



GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 21, 2009

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2009 SEP 21 P 1:57

Michael R. Krimmel, Chief Clerk
Commonwealth Court of Pennsylvania
601 Commonwealth Avenue, Suite 2100
P.O. Box 69185
Harrisburg, PA 17106-9185

*Re: Joel S. Ario, Insurance Commissioner of the Commonwealth of
Pennsylvania v. Villanova Insurance Company
No. 182 M.D. 2002*

Dear Mr. Krimmel:

Enclosed for filing, please find an original and two (2) copies of the Petition for Approval of Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved from November 1, 2008 to April 30, 2009 regarding the above-referenced matter.

As directed by the Court, I am also enclosing the documents on a computer disk.

Very truly yours,

Preston M. Buckman
Special Funds Counsel

PMB:jlh
Encs.



IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO, Insurance Commissioner :
of the Commonwealth of Pennsylvania, :

Plaintiff, :

v. :

VILLANOVA INSURANCE :
COMPANY, :

No. 182 M.D. 2002

Defendant. :

RE: *Liquidator's Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved from November 1, 2008 to April 30, 2009.*

ORDER

AND NOW, this ____ day of _____, 2009, upon consideration of the Liquidator's Petition for Approval of Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved from November 1, 2008 to April 30, 2009 ("Petition"), it is hereby ORDERED and DECREED:

1. The Petition is GRANTED and the claims listed in the Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved as of

November 1, 2008 to April 30, 2009 ("Report") are APPROVED and ALLOWED both as to classification and amount as listed;

2. The Report is incorporated herein by reference; and

3. The Claimants listed in the Report or their lawful assignees shall become eligible to receive a *pro rata* distribution of assets from the estate of Villanova Insurance Company (In Liquidation) in the event that a distribution is made to Claimant's class of creditors as directed by ¶5 of this Court's Order of January 11, 2006.

MARY HANNAH LEAVITT, JUDGE

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO, Insurance Commissioner :
of the Commonwealth of Pennsylvania, :

Plaintiff, :

v. :

VILLANOVA INSURANCE :
COMPANY, :

Defendant. :

No. 182 M.D. 2002

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2009 SEP 21 P 1:57

PETITION FOR APPROVAL OF REPORT AND RECOMMENDATIONS
ON VILLANOVA INSURANCE COMPANY CLAIMS UNDISPUTED AND
RESOLVED FROM NOVEMBER 1, 2008 TO APRIL 30, 2009

Petitioner, Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator ("Liquidator") of Villanova Insurance Company ("Villanova"), in compliance with this Court's Order of January 11, 2006 ("Claims Order") and pursuant to 40 P.S. §221.45, respectfully petitions this Court for an order approving his Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved from November 1, 2008 to April 30, 2009 ("Report"). In support of the Petition, the Liquidator avers the following:

BACKGROUND

1. Plaintiff, Insurance Commissioner of the Commonwealth of Pennsylvania, was appointed Liquidator of Villanova pursuant to this Court's Order dated July 25, 2003 ("Liquidation Order").

2. The Liquidation Order provided that "in addition to the notice requirements of Section 524 of Article V, 40 P.S. §221.34, the Liquidator shall publish notice in newspapers of general circulation, where Villanova has its principal place of business, and in the national edition of the *Wall Street Journal*, 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". See Liquidation Order, ¶18. By the end of the third quarter of 2003, the Liquidator provided Proof of Claim ("POC") forms and instructions to policyholders and creditors of Villanova as identified by the books and records of Villanova. Additionally, since the fourth quarter of 2004, the POC forms and instructions have been available on the Villanova Documents website at www.legioninsurance.com.

3. This Court entered its Claims Order in January 2006 establishing a comprehensive claims procedure in furtherance of the relevant provisions of the Insurance Department Act of 1921, 40 P.S. §§221.1 – 221.63 (the "Act"). The Claims Order requires that the Liquidator present to the Court a report of the Liquidator's recommendations with respect to each Proof of Claim. The Report shall include the following: the Claimant's name, address, class and the particulars of the claim, including whether the value of the claim was determined without objection (hereinafter referred to as "Undisputed Claims") or after settlement of an objection (hereinafter referred to as "Resolved Claims"). Additionally, the Report shall include

the amount of the claim finally recommended. See Claims Order, ¶3; See also 40 P.S. §221.45(a).

4. The Claims Order further provides that “[U]pon approval of the Liquidator’s recommendations in the Report, the Claimant becomes eligible to receive a *pro rata* distribution of assets from the estate of Villanova Insurance Company (In Liquidation) in the event that a distribution is made to Claimant’s class of creditors.” See Claims Order ¶5.

REPORT AND RECOMMENDATIONS ON CLAIMS
UNDISPUTED AND RESOLVED AS OF APRIL 30, 2009

5. The Liquidator’s Report and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved from November 1, 2008 to April 30, 2009¹ is comprised of two parts and attached hereto as Exhibits A and B (collectively referred to as “Report”). The claims are sorted alphabetically, within each class, by the Claimant’s last name or company name. The amount claimed by the Claimant, *inter alia*, is also included in the Report.²

6. A small number of the undisputed NODs listed in Exhibit A may actually be amended NODs issued to correct the class or allowed amount of a claim previously recommended by the Liquidator and approved by this Court. For example, if new information later comes to the attention of the claims evaluator which would alter the allowed amount or priority, an amended NOD is issued. The claimant then has an opportunity to object to the amended NOD. 40 P.S. §221.45(b) of the Act authorizes the Liquidator to recommend and this Court to consider modifications of and to claims previously approved by the Court.

7. The first part of the Report, which addresses claims that were “determined without objection”, reflects Notices Of Determinations (“NODs”) issued by the Liquidator for

¹ The Liquidator has filed five previous Reports and Recommendations on Villanova Insurance Company Claims Undisputed and Resolved with the latest one being approved by Court order dated May 13, 2009.

² If the claimant did not indicate a specific claim amount on the Proof of Claim, the claimed amount is noted as \$0.

which the objection period expired on or before April 30, 2009. The total number of Undisputed Claims is 109 with an allowed amount of \$1,188,654.93. The list of Undisputed Claims filed against the assets of the Villanova estate is attached hereto as Exhibit A.

8. The second part of the Report, which addresses claims that were “determined after settlement of an objection”, is a list of the disputed claims to which objections were filed and resolved on or before April 30, 2009. The total number of Resolved Claims is 3 with an allowed amount of \$24.00. The list of Resolved Claims is attached hereto as Exhibit B.

9. Upon resolution of the disputed claims listed in Exhibit B, the Liquidator issued an Amended NOD for these claims reflecting the resolution of the dispute and an agreement that no objection would be filed to the Amended NOD, or in some cases, the claimant withdrew their objection.

10. As set forth in Exhibits A and B, the Liquidator respectfully submits his recommendations for a total of 112 claims with a total allowed amount of \$1,188,678.93³ in accordance with ¶3 of the Claims Order and 40 P.S. §221.45 for this Court’s approval.

11. NODs have been issued in both the undisputed and resolved categories referencing allowed amounts subject to a policy aggregate limit. In these cases, the NOD states that the allowed amount of the claim is subject to 40 P.S. §221.40(d) which requires that if “...the aggregate allowed amount of the claims to which the same limit of liability in the policy is applicable exceeds that limit, then each claim as allowed shall be reduced a proportionate amount so that the total equals the policy limit”. The NODs recommended in this report are submitted subject to 40 P.S. §221.40(d).

³ For purposes of this Report, the Class A claims are costs incurred and paid as administrative expenses; therefore, the NOD reflects a value of \$0. In addition, the majority of Class B claims are claims that are the responsibilities of guaranty associations. Therefore, the NOD reflects a value of \$0.

12. In fulfilling his statutory requirements, the Liquidator carefully reviewed all documentation submitted by the claimants in support of the claims and independently determined the merit, classification and value of each claim, as required by the Act. See 40 P.S. §§221.37, 221.38, 221.44, 221.45.

13. Given the discretion afforded the Liquidator pursuant to 40 P.S. §221.45(a) to “comport, compromise, or in any other manner negotiate the amount for which claims will be recommended to the court”, the Liquidator believes that the classification and amounts he has determined for the reported claims are appropriate, fair and equitable and consistent with the relevant provisions of the Act and this Court’s Claims Order. The Liquidator further believes that the approval of the claims listed in the attached Report is in the best interests of the Villanova estate, policyholders, claimants and other creditors.

14. Pursuant to 40 P.S. §221.45(b) and relevant provisions of the Claims Order, the Liquidator respectfully requests that this Court approve the classification and allowed amount of the claims listed in the Report. In accordance with ¶5 of the Claims Order, upon approval of the claims listed in the Report the Claimants or their lawful assignees will become eligible to receive a *pro rata* distribution of assets from the estate of Villanova in the event that a distribution is made to Claimant’s class of creditors.

WHEREFORE, the Liquidator respectfully requests that this Court grant his Petition and approve and allow the claims as listed in the Report attached as Exhibits A and B, enter

an Order in the form attached hereto and grant such other relief as the Court shall determine appropriate and just.

Respectfully submitted:

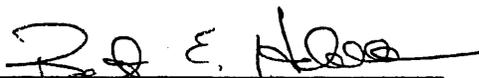
By: 

Preston M. Buckman, Esquire (I.D. No. 57570)
Governor's Office of General Counsel
Pennsylvania Insurance Department
Capitol Associates Building
901 North 7th Street
Harrisburg, PA 17102
(717) 787-6009

Attorney for Plaintiff, Joel S. Ario, Insurance
Commissioner of the Commonwealth of
Pennsylvania, in his official capacity as
Statutory Liquidator of Villanova Insurance
Company

Date: 9/21/09

knowledge, information and belief, and make these statements subject to the penalties of
18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



ROBERT HABERLE

Sworn to and subscribed before me
this 28 th day of August, 2009.



NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
SUSAN BARRETT Notary Public
City of Philadelphia, Phila. County
My Commission Expires December 22, 2009