





3. Paragraph 3 of the May 29 Order directs the Rehabilitator to take immediate possession of the “property, business and affairs” of Reliance, and “to take such action as the nature of this case and the interests of the policyholders, certificateholders, creditors, or the public may require.”

4. Paragraph 20 of the May 29 Order enjoins the commencement of any suit against Reliance.

5. Paragraph 22 of the May 29 Order imposes a stay of all actions against Reliance.

6. One purpose of these provisions is to allow the Rehabilitator adequate time to develop a plan of rehabilitation for Reliance, or to make a determination as to whether rehabilitation is feasible. If the Rehabilitator finds that rehabilitation is not possible, Section 221.18 of the Insurance Department Act permits the Rehabilitator to petition the Court for an order of liquidation. 40 P.S. § 221.18.

7. The remedy for potential creditors of Reliance under either a plan of rehabilitation or in the event of liquidation is the filing of a proof of claim against the estate of Reliance at the appropriate time under either a plan of rehabilitation or in the event of liquidation. At the present time, no such procedure is in place, and would be premature.

8. In the present matter, Citicorp North America, Inc. (“CNA”), has not provided this Court with any justification or legal basis for its request for relief from the stay of actions against Reliance, or its request to be provided more favorable treatment than the other potential creditors of Reliance. CNA’s motion for relief from the stay should be denied, and it should be directed to seek any appropriate relief against Reliance by filing a

proof of claim at the proper time in accordance with a plan of rehabilitation for Reliance or in the event Reliance is liquidated.

As Answer to the Petition to Compel payment of Rent, the Rehabilitator states as follows:

**First Defense**

1. After reasonable investigation, the Rehabilitator is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 1.
2. After reasonable investigation, the Rehabilitator is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 2.
3. Admitted.
4. After reasonable investigation, the Rehabilitator is without knowledge or information sufficient to form a belief as to the truth of the averments of Paragraph 4.
5. Admitted.
6. Admitted.
7. No response is necessary.
8. Admitted.
9. Denied. The averments of paragraph 9 concern the contents of a document, which speaks for itself.
10. Denied. the Rehabilitator has not yet determined the amount of rent, if any, presently due and owing.
11. Denied. The averments of paragraph 11 concern the contents of a document, which speaks for itself.

12. Denied. The Rehabilitator has not yet determined the amount of electricity charges, if any, presently due and owing.
13. Admitted.
14. Denied. The Rehabilitator has not yet determined the amount, if any, presently due and owing. The remaining averments of paragraph 14 are conclusions of law to which no response is necessary.
15. Denied. The Rehabilitator did not receive any demand for payment for amounts claimed under the Petition prior to its receipt of the Petition.
16. Denied. By letters dated August 10, 2001 (copies of which are attached as Exhibit A), the Rehabilitator disavowed the Sublease. Effective that date, Reliance has vacated the subject property.
17. Denied as a legal conclusion to which no response is necessary.
18. Denied. The Rehabilitator has not yet determined the amount, if any, presently due and owing.
19. Denied. The averments of paragraph 19 concern the contents of a document, which speaks for itself.
20. Denied as a legal conclusion to which no response is necessary.
21. Denied. Reliance has vacated the subject property.
22. Denied. The Rehabilitator has not yet determined the amount, if any, presently due and owing. The Rehabilitator also has a claim against Petitioner for breach of the Sublease based upon Petitioner's failure to provide adequate HVAC systems for the subject property.

23. Denied. Reliance has vacated the subject property, and the Rehabilitator has not yet determined the amount, if any, presently due and owing.

**Second Defense**

The Petition, insofar as it seeks monetary damages, was improperly filed under Pa.R.A.P. 123. Petitioner cannot recover monetary damages by petition, nor can it request that the Court award it such damages by petition.

**Third Defense**

The Petition is an attempt by Petitioner to place itself in a superior position to other potential creditors of Reliance. There exists no legal authority for affording Petitioner this priority.

**Fourth Defense**

The Rehabilitator disavowed the Sublease by notice given on August 10, 2001.

**Fifth Defense**

Reliance vacated the Sublease property effective August 10, 2001.

**Sixth Defense**

The Rehabilitator has a counterclaim or setoff against Petitioner for breach of the Sublease based upon Petitioner's failure to provide adequate climate control systems for the subject property.

**Seventh Defense**

Petitioner is not entitled to recover its attorney's fees in this matter.

WHEREFORE, the Rehabilitator respectfully requests that the Petition be denied in its entirety.

Respectfully submitted,

BLANK ROME COMISKY & McCAULEY LLP

By:



JEROME R. RICHTER  
DANIEL H. WHEELER  
One Logan Square  
Philadelphia, PA 19103  
(215) 569-5500 (Phone)  
(215) 569-5555 (Facsimile)

Counsel for Plaintiff/Respondent,  
M. DIANE KOKEN, Insurance Commissioner of the  
Commonwealth of Pennsylvania and Rehabilitator of  
RELIANCE INSURANCE COMPANY

Dated: August 20, 2001

**EXHIBIT A**



EXECUTIVE OFFICES

COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT

STRAWBERRY SQUARE  
HARRISBURG, PA. 1712C

August 10, 2001

BY FACSIMILE AND FEDEX MAIL

Citicorp North America Inc.  
ATTN: Salvatore Milazzo, III  
c/o Corporate Realty Services  
One Court Square, 8<sup>th</sup> Floor  
Long Island City, New York, NY 11120

Re: Sublease (the "Sublease") between Citicorp North America, Inc. ("Citicorp"), as Sub-Landlord, and Reliance (as said term is defined below), as Sub-Tenant, for the 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 19<sup>th</sup> Floors in the Sub-Tenant building located at 77 Water Street, New York, New York

Dear Sir or Madam:

On May 29, 2001, pursuant to the Pennsylvania Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, as amended, the Commonwealth Court of Pennsylvania appointed M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania (the "Commissioner"), as Rehabilitator of Reliance Insurance Company (In Rehabilitation), including the following former subsidiaries of Reliance Insurance Company which were previously merged into Reliance by approval of the Commissioner: Reliance National Indemnity Company, Reliance National Insurance Company, United Pacific Insurance Company, Reliance Direct Company, Reliance Surety Company, Reliance Universal Insurance Company, United Pacific Insurance Company of New York and Reliance Insurance Company of Illinois. All references in this letter to "Reliance" shall refer collectively to Reliance Insurance Company and said former subsidiaries.

A copy of the Commonwealth Court's Order of May 29, 2001 (the "Commonwealth Court Order") is enclosed herewith.

Pursuant to Paragraph 16 of the Commonwealth Court Order, the Rehabilitator hereby disavows and terminates the above-referenced Sublease and forfeits to Citicorp and immediately returns to Citicorp the space. Accordingly, no further rent or other charges will be paid at this time pursuant to the above-referenced Sublease.

On behalf of Reliance, the Rehabilitator hereby agrees that you may immediately relet the premises demised pursuant to the above-referenced Sublease, and the Rehabilitator hereby demands that you do so immediately in a commercially reasonable manner so as to mitigate your damages and losses.

Your attention is further directed to Paragraphs 20, 22 and 23 of the Commonwealth Court Order which, among other things, enjoins all persons from instituting or further prosecuting any action in law or equity against Reliance or the Rehabilitator.

The Rehabilitator will be required to determine whether Reliance shall be rehabilitated or shall be liquidated. At such time as such determination is made, you will be advised in writing of the process for submitting claims.

Sincerely,

M. DIANE KOKEN,  
INSURANCE COMMISSIONER OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
IN HER CAPACITY AS REHABILITATOR  
OF RELIANCE INSURANCE COMPANY  
(IN REHABILITATION)

By: William S. Taylor  
William S. Taylor, Deputy Insurance  
Commissioner, on behalf of the  
Rehabilitator



COMMONWEALTH OF PENNSYLVANIA  
INSURANCE DEPARTMENT

STRAWBERRY SQUARE  
HARRISBURG, PA. 17120

EXECUTIVE OFFICES

August 10, 2001

BY FACSIMILE AND FEDEX MAIL

CNA/Citibank Real Estate Legal Department  
ATTN: General Counsel  
666 Fifth Avenue  
4<sup>th</sup> Floor/Zone 1  
New York, New York 10103

Re: Sublease (the "Sublease") between Citicorp North America, Inc. ("Citicorp"), as Sub-Landlord, and Reliance (as said term is defined below), as Sub-Tenant, for the 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup> and 19<sup>th</sup> Floors in the Sub-Tenant building located at 77 Water Street, New York, New York

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Sincerely,

M. DIANE KOKEN,  
INSURANCE COMMISSIONER OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
IN HER CAPACITY AS REHABILITATOR  
OF RELIANCE INSURANCE COMPANY  
(IN REHABILITATION)

By: William S. Taylor  
William S. Taylor, Deputy Insurance  
Commissioner, on behalf of the  
Rehabilitator

VERIFICATION

I, William S. Taylor, am the authorized agent and representative of the Statutory Rehabilitator in this action and hereby verify that the statements made in the foregoing Answer are true and correct to the best of my knowledge, information, and belief.

I understand that these statements are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 8-16-01

William S. Taylor  
William S. Taylor  
Deputy Insurance Commissioner  
Pennsylvania Insurance Department  
Office of Liquidations, Rehabilitations and  
Special Funds

## CERTIFICATE OF SERVICE

I, Daniel H. Wheeler, hereby certify that on August 20, 2001, I served a copy of the foregoing Answer of the Rehabilitator to Petition of Citicorp North America, Inc. to Compel Payment of Rent and for Relief from Stay upon the following, by regular mail:

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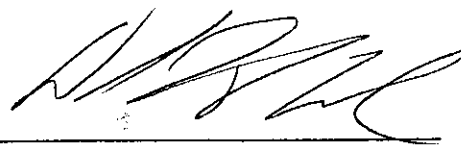
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Daniel H. Wheeler