

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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**IN RE:  
Reliance Insurance Company  
In Liquidation**

**NO. 1 REL 2001**

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*IN RE: Commutation, Settlement and Release Agreement between Reliance Insurance Company (In Liquidation) and Clearwater Insurance Company (formerly known as Odyssey Reinsurance Corporation, formerly known as Skandia America Reinsurance Corporation)*

**ORDER**

AND NOW, this \_\_\_ day of \_\_\_\_\_ 2014, upon consideration of the Liquidator's Application for Leave to File Confidential Affidavit Under SEAL ("Application for Leave"), the Court orders that the Application be **GRANTED**; further, the Liquidator is permitted to file under seal the confidential affidavit marked as "Sealed Exhibit A" to the Application for Leave and as "Sealed Exhibit B" to the Liquidator's Application For Approval Of Commutation, Settlement And Release Agreement ("Commutation Application"); and further, the Chief Clerk is directed to file the confidential affidavit marked as "Sealed Exhibit A" to the Application for Leave and as

“Sealed Exhibit B” to the Commutation Application **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.

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**BONNIE BRIGANCE LEADBETTER, Judge**



1. Simultaneously with this Application, the Liquidator is filing the Commutation Application which seeks an Order approving the Commutation, Settlement and Release Agreement (“Settlement Agreement”) between Reliance and Clearwater Insurance Company, (formerly known as Odyssey Reinsurance Corporation, formerly known as Skandia America Reinsurance Corporation).

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. The Confidential Affidavit may also contain sensitive information regarding the underlying reinsurance agreements that could affect the Liquidator's position in pending or future reinsurance disputes, both formal and informal. It would be highly prejudicial to the Liquidator, and the creditors and policyholders of Reliance, if details of were disclosed to the public and particularly to other reinsurers with whom Reliance is or may be involved in disputes.

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 Application, the Court review the Confidential Affidavit in camera, grant the Application, and direct the Chief Clerk to file the Confidential Affidavit under seal. Should the Court be inclined to deny the Application, the Liquidator respectfully requests that the Court permit the Liquidator the opportunity to withdraw this Application, the Commutation Application 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 Application and as Sealed Exhibit B to the Commutation Application, and (2) directing the Chief Clerk of the Commonwealth Court to file

Respectfully submitted,



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PRESTON BUCKMAN (I.D. #57570)

Special Funds Counsel

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(717) 787-6009

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

Dated: February 6, 2014

**VERIFICATION**

I, David S. Brietling, Chief Liquidation Officer for Reliance Insurance Company, in liquidation, am authorized by Michael F. Consedine, 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 February 6, 2014

  
\_\_\_\_\_  
DAVID S. BRIETLING

**CERTIFICATE OF SERVICE**

I, Marilyn K. Kincaid, hereby certify that I am this day serving the foregoing document upon the persons indicated below and in the manner indicated below in accordance with Pa.

R.A.P. Nos. 121 and 3780:

Upon the attached Master Service Parties List by e-mail; and

Upon the attached Master Service Non-Parties List by a Notice of Filing by e-mail.

Dated: February 6, 2014

  
MARILYN K. KINCAID



**Master Service List  
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No. 1 REL 2001 (Commonwealth Court of Pennsylvania)

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No. 1 REL 2001 (Commonwealth Court of Pennsylvania)

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# Exhibit A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**IN RE:  
Reliance Insurance Company  
In Liquidation**

**NO. 1 REL 2001**

*IN RE: Commutation, Settlement Agreement and Release between  
Reliance Insurance Company (In Liquidation) and Clearwater Insurance Company  
(formerly known as Odyssey Reinsurance Corporation, formerly known as Skandia  
America Reinsurance Corporation)*

SEALED EXHIBIT A TO THE APPLICATION  
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.