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 13 FIDELITY & GUARANTY LIFE  
 14 INSURANCE COMPANY

15  
 16 **UNITED STATES DISTRICT COURT**  
 17 **EASTERN DISTRICT OF CALIFORNIA**  
 18 **SACRAMENTO DIVISION**

19 FIDELITY & GUARANTY LIFE INSURANCE  
 20 COMPANY

21 Plaintiff,

22 v.

23 BETTY YEE, in her official capacity as  
 24 CONTROLLER OF THE STATE OF  
 CALIFORNIA,

25 Defendant.

Case No.: 2:14-CV-01837-JAM-CKD

**STIPULATION AND ORDER  
 STAYING THE CASE**

Complaint filed: August 5, 2014  
 Trial date: January 23, 2017

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1 WHEREAS, Defendant California Controller Betty Yee (the "Controller") seeks to  
2 conduct an audit of Plaintiff Fidelity & Guaranty Life Insurance Company ("FGLIC") to identify  
3 unreported escheatable property to the State of California;

4 WHEREAS, FGLIC believes that the proposed audit violates the United States  
5 Constitution;

6 WHEREAS, FGLIC has appealed this Court's denial of its Motion for Preliminary  
7 Injunction (Dkt. 36) to the Ninth Circuit Court of Appeals (the "Ninth Circuit Appeal");

8 WHEREAS, there are three currently pending actions in California state court between life  
9 insurance companies and the Controller regarding proposed audits ("pending life insurance  
10 cases"):<sup>1</sup>

- 11 • *Chiang v. American National Insurance Company*, Sacramento County Superior  
12 Court Case No. 34-2013-00144517, filed May 7, 2013, currently on appeal in  
13 *Chiang etc., et al. v. American National Insurance Company*, Third Appellate  
14 District Case No. C075248, filed November 18, 2013;
- 15 • *Chiang v. Kemper Corporation*, Sacramento County Superior Court Case No. 34-  
16 2013-00148154, filed July 17, 2013; and
- 17 • *Thrivent Financial for Lutherans v. Chiang, et al.*, San Francisco County Superior  
18 Court Case No. CGC-13-535156, filed October 13, 2013;

19 WHEREAS, the Controller believes the outcome of the pending life insurance cases may  
20 affect the current litigation and wishes to devote its resources to those cases;

21 WHEREAS, the parties desire and agree to stay the current litigation pending the final  
22 resolution of the aforementioned pending life insurance cases including any and all appeals;

23 WHEREAS, the parties are simultaneously seeking a stay of the Ninth Circuit Appeal for  
24 the same period of time;

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26 <sup>1</sup> A fourth case filed by FGLIC against the Controller in San Francisco County Superior Court  
27 (*Fidelity & Guaranty Life Insurance Company v. Chiang*, San Francisco County Superior Court  
28 Case No. CGC-14-540953, filed August 5, 2014) is to be dismissed without prejudice pursuant to  
an agreement between the parties.

1 IT IS THEREFORE STIPULATED AND AGREED THAT:

2 (1) the above-captioned case should be stayed pending the final resolution of the  
3 pending life insurance cases, including the exhaustion of any and all appeals, and in any case, for a  
4 period of no less than two years; and

5 (2) the parties will submit a joint case management statement on March 1, 2017, and  
6 subsequent joint case management statements every six months thereafter, to update the Court  
7 regarding the procedural status of the pending life insurance cases and any and all applicable  
8 appeals.

9  
10 DATED: February 27, 2015

COBLENTZ PATCH DUFFY & BASS LLP

11 By: /s/ Jeffrey G. Knowles

12 Jeffrey G. Knowles

13 Attorneys for Plaintiff

14 FIDELITY & GUARANTY LIFE INSURANCE  
15 COMPANY

16 DATED: February 27, 2015

KAYE SCHOLER LLP

17 By: /s/ Steven S. Rosenthal

18 Steven S. Rosenthal

19 Attorneys for Defendant BETTY YEE,

20 in her official capacity as CALIFORNIA STATE  
21 CONTROLLER

22 **ORDER**

23 **GOOD CAUSE APPEARING, IT IS SO ORDERED.**

24  
25 Dated: 2/27/2015

/s/ John A. Mendez

26 HON. JOHN A. MENDEZ

27 UNITED STATES DISTRICT COURT JUDGE  
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