

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

IN RE: Commonwealth Insurance Company, :
In Liquidation : No. 1 CIC 2014

**LIQUIDATOR'S REPORT PURSUANT TO 40 P.S. §221.36
REGARDING THE DISTRIBUTION OF ASSETS TO GUARANTY ASSOCIATIONS**

1. Commonwealth Insurance Company ("CIC") was placed into liquidation by the Commonwealth Court of Pennsylvania by Order dated March 20, 2014 ("Liquidation Order"), based on the unanimous consents of CIC's Board of Directors and the Board of Directors and shareholders of The Pennsylvania Group Ltd., the sole shareholder of CIC. The Liquidation Order appointed the Insurance Commissioner and his successors as the Statutory Liquidator of CIC ("Liquidator") (a copy of the Liquidation Order is attached hereto as Exhibit "A").

2. Pursuant to Article V of the Insurance Department Act of 1921 ("Article V") at Section §221.36, the Liquidator of CIC is required to file with this Court an application for approval to distribute assets to guaranty associations (hereinafter referred to as "an early access distribution") within 120 days of a final determination that the insurer is insolvent or in such condition that its further transaction of business will be hazardous to, *inter alia*, its policyholders.

3. Section §221.36 also provides that the Liquidator need not make application for approval to distribute assets to guaranty associations in instances where it is reasonable to conclude that the assets of the insolvent insurer will not exceed the amounts necessary to pay, *inter alia*, the costs of liquidation.

4. Pursuant to Section 221.36, the Liquidator's proposal must provide, *inter alia*, provisions for reserving amounts for the payment of expenses of liquidation; disbursement of assets marshaled to date and subsequent disbursement as assets become available; and equitable allocation of disbursements to each of the guaranty associations entitled thereto.

5. Absent obtaining a judicial declaration of insolvency subsequent to the entry of the Liquidation Order, as was done following the entry of a liquidation order for First Sealord Surety, Inc. (in liquidation) in 2012, Section 221.36 would likely not come into play in the CIC liquidation proceeding because there has been no final determination of insolvency for CIC, nor was there a final determination that its further transaction of business would be hazardous to, *inter alia*, its policyholders. However, whether Section 221.36 is applicable to the CIC liquidation proceeding is a moot point, because CIC was licensed to transact business only in Pennsylvania, and Pennsylvania does not provide guaranty association coverage for the only type of business that CIC wrote, namely surety bonds. Thus, no early access distribution to guaranty associations can be made.

WHEREFORE, the Liquidator respectfully submits this report in recognition of 40 P.S. §221.36, to inform the Court that no early access distribution can be made in the CIC liquidation proceeding.

Respectfully submitted:

By: 
PRESTON M. BUCKMAN (I.D. #57570)
Insurance Department Counsel
Governor's Office of General Counsel
Pennsylvania Insurance Department
Capitol Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Attorney for Michael F. Consedine, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in his official capacity as Statutory
Liquidator of Commonwealth Insurance Company

Dated: 7/17/14

EXHIBIT A

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine,
Insurance Commissioner of the
Commonwealth of Pennsylvania,
Plaintiff,

v.

Commonwealth Insurance Company
555 City Line Ave
Suite 620
Bala Cynwyd, PA 19004,

Defendant.

Docket No. 1 CIC 2014

ORDER OF LIQUIDATION

AND NOW, this 30th day of March, 2014, upon consideration of the Petition for Review in the Nature of a Complaint for Order of Liquidation of Commonwealth Insurance Company ("Commonwealth Ins. Co.") filed by Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, and upon the unanimous consents of the Board of Directors of Commonwealth Ins. Co. and of the Board of Directors and Shareholders of The Pennsylvania Group Ltd., the sole shareholder of Commonwealth Ins. Co., it is hereby ORDERED that:

1. The Petition for Liquidation is GRANTED, and Commonwealth Ins. Co. is ordered to be LIQUIDATED pursuant to Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, *as amended*, 40 P.S. §§ 221.1 – 221.63 ("Article V").
2. Insurance Commissioner Michael F. Consedine and his successors in office are hereby APPOINTED Statutory Liquidator of Commonwealth Ins. Co. and directed to take possession of Commonwealth Ins. Co.'s property, business and affairs in accordance with Article V.

3. The Liquidator is hereby VESTED with all the powers, rights and duties authorized under Article V and other applicable statutes and regulations.

ASSETS OF THE ESTATE

4. The Liquidator is vested with title to all property, assets, contracts and rights of actions ("assets") of Commonwealth Ins. Co. of whatever nature and wherever located, as of the date of filing of the Petition for Liquidation. All assets of Commonwealth Ins. Co. are hereby found to be *in custodia legis* of this Court and this Court asserts jurisdiction as follows: (a) *in rem* jurisdiction over all assets of Commonwealth Ins. Co. wherever they may be located and regardless of whether they are held in the name of Commonwealth Ins. Co. or in any other name; (b) exclusive jurisdiction over all determinations as to whether assets belong to Commonwealth Ins. Co. or to another party; (c) exclusive jurisdiction over all determinations of the validity and amounts of claims against Commonwealth Ins. Co.; and (d) exclusive jurisdiction over the determination of the priority of all claims against Commonwealth Ins. Co.

5. The filing or recording of this Order with the Clerk of the Commonwealth Court or with the Recorder of Deeds of the county in which Commonwealth Ins. Co.'s principal office or place of business is located (Montgomery County), shall impart the same notice as is imparted by any deed, bill of sale or other evidence of title duly filed or recorded with that Recorder of Deeds.

6. The Liquidator is directed to take possession of all assets that are the property of Commonwealth Ins. Co.

7. The Liquidator is directed to continue telephone, data-processing, water, electric, sewage, garbage, delivery, trash removal and utility services needed by the estate of Commonwealth Ins. Co. by establishing a new account for the Liquidator as of the date of this Order.

8. Commonwealth Ins. Co.'s directors, officers and employees shall: (a) surrender peaceably to the Liquidator the premises where Commonwealth Ins. Co. conducts its business; (b) deliver all keys or access codes thereto and to any safe deposit boxes; (c) advise the Liquidator of the combinations and access codes of any safe or safekeeping devices of Commonwealth Ins. Co. or any password or authorization code or access code required for access to data processing equipment; and (d) deliver and surrender peaceably to the Liquidator all the assets, books, records, files, credit cards, and other property of Commonwealth Ins. Co. in their possession or control, wherever located, and otherwise advise and cooperate with the Liquidator in identifying and locating any of the foregoing.

9. Commonwealth Ins. Co.'s directors, officers and employees are enjoined from taking any action, without the prior approval of the Liquidator, to transact further business on behalf of Commonwealth Ins. Co. They are further enjoined from taking any action that would waste the assets of Commonwealth Ins. Co. or would interfere with the Liquidator's efforts to wind up the affairs of Commonwealth Ins. Co.

10. Except as otherwise provided in this Order, executory contracts to which Commonwealth Ins. Co. is a party to as of the date of this Order may be affirmed or disavowed by the Liquidator.

11. All banks, investment bankers, companies, other entities or other persons having in their possession assets which are, or may be, the property of Commonwealth Ins. Co. shall, unless otherwise instructed by the Liquidator, deliver the possession of the same immediately to the Liquidator, and shall not disburse, convey, transfer, pledge, assign, hypothecate, encumber or in any manner dispose of the same without the prior written consent of, or unless directed in writing by, the Liquidator.

12. All persons and entities are enjoined from disposing of or destroying any records pertaining to any transactions between Commonwealth Ins. Co. and any other party.

13. The amount recoverable by the Liquidator from any reinsurer shall not be reduced as a result of this Order of Liquidation, regardless of any provision in a reinsurance contract or other agreement. Payment made directly by the reinsurer to any principal or other creditor of Commonwealth Ins. Co. shall not diminish the reinsurer's obligation to Commonwealth Ins. Co., except to the extent provided by law.

TERMINATION OF SURETY BONDS AND UNDERTAKINGS

14. Any Commonwealth Ins. Co. surety bond or surety undertaking still in force at the time of the Liquidation will continue only until the earlier of the following: (1) thirty (30) days after the entry of this order; (2) the expiration of the bond, undertaking or policy by its own terms; or (3) the date when the obligee or any principal replaces the surety bond, surety undertaking or policy with equivalent coverage in another reinsurer or surety, or otherwise terminates the policy.

PROOF OF CLAIM FILING

15. All claims against the estate of Commonwealth Ins. Co., together with proper proof thereof, shall be filed on or before Nov. 21, 2014. No person shall participate in any distribution of the assets of Commonwealth Ins. Co. unless his, her or its claim has been filed with the Liquidator in accordance with the time limit established by the Liquidator, subject to the provisions for the late filing of claims pursuant to Section 537 of Article V, 40 P.S. § 221.37.

16. No judgment or order against Commonwealth Ins. Co. or any of its principals entered after the date of filing of the Petition for Liquidation, and no judgment or order against Commonwealth Ins. Co. or any of its principals entered at any time by default, by

collusion, or otherwise will be considered as evidence of liability or quantum of damages by the Liquidator in evaluating a claim against the estate of Commonwealth Ins. Co.

17. In addition to the notice requirements of Section 524 of Article V, 40 P.S. § 221.24, the Liquidator shall publish notice in newspapers of general circulation where Commonwealth Ins. Co. has its principal places of business that: (a) specifies the last day for the filing of claims; (b) explains the procedure by which claims may be submitted to the Liquidator; (c) provides the address of the Liquidator's office for the submission of claims; and (d) notifies the public of the right to present a claim, or claims, to the Liquidator.

18. Within thirty (30) days of giving notice of the Order of Liquidation, as set forth in Section 524 of Article V, 40 P.S. § 221.24, and of the procedures for filing claims against the estate of Commonwealth Ins. Co., the Liquidator shall file a compliance report with the Court noting, in reasonable detail, the date that and manner by which these notices were given.

ADMINISTRATIVE EXPENSES

19. The Liquidator shall pay as costs and expenses of administration pursuant to Section 544 of Article V, 40 P.S. § 221.44, the actual, reasonable and necessary costs of preserving or recovering the assets of Commonwealth Ins. Co.

20. Distribution of the assets of Commonwealth Ins. Co. in payment of the costs and expenses of estate administration including, but not limited to, compensation for services of employees and professional consultants, such as attorneys, actuaries and accountants, shall be made under the direction and approval of the Court. This includes reimbursement to the Pennsylvania Insurance Department for expenses it has incurred in compensating professional consultants, attorneys and other persons it has engaged on behalf of Commonwealth Ins. Co. for the preservation of its assets.

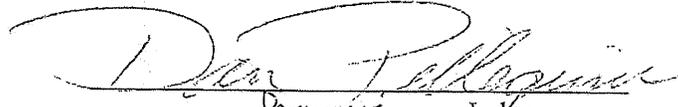
STAY OF LITIGATION

21. Unless the Liquidator consents thereto in writing, no action at law or in equity, including, but not limited to, an arbitration or mediation, the filing of any judgment, attachment, garnishment, lien or levy of execution process against Commonwealth Ins. Co. or its assets, shall be brought against Commonwealth Ins. Co. or the Liquidator or against any of their employees, officers or liquidation officers for acts or omissions in their capacity as employees, officers or liquidation officers of Commonwealth Ins. Co. or the Liquidator, whether in this Commonwealth or elsewhere, nor shall any such existing action be maintained or further prosecuted after the effective date of this Order. All above-enumerated actions currently pending against Commonwealth Ins. Co. in the courts of the Commonwealth of Pennsylvania or elsewhere are hereby stayed; relief sought in these actions shall be pursued, as is appropriate, by filing a proof of claim against the estate of Commonwealth Ins. Co. pursuant to Section 538 of Article V, 40 P.S. § 221.38, or by applying to intervene.

22. All secured creditors or parties, pledges, lienholders, collateral holders or other persons claiming secured, priority or preferred interests in any property or assets of Commonwealth Ins. Co. are hereby enjoined from taking any steps whatsoever to transfer, sell, assign, encumber, attach, dispose of, or exercise, purported rights in or against any property or assets of Commonwealth Ins. Co. except as provided in 40 P.S. § 221.43.

23. All agents, brokers, and other persons having sold bonds issued by Commonwealth Ins. Co. shall account for and pay all unearned commissions and all premiums, collected or uncollected, for the benefit of Commonwealth Ins. Co. directly to the Liquidator within 30 days of notice of this Order. No agent, broker, reinsurance intermediary or other person shall disburse or use any monies which come into their possession and are owed to, or claimed by Commonwealth Ins. Co. for any purpose other than payment to the Liquidator.

24. Any premium finance company that has entered into a contract to finance a bond that has been issued by Commonwealth Ins. Company shall pay any and all premium owed to Commonwealth Ins. Co. to the Liquidator.


PRESIDENT, Judge

CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon all parties of record in this proceeding in accordance with the requirements of 1 Pa. Code Chapter 33 in the following manner:

Service via eservice through PACFile, addressed as follows:

William R. Balaban, Esquire
WBalaban@BalabanAndAssociates.com
27 North Front Street
Harrisburg, PA 17101-1606
(717) 695-2901
(717) 695-7914 (fax)



PRESTON M. BUCKMAN (I.D. #57570)

Insurance Department Counsel
Office of Liquidations, Rehabilitations
& Special Funds
Governor's Office of General Counsel
Capital Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Counsel for the Statutory Liquidator of
Commonwealth Insurance Company

DATED: 7/17/14



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

July 17, 2014

Michael F. Krimmel, Chief Clerk
Commonwealth Court of Pennsylvania
601 Commonwealth Avenue, Suite 2100
P.O. Box 69185
Harrisburg, PA 17120-9185

***Re: In Re: Commonwealth Insurance Company (In Liquidation)
No. 1 CIC 2014***

Dear Mr. Krimmel:

Attached please find the Liquidator's Report Pursuant to 40 P.S. §221.36 Regarding the Distribution of Assets to Guaranty Associations with regard to the above-referenced matter.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Preston M. Buckman".

Preston M. Buckman
Insurance Department Counsel

PMB:drh

Enclosures