

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

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RECEIVED
COMMONWEALTH COURT
OF PENNSYLVANIA

MOTION FOR EXTENSION AND CONTINUATION OF STAY

AND NOW, 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-day¹ extension of the previous stay issued by this Court in these matters on February 24, 2016, and the entry of an injunction, and avers the following:

1. Teresa D. Miller is the Insurance Commissioner of the Commonwealth of Pennsylvania (the “Commissioner” or the “Rehabilitator”).
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 additional time as the Rehabilitator may request, to allow

¹ A stay of 180 days would fall on Saturday, February 25, 2017.

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; February 27, 2015; August 28, 2015, and February 24, 2016. The stays are currently extended until August 29, 2016.

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. 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 (“Second Amended Plan”).

11. A number of parties answered or sought to intervene on the application to approve the Second Amended Plan. The parties, including certain intervenors, exchanged briefs and entered into discovery, including depositions, document discovery, and expert witnesses.

12. Hundreds of formal and informal comments and objections were submitted or subsequently raised, including objections to the feasibility of implementing and limited benefits afforded by the Second Amended Plan.

13. The Commissioner concluded that there are sufficient grounds for liquidation of PTNA and ANIC. On July 27, 2016, the Commissioner withdrew the Second Amended Plan and filed Petitions seeking to convert the rehabilitations of PTNA and ANIC into liquidations.

14. If litigation against PTNA and ANIC proceeds while the petitions for conversion are pending, it will result in unnecessary expense to PTNA's and ANIC's estates.

15. 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."

16. 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; Los Angeles County, California; Sacramento County, California; Charlotte County, Florida; Miami-Dade County, Florida; Marion County, Florida; Calloway County, Kentucky; 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.

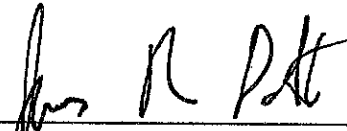
17. On February 24, 2016, this Court lifted the stay as to the matter of *Jordan v. Penn Treaty Network America Insurance Company*, Case No. 2015-018002-CA-01, pending in the Circuit Court of the Eleventh Judicial Circuit in Miami-Dade County, Florida.

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

WHEREFORE, the Commissioner 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, except as ordered on February 24, 2016, direct the Commissioner to

petition all courts and tribunals outside of the Commonwealth of Pennsylvania for a stay until February 27, 2017, of all court actions, arbitrations and mediations currently or hereafter pending against Penn Treaty Network America Insurance Company and American Network Insurance Company.

Respectfully submitted,



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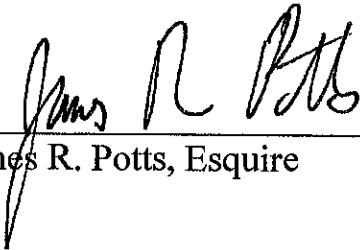
Counsel for TERESA D. MILLER,
Commissioner of the Commonwealth of
Pennsylvania as Rehabilitator of PENN
TREATY NETWORK AMERICA
INSURANCE COMPANY and
AMERICAN NETWORK

Dated: August 22, 2016

VERIFICATION

I, James R. Potts, hereby state that I am one of the attorneys for the Commissioner 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 22, 2016



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 22, 2016 and that I on August 22, 2016, served the foregoing Motion for Extension and Continuation of Stay on Intervenors Penn Treaty American upon all interested persons as follows:

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