

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff

v.

Reliance Insurance Company,

Defendant.

In Re:
Proof of Claim No. 2081605
John Grainger

No. 269 M.D. 2001

RECEIVED

JUL 25 2006

GAIL M. BURGESS

REFEREE'S REPORT AND RECOMMENDATION

PROCEDURAL HISTORY

This matter arises out of a claim by John Grainger ("Grainger") against the Canadian Reliance Insurance Company. On May 29, 2001, the Commonwealth Court placed Reliance into Rehabilitation, and into Liquidation on October 3, 2001. Grainger timely filed a Proof of Claim. On May 5, 2004, the Liquidator filed a Notice of Determination denying Grainger's claim.

Grainger filed an Objection to the Notice of Determination on June 29, 2004 and the undersigned was selected as Referee. The underlying litigation against Grainger, which was the basis of the Proof of Claim has been dismissed, and the parties hereto have entered into a settlement agreement, in which Grainger has released the Liquidator from all claims. Grainger is desirous of withdrawing his objection to the Notice of Determination issued by the Liquidator.

"EXHIBIT A"

DISCUSSION

Grainger filed a proof of claim based upon litigation, in which Grainger was a defendant. That underlying suit has been dismissed for lack of jurisdiction. As a result of the dismissal of the underlying suit, Grainger and the Liquidator have entered into a settlement agreement whereby Grainger is releasing the Liquidator from all claims relating to the litigation. Accordingly, Grainger wishes to withdraw his objection to the Notice of Determination issued by the Liquidator.

The proposed withdrawal of objection, together with the settlement agreement between the parties would finally resolve all issues arising out of the proof of claim, and it is the recommendation of the undersigned that Grainger be permitted to withdraw his objection.

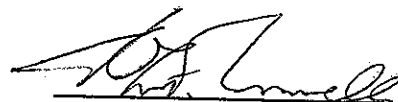
RECOMMENDATION

Based on the foregoing, it is recommended that Grainger be permitted to withdraw his objection to the Notice of Determination by the Liquidator, assigning class (e) priority to the claim under 40 Pa.C.S. §221.44(e).

Notice is hereby given that any objections to this Report and Recommendation must be filed with the Commonwealth Court within thirty days of the date of this Report.

Respectfully submitted,

Dated: July 20, 2006



John F. Innelli, Referee

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

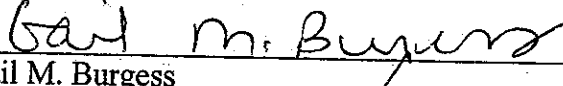
2004 DEC 22 P 3:35

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHIL A)

AFFIDAVIT OF SERVICE

Pursuant to the Court's Order of December 20, 2004, the undersigned, on behalf of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania in her capacity as the Statutory Liquidator of Reliance Insurance Company hereby deposes and says that service of the Court's December 20, 2004 Order assigning the claims listed therein, including proof of claim number 2081605, to Referee Innelli, Esquire was made on the objector John Grainger by first class mail and its counsel Robert D. Nachman, Esquire via facsimile and first class mail on December 22, 2004. The confirmation sheet reflecting service to Robert D. Nachman, Esquire by facsimile on December 22, 2004 is attached hereto.

Dated: December 22, 2004


Gail M. Burgess
Vice President, Associate General Counsel
Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102
Telephone: (215) 864-4210
Facsimile: (215) 864-4141
On behalf of the Statutory Liquidator of
Reliance Insurance Company

Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102-1376

Gail M. Burgess
Vice President, Associate General Counsel



Reliance

December 22, 2004

VIA FIRST CLASS MAIL

John R. Grainger
128 Arlington
Elmhurst, IL 60126

VIA FIRST CLASS MAIL 312-782-8416

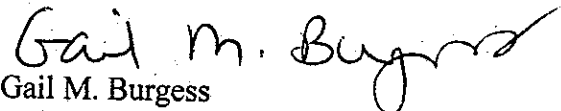
Robert D. Nachman, Esquire
Schwartz Cooper Greenberger Kraus
180 LaSalle Street, Suite 2700
Chicago, Illinois 60601

Re: December 20, 2004 Order of the Commonwealth Court of Pennsylvania
regarding Proof of Claim Number 2081605

Dear Gentleman:

In accordance with the enclosed Order, on behalf of the Statutory Liquidator, I am forwarding to you a copy of the December 20, 2004 Order of the Commonwealth Court of Pennsylvania which assigns the claim referenced above to Referee Innelli to hear and resolve your objection.

Very truly yours,


Gail M. Burgess

GB: ls

Enclosure

cc: Referee Innelli
8 Valley View Road
Rose Valley, PA 19063-4234

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania,
Plaintiff

v.

Reliance Insurance Company,
Defendant

: No. 269 M.D. 2001

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILLA)
2004 DEC 20 P 3:02

ORDER

AND NOW, this 20 day of December, 2004, it is hereby
ORDERED:

1. That, pursuant to this Court's September 9, 2002 order, the following objection is assigned to John F. Innelli, Esq., for the purpose of refereeing the claim which is in dispute in each of the proof of claim below:

Proof of Claim Nos. 2081605, 2105508, 901713, 2026633, 1938190

The referee shall hear objections to the notices of determination issued by the Liquidator, to submit findings of fact, where appropriate and necessary, and issue recommended decisions regarding said objections.

2. The Liquidator shall contact the referee to request the scheduling of a conference and/or administrative hearing, and the referee shall promptly notify the parties of the place, time and date on which the hearing or conference will be held. Referee Innelli can be contacted at:

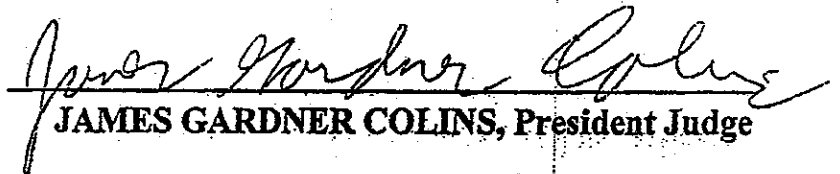
8 Valley View Road
Rose Valley, PA 19063-4234
(215) 717-0323

The Liquidator and objectors shall be prepared to submit copies of their respective notices of determination, objections thereto, and all motions and other filings, if any, to the referee. The Liquidator and objectors shall also be prepared to bring all necessary witnesses, exhibits and documentation to the scheduled hearing. Requests for continuances shall be granted only on good cause shown; and

3. The compensation for the referee hereby appointed is set by the Court at the rate of \$185 per hour, and shall be paid by the Liquidator from the Estate of Reliance Insurance Company. The referee hereby appointed shall submit to the Court an invoice for services after he has submitted a recommended decision, and he shall forward a copy of that invoice to the Liquidator, whereupon the Liquidator shall, in thirty (30) days, effect payment of said invoice from the estate of the Reliance Insurance Company unless otherwise directed by the Court or unless the Liquidator shows cause to the Court, in writing, why she should not make such payment;

4. The Referee may use the Court's facilities at The Widener Building, Suite 900, 1339 Chestnut Street, Philadelphia, PA 19107 for any conferences or hearings that are necessary, and the Court shall issue such subpoenas as the Referee shall deem necessary; and

5. The Liquidator shall forthwith serve a copy of this Order on the objectors listed herein and their counsel and notify the Court that service has been completed.


JAMES GARDNER COLINS, President Judge

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FILE NO. =015

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-RELIANCE INSURANCE -

***** -LAW DEPT. - ***** 12158641544- *****

Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102-1376

Gail M. Burgess
Vice President, Associate General Counsel



December 22, 2004

VIA FIRST CLASS MAIL
John R. Grainger
128 Arlington
Elmhurst, IL 60126

VIA FIRST CLASS MAIL 312-782-8416
Robert D. Nachman, Esquire
Schwartz Cooper Greenberger Kraus
180 LaSalle Street, Suite 2700
Chicago, Illinois 60601

Re: December 20, 2004 Order of the Commonwealth Court of Pennsylvania
regarding Proof of Claim Number 2081605

Dear Gentleman:

In accordance with the enclosed Order, on behalf of the Statutory Liquidator, I am forwarding to you a copy of the December 20, 2004 Order of the Commonwealth Court of Pennsylvania which assigns the claim referenced above to Referee Innelli to hear and resolve your objection.

Very truly yours,
Gail M. Burgess
Gail M. Burgess

GB: ls

Enclosure

cc: Referee Innelli
8 Valley View Road
Rose Valley, PA 19063-4234

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

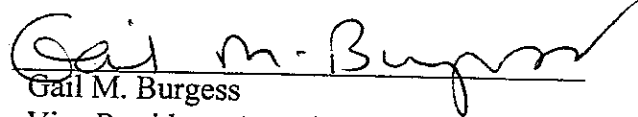
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COMMONWEALTH COURT
OF PA (PHIL) 118
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**RESPONSE OF THE LIQUIDATOR TO THE OBJECTION OF JOHN R. GRAINGER
TO NOTICE OF DETERMINATION ON PROOF OF CLAIM NUMBER 2081605**

The Statutory Liquidator of Reliance Insurance Company hereby files and incorporates by reference, the attached Response to the Objection of John R. Grainger to the Notice of Determination on Proof of Claim Number 2081605. The Objection was sent to the Liquidator by first class U.S. Mail, dated June 30, 2004 and received by the Liquidator on July 6, 2004.

This Response is filed without waiver of any objections the Liquidator may have to service, form, or manner of filing of the Objection, in accordance with this Court's Order of September 9, 2002. The Liquidator does not admit any of the allegations in the Proof of Claim or Objection and specifically reserves, and does not waive, any and all other rights and defenses with regard to this Proof of Claim, Notice of Determination, and the Objection to it, including but not limited to any coverage defenses.

Dated: July 30, 2004


Gail M. Burgess
Vice President, Associate General Counsel
Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102
On behalf of the Statutory Liquidator of
Reliance Insurance Company

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff

v.

Reliance Insurance Company,

Defendant.

In Re:
Proof of Claim No. 1410087
Washington Group International, Inc.
f/k/a Morrison Knudsen

No. 269 M.D. 2001

RECEIVED

JUL 26 2006

GAIL M. BURGESS

REFEREE'S REPORT AND RECOMMENDATION

PROCEDURAL HISTORY

This matter arises out of a claim by the Washington Group International, Inc., f/k/a Morrison Knudsen ("WGI") against the Reliance Insurance Company. On May 29, 2001, the Commonwealth Court placed Reliance into Rehabilitation, and into Liquidation on October 3, 2001. WGI timely filed three Proof of Claims ("POC"), the first numbered 1410087, the second numbered 2057612 and the third numbered 2057619. On April 29, 2004, the Liquidator filed a Notice of Determination ("NOD") to POC 1410087, setting a priority level of the claim at class E - a general creditor, and valuing the claim at \$0. The NOD stated POC 1410087 related to Reliance Insurance Co. Canadian Branch, and, as such, the claim was to be filed with the Canadian Liquidator.

1
" EXHIBIT B "

On June 8, 2004, WGI, with the Court, objections to the Liquidator's NOD contending that, (1) there was no evidence within the policy that it was a Canadian Branch policy, (2) in accordance with the notice from the Pennsylvania Liquidator the claim was properly filed with the Liquidator and (3) the Liquidator is estopped from denying its POC.

The Liquidator, on July 2, 2004, filed a Response to Claimant's Objection to POC 1410087 stating that the underlying policy was issued by the Canadian Branch of Reliance and WGI's claims were subject to the Canadian Liquidation of Reliance as administered by KPMG, Toronto.

POC 1410087 was assigned to the undersigned Referee and the second and third POCs, numbered 2057612 and 2057619, respectively, were assigned to Referee G. Alan Bailey. During a conference relating to the aforementioned POCs, the parties agreed that it would be appropriate for WIG to proceed with a claim before the Canadian Liquidator, however in order to avoid prejudicing WIG, the Liquidator would inactivate her NODs and allow the WIG POCs to remain open until the Canadian Liquidator renders a decision on the claims. On March 17, 2005, the parties memorialize their agreement in the document attached hereto as Appendix A. Shortly thereafter Referee Bailey recommended that the agreement entered into by the parties to inactivate the claim process in the Commonwealth Court of Pennsylvania with regard to the second and third POCs while WGI pursued its claims in the Canadian liquidation of Reliance. On April 20, 2005, the Commonwealth Court ordered Referee Bailey's recommendation approved.

DISCUSSION AND RECOMMENDATION

The March 17, 2005 agreement entered into by the parties to inactivate the claim process in the Commonwealth Court of Pennsylvania, does not prejudice either party, while providing a logical efficient and effective means to adjudicate the dispute. Judicial economy and the Court's April 20, 2005 acknowledgment of the appropriateness of the parties' suggested means of proceeding provides the basis for a recommendation that an order approving the March 17, 2005 settlement agreement, appended hereto, be entered with regard to POC 1410087.

Dated: July 21, 2006

Respectfully submitted,



John F. Innelli, Referee

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into on March ____, 2005 by and among Morrison Knudsen Corporation n/k/a Washington Group International, Inc. ("Claimant"), who has filed 3 Proofs of Claim Numbers: 1410087 and 2057612 and 2057619 (collectively the "Proofs of Claim"), and the Statutory Liquidator of Reliance Insurance Company (the "Statutory Liquidator"). Claimant and the Statutory Liquidator have authorized their legal counsel to execute this Settlement Agreement on their behalf.

RECITALS

WHEREAS, Claimant filed the Proofs of Claim in the Reliance Insurance Company liquidation proceeding requesting that the Statutory Liquidator treat as allowed claims certain losses Claimant contends it has incurred (or will incur) with respect to (1) an arbitration proceeding commenced against it by Aux Sable Liquid Air Products, LP ("Aux Sable") in connection with the construction of Aux Sable's Natural Gas Liquids Extraction and Fractionation Plant ("the Plant") and (2) a Demand for Arbitration and two lawsuits filed against Claimant by a subcontractor, S & R Electrical, Inc. d/b/a Sabon Electrical and M. Sabon personally arising out of the same project; and

WHEREAS, the Statutory Liquidator issued Notices of Determination on the Proofs of Claim concluding that these claims arose under policies of insurance issued in Canada and therefore were properly the subject of the liquidation proceeding in Canada; and

WHEREAS, Claimant filed Objections to the Statutory Liquidator's Notices of Determination, and the Statutory Liquidator served Responses to the Objections; and

WHEREAS, the Court assigned the Objections with respect to one (1) of the Proofs of Claim (1410087) to Referee John Innelli and assigned two (2) of the Proofs of Claim (2057612 and 2057619) to Referee G. Alan Bailey; and

WHEREAS, the parties have concluded that it is in their mutual best interests to agree to the inactivation of the Notices of Determination and the withdrawal without prejudice of the objections, pending the outcome of the Canadian liquidation proceedings.

NOW, THEREFORE, the parties, intending to be legally bound hereby, agree as follows:

1. **Inactivation of the Current Notices of Determination.** The Notices of Determination issued on the one Proof of Claim that is assigned to Referee Innelli (1410087) and the two Proofs of Claim assigned to Referee Bailey (2057612 and 2057619) will be deemed inactive.
2. **Withdrawal Without Prejudice Of The Claimants' Pending Objections.** Claimant will file Praecipes to Withdraw without prejudice each of the 3 Objections filed in this matter. The Praecipes shall be in the form attached as Exhibit "A." These withdrawals are without prejudice to the Claimant's right to raise all of the same legal issues (and any additional issues they choose to assert) following the issuance of Amended Notices of Determination.
3. **Issuance of Amended Notices of Determination and Objections Thereto.** When the Canadian liquidation proceedings are concluded, Amended Notices of Determination will be issued in the Reliance Estate as to all three Proofs of Claim. Thus, three Amended Notices of Determination will be issued in the Reliance Estate at the conclusion of the Canadian Liquidation proceedings on Proofs of Claim Numbers 1410087, 2057612 and 2057619. The Claimant shall have the right to file objections to the Amended Notices of Determination

asserting any and all rights and defenses, including those asserted in the originally filed objections. The Statutory Liquidator shall have the right to file responses to any objections to the Amended Notices of Determination asserting any and all rights and defenses, including those asserted in the responses to the originally filed objections. The parties have agreed to reserve for a future time, and not to waive, their respective positions as to the appropriate priority to be assigned to Morrison Knudsen Corporation n/k/a Washington Group International, Inc.'s residual claims in the Reliance Estate, if any, for sums unpaid in the Canadian Liquidation proceedings.

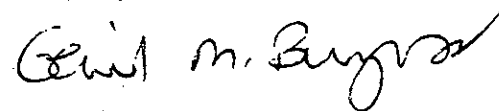
4. **Recommendation and Court Approval.** This Settlement Agreement and the actions contemplated or authorized thereby are subject to: (a) Recommendations by Referee Innelli and Referee Bailey as to the objections pertaining to the Proofs of Claim assigned to them; and (b) Approval of any such recommendations by the Honorable James Gardner Colins, President Judge of the Commonwealth Court of Pennsylvania.
5. **Execution by Counsel.** The Claimant and the Statutory Liquidator hereby consent to the execution of this Settlement Agreement by their respective legal counsel. The undersigned legal counsel confirm that they have received authorization from their clients to enter into this Settlement Agreement and that their clients intend to be legally bound by this Settlement Agreement.

6. IN WITNESS WHEREOF, counsel for the Claimants and counsel for the Statutory Liquidator have executed this Settlement Agreement this ___ day of March, 2005.

7. 

8. _____

Counsel for the Claimant, Morrison Knudsen
Corporation n/k/a Washington Group International, Inc.
Margolis & Edelstein
Jonathan D. Herbst, Esq.
The Curtis Center
Philadelphia, PA 19106-3304
9. (215) 931-5822

10. 

Gail M. Burgess, Esquire
Vice President, Associate General Counsel
On behalf of M. Diane Koken, Insurance Commissioner
of the Commonwealth of Pennsylvania in her capacity
as Statutory Liquidator of Reliance Insurance Company
Three Parkway, Suite 500
Philadelphia, PA 19102
(215) 864-4210

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

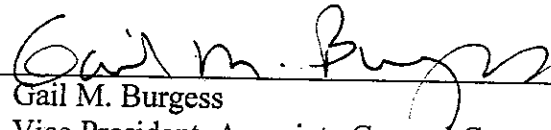
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RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILA)
JUL 20 A 11: 57

AFFIDAVIT OF SERVICE

Pursuant to the Court's Order of July 16, 2004, the undersigned, on behalf of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania in her capacity as the Statutory Liquidator of Reliance Insurance Company hereby deposes and says that service of the Court's July 16, 2004 Order assigning the claims listed therein to Referee John F. Innelli, Esq. was made on the objector, Morrison Knudsen, by first class mail and to their counsel by first class mail and facsimile on July 19, 2004. The confirmation sheet reflecting service by facsimile on counsel on July 19, 2004 is attached hereto.

Dated: July 20, 2004


Gail M. Burgess
Vice President, Associate General Counsel
Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102
Telephone: (215) 864-4210
Facsimile: (215) 864-4141
On behalf of the Statutory Liquidator of
Reliance Insurance Company

Reliance Insurance Company (In Liquidation)
Three Parkway
Philadelphia, PA 19102-1376

Gail M. Burgess
Vice President, Associate General Counsel



Reliance

July 19, 2004

Via First Class Mail & Facsimile 215-922-1772

Jonathan D. Herbst, Esq.
Margolis & Edelstein
The Curtis Center
Independence Square West
Philadelphia, PA 19106-3304

Via First Class Mail Only

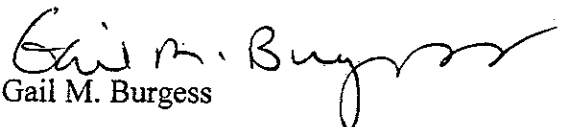
Morrison Knudsen Corporation
P.O. Box 73
Boise, ID 83707

Re: July 16, 2004 Order of the Commonwealth Court of Pennsylvania
regarding Proof of Claim Numbers 1410087

Gentlemen:

In accordance with the enclosed Order, the Statutory Liquidator hereby serves by first class mail and facsimile to counsel and by first class mail to the claimant a copy of the July 16, 2004 Order of the Commonwealth Court of Pennsylvania assigning the above Proof of Claim to Referee John F. Innelli, Esq.

Very truly yours,


Gail M. Burgess

GB:lms
Enclosure