

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO, INSURANCE  
COMMISSIONER OF THE  
COMMONWEALTH OF PENNSYLVANIA,

Plaintiff,

v.

RELIANCE INSURANCE COMPANY (IN  
LIQUIDATION),

Defendant.

No. 269 M.D. 2001

RECEIVED AND FILED  
COMMONWEALTH COURT  
OF PA (PHIL.A)  
2010 MAY 11 P 2:57

IN RE: CONFIRMATION OF ARBITRATION AWARD ENTERED  
AGAINST REPUBLIC WESTERN INSURANCE COMPANY

EXHIBIT TO LIQUIDATOR'S REPLY BRIEF IN SUPPORT OF APPLICATION FOR  
RELIEF IN THE NATURE OF A MOTION TO CONFIRM ARBITRATION AWARD

Document

Exhibit

Reinsurance Offset Guidelines

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Subject: Offset Guidelines - Reliance Insurance Company (in Liquidation)

Attached please find the offset guidelines which have been approved by the PADOI.

Should you have any questions, please feel free to contact Kathy Lee at 212-858-6373.

EXHIBIT G

(IN LIQUIDATION)

Fax: 212-858-5050  
keith.kaplan@relianceinsurance.com

Keith E. Kaplan, Esq., CPCU  
Executive Vice President

July 3, 2002

Please find a copy of Reinsurance Offset guidelines enclosed.

These guidelines do not create new policy. They are based on the Pennsylvania Liquidation Statute and provide an outline of how the statute applies to some common fact situations. As facts and circumstances will differ for each request, the particulars of any given request will determine the outcome. As we have advised since the date of liquidation, if you believe that you have an offset, please provide us with specific details and supporting documentation. We will evaluate the request and make a decision consistent with the statute and the guidelines enclosed. In order to protect your interests, you should file a timely Proof of Claim.

The underlying principle of these guidelines is that the statute requires mutuality of debts for an offset to be allowed. Mutuality means that the debts must be due and owing between identical legal entities. This means that Group to Group offsets are not allowable. Consistent with the mutuality principle, these rules only apply to the domestic Reliance Insurance Company (In Liquidation). They do not apply to our various foreign affiliates, including, but not limited to, the Canadian Branch of Reliance Insurance Company (In Liquidation), which is subject to its own liquidation proceeding in Canada.

If you have any questions, please contact either Tom Stolp or Keith Kaplan at 212 858 3600 or 215 864 4000.

Sincerely,

Keith Kaplan

## REINSURANCE OFFSETS:

In the administration of the estate of Reliance Insurance Company (in Liquidation), reinsurers may apply offsets to balances owed to Reliance Insurance Company (in Liquidation) if the debits and credits are mutual, and only where allowed under (1) Pennsylvania statute, (2) the terms of the specific reinsurance contracts involved provided the contract is not inconsistent with the statute, and (3) the parameters outlined in any applicable scenarios below. All these conditions must be satisfied. It is also important to note that all Reliance companies that were merged into Reliance Insurance Company will be treated as one and the same legal entity for purposes of applying these rules because of the Merger.

There are a number of common scenarios that arise within this context.

- I. Offsets within same contract where Reliance is cedent (recoupment).
  - A. Premiums, Premium Adjustments and Commission adjustments may be offset against ceded losses, regardless of collateral held by Reliance.
  - B. All amounts being offset against each other must be due and owing to the other party. If offset sought is not for due and owing amounts, Reliance may draw against any collateral held.
  - C. All amounts being offset must be between the exact same legal entities
- II. Offsets across multiple contracts where Reliance is cedent in all contracts
  - A. Premiums, Premium Adjustments and Commission adjustments may be offset against ceded losses, regardless of collateral held.
  - B. All amounts being offset against each other must be due and owing to the other party. If offset sought is not for due and owing amounts, Reliance may draw against any collateral held.
  - C. All amounts being offset must be between the exact same legal entities.
  - D. The reinsurance agreements must not contain a provision limiting offsets to within same contract.
- III. Offsets across multiple contracts where Reliance is cedent in some contracts and assuming reinsurer in other contracts wherein there is only a single named reinsured company ceding to Reliance.
  - A. Reliance's Ceded Premiums, Reliance's Ceded Premium Adjustments and Reliance's Ceding Commission adjustments may be offset against Reliance's Ceded Losses, regardless of collateral held.
  - B. Reliance's assumed losses may be offset against Reliance's ceded losses if and only if Reliance has received all assumed premiums due on the applicable assumed contract(s) and Reliance is unsecured for the ceded losses being offset.
  - C. All assumed losses sought to be offset must be appropriately reported, adjudicated, and approved for offset by the Reliance liquidation team or its designees.
  - D. All amounts being offset against each other must be due and owing to the other party. If offset sought is not for due and owing amounts, Reliance may draw against any collateral held.
  - E. All amounts being offset must be between the exact same legal entities.
  - F. The reinsurance agreements must not contain a provision limiting offsets to within same contract
- IV. Offsets across multiple contracts where Reliance is cedent in some contracts and assuming reinsurer in other contracts wherein there are multiple affiliated named reinsured companies ceding to Reliance.

- A. Reliance's Ceded Premiums, Reliance's Ceded Premium Adjustments and Reliance's Ceding Commission adjustments may be offset against Reliance's Ceded Losses, regardless of collateral held.
- B. Reliance's assumed losses may be offset against Reliance's ceded losses if and only if Reliance has received all assumed premiums due on the applicable assumed contract(s) and Reliance is unsecured for the ceded losses being offset.
- C. All assumed losses sought to be offset must be appropriately reported, adjudicated, and approved for offset by the Reliance liquidation team or its designees.
- D. All amounts being offset against each other must be due and owing to the other party. If offset sought is not for due and owing amounts, Reliance may draw against any collateral held.
- E. Respective cessions and payments must be properly identified by specific legal entity.
- F. Only obligations to or from legal entities named as parties to the agreement may be offset.
- G. All amounts being offset must be between the exact same legal entities. Obligations to or from different named entities may not be combined for offsets, except for those amounts where
  - 1. Joint and several liability under the contracts exists among affiliates for the specific obligations sought to be combined, or
  - 2. the contract contains specific provisions that address to which named entity and in what priority such reinsurance applies to in situations where affiliated named cedents also reinsure obligations within their own group.
- H. The reinsurance agreements must not contain a provision limiting offsets to within same contract or prohibiting cross company offsets.

V. Special Rules for Pools and Associations. Notwithstanding anything to the contrary,

- A. A Pool or an Association having a unique NAIC number will be treated as a single independent legal entity for purposes of applying these rules.
- B. If Reliance is both a cedent and a reinsurer of the Pool or Association, the rules of section III apply.
- C. If the Pool or Association conducted business through a "fronting" company, then only the fronting company has offset rights as outlined in sections I, II and III.

VI. Prohibited Offsets.

- A. Assumed premiums due to Reliance may not be offset.
- B. If the obligation to Reliance sought to be offset was purchased or transferred with the intent of creating an offset, such obligation to Reliance may not be offset.
- C. Combining obligations of affiliates and subsidiaries for offset purposes.