

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILAN)

2008 JUL 31 P 1:42

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY

Defendant.

DOCKET NO. 269 MD 2001

IN RE: *Commutation, Settlement Agreement and Release between
Reliance Insurance Company (In Liquidation) and Enstar (US) Inc., formerly known as
Castlewood (US) Inc., for and on behalf of Continental Casualty Company*

ORDER

AND NOW, this ___ day of _____, 2008, the Court upon consideration of the Liquidator's Petition for Leave to File Confidential Affidavit Under SEAL, orders that the Petition is **GRANTED**; further the Liquidator is permitted to file under seal the confidential affidavit and its exhibit marked as "Sealed Exhibit A" to the Petition for Leave and as "Sealed Exhibit B" to the Commutation Petition; and **FURTHER**, the Chief Clerk is directed to file the confidential affidavit and its exhibit marked as "Sealed Exhibit A" to the Petition for Leave and as "Sealed Exhibit B" to the Commutation Petition **UNDER SEAL**, and to maintain the document as SEALED as well as take all necessary and appropriate precautions to prevent the public disclosure of the confidential affidavit until further Order of this Court.

Further, counsel for the Liquidator is directed to serve a copy of this Order upon those listed on the Master Service List and an affidavit that service has been effectuated with the Court.

BONNIE BRIGANCE LEADBETTER, President Judge

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-

2008 JUL 31 P 1:45

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILA)

IN RE: *Commutation, Settlement Agreement and Release between
Reliance Insurance Company (In Liquidation) and Enstar (US) Inc., formerly known as
Castlewood (US) Inc., for and on behalf of Continental Casualty Company*

**LIQUIDATOR'S PETITION FOR LEAVE TO
FILE CONFIDENTIAL AFFIDAVIT UNDER SEAL**

Petitioner Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company ("Reliance or Estate"), respectfully requests that this Court grant the Liquidator leave to file the Confidential Affidavit of Keith Kaplan and its exhibit ("Confidential Affidavit") under seal (attached hereto as Sealed Exhibit A), and enter an Order directing the Chief Clerk of the Commonwealth Court to file the Confidential Affidavit under seal. The Confidential Affidavit is being submitted in support of the Liquidator's Petition for Approval of Commutation, Settlement Agreement and Release ("Commutation Petition"). In support of this Petition, the Liquidator avers the following:

1. Simultaneously with this Petition, the Liquidator is filing the Commutation Petition which seeks an Order approving the Commutation, Settlement Agreement and Release (“Settlement Agreement”) between the Liquidator and Enstar (US) Inc., formerly known as Castlewood (US) Inc. for and on behalf of Continental Casualty Company. The Commutation Petition is supported in part by the Confidential Affidavit which is attached as Sealed Exhibit B to the Commutation Petition.

2. Preserving the confidentiality of the information contained in the Confidential Affidavit will serve important governmental interests, including maximizing the assets of the Estate, enhancing the efficiency and economy of liquidation, and facilitating the Liquidator’s efforts to “protect ... the interests of insureds, creditors and the public generally” 40 P.S. §221.1(c); see 40 P.S. §221.23.

3. The Confidential Affidavit contains sensitive information regarding the Liquidator’s reasons for entering into the Settlement Agreement and how the parties arrived at the final commutation amount. It would be highly prejudicial to the Liquidator, and the creditors and policyholders of Reliance, if details of the Liquidator’s strategies, business valuations, and rationale behind the Settlement Agreement were disclosed to the public and particularly to other reinsurers of Reliance.

4. The Liquidator has been and will be negotiating settlements or commutations with a number of Reliance’s reinsurers. If the analysis supporting the amounts the Liquidator is willing to accept from a particular reinsurer is made public, other reinsurers will be able to use that information in determining their own negotiating positions. This is likely to set a ceiling on the amounts the Liquidator will be able to collect from other reinsurers, thereby hampering efforts to maximize the recovery of Estate assets. Settlement agreements between


insurers, even outside of the liquidation process, often contain confidentiality provisions for this very reason.

5. Consistent with the foregoing, if any Reliance policyholder or creditor (other than another reinsurer of Reliance, including affiliates) with a demonstrable and not adverse interest in the subject matter of the Settlement Agreement wishes to review the Confidential Affidavit, the Liquidator, subject to the Court's approval, will provide it to that person or entity upon its execution of a confidentiality agreement limiting the use of and prohibiting disclosure of the information contained therein. This represents the least restrictive means of accomplishing the necessary purpose of maintaining the confidentiality of these materials.

6. The Liquidator requests that, in resolving this Petition, the Court review the Confidential Affidavit in camera, grant the Petition, and direct the Chief Clerk to file the Confidential Affidavit (and its exhibit) under seal. Should the Court be inclined to deny the Petition, the Liquidator respectfully requests that the Court permit the Liquidator the opportunity to withdraw this Petition, the Commutation Petition and the Confidential Affidavit to avoid any prejudice which may befall the Liquidator, the Estate, and its creditors and policyholders from premature public disclosure of the information contained in the Confidential Affidavit.

WHEREFORE, the Liquidator respectfully requests that this Court enter an Order in the form attached hereto (1) granting the Liquidator leave to file the Confidential Affidavit of Keith Kaplan and its exhibit under seal as Sealed Exhibit A to this Petition and as Sealed Exhibit B to the Commutation Petition, and (2) directing the Chief Clerk of the Commonwealth Court to file the Confidential Affidavit and its exhibit under seal as Sealed Exhibit A to this Petition and as Sealed Exhibit B to the Commutation Petition.

Respectfully submitted,
PEPPER HAMILTON LLP

By: 
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Attorneys for Joel S. Ario, Insurance Commissioner
of the Commonwealth of Pennsylvania, in his
official capacity as Statutory Liquidator of Reliance
Insurance Company


Dated: July 31, 2008

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2008 a true and correct copy of the Liquidator's
Petition for Leave to File Confidential Affidavit Under Seal was served upon the following:

Via Notice of Filing

Members of Reliance Master Service List

A handwritten signature in black ink, appearing to read "Isla L. Long", is written above a horizontal line.

ISLA L. LONG