

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel Ario,
Insurance Commissioner of the
Commonwealth of Pennsylvania,
Plaintiff

v.

Penn Treaty Network America
Insurance Company
Defendant

No. 5 M.D. 2009

ORDER

AND NOW, this day of , 2010, it is hereby ORDERED that all litigation, court actions, arbitrations and mediations currently or hereafter pending against Penn Treaty Network America Insurance Company are hereby STAYED up to and until September 27, 2010.

Further, the Rehabilitator is directed to petition all courts and tribunals outside of the Commonwealth of Pennsylvania for a 180-day stay of all court actions, arbitrations and mediations currently pending against Penn Treaty Network America Insurance Company until September 27, 2010.

BY THE COURT:

MARY HANNAH LEAVITT

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel Ario,
Insurance Commissioner of the
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Penn Treaty Network America
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Defendant

MOTION FOR EXTENSION AND CONTINUATION OF STAY

AND NOW, the plaintiff, Joel Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, and court-appointed Statutory Rehabilitator of Penn Treaty Network America Insurance Company ("PTNA"), hereby moves this Court for a 180-day extension of the previous stay issued by this Court on September 30, 2009, and the entry of an injunction, and avers the following:

1. Plaintiff, Joel Ario, is the Insurance Commissioner of the Commonwealth of Pennsylvania.
2. On January 6, 2009, this Court entered an Order appointing plaintiff as Statutory Rehabilitator for PTNA.
3. This Court's Order of January 6, 2009 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 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. By Order entered April 3, 2009, this Court extended this stay for a period of 180 days, until September 30, 2009.

5. By Order entered September 30, 2009, this Court extended this stay for an additional period of 180 days, until March 29, 2010.

6. The stay Orders are 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 is insolvent in that its liabilities exceed its admitted assets by a very substantial amount.

8. The Rehabilitator accordingly filed a Petition for Liquidation of PTNA on October 2, 2009.

9. On March 4, 2010 the Court stayed all action on and consideration of the Petition for Liquidation to permit the Rehabilitator and PTNA's parent corporation, Penn Treaty Network American Corporation ("PTAC"), to work together to explore whether rehabilitation of PTNA is feasible.

10. If litigation proceeds while the Petition for Liquidation or development of or decision on a plan for rehabilitation is pending, it will result in unnecessary expense to PTNA's estate and could result in preferences and unequal treatment of creditors.

11. 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."

12. As of the date of the filing of this motion, there is pending litigation against PTNA in Luzerne County, Pennsylvania, Alameda County, California, the U.S. District Court for the Southern District of California, Charlotte County, Florida, Jefferson Parish, Louisiana, Tangipahoa Parish, Louisiana, and the U.S. District Court for the Southern District of Texas, Galveston Division, including cases which will be placed on the active trial list unless a further stay is issued. In 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 or on the grounds that the policy benefits have been paid.

WHEREFORE, petitioner requests that this Court stay all court actions, arbitrations and mediations currently or hereafter pending against Penn Treaty Network America Insurance Company in the Commonwealth of Pennsylvania for 180 days from the effective date of this Order and direct the Rehabilitator to petition all courts and tribunals outside of the

Commonwealth of Pennsylvania for a 180-day stay of all court actions, arbitrations and mediations currently pending against Penn Treaty Network America Insurance Company.

Respectfully submitted,

By: 

James G. Colins

James R. Potts

Virginia Lynn Hogben

Attorney I.D. Nos. 10089, 73704, 32378

Cozen O'Connor

1900 Market Street

Philadelphia, Pennsylvania 19103

215.665.2000

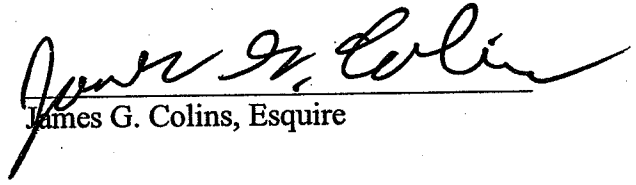
Counsel for Plaintiff, JOEL ARIO, Insurance
Commissioner of the Commonwealth of
Pennsylvania as Rehabilitator of PENN TREATY
NETWORK AMERICA INSURANCE
COMPANY

VERIFICATION

I, James G. Colins, hereby state that I am the attorney 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.

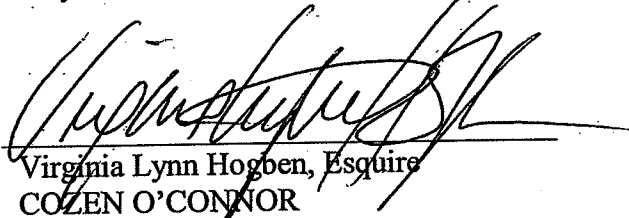
Date:

03/17/10


James G. Colins, Esquire

CERTIFICATE OF SERVICE

I, Virginia Lynn Hogben, hereby certify that on this date I served a Notice of Filing of the foregoing Motion for Extension and Continuation of Stay 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.



Virginia Lynn Hogben, Esquire
COZEN O'CONNOR
Attorney I.D. No: 32378
1900 Market Street
The Atrium – Fourth Floor
Philadelphia, PA 19103
(215) 665-2000

Date: March 17, 2010