

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. DIANE KOKEN,
Insurance Commissioner of the
Commonwealth of Pennsylvania

Plaintiff

v.

RELiance INSURANCE COMPANY,

Defendant

No. 269 M.D. 2001

Petition for Approval of Direct Payment
Pursuant to 40 P.S. § 221.34 by HAUL Insurance Limited

Petitioner M. Diane Koken, Commissioner of the Insurance Department of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator ("Liquidator") of Reliance Insurance Company, respectfully requests that this Court enter an Order in the form attached approving the direct payment by HAUL Insurance Limited ("HAUL") to ALLIED Holdings, Inc. and its subsidiaries ("ALLIED") in accordance with the direct coverage obligations assumed by HAUL for policies of insurance issued by Reliance to ALLIED, as set forth below. For purposes of this Petition, "Reliance" will refer to Reliance Insurance Company (In Liquidation).

1. Pursuant to various policies of insurance, Reliance issued policies of insurance to ALLIED for automobile liability, general liability, and workers compensation risks as listed below:

NWA 0126542-00
NWA 1499127-05
NWA 0126542-01
NWA 1499127-06
NWA 0126542-02

NKA 1496526-06
NGA 1496525-06
NKA 0126544-00
NGB 0126543-00
NKA 1496527-07

NWA 0142359-00	NKA 1496526-07
NWA 1499127-07	NGA 1496525-07
NGA 1496525-08	NKA 0126544-01
NGB 0126543-00	NGB 0126543-01
NGB 0142360-00	NGB 0126543-02
NKA 1496527-08	NKA 1496526-08
NKA 1496526-07	NWA 0126542-03
NKA 0126544-02	NWA 0142359-01
NKA 0142362-00	NWA 1499127-08
NGB 0143860-00	NGA 1496525-09
NWA 1499127-00	NGB 0126543-03
NWA 1499127-01	NGB 0142360-01
NWA 1499127-02	NKA 1496527-09
NWA 1499127-03	NKA 1496526-09
NWA 1499127-04	NKA 0126544-03
NWA 0121172-00	NKA 0142362-01
NKA 1496527-06	NGB 0143860-01
	NWA 0152072-00

Copies of the Declaration Pages evidencing coverage provided to ALLIED under these policies (“ALLIED Policies”) are attached to this Petition as Exhibit “A.”

2. The ALLIED Policies identified in Exhibit “A” and issued by Reliance were reinsured by HAUL. The relevant reinsurance agreements are attached to this Petition as Exhibit “B.”

3. Following an Order of Liquidation declaring Reliance insolvent on October 3, 2001, the Liquidator petitioned this Court for the approval of “Guidelines for Enforcement of 40 P.S. § 221.34” (“Guidelines”) relating to the process and standards for permitting a reinsurer of Reliance to make direct payments to a Reliance policyholder. The Guidelines were approved, and by Order of this Court dated April 26, 2002, the Guidelines established the necessary conditions precedent to any agreement by the Liquidator to permit direct payment by a reinsurer.

4. Pursuant to Paragraph 3 of the Guidelines, HAUL submitted written requests to the Liquidator seeking approval of direct payments by HAUL to ALLIED. The written requests of HAUL are attached to this Petition as Exhibit "C."

5. Upon submission of documentation in support of HAUL's application to the Liquidator, the Liquidator has approved the written request of HAUL seeking approval of direct payment of reinsurance to ALLIED. The Liquidator has concluded that HAUL's reinsurance contracts comply with 40 P.S. § 221.34, the Guidelines and the Order.

6. Specifically, the Liquidator has reviewed the HAUL reinsurance contracts and determined that they are binding contracts which specifically provide for a direct coverage obligation (a "cut through") by HAUL to ALLIED in the event of the insolvency of Reliance in place of and in substitution for any obligations of Reliance to ALLIED, as required by Paragraph 4(b) of the Guidelines, 40 P.S. § 221.34 and the Order. In Article XIII. C. of each of the reinsurance agreements attached as Exhibit "B," the agreement provides as follows:

It is further agreed and understood that as to all reinsurance made, ceded, renewed or otherwise becoming effective hereunder, in the event of insolvency of [Reliance], all amounts payable under this Agreement shall be paid by [HAUL] to the Named Insured under the Policies when [HAUL] with the consent of the Named Insureds under the Policies has assumed the obligations of [Reliance] under any of the Policies as direct obligations of [HAUL] to the payees under any such Policy and in substitution for the obligations of [Reliance] to such payees.

This language of the reinsurance agreements allows HAUL to pay the Named Insured, ALLIED, directly if HAUL assumes the obligation and ALLIED consents. This is accomplished by the execution of the "Assumption and Substitution by Reinsurer" document and the "Informed Consent to Substitution of Reliance" document, both of which were executed and are discussed in Paragraphs 8 and 9 below, as Exhibits "D" and "E," respectively.

7. In addition, the Liquidator determined that the HAUL reinsurance agreements in Article XIII. C., quoted in Paragraph 6 above, specifically identify that the “cut through” payment is to be made to “the Named Insured under the Policies.” Article I.A (Definitions) of the reinsurance agreements defines “Policies” as policies of insurance issued by Reliance to ALLIED “as described in Schedule I.” Schedule I to the reinsurance agreements identifies the insured as ALLIED, together with the relevant policy numbers of the ALLIED Policies issued, as identified in Paragraph 1 above. This identification of the payee with particularity within the reinsurance agreements complies with Paragraph 4(a) of the Guidelines, 40 P.S. § 221.34 and the Order.

8. HAUL executed an “Assumption and Substitution by Reinsurer” on a form authorized by the Guidelines and the Order. This document provides that HAUL has unequivocally assumed a direct coverage obligation to ALLIED, that the “cut-through” payment will be made in satisfaction of the coverage obligations assumed by Reliance to ALLIED, and that HAUL releases Reliance from all liability as required by Paragraphs (b), (c) and (e) of the Guidelines, 40 P.S. § 221.34 and the Order. The Assumption and Substitution by Reinsurer is attached to this Petition as Exhibit “D.”

9. ALLIED executed an “Informed Consent to Substitution of Reliance” on a form authorized by the Guidelines and the Order. This document provides for ALLIED’s informed consent to the direct coverage relationship, which is in substitution for the relationship between ALLIED and Reliance and consents to the release of Reliance for all claims by ALLIED against Reliance relating to coverage assumed by HAUL as required by Paragraph 4(e) of the Guidelines, 40 P.S. § 221.34 and the Order. The Informed Consent to Substitution of Reliance is attached to this Petition as Exhibit “E.”

10. In accordance with Paragraph 4(e), the Liquidator has determined that there are no other contractual provisions that HAUL and ALLIED have to comply with, other than obtaining the consent of the insured, which they have done by obtaining the informed consent of the insured as described in Paragraph 9 above.

11. Pursuant to Paragraph 11 of the Guidelines and the Order, the Liquidator submits the HAUL documentation to this Court and recommends approval of direct payment by HAUL.

Accordingly, M. Diane Koken, Commissioner of the Insurance Department of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company, hereby respectfully requests that this Court grant this Petition and enter the Order attached confirming the approval of the Liquidator and permitting the direct payment from HAUL Insurance Limited to ALLIED Holdings, Inc. and its subsidiaries.

Respectfully submitted,

PEPPER HAMILTON LLP

By:



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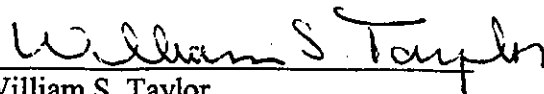
Dated: July 15, 2002

VERIFICATION

I, William S. Taylor, Deputy Insurance Commissioner of the Pennsylvania Insurance Department, Office of Liquidations, Rehabilitations and Special Funds, am duly authorized to make this Verification for and on behalf of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, as Statutory Liquidator ("Liquidator") of Reliance Insurance Company. I have read the Petition for Approval of Direct Payment of Reinsurance Proceeds Pursuant to 40 P.S. § 221.34 by Haul Insurance, Ltd. to Allied Holdings, Inc. and verify that the matters stated therein 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. § 4904 relating to unsworn falsification to authorities.

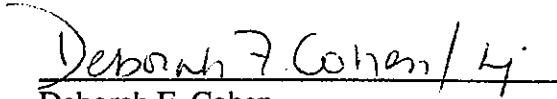
Executed on July 17, 2002.


William S. Taylor

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2002, I caused a copy of the Petition for Approval of Direct Payment pursuant to 40 P.S. § 221.34 by Haul Insurance, Ltd. to Allied Holdings, Inc. by Petitioner M. Diane Koken, Insurance Commissioner of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company, Proposed Order and Verification to be served by first class mail, postage prepaid, addressed to all persons listed on the attached Master Service List and:

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