

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 M.D. 2001

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILA)
2007 FEB - 8 P 2:52

IN RE: LIQUIDATOR'S PETITION FOR APPROVAL OF RECORDS
RETENTION AND RECORDS DESTRUCTION GUIDELINES

ORDER

AND NOW, this ____ day of _____, 2007, upon consideration of the
Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in
her official capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company, For
Approval of Records Retention and Records Destruction Guidelines, it is hereby ORDERED and
DECREED that the Petition is GRANTED. It is further ORDERED that the Records Retention
and Records Destruction Guidelines attached to the Petition as Exhibit A, and incorporated
herein by reference, are APPROVED, and the Liquidator is authorized to retain and destroy
records in accordance with said Guidelines.

BY THE COURT:

James Gardner Colins, President Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN, INSURANCE
COMMISSIONER OF THE
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Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

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**PETITION FOR APPROVAL OF
RECORDS RETENTION AND RECORDS DESTRUCTION GUIDELINES**

Petitioner and Plaintiff, M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator (“Liquidator”) of Reliance Insurance Company (“Reliance”), petitions this Court for approval of the Records Retention and Records Destruction Guidelines, attached hereto as Exhibit “A”. In support of this Petition, the Liquidator avers as follows:

1. By Order dated May 29, 2001, this Court placed Reliance into rehabilitation pursuant to Article V of the Insurance Department Act of 1921, 40 P.S. §§221.1-221.63 (the “Act”). Subsequently, by Order dated October 3, 2001 (“Liquidation Order”), this Court placed Reliance into liquidation.

2. Pursuant to the Liquidation Order and Section 520 of the Act, the Pennsylvania Insurance Commissioner was appointed as the Liquidator of Reliance and vested by operation of law with the title to all of the property, contracts, and rights of action and all of the books and

records, wherever located, belonging to Reliance as of the date of the filing of the petition for liquidation.

3. Section 523 of the Act further provides that the Liquidator is authorized “[t]o remove any or all records and property of the insurer to the offices of the commissioner or to such other place as may be convenient for the purposes of efficient and orderly execution of the liquidation”.

4. Reliance began business in 1817 and grew into one of the largest property and casualty insurers in the United States, writing business in all 50 states and certain international markets. By 2001 when Reliance was placed in rehabilitation, the company had records in offices across the country, including over 1000 offices for the 155 third party administrators or program managers handling Reliance claims.

5. Additionally, nine subsidiary insurance companies operating in different states were merged into Reliance in early 2001 with the approval of the Pennsylvania Insurance Department which further increased Reliance’s substantial volume of records.

6. In fulfilling her statutory responsibilities, the Liquidator has undertaken an extensive effort to identify, collect, and organize the immense volume of records relating to the business of Reliance. Since the beginning of the liquidation, Reliance staff has obtained custody or accounted for approximately 4,638,000 of an estimated 5,976,000 closed claim and policy files. The remaining files are still in the custody or control of program managers, agents and third party administrators.

7. In addition to the considerable volume of documents collected and maintained at

Reliance's current offices in New York City and Philadelphia¹, Reliance also maintains 198,023 boxes, holding an estimated 440,552,000 individual documents, requiring approximately 251,744 cubic feet of space in off-site storage facilities at an approximate cost of \$575,000 annually.

8. The Liquidator has taken several steps to reduce the amount of storage space required and minimize the costs associated with such storage. First, the Liquidator has performed a comprehensive review of the various types of Reliance records and identified those records that she believes should be retained to allow her to administer the Reliance estate effectively and efficiently.

9. Second, Reliance evaluated various imaging systems in 2003 and after a competitive bid process contracted with an imaging company and thus, more than 280,000 Proofs of Claim and other liquidation related files containing more than 44 million pages of documents from claimants, third party administrators, reinsurers, guaranty associations, existing Reliance records and other sources have been scanned, imaged and are currently stored on the Reliance imaging systems.² In addition to minimizing the costs associated with storage of the physical records, this paperless method of storage offers additional benefits including: a) no filing, box storage and retrieving costs; b) multiple access to same documents; c) no copying necessary to share documents outside Reliance since the information can be provided on compact discs; d)

¹ The Liquidator respectfully submits that a portion of these records date back as far as the 1890s and involve operations that were discontinued before rehabilitation, such as marketing and issuance of policies to insureds.

² Quality control procedures and appropriate safeguards have been implemented to ensure that the recorded image is accurate, that the electronic documents cannot be altered, and that the imaged documents are easily accessible, consistent with Fed. R. Civ. P. 26(b)(2). See also Apsley v. Boeing Co., 2007 U.S. Dist. LEXIS 5144 (D. Kan. Jan. 17, 2007). Guaranty associations, reinsurers, law firms and others have utilized the imaged documents in the ordinary course of their business relationships with Reliance over the past three years.

documents can be faxed or emailed from desktop; and e) more efficient paperless workflows. It is estimated that the implementation of the imaging system has saved at least \$4.5 million and further savings will be realized in future years.

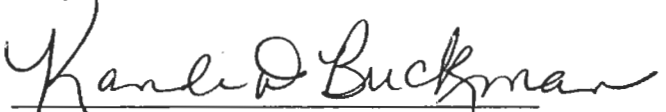
10. Lastly, the Liquidator has performed her due diligence to identify and target for destruction any types of records that are no longer needed or useful in the performance of her duties including, but not limited to, obsolete reference materials, outdated materials, records regarding discontinued operations, trade or professional association records, training records, advertising materials and duplicate records, including the hardcopies of records that have been imaged and stored electronically as referenced above in paragraph 9.

11. The Liquidator respectfully proposes the retention and the destruction of Reliance records pursuant to the Records Retention and Records Destruction Guidelines, attached hereto as Exhibit "A", in accordance with the provisions of Section 550 of the Act, 40 P.S. §221.50, which provides:


Whenever it shall appear to the commissioner that the records of any insurer in process of liquidation or completely liquidated are no longer useful, he may recommend to the court what records should be retained for future reference and what should be destroyed.

WHEREFORE, the Liquidator respectfully requests that this Honorable Court approve the Records Retention and Records Destruction Guidelines attached hereto as Exhibit "A" and authorize her to retain and destroy the records in accordance with said Guidelines.

Respectfully submitted:

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official capacity as Liquidator of Reliance
Insurance Company

DATED: *February 8, 2007*

VERIFICATION

I, David S. Brietling, 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 and to supervise the daily operations as Chief Liquidation Officer for 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: February 2, 2007

David S. Brietling
David S. Brietling
Chief Liquidation Officer

Exhibit A

Reliance Insurance Company (In Liquidation) Record Retention Guidelines

These guidelines apply to all records (current and future) of Reliance Insurance Company, including all merged entities named in the Order of Liquidation (“Reliance”). These guidelines apply to both records that are on-site at the offices of Reliance and to those that are in the custody of a records vendor, service provider, third party administrator, program manager or other party. These guidelines do not apply to databases which serve as processing systems for Reliance operations because the information in the processing systems are derived from the underlying records.

I. Records Not In The Custody Of Reliance

A. If Reliance records are retained or maintained by an outside party, that party’s responsibility to store and maintain the records must be set forth in a written agreement or documented by affidavit, either of which must provide for retrieval of selected records.

B. If the records have been damaged or destroyed or their location cannot be identified, a similar affidavit is required which explains the unavailability of the records.

II. Electronic Media

A. Hardcopies of records may be converted to electronic or other durable, paperless media for the purpose of retention.

i. The methodology used to convert the records must be documented through written procedures.

ii. Converted records must be readily accessible and usable for review and other purposes.

iii. The maintenance of records in a non-hardcopy media must be archival in nature, to preclude the alteration of the record after the initial conversion.

B. Utilization of archival media will require implementation of practices to ensure that the integrity of the data is maintained and that the ability to extract the data in a human readable format is present for the entire retention period.

III. Record Retention Periods

A. Reliance records will be retained consistent with the minimum retention requirements established by applicable laws, regulations and authorities, including the Internal Revenue Service.

B. Records not governed by a specific retention period will be retained for a 7-year general record retention period which exceeds the statutorily required guidelines for insurance companies in both Pennsylvania and New York.

C. Whenever notified by the Legal Department of pending, anticipated, or potential litigation, government investigation or audit, any and all related or relevant Reliance records will be retained until permission is granted to return to the general record retention schedule.

IV. Annual Review And Record Destruction

A. At least annually, the Records Administrator will provide department heads with a list of records that are eligible for destruction in the current year.

B. Each department head is responsible for reviewing the list of records and indicating in writing those records eligible for destruction. Upon receiving the necessary approvals of Reliance management and the Liquidation Team, the Records Administrator will arrange for and document the actual date of record destruction.

C. Materials that are not required to be maintained as set forth above in section III may be discarded or destroyed at any time during the year. Those materials that are not required to be maintained may include the following:

- i. drafts of documents that have been finalized;
- ii. duplicate records, including hardcopies of records stored on electronic media;
- iii. obsolete reference materials;
- iv. outdated materials;
- v. records regarding discontinued operations;
- vi. trade or professional association records;
- vii. training records;
- viii. advertising materials; and

any other records or materials that do not clearly fall into one of the categories above, but appear to be irrelevant, obsolete, or are no longer useful for the administration of the liquidation, may also be discarded or destroyed if appropriately approved by management and properly documented.

V. Method of Destruction

A. Documents containing privileged, confidential or personal information must be destroyed by shredding or incineration. Otherwise, recycling may be selected.

B. Records stored at vendor sites designated for record storage, maintenance, and disposition must be destroyed under the supervision of the vendor with written confirmation from the vendor that the records have been disposed in the manner requested.

CERTIFICATE OF SERVICE

I, Sheila E. Branyan, hereby certify that on or about this day, pursuant to the Court's Order of April 1, 2004, service of the foregoing Petition For Approval of Records Retention and Records Destruction Guidelines was made on the attached Master Service List through the transmission 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).

Dated: February 8, 2007


SHEILA E. BRANYAN

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v.

Reliance Insurance Company

No. 269 M.D. 2001 (Commonwealth Court of Pennsylvania)

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