

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE:

**Reliance Insurance Company
in Liquidation**

NO. 1 REL 2001

RE: Liquidator's Report and Recommendation
Regarding Aggregate Amended Notices
of Determination

ORDER

AND NOW, this ____ day of _____, 2016, upon consideration of the Application for Approval of Liquidator's Report and Recommendation Regarding Aggregate Amended Notices of Determination ("Application"), it is hereby ORDERED and DECREED:

1. The Application is GRANTED and the Notices of Determination claims listed in the Report and Recommendation Regarding Aggregate Amended Notices of Determination (“Report”) are APPROVED and ALLOWED both as to classification and amount as listed;

2. The Report is incorporated herein by reference;

3. As set forth in the January 27, 2011 Order of this Court, the Liquidator continues to be authorized to withhold distributions to those claimants whom Reliance believes are Medicare recipients or potential Medicare recipients unless they have completed the Reliance questionnaire and returned it to Reliance;

4. Also as set forth in the January 27, 2011 Order of this Court, the Liquidator is authorized to include Medicare as a payee on the distribution check if there is a current Medicare lien and/or issue a separate distribution to a Medicare trust for the claimant’s future medical expenses; and

5. The claimants listed in the Report or their lawful assignees shall receive a distribution at the time and in the manner as finally approved by this Court and as directed by this Court’s Orders of January 17, 2008, February 19, 2010, December 1, 2011, and January 13, 2016;

Bonnie Brigrance Leadbetter, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE:

**Reliance Insurance Company
in Liquidation**

NO. 1 REL 2001

**APPLICATION FOR APPROVAL OF REPORT AND
RECOMMENDATION REGARDING AGGREGATE
AMENDED NOTICES OF DETERMINATION**

Applicant, Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as the Statutory Liquidator (“Liquidator”) of Reliance Insurance Company (“Reliance”), in compliance with Pa. R.A.P. 3784(a); this Court’s Order of October 2, 2012; this Court’s Orders of September 9, 2002 and December 12, 2008 (“2008 Claims Order” and collectively “Claims Orders”); this Court’s Order of March 3, 2016 (“SFP Order”); and pursuant to 40 P.S. §221.45, respectfully applies to this Court for an order approving her Report and Recommendation Regarding Aggregate Amended Notices of Determination. In support of her Application, the Liquidator avers the following:

BACKGROUND

1. Applicant, Insurance Commissioner of the Commonwealth of Pennsylvania, was appointed Liquidator of Reliance pursuant to this Court's Order dated October 3, 2001 ("Liquidation Order").

2. Both Pa. R.A.P. No. 3784(a) and 40 P.S. 221.45(a) require that the Liquidator present to the Court a report of claims with a recommendation as to those claims. Pa. R.A.P. No. 3784 (a) specifically requires that:

The Claims Report shall include the following: each claimant's name, address, priority class, allowed amount, and whether the claim determination was finalized because no objection was filed, no exceptions were taken to a referee's recommended decision, a recommended decision was sustained by the court or the parties agreed to a settlement.

Section 221.45(a) of Article V of the Insurance Department of 1921, 40 P.S. §§221.1-221.63 ("Act") additionally requires that the "particulars of the claim" be included.

3. On March 3, 2016, this Court issued its SFP Order largely approving the plan proposed by the Liquidator to eliminate the Safety Factor Percentage ("SFP") which was designed to hold back a portion of the aggregate limits for any future adverse claims development in order to comply with 40 P.S. §221.40(d). The SFP Order¹ provided that:

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

¹ In the SFP Order, Notices of Determination are referenced as NODs and Proofs of Claim are referenced as POCs.

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 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. Seven amended NODs (“Aggregate Amended NODs”) were issued on June 13, 2016 and those amended NODs are listed the Liquidator’s Report and Recommendation Regarding Aggregate Amended NODs (“Report”), attached here to as Exhibit A.² The Aggregate Amended NODs were issued to pro-rate the allowed amounts noted in the original NODs, consistent with 40 P.S. §221.40(d) so that the limits of the aggregate policy would not be exceeded.³ The sixty-day objection period expired with no objections being filed as to any of the NODs listed on the Report.

**REPORT AND RECOMMENDATION REGARDING
AGGREGATE AMENDED NOTICES OF DETERMINATION**

5. The claims listed on the Report are sorted alphabetically by the Claimant’s name. The amount claimed by the Claimant, *inter alia*, is included

² Also included on Exhibit A, as noted, is one NOD which is not an Aggregate Amended NOD, but which was inadvertently omitted from the Liquidator's Report on POCs Received by the Claims Bar Date and Recommendations on Resolved Claims as of December 31, 2015 which was filed on May 9, 2016.

³ Many Reliance liability policies have an aggregate total or maximum limit (“Aggregate Policies”). An “Aggregate Limit” is a provision in a policy that limits the maximum liability of an insurer under that policy. For example, if during the policy term, there are losses totaling \$5,000,000 from several occurrences, but there is a policy aggregate limit of \$3,000,000, the insurer would not be liable for more than \$3,000,000 for that policy period. Professional liability policies and comprehensive general liability policies are examples of types of policies that typically have Aggregate Limits.

on the Report.⁴ If the NOD was issued after the settlement of an objection, a “Y” is indicated in the Resolved Objection column of the Report. None of these NODs were disputed and consequently, nothing is entered in that column.

6. In total, the Liquidator is recommending an allowed amount of \$8,159,577.46 for 8 NODs.

7. In accordance with the Liquidator’s authority to “comport, compromise, or in any other manner negotiate the amount” for claims against the liquidated estate, 40 P.S. §221.45(a), the Liquidator believes that the classification and amounts she has determined for the claims listed on the Report are appropriate, fair and equitable, and consistent with the relevant provisions of the Act and this Court’s Orders. The Liquidator further believes that the approval of the claims listed in the attached Report is in the best interests of the Reliance estate, its policyholders, claimants and other creditors.

8. Pursuant to 40 P.S. §221.45; this Court’s Order of October 2, 2012; relevant provisions of the Claims Orders; this Court’s SFP Order; and Pa. R.A.P. 3784(a); the Liquidator respectfully requests that this Court approve and allow the classification and amount of the claims listed in the Report. In accordance with the SFP Order, a catch-up distribution shall be paid in the next quarterly scheduled distribution following approval of this Court.

⁴ If the claimant did not indicate a specific claim amount on the POC, the claimed amount is noted as \$0.

WHEREFORE, the Liquidator respectfully requests that this Court
(a) grant her Application; (b) approve and allow the claims as listed in the
Report attached as Exhibit A, both as to priority and allowed amount; and (c)
enter an Order in the form attached hereto.

Respectfully submitted by:

/s/ Karl S. Myers
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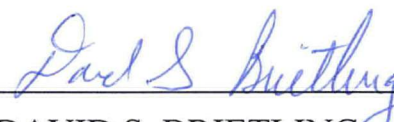
Dated: August 23, 2016

VERIFICATION

I, David S. Brietling, am authorized by the Insurance Commissioner of the Commonwealth of Pennsylvania, pursuant to 40 P.S. §221.23, to act on his behalf in his capacity as the Liquidator of Reliance Insurance Company and to supervise the daily operations as Chief Liquidation Officer for 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.

Date: August 23, 2016



DAVID S. BRIETLING
Chief Liquidation Officer

A

**Reliance Insurance Company (In Liquidation)
Amended Aggregate Notices of Determination**

Claimant Name	Address	Date Poc Filed	Poc Number	Claim Number	Class	Claimed Amount	Allowed Amount	Claim Particulars	Resolved Objection
FUQUA INDUSTRIES	4455 WEST LINDBERGH WAY CHANDLER, AZ 85226	4/18/03	1942536	91014484	B	0	704,225.35	DIRECTORS & OFFICERS; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
FUQUA INDUSTRIES, CHARLES E. SCOTT	7185 FAIRWAY ROAD LA JOLLA, CA 92037	3/31/03	1938244	91014484	B	0	704,225.35	DIRECTORS & OFFICERS; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
J.B. FUQUA	3350 RIVERWOOD PARKWAY SUITE 700 ATLANTA, GA 30339	4/18/03	1942534	91014484	B	0	3,169,014.08	DIRECTORS & OFFICERS; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
JEAN A. SMOLKO QUALIFIED ***	5820 ELM HILL DR. SOLON, OH 44139	9/3/02	1272685	03003705*	B	6,000,000	2,750,000	PROFESSIONAL LIABILITY; Claim by insured under first party RIL policy for policy benefits, or claim by third party claimant for amounts claimed to be due under an insured's RIL policy.	
KLAMON, LAWRENCE P	2665 DELLWOOD DRIVE NW ATLANTA, GA 30305	9/23/03	1960472	91014484	B	0	176,056.34	DIRECTORS & OFFICERS; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
MARINE MILITARY ACADEMY	320 IWO JIMA BLVD. HARLINGEN, TX 78550	12/23/03	891684	001420150322	B	50,000	43,200	GENERAL LIABILITY; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
MARINE MILITARY ACADEMY	320 IWO JIMA BLVD. HARLINGEN, TX 78550	12/23/03	901256	001420150322	B	500,000	436,800	GENERAL LIABILITY; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	
SANDERS, GOVERNOR CARL E	600 PEACHTREE STREET NE BANKAMERICA PLAZA SUITE 5200 ATLANTA, GA 30308	9/23/03	1960465	91014484	B	0	176,056.34	DIRECTORS & OFFICERS; Claim by insured for reimbursement of defense and indemnity paid due to Liquidation.	

* Multiple Claim numbers are associated with this POC.

** POCs that did not state a Claimed Amount are shown as \$0.

*** This claim is not an Amended Aggregate Notice of Determination, but was inadvertently omitted from the Liquidator's Report on POCs Received by the Claims Bar Date and Recommendations on Resolved Claims as of December 31, 2005 which was filed on May 9, 2016.