

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

Re: Application to Strike the Formal Comments of the Health Insurers for Lack  
of Standing

BEFORE: HONORABLE MARY HANNAH LEAVITT, Judge

OPINION NOT REPORTED

FILED: April 17, 2015

**MEMORANDUM OPINION AND ORDER**

Before the Court is an application by the Policyholders Committee to strike the Formal Comments filed by Aetna Life Insurance Company, Anthem, Inc., Cigna Corporation, HM Life Insurance Company, Horizon Healthcare Services, Inc., d/b/a Horizon Blue Cross Blue Shield of New Jersey, QCC Insurance Company, United Concordia Life and Health Insurance Company, United Concordia Insurance Company and UnitedHealthcare Insurance Company (collectively, Health Insurers) to the Proposed Second Amended Plan of Rehabilitation for Penn Treaty Network America Insurance Company (PTNA) and American Network Insurance Company (ANIC) (collectively, Companies). The Policyholders Committee asserts that Health Insurers lack standing to raise their objections. For the following reasons, the Court denies the Committee's application.

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To begin, the Court disagrees with the Committee's premise that Health Insurers must have traditional legal standing under *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 346 A.2d 269 (Pa. 1975). Health Insurers are not intervenors in these proceedings. They are "Formal Commenters" pursuant to the Court's Case Management Order filed December 3, 2014, which placed no limitations on who could file comments and, in fact, established procedures to ensure broad participation by any interested parties. Health Insurers fully complied with the procedures in the Case Management Order by filing timely formal comments and stating their intention to participate in the hearing on the proposed rehabilitation plan. Nothing more was required.

The Court also rejects the Committee's argument that there is an unstated requirement in the Case Management Order that Formal Commenters must qualify as "parties in interest" under Section 1109(b) of the federal Bankruptcy Code, 11 U.S.C. §1109(b).<sup>1</sup> If the Court had intended such a requirement it would have included one. Again, the Case Management Order contemplates broad participation by any interested parties. Further, the Court agrees with Health Insurers' argument that "[w]hile bankruptcy and insurance receivership are analogous in some respects, they are not analogous with respect to standing." Health Insurers' Brief at 12. Bankruptcy proceedings aim to adjust debtor-creditor relationships; insurance receiverships are much broader in scope and involve many more constituents. Although Health Insurers are an integral part of the guaranty association system, they have interests separate and apart from the

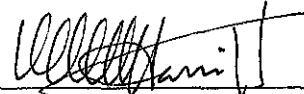
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<sup>1</sup> Section 1109(b) states that "[a] party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may raise and may appear and be heard on any issue in a case under this chapter." 11 U.S.C. §1109(b).

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guaranty associations, as evidenced by the fact that Health Insurers raise issues in their Formal Comments that are not raised by any other participants.

AND NOW, this 17<sup>th</sup> day of April, 2015, for the above-stated reasons, the Policyholders Committee's Application to Strike the Formal Comments of the Health Insurers for Lack of Standing is denied.



MARY HANNAH LEAVITT, Judge

**Certified from the Record**

APR 17 2015

**and Order Exit**