

1 complaint filed by First Franklin against CFC;

2 WHEREAS, on or about November 20, 2008, the Superior Court in the
3 Underlying Action allowed First Franklin to file a first amended complaint against
4 CFC which resulted in the assertion of several new causes of action against CFC in
5 the Underlying Action;

6 WHEREAS, Indian Harbor and CFC agree that the instant declaratory relief
7 action should be stayed pending resolution of the Underlying Action because, in
8 light of the recent changes to the operative pleading in the Underlying Action, the
9 coverage questions at issue in the instant action may turn on facts that must first be
10 decided in the Underlying Action (*Montrose Chemical Corp. v. Superior Court*
11 (1993) 6 Cal.4th 287, 301-302);

12 NOW, THEREFORE, Indian Harbor and CFC, by and through their counsel
13 of record, hereby agree and stipulate as follows:

14 1. That the instant action should be immediately stayed pending
15 resolution of the Underlying Action;

16 2. That all hearings on calendar in this action should be vacated,
17 including the case management conference currently set for December 9, 2008 at
18 2:00 p.m. in Courtroom 5;

19 3. That, during the pendency of the stay, the parties will provide the
20 Court with periodic status reports, if the Court desires such reports; and

21 4. The parties will immediately advise the Court of any change in the

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Gordon & Rees LLP
633 West Fifth Street
Suite 4900
Los Angeles, CA 90071

1 status of the Underlying Action that might effect the instant case, such as
2 resolution by settlement or judgment.

3 IT IS SO STIPULATED.

4 Dated: December 1, 2008

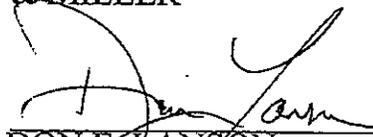
GORDON & REES LLP

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6 By: 

PETER SCHWARTZ
CHRISTOPHER WAGNER
Attorneys for Plaintiff
INDIAN HARBOR INSURANCE
COMPANY

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8
9 Dated: December 1, 2008

MANFREDI, LEVINE, ECCLES
& MILLER

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11
12 By: 

DON E. LANSON
Attorneys for CFC MORTGAGE
BROKERS

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15 **ORDER**

16 GOOD CAUSE APPEARING, the Court makes the following order:

- 17 1. That the instant action should be immediately stayed;
- 18 2. That all hearings on calendar in this action are vacated, including the
19 case management conference currently set for December 9, 2008 at 2:00 p.m. in
20 Courtroom 5;
- 21 3. That, during the pendency of the stay, the parties must provide the
22 Court with joint status reports every 90 days; and
- 23 4. Upon learning of any change in status of the Underlying Action, the
24 parties must immediately advise the Court of the change and how the change will
25 affect the instant action.

26 DATED: 12/2/08


MAGISTRATE JUDGE PATRICIA V.
TRUMBULL