

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

MICHAEL F. CONSEDINE, INSURANCE
COMMISSIONER OF THE
COMMONWEALTH
OF PENNSYLVANIA

Plaintiff,

v.

PENN TREATY NETWORK AMERICA
INSURANCE COMPANY,

Defendant.

DOCKET NO. 5 M.D. 2009

v.

MICHAEL F. CONSEDINE, INSURANCE
COMMISSIONER OF THE
COMMONWEALTH
OF PENNSYLVANIA,

DOCKET NO. 4 M.D. 2009

Plaintiff,

v.

AMERICAN NETWORK
INSURANCE COMPANY,

Defendant.

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2012 JUL -5 P 2:31

**MOTION OF MICHAEL F. CONSEDINE, INSURANCE COMMISSIONER
OF THE COMMONWEALTH OF PENNSYLVANIA, IN HIS
OFFICIAL CAPACITY AS REHABILITATOR OF PENN TREATY
NETWORK AMERICA INSURANCE COMPANY AND
AMERICAN NETWORK INSURANCE COMPANY, FOR AN EXTENSION OF TIME
TO FILE A PLAN OF REHABILITATION**

Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania,
in his official capacity as Rehabilitator of Penn Treaty Network America Insurance Company

and American Network Insurance Company (the "Rehabilitator"), by his counsel, Blank Rome LLP, respectfully submits this motion for an extension of time to file a plan of rehabilitation. In support of this Motion, the Rehabilitator avers as follows:

RELEVANT PROCEDURAL HISTORY

1. On January 5, 2009, the Commissioner filed Petitions for Rehabilitation with this Court requesting that this Court place the Companies into rehabilitation. This Court entered Orders on January 6, 2009, placing the Companies into rehabilitation under Article V of the Insurance Department Act of May 17, 1921, P.L. 789, as amended, 40 P.S. §§ 221.1-221.63 (the "Act").

2. On October 2, 2009, the Rehabilitator filed Petitions seeking Orders of Liquidation for the Companies after determining that further attempts to rehabilitate the Companies would substantially increase the risk of loss to policyholders and would be futile.

3. Amended Petitions for Liquidation (the "Amended Petitions") were filed on October 23, 2009.

4. On November 2, 2009, Eugene J. Woznicki and Penn Treaty American Corporation (the "Intervenors") filed Petitions to Intervene with respect to the Amended Petitions.

5. On November 9, 2009, the Rehabilitator filed Answers to the Intervenors' Petition to Intervene.

6. On November 16, 2009, the Court granted the Intervenors' Petitions to Intervene.

7. On July 10, 2010, the Intervenors filed a response to the Amended Petitions.

8. On August 13, 2010, the Court consolidated the rehabilitation proceedings involving the Companies.

9. The hearing on the Amended Petitions commenced on January 13, 2011, and continued intermittently until April 12, 2011, at which time the hearing was recessed until a later date.

10. On September 19, 2011, the hearing recommenced, and continued intermittently until concluding on November 2, 2011, after twenty-nine days of hearings over a period of approximately nine months.

11. On February 21 and 22, 2012, the Court heard closing arguments.

12. On May 3, 2012, the Court issued a lengthy Memorandum Opinion and Order, denying the Amended Petitions and ordering “the Rehabilitator [to] develop a plan of rehabilitation of the Companies, in consultation with Intervenors, and [] submit a plan no later than ninety (90) days following the date of this Order.” (May 3, 2012 Order at 2.)

13. On May 14, 2012, the Rehabilitator timely filed his “Post-Trial Motion of Michael F. Consedine, Insurance Commissioner of the Commonwealth of Pennsylvania, in His Official Capacity as Rehabilitator of Penn Treaty Network America Insurance Company and American Network Insurance Company” (the “Post-Trial Motion”).

14. On May 23, 2012, the Court ordered that the Intervenors file any response to the Post-Trial Motion by June 28, 2012.

15. On June 8, 2012, the Rehabilitator filed a Motion for Clarification of the Court’s May 3, 2012 Order or, in the Alternative, to Stay (the “Motion for Clarification”).

16. On June 21, 2012, the Intervenors filed an opposition to the Motion for Clarification. The Intervenors, however, stated that they “would not object to a ninety day extension of the period in which to file the plan.” *Memorandum of Law of the Intervenors in Opposition to the Motion for Clarification*, pp. 2; 7; 9.

17. On June 26, 2012, the Court denied the Motion for Clarification, but stated that “This order does not preclude a request by the Rehabilitator for a reasonable extension of time for filing a plan of rehabilitation.”

18. Given the Court’s June 26, 2012 Order, the Rehabilitator, absent an extension of time, would be required to file the plan on August 1, 2012.

RELIEF SOUGHT

19. The Rehabilitator respectfully requests a ninety day extension to file a plan of rehabilitation, allowing the plan to be filed no later than October 30, 2012.

20. Good cause exists for the extension. First, the Rehabilitator has not been dilatory in formulating a plan, but rather, as described by Rehabilitator’s counsel during the June 19 2012, status conference call with the Court, the Rehabilitator has taken substantial steps to comply with the Court’s May 3, 2012 Order.¹ Below is a list of steps taken by the Rehabilitator to file a new plan:

- a. The Rehabilitator has taken steps to retain a new actuary. The Rehabilitator believes that a new actuary is necessary because: (a) the current actuarial data is stale; (b) the Rehabilitator requires current data and actuarial support to file for new rate increases and put together a new plan; and (c) the Court’s opinion may be construed as calling the work of the Rehabilitator’s actuary into question. The retention process for a new actuary, though, takes time.
- b. The Rehabilitator has taken steps to appoint a new special deputy.. The process for the selection and appointment of the special deputy take some

¹ As Intervenors’ counsel acknowledged, the Rehabilitator is pursuing such steps notwithstanding the pendency of the Commissioner’s post-trial motion and without prejudice to the Rehabilitator’s appellate rights.

time. Additionally, the deputy will need to fully evaluate the matter prior to moving forward with the plan.

- c. The Commissioner personally met with the Intervenors and their counsel in June, 2012; and a further in-person meeting is scheduled on July 13, 2012 to discuss the new plan. Discussions between counsel are ongoing.

21. Notwithstanding the significant progress made to date, the Rehabilitator, requests this reasonable extension of time because the process of formulating therehabilitation plan is complex, difficult, and time consuming.

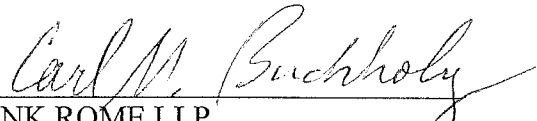
22. Second, after communication with Intervenors' counsel, the Commissioner is authorized to represent to the Court that the motion is unopposed. The Intervenors have also independently confirmed, both to the Court and separately to the Rehabilitator, that they would not oppose this motion. *See also* Memorandum of Law page 2; 7; 9.

23. Third, this essentially is a fresh start by the Rehabilitator. The Rehabilitator is cooperating with the Intervenors in order to comply with the Court's Order and file a plan of rehabilitation.

24. Given the above, good cause exists for extending the time that the Rehabilitator must file a plan of rehabilitation.

WHEREFORE, the Rehabilitator respectfully requests that the Court enter an Order granting a 90-day extension for the Rehabilitator to file his plan of rehabilitation. The Rehabilitator would thus be required to file a plan no later than October 30, 2012. A Proposed Order reflecting the primary relief sought is submitted herewith.

Respectfully Submitted,



BLANK ROME LLP
A Pennsylvania LLP
BY: Carl M. Buchholz
Attorney I.D. No.: 65567
One Logan Square
Philadelphia, PA 19103
Telephone: (215) 569-5500
Facsimile: (215) 569-5555
E-mail: buchholz@blankrome.com

Attorney for Michael F. Consedine,
Insurance Commissioner of the
Commonwealth of Pennsylvania, in his
official capacity as Rehabilitator of Penn
Treaty Network America Insurance
Company and American Network Insurance
Company

7/5/2012

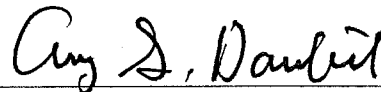
CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing document upon the following parties of record in this proceeding and in the following manner:

Service by email and first-class mail, addressed as follows:

Douglas Y. Christian, Esquire
Ballard Spahr LLP
1735 Market Street, 51st Floor
Philadelphia, PA 19103
Christian@ballardspahr.com

*Counsel for Intervenors Penn Treaty American
Corporation and Eugene J. Woznicki*



Amy G. Daubert, I.D. #62064
Deputy Chief Counsel
Pennsylvania Insurance Department
1341 Strawberry Square
Harristown State Office Building No. 1
Harrisburg, PA 17120
(717) 787-2567

Dated: July 5, 2012