

THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

LEXINGTON INSURANCE COMPANY,

Petitioner,

v.

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

Respondent.

Docket No. 269 M.D. 2001

Before the Honorable James
Gardner Colins,
President Judge

Assigned to Referee Edward S.
Finkelstein

RECEIVED AND FILED
COMMONWEALTH COURT
OF PENNSYLVANIA

2005 APR 22 3:00

ORDER

And NOW this _____ day of _____, 2005, upon
consideration of the Statutory Liquidator's Motion to Withdraw Her Motion to Stay Lexington
Insurance Company's Cut-Through Proceedings, and any response thereto, it is HEREBY
ORDERED AND DECREED that the Statutory Liquidator's Motion to Withdraw is GRANTED.

JAMES GARDNER COLINS, President Judge

1. On December 2, 2003, Lexington Insurance Company filed its Objections (“Lexington’s Cut-Through Proceedings”) to the Statutory Liquidator’s Denial of A Direct Payment Request and Petition for Review.

2. On December 19, 2003, the Statutory Liquidator filed its Responses and supporting Memorandum of Law to Lexington Insurance Company’s Objections To The Liquidator’s Denial of Lexington’s Direct Payment Request.

3. On January 5, 2004, Lexington filed its Reply Memorandum in Further Support of Its Objections to the Liquidator’s Denial of a Direct Payment Request and Petition for Review.

4. On April 8, 2004, this Court assigned Edward S. Finkelstein, Esquire, as referee to hear the Objections of Lexington and to issue a Report and Recommendation on Lexington’s Cut-Through Proceedings. This matter is currently active before Referee Finkelstein.

5. On July 28, 2004, the Statutory Liquidator filed her Motion to Stay Lexington Insurance Company’s Cut Through Proceedings, and supporting Memorandum of Law, seeking to stay the Lexington Cut-through Proceedings pending disposition by the Pennsylvania Supreme Court of the appeals filed in (1) *Koken v. Reliance Insurance Company: In Re: Baptist Health South Florida, Inc. objection to Liquidator’s denial of a direct payment request; Palm Springs General Hospital objection to the Liquidator’s denial of a direct payment request; the Exceptions to the Report of Referee James Schwartzman*, (Docket No. 60 MAP 2004) and (2) *Koken v. Legion Insurance Company*, (Docket Nos. 204, 205, 211, and 212 MAP

2003), which relate to direct access to reinsurance proceeds, the same issue presented in Lexington's Cut-through Proceedings.

6. On August 17, 2004, Lexington filed its Opposition to Statutory Liquidator's Motion to Stay Lexington's Insurance Company's Cut-through Proceedings, and supporting Memorandum of Law, seeking to oppose the Statutory Liquidator's Motion to Stay.

7. On August 25, 2004, the parties filed the Stipulation of the Statutory Liquidator and Lexington Insurance Company To Delay Ruling On the Statutory Liquidator's Motion to Stay requesting that the Court delaying ruling on the Statutory Liquidator's Motion To Stay until October 4, 2004 pending the parties' settlement negotiations.

8. On September 27, 2004, the Statutory Liquidator filed its Reply Brief in Support of Her Motion To Stay.

9. On October 4, 2004, Lexington filed its Surreply in Opposition to Statutory Liquidator's Motion to Stay.

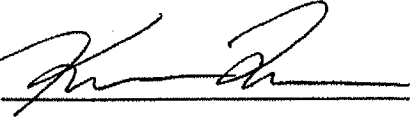
10. Pending the disposition of the Statutory Liquidator's Motion to Stay before this Court, this matter has been actively litigated before Referee Finkelstein and is nearing a conclusion.

11. The Statutory Liquidator now wishes to withdraw her Motion To Stay.

WHEREFORE, the Statutory Liquidator respectfully requests that her Motion to Stay Lexington's Cut-through Proceedings be withdrawn.

Respectfully submitted,

PEPPER HAMILTON LLP

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Attorneys for Plaintiff
M. Diane Koken, Insurance Commissioner
of the Commonwealth of Pennsylvania, in the
Reliance Insurance Company

Dated: April 22, 2005

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2005, I caused true and correct copies of the foregoing Proposed Order; Motion to Withdraw Motion to Stay Lexington Insurance Company's Cut-Through Proceeding of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company, to be served as follows:

Via Electronic and First Class Mail

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Via Electronic Mail and First Class Mail

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Via Notice of Filing

Members of the Master Service List



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