

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 ____ day of _____, 2015, upon consideration of the Application for Relief for an Order Rejecting the Rehabilitator’s Plan, or, in the Alternative, Requiring the Rehabilitator to Provide Certain Explanations in Advance of the Hearing (Application) filed by Intervenors Eugene J. Woznicki and Penn Treaty American Corporation, and the response filed by Teresa D. Miller, Pennsylvania Insurance Commissioner and Statutory Rehabilitator of Penn Treaty Network America Insurance Company and American Network Insurance Company, it is hereby **ORDERED** that the Application is **GRANTED** and that:

1. The Rehabilitator’s Petition for Approval of Second Amended Plan of Rehabilitation for Penn Treaty Network America Insurance Company (PTNA) and American Network Insurance Company (ANIC) and for Liquidation of PTNA is **DENIED** and the October 8, 2014 proposed Second Amended Plan is **REJECTED**; and
2. The Rehabilitator shall submit a new Plan of Rehabilitation for PTNA and ANIC within 90 days, in accordance with the Court’s orders of January 6, 2009 and May 3, 2012, as amended, which remain in effect.

MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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AND NOW, this ____ day of _____, 2015, upon consideration of the Application for Relief for an Order Rejecting the Rehabilitator’s Plan, or, in the Alternative, Requiring the Rehabilitator to Provide Certain Explanations in Advance of the Hearing (Application) filed by Intervenors Eugene J. Woznicki and Penn Treaty American Corporation, and the response filed by Teresa D. Miller, Pennsylvania Insurance Commissioner and Statutory Rehabilitator of Penn Treaty Network America Insurance Company and American Network Insurance Company, it is hereby **ORDERED** that the Application is **GRANTED** and that:

1. Within 10 days of this order, the Rehabilitator shall publicly file with the Court written detailed responses to the issues and questions set forth in Section 4 of Intervenors’ Memorandum accompanying the Application.

MARY HANNAH LEAVITT, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

**APPLICATION FOR RELIEF FOR AN ORDER REJECTING THE
REHABILITATOR’S PLAN OR, IN THE ALTERNATIVE, REQUIRING THE
REHABILITATOR TO PROVIDE CERTAIN
EXPLANATIONS IN ADVANCE OF THE HEARING**

Intervenors Eugene J. Woznicki and Penn Treaty American Corporation

(collectively, “Intervenors”) request that the Court immediately deny the Rehabilitator’s Petition for Approval of Second Amended Plan of Rehabilitation for Penn Treaty Network America Insurance Company (“PTNA”) and American Network Insurance Company (“ANIC”) and for Liquidation of PTNA and reject the proposed Second Amended Plan (“Plan”) because a hearing is not necessary to determine that it is fatally deficient.¹ As set forth in greater detail in the accompanying Memorandum, which is incorporated herein by reference, the Plan: does not comply with the Court’s prior Orders; is fraught with unreasonable further delay; and fails to address what happens if some or all of the many crucial contingencies set forth in the Plan do not occur. The Court should reject it without the further significant expense and delay of a hearing and the discovery related thereto.

Intervenors submit two proposed orders. The first proposed order immediately rejects the Plan and orders the Rehabilitator to file a new Plan of Rehabilitation for PTNA and

¹ Governor Wolf has recently appointed Teresa D. Miller as Acting Insurance Commissioner. Most if not all of the references to “the Rehabilitator” are to one or more of the Acting Commissioner’s predecessors or to the Special Deputy Rehabilitator. Thus, Intervenors will use the pronoun “he” when referring to the Rehabilitator.

ANIC within 90 days, in accordance with the Court's orders of January 6, 2009 and May 3, 2012, as amended, which remain in effect.

If the Court does not at this time reject the Plan outright, as it should, Intervenor alternatively request in the second proposed order that the Court direct the Rehabilitator to provide the Court and the parties with a detailed explanation with regard to the issues and questions set forth in Section 4 of the accompanying Memorandum.

Respectfully submitted,

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and Penn Treaty American Corporation*

Dated: March 30, 2015

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

**MEMORANDUM IN SUPPORT OF APPLICATION FOR AN ORDER
REJECTING THE REHABILITATOR’S PLAN OR, IN THE ALTERNATIVE,
REQUIRING THE REHABILITATOR TO PROVIDE CERTAIN
EXPLANATIONS IN ADVANCE OF THE HEARING**

In this Application, Intervenors Eugene J. Woznicki and Penn Treaty American Corporation request that the Court immediately reject the Rehabilitator’s Plan because a hearing is not necessary to determine that it is fatally deficient. The Plan: does not comply with the Court’s prior Orders; is fraught with unreasonable further delay; and fails to address what happens if some or all of the many crucial contingencies set forth in the Plan do not occur. The Court should reject it without the further significant expense and delay of a hearing and the discovery related thereto. In the alternative, it should require the Rehabilitator to provide the Court and the parties with a detailed explanation responsive to the issues and questions set forth in Section 4 below.

1. The Plan Should Be Immediately Rejected Because It Violates The Court’s Orders

The Court should reject the Plan in its entirety. This Court should put a stop to the relentless quest of the Rehabilitator to liquidate these Companies in contravention of its clear and longstanding directives. After six years of debilitating inactivity and expenditures of more than \$50,000,000 of the estates’ funds, absolutely nothing has been done to rehabilitate these Companies or address the concerns expressed by the Court in May of 2012. The Rehabilitator is

contemptuous of this Court and its Orders. The Court should order appropriate action by way of a modified plan that focuses on the first phase of the Rehabilitator's 2013 Plans—benefit reductions—to be followed by premium rate increases where appropriate, the approach the Rehabilitator represented in 2013 as offering the best opportunity for success.²

Now the Rehabilitator has completely ditched that plan, and just recently has attempted to withdraw it. In confidential consultation with entities that want these Companies liquidated without delay, the Rehabilitator now proposes a plan that calls for an immediate liquidation of one company and a delayed liquidation of the other. The time for endless talk and dozens of expensive meetings is long gone. If the members of this “rehabilitation team” cannot actually take action to rehabilitate these Companies, they should in good conscience step down and let someone else make a real effort.

By the time the hearing occurs on this Plan, more than three years will have passed since this Court rejected the liquidation petitions and ordered for the second time an

² This Court held a conference on September 24, 2013 to discuss issues relating to a hearing on the 2013 plans filed by the Special Deputy Rehabilitator. At that hearing, counsel for the Rehabilitator suggested that “there will likely be amendments” to the filed plans and offered a pre-hearing schedule that delayed hearing on his amended plans until August 2014. Transcript at 24. When counsel for the Intervenors offered that the Rehabilitator’s “proposed case management order suggests or establishes that the rehabilitator is no longer interested in approval of the plan as filed,” *id.* at 13, and wondered “what’s before this Court for approval at this point,” *id.* at 14, the Court clearly and definitively stated: “Well, the Court can answer that. There is a plan. It was filed April 30th. That’s before the Court. And the Court will approve, disapprove or modify that plan.” *Id.* The Court then directed the parties to take 30-60 days to negotiate to agreement or impasse Phase 1 of the proposed plans, the initial set of benefit reductions proposed by the Rehabilitator: “There will be negotiations . . . over the next 30 or 60 days to see if agreement cannot be reached on at least Phase 1 of the plan as proposed by the rehabilitator.” *Id.* at 54. In its subsequent Orders of November 7, 2013 and November 26, 2013, the Court confirmed what it had directed the parties to do when it set a conference to “hear a report on the parties’ discussions to agree upon, or narrow the issues on, the plan of rehabilitation filed with the Court on April 30, 2013.”

actual rehabilitation. In those three years—and for almost three years before that—not a single penny of premium rate increases has been requested or received. This staunch refusal to generate income for these Companies is utterly indefensible, as is the six-year refusal to seek more appropriate benefit levels for those policyholders who are not paying their fair share.

The Rehabilitator has conveniently forgotten—or willfully ignored—this very clear and obviously correct representation to this Court on the very first page of his 2013 Plans:

There are two primary means to rehabilitate the companies: (1) reduce benefit and other payments and reduce operational costs and (2) increase premium rates and other income. The Pennsylvania Insurance Commissioner, as statutory and Court-appointed Rehabilitator, has appointed Patrick H. Cantilo as Special Deputy Rehabilitator (SDR) to develop and implement a Rehabilitation Plan for each of the companies. After considering a variety of options, the SDR prepared proposed Rehabilitation Plans that principally involve modification of certain policy features implemented through a suspension of the companies' obligation to make claim payments based on pre-modified policy features. After these modifications are implemented, the results would be evaluated to determine if additional benefit modifications and/or rate increases would be necessary.

(Emphasis added). The Intervenorers agree and have always agreed with the first sentence of this recent statement of the Rehabilitator. But this Plan and the actions of the Rehabilitator ignore this tenet of rehabilitation. If no premium rate increases are generated and no benefits are modified, failure is assured. The stunning \$50 million (and counting) expense of the Rehabilitator's liquidation efforts (disguised as rehabilitation efforts) is the *coup de grâce*.

Meaningful rehabilitation efforts must be undertaken quickly, but the current Plan offers nothing toward that goal, as neither company is actually being rehabilitated. One is being liquidated, and the other is getting policies that will be sold, ensuring the liquidation of that company as well. It is pure folly for the Rehabilitator to describe this approach as an “Amended Plan for Rehabilitation of the Companies.” Plan at 1. Moreover, the current Plan offers no quick

result. Indeed, it will take years before the Plan actually produces any results, and those are speculative at best.

In 2013 the Rehabilitator proposed plans that focused on a first phase of benefit reductions that were projected to fill up to 70% of the “hole.” He represented that after serious consideration of all of the options, that approach offered the best chances of success. The Rehabilitator then proposed in 2014 a truly indecipherable approach that not even he can bring himself to say offers any reasonable chance of rehabilitation. Unlike his 2013 Plans, his current application and Plan are utterly silent on the chances of this working. All he will say is that this is a sound exercise of discretion. He won’t say that his new “rehabilitation” Plan has any chance of succeeding. And he won’t say that he believes that either company has a chance of being rehabilitated under this Plan. All he can say about this Plan is that it is “designed to create the possibility that ANIC will be fully rehabilitated.” Plan at 30. For this reason alone, the Plan should be rejected and the Court should order as a first step the approach to benefit reduction contemplated by the 2013 Plans, touted as the best chance for success by the Rehabilitator.

In his Conclusion at page 100 of the Plan the Rehabilitator establishes that he simply does not understand that he has been ordered to actually rehabilitate these Companies—to fix the condition that led to the need for rehabilitation—when he states that his goal has been to balance and harmonize many competing interests. In fact, he admits that he disregarded the “best” option from the year before and went with this new approach because it “found substantially more support among many of the parties than the 2013 Plans.” Plan at 27. Even if that statement were factual, the goal should not be to harmonize or get wide agreement from entities that want these Companies liquidated quickly; it should be to fix the Companies. It is an abuse of discretion to repudiate an approach that has the best chance of success for a seriously

flawed one simply because it allegedly enjoys wider support from entities that are looking for the earliest possible liquidation.

Section 516(d) of Article V permits this Court to deny a proposed plan of rehabilitation without “prescribing” a hearing, and Pennsylvania case law establishes that this Court may direct the Rehabilitator to address perceived obstacles to rehabilitation. *See* 40 P.S. § 221.16 (“Upon application of the rehabilitator for approval of the plan, and after such notice and hearing as the court may prescribe, the court may either approve or disapprove the plan proposed, or may modify it and approve it as modified.”); *Foster v. Mut. Fire, Marine and Inland Ins. Co.*, 531 Pa. 598, 605-607, 614 A.2d 1086, 1089-90 (1992) (noting that upon review of the Rehabilitator’s report that the “1987 Plan was not feasible for several reasons,” the Commonwealth Court directed the Rehabilitator to submit a modified plan that would include a provision to trigger applicable state insurance guarantee funds (both in Pennsylvania and other states) and a provision for proportionate periodic payments of policyholders’ claims). To avoid further delay and cost to the Companies, the Court should elect not to prescribe a hearing and to instead immediately reject the October 2014 Plan proposed by the Rehabilitator because it fails to comply with the Court’s May 3, 2012 Opinion and Order. Immediately denying the October 2014 Plan without a hearing is supported by: (1) the Rehabilitator’s assertions in the 2009 Preliminary Plan of Rehabilitation that premium rate increases are an appropriate method of rehabilitation and should be aggressively pursued; (2) the many facts already established by hearing and set forth in the Court’s Opinion regarding the Companies’ need for premium rate increases and benefit reductions to correct the condition that led to the need for rehabilitation, as well as the Rehabilitator’s frustration of the rehabilitation efforts; (3) the Rehabilitator’s assertions in the April 2013 Plan that the benefit-reduction plan has the best possibility for

success; (4) the Rehabilitator's more than six-year delay in acting to take any actual rehabilitative measures for the Companies; and (5) the \$50 million that the Rehabilitator reported to the Court has been charged to the Companies during this time.

This Plan addresses none of the concerns set forth in the Court's May 3, 2012 Order and Opinion. That reason in itself supports rejection of the Plan. But as detailed below, additional fatal shortcomings of the Plan support its immediate rejection.

2. The Plan Should Be Immediately Rejected Because It Is Fraught With Unreasonable Further Delay

Notwithstanding his admission *six years ago* of the importance of timely premium rate increases and this Court's orders that meaningful rehabilitation must take place without delay, the Plan clearly establishes that years of further delay will be required before the Plan is actually implemented. Pages 68-77 of the Plan that describe the convoluted four phases of the plan process show the unreasonable and unacceptable further delay contemplated by the Plan. "[A]ctual implementation of the Amended Plan" does not commence until "all the preparatory steps are complete." Plan at 76. The preparatory steps are set forth in the three phases described at pages 69-76 in Sections IV.U.1-3.³

The first phase is "Plan Design." Plan at 69. Apparently, that stage is supposed to be over by now. But which of the eight identified steps have actually been completed? Only one, the drafting of the Plan (and it's not even clear that that is actually done yet). For example, tax issues have not been resolved. A proposed private letter ruling seeking the IRS's position has not yet been requested (or has only recently been requested), and once it is it could take up to two years for it to be issued, if it is issued at all. No regulatory issues involving coverage, assumption of policies and licensing have been resolved. No agreements with guaranty

³ Pages 68-77 of the Plan, describing its four phases, are attached hereto as **Exhibit A**.

associations are in place. No actuarial report has been produced. The failure to complete these items identified in his phase one approach clearly shows the Rehabilitator's continuing dilatory nature.

The most egregious example of the inexcusable delay caused by this tortuous approach is that we don't even get to the fourth phase, where the actual implementation of the Plan takes place, until the order approving the Plan is final. Plan at 73. The finality of the order is a phase three item, *id.*, and it should be clear to everyone that the date by which any appeal is final and therefore any approval order is final will probably be three years or more after the date of the order. If the order on the Rehabilitator's Plan is issued in August of 2015, the Plan will not actually be implemented until the order is final. If the history of this case is any guide, that may not be until 2018. *Nine years of all rehabilitative opportunity will have been squandered by the time implementation of the Plan commences!* That such a "result" would be perfectly acceptable to the Rehabilitator speaks volumes about his complete contempt for this Court's orders.

Critical to his Plan is the "Effective Date," defined as "The date as of which the Business Division of the Companies (including all policyholder elections, the transfer of assets from PTNA to ANIC, and the other steps described in Section IV.U.4 ["Plan Implementation," Plan at 76-7]) will become effective following the approval of the Amended Plan." Plan at 16. The Effective Date is not until the fourth phase, Plan Implementation. Plan at 76. The Rehabilitator's statement that he expects the Effective Date to be within six months of the date of the order approving the Plan, Plan at 77, is both impossible and indicative of the Rehabilitator's loose approach to this entire Plan. This shows, once again, that the Court should be wary of taking anything the Rehabilitator says at face value.

The admitted further delay forced by this Plan is unacceptable and mandates immediate rejection of this Plan. The Court should order that the Rehabilitator pursue a rehabilitation consistent with phase 1 of his 2013 Plans.

3. The Plan Should Be Immediately Rejected Because It Fails To Address What Effect Partial Or Total Failure Of The Important Contingencies Will Have On The Plan

Unlike Phase 1 of the 2013 Plans, the current Plan is heavily dependent on the happening of certain crucial contingencies. Remarkably, there is *no discussion* of what happens if those contingencies are not met. Instead, the Rehabilitator asks for approval of the entirety of the Plan before it is known whether the contingencies will actually happen. For this reason alone the Plan should be immediately rejected.

This Plan cannot be approved given the uncertainty and speculation created by this proposal. Success of the Plan is contingent on a number of major undertakings, *none of which will be completed before the requested order approving the Plan*. The Plan cautions that:

Implementation of the Amended Plan will require extensive work to restore or obtain insurance licenses and agreements with Guaranty Associations in many states. There can be no assurance that all of these efforts will be successful. Failure to obtain such licenses or agreements would complicate the implementation of the Amended Plan materially.

Plan at 63 (emphasis original). In fact, failure to obtain 100% of regulatory approval regarding licensing and policy transfer and 100% agreement from all affected guaranty associations would not only complicate the Plan, it would make it unworkable. The Rehabilitator admits as such: “Both ANIC and PTNA have certain licensing issues that need to be addressed for the Amended Plan to work.” Plan at 10. There is no provision in the Plan for what happens if the regulatory approvals and agreements are not obtained. What is clear, though, is that by the time the hearing takes place, these matters will not have been resolved. The Intervenors are not suggesting that

the necessary agreements and approvals cannot be obtained at some point, but given the importance to this Plan of *total* success in that regard, any approach that has the Court approval preceding resolution of these important matters makes no sense.

Another crucial uncertainty that will not be addressed before the approval order is the extent to which the policyholders themselves will be affected, as highlighted by the Rehabilitator at the beginning of the Plan:

THE AMENDED PLAN DESCRIBES THE METHODOLOGY FOR SUCH MODIFICATIONS IN DETAIL BUT DOES NOT CONTAIN SPECIFIC INFORMATION ABOUT HOW THEY WOULD AFFECT ANY PARTICULAR POLICYHOLDER IF IMPLEMENTED AS PROPOSED. THE SPECIFIC MANNER IN WHICH THE AMENDED PLAN WOULD IMPACT A PARTICULAR POLICY CAN ONLY BE DETERMINED AFTER ACTUARIAL CALCULATIONS THAT WILL BE MADE DURING THE PERIOD AFTER THE AMENDED PLAN IS APPROVED BY THE COURT AND BEFORE THE AMENDED PLAN IS IMPLEMENTED, AND WILL DEPEND IN PART ON WHETHER AND TO WHAT EXTENT THE AMENDED PLAN IS MODIFIED. ONCE THE CALCULATIONS ARE MADE, EACH LTC POLICYHOLDER WILL RECEIVE PERSONALIZED INFORMATION FOR PURPOSES OF MAKING ELECTIONS PERMITTED UNDER THE AMENDED PLAN.

Plan at 2 (emphasis original). Indeed, the Policyholder Election Packages and Policyholder Election Forms that presumably show the impact on the policyholders are not even distributed until well after the approval order. How can a Plan be approved before it is known what impact it will have on the affected policyholders? Approval should not be based on speculation.

Likewise, the Rehabilitator states that two tax issues among many “are of particular concern.” Plan at 79. Those relate to tax consequences to the policyholders and to the Companies. Plan at 79-81. As set forth in the Plan at 80-81 and as subsequently confirmed, the Rehabilitator will seek a private letter ruling from the IRS relating to these issues. Not only will that take up to two years, but there is no way to determine before the approval order what the

result will be. This is another example of the specious nature of the process proposed by the Rehabilitator that mandates immediate rejection of the Plan: Get the approval order first (an order that liquidates one company and declares insolvent the other and gives the Rehabilitator incredibly broad powers), and then see how all of these important contingencies play out. What if they don't occur as the Rehabilitator says he hopes they will? We are back to square one, facing the probability if not certainty of entering the second decade of a "rehabilitation" that has not an iota of an honest rehabilitation effort. With respect, there is no possible argument that this approach is anything other than an abuse of discretion.

More uncertainties are identified by the Rehabilitator himself at pages 81-83 of the Plan, including:

- The uncertainties of actuarial projections. Plan at 81. The Rehabilitator still has not produced the actuarial reports that purport to support the Plan.
- The uncertainties of whether rate increases will be sought by the surviving company or the guaranty associations. Plan at 81
- The uncertainties resulting from the "implementation of a complex corporate restructure for which there is no close precedent and which depends in part on licensing and Guaranty Association coverage provisions that may be difficult to implement."

Plan at 82

- The extent to which policyholder elections and sale efforts will affect the viability of ANIC. Plan at 82

Other debilitating uncertainties include:

- How assets are allocated between the liquidated company and the surviving company

- The extent to which assets will be transferred to the guaranty associations
- How the GA Captive, Plan at 28, is to be structured, and how it will

operate in practice

- Whether all of the infrastructure, assets and employees of PTNA can be seamlessly and timely transferred to TPACO
- The nature and extent of TPACO's operations

The description of the second phase of the Plan, "Plan Presentation," Plan at 69-72, establishes that the Rehabilitator is content to go to the hearing and seek an order approving his Plan, liquidating one of the Companies and permitting him to put in place a massive reorganization before he knows whether his master plan of policy transfer will actually fly with his fellow regulators, whether he will get the tax treatment he is looking for (and will have to wait for) from the IRS, or whether the items involving the guaranty associations will be resolved. He will ask for approval of the Plan at a hearing even though no policyholder will actually know how the plan affects him or her. He will ask at the hearing for a ruling giving him unprecedented and undeserved power and draconian and irreversible actions of this Court by way of the proposed order and relief described at pages 70-72 of the Plan before it is established that the basic mechanism of his plan—the transfer of assets and policies as well as licensing—is acceptable to those regulators and guaranty associations that have to give their approval. What happens if such approval is not fully received? What if the tax ruling two years from now is not to his liking or he doesn't get it at all? What happens if any of the other major contingencies are not met? A plan that has these types of issues is not a plan capable of approval by this Court. There is little wonder why this deeply flawed approach does not permit the Rehabilitator to comment on its chances of success, as he did regarding the first phase (benefit reductions) of his

2013 Plans. Fifty million dollars spent on “rehabilitation,” and the Rehabilitator cannot even produce a coherent plan he thinks will work.

Not until the third phase of the Plan, the “Plan Preparation Period,” Plan at 72-76, do policyholders know how they will be affected. This is *after approval of the Plan*. This makes no sense. What if they don’t like how they have been affected? What is their remedy at that point? There is none. During this phase, there will be “[i]mplementation of the process of license restoration for ANIC.” Plan at 72. What if this does not work? Also during this phase there is “[m]emorialization or implementation” of agreements to continue guaranty association coverage. Plan at 72. What if those agreements cannot be reached?

This convoluted Plan contemplates that this Court will give the Rehabilitator *carte blanche* with regard to what happens if any of these contingencies is not met. He wants an order liquidating one of these companies and a finding of insolvency of the other *before* it is clear or even probable that *any* of the important steps on which the Plan is based will actually happen. This Court cannot countenance such breathtaking arrogation of power by the Rehabilitator. The Rehabilitator should be ordered to comply with this Court’s requirement of a meaningful and timely rehabilitation or he should be sanctioned for not doing so. To allow this Plan to be approved, or to even permit it to go to an expensive hearing, is to play into the hands of the same department that for years has arrogantly dragged its feet and refused to actually rehabilitate.

The Plan as proposed cannot be approved given these significant unknowns plaguing nearly every aspect of this confusing approach. The Court should order the concrete step identified by the Rehabilitator in the first phase of his April 2013 Plan—benefit reductions.

4. If The Court Does Not Immediately Reject The Plan, It Should Order The Rehabilitator To Immediately State His Position Regarding Uncertainties Of The Plan, Including The Impact Of Failure Of The Contingencies To Be Met

The Plan should be rejected now for the reasons set forth above. If the Court decides not to reject the Plan at this time, it should nevertheless require the Rehabilitator to submit to the Court and parties written detailed responses to the following issues and questions well in advance of the hearing:

1. What is the timetable for obtaining agreement of the relevant regulators regarding the licensing issues described at pages 61-63 of the Plan? What is the effect on the Plan if all licensing issues are not resolved by way of complete agreement of all of the relevant regulators?
2. What is the timetable for obtaining the agreements and approvals of the relevant guaranty associations regarding the issues referenced at pages 63, 69 (1.b-c), and 73 (3.f.i) of the Plan? What is the effect on the Plan if the Rehabilitator does not receive all guaranty association agreements and approvals contemplated by the Plan?
3. What is the timetable for obtaining the private letter ruling from the IRS referenced at pages 79-81 of the Plan? What is the effect on the Plan if the IRS does not provide the requested private tax ruling or provides an unfavorable ruling?
4. What is the timetable for the policyholders to know “the specific manner in which the amended plan would impact a particular policy?” Plan at 2; *see also* Plan at 43. When will it be determined whether a policy is self-sustaining? Given the statement in the Plan that this and the policyholder

election will happen well after the Court approves the Plan, what remedy does a policyholder have if he feels he is aggrieved once this determination and calculation are made known to him?

5. According to the Plan, the Policyholder Election Package and the Policyholder Election Form are to be filed before the hearing and approved as part of the Court's order after the hearing. Plan at 70, 71. The Rehabilitator has recently stated that such forms will not be filed until after the hearing. What is the timetable for filing of such forms? If it is not until after the hearing, what is the process for policyholder and other objections and approval by the Court?
6. The Formal Comments of Greenwald & Strongin, filed with the Court on January 22, 2015 and attached hereto as **Exhibit B**, raise concerns about the potential lack of guaranty association protection for policyholders who reside in New York. The Plan is silent on this point. What is the status of the policyholders who reside in New York in terms of potential guaranty association coverage?
7. The Plan relies on unencumbered policy transfers from one company to another pursuant to "the rehabilitation powers of the Rehabilitator under Article V." Plan at 45. What is the effect on the Plan if the Court determines that the Rehabilitator does not have this power?

It is inexcusable for the Rehabilitator to not provide the answers to these questions in his convoluted Plan. If this Court does not reject the Plan immediately, it should require a detailed explanation of the answers to these questions well before the hearing.

5. Conclusion

Six years ago the Rehabilitator was ordered to rehabilitate. He refused to do so and instead sought liquidation. Three years ago he was again ordered to immediately rehabilitate. He has not done a single thing to rehabilitate notwithstanding this Court's second order. The Plan is entirely consistent with the Rehabilitator's sad history of misconduct: delay, confusion, arrogance, and refusal to do what he admitted as early as April of 2009 was crucial. This Plan is fatally abusive of any discretion to which the Rehabilitator could possibly be entitled, and it should be rejected now, before another several million dollars are spent chasing a perverted rehabilitation approach that simply ignores the clear rulings of this Court. The Rehabilitator must comply with those rulings, and this Court should enforce its orders. It should decide right now, without a hearing, that this approach is abusive.

Respectfully submitted,

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Dated: March 30, 2015

Exhibit A

(Second Amended Plan Excerpts)

*PENN TREATY NETWORK AMERICA INSURANCE COMPANY AND
AMERICAN NETWORK INSURANCE COMPANY AMENDED PLAN
OF REHABILITATION AND DISCLOSURE STATEMENT*

The Rehabilitator notes that Agents are not currently providing services at the request of and in support of the Rehabilitator. Since entering rehabilitation, the Companies have evaluated the ongoing role of Agents by asking policyholders whom they contact for additional information or to provide service for their policy. Most policyholders report that they do not have a close relationship with their Agent, have not spoken with their Agent since their policy was purchased and do not contact their Agent for questions about their policy or benefits. In a survey conducted during inbound policyholder calls in 2011, 54% of policyholders reported that they had not had any contact with their Agent since they purchased the policy and 70% stated that they had not had contact with their Agent for four years or more. Focus groups conducted by the Companies in 2009 reported similar results. Most policyholders reported that they contact the Companies directly for policy information or questions, or a financial advisor or trusted professional (lawyer, banker, trustee or family member).

The Companies have accrued debts to other creditors, including Guaranty Associations and taxing authorities. Those debts fall into two categories, those that were incurred before the inception of rehabilitation proceedings on January 6, 2009, (“Pre-Rehabilitation Debts”), and those that have been incurred since as part of the rehabilitation (“Rehabilitation Debts”). If the Companies were liquidated their assets would have to be distributed in accordance with the provisions of 40 P.S. § 221.44. The Pre-Rehabilitation Debts and debts inferior in statutory priority to those owed to policyholders could not be paid until all policyholder liabilities were paid in full. However, as a result of the Companies’ insolvency, policyholders could not be paid in full in liquidation and no payments could therefore be made on the Pre-Rehabilitation Debts and those of priority lower than policyholder liabilities. Under the Amended Plan all of ANIC’s Pre-Rehabilitation Debts and debt inferior to policyholder priority incurred before the Effective Date may be transferred to PTNA and managed in the course of PTNA’s liquidation. In the absence of unexpected and material improvement in the financial condition of PTNA, it is unlikely that any payment could be made on these debts. The Rehabilitation Debts of both Companies are costs and expenses of administration within the purview of 40 P.S. § 221.44 and will continue to be paid currently.

The Amended Plan contemplates that the Court will establish a Bar Date by which all claimants must file their claims against PTNA with the liquidator together with the proof required by 40 P.S. § 221.38. Notice of this Bar Date and claim filing instructions will be provided to all known creditors. Policyholders will not be required to follow the proof of claim process to seek payment for benefits due under policies placed or held in ANIC and PTNA under the Amended Plan.

U. Implementation of the Amended Plan

Though simpler in many respects than the 2013 Plans, the Amended Plan is nonetheless a complex undertaking. Its implementation will occur principally in four phases. The first is the Plan Design phase, during which the structure of the plan was devised and the views of the MPRG Parties were sought and incorporated as the Rehabilitator deemed appropriate. The second is the Plan Presentation phase, during which the Amended Plan is filed with the Commonwealth Court, comments and objections will continue to be elicited, and in due course a hearing will be held as to whether the Amended Plan should be approved, modified or rejected.

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At the end of this second phase the Rehabilitator will seek from the Commonwealth Court an Order approving the Amended Plan. Assuming that the Court enters an Order approving the Amended Plan (with or without modifications), the next phase is the Plan Preparation Period during which all the steps necessary to carry out the Amended Plan will be taken. The last phase will be the Plan Implementation phase, during which all the steps necessary to make the Amended Plan operational as approved will be taken.

1. Plan Design

During this phase, the Rehabilitator and the other MPRG Parties sought first to resolve the issues presented by the 2013 Plans and, having concluded that the issues could not reasonably be resolved by the parties, directed their efforts to development of the Amended Plan. During this phase, the basic elements of the Amended Plan were conceived and the issues to which it gives rise sought to be identified. To the extent possible, proposed solutions have been developed for those issues. It is likely, however, that more issues will be identified and addressed in subsequent phases of this process. This phase resulted in the preparation of the Second Amended Plan. Major steps commenced during this phase include:

- a. Addressing tax issues, if any, that may arise under the Amended Plan, including:
 - 1) Tax consequences resulting from policy restructurings and modifications,
 - 2) Tax consequences resulting from migration of policies,
 - 3) Discharge of liabilities that cannot be satisfied,
 - 4) Consequences of potential change of ownership, and
 - 5) Realization of net operating losses and other tax assets;
- b. Pursuing discussions with Guaranty Associations and regulators regarding coverage and licensing issues;
- c. Finding appropriate ways for Guaranty Associations to cover Non-Self-Sustaining business in five ANIC-only states;
- d. Obtaining preliminary regulatory agreement to ANIC's assumption of PTNA Self-Sustaining LTC policies in states in which ANIC was not licensed;
- e. Development of current financial data;
- f. Development of the current actuarial opinion and report;
- g. Development of a plan to migrate the infrastructure to TPACO; and
- h. Drafting of the Amended Plan.

2. Plan Presentation

The Second Amended Plan is scheduled to be filed with the Court on or about October 8,

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2014. The Rehabilitator will ask that the Court set a deadline for comments and objections. This will initiate the regulatory process during which affected and interested parties will have an opportunity to express their views about the Amended Plan, including presentation of formal objections. From August 8 to October 8, 2014, the MPRG Parties reviewed the Amended Plan in detail as initially filed with the Court on August 8, 2014, and provided comments to the Rehabilitator. The Rehabilitator and many of the MPRG Parties sought compromises on various aspects of the Amended Plan. Major steps during the Plan Presentation phase include:

- a. Filing of the Amended Plan with the Commonwealth Court;
- b. Continuing discussion of the Amended Plan among the MPRG Parties to resolve as many open issues as possible;
- c. Submission to the Court of the Second Amended Plan by October 8, 2014;
- d. Preliminary conference with the Court regarding procedures for confirmation of the Amended Plan;
- e. Approval by the Court of notice, comment, objection procedures, and deadlines;
- f. Distribution of notice to policyholders and other interested parties;
- g. Publication of deadlines and procedures for comments and objections;
- h. Receipt and analysis of comments and objections;
- i. Preparation of the Policyholder Election Package and Policyholder Election Form;
- j. Filing of the Policyholder Election Package and the Policyholder Election Form;
- k. Pre-hearing conference with the Court;
- l. Hearing on approval, modification or rejection of the Amended Plan;
- m. Order, approving, modifying or rejecting the Amended Plan, including:
 - 1) Authorizing the Rehabilitator to cause the steps in the Amended Plan to occur on or about the Effective Date in such order as the Rehabilitator concludes is optimal for the implementation of the Amended Plan;
 - 2) Authorizing the initial restructuring of the Companies' policies to remove their UBL as of the Effective Date (see Subsection N);
 - 3) Authorizing the modification of the Companies' policies in accordance with the policyholder elections as of the Effective Date;

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- 4) Authorizing the transfer of policies, assets, and liabilities as of the Effective Date between the Companies, including the assumption by PTNA of the UBL attributable to ANIC policies transferred to PTNA, without the need for formal reinsurance or other agreements or other regulatory approvals;
- 5) Releasing the transferring Company from the liabilities transferred to the other of the Companies under the Amended Plan as of the Effective Date;
- 6) A finding of insolvency for ANIC as of the Effective Date;
- 7) An order of liquidation with a finding of insolvency for PTNA to be effective as of the Effective Date;
- 8) Setting a Bar Date for claims against PTNA;
- 9) Setting the Amended Plan's Effective Date or a mechanism for determining that date;
- 10) Authorizing other specific steps necessary to implement the Amended Plan, including but not limited to the issuance of assumption certificates for policies transferred between PTNA and ANIC, the implementation of voluntary premium rate increases and voluntary reductions of Maximum Benefit Amounts through policy endorsements, the solicitation of bids for the purchase of ANIC, and the preparation of agreements with TPACO, the GA Captive, and the Trust;
- 11) To the extent necessary, restricting the ability of PTNA to do business, or make non-insurance payments (other than administrative expenses) until Guaranty Associations have been repaid in full;
- 12) Approval of the Policyholder Election Package and Policyholder Election Form;
- 13) Transferring from ANIC to PTNA all of ANIC's Pre-Rehabilitation Debts and debt inferior to policyholder claims incurred before the Effective Date unless the Rehabilitator determines that such transfer is not necessary for the success of the Amended Plan;
- 14) Continued retention of the Policyholder Committee and its counsel and advisers;
- 15) Discharge in due course of PTNA and ANIC UBL as described in Subsection Y;

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- 16) Discharge in due course of all of PTNA's Pre-Rehabilitation Debts and debt inferior to policyholder claims incurred before the Effective Date, including any such debts that may have been transferred from ANIC to PTNA under the Amended Plan;
- 17) Cancelling as of the Effective Date the reinsurance agreement between the Companies as to business written by PTNA in Ohio on and after May 13, 2005;
- 18) Authorizing the Rehabilitator to make non-material changes to the Amended Plan during its implementation without further approval from the Court;
- 19) Authorizing the Rehabilitator to seek approval from the Court for material changes to the Amended Plan that are identified as necessary or appropriate after the Approval Order has been issued;
- 20) Authorizing the Rehabilitator to take such other steps as are reasonably necessary to implement the Amended Plan as approved
- 21) Establishing a procedure for winding down the rehabilitation of ANIC and the liquidation of PTNA; and
- 22) Such other provisions as the Court may deem appropriate under the circumstances.

3. Plan Preparation Period

Once the Court enters an Order approving the Amended Plan (with or without modifications), the process of completing preparations to carry out the Amended Plan will commence. During this phase the Rehabilitator and the parties will take the preparatory steps necessary to implement the Amended Plan as approved, to the extent that they have not already been accomplished. If the Amended Plan is approved as proposed by the Rehabilitator, these steps will include:

- a. Determining the extent of the initial restructuring of the Companies' policies to remove their UBL as of the Effective Date (see Subsection N);
- b. Creation of "TPACO", a subsidiary of PTNA, and licensing it as necessary;
- c. Implementation of the plan to migrate the operating infrastructure to TPACO;
- d. Negotiation and development of TPACO contracts with PTNA, ANIC, AINIC, the Trust, and the GA Captive, subject to plan implementation;
- e. Implementation of the process of license restoration for ANIC, including the

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licensing of ANIC in Alaska, Iowa, Michigan and Wisconsin;

- f. Memorialization or implementation of agreements to continue Guaranty Association coverage for Non-Self-Sustaining policies issued by ANIC in Kansas, Maine, Massachusetts, New Jersey, and West Virginia when those policies are transferred to PTNA;
- g. Formation of the Penn Treaty Liquidating Trust for PTNA LTC and non-LTC liabilities not covered by the Guaranty Associations, including:
 - 1) Establishment of two Uncovered Benefit Funds, one for policies originally issued by PTNA and one for policies originally issued by ANIC, and
 - 2) Solicitation of offers to provide coverage for Uncovered Benefits;
- h. Finality of the Plan Approval Order due to expiration of the applicable appeal period, or resolution of appeals;
- i. Determine Allocable Assets for ANIC (the ANIC Assets) and PTNA (the PTNA Assets), separated by line of business as follows:
 - 1) ANIC A&H Allocable Assets,
 - 2) PTNA A&H Allocable Assets,
 - 3) ANIC LTC Allocable Assets, and
 - 4) PTNA LTC Allocable Assets;
- j. Determine whether each ANIC LTC policy is Self-Sustaining or Non-Self-Sustaining by allocating the ANIC LTC Allocable Assets among all ANIC LTC policies using NAPM;
- k. Determine whether each PTNA LTC policy is Self-Sustaining or Non-Self-Sustaining by allocating the PTNA LTC Allocable Assets among all ANIC LTC policies using NAPM.
- l. For each LTC policy, determine its IFRPV and its UBL tentatively by allocating assets among the policies using NAPM. A policy's UBL will be equal to its UPV minus its IFRPV.
- m. Distribution of Policyholder Election Package and Policyholder Election Form;
- n. LTC Policyholder Election Date - not less than 45 days after mailing the Election Package and Election Forms;
- o. Tabulation of LTC policyholder elections;

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- p. Determination of LTC policy modifications in accordance with policyholder elections and preparation of endorsements for all voluntarily modified LTC policies;
- q. Determination of the final list of Self-Sustaining policies, including those made so by elective modifications;
- r. Determination of policies to remain or be placed in ANIC by default or because of policyholder elections and of those to remain or be placed in PTNA by default or because of policyholder elections;
- s. Placement of all Non-LTC business in PTNA;
- t. Preparation and distribution of assumption certificates for all transferred policies;
- u. Calculation of asset allocation among the Companies, including:
 - 1) Establishment of an adequate reserve for administrative expenses;
 - 2) Assets to be transferred from PTNA to ANIC with respect to Self-Sustaining policies to be transferred from PTNA to ANIC on the Effective Date;
 - 3) Assets to be transferred from ANIC to PTNA with respect to Self-Sustaining and Non-Self-Sustaining policies to be transferred from ANIC to PTNA on the Effective Date;
 - 4) Segregation of final Self-Sustaining and Non-Self-Sustaining policies between:
 - i. Those issued by PTNA and those issued by ANIC,
 - ii. The policies that will remain or be placed in PTNA with and without Covered Benefits determined as of the Effective Date before any restructuring, and
 - iii. Within each of those groups, the policies that will remain or be placed in PTNA with Uncovered Benefits and those without Uncovered Benefits;
 - 5) Determination of the ratio of total PTNA liability (for each policy that will remain or be placed in PTNA) that is attributable to Covered Benefits and the ratio that is attributable to Uncovered Benefits, the latter segregated between policies issued by PTNA and those issued by

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ANIC;

- 6) Recalculation of the IFRPV and UBL for policies remaining or to be placed in PTNA as of the Effective Date as described in Subsection N;
 - i. Determination of the ANIC Assets, *i.e.* the Allocable Assets to be retained by or transferred to ANIC as of the Effective Date after taking into account the results of policyholder elections (the greater of GPR or Statutory Reserves by Risk Class, as described in Subsection G);
 - ii. Allocate the ANIC Assets among the Self-Sustaining LTC policies to be held or placed in ANIC (by default or because of policyholder elections) in proportion to the ratio that each policy's GPR bears to the total GPR of all such policies as of the Effective Date;
 - iii. Recalculation of the IFRPV and UBL for each such ANIC Self-Sustaining policy as of the Effective Date using its share of the ANIC Assets and its UPV;
 - iv. Determination of the PTNA Assets, *i.e.* the Allocable Assets to be retained by or transferred to PTNA as of the Effective Date after taking into account the results of policyholder elections. The PTNA Assets will be equal to the Allocable Assets minus the ANIC Assets; and
 - v. Recalculation of the IFRPV and UBL as of the Effective Date for each PTNA policy (including A&H policies, Non-Self-Sustaining policies, and Self-Sustaining policies whose policyholders elected to have them placed in PTNA) using its share of the PTNA Assets;
- 7) Recalculation of the IFRPV and UBL for policies remaining or to be placed in ANIC as of the Effective Date as described in Subsection N; and
- 8) Determination of the Covered Benefit Assets and Uncovered Benefit Assets for each policy that will remain or be placed in PTNA, based on the policy's recalculated IFRPV;
- v. Determination of the total UBL for ANIC as of the Effective Date, consisting of the recalculated UBL of all the policies originally issued by ANIC, whether such policies remain in ANIC after giving effect to policyholder elections or whether they have been transferred to PTNA by default or because of policyholder elections;

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- w. Determination of the total UBL for PTNA as of the Effective Date, consisting of the recalculated UBL of all the policies originally issued by PTNA, whether such policies remain in PTNA after giving effect to policyholder elections or whether they have been transferred to ANIC by default or because of policyholder elections;
- x. Determination of ANIC's UBL debt amount that PTNA will assume from ANIC as of the Effective Date that is attributable to ANIC policies assumed by PTNA as of the Effective Date;
- y. Finalization of contracts between TPACO and ANIC, AINIC, PTNA, the GA Captive and the Trust. The agreement with PTNA may be limited and encompass only the transfer of specified liabilities to the Trust, management of non LTC liabilities, wind-down, and liquidation reporting; and
- z. Closing of assumption and asset transfer transactions between PTNA and ANIC as of the Effective Date.

4. Plan Implementation

Once all the preparatory steps are complete, the Rehabilitator will commence actual implementation of the Amended Plan as approved by the Court. If approved substantially as proposed, key steps will include:

- a. Setting the Effective Date of policy restructurings and modifications, and PTNA liquidation;
- b. Triggering of Guaranty Association coverage and limits as of the Effective Date prior to any policy restructuring;
- c. Restructuring the Companies' policies initially to remove their recalculated UBL as of the Effective Date, as described in Subsection N;
- d. Giving effect to the Policyholder elections and voluntary policy modifications as of the Effective Date through the issuance of assumption certificates for transferred policies and endorsements for all voluntarily modified policies;
- e. Transfer of policies between PTNA and ANIC as of the Effective Date, and PTNA's assumption of the UBL debt attributable to ANIC policies assumed by PTNA as of the Effective Date;
- f. Giving effect to the transfer of resources and infrastructure to TPACO as of the Effective Date;
- g. Continuation of payment of PTNA's covered liabilities by the Guaranty

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Associations;

- h. Development of independent TPA business for TPACO;
- i. Preparation of ANIC financials;
- j. Pursue efforts to sell ANIC a reasonable time after the Effective Date, which may be driven in part by tax issues discussed in Subsection Y, below;
- k. Finalization of arrangements for Uncovered Benefits;
- l. Sale of TPACO, if possible and consistent with the goals of the Amended Plan, subject to existing contracts with ANIC, AINIC, PTNA, the GA Captive and the Trust;
- m. Establishment of the Bar Date;
- n. Adjudication of liquidation claims against PTNA;
- o. Wind down of remaining PTNA business; and
- p. Termination of rehabilitation of ANIC and liquidation of PTNA.

These sequences and lists of key steps do not constitute a comprehensive list of all the steps necessary to prepare for and implement the Amended Plan but they describe the major components of that preparation and implementation.

V. Timing of the Amended Plan

The Amended Plan must be approved by the Court before it can be implemented. It is anticipated that the Court will require that notice of the Amended Plan be provided to all interested and affected parties, with an opportunity to present their views. With notice of the Second Amended Plan's filing, the Rehabilitator will provide interested persons an opportunity to submit comments about the Amended Plan. The Rehabilitator will also request that the Court make provision for formal comments on the Amended Plan. The Court is expected to enter a scheduling order promulgating specific dates for the process of commenting on, evaluating, and approving the Amended Plan. Until that order is entered, information about when the Amended Plan will be implemented would be speculative at best. However, in the absence of litigation, the Amended Plan could be confirmed in the first quarter of 2015. The Rehabilitator expects that the time from confirmation to the Effective Date will be no more than six months, subject to extension by the Court.

W. Conclusion of the Amended Plan

The Amended Plan will conclude as to ANIC upon the occurrence of one of the following events:

Exhibit B

(Formal Comments of Greenwald & Strongin filed on January 22, 2015)

GREENWALD & STRONGIN P.C.
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January 21, 2015

Via Overnight Delivery

Office of Chief Clerk
Commonwealth Court of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 2100
Harrisburg, Pennsylvania 17106

Re: Penn Treaty Rehabilitation
Guaranty Association Coverage

Dear Sir or Madam:

This firm represents an 83 year old who has been a Penn Treaty Network America Insurance Company ("PTNA") "Independent Living" policyholder since May 13, 1998. We are providing this letter and comments therein in accordance with the "Notice to Policyholders and Other Interested Parties" dated December 1, 2014.

Our client is currently a New York resident. Since the time of the 2009 rehabilitation order of PTNA, we have been advised on several occasions by representatives of PTNA and other interested parties that since PTNA was not licensed in New York State (and accordingly policyholders are not able to benefit from any New York guaranty association), that the Pennsylvania Life & Health Insurance Guaranty Association would provide coverage in the event that PTNA is ordered into liquidation. The foregoing is also confirmed on PTNA's website (as of the date of the writing of this letter) under the Guaranty Association Coverage page.

In a recent conversation that we have had with the Pennsylvania Life & Health Insurance Guaranty Association, we have now been advised that may not be the case (although we had been previously advised by that office that coverage would exist). Our understanding of the basis for the change and the potential lack of coverage is the apparent absence of reciprocity between Pennsylvania and New York on guaranty association matters. We are confused as to why a new interpretation is now being given

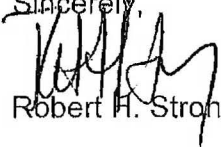
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OF PENNSYLVANIA

to these matters as we have been advised that there have not been any legislative or statutory changes on this issue since 2009.

We would like some clarity on the foregoing since our client has relied upon the existence of the policy that she purchased in 1998 (although no claims have yet to be made) and our client has accordingly paid and continues to pay thousands of dollars of total premiums. Please advise us how our client will be treated by the guaranty association in the event PTNA is ordered into liquidation.

Thank you.

Sincerely,



Robert H. Strongin

RHS/bh

cc: Statutory Rehabilitator's Counsel &
Special Deputy Rehabilitator solely by email
in accordance with the instructions at pages 3 & 4
of the December 1, 2014 "Notice to Policyholders
and Other Interested Parties" to:
planservice@cozen.com and service@cb-firm.com

plancomments@penntreaty.com

Mr. Robert Robinson
Chief Rehabilitation Officer
Penn Treaty Network America Insurance Company
3440 Lehigh Street
Allentown, Pennsylvania 18103
(via overnight delivery)

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2015, I caused a true and correct copy of the foregoing Application for an Order Rejecting the Rehabilitator's Plan or, in the Alternative, Requiring the Rehabilitator to Provide Certain Explanations in Advance of the Hearing and accompanying Memorandum to be served via e-mail and U.S. Mail on the counsel listed below:

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/s/ Benjamin M. Schmidt
Benjamin M. Schmidt