

II. REFERENCE TO OPINIONS OF THE COURT BELOW

The Liquidator appeals the March 18, 2004 Amended Memorandum Opinion and Order dismissing the Liquidator's Motion to Dismiss Objections of Baptist Health South of Florida, Inc. and Palm Springs General Hospital and granting the Hospitals direct access to Reliance's reinsurance proceeds and the Court's April 1, 2004 Order denying the Liquidator's Motion for Post-Trial Relief, copies of which are attached as Exhibits A and B.

III. BASIS FOR THE SUPREME COURT'S JURISDICTION

The Supreme Court of Pennsylvania has jurisdiction to review this Court's March 18, 2004 and April 1, 2004 Orders pursuant to Rule 1101(a)(1), Rules 341(b)(1) & (2), Rule 311(a)(2) and Rule 313 of the Pennsylvania Rules of Appellate Procedure.

IV. CONCISE STATEMENT OF PROCEDURAL HISTORY

On October 1 and 2, 2002, respectively, Palm Springs General Hospital and Baptist Health South Florida, Inc. each filed objections to the denial of a request by Southern California Physician's Insurance Exchange Companies ("SCPIE") that American Health Indemnity Company ("AHIC"), a reinsurer of certain policies issued by Reliance Insurance Company ("Reliance"), be permitted to pay reinsurance proceeds directly to certain of Reliance's insureds.

On October 17, 2002, Judge Colins referred the Hospitals' objections to Referee James C. Schwartzman, Esquire who was appointed by the Court to hear the Hospitals' objections. On March 24, 2003, the Liquidator filed a motion to dismiss the Hospitals' objections and the Hospitals filed opposition briefs. The parties did not engage in any discovery, did not stipulate to any facts and there was no evidentiary hearing before or after the Referee ruled.

On October 17, 2003, the Referee submitted his Report and Recommendation to the Commonwealth Court. The Referee ruled as a matter of law, based on 42 P.S. § 221.34 and the terms of the reinsurance agreements, that the Liquidator correctly denied the request and that the Hospitals were not entitled to direct access to the reinsurance proceeds. On November 20, 2003, the Hospitals filed exceptions to the Referee's Report and Recommendation.

On March 18, 2004, the Court denied the Liquidator's Motion to Dismiss and ruled that the Hospitals were entitled to direct access to the reinsurance proceeds. The Liquidator moved for post-trial relief on March 29, 2004. On April 1, 2004, the Court denied the Liquidator's Motion for Post-Trial Relief. Those Orders are the subject of this appeal. This appeal follows.

V. QUESTIONS PRESENTED FOR REVIEW

The March 18, 2004 Amended Memorandum Opinion and Order and April 1, 2004 Order should be vacated because they are based on a number of legal and factual errors. The questions presented before the Supreme Court of Pennsylvania are:

1. Whether the Court erred by granting Baptist Health South Florida, Inc. and Palm Springs General Hospital direct payment of Reliance's reinsurance proceeds from American Health Indemnity Company, even though the reinsurance agreements between Reliance and American Health Indemnity Company do not meet the statutory requirements of 40 P.S. § 221.34.
2. Whether the Court erred by holding that Baptist Health South Florida, Inc. and Palm Springs General Hospital, through their course of interaction with Reliance's reinsurer American Health Indemnity Company, caused a novation of the reinsurance agreements between Reliance and American Health Indemnity Company.

3. Whether the Court erred by holding that Baptist Health South Florida, Inc. and Palm Springs General Hospital are third-party beneficiaries to Reliance's reinsurance agreements with American Health Indemnity Company.

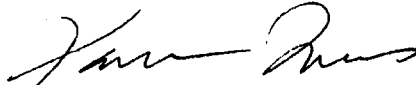
4. Whether the Court erred by making findings of fact without an evidentiary hearing.

5. Whether the Court erred by relying on facts not supported by the record in holding that there was a novation of Reliance's reinsurance agreements with American Health Indemnity Company and/or that Baptist Health South Florida, Inc. and Palm Springs General Hospital are third-party beneficiaries of the reinsurance agreements between Reliance and American Health Indemnity Company.

6. Whether the Court erred by placing the interests of Baptist Health South Florida, Inc. and Palm Springs General Hospital over the interests of the tens of thousands of Reliance's other policyholders, creditors, claimants and the public.

Respectfully submitted,

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Attorneys for Plaintiff-Respondent M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company

Dated: April 16, 2004

EXHIBIT A

contest the factual findings of the referee. Accordingly, the Court adopts the following findings made by Referee Schwartzman.

FINDINGS OF FACT

1. Palm Springs General Hospital (Objector Palm Springs) was insured by Reliance Insurance Company (Reliance).

2. Baptist Health South Florida Hospital (Objector Baptist) was insured by Reliance Insurance Company (Reliance).

3. The Insurance Commissioner of Pennsylvania, acting as Statutory Liquidator for Reliance Insurance Company (Liquidator), has filed with the Commonwealth Court a petition seeking approval of guidelines for the direct payment of reinsurance proceeds (Guidelines).

4. No objections to the Guidelines have been filed by reinsurance companies.

5. Reliance Insurance Company of Illinois issued a contract of insurance to Palm Springs General Hospital, located in Florida; Reliance reinsured 100% of the risk with American Healthcare Indemnity Company (AHIC).

6. Reliance Insurance Company of Illinois issued a contract of insurance to Baptist Health South Florida Hospital, located in Florida; Reliance reinsured 100% of the risk with American Healthcare Indemnity Company (AHIC).

7. Reliance issued reinsurance certificates to, and entered into reinsurance agreements with, AHIC. AHIC is a subsidiary of Southern California Physician's Insurance Exchange (SCPIE).

8. The business covered by the reinsurance agreements were policies written through the Health Care Division of Reliance, and SCPIE Management Services, Inc., acted as program manager.

9. The policies written by Reliance were 100% reinsured by AHIC, and Reliance was required to pay 100% of the premiums it received to AHIC, less a 5% ceding commission.

10. The reinsurance agreement between Reliance and Southern California Physician's Insurance Exchange does not contain a written "cut-through" clause allowing for the direct payment of reinsurance proceeds to an insured.

12. Objector Baptist and Objector South Florida obtained professional liability insurance through a program of reinsurance that was marketed and administered by SCPIE.

13. Objector Baptist and Objector South Florida dealt only with SCPIE, which managed all aspects of the reinsurance program.

14. The reinsurance agreements at issue here are between Reliance and AHIC and provide that, in the event of the insolvency of Reliance the proceeds of the reinsurance would be paid directly to Reliance, its liquidator, or other listed person.

15. Reliance was placed into liquidation by order of this Court dated October 3, 2001.

16. The Liquidator developed Guidelines for Enforcement of 40 P.S. §221.34, which set forth the procedures by which a reinsurer or an individual insured could apply for a direct payment of reinsurance proceeds.

17. Under the Guidelines, the Liquidator will make direct payment of reinsurance proceeds only where a reinsurance agreement contains a provision for direct payment of proceeds to an insured or where the reinsurer, with the consent of the direct insured, has assumed the policy obligations of the fronting company.

18. In November 2001, SCPIE submitted to the Liquidator a request for novation of AHIC's reinsurance agreements with Reliance, pursuant to which AHIC would assume direct liability for the Objectors for their insurance claims.

19. Applying the Guidelines, the Liquidator found that the reinsurance agreements failed to identify the insured who was to receive direct payment, that the reinsurer had not obtained the named insured's informed consent to the substitution of the reinsurer for Reliance in the coverage relationship, and that the reinsurer had not submitted documentary proof of its unequivocal assumption of Reliance's obligations to the insured.

20. SCPIE did not file objections to the denial of the request for novation.

20. The Objectors filed objections to the Liquidator's denial of novation.

21. The Objectors seek the direct payment of the proceeds of reinsurance, discovery of documents in addition to the reinsurance agreements between Reliance and AHIC, and a stay of proceedings until our Supreme Court renders a decision in *Koken v. Legion Insurance Co.*, 831 A.2d 1196 (Pa. Cmwlth. 2003).

The Court makes the additional findings of fact:

22. Neither AHIC nor its subsidiary SCPIE have been joined to this action.

23. Neither AHIC nor its subsidiary SCPIE have participated in this action.

DISCUSSION

Where an insurance company enters into a reinsurance agreement to reinsure certain of its business and that reinsurance agreement contains no cut-through clause of direct payment of reinsurance, the issue is whether the conduct of the parties can modify the reinsurance agreement or cause a novation of the written reinsurance agreement, so as to create a third-party beneficiary contract. In the matter *sub judice*, the Objectors seek to recover from the reinsurer on the theory that they are third-party beneficiaries under the reinsurance contract.

Understanding that reinsurance is a contract of indemnity and not liability, the focus is generally on the relationship between the primary insurer and the reinsurer. Those two parties are in contractual privity, and the terms of the contract cannot be ignored in determining the proper recipient of the proceeds. *See Fisher v. Excess Insurance Company of America*, 31 F. Supp. 651 (N.D. Iowa 1940), *aff'd*, 115 F.2d 755 (8th Cir. 1940). Thus, where the primary insurer, i.e., the ceding company, becomes insolvent and may merely pay its own insured a fraction of the claim or, worse yet, nothing, the reinsurer is liable to pay the amount it would have paid had the ceding company not become insolvent. *Id.* However, the common practice is for reinsurance contracts to contain an "ultimate net loss" clause that defines "ultimate net loss" as the amount actually paid by the

reinsured in the settlement of losses under its policies. *Id.* It has been held that there being no privity of contract between the reinsurer and the insured, the insured cannot maintain a direct action against a reinsurer of an insolvent insurer for costs of defense of a litigation that insurer was not contractually obligated to pay. *Eastern Engineering & Elevator Company v. American Re-Insurance Company*, 455 A.2d 1235 (Pa. Super. 1983). Neither can a state guaranty fund recover directly from a reinsurer of an insolvent ceding company. *Excess and Cas. Reinsurance Association v. Insurance Commissioner*, 656 F.2d 491 (9th Cir. 1981). Nevertheless, that principle may be modified where the reinsurance contract has language that allows for a direct payment to the insured or where a novation has occurred. Furthermore, because contractual privity is not limited solely to instances of a writing, and words and conduct can give rise to a contractual relationship, that principle may also be modified by the conduct of the parties. Issue resolution is not promoted by limiting review to the contract of reinsurance between the primary insurer (Reliance) and the reinsurer. Instead, a totality of the circumstances analysis is necessary with consideration given to the tripartite nature of the relationship. There must be a determination as to whether there is a pass-through relationship between the parties or whether the primary insurer barred access to the reinsurer, or, whether there was even knowledge of the reinsurer. Further, consideration must be given to all the contractual writings between all the parties, which includes the reinsurance contract, and any other writings that are common to the all the parties. This is of particular importance since documents pertaining to the same transaction will be read together as one contract. *Koken v. Legion Insurance Company*, 831 A.2d 1196 (Pa. Cmwlth. 2003), citing, *Huegel v.*

Mifflin Construction Company, Inc., 796 A.2d 350, 354-55 (Pa. Super. 2002);
International Milling Co. v. Hachmeister, 110 A.2d 186, 190 (Pa. Super. 1955).

Herein, there is evidence of record that the reinsurer has requested to assume the direct liability of the original insured. There is also evidence that suggests that a familiar relationship existed between the three principals, *i.e.*, the insured (Objectors herein), the primary insurer (Reliance herein), and the reinsurers (AHIC and SCPIE). It is suggested that the insureds, herein Objectors, had little or no contact with Reliance and seemingly exclusive contact with the reinsurer. These facts suggest that the conduct of the parties has worked a novation of the reinsurance agreement. Where an insured successfully establishes that the conduct of the parties has caused a novation of a contract of reinsurance, and the insured elects to seek recovery not from the primary insurer but from the reinsurer, the insured effectively releases the primary insurer of any all liability that may have resulted under the primary insurance contract, and the insured then stands in the shoes of the primary insurer and elects to accept as its exclusive remedy recovery under the reinsurance agreement.

Therefore, this Court concludes that:

1. Objector Palm Springs General Hospital and Reinsurer AHIC through their regular course of interaction with one another caused a novation of the reinsurance agreement between Reliance and AHIC.
2. Objector Baptist Health South Florida Hospital and Reinsurer AHIC through their regular course of interaction with one another caused a novation of the reinsurance agreement between Reliance and AHIC.
3. Direct access to reinsurance proceeds is permissible where there is a contractual provision providing for a direct payment obligation.

4. Direct access to reinsurance proceeds is permissible where the conduct of the insured, the primary insurer, and the reinsurer works a novation of the reinsurance agreement between the primary insurer and the reinsurer.

5. When an insured seeks to circumvent the primary insurer and seeks direct access to reinsurance proceeds, the insured causes a release of any and all claims it may have against the primary insurer.

Considering that the Liquidator disallowed a novation of the reinsurance agreement on the premise that certain prerequisites were not met, and the Objectors have advanced the position that the reinsurer continues to seek a novation, whether the prerequisites can and will be met was not adequately presented before the Referee. This Court concludes that no further discovery is necessary to determine whether the Objectors are entitled to direct payment under the reinsurance agreements themselves. This Court further concludes that the conduct of the parties has been such as to have caused a novation of the agreement, thereby allowing direct access to the reinsurance policy.

Finally, this Court concludes that where the insured and the reinsurer have caused a novation of the reinsurance contract, such as is the case here, any liability the primary insurer may have or does owe to the insured is discharged, and any and all liability the primary insurer may have had under the insurance contract is assumed by the reinsurer. Thus, herein, Objectors may have direct access to the reinsurance proceeds since the insured through its course of conduct caused a novation of the reinsurance agreement between Reliance and AHIC. Further, any and all insurance obligations existing between Reliance and Objector Palm Springs

General Hospital and Reliance and Objector Baptist Health South Florida Hospital are assumed by the reinsurer, AHIC.

The Liquidator shall serve a copy of this order upon those listed on the master service list, and file an affidavit with the Court setting forth that service was made on or before March 31, 2004.



JAMES GARDNER COLINS, President Judge

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

2004 MAR 18 P 4 34

RECEIVED AND FILED
COMMONWEALTH COURT
OF PA (PHILAS)

IN RE: *Baptist Health South Florida, Inc. objection to the Liquidator's denial of a direct payment request; Palm Springs General Hospital objection to the Liquidator's denial of a direct payment request; the Exceptions to the Report of Referee James Schwartzman*

ORDER

AND NOW, this 18th day of March 2004, the factual findings of Referee are adopted as set forth in the opinion filed this date. However, due to the Court's disagreement with the Referee's legal conclusions, detailed in the preceding opinion, the Court concludes that the objectors are entitled to direct access of the reinsurance proceeds; the Liquidator's motion to dismiss is DENIED.

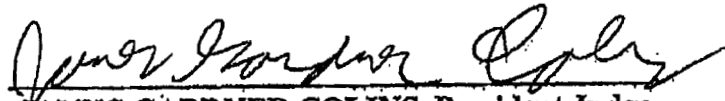
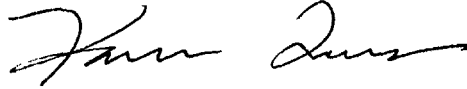

JAMES GARDNER COLINS, President Judge

EXHIBIT B

These orders have been entered in the docket as evidenced by the attached copy of the relevant docket entries.

Respectfully Submitted,

PEPPER HAMILTON LLP



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Attorneys for Plaintiff-Respondent M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company

Dated: April 16, 2004

Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

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March 16, 2004	Application for Relief Pet. for court approval for release of excess collateral or to draw down on letter of credit.	Intervenor	Magellan Reinsurance Company Ltd.
March 16, 2004	Affidavit Filed Of Samuel M. Kikla.	Intervenor	Magellan Reinsurance Company Ltd.
March 16, 2004	Affidavit Filed Of Richard C. Maida.	Intervenor	Magellan Reinsurance Company Ltd.
March 16, 2004	Affidavit Filed Of Jon W. Yoskin, II.	Intervenor	Magellan Reinsurance Company Ltd.
March 17, 2004	Order Filed IN RE: Petition to approve & authorize the stipulation & agreement of Colins, James Gardner settlement, & the payment of the settlement amount in the matter captioned LaManna, et al. v. Steinberg, et al., No. 01-CV-3571 (E.D. Pa.) The petition is GRANTED Stipulation and agreement is APPROVED. Liquidator is directed to serve a copy of this order upon those listed on the master list & to submit an affidavit of service to the Court by 3/31/04. SEE ORDER FILED.		
March 17, 2004	Opinion MEMROANDUM OPINION AND ORDER: Objectors may have direct access to the Colins, James Gardner reinsurance proceeds since the insured through its course of conduct caused a novation of the reinsurance agreement between Reliance & AHIC. Further, any and all insurance obligations existing between Reliance & Objector Palm Springs General Hospital and Reliance & Objector Baptist Health South Florida Hospital are assumed by the reinsurer, AHIC. SEE MEMORANDUM OPINION & ORDER FILED.		
March 18, 2004	Amended AMENDED MEMORANDUM OPINION AND ORDER. Foot note added: The 3/17/04 mem. & order Colins, James Gardner		

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incorrectly stated that the Liq. had not filed a response to the exceptions by objectors Palm Springs Gen. Hosp. and Baptist S. Fl. Hosp. In fact, the Liq. did file a response and that response was considered when the Court reached the decision as set for in the mem. & order of 3/17/04.

March 18, 2004 Answer Filed
 Answer to Baptist Health& Palm Springs Gen. Hosp. opposition to Zen. pet. to submit doc. sealed.
 Possible Inte Zenith Insurance Company

March 22, 2004 Order Filed
 MEMORANDUM AND ORDER: NMMCC and SWCC's pet. for injunctive relief is denied.
 Colins, James Gardner

The Liq. must make NMMCC and SWCC whole should there be any erroneous or excess drawig down of the Line of Credit, together with statutory interest, and such funds shall be considered an administrative expense, which is the highest priority of creditor allwoable under the Act. NMMCC and SWCC's petition for relief from stay and to compel arbitration is denied. See order for service requirements.

March 23, 2004 Affidavit Filed
 Affidavit certifying service of court Orders regarding Baptist Health South Florida, Inc.'s &
 Plaintiff Insurance Commissioner of Pennsylvania
 Palm Springs General Hospital's objections to the liquidator's denial of a direct payment request & exceptions of the report of referee James Schwartzman.

March 23, 2004 Answer Filed
 Response of the liquidator to objection of Myron Hairrell to notice of determination
 Plaintiff Insurance Commissioner of Pennsylvania
 on proof of claim number 1142945. (Vol I and II)

March 24, 2004 Affidavit Filed
 Affidavit of service pursuant to Court's Order of 3/22/04.
 Plaintiff Insurance Commissioner of Pennsylvania

March 25, 2004 Affidavit Filed
 Of this court's 3/9/04 order.
 Plaintiff Insurance Commissioner of Pennsylvania

March 26, 2004 Order Filed

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Ref. LaVan is appointed to hear the pet., to submit finding of fact and to issue recom. decisions.

Colins, James Gardner

The parties shall contact the ref. re: scheduling. See order filed. Service per order.

March 26, 2004	Answer Filed To the Pet. to compel the Liq. to disclose the Confid. Affid. filed under seal or alternative.	Plaintiff	Insurance Commissioner of Pennsylvania
March 26, 2004	Application for Relief Petition for approval of sale of Tax Map 93, Parcel 13, Loudoun Cnty., VA.	Plaintiff	Insurance Commissioner of Pennsylvania
March 29, 2004	Application for Relief Liq.'s motion for post-trial relief of the 3/18/04 amended memorandum opinion and order.	Plaintiff	Insurance Commissioner of Pennsylvania
March 29, 2004	Application to be Admitted Pro Hac Vice Filed For Timothy F. Prugh on behalf of Jose Ballester, Claimant for purpose of filing an objection.	Other	Ballester, Jose
March 29, 2004	Memorandum of Law Filed In support of post-trial relief.	Plaintiff	Insurance Commissioner of Pennsylvania
March 29, 2004	Objections To Notice of Determination, POC # 2024653.	Other	Ballester, Jose
March 30, 2004	Application for Relief Petition regarding settlement between Robert Steinberg & Christopher Whalley.	Plaintiff	Insurance Commissioner of Pennsylvania

PACIS Web Docket Sheet

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March 31, 2004	Answer Filed To objection of Wausau Ins. Co. to notice of determination on proof of claim # 194407.	Plaintiff	Insurance Commissioner of Pennsylvania
March 31, 2004	Affidavit Filed On this court's 3/30/04 order.	Plaintiff	Insurance Commissioner of Pennsylvania
March 31, 2004	Application for Relief Petition for approval of sale of Tax Parcel 926500-0020-07, King County, Washington.	Plaintiff	Insurance Commissioner of Pennsylvania
April 1, 2004	Order Filed Objection of Jose Ballester, POC # 2024653 is assigned to Ref. Innelli. The Liq. shall contact Referee for scheduling and the parties shall submit all filing to the Ref. See order for service requirements.		Colins, James Gardner
April 1, 2004	Order Granting Application for Relief Approval of sale of Tax Parcel 926500-0030-05, King County WA. See order for service requiremt.		Colins, James Gardner
April 1, 2004	Order Filed Granted, Liq.'s pet. to create Claim Obj. Serv. List and to Authorize Service by Electronic Means. This is the exception to the 7/30/01 Case Management Order. See order for other amendments of the Case Management Order. All interested persons on either the Master Service List of the Claim Objector Service List are encouraged to provide th Liq. with a facsimile number or e-mail address through which service may be made.		Colins, James Gardner
April 1, 2004	Order Denying Application for Relief The motion for post-trial relief of the 3/18/04 amended mem. opin. is denied. See order for service		Colins, James Gardner
April 1, 2004	Order Filed		

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The Liq.'s pet. for approval of a stock sale between Reliance and Omni et al is granted.

Colins, James Gardner

See Exhibit A for terms of sale and order filed for service requirements.

April 1, 2004

Order Filed

The Pet. to approve settlement of contract claim between Reliance and Earth Tech is approved.

Colins, James Gardner

See Exhibit A for settlement agreement and see order for service requirement.

April 1, 2004

Order Granting Application for Relief

Approval granted for sale of VA Tax Map 93, Parcel 13, Loudoun County, VA to TC Midatlantic Dev.

Colins, James Gardner

See order for service requirement.

April 1, 2004

Affidavit Filed

For order of 3/17/04 regarding approval of the Stip. and Agreement.

Plaintiff

Insurance Commissioner of Pennsylvania

April 1, 2004

Application for Relief

To join as necessary parties Keybank USA, National Assoc. Swiss Re America Corp., NA Specialty,

Possible Inte Magellan Insurance Company Ltd.

Hartford Financial Serv. Group and Hartford Specialty Co. Appendix of Exhibits filed under seperate cover.

April 1, 2004

Praeipce for Appearance

Special Limited appearance. Praeipce for Appearance Mathes, Stephen J.

Possible Inte Magellan Insurance Company Ltd.

Possible Inte Magellan Insurance Company Ltd.

April 2, 2004

Praeipce

And stip. for extension of time to file response to Liq.'s mot. for post-trial relief.

Possible Inte Palm Strings General Hospital

Possible Inte Baptist Health South Florida, Inc.

April 2, 2004

Application to be Admitted Pro Hac Vice Filed

For admission of Davidson M. Pattiz by Kevin F. Brady.

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Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

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Possible Inte Zenith Insurance Company

April 2, 2004 Answer Filed
Reply memorandum in support of obj. of Zenith to Liq.'s denial of a direct payment request.

Possible Inte Zenith Insurance Company

April 2, 2004 Objections
To Notice of Determination with Exhibits #1-11, POC # 1281442.

Other Scott, Kenneth L.

Other Buesser, Donna

SESSION INFORMATION

Journal Number:
Consideration Type:
Date Listed/Submitted:

REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date: June 20, 2003
Reargument Disposition: Reconsideration/Reargument Granted Date: April 17, 2003
Record Remitted:

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

IN RE: *Baptist Health South Florida, Inc.'s Objection To The Liquidator's Denial Of A Direct Payment Request; Palm Springs General Hospital's Objection To The Liquidator's Denial Of A Direct Payment Request; The Exceptions Of The Report Of Referee James Schwartzman*

STATEMENT OF NO OFFICIAL TRANSCRIPT

Pursuant to Pennsylvania Rule of Appellate Procedure 904(c), no official transcript has been requested because there is no official transcript or verbatim record of these proceedings.

Respectfully Submitted,

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(215) 981-4000

Attorneys for Plaintiff-Respondent M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, in her official capacity as Statutory Liquidator of Reliance Insurance Company

Dated: April 16, 2004

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2004, true and correct copies of the Statutory Liquidator's Notice of Appeal, Jurisdictional Statement In Support of Notice of Appeal and Statement of No Official Transcript were served upon the following:

Via Hand Delivery

James Gardiner Colins, President Judge
Commonwealth Court of Pennsylvania
The Widener Building, Suite 900
1339 Chestnut Street
Philadelphia, PA 19107

Via Hand Delivery

Daryn E. Rush, Esquire
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395;


Via U.S. first class mail

G. Ronald Darlington
Commonwealth Court of Pennsylvania
624 Irvis Office Building
Harrisburg, PA 17120

Court Administrator for the Commonwealth Court of Pennsylvania

Via U.S. first class mail

All Parties on the attached Master Service List


KASSEM L. LUCAS, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on April 16, 2004, true and correct copies of the Statutory Liquidator's Notice of Appeal, Jurisdictional Statement In Support of Notice of Appeal and Statement of No Official Transcript were served upon the following:

Via Hand Delivery

James Gardiner Colins, President Judge
Commonwealth Court of Pennsylvania
The Widener Building, Suite 900
1339 Chestnut Street
Philadelphia, PA 19107

Via Hand Delivery

Daryn E. Rush, Esquire
White and Williams LLP
1800 One Liberty Place
Philadelphia, PA 19103-7395;

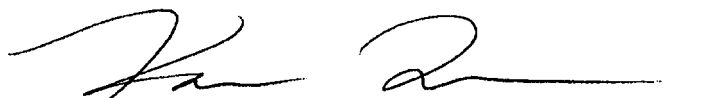
Via U.S. first class mail

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624 Irvis Office Building
Harrisburg, PA 17120

Court Administrator for the Commonwealth Court of Pennsylvania

Via U.S. first class mail

All Parties on the attached Master Service List



KASSEM L. LUCAS, Esquire