

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel S. Ario  
Insurance Commissioner of the  
Commonwealth of Pennsylvania

Plaintiff

v.

Reliance Insurance Company

Defendant

Docket No: 269-MD-2001

**JOINT STATUS REPORT - IN RE CENTRAL ARTERY TUNNEL PROJECT**

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JOINT STATUS REPORT  
STATE OF PENNSYLVANIA

Pursuant to the Court's Order of March 6, 2008, the parties submit this joint status report.

1. By Stipulation, which was recommended by Referee Henry B. Fitzpatrick and approved by this Court by Order dated May 24, 2005 ("Stipulation"), the parties agreed to inactivate 30 Objections and 30 Notices of Determination issued as to 30 Proofs of Claim ("30 POCS") filed by various insureds for coverage under an excess insurance policy issued by Reliance.

2. The excess Reliance Policy has limits of \$10 million and attaches after \$20 million in underlying primary coverage is exhausted. The 30 POCS are for certain claimed liabilities arising out of the construction of the Central Artery Tunnel in Boston, Massachusetts ("CA/T Project"). The 30 POCS were filed by CA/T Project management consultant, Bechtel/Parson Brinckerhoff ("B/PB"), and numerous Section Design Consultants (SDCs"). The third party claimant asserting the underlying claims against B/PB and the SDCs was the Massachusetts Turnpike Authority (MTA), the project owner

for the CA/T Project. The MTA also filed Proof of Claim No. 2109134 (MTA-POC) in the Reliance liquidation.

3. On April 23, 2004, Reliance originally issued Notices of Determination for the 30 POCS as class (b) priority with an allowed amount of “zero”, based on the information available to Reliance at that time. Reliance claimed that the underlying claims had not been timely filed under the Reliance Policy. However, during the Objection proceedings, B/PB and the SDCs were able to establish that the underlying claims had, in fact, been timely made. However, once that threshold coverage issue was resolved, it was clear that the 30 POCS were not ripe for decision, in part, because exhaustion of the underlying primary coverage had not been established.

4. The parties agreed, therefore, to seek the Court’s permission to inactivate the Notices of Determination and the Objections to allow the 30 POCS to be further evaluated. In the Court approved Stipulation, the parties advised the Court that the further evaluation of the 30 POCS was premature because exhaustion of the underlying primary coverage had not been established. Further, the parties advised that, once it was established that the primary coverage was exhausted, it was possible that the pending 30 POCS could be resolved amicably after further investigation and information were provided and analyzed.

5. In the spring of 2006, Reliance was advised in writing that a settlement in principle had been reached pursuant to which the primary carriers were exhausting their policy limits. Reliance determined that its full policy limits of \$10 million dollars were owed because the total damages claimed and established were sufficient to exhaust both the primary coverage and Reliance’s \$10 million excess policy.

6. The insured claimants who had filed the 30 Proofs of Claim and Objections at issue, through their undersigned counsel, agreed that a single class (b) Notice of Determination with an allowed amount of \$10 million should be issued to the MTA, which was the sole claimant asserting the claims against Reliance's insureds B/PB and the SDCs. That Notice of Determination issued to the MTA on May 20, 2006.

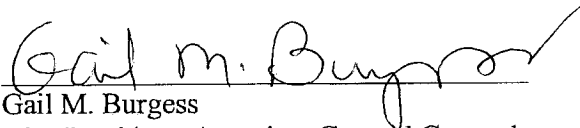
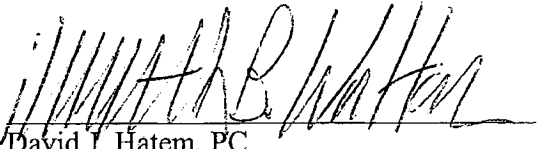
7. Amended Notices of Determination issued on May 23, 2006 as to the 30 POCs filed by B/PB and the SDC insureds assigning class (b) priority and an allowed amount of zero to their claims because the Reliance policy limits had been exhausted by payment to the third party claimant MTA for its claims against the Reliance insureds. No objections were filed to the MTA's NOD or to these 30 Amended Notices of Determination, all of which issued in May, 2006.

8. After issuance of the MTA-NOD, Reliance was advised that the underlying primary carriers had not yet finalized the settlement in principle due to unexpected issues. These issues arose following the death of a woman who was killed when a CA/T tunnel collapsed in July, 2006. Pending the final settlement, the 30 Objections by the B/PB and the SDC insureds to the original Notices of Determination issued in 2004 remained inactive.

9. On January 29, 2008, Reliance was advised that a global settlement ("Global Settlement") in the amount of \$85 million has now been finalized on terms that confirm that all underlying insurance below Reliance's \$10 million excess policy has been exhausted and that it was, in fact, appropriate for Reliance to issue the MTA-NOD for the Reliance policy limits of \$10 million.

10. As required by the Court's March 6 Order, undersigned counsel contacted Referee Henry Fitzpatrick ("Referee") on March 13, 2008. The Referee conducted a conference call in this matter at 3:00 p.m. on March 14, 2008.

11. Counsel for B/PB and the SDCs advised Referee Fitzpatrick during the March 14 conference call that he requires a thirty day period through April 19, 2008 to allow him to communicate with all relevant parties in this matter giving them notice that the Liquidator will be submitting a proposed recommendation to Referee Fitzpatrick on April 20, 2008 seeking dismissal with prejudice of the pending objections and Court approval of the MTA-NOD. On or before April 20, 2008 Counsel for B/PB and the SDCs will inform the Liquidator and Referee Fitzpatrick as to B/PB and the SDCs' position on the Liquidator's proposed recommendation. Referee Fitzpatrick approved the 30 day notice period.

<p>Respectfully submitted, By Counsel for the Statutory Liquidator of Reliance Insurance Company</p>  <p>Gail M. Burgess Vice President, Associate General Counsel Reliance Insurance Company (In Liquidation) Three Parkway Philadelphia, PA 19102</p>	<p>Respectfully submitted, By Counsel for B/PB and the SDCs</p>  <p>David J. Hatem, PC Kenneth B. Walton, Esq. Donovan Hatem LLP Two Seaport Lane Boston, MA 02210 (617) 406-4500</p>
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Joel S. Ario, Acting  
Insurance Commissioner of the  
Commonwealth of Pennsylvania

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

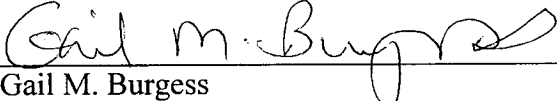
Defendant.

DOCKET NO. 269 MD 2001

**CERTIFICATE OF SERVICE**

I, Gail M. Burgess, Vice President and Associate General Counsel of Reliance Insurance Company (In Liquidation), on behalf of the Statutory Liquidator of Reliance Insurance Company, do hereby certify that this day a true and correct copy of the Joint Status Report was filed with the Court, as directed in the Court's March 6, 2008 Order regarding the following Proof of Claim Nos.: 764684, 812899, 1491906, 2079950, 2079952, 2079953, 2079958, 2079959, 2079963, 2079979, 2082603, 2082604, 2082606, 2082607, 2082608, 2082609, 2082610, 2082615, 2084934, 2094086, 2094087, 2094088, 2094090, 2094094, 2094111, 2094112, 2094131 and 2100431. A copy of the Joint Status Report was served on Kenneth Walton, Esquire, counsel for the claimant and Henry B. Fitzpatrick, Jr., Referee, by first class U.S. Mail, postage prepaid.

Dated: March 19, 2008

  
Gail M. Burgess  
Vice President, Associate General Counsel  
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On behalf of the Statutory Liquidator of  
Reliance Insurance Company