duty of good faith, fair dealing, and confidentiality is a duty not to Covil's insurers, but to Covil itself, and that confidentiality may be waived by Mr. Protopapas as the Receiver. By sharing information with the Receiver, the attorneys representing Covil are not waiving the attorney-client privilege or violating any obligations to any of Covil's insurers.

IT IS SO ORDERED

SIGNED this ____ day of _____, 2019

Chief Justice Jean Toal (Ret), Supreme Court
Acting Circuit Court Judge



Richland Common Pleas

Case Caption: Denver D Taylor , plaintiff, et al vs Air & Liquid Systems Corporation , defendant, et al

Case Number: 2018CP4004940

Type: Order/Other

IT IS SO ORDERED.

s/ Jean H. Toal #2758

RECEIVED

Nov 04 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Jean Hoefer Toal, Circuit Court Judge

Case No. 2020-CP-40-02098

Appellate Case No. 2024-000674

Covil Corporation, by and through its duly appointed Receiver, Peter D. Protopapas, Respondent,

v.

Pennsylvania National Mutual Casualty Insurance Company; Sam J. Crain & Co., Inc.; and
South Carolina Property and Casualty Insurance Guaranty Association..... Defendants,

Of which Pennsylvania National Mutual Casualty Insurance Company is the Appellant.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material
proposed to be included by any of the parties and not any other material.

/s/ Kirby D. Shealy III

Kirby D. Shealy III (S.C. Bar No. 11556)

ADAMS AND REESE LLP

1221 Main Street, Suite 1200

Columbia, SC 29201

P: 803-254-4190

kirby.shealy@arlaw.com

David Grant Harris, II (S.C. Bar No. 101951)

Alexander Erwin Davis (S.C. Bar No. 100061)

Brady A. Yntema, admitted pro hac vice

(N.C. Bar No. 25771)

David L. Brown, admitted pro hac vice (N.C. Bar
No. 18942)

GOLDBERG SEGALLA LLP

701 Green Valley Road, Suite 310

Greensboro, NC 27408

dharris@goldbergsegalla.com

aedavis@goldbergsegalla.com

byntema@goldbergsegalla.com

dbrown@goldbergsegalla.com

*Attorneys for Appellant Pennsylvania National
Mutual Casualty Insurance Company*

October 29, 2024.