

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

---

M. DIANE KOKEN,	:	x
Insurance Commissioner of the	:	
Commonwealth of Pennsylvania,	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
RELIANCE INSURANCE COMPANY,	:	
	:	
Defendant.	:	
	:	x

---

NO. 269 M.D. 2001

RECEIVED AND FILED  
 COMMONWEALTH COURT  
 OF PA (PHIL A)  
 2004 OCT 15 P 3:08

**ORDER**

This Matter having come before the Court on the Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company (in Liquidation) ("Reliance"), for Approval of Commutation, Settlement Agreement and Release between Reliance and John Hancock Life Insurance Company (the "Petition");

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2004, it is hereby ORDERED that the Petition is GRANTED, and that the Commutation, Settlement Agreement and Release attached as Exhibit A to the Petition (hereinafter "Settlement Agreement"), is APPROVED, that the terms of the Settlement Agreement are included by reference in this ORDER, and that the Liquidator is AUTHORIZED to take such steps as necessary and appropriate to effectuate the terms of the Settlement Agreement.

IT IS further ORDERED that that the Panel is authorized to execute a written direction in the form attached as Exhibit A and that Mellon Bank, N.A. ("Escrow Agent") is

authorized and directed to disburse all of the Escrow Funds, as defined in the July 7, 2003  
Escrow Agreement, to Reliance, pursuant to the terms of the Settlement Agreement.

---

**Hon. James Gardner Colins, President Judge**

IN THE MATTER OF THE ARBITRATION BETWEEN

_____	x	
JOHN HANCOCK MUTUAL LIFE	:	
INSURANCE COMPANY a/k/a JOHN	:	
HANCOCK FINANCIAL SERVICES, INC.,	:	
	:	
Petitioner,	:	
	:	
-and-	:	<u>Before the Panel:</u>
	:	Thomas M. Tobin, Umpire
RELIANCE INSURANCE COMPANY	:	Robert M. Hall, Arbitrator
(In Liquidation),	:	Daniel E. Schmidt, IV, Arbitrator
	:	
Respondent.	:	
_____	x	

Pursuant to the \_\_\_\_\_, 2004 Order of the Hon. James G. Colins,  
President Judge of the Commonwealth Court of Pennsylvania, and paragraph 4(a) of the July 7,  
2003 Escrow Agreement between Reliance Insurance Company (in Liquidation) ("Reliance")  
and John Hancock Life Insurance Company ("Hancock");

On this \_\_\_\_\_ day of \_\_\_\_\_, 2004, IT IS hereby  
DIRECTED that Mellon Bank, N.A. ("Escrow Agent") is authorized and directed to disburse all  
of the Escrow Funds, as defined in the Escrow Agreement, to Reliance.

\_\_\_\_\_  
Thomas M. Tobin, Umpire

\_\_\_\_\_  
Robert M. Hall, Arbitrator

\_\_\_\_\_  
Daniel E. Schmidt, IV, Arbitrator

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN,  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,

Plaintiff

v.

RELiance INSURANCE COMPANY,

Defendant

CIVIL ACTION

NO. 269 M.D. 2001

RECEIVED AND FILED  
COMMONWEALTH COURT  
OF PA (PHILLA)  
2001 OCT 15 P 3:48

**PETITION FOR APPROVAL OF COMMUTATION, SETTLEMENT AGREEMENT  
AND RELEASE**

Petitioner M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company (In Liquidation) ("Reliance"), respectfully requests that this Court enter an Order approving the Commutation, Settlement Agreement and Release between Reliance and John Hancock Life Insurance Company ("Hancock"). The Commutation, Settlement Agreement and Release is attached hereto as Exhibit "A".

In support of this petition, the Liquidator avers the following:

1. On October 3, 2001, this Court found Reliance insolvent and appointed the Commissioner as Liquidator of Reliance pursuant to Article V of the Insurance Department Act of 1921, 40 P.S. § 221.1 et seq. (hereinafter, the "Act").

2. The Act confers broad powers on the Liquidator to marshal the assets of Reliance in order to maximize the value of the insolvent insurer's estate for eventual distribution to its policyholders and creditors.

3. During the period principally between 1996 and 1998 Reliance wrote workers compensation business through an Ohio program manager affiliated with Credit General Insurance Company (the "PRS Business").

4. During the period principally between 1996 and 1998 Hancock assumed business derivative of the workers compensation exposures underwritten by Reliance and other insurers (the "WCA Business") as well as Accident, Medical and Disability covers (the "A&H Business").

5. During the period principally between 1992 and 1998, Hancock and Reliance entered into contracts of reinsurance wherein Hancock obligated itself to accept from Reliance various cessions of the PRS Business and other similar business (the "Reliance Outbound Contracts").

6. During the period principally between 1996 and 1998, Reliance and Hancock also entered into contracts of reinsurance wherein Reliance obligated itself to accept from Hancock various cessions of the WCA Business and the A&H Business (the "Reliance Inbound Contracts").

7. On December 9, 1999, Hancock issued a demand for arbitration seeking to rescind in its entirety the largest of the Reliance Outbound Contracts in which Reliance acted as an "issuing" carrier in respect of the workers compensation insurance policies issued by the Ohio program manager. Hancock sought to invalidate or reduce its obligation to repay Reliance for losses under the policies, advancing various theories about the manner in which the program manager handled the program. The arbitration involved extensive discovery and motion practice, and is scheduled for a 2-week hearing before a reinsurance arbitration panel commencing on October 18, 2004.

8. The parties have expended significant time and expense prosecuting and defending the arbitration. While neither party concedes liability, the outcome of the arbitration is not certain. In a mutual effort to reduce legal expenses and bring finality to both the dispute that is the subject of the arbitration and the business relationship between them as whole, the parties desire to resolve their differences and terminate their business relationship pursuant to the terms of the Commutation, Settlement Agreement and Release. Consistent with this desire, Reliance and Hancock have agreed to commute all of their respective obligations under the Reliance Outbound Contracts and the Reliance Inbound Contracts upon the payment by Hancock to Reliance of Thirty Million United States Dollars (US\$30,000,000), representing the commutation amount ("the Commutation Amount"), subject to the entry of an order by this Court approving the Commutation, Settlement Agreement and Release.

9. Under the terms of the Commutation, Settlement Agreement and Release, the Commutation Amount will be released to Reliance after satisfaction of the following conditions: (1) execution of the Commutation, Settlement Agreement and Release by the authorized representative of Reliance; (2) execution of the Commutation, Settlement Agreement and Release by the authorized representative of Hancock; (3) approval of the transaction by this Court; and (4) appropriate notice.

10. The Commutation Amount was negotiated between Reliance and Hancock, and the Liquidator has taken the necessary steps to determine whether the terms of the Commutation, Settlement Agreement and Release are fair and reasonable to the estate of Reliance and in the best interests of Reliance's policyholders, claimants and the general public. See 40 P.S. §§ 221.1(c), 221.23(9). As the affidavit (filed separately with the Liquidator's Petition for Leave to

File Confidential Affidavit Under Seal) of Keith Kaplan, a career reinsurance expert, establishes, the Liquidator has identified several advantages to the estate from execution of the Agreements:

- Hancock's contribution of \$30 million is a reasonable compromise of disputed claims and payments due, reached after thorough analysis and negotiation.
- The payment will be made immediately, producing a greater benefit to the estate than if the Liquidator must await future payments.
- The payment will be made without the expense and uncertainty of continuing the arbitration.
- All applicable reinsurance claims against Reliance by Hancock are released.

11. Based on the analysis of the terms of the Commutation, Settlement Agreement and Release, and the evaluation of the transaction as a whole by the Liquidator, her staff and Reliance staff members familiar with Reliance's dealings with Hancock in connection with the Reliance Outbound Contracts and the Reliance Inbound Contracts, the Liquidator has determined that the payment of the Commutation Amount is a fair and reasonable commutation of Hancock's and Reliance's obligations to each other under the Reliance Outbound Contracts and the Reliance Inbound Contracts. The Insurance Department Act authorizes the Liquidator to take such actions as she deems "necessary or expedient to . . . conserve or protect [the insolvent insurer's] assets or property[.]" including the power to "compromise" claims involving assets of the insolvent insurer in order to accomplish or aid in the achieving the purposes of liquidation. See 40 P.S. § 221.23(6, 9, and 23). Because the Commutation, Settlement Agreement and Release settles future claims against Hancock, and because the Commutation, Settlement

Agreement and Release requires the payment to Reliance of Thirty Million Dollars, the Liquidator believes that the Commutation, Settlement Agreement and Release is necessary and appropriate to conserve and maximize the invested assets of Reliance and reduce the administrative burdens of collecting future claims under the Reliance Outbound Contracts and adjusting future claims under the Reliance Inbound Contracts.

12. The Liquidator further believes that the Commutation, Settlement Agreement and Release will help her in achieving the objectives of liquidation under the Insurance Department Act, 40 P.S. § 221.1 et seq. The commutation transaction will assist the Liquidator in marshalling and maximizing Reliance's immediately available assets and minimize any unavoidable loss to policyholders, claimants and creditors resulting from Reliance's insolvency and hazardous financial condition. See 40 P.S. § 221.1(c). The Commutation, Settlement Agreement and Release will further resolve and dispose of any claim or offset, secured or otherwise, that Hancock has or may have against the estate of Reliance arising out of the Reliance Outbound Contracts and the Reliance Inbound Contracts.

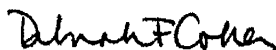
13. Accordingly, the Liquidator respectfully requests that this Court (1) approve the terms of the Commutation, Settlement Agreement and Release as set forth in Exhibit "A"; (2) authorize the execution and delivery of the Commutation, Settlement Agreement and Release on behalf of Reliance by the Liquidator or her designee; and (3) authorize the Liquidator to perform the Commutation, Settlement Agreement and Release pursuant to her authority under 40 P.S. § 221.23.

14. Notice will be provided to the Master Service List, as required by this Court's Order dated April 1, 2004.

WHEREFORE, the Liquidator respectfully requests that this Court grant the Petition, enter an Order in the form attached hereto, and order such other relief as this Court deems necessary and appropriate.

Respectfully submitted,

PEPPER HAMILTON LLP



---

DEBORAH F. COHEN  
3000 Two Logan Square  
18<sup>th</sup> and Arch Streets  
Philadelphia, PA 19103-2799  
(215) 981-4000

Attorneys for Plaintiff-Respondent M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company

Dated: October 15, 2004