

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

In Re: Liquidator's Proposal to Sell Restricted Shares of Facility Insurance Holding Corporation Stock

MEMORANDUM and ORDER

Presently before the Court for consideration is the Liquidator's proposal to sell its total shares of Class A common stock in Facility Insurance Holding Corporation (FIHC). The shares are restricted, limiting the sale of the stock to only FIHC. Reliance owns 1,345,527 shares and FIHC has offered Reliance 85 cents a share, for a total sales price of \$1,143,697.95.

By order dated November 30, 2001, this Court established guidelines for the administration of the Estate's assets. Relevant to the instant proposal, our Order provides as follows:

Illiquid Non-Real Estate Assets Valued between \$1 Million and \$4 Million: For non-real estate, illiquid assets ranging in value from \$1 million to \$4 million, the Liquidator shall notify the Court by letter of the proposed sale, without the requirement of publication or service. The letter shall set forth the nature of the asset, the identity of the buyer, the price proposed and a description of the circumstances leading the Liquidator to believe that the sale and price are appropriate, arms[-] length and fair. If the Court does not notify the

Liquidator of any objection within 72 hours of receipt, the Liquidator shall be authorized to proceed with the sale.

Order dated November 30, 2001, ¶ 4.

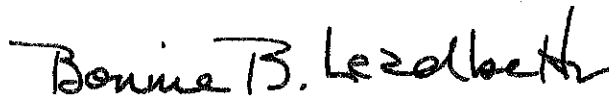
At approximately 9:15 a.m. on June 29, 2016, the Court received a letter detailing the Liquidator's intention to sell the above-described stock for the price noted. In her letter, counsel for the Liquidator details the history and nature of the stock, its restricted status, which permits only a sale back to FIHC, FIHC's prior offer to buy the stock in October 2014 for 40 cents a share, and her rationale for proposing to accept the current offer at this time, including that: (1) the offer has substantially increased since 2014; (2) it "eliminates the risk that the final losses might be higher than expected, [which would reduce] the dividend below the current expected value;" and (3) it "monetizes the Residual Dividend now rather than waiting an indeterminate period of years before FIHC is liquidated." Letter at 4.

Pursuant to Article V of The Insurance Department Act of 1921 (Act),¹ the Liquidator has broad discretion in liquidating the assets of the insolvent insurer. Specifically, the Liquidator is empowered to "conduct public and private sales of the property of the insurer," and to "sell, abandon or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable." Section 523(7) and (9), 40 P.S. § 221.23(7) and (9). In addition, the enumerated powers of the Liquidator "shall not be construed as a limitation upon [her], nor shall it exclude in any manner [her] right to do such other acts not herein

¹ The Act of May 17, 1921, P.L. 789, *as amended*. Article V was added by the Act of December 14, 1977, P.L. 280, *as amended*, 40 P.S. §§ 221.1 – 221.63.

specifically enumerated, or otherwise provided for, as may be necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.” Section 523(23), 40 P.S. § 221.23(23). The Court will defer to the Liquidator’s authority and discretion in administering the Estate unless there is an abuse of discretion. *Koken v. Colonial Assurance Co.*, 885 A.2d 1078, 1095 (Pa. Cmwlth. 2005) (single judge op.). The Liquidator’s rationale for selling the stock at this time and for the price offered supports a finding that the sale represents a sound exercise of discretion. Accordingly, the Court has no objection to the proposed sale of the FIHC stock described in the Liquidator’s letter of June 29, 2016.

Based upon the foregoing, the undersigned having no objection to the proposed sale of the FIHC stock, it is hereby ordered this 30th day of June, 2016, that the Liquidator may proceed with the proposed sale.



BONNIE BRIGANCE LEADBETTER,
Senior Judge

Certified from the Record

JUN 30 2016

and Order Exit