

COPY MOB.
APR 15

Reliance Insurance Company (in Liquidation) Notice of Determination

Cause No.: 1 REL 2001

03-06-2013

HEATHER MCLAUGHLIN, BENICIA CITY ATTORNEY
250 EAST L STREET
BENICIA, CA 94510

Re:	Proof Of Claim No.:	2165814
	Reliance Policy/Contract No.:	KLE59731750002
	Insured Name	CITY OF BENICIA
	Reliance Claim No.:	000101270371
	Date of Loss:	03/03/1985
		CITY OF BENICIA
		C/O ERS CORPORATION
		1600 RIVIERA AVE., SUITE 310
		WALNUT CREEK, CA 94596
		MARK O'BRIEN, AGENT



NOTICE OF DETERMINATION

This notice is provided to advise you of the Statutory Liquidator's determination of the above-referenced claim. If you have other claims against the estate for which you have filed a separate Proof of Claim or you have previously been advised that your Proof of Claim stated multiple claim types and has been separated, you will receive a notice for each of these claims at the time that they are evaluated.

Section 544 of the Insurance Department Act (40 P.S. Section 221.44) establishes the level of priority to be assigned to a claim against the estate of a liquidated company, including Reliance.

Priority Level (b) has been assigned to the above referenced claim in accordance with the provisions of section 544.

Your claim against the Estate of Reliance has been valued and allowed in the amount of \$ 0.00.

No value has been allowed for your claim because it is not covered by any of the policies under which it was submitted nor any other known policy issued by Reliance.

Policy KL 5973175, effective 3/3/85 to 3/3/86, provided general liability coverage on an occurrence basis under coverage form RUM 11-C. Form RUM 11-C contained a pollution exclusion with a "sudden and accidental" exception; however, Endorsement 4 of the policy removed the "sudden and accidental" exception. Accordingly, coverage is excluded under policy KL 5973175 because the claim concerns the alleged contamination of property by pollutants.

Policies KR 6705928, effective 3/3/85 to 3/3/86, and KZ 0747598, effective 3/3/85 to 3/3/86, were not provided and could not be located. The "KR" policy prefix, however, identifies the policy as one providing following form excess coverage. Since coverage is excluded by the underlying policy, as explained above, it would likewise be excluded by policy KR 6705928. The "KZ" policy prefix identifies that policy as providing coverage on a claims made basis. Our first notice of the claim was after the policy period or any possible extended reporting period, and as such, the policy KZ 0747598 would not apply.

The Liquidator specifically reserves, and does not waive, any and all other rights and defenses with regard to this

Proof of Claim and Notice of Determination. This includes, but is not limited to, any rights or defenses under the terms, conditions, definitions and exclusions contained in the policy.

If you accept this determination of your claim, no action is necessary. **If you do not accept this determination and fail to file an objection with the Commonwealth Court within sixty (60) days from the mailing date on this Notice of Determination, you cannot later object to the Statutory Liquidator's determination.** A copy of certain Commonwealth Court Rules regarding disputed claims is enclosed. You must follow the procedures set forth in the Rules if you wish to object to this determination. A complete copy of all Commonwealth Court Rules governing liquidation proceedings are posted on the Internet at www.reliancedocuments.com. Other procedures governing objections to this notice of determination can be found in Article V of the Insurance Department Act of 1921 (40 P.S. Sections 221.1 et seq.). Please reference the Reliance Proof of Claim number, Reliance Cause number, and Reliance Claim number listed above in any correspondence or pleadings related to this notice.

Evaluated by: EVANS, MARC Phone #: (215) 864-4989

PLEASE NOTE: YOU HAVE THE DUTY TO KEEP THE STATUTORY LIQUIDATOR INFORMED OF ANY CHANGE OF ADDRESS (40 P.S. SECTION 221.24(b)). FAILURE TO PROVIDE A CHANGE OF ADDRESS TO THE *PROOF OF CLAIM DEPARTMENT, STATUTORY LIQUIDATOR OF RELIANCE INSURANCE COMPANY, P.O. BOX 13527, PHILADELPHIA, PA 19101-3527* MAY RESULT IN THE LOSS OF ANY DISTRIBUTION TO WHICH YOU ARE ENTITLED.

General Information Regarding the Liquidation Process

Once assets and liabilities of the Reliance Estate are sufficiently determined, the Statutory Liquidator will recommend to the Commonwealth Court of Pennsylvania ("Court") that the Reliance assets be distributed to claimants with allowed claims approved by the Court. The amount of distribution will be calculated as a percentage of the amounts allowed by the Statutory Liquidator and approved by the Court. The Court has approved partial interim distributions for certain priority classes. The ultimate distribution percentage will not be known until all assets are recovered and all liabilities are determined. This process can take many years to complete, depending on the complexity of the matters of the estate. Should you have any questions about your claim or about the liquidation procedure, please feel free to write to the Statutory Liquidator (Proof of Claim Department) at the address shown above.

Classification of Priority Levels of Claims

The priority levels of claims filed against the estate of a company in liquidation are defined in section 544 of the Insurance Department Act (40 P.S. Section 221.44), which are summarized as follows:

- (a) The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; reasonable attorney's fees; the expenses of a guaranty association in handling claims
- (b) All claims under policies for losses wherever incurred, including third party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, shall have the next priority. That portion of any loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to his employee shall be treated as a gratuity
- (c) Claims of the Federal government other than those claims included in subsection (b).
- (d) Debts due to employees for services performed to the extent that they do not exceed one thousand dollars (\$1,000) and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors shall not be entitled to the benefit of this priority. This priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of employees.
- (e) Claims under nonassessable policies for unearned premium or other premium refunds and claims of general creditors.
- (f) Claims of any state or local government. Claims, including those of any governmental body, for a penalty or forfeiture shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subsection (h)
- (g) The following claims:
 - (7) Claims under section 221.39(b), to the extent that such claims were disallowed under that section.
 - (8) Claims filed late.
 - (9) Claims or portions of claims, payment of which is provided by other benefits or advantages recovered by the claimant
- (h) Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies shall be limited in accordance with law.
- (i) The claims of shareholders or other owners.

**SELECTED PARAGRAPHS OF PA RULES OF APPELLATE PROCEDURE REGARDING
OBJECTIONS TO A NOTICE OF DETERMINATION**

The PA Rules of Appellate Procedure applicable to liquidation proceedings, as well as other relevant rules, are available at www.reliancedocuments.com.

Rule 3777. Docketing

(c) **Ancillary case docket.** When . . . an objection is filed to a notice of determination under Rule 3781 (claim procedure), the chief clerk will note such filing on the administrative case docket, establish an ancillary case docket and assign a number for each such matter. The party initiating an ancillary case shall file a completed cover sheet that may be obtained from the chief clerk or at www.pacourts.us/T/Commonwealth/.

(d) **Case caption – ancillary dockets.** Matters that receive ancillary case docket numbers shall be captioned substantially in accordance with the following examples:

(2) An objection to the liquidator’s determination on a proof of claim under Rule 3781 (claim procedure) shall be captioned:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

John Doe Company,	:	
Objector	:	Objection to Notice of
	:	Determination
	:	Re: Proof of Claim No. _____
v.	:	
	:	
Reliance Insurance Co., in Liquidation	:	No. _____
	:	
(Ancillary to IN RE:	:	
Reliance Insurance Company	:	
In Liquidation	:	
No. 1 REL 2001	:	

Objection to Liquidator’s Notice(s) of Determination

NOTE: Listing proof of claim number(s) – All claim numbers should be listed in the caption to the right of the dotted line and on the cover sheet. If the objection relates to proof of claim numbers too numerous to conveniently be listed in the caption, the first claim number followed by “et al” must be shown in the caption and additional proof of claim numbers shall be listed in a footnote on page one.

Rule 3781. Claim Procedure in Liquidation Proceedings

(c) **Objections.**

(1) **Time for Filing.** If a claimant disputes the allowed amount or priority class assigned to the claim, the claimant shall file an objection with the Court within sixty (60) days from the mailing date on the notice of determination. The objection must present the factual and legal basis for the objection and include a copy of the notice of determination. The objection may include relevant supporting documentation and be accompanied by a memorandum of law.

(2) **Service.** The claimant shall serve a copy of the objection on the liquidator in accordance with Rule 121 (service).

(3) Response. The liquidator shall promptly acknowledge receipt of an objection, contact the claimant, and attempt to resolve the objection. If the objection is not resolved within sixty (60) days, the liquidator shall file with the Court and serve on the claimant a written response to the objection. The response may be accompanied by a memorandum of law. The claimant and the liquidator may agree in writing to extend these deadlines. Any such agreement must be filed with the Court.

(4) Corporate representation. If the claimant is an entity other than a natural person, an attorney admitted to practice in Pennsylvania must enter an appearance for the claimant within sixty (60) days of the filing of the objection, or the Court may dismiss the objection.

(5) Pro hac vice admission. If a claimant wishes to be represented by an attorney not admitted to practice in Pennsylvania, that attorney must be admitted to practice *pro hac vice*, in accordance with Pa. R.C.P. No. 1012.1, Pa. BAR. 301, and 204 Pa. Code §81.505, within sixty (60) days of the filing of the objection, or the Court may dismiss the objection.

(d) Resolution of Objections.

(1) Scheduling hearing. Upon receipt of the liquidator's response to the objection, the Court shall establish a time for a hearing.

(2) Assignment of judge. Objections may be assigned to a single judge for disposition.

(3) Assignment of referee. Upon the parties' request or on its own initiative, the Court may appoint a referee to hear the objection and submit to the Court a recommended decision, which shall include findings of fact, conclusions of law, and a proposed order.

(e) Referees.

(2) Litigation costs. Each party shall bear its own costs associated with the hearing before the referee. Unless the Court orders otherwise, the parties shall share equally the costs for transcribing a hearing and any costs that may be incurred by a referee in complying with Rule 3781(e)(7) (maintaining a record) and (f) (4) (filing recommended decision).