

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

RE: Liquidator's April 2005 Report
and Recommendations on Claims

ORDER

AND NOW, this ____ day of _____, 2005, upon consideration of the
Liquidator's Petition For Approval of April 2005 Report and Recommendations on Claims
("Petition"), it is hereby ORDERED and DECREED:

1. The Petition is GRANTED and the claims listed in the April 2005 Report and Recommendations ("Report") are APPROVED and ALLOWED both as to classification and amount as listed;
2. The Report is incorporated herein by reference; and
3. The Claimants listed in the Report or their lawful assignees shall receive a distribution at the time and in the manner as finally approved by this Court as directed by ¶16 of this Court's Order of September 9, 2002.

Hon. James Gardner Colins, President Judge

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

**PETITION FOR APPROVAL OF APRIL 2005 REPORT AND
RECOMMENDATIONS ON CLAIMS**

Petitioner, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as the Statutory Liquidator (“Liquidator”) of Reliance Insurance Company (“Reliance”), in compliance with this Court’s Order of September 9, 2002 (“Claims Order”) and pursuant to 40 P.S. § 221.45, respectfully petitions this Court for an order approving her April 2005 Report and Recommendations on Claims (“Report”). In support of the Petition, the Liquidator avers the following:

BACKGROUND

1. Plaintiff M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, was appointed Liquidator of Reliance pursuant to this Court’s Order dated October 3, 2001 (“Liquidation Order”).

2. The Liquidation Order directed the Liquidator to “give notice by first-class mail to all persons which or who may have claims against Reliance.” See Liquidation Order, ¶ 19. By the end of the first quarter of 2002, the Liquidator provided Proof of Claim (“POC”)

forms and instructions to all known policyholders and creditors of Reliance as identified by the books and records of Reliance. Additionally, since the first quarter of 2002, the POC forms and instructions have been available on the Reliance Documents website at www.reliancedocuments.com.

3. This Court entered its Claims Order in September of 2002 establishing a comprehensive claims procedure in furtherance of the relevant provisions of the Insurance Department Act of 1921, 40 P.S. §§ 221.1 – 221.63 (the “Act”). See Order of the Court (entered Sept. 9, 2002). With respect to undisputed claims, the Claims Order states in pertinent part:

10(c) As soon as practicable, the Liquidator shall present to the Court a report of the claims determined by the Liquidator to which no objection was filed (“undisputed claims”). The report shall include: the name and address of each claimant, the particulars of the claim, and the amount of the claim determined by the Liquidator. The report shall be given, upon all parties listed on the master service list via first class mail, or, where designated, fax, or e-mail. The Court may approve disapprove or modify the report on claims by the Liquidator. Upon approval of the determination by the Court, the claimant will be eligible to receive a pro rata distribution of assets from the estate of Reliance Insurance Company pursuant to paragraph 15 herein.

See Claims Order, ¶ 10; see also 40 P.S. § 221.45.

4. With respect to disputed claims involving settlement for \$250,000 or less, the Claims Order states in pertinent part:

12. The Liquidator is authorized to pay or settle any, without prior Court approval, any debt owed by, or claimed to be owed by Reliance, if the resulting amount of such claim against Reliance Insurance Company is \$250,000.00 or less.

5. The Claims Order provides further that “claims which become the subject of a final order pursuant to paragraph [] 10(c) . . . shall be paid at the time and in the manner

provided in the plan of liquidation as finally approved by the Court or as may be otherwise ordered by the Court.” See Claims Order, ¶ 16.

APRIL 2005 REPORT AND RECOMMENDATION ON CLAIMS

6. Attached as Exhibit A is the Liquidator’s April 2005 Report and Recommendations on Claims (“Report”). The Report is comprised of 3 sections and reflects Notices of Determinations (“NODs”) issued by the Liquidator¹ for which the objection period expired by September 30, 2004.

7. The first section of the Report is a list of the undisputed claims filed against the assets of the Reliance estate. The claims are sorted alphabetically, within each class, by the Claimant’s name. The amount claimed by the Claimant, inter alia, is included in the Report.² Additionally, NODs that are issued as to classification only will have N/A in the Allowed Amount column of the Report.³

8. Approximately 20 of the undisputed NODs recommended in this report are actually amended NODs issued to correct the class or allowed amount of a claim previously recommended by the Liquidator and approved by this Court. NODs are issued as quickly as

¹ In certain instances, the system reflected duplicate POCs and thus duplicate NODs were issued. Subsequently, the Liquidator discovered the duplicates. However, for this Report, the duplicate NODs are reflected but the allowed amount shown is \$0. After August 1, 2004, the system was revised to inactivate duplicate POCs therefore no further duplicate NODs will be issued.

² If the claimant did not indicate a specific claim amount on the Proof of Claim, the claimed amount is noted as \$0.

³ The majority of claimants with undisputed claims below Class B were issued NODs as to their class status only. These claimants were advised that the Liquidator would evaluate the allowed amount of the claims if and when it appeared that there would be assets sufficient to distribute to the relevant class. However, if a claim was covered by reinsurance the allowed amount was determined to facilitate prompt reinsurance billings.

possible, but, for example, if new information later comes to the attention of the claims evaluator which would alter the allowed amount or priority, an amended NOD is issued. The claimant then has an opportunity to object to the amended NOD. Section 221.45(b) of the Act specifically authorizes the Liquidator to recommend and this Court to consider modifications of and to claims previously approved by the Court. See 42 P.S. § 221.45(b).

8. The second section of the Report, although not required by the Claims Order, but in compliance with 40 P.S. § 221.45, is a list of claims to which objections were filed (“disputed claims”) and which were settled for \$250,000 or less.

9. Upon resolution, the Liquidator issued an Amended NOD for these settled claims reflecting the resolution of the dispute, or in some cases, the claimant withdrew their objection. Accordingly, the Report reflects the dates that the objection was filed and the date resolved. There have been no objections filed to the Liquidator’s Amended NODs.

10. In resolving these disputed claims, the Liquidator carefully reviewed the proofs submitted by the claimants in support of the claims and independently determined the merit, classification and value of each claim, as required by the Act. See 40 P.S. §§ 221.37, 221.38, 221.44, 221.45.

11. NODs have been issued in both the disputed and settled categories referencing allowed amounts subject to a policy aggregate limit. In these cases, the NOD states that the allowed amount of the claim is subject to §221.40(d) which requires that if “...the aggregate allowed amount of the claims to which the same limit of liability in the policy is applicable exceeds that limit, then each claim as allowed shall be reduced a proportionate amount so that the total equals the policy limit.” The NODs recommended in this report are submitted subject to §221.40(d).

12. The third section of the Report is a summary sheet (that includes the undisputed and the settled claims) indicating the total number of NODs and the total amount allowed for each classification. See 40 P.S. § 221.44.⁴

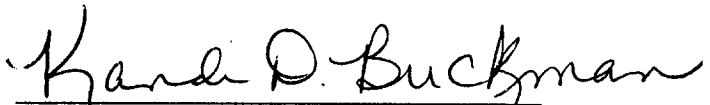
13. Given the discretion afforded the Liquidator to “comport, compromise, or in any other manner negotiate” claims against the liquidated estate, 40 P.S. § 221.45(a), the Liquidator believes that the classification and amounts she has determined for the reported claims are appropriate, fair and equitable and consistent with the relevant provisions of the Act and this Court’s Orders. The Liquidator further believes that the approval of the claims listed in the attached Report is in the best interests of the Reliance estate, its policyholders, claimants and other creditors.

14. Pursuant to 40 P.S. § 221.45(b) and relevant provisions of the Claims Order, the Liquidator respectfully requests that this Court approve and allow the classification and/or amount (as applicable) of the claims listed in the Report. In accordance with ¶16 of the Claims Order, any distribution to the Claimants or their lawful assignees will be made at the time and in the manner approved by this Court.

⁴ For purposes of this Report, the Class A claims are expenses incurred during the period of rehabilitation and paid as administrative costs therefore the NOD reflects a value of \$0.

WHEREFORE, the Liquidator respectfully requests that this Court grant her Petition and approve and allow the claims as listed in the Report attached as Exhibit A, enter an Order in the form attached hereto, and grant such other relief as the Court shall determine appropriate and just.

Respectfully submitted:

By: 

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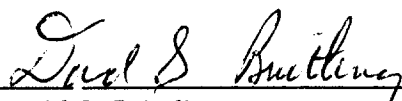
Date: April 6, 2005

VERIFICATION

I, David S. Brietling, Liquidation Chief Operating Officer for Reliance insurance Company, in liquidation, am authorized by M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. § 221.23, to act on her behalf in her capacity as the Liquidator of Reliance Insurance Company. I hereby verify that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief.

I understand that this Verification is made subject to the penalties of 18 P.S. § 4904 relating to unsworn falsification to authorities.

Date: April 4, 2005



David S. Brietling
Liquidation Chief Operating Officer
Reliance Insurance Company
in liquidation


CERTIFICATE OF SERVICE

I, Marilyn K. Kincaid , of Reliance Insurance Company (In Liquidation), on behalf of the Statutory Liquidator of Reliance Insurance Company, hereby certify that on or about this day, pursuant to the Court's Order of April 1, 2004, service of the foregoing was made on the attached Master Service List, the Claimants and if applicable Claimant's Counsel listed below through transmission via facsimile or first class mail of a Notice of Filing and through posting of a true and correct copy in PDF file format on the Reliance Documents website (www.reliancedocuments.com).

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Dated: April 6, 2005


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