

**Torres Rojas, Genara**

FOI # 14437

**From:** tperno@longislandconcrete.net  
**Sent:** Monday, November 25, 2013 4:05 PM  
**To:** Duffy, Daniel  
**Cc:** Torres Rojas, Genara; Van Duyne, Sheree; Qureshi, Ann  
**Subject:** Freedom of Information Online Request Form

Information:

First Name: Thomas  
Last Name: Perno  
Company: Long Island Concrete  
Mailing Address 1: 31-31 48th Ave.  
Mailing Address 2:  
City: Long Island City  
State: NY  
Zip Code: 11101  
Email Address: [tperno@longislandconcrete.net](mailto:tperno@longislandconcrete.net)  
Phone: 718-784-4606  
Required copies of the records: Yes

List of specific record(s):

We are requesting a copy of the Payment Bond provided by KSW Mechanical Services, Inc. Five Star Electric Corp. A Joint Venture to the Port Authority of New York and New Jersey for Contract No. WTC-924079 - Central Chiller Plant River Water, NY, NY.

**THE PORT AUTHORITY OF NY & NJ**

*FOI Administrator*

December 10, 2013

Mr. Thomas Perno  
Long Island Concrete  
31-31 48th Avenue  
Long Island City, NY 11101

Re: Freedom of Information Reference No. 14432

Dear Mr. Perno:

This is in response to your November 25, 2013 request, which has been processed under the Port Authority's Freedom of Information Code (the "Code", copy attached) for a copy of the Payment Bond provided by KSW Mechanical Services, Inc. Five Star Electric Corp. a Joint Venture to the Port Authority of New York and New Jersey for Contract No. WTC-924079 - Central Chiller Plant River Water, NY, NY.

Material responsive to your request and available under the Code can be found on the Port Authority's website at <http://www.panynj.gov/corporate-information/foi/14432-C.pdf>. Paper copies of the available records are available upon request.

Please refer to the above FOI reference number in any future correspondence relating to your request.

Very truly yours,



Daniel D. Duffy  
FOI Administrator

Attachment

*225 Park Avenue South, 17th Floor  
New York, NY 10003  
T: 212 435 3642  
F: 212 435 7555*

Bond #8213-13-08

Bond #82139699

Bond #PRF08957867

CONTRACT WTC-924,079

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS that we, the undersigned<sup>4</sup> Contractor and surety company (or companies), as principal and surety (or sureties), respectively,

<u>Contractor</u>	<u>Surety</u>
KSW Mechanical Services, Inc., Five Star Electric Corp., A Joint Venture Corporations organized under the laws of the State of Delaware and the State of New York, respectively.	Federal Insurance Company 15 Mountain View Road Warren, NJ 07059  Fidelity and Deposit Company of Maryland One Upper Pond Road, Morris Corporate Center II Parsippany, NJ 07054

*Approved  
7/18  
9/30/09*

<sup>4</sup> Insert names of the Contractor and surety company (or companies) in the appropriate columns. If space is insufficient add rider.  
If the Contractor is a corporation, give the state of incorporation, using also the phrase "a corporation organized under the laws of \_\_\_\_\_".  
If the Contractor is a partnership, give full names of partners, using the phrase "co-partners doing business under the firm name of \_\_\_\_\_".  
If the Contractor is an individual using a trade name, give individual name, using also the phrase "an individual doing business under the trade name of \_\_\_\_\_".

Bond #8213-13-08

Bond #82139699

Bond #PRF08957867

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If the Contractor is a corporation, give the state of incorporation, using also the phrase "a corporation organized under the laws of \_\_\_\_\_".  
If the Contractor is a partnership, give full names of partners, using the phrase "co-partners doing business under the firm name of \_\_\_\_\_".  
If the Contractor is an individual using a trade name, give individual name, using also the phrase "an individual doing business under the trade name of \_\_\_\_\_".

are hereby held and firmly bound unto The Port Authority of New York and New Jersey (herein called the "Authority") in the penal sum of Forty-Six Million One Hundred Ninety Thousand Dollars and NO Cents (\$46,190,000) for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, representatives, executors, administrators, successors and assigns. Each surety, however, if there is more than one, shall be jointly and severally liable for said penal sum.

Signed this 24<sup>th</sup> day of September, 2009

The condition of the above obligation is that

WHEREAS, the above named principal has entered into a Contract in writing with the Authority, a copy of which is hereby made a part of this bond as though herein set forth in full and which is designated Contract WTC-924.079 - "World Trade Center - Central Chiller Plant and River Water System - CCP Package 1", and

WHEREAS, the Authority has required this bond for the payment of all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract;

NOW, if all lawful claims of subcontractors, materialmen and workmen arising out of the performance of said Contract are paid, then this obligation shall be void, otherwise the same shall remain in full force and effect; it being expressly understood and agreed that, provided the sureties shall comply with the provisions hereof, the aggregate liability of all sureties for any and all claims hereunder shall in no event exceed the penal amount of this obligation as hereinbefore stated.

This undertaking is for the benefit of the Authority and all subcontractors, materialmen and workmen having lawful claims arising out of the performance of said Contract, and all such subcontractors, materialmen and workmen (as well as the Authority itself) shall have a direct right of action upon this bond; but the rights and equities of such subcontractors, materialmen and workmen shall be subject and subordinate to those of the Authority.

The sureties, for value received, hereby stipulate and agree that the obligations of said sureties and their bond shall be in no way impaired or affected by any extensions of time, modification, omission, addition or change in or to the said Contract or the construction to be performed thereunder, or by any supervision or inspection or omission to supervise or inspect the construction, or by any payment thereunder before the time required therein, or by any waiver of any provision or condition thereof (whether precedent or subsequent), or by any assignment, subletting or other transfer thereof or of any part thereof or of any construction to be performed or any moneys due or to become due thereunder; and said sureties do hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulate and agree that any and all things done and omitted to be done by and in relation to assignees, subcontractors and other transferees shall have the same effect as to said sureties as though done by or in relation to said principal.

The sureties shall give the General Counsel of the Authority the following notices:

- A. Written notice of an intent to pay any claim of a subcontractor, materialman or workman hereunder;
- B. Written notice within five days of the institution of an action by a subcontractor, materialman or workman hereunder.

The sureties shall not pay the claim of any subcontractor, materialman or workman hereunder until the expiration of thirty days after receipt by said General Counsel of notice under either subparagraph A or B above, describing the claim to be paid.

IN WITNESS WHEREOF, the principal and the sureties have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

KSW Mechanical Services, Inc.

(Seal)

Principal  
By: *[Signature]*  
Chief Executive Officer

Five Star Electric Corp.

(Seal)

Principal  
By: *[Signature]*  
Gary Segal, President

Federal Insurance Company

(Seal)

Surety  
By: *[Signature]*  
Daryl LaForge, Attorney-In-Fact

Fidelity and Deposit Company of Maryland

(Seal)

Surety  
By: *[Signature]*  
Daryl LaForge, Attorney-In-Fact

APPROVED AS TO ACCEPTABILITY OF SURETIES:

*[Signature]* 10/6/69  
Credit Manager

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of New York

SS:

County of Queens

On this 24 day of September, 2009, before me personally came and appeared Floyd WARKOL, to me known, who being by me duly sworn, did depose and say that he resides at White Plains, New York; that he is the Chief Executive Officer of K&W Mechanical Services, Inc. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

(Notary Seal) James F. Olinaro

(Notary Signature)

JAMES F. OLINARO  
Notary Public, State of New York  
No. 02OL8213526  
Qualified in Nassau County  
Commission Expires 7-30-2010

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of \_\_\_\_\_

SS:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known, and known to me to be one of the members of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Notary Seal) \_\_\_\_\_

(Notary Signature)

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of \_\_\_\_\_

SS:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Notary Seal) \_\_\_\_\_

(Notary Signature)

AFFIX ACKNOWLEDGMENT AND JUSTIFICATION OF SURETY

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of New York

SS:

County of Queens

On this 24th day of Sept., 2009, before me personally came and appeared Gary Segal to me known, who being by me duly sworn, did depose and say that he resides at

New York, New York; that he is the

President of Five Star Elect the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

(Notary Seal) Kathy S. Miano  
Notary Public, State of New York  
No. 01M15085105  
Qualified in Nassau County  
Commission Expires Sept. 3, 2010

*Kathy S. Miano*  
(Notary Signature)

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of \_\_\_\_\_

SS:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known, and known

to me to be one of the members of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument and he acknowledged to me that he executed the same as and for the act and deed of said firm.

(Notary Seal)

(Notary Signature)

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of \_\_\_\_\_

SS:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known and known to me to be the person described in and who executed the foregoing instrument and he acknowledged to me that he executed the same.

(Notary Seal)

(Notary Signature)

AFFIX ACKNOWLEDGMENT AND JUSTIFICATION OF SURETY

**ACKNOWLEDGEMENT OF ANNEXED INSTRUMENT**

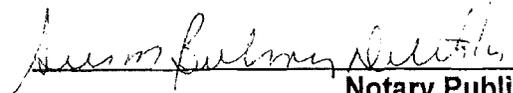
**Acknowledgement by Surety**

STATE OF           New Jersey

COUNTY OF       Somerset

On this 24<sup>th</sup> day of September, 2009 before me personally came Daryl LaForge who, being by me duly sworn, did depose and say that he/she is an Attorney-In-Fact of Federal Insurance Company and Fidelity and Deposit Company of Maryland and knows the corporate seal thereof; that the seal affixed to said annexed instrument is such corporate seal, and was thereto affixed by authority of the Power of Attorney of said Company, of which a Certified Copy is hereto attached, and that he/she signed said Instrument as an Attorney-In-Fact of said Company by like authority.

Acknowledged and Sworn to  
Before me on the date above written

  
\_\_\_\_\_  
Notary Public

Susan Bulman-Ditchkus  
Notary Public of New Jersey  
My Commission Expires on May 9, 2011

**Power of Attorney  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint John HYLAND, Daryl LAFORGE, Judith A. SANTORA, Beth A. TOTH and Anthony M. SPINA, all of Warren, New Jersey, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed, any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md. in their own proper persons. This power of attorney revokes that issued on behalf of Joseph J. MARK, John HYLAND, Daryl LAFORGE, Judith A. SANTORA, Beth A. TOTH, dated January 30, 2007.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 2nd day of July, A.D. 2008.

ATTEST:

FIDELITY AND DEPOSIT COMPANY OF MARYLAND



*Eric D. Barnes*

*Eric D. Barnes* Assistant Secretary

*Theodore G. Martinez*

By: *Theodore G. Martinez*

State of Maryland }  
City of Baltimore } ss:

On this 2nd day of July, A.D. 2008, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came THEODORE G. MARTINEZ, Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposed and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



*Constance A. Dunn*

*Constance A. Dunn* Notary Public  
My Commission Expires: July 14, 2011

**EXTRACT FROM BY-LAWS OF FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

"Article VI, Section 2. The Chairman of the Board, or the President, or any Executive Vice-President, or any of the Senior Vice-Presidents or Vice-Presidents specially authorized so to do by the Board of Directors or by the Executive Committee, shall have power, by and with the concurrence of the Secretary or any one of the Assistant Secretaries, to appoint Resident Vice-Presidents, Assistant Vice-Presidents and Attorneys-in-Fact as the business of the Company may require, or to authorize any person or persons to execute on behalf of the Company any bonds, undertakings, recognizances, stipulations, policies, contracts, agreements, deeds, and releases and assignments of judgements, decrees, mortgages and instruments in the nature of mortgages,...and to affix the seal of the Company thereto."

**CERTIFICATE**

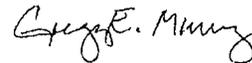
I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company,

this 24th day of September, 2009.



*Assistant Secretary*



**Chubb  
Surety**

**POWER  
OF  
ATTORNEY**

**Federal Insurance Company  
Vigilant Insurance Company  
Pacific Indemnity Company**

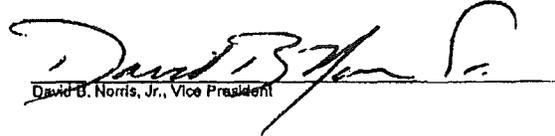
**Attn: Surety Department  
15 Mountain View Road  
Warren, NJ 07059**

Know All by These Presents, That **FEDERAL INSURANCE COMPANY**, an Indiana corporation, **VIGILANT INSURANCE COMPANY**, a New York corporation, and **PACIFIC INDEMNITY COMPANY**, a Wisconsin corporation, do each hereby constitute and appoint **Robert W. Boehm, John P. Hyland, Daryl LaForge, Anthony M. Spina and Beth A Toth of Warren, New Jersey and Diane P. Alessi, Theresa J. Foley, David A. Goldstein, Michael Marino, William A. Marino, James E. Marran, Jr., Fred Nicholson, Fern Perry, David W. Rosehill, Nancy Schnee, and Vincent A. Walsh of Jericho, New York**

each as their true and lawful Attorney- in- Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY** have each executed and attested these presents and affixed their corporate seals on this **2nd** day of **October, 2008**

  
Kenneth C. Wendel, Assistant Secretary

  
David B. Norris, Jr., Vice President

STATE OF NEW JERSEY  
County of Somerset ss.

On this **2nd**, day of **October, 2008** before me, a Notary Public of New Jersey, personally came Kenneth C. Wendel, to me known to be Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY**, the companies which executed the foregoing Power of Attorney, and the said Kenneth C. Wendel, being by me duly sworn, did depose and say that he is Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY**, and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of the By- Laws of said Companies; and that he signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that he is acquainted with David B. Norris, Jr., and knows him to be Vice President of said Companies; and that the signature of David B. Norris, Jr., subscribed to said Power of Attorney is in the genuine handwriting of David B. Norris, Jr., and was thereto subscribed by authority of said By- Laws and in deponent's presence.

Notarial Seal



**STEPHEN B. BRADT**  
Notary Public, State of New Jersey  
No. 2321097  
Commission Expires Oct. 25, 2009

  
Notary Public

**CERTIFICATION**

Extract from the By- Laws of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY**:

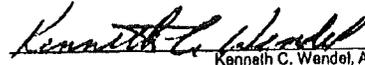
"All powers of attorney for and on behalf of the Company may and shall be executed in the name and on behalf of the Company, either by the Chairman or the President or a Vice President or an Assistant Vice President, jointly with the Secretary or an Assistant Secretary, under their respective designations. The signature of such officers may be engraved, printed or lithographed. The signature of each of the following officers: Chairman, President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Assistant Secretaries or Attorneys- In- Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached."

I, Kenneth C. Wendel, Assistant Secretary of **FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY** (the "Companies") do hereby certify that

- (i) the foregoing extract of the By- Laws of the Companies is true and correct,
- (ii) the Companies are duly licensed and authorized to transact surety business in all 50 of the United States of America and the District of Columbia and are authorized by the U.S. Treasury Department; further, Federal and Vigilant are licensed in Puerto Rico and the U.S. Virgin Islands, and Federal is licensed in American Samoa, Guam, and each of the Provinces of Canada except Prince Edward Island; and
- (iii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Warren, NJ this **24th** day of **September**, 2009



  
Kenneth C. Wendel, Assistant Secretary

IN THE EVENT YOU WISH TO NOTIFY US OF A CLAIM, VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT ADDRESS LISTED ABOVE, OR BY Telephone (908) 903- 3493 Fax (908) 903- 3656 e-mail: surety@chubb.com

# FEDERAL INSURANCE COMPANY

## STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS

Statutory Basis

DECEMBER 31, 2008

(in thousands of dollars)

<u>ASSETS</u>	<u>LIABILITIES AND SURPLUS TO POLICYHOLDERS</u>
Cash and Short Term Investments..... \$ 202,707	Outstanding Losses and Loss Expenses .... \$ 11,792,508
United States Government, State and Municipal Bonds..... 11,216,158	Unearned Premiums..... 3,522,120
Other Bonds..... 3,719,243	Reinsurance Premiums Payable ..... 337,760
Stocks ..... 609,081	Provision for Reinsurance ..... 109,756
Other Invested Assets..... 1,771,227	Other Liabilities..... 958,636
<b>TOTAL INVESTMENTS..... 17,518,416</b>	<b>TOTAL LIABILITIES ..... 16,720,780</b>
Investments in Affiliates:	Capital Stock ..... 20,980
Chubb Investment Holdings, Inc..... 2,642,766	Paid-In Surplus..... 3,106,809
Pacific Indemnity Company..... 1,831,737	Unassigned Funds..... 9,008,020
Chubb Insurance Investment Holdings Ltd. ... 1,227,650	 
Executive Risk Indemnity Inc..... 921,728	<b>SURPLUS TO POLICYHOLDERS..... 12,135,809</b>
CC Canada Holdings Ltd..... 583,643	 
Great Northern Insurance Company ..... 385,875	<b>TOTAL LIABILITIES AND SURPLUS TO POLICYHOLDERS..... \$ 28,856,589</b>
Chubb European Investment Holdings SLP . 239,173	
Chubb Insurance Company of Australia... 224,157	
Vigilant Insurance Company..... 152,634	
Other Affiliates..... 307,470	
Premiums Receivable..... 1,498,855	
Other Assets ..... 1,322,485	
<b>TOTAL ADMITTED ASSETS ..... \$ 28,856,589</b>	

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners.  
Investments valued at \$479,627,974 are deposited with government authorities as required by law.

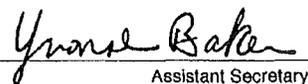
State, County & City of New York, — ss:

Yvonne Baker, Assistant Secretary \_\_\_\_\_ of the Federal Insurance Company  
being duly sworn, deposes and says that the foregoing Statement of Assets, Liabilities and Surplus to Policyholders of said  
Federal Insurance Company on December 31, 2008 is true and correct and is a true abstract of the Annual Statement of said  
Company as filed with the Secretary of the Treasury of the United States for the 12 months ending December 31, 2008.

Subscribed and sworn to before me  
this

  
\_\_\_\_\_  
Notary Public

DOROTHY M. BAKER  
Notary Public, State of New York  
No. 31-4904994  
Qualified in New York County  
Commission Expires Sept. 14, 2009

  
\_\_\_\_\_  
Assistant Secretary

**FIDELITY AND DEPOSIT COMPANY**

OF MARYLAND

3910 KESWICK ROAD, BALTIMORE, MD 21211-2226

Statement of Financial Condition  
As Of December 31, 2008

**ASSETS**

Bonds .....	\$ 148,252,979
Stocks .....	23,313,771
Cash and Short Term Investments .....	7,904,491
Reinsurance Recoverable .....	5,939,089
Other Accounts Receivable .....	38,307,386
TOTAL ADMITTED ASSETS .....	<u>\$ 223,717,718</u>

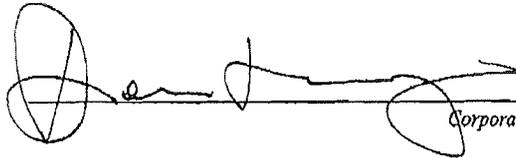
**LIABILITIES, SURPLUS AND OTHER FUNDS**

Reserve for Taxes and Expenses .....	\$ 597,566
Ceded Reinsurance Premiums Payable .....	38,399,492
Securities Lending Collateral Liability .....	6,094,921
TOTAL LIABILITIES .....	<u>\$ 45,091,979</u>
Capital Stock, Paid Up .....	\$ 5,000,000
Surplus .....	173,625,739
Surplus as regards Policyholders .....	<u>178,625,738</u>
TOTAL .....	<u>\$ 223,717,718</u>

Securities carried at \$38,306,550 in the above statement are deposited as required by law.

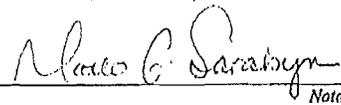
Securities carried on the basis prescribed by the National Association of Insurance Commissioners. On the basis of December 31, 2008 market quotations for all bonds and stocks owned, the Company's total admitted assets would be \$216,398,425 and surplus as regards policyholders \$171,306,445.

I, DENNIS F. KERRIGAN, Corporate Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company on the 31st day of December, 2008.

  
Corporate Secretary

State of Illinois }  
City of Schaumburg } SS:

Subscribed and sworn to, before me, a Notary Public of the State of Illinois, in the City of Schaumburg, this 14th day of March, 2009.

  
Notary Public

