Linklaters

Linklaters LLP
1345 Avenue of the Americas
New York, NY 10105
Direct Line 212-903-9289
Direct Fax 212-903-9100
kate.machan@linklaters.com

The Honorable Doris Ling-Cohan
Attn: Monica Cheng, Esq.
Supreme Court of the State of New York
County of New York, IAS Part 36
60 Centre Street
New York, NY 10007

By Hand

January 22, 2013

RE: In the Matter of Financial Guaranty Insurance Company, Index No. 401265/2012, Motion Sequence #04

Dear Justice Ling-Cohan,

We represent Children's Health Partnership Pty Ltd ("CHP"), in its capacity as trustee of the CHP Unit Trust ("**CHP**"), and Ancora (RCH) Pty Ltd (ACN 127 920 754) ("**Ancora RCH**") (each, an "**Obligor**" and, together, the "**Obligors**"), one of the remaining objectors to the Plan of Rehabilitation for Financial Guaranty Insurance Company ("**FGIC**"). We submit this letter in response to Your Honor's request for letter briefs addressing the legal standard to be applied by the Court in determining whether to approve the Plan of Rehabilitation filed by the Rehabilitator (the "**Plan**").

We agree with and join in the letter brief filed by counsel for The Bank of New York Mellon and The Bank of New York Mellon Trust Company, N.A. (which is incorporated by reference as if fully set forth herein). As set forth therein, a plan of rehabilitation must be fair and equitable to all interested parties and a court must disapprove actions by a rehabilitator that are demonstrated, after a full hearing, to be arbitrary, capricious, or an abuse of discretion. As set forth in CHP's Amended Objection, portions of the Plan are unfair and inequitable, constitute an abuse of the Rehabilitator's discretion, and must therefore be disapproved by this Court.

The Obligors, in particular, would suffer inequitable treatment under the Plan because the Plan proposes to deprive the Obligors of their freely negotiated right to terminate their policies with FGIC for reasons unrelated to FGIC's rehabilitation. Long before this rehabilitation was initiated, in November 2007, FGIC – in order to induce the Obligors to enter into policies with FGIC – granted the Obligors the right to terminate their policies with FGIC in the event FGIC was no longer rated AA- by S&P or Aa3 by Moody's (the "**Termination Rights**"). Both an AA- and an Aa3 rating are indicative of an entity's strong financial health and low credit risk. Thus, FGIC specifically bargained to give the Obligors the right to terminate their policies even in situations where FGIC was in strong financial

health. Although the Obligors' Termination Rights are thus entirely unrelated to this Rehabilitation, the injunctive provisions of the Plan would prohibit the Obligors from exercising their rights. Indeed, the Obligors have expressly requested that the Rehabilitator permit them to terminate their policies with FGIC pursuant to the Termination Rights, and the Rehabilitator, relying on the broad injunction imposed by the Court, has refused to acknowledge the Termination Rights which FGIC agreed to and which the Obligors relied on in agreeing to do business with FGIC.

The Rehabilitator offers no justification for unjustly and unnecessarily depriving the Obligors of their bargained-for contractual rights. To the best of the Obligors' knowledge, they are the only FGIC policyholders with such termination rights. Furthermore, if the Obligors exercised their Termination Rights, the effect on the recovery of other policyholders would be minimal. Yet the Rehabilitator has not even attempted to explain why the Obligors should not be permitted to terminate their policies, or why preventing the Obligors from exercising their Termination Rights is necessary to achieve an effective rehabilitation of FGIC.

The Rehabilitator's blind insistence on a plan of rehabilitation which unnecessarily deprives the Obligors of their Termination Rights constitutes an abuse of discretion. For this reason, as well as those cited in the other parties' Amended Objections, the Plan should not be approved by this Court.

Respectfully Submitted,

Kate Z. Machan

cc: All Counsel (by email)