

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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IN RE:	:	
RELIANCE INSURANCE COMPANY IN	:	No. 1 REL 2001
LIQUIDATION	:	
	:	
	:	

ORDER

AND NOW, this _____ of _____, upon consideration of the Application of Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator of Reliance Insurance Company (the “Liquidator”) for an Order to Enforce the Court’s Order of Liquidation Dated October 3, 2001 (the “Liquidation Order”), the Application is hereby **GRANTED**.

It is further **ORDERED** as follows:

1. TriStar Pictures, Inc., a wholly owned subsidiary of Sony Pictures Entertainment (“TriStar”), in accordance with the Liquidation Order, is ORDERED to deliver to the Liquidator, the Distribution Revenue at issue in the Application within 30 days of this Order.
2. Within 15 days of receipt of the Distribution Revenue, the Liquidator is ORDERED to deliver the Distribution Revenue to the Court’s jurisdiction.
3. Within 30 days after the Court’s receipt of jurisdiction over the Distribution Revenue, the Liquidator shall file a declaratory judgment action (the “Complaint”) to determine entitlement to the Distribution Revenue and shall serve all interested parties.

4. The Complaint shall initiate an Adversarial Proceeding under Pa. R.A.P. 3783 and shall be docketed in accordance with Pa. R.A.P. 3777(c).

BY THE COURT:

BONNIE BRIGANCE LEADBETTER,
Judge

3. The Complaint shall initiate an Adversarial Proceeding under Pa. R.A.P. 3783 and shall be docketed in accordance with Pa. R.A.P. 3777(c).

BY THE COURT:

BONNIE BRIGANCE LEADBETTER,
Judge

in order to accomplish or aid in achieving the purposes of liquidation. *See* 40 P.S. §221.23 (6, 12, and 23).

3. On October 3, 2001, this Court found Reliance insolvent under the Act and appointed the Commissioner as Liquidator of Reliance, vesting the Liquidator with all the powers, rights, and duties of a receiver authorized under the Act. *See* the Liquidation Order, attached hereto as Exhibit “A”.

4. Pursuant to the Liquidation Order, the Liquidator “is vested with title to all property, assets, contracts and rights of action (‘assets’) of Reliance, of whatever nature and wherever located, whether held directly or indirectly, as of [October 3, 2001]”. *Id.* at ¶ 5.

5. The Liquidation Order further states that “[a]ll assets of Reliance are hereby found to be in custodia legis of this Court” and declares “in rem jurisdiction over all assets of [Reliance] wherever they may be located and regardless of whether they are held in the name of [Reliance] or any other name” *Id.*

6. Pursuant to the Liquidation Order, the Court, *inter alia*, ordered as follows:

All banks, investment bankers, **companies, other entities** or other persons **having in their possession assets which are, or may be, the property of Reliance**, shall, unless otherwise instructed by the Liquidator, **deliver the possession of the same immediately to the Liquidator**, and shall not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of, or unless directed in writing by, the Liquidator.

The Liquidation Order, at ¶ 7 (emphasis added).

7. There currently exists an actual and justiciable controversy concerning certain assets that are the property of Reliance, but which remain in the possession of TriStar. Specifically,

TriStar, which has no interest in or claim to these assets, has refused to deliver these assets to the Liquidator, in violation of this Court's Liquidation Order.

8. TriStar is a film production and distribution company, incorporated in Delaware, with offices in California, and doing business in Pennsylvania.

9. TriStar was the domestic and foreign distributor of a motion picture, titled *Baby Geniuses*, that was produced by Reliance's insured, Woodbridge Films, Inc. ("Woodbridge").

10. Specifically, under a Prints and Advertising Efficacy Policy, No. NGE1209500, (the "Policy") issued to Woodbridge, Reliance insured a prints and advertising loan from Fuji Bank, Ltd. ("Fuji")¹ to Woodbridge for the expenses incurred to market and distribute *Baby Geniuses*.

11. Currently, TriStar is in the possession of certain excess revenues (the "Distribution Revenue") it has collected from the domestic and international theatrical distribution of *Baby Geniuses*. The current total of the Distribution Revenue is in excess of \$3.7 million.

12. The Distribution Revenue includes revenue collected by TriStar for past distribution of *Baby Geniuses* in Pennsylvania.

13. The Distribution Revenue, and any future revenue collected up to a total of \$9,000,000, is the property of and belongs to Reliance pursuant to an agreement concerning the financing and production of *Baby Geniuses*, titled the Inter-Party Agreement, between a subsidiary of Woodbridge, Woodbaby, Inc., Fuji, and TriStar. A copy of the Inter-Party Agreement is attached here to as Exhibit "B" .

¹ Fuji is now known as Mizuho Bank, Ltd.

14. On April 21, 2006, the Liquidator, through its counsel, made a formal demand upon TriStar to deliver the Distribution Revenue to the Liquidator pursuant to paragraphs 5 and 7 of the Liquidation Order. A copy of the April 21, 2006 letter from Ann B. Laupheimer to TriStar Pictures Inc. is attached hereto as Exhibit "C". To date, however, TriStar has failed to deliver the Distribution Revenue to the possession of the Liquidator.

15. TriStar has not made and does not make any claim to the Distribution Revenue. TriStar, however, has indicated it will not release the Distribution Revenue without a court order.

RELIEF REQUESTED

16. The Liquidator hereby incorporates by reference paragraphs 1 through 15, as though set forth herein at length.

17. The Commonwealth of Pennsylvania has a strong interest in the uniform, orderly and equitable liquidation of Reliance. This Court issued the Liquidation Order to effectuate the uniform, orderly and equitable liquidation of Reliance.

18. An order, directed at TriStar, is necessary to enforce the Liquidation Order and effectuate the marshalling of Reliance's assets by the Liquidator.

19. This Court has in rem jurisdiction over the Distribution Revenue, an asset of Reliance.

20. This Court has specific jurisdiction over TriStar because TriStar's activities in Pennsylvania, including distributing *Baby Geniuses* in this state and collecting revenues therefrom, have given rise to this Application.

21. Accordingly, the Liquidator respectfully requests that this Court issue an order, directing TriStar to deliver the Distribution Revenue to the Liquidator, as set forth in the Liquidation Order, within 30 days of the Court's order. Upon receipt of the Distribution Revenue, the Liquidator will then deliver the Distribution Revenue to the Court's jurisdiction and proceed with a declaratory judgment action to determine entitlement to the Distribution Revenue.

22. In the alternative, the Liquidator respectfully requests that this Court issue an order, directing TriStar to deliver the Distribution Revenue to the jurisdiction of the Court. Upon the Court's receipt of the Distribution Revenue, the Liquidator will proceed with a declaratory judgment action to determine entitlement to the Distribution Revenue.

WHEREFORE, the Liquidator prays for the following relief:

- A. An order, in the form proposed herein, directing TriStar to deliver the Distribution Revenue to the Liquidator within 30 days of the Court's order.
- B. In the alternative, an order, in the form proposed herein, directing TriStar to deliver the Distribution Revenue to the jurisdiction of the Court within 30 days of the Court's order.
- C. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

KLEINBARD LLC



Steven J. Engelmyer, Esquire
Lorena E. Ahumada, Esquire
Attorney I.D. Nos.: 42840 and 91630
One Liberty Place, 46th Floor
1650 Market Street
Philadelphia, PA 19103
(215) 568-2000

Date: July 31, 2017

VERIFICATION

I, David S. Brietling, Chief Liquidation Officer for Reliance Insurance Company (in liquidation), am authorized by Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator of Reliance Insurance Company (the "Liquidator"), to act on her behalf in her capacity as Liquidator. I hereby verify that the facts set forth in the foregoing Application for an Order to Enforce the Court's Order of Liquidation Dated October 3, 2001 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 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.



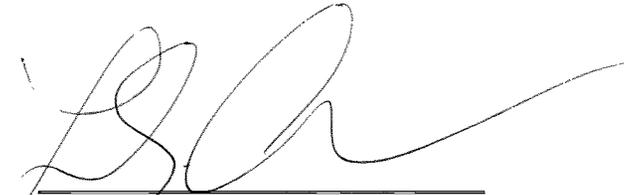
DAVID S. BRIETLING

Dated: July 28, 2017

CERTIFICATE OF SERVICE

I, Lorena E. Ahumada, counsel for Reliance Insurance Company (In Liquidation) in this matter, hereby certify that on this 31st day of July 2017, I caused a true and correct copy of the Liquidator's Application for an Order to Enforce the Liquidation Order to be served upon the following via Certified, Return Receipt U.S. Mail:

Lara Mackey, Esquire
Senior Counsel
Sony Pictures Entertainment
10202 Washington Blvd
JS 340C
Culver City, CA 90232-3119



Lorena E. Ahumada, Esq.