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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**IN RE:
RELIANCE INSURANCE COMPANY
IN LIQUIDATION**

NO. 1 REL 2001

**ELEVENTH REPORT OF THE LIQUIDATOR ON THE LIQUIDATOR'S
ADMINISTRATION OF CONSOLIDATED FREIGHTWAYS COLLATERAL**

Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company ("Reliance") hereby makes his Eleventh Report on the administration of Consolidated Freightways Collateral ("CF Collateral") pursuant to the Court's Order of December 29, 2009 (the "Collateral Administration Order").

Background

1. Pursuant to a series of Court Orders, the last of which was the Collateral Administration Order, the Liquidator has reported annually to the Court on the status of the administration of CF Collateral in funding GA Workers Compensation Deductible Claims, GA Commutations negotiated by the Consolidated Freightways ("CF") Trustee and approved by the Liquidator, payment by CF to Reliance of its retrospective premium obligations and payment by CF to Reliance of its Section 221.23a Expenses. The most recent report, the Liquidator's Tenth Report, was filed with the Court on December 22, 2010. In the Tenth Report, the Liquidator advised the Court that the administration was proceeding in an orderly fashion, that sufficient CF Collateral remained to fund anticipated future claims against it and engaged to provide a further status report to the Court on or around December 29, 2010.¹

Recent Developments

2. Since the Tenth Report there has been enormous progress in the administration of the CF Collateral. GA Commutations have been concluded with all necessary GAs. These GA Commutations operate to bar any future GA Workers Compensation Deductible Claims against the CF Collateral. After these GA Commutations, the sole remaining issues related to the CF Collateral were negotiation of a "buyout" of CF's liability to Reliance for future retrospective premium obligations, payment of Section 221.23a Expenses to Reliance and the release to CF of excess CF

¹ The definition of any defined terms in this Eleventh Report may be found in the Tenth Report attached hereto as Exhibit 1.

dispose of these remaining CF Collateral issues (the "Collateral Resolution Agreement"). The Liquidator believes that the Collateral Resolution Agreement will be drafted and executed in the next several weeks. With the execution and implementation of the Collateral Resolution Agreement, the administration of the CF Collateral will be complete.

3. The Liquidator has provided this abbreviated status report in the interests of judicial economy with the expectation that the Liquidator will be able to provide a fuller and Final Report early in the first quarter of 2012 which will detail the resolution of the CF Collateral administration and will conclude the Court's and the Liquidator's involvement with the CF Collateral. Of course, if the Court would prefer an expanded explanation of any of the issues sooner, the Liquidator will promptly supplement this Eleventh Report.

Conclusion

The resolution of all issues relating to the administration of the CF Collateral appears to be imminent. Once these issues are concluded the Liquidator will provide a detailed Final Report to the Court.

Respectfully submitted,

By: 

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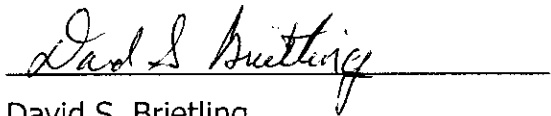
Attorney for Michael F. Consedine,
Insurance Commissioner of the
Commonwealth of Pennsylvania, in his
Official capacity as Liquidator of
Reliance Insurance Company

Dated: December 28, 2011

VERIFICATION

I, David S. Brietling, am Chief Liquidation Officer of Reliance Insurance Company (In Liquidation). I hereby verify that the facts set forth in the foregoing Eleventh Report of the Liquidator on the Liquidator's Administration of Consolidated Freightways Collateral 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.

Date: December 28, 2011



David S. Brietling
Chief Liquidation Officer
Reliance Insurance Company (In Liquidation)

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 Eleventh Report of the Liquidator on the Liquidator's Administration of Consolidated Freightways Collateral 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 (www.reliancedocuments.com).

Dated: December 28, 2011


Marilyn K. Kincaid
MARILYN K. KINCAID

Background

1. Reliance issued policies of Insurance to Consolidated Freightways Corporation ("CF") for workers compensation and automobile/general liability ("AL/GL"). Most of the CF policies were issued with deductible provisions. Other CF policies contained retrospective premium obligations payable to Reliance. To secure its deductible reimbursement and retrospective premium obligations, CF posted collateral with Reliance in the total amount of \$100 million in the form of a \$55 million Letter of Credit (the "LOC") and a \$45 million surety bond issued by CNA which was converted to a trust in favor of Reliance (the "CNA Trust" and jointly with the LOC, the "CF Collateral").

2. After Reliance was placed in liquidation in October 2001, claims which had arisen under the CF policies were sent to the guaranty associations ("GAs"). Subject to statutory limitations, the GAs assumed the obligation to pay CF's workers compensation claims, but most GAs rejected the AL/GL claims and these files were returned to CF for handling within its deductible obligation (the "Non-Covered Claims").

3. After Reliance was placed in liquidation, CF itself filed for bankruptcy in September 2002. At that time CF ceased paying deductible reimbursement or retrospective premium obligations and ceased handling the Non-Covered Claims. As a result of the CF bankruptcy, the Non-Covered Claims were for some time essentially unadjusted and their precise value unknown.

4. In June 2004, the Pennsylvania legislature enacted an amendment to the Pennsylvania Insurance Department Act, 40 P.S. §221.23a ("Section 221.23a"), which controls a liquidator's maintenance and administration of collateral posted by an insured

5. to secure deductible and other policy obligations. If an insured fails to fund these obligations, the liquidator may draw the collateral to reimburse GAs for payments within a deductible and to pay an insurer for retrospective premium obligations. Section 221.23a also provides that if claims are not covered by any GA – such as the Non-Covered Claims – the liquidator shall also utilize the collateral to adjust and pay these claims. If the liquidator concludes that collateral is sufficient to pay all outstanding and anticipated claims against the collateral, Section 221.23a contemplates the liquidator would administer the collateral without Court involvement. If, however, the liquidator determines that the collateral is or may be insufficient to compensate all potential claimants, the liquidator may, subject to court approval, formulate a plan for the equitable allocation and distribution of the collateral among the claimants. Section 221.23a permits the liquidator to utilize up to 3% of the collateral to reimburse the liquidation estate for expenses incurred in fulfilling obligations under the Section (“Section 221.23a Expenses”).

6. Section 221.23a specifically provides that the subject collateral is not an asset of the liquidation estate, but rather is held by the liquidator for the benefit of claimants against the collateral. To the extent that there is excess collateral beyond that needed “to secure the entire estimated ultimate obligation of the policyholder plus a reasonable safety factor”, the excess collateral will be returned to the policyholder.

7. Although at the time of the enactment of Section 221.23a Rellance held significant CF Collateral, in view of the large number of workers compensation claims resting with the GAs and the unknown valuation of the Non-Covered Claims, the Liquidator concluded that the adequacy of the CF Collateral was in question and

formulated a plan for (1) the evaluation of the Non-Covered Claims; and (2) for an interim allocation and distribution of CF Collateral to the GAs and to Reliance (the "CF Plan"). The Liquidator filed a Petition to Approve a Plan for Policyholder Collateral of Consolidated Freightways Corporation for approval of the CF Plan. Based upon the First Petition, the Court issued an Order on October 4, 2006 (the "Collateral Allocation Order").

8. The Collateral Allocation Order authorized the Liquidator to utilize the CF Collateral to reimburse the GAs \$30,254,461 for workers compensation claims paid by the GAs within CF's deductible obligation ("GA Workers Compensation Deductible Claims") through December 31, 2005; to pay Reliance \$766,443 in retrospective premium due from CF through December 31, 2005; and to use up to \$20 million of the CF Collateral to adjust and pay the Non-Covered Claims through a third-party administrator.

9. The Collateral Allocation Order directed the Liquidator to conclude a comprehensive evaluation of the CF Collateral by October 2007 and posited three scenarios for that evaluation: a determination that the CF Collateral was adequate and the filing of a final plan for on-going full claim payments; a determination that the CF Collateral was inadequate and the filing of a formal pro rata allocation plan; and a scenario where the Liquidator was still unable to precisely evaluate the overall adequacy of the CF Collateral and, therefore, would make periodic reports to the Court on the Liquidator's progress in the CF Collateral evaluation.

10. Upon issuance of the Collateral Allocation Order, the Liquidator promptly reimbursed the GAs over \$30 million with respect to GA Workers Compensation

Deductible Claims covered by the GAs and Reliance was paid \$766,443 in retrospective premiums. As directed by the Collateral Allocation Order, Reliance, working with the CF Trustee, retained a third party administrator to begin the process of adjusting and paying the Non-Covered Claims. However, shortly after the adjustment process began and without prior notice, CF filed a complaint and related motions in its bankruptcy court, including one seeking a restraining order enjoining Reliance from accessing the CF Collateral, which prevented the Liquidator from on-going compliance with the Collateral Allocation Order (the "Adversary Proceeding") and Section 221.23a.

11. The Adversary Proceeding was exceptionally complex and has been described in detail in previous reports, but for purposes of the instant Report it can be summarized that after extensive litigation and negotiation, the Adversary Proceeding was resolved and the action dismissed as to all parties.² Upon the resolution of the Adversary Proceeding the parties were once again subject to the Collateral Allocation Order.

12. Upon resolution of the Adversary Proceeding, on May 29, 2008, the Liquidator filed a Fifth Report of the Liquidator on the Implementation of the Approved Plan and, in conjunction therewith and as part thereof, the Liquidator's Second Petition to Partially Allocate Collateral. On July 18, 2008, the Court granted the Liquidator's Second Petition. Collateral was released as approved by the Court. Resolution of the Adversary Proceeding also permitted the Liquidator to commence in earnest to resolve the Uncovered Claims.

² The Liquidator's Eighth Report filed on July 30, 2009 and available on the Reliance website (www.reliancedocuments.com) as document #2395 included a more detailed description of the Adversary Proceeding.

13. The Liquidator made periodic status reports to the Court and on November 12, 2009, the Liquidator filed the Ninth Report of the Liquidator to the Court on the Implementation of the Approved Plan for Allocation of Policyholder Collateral of the Consolidated Freightways Corporation and the Liquidator's Petition for Approval of Future Administration of Consolidated Freightways Collateral (the "Ninth Report and Petition"). In the Ninth Report and Petition, the Liquidator advised the Court that, while the Liquidator had originally filed the CF Plan for collateral evaluation and allocation under Section 221.23a because of the uncertainty as to the adequacy of the CF Collateral to pay all outstanding and anticipated future claims against it, the adequacy of the CF Collateral had been established and the Liquidator recommended that there was no continuing need for either a formal plan or Court review and approval of Collateral Releases pursuant to Section 221.23a(c).³

14. In the Ninth Report and Petition the Liquidator requested that the Court authorize the Liquidator to proceed as follows:

- a. to draw CF Collateral to reimburse the GAs for outstanding GA Workers Compensation Deductible Claims and to pay Reliance for CF's outstanding retrospective premium obligations through September 30, 2009 in the amount of \$6,048,178;

³ At the time of the filing of the Ninth Report and Petition, the total of the unfunded outstanding and anticipated future claims against the CF Collateral was \$53,353,096. The total remaining CF Collateral as of September 30, 2009 was \$58,893,439. Based upon these estimates and calculations, the Liquidator determined that there appeared to be sufficient CF Collateral to pay all outstanding and anticipated future claims against the CF Collateral and maintain a safety margin for unknown liabilities.

b. to draw CF Collateral to adjust and pay the 2 remaining Uncovered Claims and to pay CF administration expenses and third party administrator costs associated with the Uncovered Claims⁴;

c. to pay retrospective premium obligations due Reliance through September 30, 2009 in the amount of \$18,293;

d. to periodically, as necessary and without further Court approval, draw CF Collateral to reimburse future GA Workers Compensation Deductible Claims and to pay future CF retrospective premium obligations to Reliance, as incurred; and

e. to periodically, without further Court approval, deduct Section 221.23a Expenses at 3% from CF Collateral released to the GAs as authorized by Section 221.23a.

15. In addition to the foregoing, in the Ninth Report and Petition the Liquidator also advised the Court that the GAs and the CF had agreed to explore the possibility of commutations against the CF Collateral. In exchange for a lump sum payment from the CF Collateral, a GA would fully release the CF estate, the Reliance estate and the Liquidator from any and all claims the GA may have against the CF Collateral, the Reliance estate or the CF estate for CF related claims within the deductible limit after the commutation date (the "GA Commutations"). Under Section

⁴ By the time of the submission of the Ninth Report and Petition, 175 of the 177 Uncovered Claims had been settled for total payments of \$4,565,167. The 40 claims for allocated loss adjustment expenses ("ALAE") for Uncovered Claims within the deductibles had been settled for a total of \$162,000.

221.23a, other than the Uncovered Claimants and Reliance,⁵ the GAs and the CF estate are the only two parties with claims against the CF Collateral. The GAs would have a claim, absent a GA Commutation, to future reimbursement from the CF Collateral for GA Workers Compensation Deductible Claims and CF would have a reversionary interest in any excess CF Collateral pursuant to Section 221.23a. The expressed purpose of the GA Commutations is to provide the GAs with funds today for all future payments of CF related claims. Any such GA Commutations would be subject to the Liquidator's evaluation and approval as to the actuarial reasonableness of the proposed CF Collateral release for the commutation. In addition, a GA Commutation would further "fix" the total claims against the CF Collateral, thereby possibly expediting the return of excess CF Collateral to the CF Trustee who is being pressed to close that estate.

16. While the Liquidator did not and has not taken a position either favoring or opposing the GA Commutation approach, it was the Liquidator's opinion that, insofar as the two primary parties with an interest in the CF Collateral agree to a GA Commutation and the GA Commutation does not present an inequitable allocation of the CF Collateral, the GA Commutation would be consistent with Section 221.23a. After evaluating the reasonableness of the GA Commutation amount, the role of the Liquidator is to release the CF Collateral as provided in the GA Commutation and, thereafter, to ensure that the settling GAs present no future GA Workers Compensation Deductible Claims against the Reliance estate.

⁵ The Uncovered Claimants and the Reliance estate also have an interest in the CF Collateral, but as noted in ¶21b, all Uncovered Claims have been resolved. A sufficient reserve has also been established for any retrospective premium owed to Reliance.

17. Therefore, in the Ninth Report and Petition, the Liquidator also requested the Court's approval to:

- a. draw and release CF Collateral for any GA Commutation negotiated as set forth above; and
- b. retain from the CF collateral released to the GA as part of the GA Commutation, the Liquidator's Section 221.23a Expenses up to the 3% cap for the review, implementation and on-going oversight of any GA Commutations and for monitoring the reserve amounts established for the payment of any future retrospective premium owed Reliance and the reserve amounts for any unresolved Uncovered Claims.

18. Finally, in the Ninth Report and Petition, the Liquidator proposed altering the reporting schedule established in the Collateral Allocation Order and in the future to report to the Court annually to confirm the Liquidator's continuing administration of the CF Collateral and adequacy of the CF Collateral. If by some circumstance, the CF Collateral should be deemed inadequate, the Liquidator would promptly report to the Court and propose a new plan for CF Collateral administration pursuant to Section 221.23a.

19. On December 29, 2009, the Court issued the Collateral Administration Order which authorized the Liquidator to proceed as set forth in the above paragraphs.

RECENT ACTIVITY

20. Pursuant to the Collateral Administration Order, the Liquidator makes his annual report of developments in the administration of the CF Collateral as follows:

(a) GA Workers Compensation Deductible Claims - The Liquidator drew \$6,048,178 of CF Collateral to reimburse outstanding paid GA Workers Compensation Deductible Claims through September 30, 2009. For the period September 30, 2009 through September 30, 2010 the GAs have paid approximately \$3,507,665 for GA Workers Compensation Deductible claims which have been reimbursed from the CF Collateral.⁶ These claims were reimbursed to the GAs net of the Liquidator's Section 221.23a Expenses.

(b) Uncovered Claims - The remaining two Uncovered Claims and related expenses were settled for total payments of \$1,012,013 from CF Collateral. No new Uncovered Claims have been presented. The CF Trustee's administrative expenses in the total amount of \$389,658 relating to the disposal of all 177 of the Uncovered Claims were also paid from the CF Collateral.

(c) Retrospective Premium - Reliance was reimbursed from CF Collateral for \$18,293 in retrospective premium due through September 30, 2009 and has received an additional \$19,419 in reimbursements for the period September 30, 2009 through September 30, 2010.

(d) GA Commutations - As of December 20, 2010, the CF Trustee has, with the Liquidator's consent, commuted with 26 GAs. The total payment for these GA Commutations is \$9,556,906. The Liquidator is funding the commutations from CF Collateral in accordance with the payment schedules established in the GA Commutation agreements. The Liquidator is retaining Section 221.23a Expenses

⁶ As has been noted in prior Reports, the calculation of GA reimbursements is in a constant state of flux as a result of reporting timing, payment reversals, recoveries and other issues. All calculations must, therefore, be viewed as an approximate "snapshot".

from the commutation payments to the GAs. The CF Trustee has advised the Liquidator that he is in commutation negotiations with a number of other GAs.

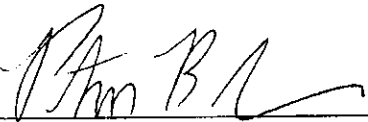
(e) Reliance Reserves and CF Collateral - The current Reliance reserves for the GA Workers Compensation Deductible Claims – adjusted to reflect the 26 GA Commutations - is \$22,414,789. The retrospective premium reserve is \$193,554. The reserve for Uncovered Claims has been reduced to \$-0-. Reliance is currently holding a total of \$40,986,265 in CF Collateral.⁷ Based upon these estimates and calculations, the Liquidator continues to believe that there is sufficient CF Collateral to pay all outstanding and anticipated future claims against the CF Collateral and fund any GA Commutations approved by the Liquidator.

Conclusion

It is the Liquidator's conclusion that the administration of the CF Collateral is proceeding in an orderly fashion. As noted, the Liquidator believes that he holds sufficient CF Collateral to fund anticipated GA Workers Compensation Deductible Claims, retrospective premium claims and any approved GA Commutations. Based upon this conclusion, the Liquidator will report again to the Court on or about December 29, 2011, unless circumstances dictate earlier reporting.

⁷ This total of CF Collateral held has been reduced by \$8,998,011 to reflect commutations which are executed and final but for which payments which have not yet been drawn because of technicalities in the commutation agreement payment schedule. The payments will be drawn and released within the next 60-75 days.

Respectfully submitted,

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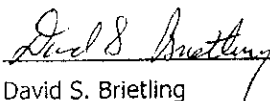
Attorney for Robert L. Pratter,
Acting Insurance Commissioner of the
Commonwealth of Pennsylvania, in his
Official capacity as Liquidator of
Reliance Insurance Company

Dated: December ~~22~~ 21, 2010

VERIFICATION

I, David S. Brietling, am Chief Liquidation Officer of Reliance Insurance Company (In Liquidation). I hereby verify that the facts set forth in the foregoing Tenth Report of the Liquidator on the Liquidator's Administration of Consolidated Freightways Collateral 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.

Date: December 24, 2010



David S. Brietling
Chief Liquidation Officer
Reliance Insurance Company (In Liquidation)

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 Tenth Report of the Liquidator on the Liquidator's Administration of Consolidated Freightways Collateral 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 (www.reliancedocuments.com).

Dated: December 22, 2010



MARILYN K. KINCAID

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