

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

M. Diane Koken,  
Insurance Commissioner of the  
Commonwealth of Pennsylvania,  
Plaintiff

v.

Reliance Insurance Company,  
Defendant

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: No. 269 M.D. 2001

RECEIVED AND FILED  
PHILADELPHIA  
COMMONWEALTH COURT  
OF PENNSYLVANIA  
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ORDER

AND NOW, this 9<sup>th</sup> day of September, 2002, upon consideration of the Amended Petition of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania, as Liquidator for Reliance Insurance Company ("Liquidator"), to Supplement this court's order of February 8, 2002, regarding appointment of referees and seeking to establish a Claims Filing Procedure and a Disputed Claims Resolution Process in the Reliance Insurance Company Liquidation Proceeding, said Amended Petition is **GRANTED** with **MODIFICATIONS** and it is **ORDERED** that:

**I. FILING OF CLAIMS**

1. Any and all claims against Reliance Insurance Company, including its former subsidiaries which were previously merged into Reliance Insurance Company, including 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 (collectively, Reliance Insurance Company) and any and all claims against the Liquidator, her agents and representatives, or in any way affecting or seeking to affect any of the assets of Reliance Insurance Company, wherever or however such assets may be owned or held, directly or indirectly, must be filed with the Liquidator at Proof of Claim Department, Statutory Liquidator of Reliance Insurance Company, P.O. Box 13527, Philadelphia, Pennsylvania 19101-3527, no later than December 31, 2003 (the "claim filing deadline") by means of completed Proof of Claim, together with the proper documents supporting the claim. A proof of claim shall be deemed filed the day it is received by the Liquidator, unless first class mail is utilized, in which case it will be deemed filed on the date of mailing.

2. The form of Proof of Claim and the instructions for completing the proof of claim were sent via first class mail to all known and potential creditors or claimants against Reliance Insurance Company as shown in the records of Reliance Insurance Company.

3. A separate Proof of Claim should be completed and filed for each claim.

4. The Proof of Claim must be signed by the Claimant or the Claimant's attorney, and must contain the Claimant's current address, including zip code and telephone number. A claim filed by a corporation

must be signed by an officer of the corporation, designated by his/her title, or the attorney for the corporation.

5. The Proof of Claim must be received by 5:00 PM on December 31, 2003 (claim filing deadline) or the claim may be denied. Proof of Claim must be delivered to or received by the Liquidator at Proof of Claim Department, Statutory Liquidator of Reliance Insurance Company, P.O. Box 13527, Philadelphia, Pennsylvania 19101-3527.

6. The claimant bears the burden of notifying Reliance Insurance Company through the Liquidator of any change of address. Such change of address notice should be delivered to the Proof of Claim Department, Statutory Liquidator of Reliance Insurance Company, P.O. Box 13527, Philadelphia, Pennsylvania 19101-3527.

7. Reliance Insurance Company reserves the right to require other information it deems necessary to consider a claim.

8. Reliance Insurance Company shall cause a copy of the Notice attached as Exhibit "B" to be published in USA Today, The Wall Street Journal, the Philadelphia Inquirer, the Pittsburgh Post Gazette, and the Harrisburg Patriot News, twice in each publication over a two-week period, within thirty (30) days of the date of this Order. The form of Publication Notice shall be:

**NOTICE OF THE COURT ORDERED CLAIM FILING  
DEADLINE FOR THE FILING OF CLAIMS AGAINST  
THE RELIANCE INSURANCE, AND THE COURT  
APPROVED PROOF OF CLAIM FORM AND THE  
CLAIMS RESOLUTION PROCEDURE**

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Reliance Insurance Company was placed in Liquidation by Order of the Commonwealth Court of Pennsylvania dated October 3, 2001 (the "Liquidation Order"), in accordance with the provisions of Article V of the Insurance Department Act of 1921, May 17, P.L. 789, *as amended*, 40 P.S. §221.1 *et seq.* All references to "Reliance" herein shall include the following companies which were previously merged into Reliance Insurance Company with approval of M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania: 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. The Liquidation Order appointed M. Diane Koken, Insurance Commissioner of the Commonwealth of Pennsylvania as statutory liquidator of Reliance Insurance and vested her with the title to all the property, assets, contracts, and rights of action of Reliance.

In order to propose an appropriate distribution of assets, the types and amounts of claims against Reliance must be determined.

**THEREFORE, ALL PERSONS WHO MAY HAVE A  
CLAIM AGAINST RELIANCE INSURANCE COMPANY,  
AGAINST THE LIQUIDATOR, HER AGENTS OR  
REPRESENTATIVES, OR IN ANY WAY AFFECTING  
OR SEEKING TO AFFECT ANY OF THE ASSETS OF  
RELIANCE, WHEREEVER OR HOWEVER SUCH  
ASSETS MAY BE OWNED OR HELD, DIRECTLY OR  
INDIRECTLY, WHETHER THAT CLAIM IS REDUCED  
TO JUDGMENT, LIQUIDATED, UNLIQUIDATED,  
FIXED, CONTINGENT, MATURED, UNMATURED,**

**DISPUTED, UNDISPUTED, LEGAL, EQUITABLE, SECURED OR UNSECURED, MUST FILE A PROOF OF CLAIM BY THE CLAIM FILING DEADLINE OF 5:00 PM DECEMBER 31, 2003 OR THE CLAIM MAY BE DENIED. A PROOF OF CLAIM MUST BE FILED, WITH THE LIQUIDATOR AT**

**PROOF OF CLAIM DEPARTMENT, STATUTORY LIQUIDATOR OF RELIANCE INSURANCE COMPANY, P.O. BOX 13527, PHILADELPHIA, PENNSYLVANIA 19101-3527.**

**A PROOF OF CLAIM MUST BE FILED EVEN IF THE CLAIM HAS BEEN THE SUBJECT OF LITIGATION.**

A person must file a Proof of Claim if he or she has a dispute with Reliance or the Liquidator over the terms of an insurance contract and his/her rights or obligations thereunder.

You may obtain a free copy of the Proof of Claim Packet approved by the Court, which contains a Proof of Claim Form and Instructions for completing a Proof of Claim Form, by writing to Proof of Claim Department, Statutory Liquidator of Reliance Insurance Company, P.O. Box 13527, Philadelphia, Pennsylvania 19101-3527 or you may download the form and instructions from the website at [www.reliancedocuments.com](http://www.reliancedocuments.com).

All requests for copies must include a legible mailing address.

9. The claim of any creditor or claimant who has not filed a Proof of Claim by the claim filing deadline may be disallowed, subject to the late claims provisions appearing in Article V of the Insurance Department Act of 1921, but the claim filing deadline is hereby fixed without prejudice to individual claimants or potential claimants to seek an extension of said deadline upon a showing of good cause for such an extension. A Proof of Claim shall be filed after the date of this Order and before the claim filing deadline, but a Proof of Claim need not be resubmitted if it was filed with

the Liquidator prior to the date of this Order. However, if the Liquidator rejects an executory contract, in whole or in part, after the claim filing deadline, the other contracting party shall be deemed to have filed a timely Proof of Claim, if such Proof of Claim is received by the Liquidator within sixty (60) days of the mailing of notice of the Liquidator's rejection of the contract.

## II. REVIEW OF CLAIM PETITIONS

10. The Liquidator shall review all Proofs of Claims, including supporting documentation, submitted in this case, and the Liquidator is authorized to request additional information where, in her discretion, said information is necessary, and shall issue notices of determination, which determinations shall be subject to judicial review, as set forth herein:

(a) The Liquidator is not required to address any claim initially evaluated by a state guaranty association until the state guaranty association has made its determination regarding the claim.

(b) For claims received on or after July 31, 2002, the Liquidator shall issue a notice of status to each claimant within two hundred seventy days (270) after receipt of the claim. For claims received prior to July 31, 2002, the Liquidator shall issue a notice of status no later than January 31, 2003. Within one hundred eighty (180) days from when all necessary documentation has been received and when all claim requirements have been satisfied, the Liquidator shall provide a written notice of determination of the Proof of Claim (notice of determination) to the claimant and to claimant's attorney, where applicable, by first class mail, at the address

shown in the Proof of Claim or, if Reliance has been informed of a change of address, at such changed address. A copy of paragraph 10(a)-(f) of this Order shall be included with each notice of determination.

(c) As soon as practicable, the Liquidator shall present to the Court a report of the claims determined by the Liquidator to which no objection was filed ("undisputed claims"). The report shall include: the name and address of each claimant, the particulars of the claim, and the amount of the claim determined by the Liquidator. The report shall be given, upon all parties listed on the master service list via first class mail or, where designated, fax, or e-mail. The Court may approve, disapprove or modify the report on claims by the Liquidator. Upon approval of the determination by the Court, the claimant will be eligible to receive a pro rata distribution of assets from the estate of Reliance Insurance Company pursuant to paragraph 15 herein.

(d) If a claimant is dissatisfied with the decision set forth in the notice of determination regarding a denial in whole or in part of a Proof of Claim, the claimant shall within sixty (60) days from the mailing date shown on the notice of determination file an objection to the determination with the Commonwealth Court, and serve a copy of the objection on the Liquidator. The objection shall state the factual and legal basis for the objection, shall attach all necessary supporting documentation, and shall also include the notice of determination (collectively the Objection). Claimant shall file the Objection, along with 5 copies of the Objection and a 3½ inch floppy disc containing the Objection typed in "Microsoft Word" format in the Office of the Prothonotary, Suite 901, 1339 Chestnut Street, Philadelphia, PA 19107.

No courtesy copies of the Objection shall be filed with a judge's chambers. Service of a copy of the Objection in printed form shall be made on the Liquidator at Objections Department, Statutory Liquidator of Reliance Insurance Company, P.O. Box 13527, Philadelphia PA 19101-3527. **IF A CLAIMANT DOES NOT FILE AN OBJECTION TO THE LIQUIDATOR'S DETERMINATION WITH THE COMMONWEALTH COURT WITHIN THE TIME REQUIRED, THE CLAIMANT MAY NOT FURTHER OBJECT TO THE LIQUIDATOR'S DETERMINATION AS SET FORTH IN THE NOTICE OF DETERMINATION, AND THE LIQUIDATOR'S DETERMINATION SHALL CONSTITUTE THE MAXIMUM ALLOWABLE AMOUNT OF THE CLAIM.**

(e) When an Objection to the Liquidator's determination of a claim is filed with the Court, the Liquidator, and the claimant may attempt to resolve the dispute. The Liquidator shall file a response to the Objection with the Court and serve a copy of the response on the claimant, and his counsel, if applicable, within thirty (30) days of the date of service of the Objection upon the Liquidator. If the Objection is not subsequently settled with Court approval pursuant to paragraphs 12 through 14 herein, the Liquidator or the claimant, shall, as soon as practicable, file a petition with this Court seeking appointment of a referee and service a copy of the notice on the opposing party. Notice of the petition shall be given upon all parties listed on the master service list via U.S. mail or, where designated, fax and/or e-mail. The Court may refer the matter to a referee to conduct the hearing with respect to any factual disputes. The Court or the referee will



hear the Objection and the Response, if any, of such persons as have standing. If the matter is referred to a referee, the referee shall, after hearing, file with the Court proposed findings of fact and/or recommend a determination, and serve copies thereof on the Liquidator, the claimant and claimant's counsel, if applicable, and any party who successfully intervenes in the proceedings on the claimant's objection to the Liquidator's determination. Exceptions, if any, to the referee's proposed findings of fact and recommendations shall be filed with the Commonwealth Court within fifteen (15) days after service of the referee's proposed findings of fact and recommendations. The exceptions shall set forth in concise form the grounds for the exceptions, and shall attach a copy of the notice of the determination, claimant's Objection, the Liquidator's Response to Objection, and the proposed findings of fact and/or recommended decision of the Referee. A party who does not timely file exceptions to the referee's proposed findings of fact and recommendations is deemed to have waived any and all exceptions and shall be barred thereafter from raising any and all issues, including but not limited to issues which could have been raised as exceptions. If exceptions are not timely filed, the Court shall enter an Order approving the referee's recommendation.

(f) Nothing herein shall preclude any party in interest from filing a petition to intervene in such dispute, or preclude any party in interest from opposing such intervention, which shall be determined by the Commonwealth Court. Proceedings on the dispute in which intervention is sought shall be stayed, pending resolution of the petition to intervene.

11. If a claimant fails to appear for a hearing, without satisfactory excuse, an Order of Dismissal may be entered by the referee if the matter is before a referee or by the Commonwealth Court if the matter is before the Commonwealth Court, and the determination of the Liquidator made final. The Liquidator shall notify claimant via certified mail return receipt requested, of the Order of Dismissal, and the claimant shall within fifteen (15) days of the date of receipt of the Order of Dismissal, file a Motion to Set Aside the Order of Dismissal with the Commonwealth Court, which motion may be granted at the discretion of the Commonwealth Court. If claimant fails to timely file a Motion to Set Aside the Order of Dismissal, the determination of the Liquidator shall be final.

12. The Liquidator is authorized to pay or settle any, without prior Court approval, any debt owed by, or claimed to be owed by Reliance, if the resulting amount of such claim against Reliance Insurance Company is \$250,000.00 or less.

13. The Liquidator is authorized to pay or settle, with Court approval, any debt owed by, or claimed to be owed by Reliance, if the resulting amount of such claim against Reliance is in excess of \$ 250,000.00 but less than \$ 1,000,000.00. The Liquidator shall seek approval of claims within these amounts by submitting to the Court from time to time a list of said claims which list includes the claim number, the date the proof of claim was filed, and the claimant's name and address, the amount of the claim, and the amount of the claim recommended by the Liquidator. Thirty days' written notice of the filing of a pleading seeking authority to pay or settle

such claims shall be given to the claimant and the claimant's counsel, if applicable, and to those persons appearing on the Master Service List. The Court will hear the objections and the responses, if any, of such persons as have standing.

14. The Liquidator is authorized to pay or settle, with Court approval, any debt owed by, or claimed to be owed by Reliance, if the resulting amount of such claim against Reliance is \$1,000,000.00 or more. The Liquidator shall file a petition for Court approval of said payment or settlement. The petition shall contain the information required in paragraph 13 hereof and shall also state the particulars of the claim and particulars of the reasons why, to the extent the Liquidator is seeking to settle said claim, the Liquidator believes that the settlement is in the best interest of Reliance. Thirty days' written notice of the filing of the petition seeking authority to pay or settle such claim shall be given to the claimant and to the claimant's counsel, if applicable, and to those persons appearing on the Master Service List. The Court will hear the objections and responses, if any, of such persons as have standing.

15. The court approval required in paragraphs 13 and 14 above shall not be necessary if the matter has been assigned to a referee and the referee has filed his recommendations and findings of fact with the Commonwealth Court pursuant to paragraph 10(e) above or if the notice of determination is submitted to the Court pursuant to paragraph 10(c) for undisputed claims.

### III. DISTRIBUTION

16. Claims or settlements which have been approved by the Liquidator in accordance with paragraph 12 of this order or by the Court in accordance with paragraphs 13 and 14 of this order, and claims which have become the subject of a final order pursuant to paragraphs 10(c) and (e), and paragraph 11 of this order shall be paid at the time and in the manner provided in the plan of liquidation as finally approved by the Court or as may otherwise be ordered by the Court.

### IV. APPOINTMENT OF REFEREES

17. To resolve certain disputed claims in this liquidation proceeding, the Court directs that referees shall be appointed by the Court to hear outstanding objections to the notices of determinations issued by the Liquidator, and further, for said referees to make recommendations to the Court regarding said objections. The referees shall have authority to:

- (a) set hearing dates on objections to the Liquidator's notices of determination.
  - (b) conduct hearings;
  - (c) establish abbreviated procedures for the presentation of facts and evidence relating to disputed claims;
  - (d) set limited discovery schedules should discovery be necessary;
- and,
- (e) make recommended findings of fact and conclusions of law for review of the Court.

18. The compensation for such referees shall be set by the Court and fees shall be submitted to the Court for review and approval before payment.

19. Costs associated with hearings before the referee (other than compensation for the referee) and/or before the Court shall be borne equally by both sides, unless the Court otherwise directs.

20. The Liquidator shall cause a notice to be advertised on no less than three separate dates, in the Legal Intelligencer, Philadelphia, PA, the Dauphin County Reporter, Harrisburg, Pa., and the Pittsburgh Post Gazette, Pittsburgh, PA, that the Court will appoint a referee or referees for the purpose of hearing claim disputes and making recommendation to this Court on the resolution thereof. Said notice shall state:

The Commonwealth Court will appoint referees/hearing officers to handle claim disputes in the proceedings for the Liquidation of the Reliance Insurance Company, *see, generally*, 40 P.S. §221.1 -- §221.63. The individuals selected will be granted, when appropriate, the authority to establish abbreviated procedures for the presentation of facts and evidence relating to disputed claims; to set limited discovery schedules; to conduct hearings; and to render recommended findings of fact and conclusions of law for review by the Court.

Applicants should have experience in informal dispute resolution and contract law. Some knowledge of life insurance, and annuities issues will be helpful. Applicants should be aware that, if they have matters before the Commonwealth Court or the Commonwealth Insurance Department as a party or in a representative capacity, the Court may be compelled to disqualify them.

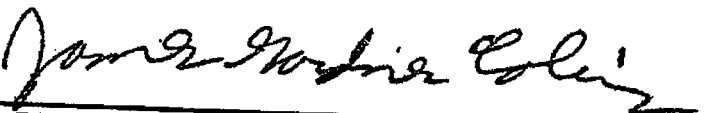
The Commonwealth Court shall set the terms and compensation for such appointment. Applications must be submitted by **December 31, 2002**, to the Commonwealth Court of Pennsylvania, Suite 900, the Widener Building, 1339 Chestnut Street, Philadelphia, PA 19107.

21. A copy of this order shall be posted on the following websites: [www.insurance.state.pa.us](http://www.insurance.state.pa.us) and [www.reliancedocuments.com](http://www.reliancedocuments.com).

22. This Court continues to maintain sole and exclusive jurisdiction, to the exclusion of all other courts or tribunals, over all assets of Reliance Insurance Company of whatsoever kind or nature and wherever or however owned or held, whether directly or indirectly. No judgment or order against Reliance Insurance Company entered after the date of the filing of the petition for rehabilitation, and subsequent filing of the petition for liquidation, and no judgment against Reliance Insurance Company entered at any time by default or collusion need be considered as evidence of liability or of quantum of damages. The Rehabilitation Order of May 29, 2001 and as superseded by the Order of Liquidation of October 3, 2001 and all subsequent orders continues in full force and effect, including the provisions thereof prohibiting the institution and prosecution of any action at law or in equity against Reliance Insurance Company or the Liquidator.

**FURTHER**, the Liquidator, through her counsel, is hereby directed to serve a copy of this order, forthwith, upon all parties listed on the master service list via U.S. mail or, where designated, fax and/or e-mail. The Liquidator, through its counsel, is directed to file with the Court in the Office of the Prothonotary, 9<sup>th</sup> Floor the Widener Building, 1339 Chestnut

Street, Philadelphia, PA 19107, by 3:00 p.m. September 17, 2002 an affidavit, that service, as outlined above, has been effectuated.

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JAMES GARDNER COLINS, President Judge