

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Penn Treaty Network America :
Insurance Company in Rehabilitation : 1 PEN 2009
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In Re: American Network :
Insurance Company in Rehabilitation : 1 ANI 2009

ORDER

AND NOW, this 12th day of November 2015, having conferred with the parties on outstanding discovery issues arising under applications to compel production and responses thereto, and the parties being agreed except as otherwise provided herein, document discovery shall proceed on the following bases:

A. Applications to Compel of Intervenors Penn Treaty American Corporation (“PTAC”), Eugene J. Woznicki (“Woznicki”) and Broadbill Partners, LP (“Broadbill”). By agreement of the parties: (i) Broadbill Requests 5, 7-10 (and the issues identified in B-4 through B-6) and PTAC Request 55 are hereby modified to define the terms “assets and liabilities” to mean tax, including net operating losses and the PTAC Tax Sharing Agreement; (ii) the Rehabilitator will respond to PTAC Interrogatory 16(a) and Request to Produce 39; (iii) Broadbill Requests 6 and B-1 through B-3 are withdrawn; and (iv) the Rehabilitator will produce on or before Monday, November 16, 2015, responsive materials and/or a log of documents listed individually (the date created or sent, what it is, by and to whom, and a description) that have been withheld on the basis of privilege, without waiver of the Rehabilitator’s rights in respect of privilege and

confidentiality under applicable law, and subject to the rights of the Intervenor to compel production. The Court overrules the Rehabilitator's temporal objection to the production of such documents in the files of the law firm Scribner Hall & Thompson, LLP and Special Deputy Rehabilitator Patrick Cantilo.

B. Applications to Compel of Certain Health Insurers (the "Health Insurers"). The application to require the production of applicable statutes is denied. The Rehabilitator agrees to produce on or before Monday November 16, 2015, a log of documents listed individually that have been withheld on the basis of privilege reflecting communications with state insurance regulators regarding potential support for or opposition to the Second Amended Plan of Rehabilitation (the "Plan"), subject to reservation, and without waiver, of the Rehabilitator's rights in respect of privilege and confidentiality under applicable law, and subject to the rights of the Health Insurers to compel production. The Parties agree to produce logs, respectively, of documents listed individually that have been withheld on the basis of privilege reflecting communications with state guaranty associations (other than intra-board communications) regarding feasibility of, support for or potential opposition to the Plan, subject to reservation, and without waiver, of the Parties' rights in respect of privilege and confidentiality under applicable law, and subject to the rights of the Parties to compel production. The Rehabilitator also agrees to produce documents that reflect assumptions that underly the hypothetical recast statutory reserves and the associated *ad seriatim*

file and the methodology for the projected 2015 year-end assets. The Health Insurers will advise the Court on or before December 4, 2015, whether they will pursue the outstanding application or other application with respect to Pricewaterhouse Coopers.

C. Application to Compel of The Policyholders Committee. By agreement, the application is withdrawn subject to the right to depose Eugene Woznicki or a corporate representative of PTAC.

D. All other orders, injunctions, and stays issued by this Court in this matter, including the July 30, 2015, Order, shall continue in full force and effect, except as modified by this Order.



MARY HANNAH LEAVITT, Judge

Certified from the Record

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And Order Exit