

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine, Insurance Commissioner	1 PEN 2009
v.	1 ANI 2009
Penn Treaty Network America Insurance Company and American Network Insurance Company	

**APPLICATION OF THE POLICYHOLDERS COMMITTEE
FOR LEAVE TO OBTAIN LIABILITY INSURANCE,
AT THE EXPENSE OF PTNA AND ANIC**

The Committee of Policyholders of Penn Treaty Network America Insurance Company ("PTNA") and American Network Insurance Company ("ANIC"), by their undersigned counsel, seek leave from the Court to obtain liability insurance at the expense of PTNA and ANIC, for the reasons set forth below.

1. The Court authorized the formation of the Policyholders Committee upon oral motion on September 24, 2013 to represent the interests of policyholders generally in the rehabilitation proceedings concerning PTNA and ANIC.

2. Since its formation, the Committee has participated in confidential, multi-party discussions concerning issues raised by the April 2013 rehabilitation plans and the objections thereto. The Committee prepared a letter to policyholders concerning the Second Amended Plan and filed formal comments. The Committee challenged the standing of the Health Insurers and opposed certain pre-hearing applications of PTAC and the Health Insurers, including the Health Insurers' application to eliminate Uncovered Benefits from the Plan.

3. To perform its work more effectively, the Court authorized the Committee to retain the services of a consulting actuary, subject to spending limits established by the

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Court. See the orders of January 30, 2014 and January 5, 2015. To date, the total cost of the consulting actuary has been approximately \$269,975.

4. The Policyholders Committee is composed of persons who have volunteered their time and services in good faith.

5. Unlike the federal bankruptcy code, Article V of the Insurance Department Act of 1921 does not have a provision governing the rights and duties of a court-appointed committee. Cf. Pan Am Corp. v. Delta Air Lines, 175 B.R. 3438, 514 (S.D.N.Y. 1994); In re Simplot, 48 Bankr.Ct.Dec. 209, 2007 Bankr.Lexis 2936, *67-*68 (D. Idaho, 2007).

6. Neither Article V, nor the oral authorization to form the Committee, expressly limits the Committee's liability within the scope of its court-ordered authority.

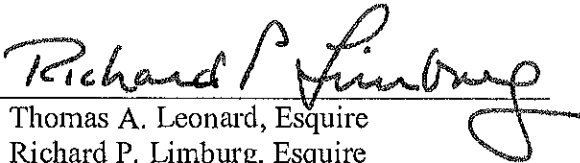
7. The Committee is not aware of any claims or potential claims against it to date. However, hearings have now begun on a plan that, if approved or approved with modifications, will affect policyholders' interests, and the members of the Committee deserve protection from potential claims that they should have played their role in a different way than they did. Likewise, they should not have to shoulder defense costs, if they are swept up in claims against the rehabilitator or other parties.

8. The Committee respectfully requests that the Court authorize the Committee or the rehabilitator to purchase D&O liability insurance for the Committee at the expense of the Companies with a limit of \$3 million (including defense costs) and a deductible of \$0. The rehabilitator does not object to the Committee's request and has obtained a proposal from Axis Insurance Company to provide such coverage for an

annual premium of \$75,000. A one year extended reporting period can be purchased for an additional premium of \$75,000.

WHEREFORE, the Policyholders Committee respectfully requests the entry of an order authorizing the Committee or the rehabilitator to obtain D&O liability insurance for the Committee at the Companies' expense, for a period of one year with a one-year extended reporting period, on the terms and at the prices described above.

Respectfully submitted,

By: 
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Dated: August 21, 2015

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[Proposed] ORDER

AND NOW, this ____ day of _____, 2014, upon consideration of the Policyholders Committee's Application for Leave to Obtain Liability Insurance at the Expense of PTNA and ANIC, and the responses thereto, it is hereby ORDERED that the Application is GRANTED.

BY THE COURT:

Mary Hannah Leavit, J.

CERTIFICATE OF SERVICE

I certify that on August 21, 2015, I caused a true and correct copy of the foregoing Application to be served on the following persons by email at the email addresses indicated below:

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