

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELiance INSURANCE COMPANY,

Defendant.

No. 269 M.D. 2001

2009-11-15 PM 12:41
CLERK OF COURT

*IN RE: Commutation, Settlement Agreement and Release between
Reliance Insurance Company (In Liquidation) and
XL Reinsurance America, Inc.*

ORDER

AND NOW, this ___ day of _____, 2009, the Court upon consideration of the
Liquidator’s Petition for Leave to File Confidential Affidavit Under SEAL (“Petition for
Leave”), orders that the Petition is **GRANTED**; further the Liquidator is permitted to file under
seal the confidential affidavit marked as “Sealed Exhibit A” to the Petition for Leave and as
“Sealed Exhibit B” to the Liquidator’s Petition For Approval Of Commutation, Settlement

Agreement And Release (“Commutation Petition”); and **FURTHER**, the Chief Clerk is directed to file the confidential affidavit 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 file 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,
in his official capacity as Liquidator
of Reliance Insurance Company,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

No. 269 M.D. 2001

2001 JUN 15 PM 12:42

*IN RE: Commutation, Settlement Agreement and Release between
Reliance Insurance Company (In Liquidation) and
XL Reinsurance America, Inc.*

**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 ("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 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 Reliance and XL Reinsurance America, Inc. This Petition is unrelated to the petition approved by this Court on July 2, 2009 regarding the commutation between Reliance and XL Reinsurance America, Inc., as successor in interest to NAC Reinsurance Corporation.

2. The Commutation Petition is supported in part by the Confidential Affidavit which is attached as Sealed Exhibit B to the Commutation Petition.

3. 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.

4. 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.

5. 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.

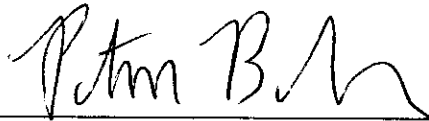
6. Consistent with the foregoing, if any Reliance policyholder or creditor (other than another reinsurer of Reliance, including affiliates) with a demonstrable and not adverse interest in the subject matter of the Settlement Agreement wishes to review the Confidential Affidavit, the Liquidator, subject to the Court's approval, will provide it to that person or entity upon their 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.

7. 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 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 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 under seal as Sealed Exhibit A to this Petition and as Sealed Exhibit B to
the Commutation Petition.

Respectfully submitted,



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Attorney for Plaintiff, Joel S. Ario, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in his official capacity as Liquidator
of Reliance Insurance Company

Dated: July 16, 2009

VERIFICATION

I, David S. Brietling, Chief Liquidation Officer for Reliance Insurance Company, in liquidation, am authorized by Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. §221.23, to act on his behalf in his capacity as the Statutory Liquidator of Reliance Insurance Company. I hereby verify that the facts set forth in the foregoing pleading are true and correct to the best of my knowledge, information and belief.

I understand that this Verification is made subject to the penalties of 18 P.S. §4904 relating to unsworn falsification to authorities.

Executed on July 16, 2009



DAVID S. BRIETLING

CERTIFICATE OF SERVICE

I, Marilyn K. Kincaid, hereby certify that on or about this day, pursuant to the Court's Order of December 12, 2008, service of the foregoing was made on the attached Master Service List through the transmission of a Notice of Filing and through posting of a true and correct copy in PDF file format on the Reliance Documents website at www.reliancedocuments.com.

Dated: July 16, 2009



MARILYN K. KINCAID

Master Service List

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v.

Reliance Insurance Company

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

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Exhibit A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel Ario
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

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RELIANCE INSURANCE COMPANY,

Defendant.

DOCKET NO. 269 MD 2001

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SEALED EXHIBIT A TO THE PETITION
TO FILE CONFIDENTIAL AFFIDAVIT UNDER SEAL

THIS ENVELOPE IS SEALED AND CONTAINS INFORMATION DESIGNATED
CONFIDENTIAL IN THIS CASE. IT IS NOT TO BE OPENED OR THE CONTENTS
THEREOF TO BE DISPLAYED OR REVEALED EXCEPT BY OR UPON ORDER OF
THE COURT OR PURSUANT TO STIPULATION OF BOTH PARTIES TO THIS ACTION.