

#### **GOVERNOR'S OFFICE OF GENERAL COUNSEL**

April 5, 2010

Michael F. Krimmel, Chief Clerk Commonwealth Court of Pennsylvania 601 Commonwealth Avenue, Suite 2100 P.O. Box 29185 Harrisburg, PA 17106-9185

Re: Joel S. Ario, Insurance Commissioner of the Commonwealth of

Pennsylvania v. Legion Insurance Company

No. 183 M.D. 2002

Dear Mr. Krimmel:

Enclosed for filing, please find an original and two (2) copies of the Liquidator's Petition for Approval of Commutation, Settlement and Release Agreement between the Liquidator and Utah Workers' Compensation Fund.

As directed by the Court's Order we are also enclosing copies of the documents on a computer disk.

Thank you for your courtesies in filing the documents.

Very truly yours,

Muy L. Webn

Amy Weber

Insurance Department Counsel

ALW:jlh Encs.



# IN THE COMMONWEALTH COURT OF PENNSYLVANIA

JOEL S. ARIO, Insurance
Commissioner of the Commonwealth
of Pennsylvania,

Plaintiff,

v.

Docket No. 183 M.D. 2002

LEGION INSURANCE COMPANY,

Defendant.

In Re: Commutation, Settlement and Release Agreement between Legion Insurance Company (In Liquidation) and Utah Workers' Compensation Fund

## **ORDER**

AND NOW, thisday	of	, 2010, upon consideration of	of the
Petition for Approval of Commutati	on, Settlement and	Release Agreement by and be	etween
Legion Insurance Company (In Liqu	uidation) and the Ut	tah Workers' Compensation F	Fund
("UWCF") filed by Joel S. Ario, Ins	surance Commissio	ner of the Commonwealth of	
Pennsylvania, in his official capacit	y as the Statutory L	iquidator ("Liquidator") of Le	egion
Insurance Company (In Liquidation	) ("Legion"), and in	n which petition UWCF concu	urs, the
Court GRANTS the Petition and ap	proves the Commu	tation, Settlement and Release	e Agreement

# IN THE COMMONWEALTH COURT OF PENNSYLVANIA

OF PENHSYLVANIA

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JOEL S. ARIO, Insurance

Commissioner of the Commonwealth of Pennsylvania,

Plaintiff,

v. : D

: Docket No. 183 M.D. 2002

LEGION INSURANCE COMPANY,

Defendant.

In Re: Commutation, Settlement and Release Agreement between Legion Insurance Company (In Liquidation) and Utah Workers' Compensation Fund

# LIQUIDATOR'S PETITION FOR APPROVAL OF COMMUTATION, SETTLEMENT AND RELEASE AGREEMENT BETWEEN THE LIQUIDATOR AND UTAH WORKERS' COMPENSATION FUND

Petitioner Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator ("Liquidator") of Legion Insurance Company (In Liquidation) ("Legion"), respectfully requests that this Court enter an Order approving the Commutation, Settlement and Release Agreement (the "Agreement") between Legion and the Utah Workers' Compensation Fund ("UWCF").

The Liquidator asks the Court to approve the Agreement for the reasons set forth below:

- 1. On July 25, 2003, this Court found Legion insolvent and appointed the Commissioner as Liquidator of Legion pursuant to Article V of the Insurance Department Act of 1921, 40 P.S. §§ 221.1 221.63 (hereinafter, the "Department Act").
- 2. The Act confers broad powers on the Liquidator to marshal the assets of Legion's Estate for eventual distribution to its policyholders and creditors.
- 3. Prior to receivership, Legion entered into certain contracts of reinsurance (the "Contracts") with UWCF that obligated UWCF to accept from Legion the cession of 100% of Legion's liabilities pertaining to workers' compensation business written under eight separate primary layer Reinsurance Contracts. A description of the Contracts is also attached as Exhibit A to the Agreement which is attached as an Exhibit to the Confidential Affidavit of Gregg C. Frederick in Support of the Liquidator's Petition for Approval of Commutation, Settlement and Release Agreement.
- 4. Legion and the UWCF desire to terminate their business relationship under the Contracts and have agreed to commute all of their respective obligations under these Contracts.
- 5. The UWCF's obligations to Legion under the Contracts include obligations that may become payable in the future and that cannot be determined in an amount certain at this time.
- 6. Legion believes that it is in its best interest to adjust and settle the UWCF's obligations under the Contracts, including its future obligations, to Legion.
  - 7. Accordingly, Legion has negotiated the Agreement with UWCF.
- 8. UWCF currently owes Legion \$70,124 under the workers' compensation Reinsurance Contracts at issue. As per the Agreement, UWCF will pay Legion for these

outstanding recoverables to date. Pursuant to the Commutation Agreement, Legion will also receive an additional payment to commute all future liability under the Contracts.

- 9. Pursuant to the Agreement, Legion and UWCF will release each other from liability arising out of, or in connection with, the Contracts.
- 10. Legion entered into this Agreement in reliance on its independent investigation and analysis of the Contracts and Legion's rights and obligations under the Contracts.
- 11. The Liquidator believes that the Agreement is in the best interest of Legion's policyholders, claimants, creditors and the public generally.
- 12. Particularly, the Liquidator believes that Legion's receipt of the total agreed commutation payment is reasonable and adequate consideration for the commutation of the UWCF's obligations to Legion under the Contracts.
- Contracts to be approximately \$12.79 million, including, but not limited to, total undiscounted outstanding reserves and incurred but not reported claims. The Liquidator believes that the agreed total commutation payment is reasonable given the time value of money, issues pertinent to the subject contracts, the costs and fees that would potentially be expended in arbitrating due and owing balances from the reinsurer, and the benefit of certain payment now versus potential payments in the future. The Liquidator also hopes that this Agreement will lead to additional commutations with other reinsurers and, as a result, the more timely and orderly liquidation of Legion's Estate for the ultimate benefit of the policyholders and creditors.
- 14. Thus, based on the terms of the Agreement and the evaluation of the transaction as a whole by the Liquidator, his staff and Legion staff members familiar with the company's

dealings with the UWCF in connection with the workers' compensation Contracts, the Liquidator has determined that the Agreement is a fair and reasonable commutation of Legion's and the UWCF's obligations to each other under the eight primary Contracts. The Insurance Department Act authorizes the Liquidator to take such actions as he deems "necessary or expedient to . . . conserve or protect [the insolvent insurer's] assets or property[,]" including the power to "compromise" claims involving assets of the insolvent insurer in order to accomplish or aid in achieving the purposes of liquidation. See 40 P.S. § 221.23(6), (9), and (23).

- 15. The Liquidator further believes that the Agreement will help him in achieving the objectives of liquidation under the Act, 40 P.S. §§ 221.1 221.63. The Agreement will assist the Liquidator in marshalling and maximizing Legion's immediately available assets and minimize any unavoidable loss to policyholders, claimants and creditors resulting from Legion's insolvency. See 40 P.S. § 221.1(c).
- 16. The UWCF agrees to the commutation as is evidenced by its execution of the Agreement and concurs in requesting the Court's approval of this Petition.

17. For all of these reasons, the Liquidator requests that the Court approve the

Agreement.

Respectfully submitted,

Amy C. Netro AMY L. WEBER (I.D. #45447)

Department Counsel for Insurance Department

Governor's Office of General Counsel

Office of Liquidations, Rehabilitations and

Special Funds

Capitol Associates Building

901 North 7th Street

Harrisburg, PA 17102

Phone: (717) 787-6009

Counsel for Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as Statutory Liquidator of Legion Insurance Company

DATED: 4/5/10

### **VERIFICATION**

I, Gregg C. Frederick, am Executive Vice President, Reinsurance, and certify that I am authorized to make this Verification on behalf of the Honorable Joel S. Ario, Insurance Commissioner of the Commonwealth of Pennsylvania, in his official capacity as the Statutory Liquidator of Legion Insurance Company (In Liquidation). I have reviewed the Liquidator's Petition for Approval of Commutation, Settlement and Release Agreement between the Liquidator and the Utah Workers' Compensation Fund and verify that the matters stated therein are true and correct to the best of my knowledge, information and belief. I understand that the Verification is made subject to the penalties of 18 Pa. C.C. § 4904 relating to unsworn falsification to authorities.

Sugg Fushik Gregg C. Frederick

Executive Vice President, Reinsurance

Dated: March , 2010