

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Penn Treaty Network America Insurance Company in Rehabilitation	:	No. 1 PEN 2009
	:	
	:	
In Re: American Network Insurance Company in Rehabilitation	:	No. 1 ANI 2009
	:	

MOTION FOR EXTENSION AND CONTINUATION OF STAY

AND NOW, the plaintiff, Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, and court-appointed Statutory Rehabilitator of Penn Treaty Network America Insurance Company (“PTNA”) and American Network Insurance Company (“ANIC”), hereby moves this Court for a 182-day extension¹ of the previous stay issued by this Court in these matters on February 27, 2015, and the entry of an injunction, and avers the following:

1. Plaintiff, Teresa D. Miller, is the Insurance Commissioner of the Commonwealth of Pennsylvania.
2. On January 6, 2009, this Court entered Orders appointing the Insurance Commissioner of the Commonwealth of Pennsylvania as Statutory Rehabilitator for PTNA and ANIC.
3. This Court’s Order of January 6, 2009 placing PTNA in rehabilitation granted the following 90-day stay of all litigation against PTNA:
 12. All court actions, arbitrations and mediations currently or hereafter pending against Penn Treaty in the Commonwealth of Pennsylvania are stayed for ninety (90) days from the effective date of this Order and such

¹ The ordinary one hundred eighty day period would fall on Saturday, February 27, 2016. The next business day is Monday, February 29, 2016, 182 days after August 31, 2015.

additional time as the Rehabilitator may request, to allow the Rehabilitator an opportunity to review litigation and where appropriate retain new counsel.

13. The Rehabilitator is directed to review all litigation pending outside the courts of the Commonwealth of Pennsylvania and petition these other courts or tribunals for a ninety (90) day stay of litigation where necessary to protect the estate of Penn Treaty.

4. This Court's Order of January 6, 2009 placing ANIC in rehabilitation granted the following 90-day stay of all litigation against ANIC:

12. All court actions, arbitrations and mediations currently or hereafter pending against American Network in the Commonwealth of Pennsylvania are stayed for ninety (90) days from the effective date of this Order and such additional time as the Rehabilitator may request, to allow the Rehabilitator an opportunity to review litigation and where appropriate retain new counsel.

13. The Rehabilitator is directed to review all litigation pending outside the courts of the Commonwealth of Pennsylvania and petition these other courts or tribunals for a ninety (90) day stay of litigation where necessary to protect the estate of American Network.

5. This Court consecutively extended these stays for periods of 180 days by Orders dated April 3, 2009; September 30, 2009; March 22, 2010; September 22, 2010; March 25, 2011; September 22, 2011; March 20, 2012; September 14, 2012; March 15, 2013; September 10, 2013; March 4, 2014; August 20, 2014; and February 27, 2015. The stays are currently extended until August 31, 2015.

6. The stay Order is consistent with the provisions of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, *as amended* (the “Act”), and in particular Section 517 (40 P.S. § 221.17).

7. PTNA and ANIC remain insolvent because their respective liabilities exceed their respective assets.

8. By Order dated August 13, 2010, this Court consolidated the PTNA and ANIC proceedings.

9. By Order dated May 3, 2012, the Court directed the Rehabilitator to develop and submit to the Court a Plan of Rehabilitation for PTNA and ANIC.

10. On April 30, 2013, the Rehabilitator filed Plans of Rehabilitation for PTNA and ANIC, and filed amendments to those plans on August 8, 2014, subject to further revision.

11. On October 8, 2014, the Rehabilitator filed an Application for Approval of Second Amended Plan of Rehabilitation for PTNA and ANIC and for Liquidation of PTNA.

12. A number of parties answered or sought to intervene on the Application for Approval of Second Amended Plan of Rehabilitation for PTNA and ANIC and for Liquidation of PTNA.

13. On June 19, 2015, the parties stipulated as to the limited intervention of certain Formal Commenters.

14. The parties exchanged briefs and entered into discovery.

15. On July 30, 2015, this Court issued a scheduling order regarding depositions “begin[ing] on and continu[ing] after October 1, 2015.”

16. This Court scheduled a Phase II Plan Approval Hearing on November 30, 2015.

17. If litigation against PTNA and ANIC proceeds while the Plans of Rehabilitation are pending, it will result in unnecessary expense to PTNA’s and ANIC’s estates.

18. In addition to the authorization of stay of litigation provided by Section 517(a) of the Act (40 P.S. § 221.17(a)), Section 505 of the Act (40 P.S. § 221.5) authorizes this Court, upon application of any receiver, to grant “such restraining orders, preliminary and permanent injunctions, and other orders as may be deemed necessary to prevent: . . . (iii) interference with the receiver or with the proceeding; (iv) waste of the insurer’s assets; . . . (vi) the institution or further prosecution of any actions or proceedings; (vii) the obtaining of preferences, judgments, attachments, garnishments, or liens against the insurer, its assets or its policyholders; (viii) the levying of execution against the insurer, its assets or policyholders; . . . or (xi) any other threatened or contemplated action that might lessen the value of the insurer’s assets or prejudice the rights of policyholders, creditors, or shareholders, or the administration of the proceeding.”

19. As of the date of the filing of this motion, there is pending litigation against PTNA in Chester County, Pennsylvania; Lehigh County, Pennsylvania;

Luzerne County, Pennsylvania; U.S. District Court, Eastern District of Pennsylvania; Alameda County, California; Sacramento County, California; Charlotte County, Florida; Dade County, Florida; Marion County, Florida; and Tangipahoa Parish, Louisiana, including cases which will be placed on the active trial list unless a further stay is issued. In a number of these matters, PTNA is denying payment due to its belief that the policies were obtained through false representations, on the grounds that benefits are being sought which are not covered in the specific policies, on the grounds that the policy benefits have been paid, or on the grounds that no payment is due, respectively. One matter is related to allegations made by a former employee.

20. As of the date of the filing of this motion, there is no pending litigation against ANIC.

WHEREFORE, the Rehabilitator requests that this Court stay all court actions, arbitrations and mediations currently or hereafter pending against Penn Treaty Network America Insurance Company and American Network Insurance Company in the Commonwealth of Pennsylvania for an additional period of 182 days and direct the Rehabilitator to petition all courts and tribunals outside of the Commonwealth of Pennsylvania for a further 182-day stay of all court actions, arbitrations and mediations currently pending against Penn Treaty Network America Insurance Company and American Network Insurance Company.

Respectfully submitted,



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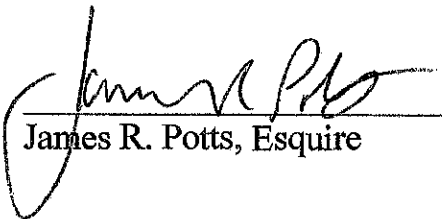
Counsel for Plaintiff,
TERESA D. MILLER, Commissioner of the
Commonwealth of Pennsylvania as
Rehabilitator of PENN TREATY
NETWORK AMERICA INSURANCE
COMPANY and AMERICAN NETWORK

Dated: August 27, 2015

VERIFICATION

I, James R. Potts, hereby state that I am one of the attorneys for the Statutory Rehabilitator and, as such, I am authorized to take this verification on movant's behalf. The statements made in the foregoing pleading are true and correct to the best of my knowledge, information and belief. I understand that the statements made herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date: August 27, 2015



James R. Potts, Esquire

CERTIFICATE OF SERVICE

I, James R. Potts, hereby certify that I caused a Notice of Filing of the foregoing Motion for Extension and Continuation of Stay to be served on all parties listed on the Master Service List by electronic mail or facsimile, or by U.S. mail where no electronic mail address or facsimile number was available on August 27, 2015 and that I on August 27, 2015, served the foregoing Motion for Extension and Continuation of Stay on Intervenor Penn Treaty American upon all interested persons as follows:

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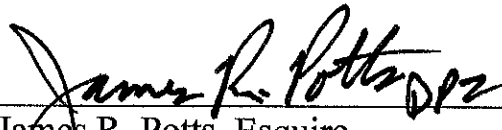
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: American Network Insurance Company in Rehabilitation	:	DOCKET NO. 1 ANI 2009
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In Re: Penn Treaty Network America Insurance Company in Rehabilitation	:	DOCKET NO. 1 PEN 2009
	:	

REHABILITATOR'S NOTICE OF FILING

The Statutory Rehabilitator of Penn Treaty Network America Insurance Company and American Network Insurance Company, by and through her undersigned counsel, pursuant to the Order of this Court dated June 9, 2009, gives notice to all interested persons currently on the Master Service List that she filed the following document on August 27, 2015:

Motion for Extension and Continuation of Stay

A copy of this filing will be available for viewing, downloading and/or printing on the Penn Treaty Network America Insurance Company in Rehabilitation website. The website contains a link to all documents filed by the Rehabilitator, appearing in Adobe PDF format.

If any person on the Master Service List does not have access to a computer or is otherwise unable to view, download, or print the filing at the Penn Treaty Network America Insurance Company website, a copy of this filing may be obtained by calling the general Penn Treaty Network America Insurance Company hotline at 1-800-222-3469, extension 3635, or the undersigned counsel for the Rehabilitator.

Dated: August 27, 2015

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COMMONWEALTH COURT
OF PENNSYLVANIA

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Respectfully submitted,

A handwritten signature in black ink that reads "James R. Potts" with a stylized flourish at the end.

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Counsel for Plaintiff,
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the Commonwealth of Pennsylvania as
Rehabilitator of PENN TREATY NETWORK
AMERICA INSURANCE COMPANY and
AMERICAN NETWORK INSURANCE
COMPANY