

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MICHAEL F. CONSEDINE
Insurance Commissioner of the
Commonwealth of Pennsylvania,

Plaintiff,

v.

LEGION INSURANCE COMPANY,

Defendant.

DOCKET NO. 1 LEG 2002

RE: Liquidator's Report and Recommendations on Legion Insurance Company Claims
Undisputed and Resolved from July 1, 2012 to December 31, 2012

ORDER

AND NOW, this ____ day of _____, 2013, upon consideration of the Liquidator's Application for Approval of Report and Recommendations on Legion Insurance Company Claims Undisputed and Resolved from July 1, 2012 to December 31, 2012 ("Application"), it is hereby ORDERED and DECREED:

1. The Application is GRANTED and the claims listed in the Report and Recommendations on Legion Insurance Company Claims Undisputed and Resolved as of July 1, 2012 to December 31, 2012 ("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 receive a distribution in accordance with 40 P.S. §221.44 at the time and in the manner as approved by this Court under the Order of February 27, 2012, and any subsequent Orders.

MARY HANNAH LEAVITT, Judge

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MICHAEL F. CONSEDINE
Insurance Commissioner of the
Commonwealth of Pennsylvania,

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v.

LEGION INSURANCE COMPANY,

Defendant.

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**APPLICATION FOR APPROVAL OF REPORT AND RECOMMENDATIONS
ON LEGION INSURANCE COMPANY CLAIMS UNDISPUTED AND RESOLVED
FROM JULY 1, 2012 TO DECEMBER 31, 2012**

Applicant, Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator ("Liquidator") of Legion Insurance Company ("Legion"), in compliance with this Court's Order of January 11, 2006 ("Claims Order") and pursuant to Pa. R.A.P. 3784(a) and 40 P.S. § 221.45, respectfully applies to this Court for an order approving his Report and Recommendations on Legion Insurance Company Claims Undisputed and Resolved from July 1, 2012 to December 31, 2012 (the

“Report” as more fully described below). In support of the Application, the Liquidator avers the following:

BACKGROUND

1. Plaintiff Insurance Commissioner of the Commonwealth of Pennsylvania was appointed Liquidator of Legion 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. §221.24, the Liquidator shall publish notice in newspapers of general circulation, where Legion 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 Legion as identified by the books and records of Legion. Additionally, since the fourth quarter of 2004, the POC forms and instructions have been available on the Legion Documents website at www.legioninsurance.com.

3. This Court entered its Claims Order in January of 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 Legion Insurance Company (In Liquidation) in the event that a distribution is made to Claimant's class of creditors." See Claims Order ¶ 5.

5. On July 30, 2012, the Court implemented new rules to govern insurance rehabilitations and liquidations and all other matters under Article V of the Act. See Pa.R.A.P. 3771-3784. In addition to the information set forth in paragraph 3 above, the new rules provide that the Report also include Notice of Determination ("NOD") objections resolved through the Court and/or referee process¹. These NODs are included in the Resolved portion of the Report, as set forth below.

REPORT AND RECOMMENDATIONS ON CLAIMS
UNDISPUTED AND RESOLVED AS OF DECEMBER 31, 2012

6. The Liquidator's Report and Recommendations on Legion Insurance Company Claims Undisputed and Resolved from July 1, 2012 to December 31, 2012² is comprised of two parts and attached hereto as Exhibits A and B (collectively referred to as "Report"). The claims

¹ Pursuant to the Claims Order, earlier reports did not include NOD objections resolved through the referee process since they were approved by the Court through individual orders. Such NOD objections shall now be included in the Report in accordance with the new Commonwealth Court Rule 3784(a).

² The Liquidator has filed twelve previous Reports and Recommendations on Legion Insurance Company Claims Undisputed and Resolved with the latest one being approved by Court order dated August 30, 2012.

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.³

7. 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.

8. The first part of the Report, which addresses claims that were "determined without objection", reflects NODs issued by the Liquidator for which the objection period expired on or before December 31, 2012. The total number of Undisputed Claims is 349 with an allowed amount of \$13,354,558.43. The list of Undisputed Claims filed against the assets of the Legion estate is attached hereto as Exhibit A.

9. The second part of the Report, which addresses claims that were "determined after settlement of an objection" or through the Court/Referee process, is a list of the disputed claims to which objections were filed and resolved on or before December 31, 2012. The total number of Resolved Claims is 6, with an allowed amount of \$99,000.00. The list of Resolved Claims is attached hereto as Exhibit B.

10. Upon resolution of the disputed claims listed in Exhibit B, other than those through the Court/Referee process, the Liquidator issued an Amended NOD for these claims

³ If the claimant did not indicate a specific claim amount on the Proof of Claim, the claimed amount is noted as \$0.

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.

11. In accordance with the new rules, the Liquidator has included NOD objections that have been resolved through the Court/Referee process, if any, as well as those resolved through settlement by the Liquidator and the claimants. See Pa.R.A.P. 3784(a). Exhibit B now includes an additional column entitled "Final Resolution". The Final Resolution column will be populated with a numeric code to identify the method of resolution. The codes utilized are described as:

- 1 -- Withdrawn (original NOD maintained)
- 2 -- Settlement (amended NOD issued)
- 3 -- Referee's Recommended Decision with no exceptions filed - sustained by final Court Order
- 4 -- Referee's Recommended Decision with no exceptions filed - altered by final Court Order
- 5 -- Referee's Recommended Decision with exceptions filed - sustained by final Court Order
- 6 -- Referee's Recommended Decision with exceptions filed - altered by final Court Order
- 7 -- Supreme Court Order.

12. As set forth in Exhibits A and B, the Liquidator respectfully submits his recommendations for a total of 355 claims with a total allowed amount of \$13,453,558.43⁴ in accordance with ¶ 3 of the Claims Order and pursuant to Pa. R.A.P. 3784(a) and 40 P.S. § 221.45 for this Court's approval.

13. 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

⁴ 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.

“...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).

14. 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.

15. 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 Legion estate, policyholders, claimants and other creditors.

16. Pursuant to Pa. R.A.P. 3784(a) and 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 Legion in the event that a distribution is made to Claimant’s class of creditors.

WHEREFORE, the Liquidator respectfully requests that this Court grant his Application and approve and allow the claims as listed in the Report attached as Exhibits A and B, enteran Order in the form attached hereto, and grant such other relief as the Court shall determine appropriate and just.

Respectfully submitted:

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

Attorney for Plaintiff, Michael F. Consedine,
Insurance Commissioner of the Commonwealth of
Pennsylvania, in his official capacity as Liquidator
of Legion Insurance Company (In Liquidation)

Date: 2 | 14 | 13

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine
Insurance Commissioner of the
Commonwealth of Pennsylvania

Plaintiff,

v.

Legion Insurance Company
One Logan Square, Suite 1400
Philadelphia, PA 19103

Defendant.

Docket No. 1 LEG 2002

VERIFICATION OF ROBERT HABERLE IN SUPPORT OF
THE PETITION FOR APPROVAL OF REPORT AND RECOMMENDATIONS
ON LEGION INSURANCE COMPANY CLAIMS
UNDISPUTED AND RESOLVED AS OF DECEMBER 31, 2012

I, **ROBERT HABERLE**, hereby depose and state as follows:


1. I am Chief Liquidation Officer of Legion Insurance Company (In Liquidation) ("the Estate"), and am responsible for overseeing its daily business operations.
2. I have reviewed the Report and Recommendations on Legion Insurance Company Claims Undisputed and Resolved as of December 31, 2012 ("the Report").
3. Based on my knowledge, the claims information included in the Report fairly presents in all material respects the status of Legion Insurance Company Claims Undisputed and Resolved as of December 31, 2012.
4. My certification is made in reasonable reliance on the work of qualified staff and the Estate's internal procedures for claims operations.
5. I verify that the matters stated therein are true and correct to the best of my

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 8 th day of February 2013.



NOTARY PUBLIC
COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
SUSAN BARRETT, Notary Public
City of Philadelphia, Phila. County
My Commission Expires December 22, 2013