

1 Richard J. Chivaro (SBN 124391)
2 OFFICE OF THE STATE CONTROLLER
3 300 Capitol Mall, Suite 1850
4 Sacramento, California 95814
5 Telephone: (916) 445-6854
6 Facsimile: (916) 322-1220
7 Email: rchivaro@sco.ca.gov

8 Attorneys for Defendant, JOHN CHIANG,
9 in his official capacity as CONTROLLER OF
10 THE STATE OF CALIFORNIA

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA**
13 **SACRAMENTO DIVISION**

14 FIDELITY & GUARANTY)
15 LIFE INSURANCE COMPANY;)

16 Plaintiff,)

17 v.)

18 JOHN CHIANG, in his official)
19 capacity as CONTROLLER OF)
20 THE STATE OF CALIFORNIA,)

21 Defendant.)
22)
23)
24)
25)
26)
27)
28)

Case No. 2:13-cv-02317-JAM-CKD

SECOND STIPULATION AND
ORDER FOR EXTENSION OF TIME
FOR DEFENDANT JOHN CHIANG
TO RESPOND TO COMPLAINT

[Local Rule 144]

Exempt from Fees
(Gov. Code § 6103)

Complaint Filed: November 6, 2013

1 Plaintiff Fidelity & Guaranty Life Insurance Company (“Plaintiff” or “FGL”) and Defendant
2 John Chiang, in his official capacity as Controller of the State of California (“Defendant” or the
3 “Controller”), by and through their counsel, stipulate as follows:

4 WHEREAS, Plaintiff initiated this action by filing its Complaint on November 6, 2013;

5 WHEREAS, Defendant was served with the Complaint on November 7, 2013;

6 WHEREAS, Defendant obtained approval from the California Attorney General to retain
7 outside counsel to represent the Controller in this case pursuant to California Government Code §
8 11040;

9 WHEREAS, the Controller needed additional time to respond to the Complaint, whether
10 through his preferred counsel or otherwise;

11 WHEREAS, FGL and the Controller stipulated to a continuance of the Controller’s deadline
12 to respond to the Complaint, continuing the deadline to January 15, 2014 by way of written
13 stipulation filed with the Court on November 26, 2013 (Docket No. 15);

14 WHEREAS, the Court approved the stipulation by its Order entered on November 27, 2013
15 (Docket No. 16);

16 WHEREAS, an issue regarding an alleged conflict of interest regarding the Controller’s
17 counsel of choice has arisen and is the subject of ongoing factual investigation, legal analysis and
18 discussions between the parties;

19 WHEREAS, the Controller’s counsel of choice has refrained from taking on representation in
20 connection with this action pending completion of such investigation, analysis and discussions; and

21 WHEREAS, the parties believe the underlying facts and corresponding legal issues require
22 further discussions, which have necessitated another extension of time for the Controller to respond
23 to the Complaint:

24 IT IS HEREBY STIPULATED, subject to the Court’s approval, that Defendant shall have an
25 extension to and including March 14, 2014 to file a response to the Complaint. IT IS FURTHER
26 STIPULATED that the Controller and his auditors shall refrain from requiring FGL to comply with
27 any unclaimed property audit through March 14, 2014. In so stipulating, the parties understand and
28 acknowledge that the Controller preserves all rights, remedies, and defenses that he has at this time,

1 including, without limitation, his rights under the United States Constitution (including, without
2 limitation, the Tenth and Eleventh Amendments), the Constitution of the State of California,
3 sovereign immunity and federalism principles, and any and all other applicable law.

4 Dated: December 19, 2013

By: /s/Richard J. Chivaro

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Email: rchivaro@sco.ca.gov

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10 Attorneys for Defendant, JOHN CHIANG,
in his official capacity as CONTROLLER OF
11 THE STATE OF CALIFORNIA

12 Dated: December 19, 2013

By: /s/David L. Sasseville

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14 David L. Sasseville
LINDQUIST & VENNUM LLP
4200 IDS Center
15 80 South Eighth Street
Minneapolis, MN 55402
16 Telephone: (612) 371-3211
Facsimile: (612) 371-3207
17 E-mail: dsasseville@lindquist.com

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19 **ORDER**

20 Pursuant to the stipulation between Plaintiff and Defendant, Defendant shall have an
21 extension to and including March 14, 2014 to file a pleading or motion in response to the
22 Complaint. **IT IS SO ORDERED.**

23 Dated: December 19, 2013

/s/ John A. Mendez

24 Honorable John A. Mendez
25 U. S. District Court Judge