

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

Docket No. 269 MD 2001

v.

RELiance INSURANCE COMPANY,

Defendant.

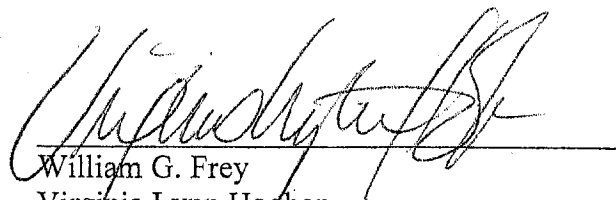
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RECEIVED AND FILED
COMMONWEALTH COURT
OF PENNSYLVANIA

**SUPPLEMENTAL SUBMISSION OF THE STATUTORY LIQUIDATOR
IN OPPOSITION TO EMERGENCY MOTION OF NEW MEXICO MUTUAL
CASUALTY COMPANY AND SOUTHWEST CASUALTY COMPANY FOR
INJUNCTIVE RELIEF AND FOR RELIEF FROM STAY TO COMPEL ARBITRATION**

The Statutory Liquidator hereby submits the Affidavits of William R. Warfel, II and Keith Kaplan, attached hereto as Exhibits 1 and 2 by way of supplemental response in support of her Opposition to the Emergency Motion of New Mexico Mutual Casualty Company and Southwest Casualty Company for Injunctive Relief and for Relief From Stay to Compel Arbitration filed January 14, 2004.

Respectfully submitted,



William G. Frey
Virginia Lynn Hogben
Attorney I.D. Nos. 28476, 32378
WOLF, BLOCK, SCHORR & SOLIS-
COHEN LLP
1650 Arch Street, 22nd Floor
Philadelphia, PA 19103-2097

Attorneys for the Statutory Liquidator of
Reliance Insurance Company

Dated: January 16, 2004

Exhibit 1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

Docket No. 269 MD 2001

**AFFIDAVIT OF WILLIAM R. WARFEL, II IN OPPOSITION
TO EMERGENCY MOTION OF NEW MEXICO MUTUAL CASUALTY
COMPANY AND SOUTHWEST CASUALTY COMPANY FOR INJUNCTIVE
RELIEF AND FOR RELIEF FROM STAY TO COMPEL ARBITRATION**

COMMONWEALTH OF PENNSYLVANIA :
 :SS
COUNTY OF PHILADELPHIA :

WILLIAM R. WARFEL, II, being duly sworn, deposes and say:

1. I make this Affidavit in Opposition to the Emergency Motion of New Mexico Mutual Casualty Company and Southwest Casualty Company for Injunctive Relief and for Relief From Stay to Compel Arbitration. I am fully familiar with the facts and circumstances set forth herein. I make this Affidavit from my own personal knowledge.

2. I am Vice President-Assumed Reinsurance of Reliance Insurance Company in Liquidation. Between 1993 and 2000, I was a Vice President-Treaty Underwriting of Reliance Reinsurance Corp., an Underwriting Manager of assumed reinsurance for Reliance Insurance Company ("Reliance").

3. I was the treaty underwriter responsible for producing, underwriting and servicing the Net Retained Liability Quota Share Treaty under which Reliance reinsured Southwest

Casualty Company ("SWCC") and New Mexico Mutual Casualty Company ("NMMCC") at all times that it was in effect.

4. All of the risks ceded to Reliance under the Net Retained Liability Quota Share Treaty were either business of SWCC or SWCC's net participation in the New Mexico Workers Compensation Assigned Risk Pool. None of the risks ceded to Reliance under the Net Retained Liability Quota Share Treaty were business underwritten in NMMCC's name.

William R. Wareel, II
WILLIAM R. WAREEL, II

Sworn to and subscribed before me this 16th
day of January, 2004

Erica Schaefer
Notary Public

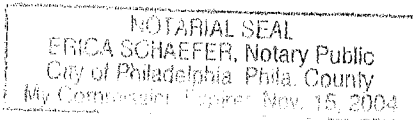


Exhibit 2

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiff,

v.

RELIANCE INSURANCE COMPANY,

Defendant.

Docket No. 269 MD 2001

**AFFIDAVIT OF KEITH KAPLAN IN OPPOSITION
TO EMERGENCY MOTION OF NEW MEXICO MUTUAL CASUALTY
COMPANY AND SOUTHWEST CASUALTY COMPANY FOR INJUNCTIVE
RELIEF AND FOR RELIEF FROM STAY TO COMPEL ARBITRATION**

COMMONWEALTH OF PENNSYLVANIA :
 :SS
COUNTY OF PHILADELPHIA :

KEITH KAPLAN, being duly sworn, deposes and say:

1. I make this Affidavit in Opposition to the Emergency Motion of New Mexico Mutual Casualty Company and Southwest Casualty Company for Injunctive Relief and for Relief From Stay to Compel Arbitration. I am fully familiar with the facts and circumstances set forth herein.

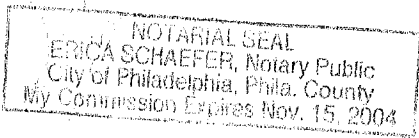
2. I am the Executive Vice President in charge of Reinsurance of Reliance Insurance Company ("Reliance") in liquidation. I am a Chartered Property and Casualty Underwriter. Additionally, I am licensed to practice law in Pennsylvania. I have worked for Reliance since May of 1987. As part of my duties, I am familiar with communications with Reliance's reinsurers in this liquidation proceeding.

3. The letter attached hereto as Exhibit A was prepared by the Insurance Commissioner's representatives and mailed to Reliance's reinsurers, on June 22, 2001.

Keith Kaplan
KEITH KAPLAN

Sworn to and subscribed before me this 16th
day of January, 2004

Erica Schaefer
Notary Public



Re: Reliance Rehabilitation

Dear

On May 29, 2001, I was appointed the Rehabilitator of Reliance Insurance Company (RIC). As a reinsurer of Reliance, your company is critical to my ability to formulate a successful rehabilitation plan and to pay all policyholder obligations in full.

My Rehabilitation Team, under Deputy Commissioner William S. Taylor, is working to stabilize the company assets and analyze the company's financial condition while working together with company management to keep the company operational. My team has received considerable cooperation and input from company personnel regarding all reinsurance matters and the current employees of Reliance that are involved in reinsurance continue to perform at their highest level. I am committed to the importance of the company providing quality claims operations, reinsurance accounting, invoicing, notice and other reinsurance services on a timely basis. I am also committed to the importance of our continuing to process policyholder claims.

For any rehabilitation plan to be successful, it is of utmost importance to timely collect reinsurance receivables. Reliance made extensive use of reinsurance programs and therefore it is even more critical for them to have immediate access to reinsurance payments. My Rehabilitation Team has already opened up the lines of communication with the reinsurance industry both through the RAA and with individual companies. We are working to address issues we understand to be of common concern to reinsurers, ranging from offsets to arbitrations. Please be assured that we do not intend to unilaterally draw down letters of credit provided a reinsurer is continuing to honor its contractual commitments in a timely fashion.

I need your immediate cooperation to sustain our efforts to rehabilitate Reliance. It is critical that your company immediately process and remit the amount of reinsurance billings from Reliance that are sent to you. To avoid any delays in payment necessitated by your analysis of each bill, Reliance will agree to repay you in cash or credit against future billings for any amounts overpaid during the next six months. The obligation to repay or credit will be treated as an expense of administration, which is the highest priority in a rehabilitation or liquidation. This

arrangement will allow prompt payment without prejudice to you should an overpayment error be identified.

I am also sending this letter to reinsurance brokers and intermediaries and asking them to make sure they forward it to appropriate reinsurers of Reliance. Brokers and intermediaries are also asked to cooperate by immediately remitting any funds due Reliance and forwarding invoices and other billing information to appropriate reinsurers.

Rehabilitation staff is available to meet with individual reinsurers concerning specific issues or to arrange a meeting on issues that affect reinsurers generally. You may contact either William S. Taylor at 212-858-5901 or Christopher M. Maisel, Rehabilitation Team Consultant, at 212-858-5902. You should continue to communicate with your usual contacts at the company on contract issues.

Your assistance in my rehabilitation efforts will help the entire insurance industry by avoiding a liquidation of the company. A liquidation would strain the capacity of guaranty associations. We must also be sensitive to the fact that guaranty associations have statutory dollar limits, excluded lines, and net worth exclusions that would apply in Reliance.

You have my commitment that we will work quickly to resolve major issues in a constructive manner. This is an opportunity to establish an approach of mutual cooperation instead of the litigation and confrontation that has often plagued other troubled company situations.

Please acknowledge receipt of this letter and indicate whether I can count on your cooperation to timely pay your invoices under the arrangement described above. Your assistance and prompt attention to this matter is appreciated.

Sincerely,

M. Diane Koken
Insurance Commissioner
Commonwealth of Pennsylvania
As Rehabilitator of Reliance Insurance Company

CERTIFICATE OF SERVICE

I, Virginia Lynn Hogben, hereby certify that on the date set forth below I caused a true and correct copy of the foregoing Supplemental Submission of the Statutory Liquidator in Opposition to Emergency Motion of New Mexico Mutual Casualty Company and Southwest Casualty Company for Injunctive Relief and for Relief from Stay to Compel Arbitration to be served via fax and first class mail on the following:

John C. Connell, Esquire
Jerrold S. Kulback, Esquire
Archer & Greiner, PC
One Centennial Square
Haddonfield, NJ 08033
(856) 795-2121 (Phone)
(856) 795-0574 (Fax)

And to the following via First Class Mail only:

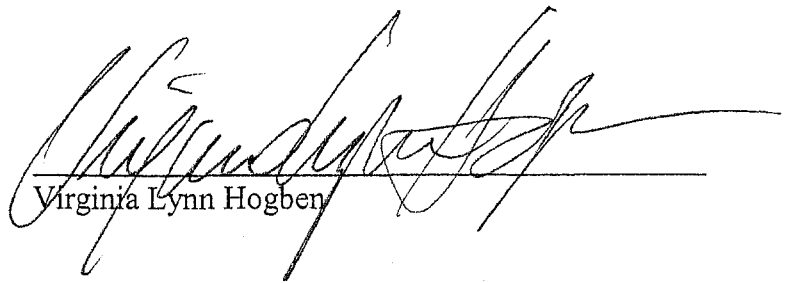
Hillary C. Steinberg, Esquire
James Michael, Esquire
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1900 Two Penn Center Plaza
Philadelphia, PA 19102

Wells Fargo Bank, NA
Attn: Charles Ewing
MAC: Q2129-093
200 Lomas Blvd NW
Albuquerque, NM 87102



Virginia Lynn Hogben

Dated: January 16, 2004