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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

12 TERRA INSURANCE COMPANY)
 13 (A Risk Retention Group),)
 14 Plaintiff,)
 15 v.)
 16 NEW YORK LIFE INVESTMENT)
 17 MANAGEMENT LLC,)
 18 Defendant.)
 19)
 20)

CASE NO. C 09-01609 WHA
**~~PROPOSED~~ ORDER RE DEFENDANT'S
 MOTION TO COMPEL FURTHER
 RESPONSES TO REQUESTS FOR
 PRODUCTION**

Date: December 11, 2009
Time: 11:00 AM

Courtroom 9, 19th Floor

The Honorable William Alsup

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1 **[PROPOSED] ORDER**

2 Defendant New York Life Investment Management LLC (“Defendant”) filed a letter on
3 December 4, 2009 seeking further responses to the discovery requests in Defendant’s first set of
4 requests for production. Plaintiff Terra Insurance Company (“Terra”) filed a response on December
5 10, 2009.

6 The Court ordered Plaintiff and Defendant to participate in a further meet and confer in
7 the Court’s jury room on December 11, 2009. The parties met and conferred and resolved the
8 disputes with respect to Requests for Production Nos. 1, 3, 12 and 13, but were unable to resolve the
9 dispute with respect to the other requests. A hearing was conducted and appearances were noted on
10 the record.

11 Having read the written submissions and considered the oral arguments of counsel, the
12 Court orders as follows:

13 Req. Nos. 2 and 4– The motion to compel further responses with respect to these requests
14 is denied without prejudice to serve more focused discovery requests.

15 Req. Nos. 5, 6, 7, 8, 10, 11, 15 and 17 – Plaintiff represents that it has produced all non-
16 privileged responsive documents from October 20, 2000 to December 11, 2008. Plaintiff is ordered
17 to produce all additional non-privileged responsive documents relating to investment strategy or
18 asset allocation and all account statements for Terra’s investment portfolio from October 20, 1999
19 to October 20, 2000 and December 11, 2008 to December 11, 2009.

20 Req. Nos. 9 and 16 – Plaintiff represents that it has produced all non-privileged
21 responsive documents from October 20, 2000 to December 11, 2008. Plaintiff is ordered to produce
22 all additional non-privileged responsive documents from October 20, 1999 to October 20, 2000.

23 Req. No. 14 – Plaintiff represents that it has produced all non-privileged responsive
24 documents from October 20, 2000 to December 11, 2008. Plaintiff is ordered to produce all
25 additional non-privileged responsive documents relating to investment strategy or asset allocation
26 and all account statements for Terra’s investment portfolio from October 20, 1999 to October 20,
27 2000 and December 11, 2008 to December 11, 2009. Plaintiff also ordered to produce the
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1 documents regarding Plaintiff's investment portfolio that Plaintiff provided its auditors for
2 preparation of financial statements and audits for the year ending December 31, 2008.

3 In addition to Defendant's motion to compel further responses to document requests, the
4 Court also briefly addressed Plaintiff's motion for a protective order related to a third-party
5 subpoena served on Plaintiff's accountant Johnson Lambert & Co. LLP ("Johnson Lambert").
6 Plaintiff filed a letter brief on that issue on December 11, 2009. The Court is not making a final
7 ruling on that matter now, but orders the following procedure with respect to the handling of the
8 subpoena. Johnson Lambert will send its production CD to Niki Okcu of Cotchett, Pitre &
9 McCarthy, Plaintiff's counsel. Plaintiff will then prepare and serve a log containing similar
10 information to a privilege log setting forth all documents to which they object to disclosure on third
11 party privacy grounds. Plaintiff shall not delete or modify any of the documents on the CD. The
12 parties will then meet and confer further regarding the production.

13 IT IS SO ORDERED.

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15 Dated: December 16, 2009

