

THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO,
Acting 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.

JOEL S. ARIO,
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania,

Respondent.

No. 269 M.D. 2001

Before
JAMES GARDNER COLINS,
President Judge

2008 APR 10 P 1:37

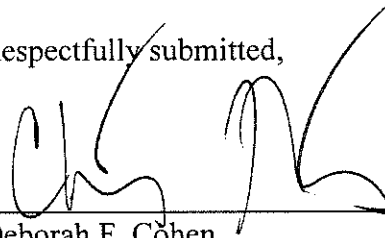
CLERK OF COURT
JAMES GARDNER COLINS

**REPLY TO OBJECTOR'S RESPONSE TO LIQUIDATOR'S
PETITION TO COMPEL DEPOSITION AND FOR SANCTIONS**

On April 2, 2008, Palm Springs General Hospital ("Palm Springs") filed its reply to the Liquidator's September 6, 2006 Petition to Compel Deposition and for Sanctions. In support of its response, Palm Springs attached a nearly identical memorandum of law to that which it filed with this Court on March 14, 2008 in response to the Liquidator's October 16, 2006 Petition for Default Judgment.

Accordingly, in reply thereto, the Liquidator incorporates by reference his reply brief in support of Default Judgment, which is attached hereto and incorporated herein as Exhibit "1".

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'DFC', written over a horizontal line.

Deborah F. Cohen

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Dated: April 10, 2008

Attorneys for Joel S. Ario
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania
in His Official Capacity as
Statutory Liquidator of Reliance
Insurance Company (In Liquidation)

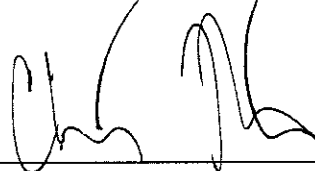
CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2008, a true and correct copy of the foregoing Reply to Objector's Response to Liquidator's Petition to Compel Deposition and For Sanctions was served upon all parties on the Master Service List via Notice of Filing. Additionally, the foregoing Reply to Objector's Response to Liquidator's Petition to Compel Deposition and For Sanctions was served upon the following:

Via First Class Mail

Daryn E. Rush, Esquire
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Philadelphia, PA 19103-2769

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



Christopher L. Nickels, Esquire
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Acting Insurance Commissioner of the
Commonwealth of Pennsylvania
in His Official Capacity as
Statutory Liquidator of Reliance
Insurance Company (In Liquidation)*

April 10, 2008

EXHIBIT 1

COPY

THE COMMONWEALTH COURT OF PENNSYLVANIA

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President Judge

FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
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**LIQUIDATOR'S REPLY MEMORANDUM IN SUPPORT OF HIS PETITION FOR
DEFAULT JUDGMENT AGAINST PALM SPRINGS GENERAL HOSPITAL**

A. INTRODUCTION

From its belated actions and inactions, Palm Springs General Hospital ("Palm Springs")'s message to the Respondent and the Court is that it may willfully (1) fail to produce a corporate designee for deposition; (2) fail to respond to Reliance's petition to compel a corporate designee deposition; (3) wait over a year and a half to oppose the Liquidator's Petition for Default Judgment; and (4) explain away its discovery violations by arguing that there is no need for a corporate designee deposition because, in its view, there are no disputed material facts. Palm Springs, however, is not free to pick and choose when to participate in the litigation it

initiated. As a party seeking direct access to reinsurance, Palm Springs bears the burden of setting forth a factual record in support of its claim and must allow for complete and meaningful discovery into its claim. Indeed, in this case, the Pennsylvania Supreme Court expressly ordered “discovery relating to the issue of whether Palm Springs General Hospital and Baptist Health South Florida Hospital are entitled to direct access to reinsurance proceeds from American Healthcare Indemnity Company.” *Koken v. Reliance Ins. Co.*, 586 Pa. 100, 891 A.2d 704 (2005). Therefore, Palm Springs’ dilatory and willful discovery violations should not be rewarded by allowing it to continue to pursue its claim for direct access.

Accordingly, the Liquidator asks that default judgment be entered against Palm Springs and that Palm Springs be ordered to pay fees and costs associated with the Petition for Default Judgment, as well as the fees and costs associated with the Liquidator’s September 6, 2006 Petition to Compel Deposition of Palm Springs Corporate Designee.

B. LEGAL ARGUMENT

1. Palm Springs’ Response to the Liquidators Petition for Default Judgment is Out of Time and Should be Disregarded as a Matter of Law

The Liquidator filed his Petition for Default Judgment on October 16, 2006.

Under Pennsylvania Rule of Civil Procedure 208.3(b), “any party opposing a motion . . . shall file the response within twenty days after service of the motion.” Pa.R.Civ.P. 208.3(b). Palm Springs’ response in opposition was filed with this Court on March 14, 2008—515 days after the Liquidator’s petition. Palm Springs, which offers no legitimate defense or justification for its delay in responding to the Liquidator’s petition, wants this Court to ignore the fact that Palm Springs’ opposition is nearly a year and a half late. Pennsylvania courts, however, have held that out-of-time responses should only be entertained on a showing of compelling reasons for a party’s failure to file a timely response and the absence of any prejudice to the adverse party.

Commonwealth v. Diamond Shamrock Chemical Company, 38 Pa. Commw. 89, 994, 391 A.2d 1333, 1336 (1978).

Here, Palm Springs' response to this petition for default judgment is grossly out of time and Palm Springs has not given any reason for its delay. Therefore, Palm Springs' opposition should be disregarded as a matter of law and default judgment entered in favor of the Liquidator. However, even if this Court does not reject out-of-hand Palm Springs' opposition to the Liquidator's Petition for Default Judgment, Palm Springs' arguments only further evidence why default judgment is an appropriate sanction for Palm Springs' willful discovery violations.

2. Palm Springs Was Obligated to Produce a Corporate Designee.

Somehow Palm Springs believes that it can unilaterally make the decision not to produce a corporate designee when faced with a proper notice of deposition. This position finds no support under the Pennsylvania Rule of Civil Procedure. Rule 4007.1(e) states that upon receipt of a corporate designee notice of deposition, the "organization so named *shall* serve a designation of one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf." Pa.R.Civ.P. 4007.1(e) (emphasis added). If Palm Springs believed there was no such person it could designate to testify, the proper procedure was for Palm Springs to seek relief from its obligations under Rule 4007.1(e) from this Court. Palm Springs did not do this. Then, in the face of a properly filed petition to compel that corporate designee deposition, Palm Springs had a second opportunity to seek relief from this Court. Again, Palm Springs did not ask this Court to excuse it from producing a corporate designee; instead, it did nothing. Now, a year and a half after the Liquidator filed its Petition for Default Judgment, Palm Springs wants to offer arguments that could have and should have been made over a year and a half ago.

- a. Palm Springs was obligated to educate a designee with information reasonably available to it.

Palm Springs argues that it has “advised the Liquidator that the individuals at Palm Springs who had been involved in the SCPIE Program were no longer employed by the Hospitals and thus no longer under their control.” See Palm Springs General Hospital’s Response to the Liquidator’s Petition for Default Judgment at paragraph 3 and Memorandum of Law in Opposition of Liquidator’s Petition for Default Judgment Against Palm Springs General Hospital at p. 10. Simply stating that the person or persons with first hand knowledge are no longer employed by Palm Springs did not absolve Palm Spring from producing a corporate designee. This sort of denial is simply not permitted by the Rules of Civil Procedure. Specifically, Rule 4007.1(e) states that the “person or persons so designated shall testify as to matters known *or reasonably available* to the organization.” Pa.R.Civ.P. 4007.1(e) (emphasis added). Palm Springs, therefore, was required to designate an individual and educate that individual with information that is reasonably available to Palm Springs.

Palm Springs has made no showing that it is without available information preventing a Palm Springs officer, director or managing agent from grasping the facts and testifying on Palm Springs’ behalf. In fact, Palm Springs now offers to produce its broker, a person with *first-hand knowledge* of the subject matter, as a designee if the Court determines that a corporate designee deposition should take place, calling into question why this individual was not designated and produced for deposition when the Liquidator initially noticed the corporate designee deposition. In fact, Rule 4019 specifically states that a court may enter a sanction order if “a corporation or other entity fails to make a designation under . . . Rule 4007.1(e),” leaving no question that a corporation simply cannot choose to not present a corporate designee.

Pa.R.Civ.P. 4019(a)(1)(ii). Default judgment is the only appropriate sanction given Palm Springs' cavalier attitude toward its obligations under Rule 4007.1(e).

b. Material Facts are in Dispute Justifying a Corporate Designee Deposition

Palm Springs also argues that a corporate designee deposition is unnecessary because the material facts are undisputed. To allow a plaintiff, such as Palm Spring, to not fully participate in discovery, based on so-called undisputed facts even though it has not even filed a motion for summary judgment threatens to undermine the integrity of the judicial process. More importantly, Palm Springs position is not based on the current factual record, which clearly establishes that it is disputed whether Palm Springs is entitled to direct access.

According to Palm Springs, direct access under *Legion* requires consideration of five factors. See Memorandum of Law in Opposition of Liquidator's Petition for Default Judgment Against Palm Springs General Hospital at p. 5. The factors are: 1) did the insurer take on any underwriting risk or act as a front; 2) did the insurer enter into the transaction in order to generate fees, and not premium; 3) did the 'reinsurer' function as a 'direct insurer' for the policyholder and was the claims handling process and the funding of claims the responsibility of the reinsurer; 4) did the policyholder facilitate the reinsurer's involvement; and 5) did the equities favor the policyholder's claim to direct access. *Ario v. Swiss Reinsurance America Corp.*, 940 A.2d 552, 558 (Pa. Commw. 2007) citing *Legion*, 831 A.2d at 1234-1238. The Liquidator disputes that Palm Springs can establish each of the five factors.

In particular, the Liquidator disputes that "Reliance was the last party 'to the table,'" and that Palm Springs "facilitate[d] the reinsurer's involvement." See Memorandum of Law in Opposition of Liquidator's Petition for Default Judgment Against Palm Springs General Hospital at p. 6. Indeed, Palm Springs acknowledges that Sullivan, Kelly & Associates

established the Farmers Program which ultimately became the SCPIE Program *Id.* As Reliance's Joe Slaton testified, Reliance was involved in the Farmers Program for years and, unlike in *Legion*, was identified as a potential insurer for what ultimately became the SCPIE Program long before anyone involvement by the reinsurer. See Deposition of Joseph Slaton at 23:6-29:22, attached as Exhibit A. The timing and extent of Palm Springs' involvement in the reinsurance placement, therefore, are not undisputed. Accordingly, the corporate designee deposition, was and is necessary for two purposes (1) to determine what facts, if any, exist to support Palm Springs contention that its involvement in the SCPIE program pre-dated Reliance's involvement and (2) to determine what role, if any, Palm Springs played in involving the reinsurer in the SCPIE program.

3. Under Rule 4019, Default Judgment Is An Appropriate Sanction

The parties agree that, under Rule 4019, the following factors are to be considered in determining an appropriate discovery sanction: (1) the nature and severity of the discovery violation; (2) the defaulting party's willfulness or bad faith; (3) prejudice to the opposing party; (4) the ability to cure the prejudice; and (5) the importance of the precluded evidence in light of the failure to comply. *Philadelphia Contributorship Ins. Co. v. Shapiro*, 798 A.3d 781, 784-85 (Pa. Super. 2002). Here, each of the factors weighs in favor of entering default judgment against Palm Springs.

First, Palm Springs violation is not merely its failure to produce a corporate designee. Palm Springs also failed to respond to Reliance's petition to compel a corporate designee deposition, which prompted Reliance to file its Petition for Default Judgment. Then Palm Springs failed to respond to the Liquidator's Petition for Default Judgment within the 20 day response period required by Rule 208.3(b).

Second, Palm Springs violations are willful. Palm Springs willfully chose not to produce a corporate designee; willfully chose not to respond to the Liquidator's Petition to Compel the Corporate Designee Deposition; and then sat back and waited for over a year to respond to the Liquidator's petition for default judgment. Palm Springs has not shown that its actions were "inadvertent mistakes" or a result of "scheduling problems" such that default judgment would be inappropriate. *See* Palm Springs Memo of Law in Opposition at 9-10. Quite the contrary, Palm Springs "repeated discovery abuses in this case" warrant Rule 4019 sanctions. *Steinfurth v. LaManna*, 404 Pa. Super. 384, 388, 590 A.2d 1286, 1288 (1991). Palm Springs' response to this petition is so severely tardy, it only serves to support Reliance's claim and further warrants the entry of default judgment. *See Luszczynski v. Bradley*, 729 A.2d 83, 88 (Pa. Super. 1999) (default judgment was an appropriate sanction for discovery violations which are "a direct affront to the authority of the trial court and to the integrity of the judicial system and the rule of law"). Palm Springs failure to prosecute its purported claim for direct access can only be construed as a willful abandonment of that claim. It is now appropriate for this Court to enter default judgment against Palm Springs due to its willful neglect.

Third, the Liquidator has been prejudiced by Palm Springs' actions. The Liquidator's ability to collect reinsurance proceeds from AHIC are impaired by Palm Springs' claim for direct access. While, Palm Springs erroneously suggests that it is the Liquidator's burden to take "action regarding this issue or this dispute," *see* Palm Springs Memo of Law in Opposition at 9, it is Palm Springs, who must prosecute its direct access claim or risk having default judgment entered against it. Allowing Palm Springs to ignore its discovery obligations and maintain its claim only further prejudices the Liquidator.

Fourth, Palm Springs offer to cure the prejudice to the Liquidator by producing a corporate designee for deposition does not outweigh the needless delay and unnecessary expense incurred by the Liquidator in securing a corporate designee deposition and having this direct access claim resolved.

Fifth, Palm Springs acknowledges that its role in the placement of the reinsurance is an important factual component to a claim for direct access. However, it also seeks to improperly foreclose the Liquidator from discovery into the factual basis upon which Palm Springs will establish its role in the placement of the reinsurance.

C. CONCLUSION

Palm Springs has caused nothing but undue delay and increased costs to the Liquidator, which could have been avoided by either complying with its discovery obligations under Rule 4007.1(e)—i.e., designating and producing a corporate designee, as it now, a year and half too late, offers--or by asking this Court for relief from its obligations under Rule 4007.1(e). Palm Springs must be appropriately sanctioned for not acting in good-faith and failing to fully participate in the discovery ordered by the Pennsylvania Supreme Court.

Accordingly, the Liquidator requests that this Court enter default judgment against Palm Springs and require Palm Springs to pay the fees and costs associated with the filing of this Petition as well as the Liquidator's Petition to Compel the Deposition of Palm Springs Corporate Designee.

Respectfully submitted,



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Dated: March 26, 2008

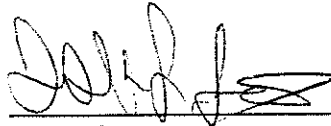
Attorneys for Joel S. Ario
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania
in His Official Capacity as
Statutory Liquidator of Reliance
Insurance Company (In Liquidation)

CERTIFICATE OF SERVICE

I hereby certify that on March 26, 2008, a true and correct copy of the foregoing LIQUIDATOR'S REPLY MEMORANDUM IN SUPPORT OF HIS PETITION FOR DEFAULT JUDGMENT AGAINST PALM SPRINGS GENERAL HOSPITAL was served upon the following:

Via First Class Mail
Daryn E. Rush, Esquire
1700 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103-2769

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



Isla L. Long

EXHIBIT A

1 APPEARANCES:
 2
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 Philadelphia, Pennsylvania 19103-2713
 11
 12 BY: DARYN E. RUSH, ESQ.
 13
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1 EXHIBITS
 2 JS: DESCRIPTION: PAGE
 3 1 A document containing 67
 handwriting Bates stamped
 4 REL-SC0411
 5 2 A document containing 68
 handwriting dated 9/26/95
 6
 7 3 A three-page handwritten 72
 document Bates stamped
 REL-SC2547 - 2549
 8
 9 4 A one-page handwritten 73
 document Bates stamped
 REL-SC2715
 10
 11 5 A three-page document from 74
 Sullivan, Kelly & Associates
 Bates stamped REL-SC2528 -
 12 2530
 13 6 A two-page memorandum dated 75
 January 18, 1996 to Joe Slaton
 from Blake Hyfield Bates
 stamped REL-SC0408 - 0409
 14
 15 7 A one-page handwritten 81
 document dated 3/6/96 Bates
 stamped REL-SC0493
 16
 17 8 A document dated March 6, 1996 82
 to Debbie Schwab from Blake
 Hyfield Bates stamped
 REL-SC0494 - 0496
 18
 19 9 A two-page handwritten 85
 document dated 5/6/96 Bates
 stamped REL-SC0502 - 0503
 20
 21 10 A letter from Sullivan Kelly 92
 consisting of three pages
 dated August 27, 1996 from
 22 Stephanie A. Cafiero to Neil
 Silvesky at Reliance National
 23
 24
 25

1 September 28, 2006
 2 CONTENTS
 3 Exhibit Index.....Page 4
 4
 5 Examination by Mr. Rush.....Page 6
 6
 7 Read and Sign.....Page 116
 8
 9
 10
 11
 12
 13
 14
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 16
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 18
 19
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1 EXHIBITS
 2 JS: DESCRIPTION: PAGE
 3 11 A document entitled Partners 95
 In Change With Your Hospital
 Bates stamped BH 8644 -8676
 4
 5 12 A September 6, 1996 96
 presentation for Baptist
 Health Systems of South
 Florida from Sullivan Kelly
 Bates stamped BH 8278 - 8362
 6
 7 13 A letter dated October 10, 98
 1996 to Joseph R. Henkes from
 Neil Silvesky Bates stamped
 8 SCPIE 003668 - 003669
 9
 10
 11 14 A document from Sullivan Kelly 100
 dated October 15, 1996 to Van
 Anderson from Kathy Hill Bates
 stamped SCPIE 000919 - 000923
 12
 13 15 A memorandum dated August 1, 102
 1997 to file from Neil
 Silvesky Bates stamped
 REL-SC1313
 14
 15
 16 16 A memorandum to 104
 ObrienM@NYProd.AS400.RN from
 Walter Gross
 17
 18 17 An E-mail to Neil Silesky from 104
 James Bedyga dated December
 1, 1998 and an E-mail to
 19 Walter Gross dated 10/28/98
 Bates stamped REL-SC2419 -
 20 2420
 21 18 A 1996-97 Automatic 109
 Facultative Quota Share
 Reinsurance Agreement Bates
 stamped REL-SC0706 - 0726
 22
 23
 24
 25

1 JOSEPH A. SLATON,
2 the Witness herein, having been first duly sworn
3 by Terri Fudens, a Notary Public of the State of
4 New York, was examined and testified as follows:

5 * * *

6 EXAMINATION

7 BY MR. RUSH:

8 Q. Please state your name for the record.

9 A. Joseph A. Slaton.

10 Q. Where do you presently reside?

11 A. My address is P.O. Box 188, Normandy
12 Beach, New Jersey, 08739.

13 Q. Good morning, Mr. Slaton. I introduced
14 myself a few minutes ago. My name is Darren Rush
15 with the law firm of Funk and Bolton in
16 Philadelphia, and I represent Baptist Health Care
17 and Palm Springs General Hospital in this matter.

18 Have you ever been deposed before?

19 A. Yes.

20 Q. How many times?

21 A. Once.

22 Q. I'm going to give you some basic ground
23 rules. You may be familiar with them, but it would
24 helpful, I think, if I give you the instructions
25 before we begin.

1 The first instruction is if you don't
2 understand my question, please ask me to rephrase
3 it. If you answer my question, I'm going to assume
4 that you understood my question and that your answer
5 is responsive. I would also ask you to please allow
6 me to finish my question completely before you begin
7 to answer. It may be readily apparent where I'm
8 going with my question, and the natural
9 conversational reaction is to simply begin
10 answering. If you could allow me to finish my
11 question completely, that will help make the record
12 more clear. I will do the same with you when you
13 are providing your answers.

14 If at any point you want to take a
15 break, you want to talk to counsel, please just
16 interrupt and we will be happy to do that.

17 Could you start by telling me your
18 educational background from post high school?

19 A. I have a Baccaalaureate from C. W. Post
20 College in Long Island, part of Long Island
21 University, and that was obtained in 1968.

22 Q. What was the specialty or major?

23 A. Biology.

24 Q. Any formal education after graduating
25 from C. W. Post?

1 A. No degrees.

2 Q. Do you hold any professional
3 designations?

4 A. I am an associate in risk management.
5 I am formerly a CSP, but I've let that expire.

6 Q. What is a CSP?

7 A. Certified safety professional. And I
8 have been a licensed insurance broker in the State
9 of New York, but I've let that expire as well.

10 Q. When did you obtain the ARM
11 designation?

12 A. At least 10 years ago.

13 Q. When did you begin working in the
14 insurance industry?

15 A. 1968.

16 Q. What was your first job in the
17 industry?

18 A. I was a customer service representative
19 in loss control with the Insurance Company of North
20 America.

21 Q. Was that in New York?

22 A. Yes.

23 Q. Why don't you walk me through your
24 employment history up to the current -- to the best
25 you can recall dates, that's helpful, but we

1 recognize you've got a number of years here.

2 A. Yes. I was with the INA, which became
3 Cigna, approximately 19 years and moved from risk
4 control or loss control to underwriting while I was
5 with INA and was the last medical professional
6 liability manager for the INA PRO organization in
7 New York, and that was an underwriting position, and
8 I believe I left there in 1987.

9 After that I spent approximately a year
10 with the Blue Cross/Blue Shield organization in
11 Delaware. After that I began my time with Reliance
12 Insurance Company, that's the subsidiary or group
13 called Reliance National here in New York, and at
14 that time I was hired to start up and run the
15 medical professional liability operation.

16 I was with Reliance for approximately
17 10 years and left them, I believe, in '97 or '98, at
18 which time I was employed by Gerling Global of the
19 U.S.A., and that was -- Gerling Global Re of U.S.A.,
20 and that was a United States reinsurance company,
21 and I spent three years with Gerling Global as an
22 officer responsible for medical professional
23 liability reinsurance.

24 After that in June of '02 I started
25 with my current employer who is CNA Financial, and I

1 lawyer. Keith Kaplan worked in the Ceded
 2 Reinsurance Division, to my recollection.
 3 Q. Ralph Gilmartin was not in your unit
 4 though; right?
 5 A. No.
 6 Q. Did you have any in-house lawyers
 7 specifically in your unit?
 8 A. I had at least one lawyer in my unit,
 9 but not performing as a lawyer.
 10 Q. What about Tom Krauss?
 11 A. Tom Krauss did not report to me, was
 12 not in my unit and served in an agency marketing
 13 role. I couldn't define it.
 14 Q. What, if anything, did he do for your
 15 unit?
 16 A. He got involved if we needed to get an
 17 agency appointed, and so he had a very limited
 18 involvement.
 19 Q. Kathy Lee?
 20 A. The name is familiar, but I don't
 21 recall what she did.
 22 Q. Were there any other of the
 23 underwriters like Joe Daubert who other underwriters
 24 reported to?
 25 A. Debbie Schwab had direct reports.

1 Q. Was she an AVP also?
 2 A. Yes. And another underwriter by the
 3 name of Maureen Maughan had direct reports.
 4 Q. How do you spell her last name?
 5 A. M-A-U-G-H-A-N.
 6 Q. I'm going to turn now to the program
 7 that's at issue in the litigation.
 8 One of the entities that was involved
 9 in setting up that program was Sullivan Kelly. Are
 10 you familiar with that organization?
 11 A. Yes.
 12 Q. When did you first have the occasion to
 13 do business with Sullivan Kelly?
 14 A. I'm not sure of the year, but it would
 15 have been very early on in my time at Reliance,
 16 maybe the second year I was there.
 17 Q. What was your introduction to Sullivan
 18 Kelly?
 19 A. I'm not sure how we were introduced. I
 20 was always aware of them, and I had met Jim Kelly
 21 from time to time, but we wound up being on what was
 22 called the Sullivan Kelly line slip.
 23 Q. What was the Sullivan Kelly line slip?
 24 A. It was an excess portfolio of primarily
 25 hospitals, primarily, if not exclusively, in

1 California where we took a portion of the risk with
 2 the majority of the risk in London.
 3 Q. Was that written as insurance or
 4 reinsurance?
 5 A. Good question. I believe it was
 6 written as insurance. I don't believe that we were
 7 reinsuring anyone else because it was a line slip,
 8 so I believe it was insurance.
 9 Q. Who or what was Sullivan Kelly at that
 10 time?
 11 A. Sullivan Kelly was an insurance
 12 brokerage operation that specialized in health care.
 13 Q. How long or what were the years that
 14 Reliance participated on the Sullivan Kelly line
 15 slip?
 16 A. I would say probably between the second
 17 and fourth year of me being at Reliance. I don't
 18 recall the actual years, but we participated for two
 19 years.
 20 Q. What was the level of Reliance's
 21 participation in the line slip, if you recall?
 22 A. I don't recall. I would guess in
 23 excess of 10 or 15 million dollars and perhaps
 24 3 million or 2 million dollars of exposure.
 25 Q. Could you say that again. I missed the

1 last part.
 2 A. Perhaps for a million or 2 million
 3 dollars of exposure.
 4 Q. Was it the practice of your unit to
 5 reinsure that exposure during that time?
 6 A. That exposure would have been retained
 7 net.
 8 Q. Would you have written additional
 9 exposure which you would have then reinsured, or
 10 when you were talking about the 1 or 2 million
 11 exposure that you would take, was your entire
 12 participation in the line slip net?
 13 A. We did not reinsure any part of the
 14 participation that we took, as you expressed it. It
 15 was a net retention.
 16 Q. Was there any other business that you
 17 then wrote through or with Sullivan Kelly?
 18 A. We may have done an occasional deal
 19 with Sullivan Kelly early on. There were things
 20 that fell outside of the parameters of the Farmers
 21 program and the London line slip, and I don't recall
 22 how many we did, but this is the early -- this is on
 23 or about when we were participating in the line
 24 slip.
 25 Q. When you refer to the London line slip,

1 that's the same as the Sullivan Kelly line slip?
 2 A. Yes.
 3 Q. What was the Farmers program?
 4 A. Perhaps other people would be better at
 5 this, but the Farmers through Truck Insurance
 6 Exchange -- the Farmers managed the Truck Insurance
 7 Exchange and took the first half million dollars of
 8 loss above which Sullivan Kelly placed the London
 9 line slip for a limit, whatever limits the health
 10 care facility wanted that was within the slip. The
 11 slip I believe went to 50 million.
 12 Q. During these years when Reliance is
 13 participating on the Sullivan Kelly line slip,
 14 Farmers is writing the initial 500,000 layer, and
 15 then above that the participants on the line slip
 16 are taking up to 50 million or thereabouts?
 17 A. Yes.
 18 Q. I think you said during that time there
 19 may have been specific transactions that Reliance
 20 was involved in other than the line slip?
 21 A. Correct.
 22 Q. Who were the individuals that Reliance
 23 worked with at Sullivan Kelly?
 24 A. This is now many years ago, you
 25 understand.

1 Q. Sure.
 2 A. Certainly Jim Kelly, and he was the
 3 principal that was involved. Jerry Sullivan. The
 4 other principal was less involved, but from time to
 5 time we would meet with him and many others whose
 6 names escape me right now.
 7 Q. Which of your underwriters had primary
 8 responsibility for the participation on the line
 9 slip?
 10 A. Tracy Schultz O'Day, if I recall. She
 11 was the one that was handling it.
 12 Q. What was the level of your involvement
 13 in those first couple of years, say, of the
 14 participation on the line slip?
 15 A. I'm not sure what you mean by level of
 16 involvement.
 17 Q. I think you described earlier that you
 18 had some level of hands-on involvement on most, if
 19 not all, of the business written through the unit.
 20 I'm trying to get an understanding of whether this
 21 line slip participation was a piece of business that
 22 you had significant personal responsibility for.
 23 A. I would be involved in all of the major
 24 meetings, but I wouldn't have been involved in the
 25 accounting transactions.

1 Q. How long had that line slip been in
 2 effect, if you know?
 3 A. I believe two years.
 4 Q. That line slip program, was that a
 5 program that was around for a long time before
 6 Reliance got involved?
 7 A. Yes, many years.
 8 Q. Had it always been run by or operated
 9 by Sullivan Kelly?
 10 A. To my knowledge, yes.
 11 Q. At some point Reliance's participation
 12 with Sullivan Kelly changed; correct?
 13 A. Yes.
 14 Q. When did that occur and how did that
 15 occur?
 16 A. I'm not sure of the date, but we had a
 17 falling out over competition where we were competing
 18 with the line slip, and so we were asked not to
 19 continue to participate.
 20 Q. Meaning Reliance was otherwise writing
 21 excess business in California and perhaps other
 22 states where the line slip was writing business?
 23 A. Trying to, yes.
 24 Q. Did Reliance have a California office,
 25 your unit?

1 A. No. My underwriters were all in
 2 New York.
 3 Q. How were your underwriters assigned;
 4 did they have geographical areas that they covered
 5 or types of business?
 6 A. Actually both ways and we changed it
 7 from time to time.
 8 Q. Do you recall when that was that you
 9 were asked to terminate your participation on the
 10 line slip?
 11 A. Well, it would have been prior to the
 12 end of the second year.
 13 Q. You did, in fact, terminate your
 14 participation on the line slip?
 15 A. Yes.
 16 Q. Then what business did you do with
 17 Sullivan Kelly after that?
 18 A. After that we continued trying to do
 19 business, we maintained a relationship, and
 20 eventually we did some fronts for them in Texas, and
 21 then we did the program that's at matter with the
 22 SCPIE issue.
 23 Q. What were the fronts that were written
 24 in Texas?
 25 A. I don't recall the names of hospitals,