

In the Commonwealth Court of Pennsylvania, U.S.A.

In Re: Senior Health Insurance Company
of Pennsylvania, U.S.A, in Rehabilitation

Case No. 1 SHIP 2020

RECEIVED
COMMONWEALTH COURT
OF PENNSYLVANIA
2021 AUG -2 PM 11:39

July 28, 2021

INTERVENOR, Agent & Broker J. LAPINSKI'S
MOTION TO STRIKE "Joint Application
for Approval of Settlement Agreement"

FILED TOO LATE ON 7-21-2021, and
MOTION to SANCTION their attorneys.

1.) The deadline for filings after the

SHIP May 17, 18, 19, 20, 21 Hearing is

June 28, 2021. Hence the above document

was illegally filed TOO LATE so Intervenor
Lapinski, ~~broker~~ for a dozen insurers

from 1995 to 2004, Motions the Court
to STRIKE the 7-21-2021 filing by the

"Intervening Agents & Brokers" from the SHIP record.

All of the other Interveners and their law firms honored the Court determined schedule for year 2021, EXCEPT the "Agents and Brokers..." and the Rehabilitators Cozen O'Connor of Philadelphia, PA, USA, and Tucker Law, Group of Clark Hill, PLC. Attorneys for these 3 law firms should be fined & sanctioned by the Commonwealth Court.

2.) The "Agents and Brokers..." never attended, testified or submitted filings re the 2021 pre-hearings of Hon. Judge Leavitt. WHY?

3.) If the Court does NOT strike the entire 7-21-2021 filing, Lapinski Motions the Court to strike A II A, B, and paragraphs III C, & IV-A, C, D - pages 2 and 3 of the illegal, proposed "Settlement & Release Agreement". The 3 law firms have violated DUE PROCESS, open and complete disclosures, etc. required by LAW, Constitutions / 2.

See Exhibit B enclosed from the illegal 7-21-21 brief.

4) Intervenor Lapinski NEVER, EVER received any copies of the "Agents and Brokers..." filings until the 7-27-2021 filing. THIS IS ILLEGAL! The three law firms with their \$500.00/

per hour fees MUST BE SANCTIONED

by the Commonwealth Court of Pennsylvania. For ex. see page 3, ¶ 10 which Lapinski never got, of the 7-21-21 filing, Exhibit C enclosed

5.) Commissions were NOT ordered nor paid in the Penn Treaty Network America Rehabilitation by either the Commonwealth Court - PA NOR by the Supreme Court of Pennsylvania. Therefore Lapinski did not argue nor testify that he is owed \$292,000,000 in commissions with interest -- See Exhibit A, C enclosed.

5.) The Rehabilitator and the Special Deputy Rehabilitator Patrick Cantilo are erroneous in their 7-27-2021 filing. They are NOT Commonwealth Court judges! Paragraphs 26, 27, 29 on page 6 and 7 of the 7-21-2021 filing are FALSE. Several prior cases are cited, but there really is ONE legal precedent for the SITIP Rehabilitation: it is Court's 9 year plans for Penn Treaty Network American Rehabilitation attempts, and ultimate liquidation.

CONCLUSION: Lapinski demands the Court order payment to Lapinski of \$292,000 + interest by 12-31-2021. Also Lapinski requests a post-hearing of the Court to argue his case which he was illegally denied by the "Intervening Agents & Brokers" per their illegal 7-21-2021 filing in Court.

In 2020 Lapinski rec'd NO filings from Green O'Connor.
James Lapinski is due from the SHIP

Rehabilitation about \$292,000 in unpaid
commissions from the now LTC policies
in SHIP: American Travellers Insurance Co.
Consec Senior Health Insurance Co.
Teachers Protective Life Insurance Co.
Transamerica Life Insurance Co.
etc.

Lapinski was a licensed insurance
agent and broker in Washington DC,
Virginia, New Jersey, New York, etc.

July 28, 2021

~~James F. Lapinski~~ telephone 1-703-362-7795
James F. Lapinski, P.O. box 291395, Port Orange 32129
ENCLOSURES: EXHIBITS A, B, C FL

Proof of Service: copies of these Motions
mailed 7-28-2021 to all parties on the Master List

EXHIBIT A
7-28-2021

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

In Re: Senior Health Insurance : No. 1 SHP 2020
 Company of Pennsylvania in :
 Rehabilitation :

**JOINT APPLICATION
 FOR APPROVAL OF SETTLEMENT AGREEMENT**

Jessica K. Altman, Insurance Commissioner of the Commonwealth of Pennsylvania, in her capacity as the Statutory Rehabilitator ("Rehabilitator") of Senior Health Insurance Company of Pennsylvania ("SHIP"), and Intervenor ACSIA Long Term Care, Inc. ("ACSIA"), Global Commission Funding LLC ("GCF"), LifeCare Health Insurance Plans, Inc. ("LifeCare"), Senior Commission Funding LLC ("SCF"), Senior Health Care Insurance Services, Ltd., LLP ("SCIS"), and United Insurance Group Agency, Inc. ("UIG") (collectively, the "Intervening Agents and Brokers"), hereby jointly request the Court's approval of a settlement agreement entered into by the Rehabilitator and the Intervening Agents and Brokers, as described herein. In support of this Application, the Rehabilitator and the Intervening Agents and Brokers state the following:

add INTEREST fees, costs
 JAMES F. LAPINSKI, CPA - COMMISSIONS DUE \$
 PO BOX 291395
 PORT ORANGE, FL 32129-1395
 SHIP SR. Health Insurance Co. of Penna. 63000.00
 Teachers Mut. Life Insurance Co. 18500.00
 Transamerica Life Insurance Company 10500.00
 Penn Treaty Network America Insurance 39000.00
 SUB TOTAL 292000.00

COMMISSIONS due LAPINSKI
 plus interest

NOW, THEREFORE, in consideration of the mutual covenants, agreements, and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties intending to be legally bound subject to Court approval, agree as follows:

I. Court Approval and Effective Date

A. The Parties shall promptly request approval from the Commonwealth Court of Pennsylvania supervising the receivership proceedings of SHIP (the "Court") of this Agreement. The "Effective Date" shall be the date upon which the Court has entered an order approving the Agreement (the "Settlement Order").

B. The Parties will present the Agreement to the Court under an application and proposed Settlement Order in the form attached hereto as Exhibit A.

II. Settlement Performance

~~A. If the Agreement is approved, the Rehabilitator, on behalf of the SHIP estate, will issue a one-time payment to counsel for the Agents and Brokers in the amount of Three Hundred and Fifty Thousand Dollars (\$350,000) ("Cash Payment") within seven (7) business days of the Effective Date and pursuant to the instructions in Exhibit B attached hereto.~~

~~B. If SHIP remains in rehabilitation on the third anniversary of the Effective Date (the "Third Anniversary Date"), then commencing on the Third Anniversary Date and continuing while SHIP remains in rehabilitation until no later than the seventh anniversary of the Effective Date, the SHIP estate and or any successor shall resume accruing and remitting to the Agents and Brokers fifty percent (50%) of the commissions to which the Agents and Brokers would otherwise be entitled ("Ongoing Commissions"), without regard to the terms of the Plan as it relates to commissions.~~

C. Except as provided herein (i.e., the Cash Payment and Ongoing Commissions) as well as under the Settlement Order, SHIP shall not have a duty to accrue or remit any commissions to the Agents and Brokers.

D. Except as provided herein (i.e., the Cash Payment and Ongoing Commissions) or in the Settlement Order, the Intervening Agents and Brokers shall have no right to receive commissions or any other benefits or payments identified in the Agency Agreements.

E. The Agents and Brokers shall withdraw their objections to the Plan as moot within seven (7) business days of receiving the Cash Payment.

~~F. Each Party intends to fully and finally release all claims against the other Party in connection with the dispute as described herein, unless otherwise expressly provided.~~

III. Settlement Terms

A. The Parties agree to be bound by this Agreement and the Proposed Rehabilitation Plan as approved and modified by the Rehabilitation Court, including by the terms of any modification ordered by the Rehabilitation Court in its approval of the Agreement.

B. All obligations under this Agreement as well as the Settlement Order shall remain fully enforceable notwithstanding the filing of further applications or plans in any receivership proceedings.

~~C. Nothing in this Agreement or the Settlement Order shall be construed to be, or otherwise taken as, an admission by any Party of any claim made or allegation asserted, or that any of the Parties herein have caused any damage or acted or omitted to act in any way as to give rise to or create any liability to any other Party. The Parties agree that any claim for commissions following an order placing SHIP in liquidation would be determined under the applicable law governing liquidation proceedings. Notwithstanding the foregoing, in the event SHIP is placed in liquidation, the Rehabilitator agrees to treat a claim submitted by the Intervening Agents and Brokers for any unpaid Ongoing Commissions which accrued prior to the Liquidation Order as a Class (a) claim pursuant to 40 P.S. § 221.44, subject to the approval of the Commonwealth Court overseeing the liquidation proceedings.~~

IV. General Provisions

A. **Amendments; Entire Agreement.** This Agreement may not be changed, waived, discharged or terminated except by a writing signed by the Parties. This Agreement and any resulting Settlement Order shall constitute the entire agreement between the Parties as respects their subject matter. All discussions and agreements previously entered into or entertained by the Parties concerning the subject matter of this Agreement are merged into this Agreement.

B. **No Precedential Value.** This Agreement and the Agents' and Brokers' withdrawal of their objections to the Plan shall be without precedential value, and are not intended to be, nor shall they be construed as, an interpretation of any agency agreements or application of receivership law.

~~C. **Rehabilitator Authority.** Nothing in this Agreement shall be deemed, interpreted or construed as a waiver or limitation in any respect of any right, authority, power or obligation the Rehabilitator may have under the Insurance Department Act or other applicable law; provided, however, that the Rehabilitator may not assert any such right, authority or power to avoid, set aside, or modify unilaterally her obligations under this Agreement or the Settlement Order.~~

D. **Interpretation; Severability.** This Agreement has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with in this Agreement. In addition, this Agreement was drafted by experienced and knowledgeable legal counsel for each of the Parties. Accordingly, none of the parties shall be presumptively entitled to have any provision of the Agreement construed against any of the other Parties in accordance with any rule

EXHIBIT C, 7-28-2021

date 2/2
6. The Intervening Agents and Brokers sought to intervene to be heard on their claim for "legal and beneficial rights to receive commissions," asserting that the Plan would adversely affect and impair the Intervening Agents and Brokers' own interests. (App. to Intervene at ¶¶ 6, 10-11, 13-15.)

7. No other party sought leave to intervene to protect an interest in agent commissions.

8. On September 15, 2020, this Court granted the Intervening Agents and Brokers' Application for Relief Seeking Leave to Intervene, permitting the Intervening Agents and Brokers to participate in these proceedings for the limited purpose of addressing their claim to certain agent commissions.

9. No other party was granted leave to intervene to protect an interest in agent commissions, and the Intervening Agents and Brokers did not seek or obtain leave to represent the interest of others claiming a right to, or interest in, commissions.

never got it
10. On September 15, 2020, the Intervening Agents and Brokers filed on their own behalf their Formal Comments to the Proposed Plan, seeking modification to the Proposed Plan.

11. Specifically, the Intervening Agents and Brokers objected to and sought a modification of Section VI.M of the Proposed Plan as to its impact on their claim to receive agent commissions.