

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

v. :

No. 269 M.D. 2001

RELIANCE INSURANCE COMPANY, :  
Defendant :

IN RE: Stipulation Between the Liquidation and Magellan Insurance Company,  
Ltd. Regarding the Release of Security in the amount of \$133,000

2005 NOV -7 P 4: 25

RECEIVED AND FILED  
CORPORATE ALTH COURT  
OF PA (PHILAD)


**ORDER**

AND NOW, this 7<sup>th</sup> day of November 2005, upon consideration of the Stipulation and Order Between the Liquidator and Magellan Insurance Company, Ltd. Regarding the Release of Security in the amount of \$175,000 to Magellan and \$450,000 to Reliance, and upon the recommendation of the Referee assigned to the matter that Stipulation and Order is APPROVED and shall be incorporated in this Order by reference.

**FURTHER**, the Liquidator, through her counsel, is hereby directed to serve a copy of this Order, forthwith, upon all parties listed on the master service list via U.S. mail, or, where designated, fax and/or email. Petitioners, through counsel, are directed to file

ORDER

with the court in the Office of the Prothonotary, 9<sup>th</sup> floor of The Widener Building, 1339  
Chestnut Street, Philadelphia, PA 19107, by **3:00 p.m.**, on the                    day of  
2005, an affidavit that service, as outline above, has been effected.

  
\_\_\_\_\_  
JAMES GARDNER COLINS,  
President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY  
(IN LIQUIDATION),

Defendant.

NO. 269 M.D. 2001

MAGELLAN INSURANCE COMPANY, LTD.,

Petitioner,

v.

M. DIANE KOKEN,

Respondent.

STIPULATION AND ORDER

Reliance Insurance Company (in Liquidation) ("Reliance") and Magellan Insurance Company, Ltd. ("Magellan") (Reliance and Magellan may hereinafter be referred to collectively as the "Parties"), by and through their undersigned counsel, hereby stipulate and agree as follows:

I. Magellan and Reliance entered into a contingent and excess liability insurance program by agreement effective June 1, 1996 (the "C&E Treaty"). Under the C&E Treaty, Reliance ceded and Magellan accepted certain liability on commercial automobile policies in the Tri-Arc Contingent Auto Leasing Insurance Program.

2. Common Account Reinsurance is in place for the C&E Treaty, and Gerling Global Reinsurance Company ("Gerling") and SCOR Reinsurance Company ("SCOR") are two of the participants on the Common Account Reinsurance. Gerling participates forty percent (40%) on the 1996 year and SCOR participates forty percent (40%) on 1996 and fifty percent (50%) on 1997 and 1998.

3. Magellan and Reliance entered into a residual value insurance program by agreement effective March 1, 1997 (the "RV Treaty"). Under the RV Treaty, Reliance ceded and Magellan accepted, certain liability on automobile residual value insurance policies in the Tri-Arc Residual Value Insurance Program.

4. Magellan's reinsurance obligations to Reliance are secured by a certain Trust Agreement between Magellan and Reliance dated August 1, 1998 (the "Trust") and a certain Letter of Credit dated January 15, 1999 (the "LOC"). The Parties do not here address their dispute as to whether the Trust secures only obligations referred to in paragraph 1 above, pertaining to the C&E Treaty, or whether the Trust also secures the obligations referred in paragraph 2 above, pertaining to the RV Treaty.

5. Reliance was placed into Rehabilitation by Order of the Commonwealth Court of Pennsylvania on May 29, 2001 and subsequently into Liquidation by Order of the Commonwealth Court of Pennsylvania on October 3, 2001.

6. Paragraph 7, "Release of Collateral," of the Order of the Commonwealth Court of Pennsylvania dated November 30, 2001 states that:

Collateral held by Reliance as security for obligations of third parties is not subject to the guidelines set forth herein requiring

Court approval. The Liquidator may, but need not, in her reasonable discretion, release such collateral in whole or in part, when she determines it is reasonable or appropriate to do so.

7. Magellan petitioned the Commonwealth Court of Pennsylvania by petition dated March 15, 2004 for an Order requiring Reliance to release \$400,000 of collateral security to Magellan (the "Petition").

8. By Order dated July 26, 2004, the Petition was withdrawn without prejudice, by way of stipulation releasing \$133,000 of collateral security to Magellan, and without an adjudication of any issues of law or fact. On or about May 19, 2005, Referee Byron LaVan reopened the Petition pursuant to Magellan's request that Reliance release additional collateral security to Magellan.

9. The Parties wish to resolve the Petition, by way of stipulation, and without an adjudication of any issues of law or fact.

10. Based upon the foregoing, upon the Effective Date,<sup>1</sup> or as soon thereafter as is reasonably practicable:

(a) Reliance will release to Magellan \$175,000, to be effected by Magellan drawing down on the assets custodied by Brown Brothers Harriman & Co. ("Brown Brothers"), Trustee of the Magellan Insurance Company Ltd. Reinsurance Trust f/b/o Reliance, Trust Account #7865504 (the "Trust Account," see Brown Brothers' Trust Account Holdings Summary Report, Exhibit A hereto), which Reliance expressly agrees to permit.

(b) Magellan agrees that any balance remaining from the sale of the aforementioned Trust Account assets described in paragraph (b) after the payment by Reliance to Magellan described in paragraph (a) above, shall be retained in the Trust Account.

<sup>1</sup> "Effective Date" means the date on which all parts of this Stipulation are fully executed, and approved by the Commonwealth Court of Pennsylvania.

(d) Magellan will permit Reliance to draw down \$450,000 on the assets custodied by Brown Brothers held in the Trust Account, representing payment of certain paid losses and expenses, and case loss reserves.

(e) Magellan agrees to withdraw the Petition, without prejudice, upon receipt of the payment described in paragraphs (a) and (b) above. Magellan's ability to subsequently petition the Commonwealth Court of Pennsylvania or otherwise attempt to release collateral in the Trust for the benefit of Magellan is stayed and/or Magellan is enjoined from proceeding in any manner to attempt to release collateral in the Trust for the benefit of Magellan up to and including October 1, 2006.

(f) Magellan agrees to notify Reliance of receipt of the aforementioned payment by notice in writing either delivered personally or by certified mail, return receipt requested to Ralph B. Gilmartin, Vice-President and Associate General Counsel, Reliance Insurance Company (in Liquidation), 5 Hanover Square, 11<sup>th</sup> Floor, New York, NY 10004, with a copy to Charles E. Leasure, III, Esquire, Pepper Hamilton LLP, 3000 Two Logan Square, 18<sup>th</sup> and Arch Streets, Philadelphia, PA 19103.

11. No provision of this Stipulation shall be construed as a waiver, modification or retraction of the respective collateral security calculations of the Parties and the legal positions of the Parties with respect to the interpretation and application of the C&E Treaty, RV Treaty, the Trust, the collateral security arrangement between Reliance and Magellan, and/or the Order referred to in paragraph 5 above.

12. This Stipulation is a disposition of Magellan's Petition and is not intended to be, nor shall it be construed as, an exception to or purported modification of any contract provision, regulation, Order of Court, or rule of law respecting the obligations of reinsurers in cases of an insolvency of a primary insurer.

13. This Stipulation is the product of informed negotiations and involves compromises of the Parties' previously stated factual and legal positions. Accordingly, this Stipulation does not reflect the Parties' views as to the rights and obligations with respect to matters or persons outside the scope of this Stipulation. To the contrary, the Parties explicitly disavow any intention to create rights in third parties by, under or in relation to this Stipulation.

This Stipulation shall not prejudice or affect in any way whatsoever the positions taken by Reliance, and Magellan with regard to other Reliance insureds.

14. The Parties agree that this Stipulation and the negotiations surrounding the Stipulation shall not be admissible in any suit, action, or other proceeding, except as shall be necessary to enforce the terms of this Stipulation.

15. Nothing in this Stipulation shall be deemed to alter, modify or delete any of the terms or conditions of the C&E Treaty, the Common Account Reinsurance, the RV Treaty and/or the Trust except as expressly provided in this Stipulation. As the product of informed negotiations, this Stipulation shall not be subjected to the doctrine of contra proferentem, the doctrine of ambiguities, or any similar canon of construction.

16. Nothing in this Stipulation nor any action taken in accordance with its terms shall be construed in any way to prejudice the interests or rights of the Parties with respect to any other contingent and excess, common account, residual value and/or trust agreements, and all rights, causes of action, claims or benefits of the Parties with respect to any such other agreements are preserved.

17. Furthermore, should this Stipulation not be approved by the Commonwealth Court of Pennsylvania, it is the Parties' intention that this Stipulation, including all of its terms, shall be null, void, and of no effect, and the parties shall remain in their respective positions as they existed at the time of filing the Petition. In such circumstances, the Parties intend that no part of this Stipulation, or the negotiations surrounding this Stipulation, shall be admissible on any basis or for any reason whatsoever in any suit, action or other

proceeding, or offered against any party for any reason whatsoever, or be deemed evidence of any presumption, concession or admission with respect to any matter.

18. No change or modification of this Stipulation shall be valid unless it is contained in writing and signed by all the Parties.

19. Upon approval of this Stipulation by the Commonwealth Court of Pennsylvania, Magellan shall deliver a copy of the Court-approved, fully executed Stipulation and Order to Brown Brothers, 1531 Walnut Street, Philadelphia, PA 19102, with a copy of the transmittal letter to Brown Brothers to Charles E Leasure, III, Esquire, Pepper Hamilton LLP, Two Logan Square, 18<sup>th</sup> and Arch Streets, Philadelphia, PA 19103.

PEPPER HAMILTON LLP  
Attorneys for M. Diane Koken, Pennsylvania  
Insurance Commissioner in her capacity as  
Liquidator of Reliance Insurance Company  
3000 Two Logan Square  
18<sup>th</sup> and Arch Streets  
Philadelphia, PA 19103  
(215) 981-4000

MCCARTER & ENGLISH, LLP  
Attorneys for Magellan Insurance  
Company, Ltd.  
Mellon Bank Center  
Suite 700  
1735 Market Street  
Philadelphia, PA 19103  
(215) 979-3800

By: *Charles E. Leasure, III*  
Charles E. Leasure, III, Esquire

Dated: Sept 27, 2005

By: *R. Nicholas Gimbel*  
R. Nicholas Gimbel, Esquire

Dated: Sept. 26, 2005



AGREED AND CONSENTED TO:

MAGELLAN INSURANCE COMPANY, LTD.

By: \_\_\_\_\_

*[Signature]*  
Title: Jon W. Yoskin, II, Chairman and  
Chief Executive Officer of Magellan  
Insurance Company, Ltd.

Date \_\_\_\_\_

*9/23/05*

THE STATUTORY LIQUIDATOR OF  
RELIANCE INSURANCE COMPANY (IN  
LIQUIDATION), AS SUCCESSOR IN  
INTEREST BY MERGER TO UNITED  
"PACIFIC INSURANCE COMPANY,  
RELIANCE INSURANCE COMPANY OF  
ILLINOIS, RELIANCE NATIONAL  
INSURANCE COMPANY, RELIANCE  
NATIONAL INDEMNITY COMPANY,  
RELIANCE UNIVERSAL INSURANCE  
COMPANY, RELIANT INSURANCE  
COMPANY, AND RELIANCE DIRECT  
INSURANCE COMPANY

By: \_\_\_\_\_

Title: David S. Brietling, Liquidation Chief  
Operating Officer, authorized designee for  
M. Diane Koken, Insurance Commissioner  
of the Commonwealth of Pennsylvania, in  
her official capacity as Statutory Liquidator  
of Reliance Insurance Company

Date: \_\_\_\_\_

AGREED AND CONSENTED TO:

MAGELLAN INSURANCE COMPANY, LTD.

By: \_\_\_\_\_  
Title: Jon W. Yoskin, II, Chairman and  
Chief Executive Officer of Magellan  
Insurance Company, Ltd.

Date \_\_\_\_\_

THE STATUTORY LIQUIDATOR OF  
RELIANCE INSURANCE COMPANY (IN  
LIQUIDATION), AS SUCCESSOR IN  
INTEREST BY MERGER TO UNITED  
"PACIFIC INSURANCE COMPANY,  
RELIANCE INSURANCE COMPANY OF  
ILLINOIS, RELIANCE NATIONAL  
INSURANCE COMPANY, RELIANCE  
NATIONAL INDEMNITY COMPANY,  
RELIANCE UNIVERSAL INSURANCE  
COMPANY, RELIANT INSURANCE  
COMPANY, AND RELIANCE DIRECT  
INSURANCE COMPANY

By: David S. Brietling  
Title: David S. Brietling, Liquidation Chief  
Operating Officer, authorized designee for  
M. Diane Koken, Insurance Commissioner  
of the Commonwealth of Pennsylvania, in  
her official capacity as Statutory Liquidator  
of Reliance Insurance Company

Date: 9/30/05

**EXHIBIT A**

SEP 13 2001 10:32 FR BROWN BROTHERS HARRI 215 864 1633 TO 92157544299

P. 02/08

Account #7865504

BROWN BROTHERS HARRIMAN TRUST CO.  
TRUSTEE OF THE MAGELLAN INSURANCE  
COMPANY LTD  
REINSURANCE TRUST FBO RELIANCE

August 31, 2005

06025107824@brownbrothers.com  
MR. JON W. YOSKOW  
TRU-ARC HOLDINGS, INC.  
1 BRIGHTVIEW AVE.  
HOPE SOUND, FL 33465

Relationship Assistant: CATHERINE KREIDER  
Telephone Number: (215) 864-8827

Account Manager: KENNETH LYNCH  
Telephone Number: (215) 864-1878

SEP 13 2001 10:32 FR BROWN BROTHERS HARRI 215 864 1863 TO 92157344289

P.03/06

Account # 7861504

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Account # 7885504

**Holdings Summary Report**  
As of August 31, 2005

Portfolio Holdings	Market Value By Sector	Yield to Maturity*	Percent of Portfolio	Estimated Annual Income
<b>CASH AND CASH EQUIVALENTS</b>	1,272,630.38	2.73%	62.1%	2,985.33
<b>CORPORATE OBLIGATIONS</b>	36,090.80	4.60%	6.2%	5,137.50
<b>PREFERRED STOCK</b>	182,268.72	7.03%	11.8%	12,596.00
<b>FIXED INCOME SECURITIES</b>	270,358.52	6.19%	17.9%	18,413.50
<b>Total Portfolio</b>	<b>\$1,551,048.50</b>	<b>3.35%</b>	<b>100.0%</b>	<b>20,618.83</b>

**Portfolio Characteristics (Fixed Income plus cash only)**

Weighted Average Modified Duration  
Weighted Average Maturity  
Weighted Average Quality  
Weighted Average Current Yield

0.3 Years  
0.6 Years  
GOV (9.77)  
1.33%

\* Yield to maturity for callable securities is calculated as yield to first call or yield to maturity, whichever is lower, plus the present value of the call option. Yield to maturity for securities with sinking dates incorporates a provision of capital in each sinking date. Yield to maturity for equities is the dividend yield for common securities or the yield to maturity for preferred securities.

\* SDP-19, AICM-9, AICM-1, AICM-2, AICM-3, AICM-4, AICM-5, AICM-6, AICM-7, AICM-8, AICM-9, AICM-10, AICM-11, AICM-12, AICM-13, AICM-14, AICM-15, AICM-16, AICM-17, AICM-18, AICM-19, AICM-20, AICM-21, AICM-22, AICM-23, AICM-24, AICM-25, AICM-26, AICM-27, AICM-28, AICM-29, AICM-30, AICM-31, AICM-32, AICM-33, AICM-34, AICM-35, AICM-36, AICM-37, AICM-38, AICM-39, AICM-40

Note: This report is on a trade-date basis.

SEP 13 2005 10:32 FR BROWN BROTHERS HARRIS 215 864 1853 TO 92157544289 P. 04/08

SEP 13 2001 18:33 FR BROWN BROTHERS HARRI 215 664 1853 TO 92157544289

P.05/08

ACCOUNT # 7865504

**Holdings Detail Report**  
As of August 31, 2003

Particulars	Security Description	Company Name	Maturity Date	Rating	Principal Cost	Current Book Value	Market Price	Market Value		Unrealized Gain/Loss	YTD (%)
								Principal	Accrued Int/Div		
<b>CASH AND CASH EQUIVALENTS</b>											
	CASH				34,023.38			34,023.38			2.67
	CORP										
	1,250,000 U.S. TREASURY BILLS				1,149,264.00			1,149,264.00		3,554.00	2.96
	CDP										
	PRICED TO MATURITY/CALL DEPOSIT				68,000.00			68,000.00			
	CORP										
	CASH AND CASH EQUIVALENTS TOTAL				1,272,000.00			1,272,000.00		3,554.00	2.77%
<b>CORPORATE OBLIGATIONS</b>											
	Corporate Obligations										
	65,000 MORGAN STANLEY DEBIT WARRANT			AA3	85,775.66	85,153.45	810.48	51,873.39	1,167.50	16,090.49	4.60
	CORP										
	611,462.41										

\* Dividend Yield

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**Holdings Detail Report**  
As of August 31, 2005

ACCOUNT # 7865504

PartStance	Security Description	Coupon	Maturity	Dividend	Rate	Rating	Principal Cost	Current Book Value	Market Price	Market Value			Unrealized Gain/Loss	YTM
										Principal	Accrued	Total		
<b>PREFERRED STOCK:</b>														
<b>Preferred Stocks</b>														
4.000	BNY CAPITAL GR IN COLL STK E CHUBB L INSUR & FID CORP - GENESEE	5.875	N1				91,698.16	91,631.15	25.600	102,400.00	178.17	98,178.12	4,241.84	6.54
2.000	ROYAL BANK OF SCOTLAND PAYS QUARTERLY CUSIP: 806618A1	2.000	N1				21,993.99	14,991.99	26.450	78,400.00		28,400.00	1,150.07	7.89
	<b>Preferred Stocks TOTAL</b>						113,692.15	106,623.14		180,800.00		126,578.12	5,391.91	7.21%
	<b>FIXED INCOME SECURITIES TOTAL</b>						528,414.01	524,811.88		624,471.28	61,865.22	572,606.66	51,864.62	6.16%
	<b>LESS CASH/QUE TO COMPLET DEBITES</b>									0.00			0.00	
	<b>PLUS CASH/QUE FROM COMPLET DEBITES</b>									0.00			0.00	
	<b>TOTAL</b>						1,130,496.16	1,127,035.02		1,124,171.28	118,832.22	1,005,339.06	52,256.52	6.28%

\* Dividend Yield:

SEP 13 2001 10:53 FR BROAD BROTHERS HARRI 215 864 1853 TD 92157544289 P. 06/08



Account # 7865504

**Income Report**  
For Period August 1, 2005 to August 31, 2005

Purchases	Society Description	Company Dividend	Expiry Date	Trade Date	Book Value at Beginning of Period	Amount Accrued	Book Value at End of Period	Unsettled Received	Change in Accrued Value	Income Earned
<b>CASH AND CASH EQUIVALENTS</b>										
	CASH									
	BANK OF AMERICA CALL DEPOSIT	0.000	08/28/05	07/27/05	91,907		88,600	72		72
	U.S. TREASURY BILLS				52,151,000		51,142,000	48		186
	CASH AND CASH EQUIVALENTS TOTAL				52,242,907		51,234,600	288		258
<b>CORPORATE DEBENTURES</b>										
	PREFERRED STOCK									
	AMERICAN STANLEY DEBENTURE	5.750	04/05/14	07/15/01	396,165	(\$72)	396,153		618	466
<b>PREFERRED STOCK</b>										
	PREFERRED STOCK									
	BANK OF AMERICA 1% CALL SER. E	5.875		04/18/09	127,455		112,455		215	715
	BANK OF AMERICA 2% CALL SER. E	6.375		06/16/09	45,179		43,379		609	639
	BANK OF AMERICA 1% CALL SER. F	6.875		05/15/09	34,164		34,784		644	644
	ROYAL BANK OF SCOTLAND PMS QUARTERLY	6.000		07/29/09	40,000		40,000			
	ROYAL BANK OF SCOTLAND PMS QUARTERLY	6.000		07/29/09	35,000		35,000			
	PREFERRED STOCK TOTAL				338,648		338,648		1,278	1,278
	<b>TOTAL</b>				\$1,289,527	\$720	\$1,289,512	288	2,102	1,419

Income Earned is equal to Market/Quoted plus Interest/Dividend Received plus Change in Accrued Interest/Dividend.

SEP 13 2001 10:33 FR BROWN BROTHERS HARRI 215 854 1653 TO 92157544289 P.07/06

SEP 13 2001 10:33 FR BROWN BROTHERS HARRI 215 864 1853 TO 92157544289

P.08/08

Account # 7065504

**Schedule of Contributions and Withdrawals**  
For Period: August 1, 2005 to August 31, 2005

<u>Date</u>	<u>Purchases</u>	<u>Description</u>	<u>Amount</u>
		No activity for period	

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\*\*\* TOTAL PAGE.08 \*\*\*