



GOVERNOR'S OFFICE OF GENERAL COUNSEL

September 25, 2008

Michael F. Krimmel, Chief Clerk
Commonwealth Court
628 South Office Building
Harrisburg, PA 17120-0001

**Re: Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania v. Legion Insurance Company
No. 183 M.D. 2002**

Dear Mr. Krimmel:

Enclosed for filing, please find an original and two (2) copies of the Petition for Approval of Settlement and Release Agreement between the Liquidator and Cunningham Lindsey Claims Management, Inc. 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
Encls.

2. On July 25, 2003, this Court found Legion insolvent and appointed the Commissioner as Liquidator of Legion pursuant to Article V of the Insurance Department Act of 1921, 40 P.S. §§ 221.1 – 221.63 (hereinafter, the “Department Act”).
3. Pursuant to ¶21 of the Order placing Legion into liquidation, the Liquidator was directed to pay reasonable and necessary costs of services provided to the Rehabilitator during the Rehabilitation.
4. Pursuant to §221.45 of the Pennsylvania Liquidation Act, the Liquidator is empowered to “compromise or in any manner negotiate the amount” for claims submitted to the Liquidator which shall be recommended to the Court for approval.
5. Prior to 2003, Legion and CL entered into in excess of eighty contracts for third party claims administration services (the “Contracts”), certain of which contained provisions providing for possible renegotiation of the Contracts in the event of “statutory, regulatory or judicial changes.”
6. CL contended that it was compelled to perform significant additional claims handling services for the Rehabilitator under the Contracts as a result of Legion’s Rehabilitation and subsequent Liquidation and that therefore it was entitled to seek additional compensation under the Contracts. CL subsequently filed with the Liquidator Proof of Claim no. 1371967 and supporting expert analysis and information, seeking Administrative Fees in the amount of eighteen million three hundred eighteen thousand four hundred and thirty six dollars and sixty-six cents (\$18,318,436.66) and Pre-Rehabilitation fees in the amount of eight hundred and twenty-five thousand five hundred and seventy-five dollars and twelve cents (\$825,575.12).

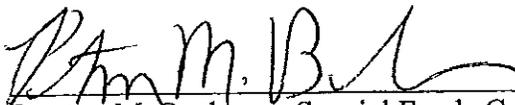
7. The Liquidator does not agree that CL incurred the extent of costs specified in its Proof of Claim due to performing significant additional claims handling services for the Rehabilitator. However, the Liquidator believes that it has acted properly and in accordance with the underlying contracts, applicable law and in good faith, and CL believes that it has acted properly and in accordance with the underlying contracts, applicable law and in good faith.
8. The Liquidator believes that it is in Legion's best interests to adjust and settle CL's claim, and, accordingly, Legion has negotiated the Settlement Agreement with CL that is attached as Exhibit 1 to this Petition.
9. Pursuant to the Settlement Agreement, Legion and CL will release each other from certain liabilities arising out of, or in connection with the underlying Contracts.
10. Legion entered into this Settlement Agreement in reliance on its independent investigation and analysis of CL's Proof of Claims and supporting documentation and expert reports and Legion's rights and obligations under the Contracts.
11. The Liquidator believes that the Settlement Agreement is in the best interest of Legion's policyholders, claimants, creditors and the public generally.
12. The Liquidator believes that the agreed resolution, by which CL will receive an agreed payment of approximately three million eight hundred thousand dollars (\$3.8 million) to resolve its Administrative Fees claim for eighteen million three hundred eighteen thousand four hundred and thirty six dollars and sixty-six cents (approximately \$18.3 million) is reasonable given the time value of money, the costs and fees that would have been expended in litigating and determining due and owing balances from the Liquidator, and the benefit of certain payment now versus potential payments in the future. The

Liquidator also hopes that the Settlement Agreement will result in a more timely and orderly liquidation of Legion's estate for the ultimate benefit of the policyholders and creditors.

13. Thus, based on the terms of the Settlement Agreements and the evaluation of the transactions as a whole by the Liquidator and his staff, the Liquidator has determined that the Settlement Agreement is a fair and reasonable resolution of certain of Legion's and CL's obligations to each other. The Insurance Department Act authorizes the Liquidator to take such actions as he deems "necessary or expedient to . . . conserve or protect [the insolvent insurer's] assets or property [,]" including the power to "compromise" claims involving assets of the insolvent insurer in order to accomplish or aid in achieving the purposes of liquidation. See 40 P.S. § 221.23(6), (9), and (23).
14. The Liquidator further believes that the Settlement Agreement will help him in achieving the objectives of liquidation under the Act, 40 P.S. §§ 221.1 – 221.63. The Settlement Agreement will assist the Liquidator in minimizing any unavoidable loss to policyholders, claimants and creditors resulting from Legion's insolvency. See 40 P.S. § 221.1(c).
15. CL agrees to the Settlement Agreement as evidenced by its execution of the Settlement Agreement and concurs in requesting the Court's approval of this petition.

16. For all of these reasons, the Liquidator requests that the Court approve the Settlement Agreement.

Respectfully submitted,



Preston M. Buckman, Special Funds Counsel
I.D. # 57570

Pennsylvania Insurance Department
Office of Liquidations, Rehabilitations
and Special Funds
901 N. 7th Street
Harrisburg, PA 17102
(717) 787-6009

Attorney for Joel S. Ario, Insurance Commissioner
of the Commonwealth of Pennsylvania, in his
official capacity as Statutory Liquidator of Legion
Insurance Company (In Liquidation) and Villanova
Insurance Company (In Liquidation)

Dated: September 25, 2008

EXHIBIT 1

SETTLEMENT AND RELEASE AGREEMENT

This Settlement and Release Agreement (hereafter "Agreement") is made between Cunningham Lindsey Claims Management, Inc. ("CL"); and The Honorable Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as statutory Liquidator of and acting on behalf of and in the name of Legion Insurance Company (In Liquidation) and Villanova Insurance Company (in Liquidation) ("Legion"), or any of his staff, successors or assigns acting in such capacity ("Liquidator").

RECITALS

WHEREAS, prior to 2003, Legion and CL entered into in excess of eighty separate agreements for third party claims administration services (the "Contracts"); and

WHEREAS, certain of the Contracts contained provisions providing for possible renegotiation of the contracts in the event of "statutory, regulatory or judicial changes"; and

WHEREAS, pursuant to an Order issued by the Commonwealth Court of Pennsylvania, Legion was placed into rehabilitation effective April 1, 2002, under the control of the Rehabilitator; and

WHEREAS, pursuant to an Order issued by the Commonwealth Court of Pennsylvania, Legion was placed into liquidation effective July 28, 2003, under the control of the Liquidator; and

WHEREAS, pursuant to ¶21 of the Order placing Legion into liquidation, the Liquidator was directed to pay reasonable and necessary costs of services provided to the Rehabilitator during the Rehabilitation; and

WHEREAS, CL contends, which the Liquidator has denied, that it was compelled to perform significant additional claims handling services for the Rehabilitator under the Contracts as a result of Legion's Rehabilitation and subsequent Liquidation and that therefore it is entitled to seek to recover additional compensation under the Contracts (the "Additional Service Fees"), which the Liquidator has also denied; and

WHEREAS, CL filed with the Liquidator Proof of Claim no. 1371967 seeking Administrative Fees in the amount of \$18,318,436.66 and Pre-Rehabilitation fees in the amount of \$825,575.12; and

WHEREAS, the Liquidator and CL believe they have each acted properly and in accordance with the Contracts, applicable law, and in good faith, but wish to avoid the risk, expense and burden of further disputes arising out of the Contracts; and

WHEREAS, pursuant to §221.45 of the Pennsylvania Liquidation Act, the Liquidator is empowered to "compromise or in any manner negotiate the amount" for claims submitted to the Liquidator which shall be recommended to the Court for approval; and

WHEREAS, without admitting any liability, the Liquidator and CL have agreed to settle all disputes, claims, losses and liabilities between and among them with regard to the Contracts pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and intending to be legally bound hereby, the Liquidator and CL agree as follows:

1. Within fifteen (15) business days of the approval of this Agreement by the Commonwealth Court of Pennsylvania, the Liquidator has agreed to pay CL, and CL has agreed to accept, the amount of three million eight hundred thousand U.S. Dollars (\$3.8 million) ("Settlement Amount") via check as payment in full and final satisfaction of any and all obligations Legion may have to CL under the Contracts for the Additional Service Fees.
2. Within fifteen (15) business days of the approval of this Agreement by the Commonwealth Court of Pennsylvania, the Liquidator has agreed to issue, and CL has agreed to accept, a Notice of Determination of CL's Proof of Claim no. 1371967 seeking Administrative Fees in the amount of \$18,318,436.66 and Pre-Rehabilitation fees in the amount of \$825,575.12, for the adjudicated amounts of \$0 for "a" class administrative claims and \$825,575.12 for class "e" pre-rehabilitation claims (the "Agreed NOD").
3. CL has agreed to accept the Settlement Amount and the Agreed NOD as payment in full and final satisfaction of any and all obligations Legion may have to CL under the Contracts.
4. CL represents that it intended to, and to the best of its knowledge and belief did deliver all hard copy open claims files to the appropriate guaranty funds and all hard copy closed claim files to Legion. In addition, CL represents it intended to, and to the best of its knowledge and belief did deliver to Legion a copy of all electronic claims files.
5. Except for those obligations set forth herein and upon CL's receipt and deposit of the Settlement Amount so that the Settlement Amount is paid in full, the Liquidator on behalf of Legion forever releases and discharges CL and its successors and assigns, and their respective officers, employees and attorneys from any and all actions,

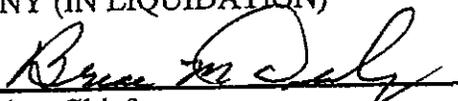
causes of action, claims, suits, demands, debts, accounts, promises, warranties, agreements, obligations, costs or expenses whatsoever, whether in law or in equity, contract or tort, known or unknown, contingent or fixed, matured or unmatured, asserted or unasserted, which the Liquidator ever had, now has or hereafter may have arising out of the Contracts. No releases to any other agreements or understanding between Legion, the Liquidator or CL are otherwise contemplated herein.

6. Except for those obligations set forth herein, CL forever releases and discharges the Liquidator on behalf of Legion, his staff, and all of Legion's successors and assigns, and their respective officers, employees and attorneys from any and all actions, causes of action, claims, suits, demands, debts, accounts, promises, warranties, agreements, obligations, costs or expenses whatsoever, whether in law or in equity, contract or tort, known or unknown, contingent or fixed, matured or unmatured, asserted or unasserted, that CL ever had, now has or hereafter may have arising out of the Contracts. No releases to any other agreements or understanding between Legion, the Liquidator or CL are otherwise contemplated herein.
7. This Agreement constitutes the entire agreement between the parties, and supersedes all prior agreements and understandings among the parties, whether oral or written, with respect to the subject matter described herein. No change or modification of this Agreement shall be valid unless contained in a writing signed by each of the parties or ordered by the Commonwealth Court of Pennsylvania.
8. If any non-material provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be severable. In such event, this Agreement shall be construed and enforced to the same extent as if the severable provision had never comprised a part of this Agreement, and all remaining provisions of the Agreement shall remain in full force and effect and unaffected by the severance of illegal, invalid or unenforceable provisions, unless the effect of the severance shall conclusively make continued performance of the Agreement impossible.
9. If any dispute should arise between the Liquidator and CL regarding this Agreement, such dispute shall be referred to the exclusive jurisdiction of the Commonwealth Court of Pennsylvania, and the governing law shall be the law of Pennsylvania.
10. The parties acknowledge that they have not entered this Agreement in reliance upon any statement or representation or consideration except as set forth in this Agreement. Each of the parties acknowledges that its representatives and attorneys have participated in the preparation of this Agreement, and agrees that the terms of this Agreement shall be construed in the context of its purpose and according to its fair meaning, without any presumption that the wording should be construed for or against any Party. The parties further acknowledge that this Agreement was not the result of fraud or coercion.

11. This Agreement shall inure to the benefit of and be binding upon the parties and their respective subsidiaries, successors, assigns, trustees, liquidators, directors, officers, members, employees and attorneys. Except as expressly set forth in this Agreement, nothing in this Agreement is intended to confer any rights, remedies, obligations or liabilities on any other person or entity.
12. By entering into this Agreement, none of the parties specifically admits or denies any liability or obligation with respect to the subject matter hereof. It is understood that any payment or other action taken pursuant to this Agreement shall not be deemed an admission of liability on the part of any party.
13. CL represents that the rights and title to Proof of Claim no. 1371967 referenced herein, which it filed with Legion, have not been assigned, sold or transferred, and that it is the legal owner of the proceeds of CL's Proof of Claim no. 1371967.
14. This Agreement is subject to the Approval of the Commonwealth Court of Pennsylvania. In the event the Court does not approve this Agreement in its entirety as executed, the Agreement shall be void *ab initio*. In such case, the parties hereto may seek to renegotiate its terms and, if they reach agreement, subsequently request Court approval of the renegotiated agreement, or seek appointment of a referee to resolve this matter in the normal course of the Notice of Determination objection process.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have executed this Agreement as of the date set forth below.

LEGION INSURANCE COMPANY,
(IN LIQUIDATION) AND
VILLANOVA INSURANCE
COMPANY (IN LIQUIDATION)

By: 
Bruce Daley, Chief
Takeover Management Division
On behalf of Joel S. Ario,
Insurance Commissioner of the
Commonwealth of Pennsylvania
in his official capacity as Statutory
Liquidator of Legion Insurance Company
and Villanova Insurance Company

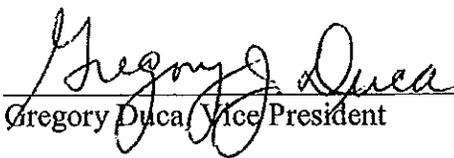
Date: 9/19/08

CUNNINGHAM LINDSEY CLAIMS
MANAGEMENT, INC.

BY: 
Title: Secretary
Date: 9-16-08

VERIFICATION

I, Gregory Duca, Vice President of Claims, have been retained by Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania in his official capacity as Statutory Liquidator of Legion Insurance Company and Villanova Insurance Company, and am responsible for the on-site claims operations of Legion Insurance Company (In Liquidation) and Villanova Insurance Company (in Liquidation). I have read the Liquidator's Petition for Approval of the Settlement and Release Agreement Between the Liquidator and Cunningham Lindsey Claims Management, Inc., and verify that the matters stated therein are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.



Gregory Duca, Vice President

Dated: September 4, 2008