

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine, Insurance Commissioner	1 PEN 2009
v.	1 ANI 2009
Penn Treaty Network America Insurance Company and American Network Insurance Company	

**ORDER**

AND NOW, this \_\_\_\_\_ day of April, 2013, upon consideration of the application of Betty B. Christopher and James C. McNamara to intervene for purposes of responding to the Rehabilitator's March 28, 2013 Application to Facilitate the Creation of a Committee of Policyholders, it is hereby ORDERED that Betty B. Christopher and James C. McNamara shall have leave to intervene for the purpose of responding to the Rehabilitator's March 28, 2013 application, and it is further ORDERED that the response attached to their application to intervene shall be docketed.

By the Court:

\_\_\_\_\_  
Mary Hannah Leavitt, Judge

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COMMONWEALTH COURT  
OF PENNSYLVANIA

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Michael F. Consedine, Insurance Commissioner	1 PEN 2009
v.	1 ANI 2009
Penn Treaty Network America Insurance Company and American Network Insurance Company	

APPLICATION FOR LIMITED INTERVENTION

1. Applicants are Betty B. Christopher and James C. McNamara.
2. Betty B. Christopher is both a policyholder of Penn Treaty Network America and an agent. She resides at 227 Crosshills Road, Heathsville, VA 22473.
3. James C. McNamara is both a policyholder of Penn Treaty Network America and an agent. He resides 15 Fairview Drive, Danville, PA 17821.
4. Ms. Christopher and Mr. McNamara wish to respond to the Rehabilitator's March 28, 2013 Application to Facilitate the Creation of a Committee of Policyholders.
5. Pa.R.A.P. 3775 permits intervention on a general or limited basis for purposes of opposing an application by the receiver for an order relating to the administration of the insurer's business or estate in rehabilitation.
6. A copy of the response of Ms. Christopher and Mr. McNamara to the Rehabilitator's application is attached hereto.

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WHEREFORE, Ms. Christopher and Mr. McNamara request leave to intervene  
on a limited basis for purposes of responding to the Rehabilitator's March 28, 2013  
Application to Facilitate the Creation of a Committee of Policyholders.

Respectfully submitted,

By: Richard P. Limburg  
Thomas A. Leonard, Esquire  
Richard P. Limburg, Esquire  
Obermayer Rebmann Maxwell & Hippel LLP  
One Penn Center, 19th Floor  
1617 John F. Kennedy Blvd.  
Philadelphia, PA 19103-1895  
(215) 665-3000

Dated: 4/29/13

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Michael F. Consedine, Insurance Commissioner	1 PEN 2009
v.	1 ANI 2009
Penn Treaty Network America Insurance Company and American Network Insurance Company	

**RESPONSE TO REHABILITATOR'S APPLICATION TO FACILITATE THE  
CREATION OF A COMMITTEE OF POLICYHOLDERS**

1. Respondents are Betty B. Christopher and James C. McNamara.
2. Betty B. Christopher is both a policyholder of Penn Treaty Network America and an agent. She resides at 227 Crosshills Road, Heathsville, VA 22473.
3. James C. McNamara is both a policyholder of Penn Treaty Network America and an agent. He resides 15 Fairview Drive, Danville, PA 17821.
4. Both Ms. Christopher and Mr. McNamara are willing and able to serve on a committee of policyholders, should such a committee be formed.
5. Ms. Christopher and Mr. McNamara were contacted by Richard Limburg, an attorney with Obermayer Rebmann Maxwell & Hippel LLP, who was seeking volunteers to serve on a policyholders' committee at the time when the Rehabilitator filed his application.
6. Ms. Christopher and Mr. McNamara agree with the Rehabilitator that a policyholders' committee should be formed to represent the interests of policyholders in the rehabilitation. However, they do not agree with the Rehabilitator that the committee should be organized by Ronald Schiller, as proposed by the Rehabilitator.

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7. Ms. Christopher and Mr. McNamara agree with Intervenor Penn Treaty American Corporation and Eugene Woznicki that the Rehabilitator should not propose counsel for a policyholders' committee. Rather, any such committee should select counsel of its own choosing.

8. A committee can be formed without appointing a lawyer to facilitate its formation.

9. Ms. Christopher and Mr. McNamara suggest that a request for volunteers can be included in the notice of the rehabilitation plan that will be served on all policyholders. Volunteers should provide their contact information, information concerning their policy and their benefits, whether they are on claim or not, and whether they are willing to take the lead in organizing a committee. That information can be shared among the volunteers.

10. In this way, the volunteers will be able to organize a committee independently of the Rehabilitator.

11. The committee can then interview and select counsel and apply to the court for approval to serve as an official policyholders' committee and for permission to hire legal counsel and retain expert consultants at the expense of estate in rehabilitation.

12. It is unlikely that there will be an overabundance of volunteers, given the age of most of the policyholders.

13. Ms. Christopher and Mr. McNamara feel strongly that individual policyholders lack the knowledge, skill and resources to review and evaluate a plan of rehabilitation or formulate a cogent response thereto. For that reason, a committee of policyholders should be appointed.

14. It has taken more than four years since Penn Treaty Network America and American Network Insurance were placed in rehabilitation, and almost a year after the Court denied the Rehabilitator's liquidation petition, for the Rehabilitator to file a plan of rehabilitation. Meanwhile, the Companies' financial problems have not been corrected.

15. According to the Court's opinion denying the Rehabilitator petition to convert the rehabilitation to a liquidation, "a rehabilitation plan is permitted to impair the contractual rights of some policyholders in order to minimize the potential harm to all of the affected parties," so long as the state has a legitimate public purpose and the adjustment of contract rights is reasonable and appropriate to the public purpose. (5/3/12 Opinion, p. 142-146)

16. According to the Court's opinion, "the OldCo non-tax qualified policies are underpriced and overly generous. ... In a rehabilitation, these policies can be reformed and repriced." (5/3/12 Opinion, p. 158)

17. In its Opinion, the Court stated that the Companies' current premium rate structure is inequitable. (5/3/12 Opinion, p. 10) "Policyholders in South Dakota, for example, are subsidizing policyholders in Pennsylvania; NewCo policyholders are subsidizing OldCo policyholders." (5/3/12 Opinion, p. 10)

18. Under Pennsylvania's insurance rehabilitation statute, the consent of policyholders is not required for a plan of rehabilitation to be approved, and there is no statutory mechanism for voting on a plan of rehabilitation. See 40 P.S. §221.16.

19. As a result it is important for policyholders to have formal input concerning the terms of a plan of rehabilitation, especially in a case where policies may be reformed and repriced.

20. The holders of policies issued by the Companies should be afforded a role in the process of vetting and approving the plan of rehabilitation. The Court has recognized that policyholders should have a voice in a rehabilitation. In its Opinion, the Court wrote that “in a rehabilitation, the policyholders will have a voice. They can, and will, be heard in the Court proceeding on the rehabilitation plan.” (5/3/12 Opinion, p. 160)

21. The Court has further recognized that the Rehabilitator’s ability to speak for the policyholders is limited. In its Opinion, the Court wrote, “The Rehabilitator purports to speak for the policyholders, but there is no empirical evidence on policyholder preference.” (5/3/12 Opinion, p. 9)

22. Individual policyholders lack the knowledge and the resources to evaluate a plan of rehabilitation. To give the policyholders an effective voice as an interest group rather than as individuals, they need representatives who have the ability to retain industry experts to examine and evaluate the fairness, equitability, and feasibility of the rehabilitation plan.

23. The appointment of an official committee of policyholders would benefit the rehabilitation process by allowing a sanctioned and official representative of policyholders to:

(a) consult with the Rehabilitator concerning the design and approval of a plan of rehabilitation;

(b) assist in communication with all of the policyholders and provide liaison;

(c) appear before and advise the Court of such committee's determination as to issues relating to any plan of rehabilitation;

(d) perform such other services as are in the interest of policyholders and authorized by the Court for the purpose of protecting the policyholder class.

WHEREFORE, petitioners respectfully support the entry of an order directing the Rehabilitator to ask for volunteers to serve on a committee of policyholders.

Respectfully submitted,

By: Richard P. Limburg  
Thomas A. Leonard, Esquire  
Richard P. Limburg, Esquire  
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(215) 665-3000

Dated: 4/29/13



**CERTIFICATE OF SERVICE**

I certify that on April 29, 2013, I caused a true and correct copy of the foregoing application to intervene and the response to the Rehabilitator's March 28, 2013 Application to Facilitate the Creation of a Committee of Policyholders attached thereto to be served on the following counsel by email and regular mail:

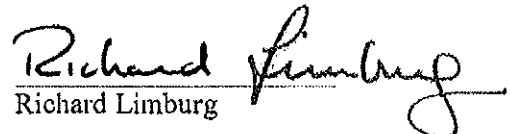
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