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In the Matter of the Rehabilitation of:

Case Nos. 10 CV 1576-K

Segregated Account of Ambac Assurance Corporation

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**REHABILITATOR'S RESPONSE TO "MOTION OF UNAVAILABILITY" OF  
OUT-OF-STATE COUNSEL FOR THE TREASURER OF THE STATE OF OHIO**

**Wisconsin Office of the Commissioner of Insurance and  
Sean Dilweg, Commissioner of Insurance of the State of Wisconsin,  
as Rehabilitator of the Segregated Account of Ambac Assurance Corporation**

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The Commissioner of Insurance of the State of Wisconsin, as Rehabilitator of the Segregated Account of Ambac Assurance Corporation, submits this short response to the "Motion of Unavailability of Counsel for Hearings," which was filed on September 7, 2010 by Attorney Lipps on behalf of the Treasurer of the State of Ohio (the "Treasurer"). (Dkt. 417, 422.) This eleventh-hour motion offers no justifiable grounds to delay hearings that have been on the Court's calendar for almost two months and directly involve a dozen other parties-in-interest.

First, the presence of counsel for the Treasurer is unnecessary at these hearings. Counsel for the Treasurer did not sign or independently file any documents in this matter until the latest "Motion of Unavailability" and has instead merely joined in the motions and briefs signed and filed by KnowledgeWorks, which describes itself as the administrator for the Treasurer on the policies at issue. KnowledgeWorks' counsel will presumably appear and argue at the September 9 and 13 hearings. (Dkt. 240, 420.) If the Treasurer had an independent perspective or argument to add, it certainly had the opportunity to avail itself of this Court's

briefing schedule to make those views known. Further, Attorney Lipps's firm has more than twenty other lawyers, and one of those lawyers (Joel E. Sechler) has recently moved for *pro hac vice* admission—presumably in order to appear at the hearing. The Rehabilitator has no objection to Attorney Sechler's admission *pro hac vice*.

Second, at the Court's July 9 hearing, counsel for the Rehabilitator offered to accommodate Attorney Lipps's scheduling conflict by hearing any issues involving the Treasurer at a later date. (July 9 Hearing, Transcript at 110:1-111:8.) Attorney Lipps did not contact counsel for the Rehabilitator to make any alternative arrangements.

Finally, for the reasons described in pages 9 and 10 of the Rehabilitator's Consolidated Brief in Opposition to Motions Scheduled for Hearing on September 9, 2010 (dkt. 347), the Treasurer is a bond *issuer*, not a policyholder or beneficiary. The Treasurer has made no effort to establish its standing to raise challenges in this proceeding.

Dated this 8<sup>th</sup> day of September, 2010.

FOLEY & LARDNER LLP

By:



Michael B. Van Sicklen, SBN 1017827  
Matthew R. Lynch, SBN 1066370

150 East Gilman Street  
Post Office Box 1497  
Madison, Wisconsin 53701  
Telephone: (608) 257-5035  
Facsimile: (608) 258-4258

*Attorneys for Wisconsin Office of the  
Commissioner of Insurance and  
Sean Dilweg, Commissioner of Insurance of  
the State of Wisconsin, as Court-Appointed  
Rehabilitator of the Segregated Account of  
Ambac Assurance Corporation*