

**ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST**

**IN THE MATTER OF
RELIANCE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
INSURANCE COMPANIES ACT, S.C. 1991, C.47, AS AMENDED**

**AND IN THE MATTER OF THE
WINDING-UP AND RESTRUCTURING ACT, R.S.C. 1985, C.W-11, AS AMENDED**

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

RELIANCE INSURANCE COMPANY

Respondent

**REPORT OF KPMG INC., THE LIQUIDATOR OF
RELIANCE INSURANCE COMPANY – CANADIAN BRANCH**

February 24, 2012

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BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

RELIANCE INSURANCE COMPANY

Respondent

February 24, 2012

I. NATURE OF THE MOTION

1. This report is filed in support of a motion by KPMG Inc., the liquidator (the "Liquidator") of the insurance business of Reliance Insurance Company in Canada ("Reliance (Canada)") for an Order approving the Liquidator's proposed process for the disallowance of claims which are disputed by the Liquidator, including for directions with respect to the form and manner of service of notices of disallowance of claims and for any appeal therefrom.

II. BACKGROUND – CALL FOR CLAIMS

A. Call for Policy Loss Claims

2. As outlined in the Liquidator's report dated July 26, 2010, the Liquidator was of the view that a call for loss claims (the "Policy Loss Claims") of holders under insurance policies issued by Reliance Canada (the "Policyholders") should be conducted.
3. The Liquidator recommended the call for Policy Loss Claims for the following reasons:
 - a) The last claims-made policy of Reliance Canada had a policy period that expired March 31, 2007 (with an extended reporting period expiring May 30, 2007), and so any claims under claims-made policies could no longer be reported;
 - b) The long tail exposure under Reliance Canada occurrence-based policies was at a maturity level such that the likelihood that any asserted claims or prospective or potential claims under those policies would be known to insureds had significantly increased, along with the likelihood that there would be significantly fewer future or contingent claims;
 - c) The Liquidator still employed experienced Reliance Canada claims personnel and other staff with significant corporate memory and understanding of the policies issued by Reliance Canada and of the types of claims that may be made under these policies pursuant to a call for claims; and
 - d) The Liquidator was of the view that it was in the best interest of the estate to have greater certainty as to the "universe" of potential Policy Loss Claims, including knowing whether there were any claims being asserted of a future or contingent nature, or any claims at all other than those already reported to and known to Reliance Canada and the Liquidator.
4. The Liquidator considered that achieving greater certainty within the liquidation would assist the Liquidator in determining whether to continue the run-off mode for policy liabilities or whether a claims determination process would be appropriate. In addition, it

would also provide data to inform the actuarial exercise of valuating the ultimate liabilities and surplus in the estate, and would assist the Liquidator in determining if policy buy-backs, commutation of Reliance Canada's reinsurance and/or a marketing program would be in the best interests of the estate and its stakeholders.

5. The Liquidator recommended that in the meantime the Liquidator continue to administer Reliance Canada's policy liabilities in the "run-off" mode that had begun prior to the commencement of the liquidation, and recommended that no decision be made at the time as to whether to provide for a specific process for the allowance or disallowance of Policy Loss Claims.
6. On August 3, 2010, this Court granted an Order approving a process in respect of the call for Policy Loss Claims (the "Call for Policy Loss Claims Order"), a copy of which is attached hereto as Appendix "A".
7. In general terms, the Call for Policy Loss Claims Order provided for service of call-for-policy-loss-claims packages on Policyholders by mail, by publication on the website maintained by the Liquidator for the liquidation of Reliance Canada, publication in various newspapers and an industry magazine, and publication in the official Gazettes of Canada and the Provinces.
8. The Call for Policy Loss Claims Order fixed December 17, 2010 under Section 74 of the *Winding-Up and Restructuring Act*, R.S.C., 1985, c.W-11 ("WURA") as the last day on which Policy Loss Claims could be sent to the Liquidator (i.e., it ordered that any Proof of Claim for Policy Loss Claims ("POC") had to be post-marked by midnight, December 17, 2010).
9. The Liquidator is of the view that a thorough call for Policy Loss Claims process has been effected.

B. Results of Call for Policy Loss Claims

10. As described in the Liquidator's July 26, 2010 report, the Liquidator has received 3,592 POCs (which includes those POCs that were filed late and will be discussed further below), with a total stated claim amount of approximately \$9.6 billion.
11. The call for Policy Loss Claims required the filing of a separate POC in respect of each individual claim arising out of a policy. As a result, although the total stated claim amount of filed POCs is approximately \$9.6 billion, after reviewing the filed POCs it is clear that a number of POCs are duplicative in whole or in part and that the POCs filed relate to 239 claims for 48 policyholders. These 239 claims are subject to total aggregate policy limits of approximately \$1.2 billion.
12. Pursuant to the Call for Policy Loss Claims Order, the Liquidator sent to the timely filed Policyholders, at the address supplied in the filed POCs, Acknowledgements of Filing, which acknowledged the receipt of the POCs by the Liquidator.

Open Claims and Contingent Claims

13. Of the 239 claims referenced in paragraph 11 above:
 - a) 146 relate to Open Claims, being claims which were reported to Reliance Canada (121 before and 25 after the commencement of the call for Policy Loss Claims) which are not yet resolved or settled, and for which Reliance Canada has established an estimate of the amount to resolve or settle; and
 - b) 93 are contingent claims, being claims with respect to a possible occurrence prior to the expiry of the policy in question, the specifics of which are not yet available or within the knowledge of the policyholder or claimant, and/or in respect of which no claim has yet been made against a policyholder or an insured thereunder.

Non-Filed Open Claims

14. POCs were not filed in respect of 37 of the 121 Open Claims that had been reported at the commencement of the call for Policy Loss Claims (the “Non-filed Open Claims”). Of the 37 Non-filed Open Claims, 22 relate to Open Claims which have been settled or otherwise resolved. Reliance Canada is awaiting final documentation in order to close these claims on their books and records. Accordingly, the Liquidator has determined that it should continue to finalize these claims and make any required payments thereunder, notwithstanding that a POC was not filed in accordance with the Call for Policy Loss Claims Order.
15. The remaining 15 Non-filed Open Claims relate to claims which the Liquidator is aware of and are actively being pursued and which Reliance Canada was attempting to settle or otherwise resolve these claims prior to the commencement of the Call for Policy Loss Claims. Accordingly the Liquidator continues to administer and attempt to resolve these 15 Non-filed Open Claims in the ordinary course, including making any required payments thereunder, notwithstanding that a POC was not filed in respect of such claims.

Late Filed Claims

16. As of the date of this Report, the Liquidator has received 29 POCs which were filed past the December 17, 2010 deadline (the “Late Filed Claims”).
17. Eighteen of the Late Filed Claims would have been received by the Liquidator prior to the December 17, 2010 deadline; however the Late Filed Claims were sent to an incorrect address and were later forwarded to the Liquidator.
18. The Liquidator has to date afforded Late Filed Claims the same treatment as timely filed POCs. The Liquidator will consider at a future point whether an order should be recommended and sought barring the filing of any additional Late Filed Claims as of a future date.

Liquidator and Actuarial Review

19. As discussed in the Liquidator's July 26, 2010 report, the majority of Policyholders who filed POCs claimed full policy limits as the quantum of their claims, resulting in the total stated claim amount of approximately \$9.6 billion. However, in a number of cases, the Policyholders did not take into consideration the relevant aggregate policy limits. In addition, various parties also filed duplicate POCs with respect to the same Policy Loss Claim.
20. Taking into account full policy limits and aggregate policy limits for all filed POCs (including Late Filed Claims), the removal of duplicate filed POCs and Non-filed Open Claims, the total gross claim exposure to Reliance Canada is approximately \$1.3 billion.
21. Further, if all claims asserted against Reliance Canada were settled at their full aggregate policy limits, the total claim exposure to Reliance Canada, net of reinsurance would be approximately \$117 million, assuming all reinsurance associated with those claims were collectable.

III. PROPOSED PROCESS

22. Given the amount of time that has passed since the call for Policy Loss Claims, and given that the Liquidator has conducted a detailed review of Policy Loss Claims filed, the Liquidator is of the view that a process in respect of the disallowance of Policy Loss Claims is appropriate at this time. A disallowance process would advance the resolution of a significant number of Policy Loss Claims and the ultimate wind-up of the estate.
23. As part of the disallowance process, the Liquidator proposes that a notice of disallowance (the "Notice of Disallowance") be sent by the Liquidator to those Policyholders having Policy Loss Claims that the Liquidator disputes (the "Disputed Claims"), in substantially the form attached hereto as Appendix "B" by prepaid ordinary mail, courier, personal delivery, fax or electronic mail. The Liquidator intends to send Notices of Disallowance over time as it deems appropriate and proposes that no outside date be established by which the Liquidator is required to do so.

- 7 -

24. The Liquidator further proposes that Policyholders with Disputed Claims be given sixty (60) days from the date of the Notice of Disallowance to serve the Liquidator by prepaid ordinary mail, courier, personal delivery or fax, with a Notice of Appeal of Disallowance of Claim in substantially the form attached hereto as Appendix "C", failing which: (a) the Policy Loss Claim of a Policyholder will be deemed to be adjusted to the amount, if any, allowed by the Liquidator; (b) the Policyholder will be barred from making or enforcing the Policy Loss Claim to the extent that it exceeds the amount, if any, accepted in the Notice of Disallowance (the "Excess Policy Loss Claim"); and (c) the Excess Policy Loss Claim will be barred and released.

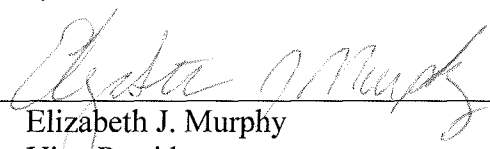
IV. RELIEF SOUGHT

25. The Liquidator recommends and seeks an Order approving the proposed disallowance process in respect of Policy Loss Claims.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

KPMG INC., the Liquidator of Reliance Insurance
Company – Canadian Branch

Per: _____


Elizabeth J. Murphy
Vice-President

APPENDIX "A"

**ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST**

THE HONOURABLE MR.) TUESDAY, THE 3RD DAY
)
JUSTICE LEDERMAN) OF AUGUST, 2010



**IN THE MATTER OF
RELIANCE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
INSURANCE COMPANIES ACT, S.C. 1991, C.47, AS AMENDED**

**AND IN THE MATTER OF THE
WINDING-UP AND RESTRUCTURING ACT, R.S.C. 1985, C.W-11, AS AMENDED**

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

RELIANCE INSURANCE COMPANY

Respondent

**ORDER
(Call for Policy Loss Claims)**

THIS MOTION made by KPMG Inc., liquidator (“Liquidator”) of the insurance business in Canada of Reliance Insurance Company (“Reliance Canada”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report of the Liquidator dated July 26, 2010 (“Report”), filed, and upon hearing the submissions of the lawyers for the Liquidator, no other party appearing, although properly served as appears from the proof of service, filed:

1. **THIS COURT ORDERS** that the service made of the Notice of Motion and supporting materials herein is good and sufficient notice of this motion, that this motion is properly returnable today, and that any further service or notice of the Notice of Motion and supporting materials be and the same is hereby dispensed with.

2. **THIS COURT ORDERS** that, under Section 74 of the *Winding-up and Restructuring Act*, December 17, 2010 is hereby fixed as the last day on or before which policyholders, insureds or other claimants with claims, whether existing, certain or uncertain, new, future, contingent, known or unknown, matured or not matured, reported or unreported, and liquidated or unliquidated, under or arising out of policies issued by Reliance Canada (“Policy Loss Claims”), may send in such claims.

3. **THIS COURT ORDERS** that, on or before August 17, 2010, the Liquidator shall cause:

- (i) a copy of the package, substantially in the form attached as Schedule “K” to the Report, to be sent by ordinary mail to (a) the policyholders of occurrence-based policies written by Reliance Canada, other than those described in subparagraph (ii) below, and (b) the Liability Reinsureds (as defined in the Report), at the last known address of each such policyholder and Liability Reinsured as shown on the books and records of Reliance Canada;
- (ii) a copy of the package, substantially in the form attached as Schedule “L” to the Report, to be sent by ordinary mail to the policyholders of occurrence-based

policies of Reliance Canada written through Family Underwriting Management Limited (“FUMML”), as further described in the Report, at the last known address of each such policyholder as shown on the books and records of FUMML;

- (iii) a copy of the package, substantially in the form attached as Schedule “M” to the Report, to be sent by ordinary mail to the brokers or managing general agents that brokered or managed insurance programs for Reliance Canada’s business, at the last known address of each such broker or managing general agent as shown on the books and records of Reliance Canada; and
- (iv) a copy of the package, substantially in the form attached as Schedule “N” to the Report, to be sent by ordinary mail to the policyholders, insureds or claimants, or representatives as the case may be, with Open Claims (as defined in the Report), at the last known address of each such policyholder, insured, claimant or representative as shown on the books and records of Reliance Canada.

4. **THIS COURT ORDERS** that the Liquidator shall cause:

- (i) a notice substantially in the form of Schedule “O” to the Report (the “General (English) Publication”) to be published in the national edition of *The Globe and Mail* and in *The Toronto Star* once on or before September 10, 2010 and once after September 30, 2010 but on or before November 10, 2010;
- (ii) a notice substantially in the form of Schedule “O” to the Report as translated into French (the “General (French) Publication”) to be published in *La Presse* once on

or before September 10, 2010 and once after September 30, 2010 but on or before November 10, 2010

- (iii) a notice substantially in the form of Schedule "P" attached to the Report (the "FUML Publication") to be published in *The Vancouver Sun*, on or before September 10, 2010;
- (iv) the General (English) Publication, General (French) Publication and FUML Publication to be published in the *Canada Gazette* and the official Gazette of each of the Provinces, on or before November 10, 2010;
- (v) the General (English) Publication, the General (French) Publication and the FUML Publication to be posted on the website www.relianceinsurane.ca on or before August 17, 2010;
- (vi) the General (English) Publication, General (French) Publication and the FUML Publication to be published in the *Canadian Underwriter* on or before September 15, 2010.

5. **THIS COURT ORDERS** that the Liquidator shall send by ordinary mail, e-mail or by fax transmission a copy of the General Proof of Claim Package or the FUML Proof of Claim Package, as the case may be, to anyone making a request for such on or before December 17, 2010, at the mailing address, e-mail address or fax number, as the case may be, provided by the requesting party, within seven (7) business days of the request being received by the Liquidator.

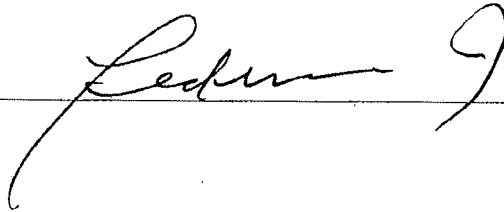
6. **THIS COURT ORDERS** that a Policy Loss Claim shall be considered to have been sent in accordance with this Order and Section 74 of the *Winding-up and Restructuring Act* only if:

- (i) the Policy Loss Claim has been sent in, by ordinary mail, on the Proof of Claim for Policy Loss Claim form (“POC”) as contained in the packages above-referenced, and in accordance with the “Instructions for Completion of the Proof of Claim for Policy Loss Claim” contained therein;
- (ii) such POC has been postmarked no later than midnight, December 17, 2010; and
- (iii) the person or entity submitting such POC has either (a) received an Acknowledgment of Filing, substantially in the form attached as Schedule “Q” to the Report, within one month of sending in the POC, or (b) notified the Liquidator in writing, within 6 weeks of sending in the POC, of non-receipt of such Acknowledgment of Filing.

For greater certainty, if a person submitting a POC has not received an Acknowledgement of Filing within one month of submitting the POC to the Liquidator, and has not, within 6 weeks of submitting the POC to the Liquidator, notified the Liquidator in writing of the non-receipt of such Acknowledgment of Filing, the POC shall be deemed for all purposes not to have been sent in or filed.

7. **THIS COURT ORDERS** that this Order has no application to any claim that may be asserted by the Liquidator of Reliance Insurance Company in the winding-up of Reliance Canada.

8. **THIS COURT ORDERS** that the allowance, disallowance, appeal, and/or claims determination procedures in respect of any Policy Loss Claims that may be filed pursuant to the call for Policy Loss Claims directed by this Order shall be as determined by this Court upon further motion of the Liquidator.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

AUG 03 2010

PER / PAR: 

THE ATTORNEY GENERAL OF
CANADA

and

RELIANCE INSURANCE COMPANY

Commercial List Court File No: 01-CL-4313

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
- COMMERCIAL LIST

Proceeding commenced at Toronto

ORDER
(Call for Policy Loss Claims)

GOODMANS LLP
Barristers & Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 3400
Toronto, Ontario
M5H 2S7

Graham D. Smith LSUC# 26377D

Tel: (416) 597-4161

Fax: (416) 979-1234

Lawyers for KPMG Inc.,
Liquidator of Reliance Insurance Company -
Canadian Branch

APPENDIX “B”

APPENDIX "B"

File No. 01-CL-4313

**IN THE MATTER OF
RELIANCE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, C.47, AS AMENDED***

**AND IN THE MATTER OF THE
*WINDING-UP AND RESTRUCTURING ACT, R.S.C. 1985, C.W-11, AS AMENDED***

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

RELIANCE INSURANCE COMPANY

Respondent

NOTICE OF DISALLOWANCE OF CLAIM

Name of Policyholder: _____

Reference #: _____

Pursuant to paragraph [2] of the Order of the Ontario Superior Court of Justice dated ●, 2012 (the "Policy Loss Claims Order"), KPMG, Inc. in its capacity as the court-appointed liquidator (the "Liquidator") of the insurance business of Reliance Insurance Company in Canada ("Reliance Canada") hereby gives you notice that it has reviewed the Proof of Claim against Reliance Canada filed by [insert name of Policyholder] and has disallowed such claim for the reasons set out below.

Value: _____

Reasons for any disallowance:

If you do not agree with this Notice of Disallowance and you intend to dispute it, you must, **within sixty (60) days from the date of this Notice of Disallowance (as provided for in the Policy Loss Claims Order)**, deliver a Notice of Appeal to the Liquidator by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the address or fax number indicated below. The form of Notice of Appeal is attached to this Notice. **If a Notice of Appeal is not delivered in accordance with this Notice and the Policy Loss Claims Order, the value of the within referenced Policy Loss Claim shall be deemed to be as set out in this Notice of Disallowance.** For your reference, a copy of the Policy Loss Claims Order can be found at: www.relianceinsurance.ca.

Address for service of Notice of Appeal:

KPMG INC., the Liquidator
of Reliance Insurance Company – Canadian Branch
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5

Attention: Janine Bradley
Fax: 416.777.3364

IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF DISALLOWANCE WILL BE BINDING UPON YOU.

DATED at the City of Toronto, this day of , 2012.

**KPMG INC., in its capacity as Liquidator of
Reliance Insurance Company – Canadian
Branch**

Per: _____

APPENDIX “C”

APPENDIX "C"

File No. 01-CL-4313

**IN THE MATTER OF
RELIANCE INSURANCE COMPANY**

**AND IN THE MATTER OF THE
*INSURANCE COMPANIES ACT, S.C. 1991, C.47, AS AMENDED***

**AND IN THE MATTER OF THE
*WINDING-UP AND RESTRUCTURING ACT, R.S.C. 1985, C.W-11, AS AMENDED***

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

Applicant

- and -

RELIANCE INSURANCE COMPANY

Respondent

NOTICE OF APPEAL OF DISALLOWANCE OF CLAIM

To: KPMG Inc., liquidator of the insurance business of Reliance Insurance Company
in Canada (the "Liquidator")

Name of Policyholder (Please print): _____

Reference #: _____

Pursuant to paragraph [3] of the Order of the Ontario Superior Court of Justice dated ●, 2012 (the "Policy Loss Claims Order"), the Policyholder hereby notifies the Liquidator of its intention to appeal the Notice of Disallowance dated _____, 2012, issued by the Liquidator.

Reasons for Appeal (attach additional sheet and copies of all supporting documentation as applicable):

Signature of Policyholder: _____

Date: _____

Telephone Number: _____ Facsimile Number: _____

Full Mailing Address: _____

E-mail Address: _____

THIS FORM AND SUPPORTING DOCUMENTATION MUST BE RETURNED BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR FACSIMILE TRANSMISSION TO THE ADDRESS OR FAX NUMBER INDICATED BELOW WITHIN SIXTY (60) DAYS FROM THE DATE OF THE NOTICE OF DISALLOWANCE IN ACCORDANCE WITH THE POLICY LOSS CLAIMS ORDER.

Address for service of Notice of Appeal:

KPMG INC., the Liquidator
of Reliance Insurance Company – Canadian Branch
333 Bay Street, Suite 4600
Toronto, Ontario M5H 2S5

Attention: Janine Bradley
Fax: 416.777.3364

TAB 3