

THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELiance INSURANCE COMPANY,

Defendant.

PALM SPRINGS GENERAL HOSPITAL
and BAPTIST HEALTH SOUTH
FLORIDA, INC.,

Objectors,

v.

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

Respondent.

No. 269 M.D. 2001

Before
JAMES GARDNER COLINS,
President Judge

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COMMONWEALTH COURT
OF PENNSYLVANIA
2006 AUG 24 P 2:28

ORDER

AND NOW, this ____ day of _____, upon consideration of the
Liquidator's Petition for Issuance of a Commission and Letter Rogatory, it is hereby ORDERED
that a commission and letter rogatory be issued out of and under the seal of this Court directed to
the Superior Court of California, Los Angeles County to issue a subpoena compelling the
depositions of SCPIE's corporate designees, Joseph Henkes, Patrick Lo, Barbara Kuberry,

Carlota Redondo and Donald Zuk at such time and place as may be agreed by the parties, as well as to any Notary Public of the State of California, or any other person authorized to administer oaths, to take the above-referenced depositions.

BY THE COURT:

_____, J.

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**JOINT PETITION FOR ISSUANCE OF COMMISSION AND LETTER ROGATORY
TO TAKE THE DEPOSITION OF THE SCPIE COMPANIES**

Objectors Palm Springs General Hospital (“Palm Springs”) and Baptist Health South Florida, Inc. (“Baptist”) (collectively “Hospitals”) and Respondent M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania in her official capacity as Statutory Liquidator of Reliance Insurance Company (In Liquidation) (“Liquidator”), by and through their attorneys, pursuant to Pennsylvania Rule of Civil Procedure 4015 and 42 Pa.C.S.A. § 5325, respectfully petition this Court for the issuance of a Commission and Letter Rogatory to take obtain discovery from The SCPIE Companies (“SCPIE”), including its current and/or

former employees Joseph Henkes, Patrick Lo, Barbara Kuberry, Carlota Redondo and Donald Zuk. The discovery to be obtained, which will be in the form of depositions, is important to the resolution of this matter. In support of the petition, the parties aver as follows:

1. Palm Springs and Baptist have objected to the Liquidator's denial of a request that American Health Indemnity Company ("AHIC"), a subsidiary of SCPIE that was a reinsurer of certain policies issued by Reliance, be permitted to pay reinsurance proceeds directly to Objectors.

2. Pursuant to a November 23, 2005 Order of the Pennsylvania Supreme Court, the parties have been conducting discovery relating to the issue of whether the Hospitals are entitled to direct access to reinsurance proceeds from AHIC. The documents exchanged between the parties reflect that SCPIE has material information relating to this issue.

3. The Liquidator requested documents from SCPIE and SCPIE has agreed to produce such documents voluntarily. The parties also expected SCPIE to make at a minimum, a corporate designee available for deposition, but SCPIE has refused to voluntarily make any of its employees available for depositions.

4. The parties would like to conduct depositions of Joseph Henkes, Patrick Lo, Barbara Kuberry, Carlota Redondo and Donald Zuk, current SCPIE employees and/or parties over which SCPIE may have control, as well as the deposition of a corporate designee(s) of SCPIE who will testify on the subjects outlined in the proposed Letter Rogatory, attached hereto as Exhibit "A," through the judicial authority in Los Angeles, California.

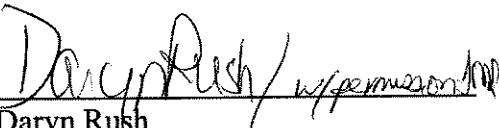
5. The parties request that the Court approve this request for the issuance of a commission and letter rogatory in the form attached hereto as Exhibit "B." Counsel for the

Liquidator or the Hospitals will then forward same to the state of California for the issuance of subpoenas to SCPIE.


6. Upon issuance and service of a subpoena by the California court, the parties will secure the deposition testimony in the state of California for use in the above-captioned suit.

7. Pursuant to Pennsylvania Rule of Civil Procedure 4015, the deposition(s) shall not be taken before a person who is a relative, employee, or attorney of any of the parties, or who is a relative or employee of such attorney or who is financially interested in this action.

WHEREFORE, the parties respectfully request that this Court authorize the issuance of a Commission and Letter Rogatory to the appropriate authorities in the State of California to serve a subpoena upon SCPIE, Joseph Henkes, Patrick Lo, Barbara Kuberry, Carlota Redondo and Donald Zuk directing them to attend and give testimony at deposition.


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Attorneys for M. Diane Koken
Insurance Commissioner of the
Commonwealth of Pennsylvania
In Her Official Capacity as
Statutory Liquidator of Reliance
Insurance Company (In Liquidation)

Dated: August 24, 2006

CERTIFICATE OF SERVICE

I hereby certify that on August 24, 2006, a true and correct copy of the foregoing JOINT PETITION FOR ISSUANCE OF A COMMISSION AND LETTER ROGATORY TO TAKE THE DEPOSITION OF THE SCPIE COMPANIES was served upon the following:

Via First Class Mail and Email

Daryn E. Rush, Esquire
Funk & Bolton, P.A.
Bell Atlantic Tower
1717 Arch Street, Suite 4600
Philadelphia, PA 19103-2713

Attorney for Objectors Palm Springs General Hospital
and Baptist Health South Florida, Inc.



Isla M. Luciano

EXHIBIT A

A. DEFINITIONS

1. As used herein "Reliance" means Reliance Insurance Company, Reliance National Insurance Company, Reliance National Indemnity Company, Reliance Insurance Company (In Liquidation) and their parent companies, subsidiaries, affiliates, predecessors, officers, directors, managers, members, employees, representatives, agents, subordinates and attorneys, as well as any other individual or entity over which Reliance exercises or purports to exercise authority or control.
2. As used herein, the term "SCPIE" means Southern California Physicians Insurance Exchange Companies and their parent companies, subsidiaries, affiliates, predecessors, officers, directors, managers, members, employees, representatives, agents, subordinates and attorneys, as well as any other individual or entity over which SCPIE exercises or purports to exercise authority or control, excluding American Health Indemnity Company.
3. As used herein "SMS" means SCPIE Management Services, Inc.
4. As used herein, the term "AHIC" means American Health Indemnity Company.
5. As used herein, the term "Underlying Policies" means the insurance policies written through the Health Care Division of Reliance in which SMS acted as program manager.
6. As used herein, the term "Reinsurance Agreements" means the two reinsurance agreements that between August 1, 1996 and October 1, 1999 Reliance and AHIC were a party to that covered certain professional liability policies with limits not in excess of \$500,000 written through the Health Care Division of Reliance in which SMS acted as program manager.

B. MATTERS TO BE INQUIRED INTO AT DEPOSITION

SCPIE shall designate one or more officers, directors, managing agents or other persons who consent to testify on your behalf and who know or have information reasonably available regarding the facts and circumstances surrounding the following topics:

1. the negotiation, placement, underwriting, approval or acceptance of the Reinsurance Agreements;
2. the negotiation, placement, underwriting, approval or acceptance of the Program Manager's Agreement, effective October 1, 1996 by and between SMS and Reliance;
3. the negotiation, placement, underwriting, approval or acceptance of the Claims Service Agreement, dated as of October 13, 1996, by and between Reliance and SMS;
4. the negotiation, placement, underwriting, approval or acceptance of the Underlying Policies;
5. how claims under the Underlying Policies were managed, administered and/or paid; and
6. any claims or defenses asserted in Baptist Health South Florida Inc. v. SCPIE Management Services, Inc. et al. Case No. 03-21216, pending in the United States District Court Southern District of Florida.

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**COMMISSION TO TAKE DEPOSITIONS OUTSIDE
THE COMMONWEALTH OF PENNSYLVANIA**

THE COMMONWEALTH COURT OF PENNSYLVANIA, TO: Superior Court
of California, Los Angeles County, and to any Notary Public of the State of California, or any
other person authorized to administer oaths in the State of California, for a deposition in the State
of California:

GREETINGS: Pursuant to an Order of the Commonwealth Court of
Pennsylvania dated _____, made on the petition of M. Diane Koken, Insurance

Commissioner of the Commonwealth of Pennsylvania in her official capacity as Statutory Liquidator of Reliance Insurance Company (In Liquidation), this Court has Commissioned you to take the depositions in the jurisdiction of Los Angeles California, of SCPIE's corporate designees, Joseph Henkes, Patrick Lo, Barbara Kuberry, Carlota Redondo and Donald Zuk. at such time as agreed to by the parties. The depositions shall take place at such time and place as may be agreed by the parties.

You are hereby authorized pursuant to this Commission to administer an oath to take the deposition of the aforesaid witnesses with respect to the above-referenced action.

BY THE COURT:

Prothonotary