

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Penn Treaty Network America : No. 1 PEN 2009
Insurance Company in Liquidation :

**APPLICATION UNDER SECTION 536 OF ARTICLE V AND TO
ADDRESS CLAIM PROCEDURE FOR POLICYHOLDERS**

Teresa D. Miller, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as Statutory Liquidator of Penn Treaty Network America Insurance Company (“PTNA”) hereby applies to this Court for an Order which, (i) pursuant to Section 536 of Article V of The Insurance Department Act of 1921, Act of May 17, 1921, P.L. 789, *as amended*, 40 P.S. §§ 221.1 – 221.63 (“Article V”), will authorize the Liquidator, for a period not to exceed one year from March 1, 2017, to advance funds from the estate of PTNA to pay policyholder claims on behalf of state guaranty associations, and (ii) will exempt policyholders from the requirement under Sections 524(b), 537 and 538 of Article V and Rule 3781 of the Rules of Appellate Procedure to file proofs of claim with the Liquidator for claims arising under their PTNA policies. In support thereof, the Statutory Liquidator avers as follows:

1. On March 1, 2017, this Court entered an Order of Liquidation declaring PTNA insolvent, ordering PTNA to be liquidated pursuant to Article V

and vesting the Statutory Liquidator with the assets of PTNA and the authority to administer the estate of PTNA. (PTNA Order ¶¶ 1, 3-5.)

2. On the same day, this Court entered an Order of Liquidation declaring that American Network Insurance Company (“ANIC”), a subsidiary of PTNA, was also insolvent, ordering that it be liquidated pursuant to Article V and vesting the Statutory Liquidator with the assets of ANIC and the authority to administer the estate of ANIC. (ANIC Order ¶¶ 1, 3-5.)

3. The Liquidator was directed to “transfer policy obligations, including the continued payment of claims and continued coverage arising under PTNA’s policies, to state guaranty funds.” (PTNA Order ¶ 10.)

4. There are currently approximately 67,000 PTNA policies and 6,720 policyholders on claim. (Affidavit of Patrick H. Cantilo at ¶ 2, attached hereto as Exhibit 1.)

5. The Statutory Liquidator has made arrangement, directly or indirectly, with each state guaranty association triggered by the Order of Liquidation to administer, on behalf of such guaranty associations, claims by PTNA policyholders for guaranty association benefits. (*Id.* ¶ 4.)

6. The Statutory Liquidator has also entered into so-called “Early Access” agreements with each state guaranty association triggered by the Order of Liquidation requiring each such guaranty association to return to the Statutory Liquidator any amount of estate assets that are advanced to the guaranty association, including any funds used to pay policyholder claims on behalf of the guaranty association, if it is determined that the guaranty association received a greater share of the estate assets than it is entitled to under Article V. (*Id.* ¶ 5.)

7. To ensure the uninterrupted continued payment of policyholder claims by the guaranty associations, which generally must assess their member insurers to fund their obligations, the Statutory Liquidator requests that this Court authorize the Statutory Liquidator, for a period not to exceed one year from March 1, 2017, to advance funds from the estate of PTNA to pay policyholder claims on behalf of state guaranty associations, and that such advances be deemed to be distributions to guaranty associations under Section 536 of Article V.

8. Article V’s primary purpose is to protect policyholders. Allowing access to PTNA estate assets for the continued payment of policyholder claims, on behalf of the guaranty associations, will ensure the uninterrupted and continued payment of claims and receipt of care by policyholders.

9. The Statutory Liquidator intends to make a later filing pursuant to Section 536 of Article V that will include a comprehensive proposal to distribute PTNA estate assets.

10. The Statutory Liquidator also requests that this Court eliminate the proof of claim filing requirement under Sections 524(b), 537 and 538 of Article V and Rule 3781 of the Rules of Appellate Procedure for claims by policyholders under their PTNA policies because such a process, under the circumstances of this estate, would be meaningless, a waste of estate resources and potentially confusing to PTNA's over 67,000 policyholders.

11. Virtually all PTNA's policyholders have coverage from the state guaranty association system and will submit claims for guaranty association benefits pursuant to the procedures established by the guaranty associations.

12. PTNA's policyholders, to the extent their policies are not covered or fully covered by the state guaranty associations, are not in a position to determine the amount or nature of any claim they may have against the estate for their uncovered benefits. The only relevant information available to policyholders is the existence of and content in their policies, facts already known by the Statutory Liquidator. The Statutory Liquidator intends to address her proposal for the

handling of such claims as part of the aforementioned planned comprehensive proposal to distribute estate assets.

13. As a result, requiring policyholders to submit proofs of claim to the Statutory Liquidator merely adds an unnecessary administrative delay and expense to the liquidation proceedings.

14. All other claims will remain subject to the proof of claim process, notice of which will be provided by the Statutory Liquidator pursuant to the Order of Liquidation and Article V.

15. Finally, for the ease of administration, the Statutory Liquidator requests that the requested Order be effective as of March 1, 2017 and supersede any provisions to the contrary in the Order of Liquidation.

WHEREFORE, the Statutory Liquidator respectfully requests that this Court grant this Application and enter an Order providing the relief requested herein.

Respectfully submitted,

/s/ James Potts

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Dated: March 3, 2017

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