

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

JOEL S. ARIO,  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,  
in his official capacity as Statutory  
Liquidator of Reliance Insurance Company,

Plaintiff,

v.

RELiance INSURANCE COMPANY,

Defendant.

No. 269 M.D. 2001

***RE: Procedures for Disposition of Proofs of Claim***

**CASE MANAGEMENT ORDER**

AND NOW, this 12th, day of December, 2008, IT IS HEREBY ORDERED that the disposition of Proofs of Claim filed in the liquidation proceeding of Reliance Insurance Company ("Reliance" or "Estate") shall proceed in the following manner and previous Orders of this Court are amended<sup>1</sup> to the extent that they are inconsistent with this Order:

**I. REVIEW OF PROOFS OF CLAIM**

Proofs of Claim ("POCs") filed pursuant to Article V of The Insurance Department Act of 1921, ("Act"), and pursuant to this Court's order of September 9, 2002, shall be reviewed and processed as follows:

<sup>1</sup> This order amends, particularly but not exclusively, the prior Claims Management Order dated September 9, 2002.

1. The Liquidator shall review all POCs filed by creditors, as defined in 40 P.S. § 221.3, to determine if information sufficient to make a final determination on a POC has been provided. The Liquidator may request additional information and other documents as he deems necessary to evaluate a POC. Requests by the Liquidator for additional information and the requirements to provide information shall be governed by the Orders of this Court dated May 1, 2007 and November 27, 2007.

2. If the Liquidator determines that a POC has also been submitted, in part or in whole, to a State Guaranty Association ("GA"), the Liquidator may defer further review of the POC until the GA has made its final determination and has returned the closed claim file to the Liquidator.

3. At the Liquidator's discretion or upon the request of this Court, Notices of Status may be issued regarding individual POCs. Within 180 days from receipt of information sufficient to adjudicate a POC, the Liquidator shall issue a written Notice of Determination ("NOD"). The Liquidator may issue partial NODs as set forth in this Court's order of January 17, 2008.

4. The Liquidator shall provide the NOD to the creditor and, if represented, to their representative or attorney (collectively, where appropriate, "Claimant") by first-class mail, at the address shown in the POC, unless a change of address is provided to the Liquidator subsequent to the filing of the POC. The Claimant bears the burden of notifying the Liquidator of any change in address. Such change of address should be mailed to the Proof of Claim Department, Reliance Insurance Company, P.O. Box 13527, Philadelphia, PA 19101-3527.

**II. SUBMITTING OBJECTIONS**

5. If a Claimant disputes the NOD, in whole or in part, the Claimant, shall, within sixty (60) days from the mailing date shown on the NOD, file an objection ("Objection") in Commonwealth Court. The Objection shall state the factual and legal basis for the objection, attach relevant supporting documentation, and attach the NOD.

6. The Claimant shall provide a copy of the Objection to the Statutory Liquidator of Reliance Insurance Company by first-class mail at P.O. Box 13527; Philadelphia, PA 19101-3527. The Claimant shall not submit a courtesy copy of the Objection to the judge's office.

7. **IF A CLAIMANT DOES NOT SUBMIT AN OBJECTION TO THE COURT WITHIN THE TIME REQUIRED, THE CLAIMANT MAY NOT THEREAFTER OBJECT TO EITHER THE PRIORITY OR AMOUNT OF THE LIQUIDATOR'S NOD.**

8. Upon receipt of an Objection, the Liquidator shall promptly contact the Claimant and attempt to resolve the Objection. The Liquidator may, in his discretion, provide the Claimant with a written Response to the Objection and any such Response shall be provided within thirty (30) days of receiving the Objection, unless the parties agree in writing to extend the deadline or the Court orders otherwise. The Liquidator is not required to file this Response with the Court but shall submit a copy of the Response to the Referee if one is appointed to adjudicate the Objection pursuant to paragraph 9 below.

### **III. ADJUDICATION OF OBJECTIONS**

9. If an Objection cannot be resolved, the Liquidator or the Objector shall, as soon as practicable, petition the Court for the appointment of a Referee to adjudicate the Objection.

10. The Court will appoint Referees to conduct hearings on objections who shall have authority to:

- (a) set hearing dates on Objections to the Liquidator's NOD;
- (b) give notice of the hearing to the Liquidator and to the Claimant;
- (c) establish procedures for expediting the presentation of evidence relating to objections;
- (d) set discovery schedules should discovery be necessary;
- (e) decide motions;
- (f) set briefing schedules; and
- (g) make recommended findings of fact and conclusions of law for review by the Court.

11. The Referee shall take steps to conduct hearings in a cost-effective and efficient manner by, *inter alia*, using stipulations, witness depositions and conducting hearings by teleconference. The Referee may also bifurcate a proceeding to address issues seriatim and need not address all issues presented if resolution of only certain issues will conclude the dispute. Either party, at its own cost, with advance notice to all participants, may request to have the hearing recorded. A party may request a copy of the

transcript at its own cost. If a party requests that the hearing be transcribed, that party, at its own cost, shall provide a copy of the transcript to the Referee.

12. The Referee shall, after hearing, submit to the assigning judge a Proposed Adjudication that includes proposed findings of fact, conclusions of law and a proposed order. The Proposed Adjudication shall be directly submitted to the office of the assigning judge and will not be filed with the Commonwealth Court Chief Clerk. Copies of the Proposed Adjudication shall be served only on the Claimant and the Liquidator.

13. Exceptions by either party to the Referee's Proposed Adjudication shall also be submitted directly to the office of the assigning Judge within thirty (30) days of receiving the Proposed Adjudication and will not be filed with the Chief Clerk. The Exceptions shall identify with specificity the errors in the Proposed Adjudication and shall have attached to it copies of the following: NOD, Claimant's Objection, Liquidator's Response to Objection, Proposed Adjudication, and any other relevant material that was considered by the Referee. Exceptions to the Proposed Adjudication shall be served only on the opposing party.

14. Where exceptions are filed, the Court may direct additional hearing, briefs or oral argument. If the Court hears additional evidence, it may modify or make additional findings of fact. Upon completion of the review, the Court will enter a final Order granting or rejecting the Exceptions, in part or in whole.

15. Where exceptions are not filed, the Court shall review the Referee's Proposed Adjudication and enter a final Order accepting, rejecting or modifying the Proposed Adjudication. Entry of the Court's Order approving, rejecting or modifying the Proposed Adjudication will constitute a final decision on the Proof of Claim.

16. If a Claimant fails to appear for a hearing on an Objection before a Referee, without satisfactory excuse, the Referee's Proposed Adjudication may recommend that the Court dismiss the Objection. If the Objection is dismissed by Court Order, this will make the adjudication of the POC final, and the Claimant may not further object to the NOD or the adjudication.

17. The compensation of the Referee shall be set by the Court. Referees shall submit invoices for each matter to the Court for review and approval, along with their Proposed Adjudication. The Referees shall also provide copies of their invoices to the Liquidator at the Liquidation Department, Reliance Insurance Company, Three Parkway, 5<sup>th</sup> Floor, Philadelphia, PA 19102. The Liquidator shall pay the Referee invoices after 30 days from the date of the invoice unless otherwise directed by the Court or unless the Liquidator shows cause to the Court, in writing, why such payment should not be made.

18. Other than the compensation for the Referee, which shall be paid from the Reliance Estate, each party shall bear its own costs associated with proceedings before the Referee, unless the Court directs otherwise.

19. All individual Objectors and their attorneys appearing before a Referee must comply with Pennsylvania law and the Pennsylvania Rules of Civil Procedure, as applicable. All entity Objectors, including, *inter alia*, corporations, unincorporated associations and partnerships, must be represented by counsel and may not appear *pro se*. Counsel for entity Objectors who have not yet filed an entry of appearance must do so within twenty-one (21) days of the date of this Order. Individual Objectors may appear *pro se*. All counsel representing either an individual Objector or an entity Objector, who is not admitted to practice law in this Commonwealth, must be duly admitted to practice

*pro hac vice* before this Court in accordance with Pa. R. Civ. P. No. 1012.1, Pa. B.A.R. 301 and Pennsylvania IOLTA Regulation 81.505.

(a) All counsel representing individual or entity Objectors in matters pending before this Court, including matters set before a Referee, and who have not been admitted to practice law in this Commonwealth and have not yet complied with this Court's September 13, 2007 Supplemental Case Management Order (concerning admission *pro hac vice*) shall comply with said Order and the Rules attached thereto within twenty-one (21) days of the date of this Order.

(b) This Court may dismiss Objections of any Objector whose counsel fails to comply with this Paragraph.

#### IV. LIQUIDATOR'S REPORT OF RECOMMENDATIONS

20. At least annually, the Liquidator shall prepare and submit to the Court a report of the Liquidator's recommendations with respect to each NOD issued during the relevant period ("Claims Report"). The Claims Report shall include the following: Claimant's name, address, priority class, allowed amount, and the particulars of the claim, including whether the NOD was issued without Objection or after the settlement of an Objection. The Claims Report will be served on the Master Service List.

21. The recommendations in the Claims Report with respect to each POC listed will be reviewed and, if acceptable, approved by the Court.

22. Upon approval of the Liquidator's recommendations in the Claims Report, the Claimant becomes eligible to receive a pro rata distribution of assets from the Reliance Estate in the event that a distribution is made to Claimant's class of creditors.

23. The review, evaluation, determination and processing of POCs filed by the various state GAs will continue to be governed by this Court's order of November 19, 2007 regarding Administration of Guaranty Association Claims, except that any report and recommendation on GA claims, will be submitted pursuant to this Section and will be served only on the GAs.

**V. SERVICE**

24. Unless specifically ordered by the Court, submissions relating to POCs and NODs will not be served on the Master Service List. Service of all submissions relating to POCs and NODs, including disposition of Objections, shall be made only on the Liquidator and the Claimant.

25. Submissions relating to a POC, including disposition of Objections need not be posted on [www.reliancedocuments.com](http://www.reliancedocuments.com) ("Reliance Website"). However, all Orders of the Court with respect to a Referee's Proposed Adjudication will be posted on the Reliance Website. Additionally, the Liquidator's Claims Report filed pursuant to Section IV of this Order will be posted on the Reliance Website.

**VI. DISTRIBUTION**

26. Claims approved by the Court, after review of the Liquidator's Claims Report or after disposition before a Referee, shall be paid pro rata in accordance with each class of claims as set forth in 40 P.S. §221.44, at a time and manner approved by the Court.

27. Any distribution to claims under aggregate policies will be made pursuant to this Court's Order of November 19, 2007.



**VII. MISCELLANEOUS**

28. A copy of this Order shall be posted on the Reliance Website and shall be served on all persons on the Master Service List.

29. This Court continues to maintain sole and exclusive jurisdiction, to the exclusion of all other courts or tribunals, over all assets of Reliance Insurance Company of whatsoever kind or nature and wherever or however owned or held, whether directly or indirectly. No judgment or order against Reliance Insurance Company entered after the date of the filing of the petition for rehabilitation, and subsequent filing of the petition for liquidation, and no judgment against Reliance Insurance Company entered at any time by default or collusion need be considered as evidence of liability or of quantum of damages. The Order of Liquidation of October 3, 2001, and all subsequent orders continue in full force and effect, to the extent not inconsistent with this Order, including the provisions of the Order of Liquidation prohibiting the institution and prosecution of any action at law or in equity against Reliance Insurance Company or against the Liquidator except as provided in Section 526 of Article V, 40 P.S. §221.26.



**BONNIE BRIGANCE LEADBETTER**  
President Judge

**Certified from the Record**

**DEC 12 2008**

**and Order Exit**