

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: :
 : **No. 1 REL 2001**
Reliance Insurance Company :
In Liquidation :

*In Re: Liquidator's Application for Approval of Fourth Interim
Distribution Percentage and Continuation of Safety Factor Percentage*

MEMORANDUM and ORDER

Presently before the Court is the pending objection of JDN Realty Corporation to the Liquidator's *original application to continue* the Safety Factor Percentage (SFP) and the Liquidator's Supplemental Response and *subsequent Application for Approval of Plan to Eliminate* the Aggregate Safety Factor Percentage (SFP) (Proposed Plan).¹ After a review of the Supplemental Response and Proposed Plan to eliminate the aggregate SFP, the Court enters the following Order.

¹ In October 2015, the Liquidator filed her Application for Approval of Fourth Interim Distribution Percentage and Continuation of Safety Factor Percentage (SFP). JDN Realty Corporation filed a limited objection regarding further continuation of the SFP. By Order dated January 13, 2016, the Court approved the requested cumulative Fourth Interim Distribution Percentage of 65% of Notice of Determination allowed amounts, held the application to continue the SFP in abeyance and directed the Liquidator to file a supplemental response in light of the recent entry of a claims bar date. The Liquidator filed her Supplemental Response on February 2, 2016, along with the present application seeking approval of the outlined plan to eliminate the aggregate SFP. No objections or responses have been filed to the proposed plan.

AND NOW, this 3rd day of March, 2016, both the Objection of JDN Realty Corporation and the Liquidator's Proposed Plan are **GRANTED IN PART** as follows:

1. The Liquidator's first quarterly status report for 2016 shall be filed on or before June 24, 2016. The report shall detail, *inter alia*, the total number of new claims filed, the number of new claims filed under policies with aggregate limits, and the impact the new filings will have on the timing and payment of the "catch-up distributions"² outlined in the Liquidator's Proposed Plan.

2. Where the Liquidator has determined that the aggregate limits of an aggregate policy cannot be exceeded by any court approved aggregate Notices of Determination (NOD) issued for Proof of Claims (POCs) filed prior to the claims bar date, a catch-up distribution shall be paid as to any aggregate NODS previously subject to the SFP. These catch-up distributions shall be paid in the June 2016 quarterly distribution unless the Court extends the time for payment upon a showing of good cause.

3. Where the Liquidator determines that the aggregate limits of an aggregate policy are exceeded by aggregate NODs issued for POCs filed prior to the claims bar date, the Liquidator shall issue amended NODs to pro-rate the allowed amounts in the aggregate NODs consistent with 40 P.S. § 221.40(d) to prevent the aggregate limits from being exceeded. The Liquidator shall seek Court approval of the resulting amended NODs as soon

² The catch-up distribution is the payment of that portion of the interim distribution that was withheld pursuant to application of the SFP. Of course, total payments under any policy with an aggregate limit cannot exceed the aggregate limit.

as practicable (*i.e.*, the objection period has expired without any objection challenging the amended NOD). Following Court approval, a catch-up distribution shall then be paid in the next scheduled quarterly distribution.

4. Where the Liquidator determines that new or amended NODs issued after the claims bar date could result in the aggregate limits of an aggregate policy being exceeded, and the Liquidator determines in her discretion that application of a SFP is warranted, the Liquidator shall seek Court approval before applying a SFP and withholding any portion of an interim distribution.

5. In all other respects, the Proposed Plan outlined in the Liquidator's application, including the commitment to prioritize identification of new claims, is approved.



BONNIE BRIGANCE LEADBETTER,
Judge

Certified from the Record

MAR - 3 2016

and Order Exit