

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO, Acting Insurance :
Commissioner of the :
Commonwealth of Pennsylvania, :
In his official capacity as Statutory Liquidator :
of RELIANCE INSURANCE COMPANY :
: No. 269 M.D. 2001
Plaintiff, :
: :
v. :
: :
RELIANCE INSURANCE COMPANY, :
: :
Defendant. :

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILA)

2008 MAY 22 P 3:34

RE: *Petition to Supplement the Court's September 13, 2007 Supplemental Case Management Order Regarding Counsel Representing Objectors in the Reliance Liquidation*

ORDER

AND NOW, this _____ day of _____, 2008, upon consideration of the Petition of Joel S. Ario, Acting Insurance Commissioner of the Commonwealth Of Pennsylvania, as Statutory Liquidator of Reliance Insurance Company ("Liquidator"), to Supplement the Court's September 13, 2007 Supplemental Case Management Order Regarding Counsel Representing Objectors in the Reliance Liquidation (the "Petition"), and FURTHER, considering that under Pennsylvania law, entities, including, *inter alia*, corporations, unincorporated associations and partnerships, appearing in this action must be represented by an attorney duly admitted to practice before this Court, and FURTHER, finding it necessary to ensure that all counsel who have not been admitted to practice law in the Commonwealth of Pennsylvania and who are representing Objectors in this action comply with Pa. R. Civ. P. 1012.1, Pa. B.A.R. 301,

and Pennsylvania IOLTA Regulation 81.505, the Court finds that granting the Petition will further the orderly administration of justice and is in the best interest of the Reliance Estate. Accordingly, it is ORDERED that the Petition is GRANTED and the Court's September 13, 2007 Supplemental Case Management Order is supplemented as follows; and FURTHER, said Order as supplemented below shall apply to all persons and entities ("Objectors") who have filed or will file with this Court objections or other requests for relief ("Objections") relating to Proofs of Claim ("POCs") or the Liquidator's Notices of Determination ("NOD"), including Objectors with matters assigned to a Referee:

1. All counsel who represent individual or entity Objectors in matters pending before this Court, including those matters set before a Referee, and who have not been admitted to practice law in the Commonwealth of Pennsylvania and have not yet complied with the Court's September 13, 2007 Supplemental Case Management Order shall comply with said Order and the Rules attached thereto within ten (10) days of the date of this Order;

2. All entity Objectors, including, *inter alia*, corporations, unincorporated associations and partnerships, must be represented by counsel duly admitted to practice before this Court in accordance with the Pennsylvania Rules of Civil Procedure, the Pennsylvania Bar Admission Rules and the Pennsylvania IOLTA Regulations.

3. All counsel for entity Objectors who have not yet filed an entry of appearance shall file an entry of appearance with this Court within ten (10) days of the date of this Order; and,

4. The Court may dismiss with prejudice the Objections of any Objector whose counsel fails to comply with the Court's September 13, 2007 Order or with this Order within ten (10) days of filing an objection.

FURTHER, no later than June ____, 2008, the Liquidator shall serve this Order on all persons listed on the Master Service List and the Claim Objector List, as well as all Referees, and all parties with matters pending before Referees, and shall file an affidavit of service that service has been effectuated.

JAMES GARDNER COLINS, Senior Judge

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 Commissioner of the :
 Commonwealth of Pennsylvania, :
 In his official capacity as Statutory Liquidator :
 of RELIANCE INSURANCE COMPANY :
 : No. 269 M.D. 2001
 Plaintiff, :
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 RELIANCE INSURANCE COMPANY, :
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RECEIVED AND FILED
 COMMONWEALTH COURT
 OF PA (PHILA)
 2009 MAY 22 P 3:34

**PETITION TO SUPPLEMENT THE COURT'S SEPTEMBER 13, 2007
 SUPPLEMENTAL CASE MANAGEMENT ORDER REGARDING
 COUNSEL REPRESENTING OBJECTORS IN THE RELIANCE LIQUIDATION**

Petitioner, Joel S. Ario, Acting Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company ("Reliance"), petitions the Court for an Order to Supplement the Court's September 13, 2007 Supplemental Case Management Order Regarding Counsel Representing Objectors in the Reliance Liquidation (the "Petition"). In support of this Petition, the Liquidator avers as follows:

I. BACKGROUND

A. The Liquidation of Reliance and Appointment of the Insurance Commissioner as Liquidator

1. On May 29, 2001, this Court entered an Order of Rehabilitation with respect to Reliance pursuant to the Pennsylvania Insurance Department Act of 1921, 40 P.S. §§221.1 – 221.63 ("Act").

2. This Court subsequently terminated the rehabilitation of Reliance and, by Order dated October 3, 2001, declared Reliance to be insolvent and issued an Order of Liquidation pursuant to 40 P.S. §§221.18 and 221.20 (the "Liquidation Order"). The Court appointed the Insurance Commissioner as Liquidator of Reliance.

B. Claim Filing and Disputed Claim Procedures

3. The Act, the Court's Liquidation Order and the Court's September 9, 2002 Order regarding Claims Filing Procedure and Disputed Claims Resolution ("Claims Procedures Order") specify the procedures for the submission and determination of Proof of Claims ("POCs") by creditors in the Reliance liquidation and for resolution of disputed claims.

4. Pursuant to the Claims Procedures Order, POCs must be submitted to the Liquidator and must be signed by the claimant or the claimant's attorney. (Claims Procedures Order ¶ 4.) A claim submitted by a corporation must be signed by an officer of the corporation, designated by his or her title, or the attorney for the corporation. (*Id.*)

5. The Claims Procedures Order requires, *inter alia*, that within 180 days of the Liquidator's receipt of a POC satisfying all claim and documentation requirements, the Liquidator shall provide a written Notice of Determination ("NOD") to the claimant and, where applicable, the claimant's attorney. (Claims Procedures Order ¶ 10(b).) The Claims Procedures Order further specifies the procedures for resolution of objections to the Liquidator's determination. (*Id.* at ¶ 10(d)-(f).)

6. Pursuant to the Claims Procedures Order, if a claimant is dissatisfied with the decision set forth in the NOD, the claimant may file with the Court

an objection to the Liquidator's determination within sixty days of the mailing of the NOD. (*Id.*) Failure to file objections constitutes a waiver of all future objections to the Liquidator's NOD. (*Id.*)

7. When an objection to an NOD is filed with the Court, the Liquidator and the objector may attempt to resolve the dispute, and the Liquidator is required to file a response within thirty days of service of the objection and serve a copy of its response on the objector, and his counsel, if applicable. (*See Id.*)

8. If the objection is not subsequently settled with Court approval pursuant to the paragraphs 12 through 14 of the Claims Procedures Order, the Court may refer the dispute to a Referee who, after a hearing, shall file with the Court proposed findings of fact and/or a recommended determination. (Claims Procedures Order ¶ 10(e).) The Claims Procedures Order further specifies the procedures for the filing and determination of exceptions to a Referee's proposed findings of fact and recommendations.

C. Representation of Claimants in the Disputed Claim Process

9. Counsel representing objectors before this Court and its appointed Referees in the foregoing disputed claims process are subject to the Pennsylvania Rules of Civil Procedure, and related Pennsylvania Bar Admission and IOLTA Regulations, governing admission to practice law in this Commonwealth and *pro hac vice* admission. *See* Pa. R. Civ. P. 1012.1, Pa. B.A.R. 301, and Pennsylvania IOLTA Regulation 81.505.

10. In addition, although individual objectors may appear *pro se* before this Court and its appointed Referees in the disputed claims process, entity objectors,

including corporations, unincorporated associations and partnerships, may appear only through an attorney at law admitted to practice before this Court. *See, e.g., Walcavage v. Excell 2000, Inc.*, 480 A.2d 281 (Pa. Super. 1984); *The Spirit of the Avenger Ministries v. Commonwealth of Pa.*, 767 A.2d 1130 (Pa. Commw. Ct. 2001).

11. In accordance with the foregoing authority, on September 13, 2007, this Court issued a Supplemental Case Management Order (the “September 13 Order”) providing, *inter alia*, that:

[A]s directed by Pennsylvania Rule of Civil Procedure 1012.1 (governing motions for admission *pro hac vice*), Pennsylvania Bar Admission, Rule 301, and Pennsylvania IOLTA Rule 81.505 (collectively, Rules), all counsel who have not been admitted to practice in the Commonwealth of Pennsylvania, including those with matters set before a Referee, who are representing person in the above-captioned matter are directed to FORTHWITH comply with the Rules (attached hereto); failure to comply with this Order may result in the issuance of a Rule to Show Cause why counsel should be permitted to continue representation in this matter. . . .

(*See* September 13 Order.)

**II. PROPOSED SUPPLEMENT TO SEPTEMBER 13, 2007
SUPPLEMENTAL CASE MANAGEMENT ORDER**

12. In order to ensure that all entity objectors appearing before this Court in the disputed claim process are represented by counsel as required by Pennsylvania law, and to ensure that all counsel representing objectors comply with the Court’s September 13 Order and the Rules referenced therein and attached thereto, the Liquidator respectfully proposes and requests that the Court issue a supplement to its September 13 Order that shall apply to all persons and entities who have filed or will file

with this Court objections or other requests for relief relating to POCs or the Liquidator's NODs, including objectors with matters assigned to a Referee.

13. Specifically, the Liquidator proposes and requests that the September 13 Order be supplemented to provide that:

(1) All counsel who represent individual or entity Objectors in matters pending before this Court, including those matters set before a Referee, and who have not been admitted to practice law in the Commonwealth of Pennsylvania and have not yet complied with the Court's September 13, 2007 Supplemental Case Management Order shall comply with said Order and the Rules attached thereto within ten (10) days of the date of this Order;

(2) All entity Objectors, including, *inter alia*, corporations, unincorporated associations and partnerships, must be represented by counsel duly admitted to practice before this Court in accordance with the Pennsylvania Rules of Civil Procedure, the Pennsylvania Bar Admission Rules, and the Pennsylvania IOLTA Regulations;

(3) All counsel for entity Objectors who have not yet filed an entry of appearance shall file an entry of appearance with this Court within ten (10) days of the date of this Order; and,

(4) The Court may dismiss with prejudice the Objections of any Objector whose counsel fails to comply with the Court's September 13, 2007 Order or this Order within ten (10) days of filing an objection.

WHEREFORE, the Liquidator respectfully requests that this Court grant the Liquidator's Petition and enter an Order in the form attached hereto.

Respectfully submitted,

BLANK ROME LLP



ANN B. LAUPHEIMER

SHEILA E. BRANYAN

One Logan Square

18th & Cherry Streets

Philadelphia, PA 19103-6998

(215) 569-5500

Attorneys for Joel S. Ario,

Acting Insurance Commissioner of the

Commonwealth of Pennsylvania, in his

official capacity as Statutory Liquidator of

Reliance Insurance Company

Dated: May 22, 2008

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 to Supplement the Court's September 13, 2007 Supplemental Case Management Order Regarding Counsel Representing Objectors in the Reliance Liquidation was made on all persons listed on the Attached Master Service List and Claim Objector List through the transmission of a Notice of Filing and through posting of a true and correct copy of the Petition in PDF format on the Reliance Documents website (www.reliancedocuments.com).

Dated: May 22, 2008


SHEILA E. BRANYAN

Master Service List

Joel S. Ario, Acting Insurance Commissioner of the Commonwealth of Pennsylvania

v.

Reliance Insurance Company

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

Jerome R. Richter
Ann B. Laupheimer
Blank Rome LLP
One Logan Square
Philadelphia, PA 19103
(215) 569-5500
(Attorneys for M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania)

Amy L. Weber, Esquire
Deputy Chief Counsel
Preston M. Buckman, Esquire
Special Funds Counsel
Commonwealth of Pennsylvania
Insurance Department
Office of the Chief Counsel
Capitol Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009
(Attorneys for the Pennsylvania
Insurance Department)

Marilyn K. Kincaid, Esquire
Reliance Insurance Company
(in Liquidation)
Three Parkway
Philadelphia, PA 19102
(215) 864-4205
(Attorney for Reliance Insurance
Company (in Liquidation))

Brian P. Flaherty, Esq.
Wolf, Block, Schorr & Solis-Cohen LLP
1650 Arch Street
22nd Floor
Philadelphia, PA 19103
Phone: (215) 977-2048
Fax: (215) 405-2948
(Attorneys for M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania)

Hillary C. Steinberg
James Michael Matour
Hangley Aronchick Scgal & Pudlin, P.C.
One Logan Square
Philadelphia, PA 19103

(215) 568-6200
(Attorneys for Reliance Group
Holdings, Inc.)

Jeffrey B. Rotwitt
Obermayer Rebmann Maxwell & Hippel
1 Penn Center, 19th Floor
Philadelphia, PA 19103-1895
(215) 665-3000
(Attorneys for M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania)

William Charles Bensley
George Whittaker Howard
Edward M. Nass
Howard Brenner & Nass, P.C.
1608 Walnut Street, Suite 1700
Philadelphia, PA 19103
(215) 546-8200
(Attorneys for Francine and Ted Forman)

Brad S. Karp
Paul, Weiss, Rifkind, Wharton & Garrison
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3000
(Attorneys for Reliance Group
Holdings, Inc.)

Robert H. Levin
Adelman Lavine Gold & Levin, P. C.
Four Penn Center, Suite 900
Philadelphia, PA 19103-2808
(215) 568-7515
(Attorneys for Committee of Policyholders)

Richard D. Batchelder, Jr.
Ropes & Gray
One International Place
Boston, MA 02110-2624
(617) 951-7000
(Attorneys for Miami Cruiseline
Holdings LLC)

Frank F. McGinn
Bartlett Hackett Feinberg, P.C.
155 Federal Street
9th Floor

Boston, MA 02110
(617) 422-0200
(Attorneys for Flatley Company)

Thomas J. Madigan
Pepper Hamilton LLP
One Mellon Center
500 Grant Street, 50th Floor
Pittsburgh, PA 15219-2502
(412) 454-5000
(Attorneys for O'Brien-Kreitzberg
& Associates, Inc.)

Douglas B. Provencher
Provencher & Flatt, LLP
823 Sonoma Avenue
Santa Rosa, CA 95404
(707) 284-2380
(Attorneys for Great Western Collection
Bureau)

Terence R. Savage
Employment Development Department
State of California
800 Capitol Mall, Legal Office
Sacramento, CA 95814
(916) 654-8410
(Attorneys for Employment Development
Department, State of California)

R. Nicholas Gimbel
McCarter & English, LLP
Mellon Bank Center
1735 Market Street
Suite 700
Philadelphia, PA 19103
Phone: (215) 979-3800
Fax: (215) 979-3899
(Attorneys for Brand Scaffold Services, Inc.,
Magellan Ins. Co. Ltd., and Sun Life Assurance
Company of Canada)

Anderson, Kill & O'Leik P.C.
1600 Market Street, Suite 2500
Philadelphia, PA 19103
(215) 568-4202

-and-
Marvin L. Wilenzik
Elliott Reihner Siedzikowski & Egan, P.C.
925 Harvest Drive
P.O. Box 3010
Blue Bell, PA 19422
(215) 977-1050
(Attorneys for Synagro Technologies, Inc.)

Jeremy J.O. Harwood, Esquire

Blank Rome LLP
23rd Floor
405 Lexington Avenue
New York, NY 10174
(212-885-5149)

-and-
Joseph M. Donley, Esquire
William E. Cox, Esquire
Kittredge, Donley, Elson, Fullen & Embick
400 Market Street, Suite 200
Philadelphia, PA 19106
(215-829-9900)
(Attorneys for Steamship Mutual Underwriting
Association (Bermuda) Ltd.)

Thomas V. White, Esquire
Joseph P. Rusnak, Esquire
Tune, Entrekin & White, P.C.
AmSouth Center, Suite 1700
315 Deaderiek Street
Nashville, TN 37238
(615) 244-2770
(Attorneys for Home Builders Association of
Tennessee Self-Insured Trust)

Miehele Smolin, Esquire
McDonald, Hopkins, Burke & Haber
600 Superior Avenue E
Cleveland, OH 44114-2653
(216) 348-5400
(Attorneys for United Church of Christ Insurance
Board)

Lisa Luborsky, Esquire
Britt, Hankins & Moughan
Two Penn Center Plaza, Suite 515
1500 John F. Kennedy Blvd.
Philadelphia, PA 19102-1888
(215) 569-6918
(Attorneys for the Pennsylvania Property and
Casualty Insurance Guaranty Association)

Frederick P. Santarelli, Esquire
Elliott Greenleaf & Siedzikowski, P.C.
925 Harvest Drive
P.O. Box 3010
Blue Bell, PA 19422
(215) 977-1050
(Attorneys for Estate of Leo Frances Tenczynski)

Janice Marie Savinis, Esquire
Savinis, D'Amico & Kane, LLC
Suite 3626, Gulf Tower
707 Grant St.
Pittsburgh, PA 15219
(Attorney for Harold W. Thomas)

Franeine L. Semaya, Esquire
Joseph James Belle, Esquire
Cozen O'Connor
45 Broadway, 16th Floor
New York, NY 10006
(212-908-1270)
(Attorneys for Allied Holdings and Client Assurance Pool)

Richard F. McMenamin, Esquire
David L. Harbaugh, Esquire
Morgan, Lewis & Boekius LLP
1701 Market Street
Philadelphia, PA 19103-2921
(215-963-5596)
(Attorneys for Fuji Bank Limited and The Tribune Company)

Erie P. Wilenzik, Esquire
Elliott Reihner Siedzikowski & Egan, P.C.
925 Harvest Drive
Blue Bell, PA 19422
(215-977-1000)
(Attorneys for Brandywine Realty Trust)

Sarah H. Zinn, Esquire
Hogan & Hartson, LLP
555 13th Street, N.W.
Washington, D.C. 20004-1109
(202) 637-6459
(Attorneys for National Structured Settlements Trade Association, General Electric Capital Assurance Co., First Colony Life Ins. Co., Federal Home Life Ins. Co., and GE Life and Annuity Assurance Co.)

David W. Cranshaw, Esquire
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, GA 30326
(404-233-7000)
(Attorneys for ChoicePoint and its division ChoicePoint Commercial Specialist)

P. Kevin Brobson, Esquire
Buchanan Ingersoll
One South Market Square
213 Market Street, 3rd Floor
Harrisburg, PA 17101
(717-237-4800)
(Attorneys for Magellan Reinsurance Company, Ltd. and RBH Reinsurance Ltd.)

Bruee R. Hoffman, Esquire
Law Office of Bruee R. Hoffman, LLC
574 Sea Island Parkway
Saint Helena Island, SC 29920-4205
(843-838-5290)
(Pro Se)

R. Jane Lynch, Esquire
Cox, Castle & Nicholson LLP
2049 Century Park East, Suite 2800
Los Angeles, CA 90067
(310-277-4222)
(310-277-7889) fax
(Attorneys for Lake at Las Vegas Joint Venture)

Kevin E. Wolff, Esquire
Robert J. Re, Esquire
McElroy, Deutsch & Mulvaney, LLP
1300 Mount Kemble Avenue
P.O. Box 2075
Morristown, NJ 07962-2075
(973-425-8717)
(Attorneys for Celanese Americas Corporation, Elwood Insurance Limited, and Celwood Insurance Company (f/k/a Hoechst Celanese Insurance Company, Ltd.)

Michael B. Dubin, Esquire
Semanoff, Ormsby, Greenberg & Torchia
Suite 200 Jenkins Court
610 Old York Road
Jenkintown, PA 19046
(215-887-0200)
(215-887-5356) fax
(Attorneys for Integrated Health Services, Inc.)

Deborah Fuehs Cohen, Esquire
Erie Jonathan Rothschild, Esquire
Pepper Hamilton LLP
3000 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103
(215) 981-4470
(Attorney for M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania)

Leonard P. Goldberger, Esquire
Amy Elizabeth Vulpio, Esquire
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
(215) 864-6376
(Attorneys for Insurance Company of North America)

Harold S. Horwich, Esquire

Bingham McCutchen
One State Street
Hartford, CT 06103
(860) 240-2700
(Attorneys for St. Joseph's Medical Center)

Susan J. Guerrieri, Esquire
Stephen C. Baker, Esquire
John B. Dempsey, Esquire
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
(215) 988-2700
(Attorneys for Mawson & Mawson, Inc.)

Joseph F. Orso, III, Esquire
Casale & Bonner, P.C.
Suite 202
33 West Third Street
Williamsport, PA 17701
(570) 326-7044
(Attorneys for Riehard Ruhl)

Arthur Makadon, Esquire
Geoffrey A. Kahn, Esquire
Ballard Spahr Andrews & Ingersoll, LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
(215) 665-8500
(Attorneys for Deloitte & Touche LLP)

Douglas Y. Christian, Esquire
Ballard Spahr Andrews & Ingersoll
1735 Market Street, 51st Floor
Philadelphia, PA 19103-7599
(215) 864-8404
(Attorneys for American Longshore Mutual Association)

Lisa M. Salazar, Esquire
McCarter & English LLP
Mellon Bank Center, Suite 700
1735 Market Street
Philadelphia, PA 19103-7501
(215) 979-3800
(Attorneys for Robert M. Steinberg)

Robert E. Kelly, Jr., Esquire
Anthony W. Parker, Esquire
Kelly, Parker & Cohen LLP
Commerce Towers
10th Floor
300 North Second Street
Harrisburg, PA 17106-2003
717-920-2220
(Attorneys for Petitioner South Carolina School

Boards Insurance Trust)

Joseph M. Hennelly, Jr., Esquire
Hennelly & Steadman, PLC
Goldworthy House
322 West Roosevelt
Phoenix, AZ 85003
(602) 230-7000
(Attorneys for Mark D. Sharp as Arizona's Special Aneillary Reeceiver of Reliance)

Rowe W. Snider, Esquire
Steven T. Whitmer, Esquire
Julie L. Young, Esquire
Lord, Bissell & Brook
111 S. Waeker Drive
Chicago, Illinois 60606
(312) 443-0700
(Attorneys for NCIGF)

Paul G. Witko, Deputy Attorney General
State of New Jersey
Office of the Attorney General
Department of Law and Public Safety
Division of Law
Station Plaza #4, 2nd Floor
22 South Clinton Ave.
P.O. Box 117
Trenton, NJ 08625-0117
(609) 777-3512
(Attorney for New Jersey Workers Compensation Bureau)

Maleolm C. Lindquist, Esquire
Lane Powell Spears Lubersky
1420 Fifth Ave.
Suite 4100
Seattle, WA 98101
(206) 223-7101
(Attorney for Labor Ready, Inc.)

James W. Kutz, Esquire
Kimberly M. Colonna, Esquire
McNees Wallace & Nurick, LLC
100 Pine St, P.O. Box 1166
Harrisburg, PA 17108-1166
(717) 232-8000
(Attorneys for Earth Tech, Inc.)

Guy A. Cellucci, Esquire
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395
(215) 864-7000
(Attorneys for Hartford Fire Insurance Co., Hartford Specialty Co., and the Hartford Financial Services Group, Inc.)

Brian T. Guthrie, Esquire
Daniel W. Krane, Esquire
Drinker Biddle & Reath LLP
One Logan Square
18th and Cherry Streets
Philadelphia, PA 19103-6996
(215) 988-2700
(Attorneys for Lexington Insurance Co.)

Edward G. Biester, Esquire
Duane Morris LLP
3030 South 17th Street
Philadelphia, PA 19103
(215) 979-1000
(Attorneys for Florida Workers' Compensation Insurance Guaranty Association Incorp.)

Lawrence Licitra, Esquire
Julie Pollack, Esquire
Swiss Reinsurance America Corporation
175 King Street
Armonk, NY 10504
(914) 828-8000
(Attorneys for Swiss Reinsurance America Corp.)

Daryn E. Rush, Esquire
Gibbons PC
1700 Two Logan Square
18th & Arch Streets
Philadelphia, PA 19103-2769
215-446-6220
(Attorneys for Travelers Casualty and Surety Co.)

John C. Connell, Esq.
Jerrold S. Kulback, Esq.
Archer & Greiner, PC
One Centennial Square
Haddonfield, NJ 08033
(856) 795-2121
(Attorneys for New Mexico Mutual Casualty Company and Southwest Casualty Company)

Kimberly A. LaMaina
Skadden, Arps, Slate, Mcagher & Flom, LLP
One Rodney Square
Wilmington, DE 19801
(302) 651-3184
(Attorneys for Zenith Insurance Company)

Jeffrey B. Cohen
John Menke
Joseph Krettek
Pension Benefit Guaranty Corporation
Office of the General Counsel
1200 K Street, N.W.

Washington, D.C. 20005
(202) 326-4020
(Attorneys for Pension Benefit Guaranty Corporation)

Francis Patrick Newell
Harkins Cunningham LLP
2800 One Commerce Square
2005 Market Street
Philadelphia, PA 19103
(215) 851-6700
(Attorney for Celanese and the Celanese Reinsurers)

Jeff Farkas
Laura Torrado
Bear Stearns Investment Products Inc.
383 Madison Avenue
New York, NY 10179
(212) 272-3330
(Non-Attorney Representative of Bear Stearns)

Michael Winschuh
Dennis Comstock
VonWin Capital, L.P.
60 Madison Avenue, Suite 201
New York, NY 10011
(212) 889-1601
(Attorneys for VonWin Capital)

Jed A. Hart
Angelo, Gordon & Co.
245 Park Avenue, 26th Floor
New York, NY 10167
(212) 692-2003

James W. Schacht
Navigant Consulting, Inc.
175 West Jackson Blvd., Suite 500
Chicago, IL 60604
(312) 583-5700

Michael J. Cawley
Wilson, Elser, Moskowitz, Eldelmen & Dieker LLP
The Curtis Center
Suite 1130 East
Independence Square West
Philadelphia, PA 19106
(215) 627-6900
(Attorney for British Aviation Insurance Group Ltd.)

Laura L. McGrogry, Chief Counsel
Legal Division
Industrial Commission of Arizona
P.O. Box 19070
Phoenix, AZ 85005-9070
(Counsel for the Arizona Workers Compensation Guaranty Association)

Arthur F. McNulty
Chief Counsel
Pennsylvania Insurance Department
Office of Chief Counsel
1341 Strawberry Square
Harrisburg, PA 17120
(717) 783-1975
(Counsel for M. Diane Koken,
Insurance Commissioner of the
Commonwealth of Pennsylvania)

Jonathan Neiss
Contrarian Capital Management, LLC
411 West Putnam Avenue, Suite 225
Greenwich, CT 06830
(203) 862-8255

F. Warren Jacoby
Cozen O'Connor
1900 Market Street
Philadelphia, PA 19103
(215) 665-2154
(Attorney for Hudson News Co., Hudson News
Distributors, LLC, Magazine Distributors, Inc., and
MET News Liquidating Trust)

David L. Neale
Tania M. Moyron
Levene, Neale, Bender, Rankin & Brill LLP
10250 Constellation Blvd.
Suite 1700
Los Angeles, California 90067
(310) 229-1234

Douglas H. Deems
The Claro Group, LLC
777 S. Figueroa Street, Suite 4050
Los Angeles, CA 90017
(213) 784-0190

Timothy P. Law, Esq.
John Norig Ellison, Esq.
Reed Smith
2500 One Liberty Place
1650 Market Street
Philadelphia, PA 19103-7301
(215) 851-8100
(Counsel for Conoco, Inc. and Harlem River Park
Houses, Inc.)

CLAIM OBJECTOR LIST
269 MD 2001

ALAN FEIN, STEARNS WEAVER
MILLER, ET AL
150 W FLAGLER ST STE 2200
MIAMI, FL 33130-1536

BALTAXE, GEORGE
ESQ
15821 VENTURA BLVD, STE. 245
ENCINO, CA 91436

BILZIN, SUMBERG, BAENA, PRICE &
AXELROD
MITCHELL WIDOM
200 S. BISCAYNE BLVD
MIAMI, FL 33131-5340

CARUTHERS, D. MICHAEL
ESQ.
431 SOUTH PALM CANYON DRIVE
PALM SPRINGS, CA 92264

COZEN O'CONNOR
F. WARREN JACOBY, ESQ.
1900 MARKET ST
PHILADELPHIA, PA 19103-3527

ED KRUSE
ATTORNEY AT LAW
2016 SOUTH BIG BEND BLVD
ST. LOUIS, MO 63117

EUBANKS, SILAS R
259 E 7TH AVE
TALLAHASSEE, FL 32303-5518

GARAN, LUCOW, MILLER AND
SEWARD, P.C.
PAUL L. DIESEL, ESQUIRE
8332 OFFICE PARK DR
GRAND BLANC, MI 48439-2076

GARDERE WYNNE SEWELL LLP
GEOFFREY H. BRACKEN, ESQ
1000 LOUISIANA ST STE 3400
HOUSTON, TX 77002-5011

GORAYEB & ASSOCIATES, P.C.
100 WILLIAM ST
NEW YORK, NY 10038-4512

HELLER, EHRMAN, WHITE AND
MCAULIFFE, LLP
MICHAEL R. WRENN
701 5TH AVE STE 6100
SEATTLE, WA 98104-7043

JACOBS AND JACOBS, ESQS.
THE MADISON BUILDING
STAMFORD, NY 12167

LING, GARY A
3660 W. MONTAGUE AVENUE
N. CHARLESTON, SC 29418

LOSAVIO LAW FIRM
KENT S. DEJEAN
8414 BLUEBONNET BLVD.
BATON ROUGE, LA 70810

MORGAN LEWIS & BOCKIUS
1701 MARKET ST
PHILADELPHIA, PA 19103-2903

PASINKOFF, ERIC MICHAEL
ESQ.
260 MADISON AVE, 22ND FLOOR
NEW YORK, NY 10016

PILLSBURY WINTHROP. LLP
PHILIP WARDEN, ESQ.
50 FREMONT ST
SAN FRANCISCO, CA 94105-2230

PODHURST, ORSECK, PA
25 WEST FLAGLER STREET
MIAMI, FL 33130

REED SMITH LLP
1600 MARKET STREET
PHILADELPHIA, PA 19103

SMITH WILSON & DUNCAN
P O BOX 15525
AMARILLO, TEXAS 79105

WAYNE M. SMITH, ESQ.
WARNER BROS ENTERTAINMENT
INC.
7000 WARNER BLVD BLDG 156 RM.
5158
BURBANK, CA 91722

ACUMEN RE MANAGEMENT CORP.
302 FELLOWSHIP RD STE 130
MOUNT LAUREL, NJ 08054

AGUILAR ERNESTINA
1111 18TH STREET
AMARILLO, TX 79105

APPLE COMPUTER, INC.
1 INFINITE LOOP
CUPERTINO, CA 95014-2083

BASKETBALL PROPERTIES
501 BISCAYNE BLVD
MIAMI, FL 33132-1801

BUTLER FINANCIAL SOLUTIONS, LLC
JAMES F. MORGANTEEN, ESQ
2200 HIGHWAY 121, SUITE 100
BEDFORD, TX 76021-5983

CAMPBELL, MICHAEL K
7711 DESMOND STREET
N. CHARLESTON, SC 29418

CLAIM OBJECTOR LIST
269 MD 2001

COHEN, EYAL
331 BERKELEY RUN
ATLANTA, GA 30342

CRAWFORD, KENNETH T
3086 CARRIAGE MANOR CIR
TALLAHASSEE, FL 32304-1100

DJM CONTRACTING CORP
42 CHICAGO PL
HUNTINGTON STATION, NY 11746

ELLER MEDIA CORPORATION AND
2201 E. CAMELBACK RD
PHOENIX, AZ 85016

FARM BUREAU MUTUAL INSURANCE
COMPANY OF
7373 W SAGINAW HIGHWAY
LANSING, MI 48909-7900

FIRST CLASS COVERAGE, INC.
150 BROADWAY STE 2206
NEW YORK, NY 10038-4493

FORTENBERRY, JEFFERY B
1200 LOUISVILLE STREET
STARKVILLE, MS 39759

GENESIS CONSOLIDATED SERVICES,
INC.
76 BLANCHARD RD
BURLINGTON, MA 01803

HAIRRELL, MYRON
516 LAKE AVE APT 4
WOODSTOCK, IL 60098-4283

HUDSON NEWS COMPANY
1 MEADOWLANDS PLZ
EAST RUTHERFORD, NJ 07073-2150

JONES, RICKY
364 RIVER STREET
HOBART, NY 13788

LAIN, DAN
TRUSTEE
LAIN FAULKNER & CO.
400 N SAINT PAUL ST
DALLAS, TX 75201-3114

LOPEZ, MARIO
C/O GEORGE BALTAXE, ESQ
AND MARTA LOPEZ
1521 VENTURA BLVE., STE. 245
ENCINO, CA 91436

MADAR, ROTEM
ITSCHAL MADAR, FATHER
1333 51ST ST
BROOKLYN, NY 11219-3557

MILLER, MARY
PO BOX 3253
RANCHO PALOS VERDE, CA 90274

NATIONAL ENVIRONMENTAL
SAFETY COMPANY, INC.
ERIC MICHAEL PASINKOFF
260 MADISON AVE; 22ND FLOOR
NEW YORK, NY 10016

SAM, FREDDIE
3606 YOSEMITE ST
HOUSTON, TX 77021-4720

STANFIELD, BRIAN
10132 CLOVERDALE DR
SAINT LOUIS, MO 63136-4214

THE FUJI BANK LIMITED
JAMES RITTER
150 SOUTH GRAND AVENUE
LOS ANGELES, CA 90071

THOMPSON, WALTER K
20 SHELLY ROAD
NORTON, MA 02766

THURSTON COUNTY
RISK MANAGEMENT DEPT
2000 LAKERIDGE DR SW
OLYMPIA, WA 98502-6001

POMPKINS, SHARON
V/K/A SHARON RICHARDSON
6220 BEECHWOOD DR
CHARLESTOWN, IN 47111-9756

VARGAS, FRANCISCO
C/O ATTORNEY D. MICHAEL
CARUTHERS
PALM SPRINGS, CA 92264

WARNER BROS. ENTERTAINMENT
INC. SUCCESSOR-IN-INTEREST TO
WARNER BROS. A DIVISION OF
4000 WARNER BLVD RM 5158
BLDG 156 5158
BURBANK, CA 91522-0001

WARRANTECH AUTOMOTIVE
PO BOX 1179
BEDFORD, TX 76095

WARRANTECH AUTOMOTIVE, INC
JAMES F. MORGANTEEN, ESQ.
2200 HIGHWAY 121
BEDFORD, TX 76021-5983

WARRANTECH CONSUMER
PRODUCTS SERVICES, INC.
JAMES F. MORGANTEEN ESQUIRE
2200 HIGHWAY 121, STE 100
BEDFORD, TX 76021-5983

CLAIM OBJECTOR LIST
269 MD 2001

WARRANTECH HOME ASSURANCE
CO.
2200 HIGHWAY 121
BEDFORD, TEXAS 76021

WARRANTECH HOME SERVICE
COMPANY
JAMES F. MORGANTEEN, ESQ.
2200 HIGHWAY 121, STE. 100
BEDFORD, TX 76021-5983

WILSON, CLAUDE J
29 FORTUNE DR
LANE, SC 29564