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Administrators, Inc.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Joel Ario, :
Insurance Commissioner of the :
Commonwealth of Pennsylvania, :
Plaintiff, :
 :
v. : **No. 5 M.D. 2009**
 :
Penn Treaty Network America :
Insurance Company, :
Defendant. :

RE: Petition for Leave to Intervene of National Health
Administrators, Inc.

**PETITION FOR LEAVE TO INTERVENE OF
NATIONAL HEALTH ADMINISTRATORS, INC.**

National Health Administrators, Inc. ("NHA"), by and through its attorneys
McNEES WALLACE & NURICK LLC, hereby files this Petition for Leave to Intervene in
this Matter. In support thereof, NHA states the following:

1. NHA has an agency agreement with Penn Treaty Network America Insurance
Company ("Penn Treaty"), and it earns commissions each year from the renewal of the
long term care insurance policies at issue here. (***Exhibit "A."***)
2. Because of its agency agreement, NHA has a legally enforceable interest that
would be materially harmed by the grant of the Rehabilitator's Application seeking to

suspend payment of commissions. NHA therefore requests leave to intervene in this matter pursuant to Pa.R.C.P. 2327.

3. "[I]n considering requests to intervene," the Commonwealth Court is "guided by the rules governing intervention in the Pennsylvania Rules of Civil Procedure," including Pa.R.C.P. 2327. Jordan v. Western Pennsylvania Hosp., 961 A.2d 220, 226 n.3 (Pa. Commw. 2008). Moreover, Pennsylvania courts have previously applied Rule 2327 in the context of the statutory liquidation of an insurer. Commonwealth ex rel. Chidsey v. Keystone Mut. Cas. Co., 76 A.2d 867, 870 (Pa. 1950); Koken v. Research Underwriters, LLC, 2005 WL 473576, *2 n.5 (Pa. Commw. 2005) (Leavitt, J.)

4. Under Pa.R.C.P. 2327, NHA has a legally enforceable interest in its agency agreement and a right to property (*viz*, commissions) that would be adversely affected by the Rehabilitator's Application, such that NHA is entitled to intervene in this matter.

5. NHA opposes the Rehabilitator's Application. In particular, NHA disputes the financial assumptions and data set forth in the Rehabilitator's Application and Memorandum.

6. NHA is presently soliciting the input and assistance of other agents of Penn Treaty whose commissions the Rehabilitator seeks to suspend. Many have filed ***pro se*** objections to the Application.

7. "[I]t is fundamental that the key principles underpinning due process include the requirements of notice and an opportunity to be heard." Pennsylvania Bankers Ass'n v. Pennsylvania Dep't of Banking, 956 A.2d 956, 965 (Pa. 2008) (noting that the department had offended due process by dismissing the banks as intervenors without notice of the issues to be decided and an opportunity to offer evidence).

8. Although numerous Penn Treaty agents have filed *pro se* objections, no one adequately represents the interests of NHA or the Penn Treaty agents in this proceeding. Moreover, neither NHA nor any other agent of Penn Treaty can sue to recover their lost commissions should the Court grant the Rehabilitator's Application. Lastly, without leave to intervene, neither NHA nor any other Penn Treaty agent could appeal an adverse ruling by the Court.

9. NHA seeks leave to intervene in order (a) to oppose the Rehabilitator's proposed suspension of commission payments and (b) to voice the opinions and concerns of a Penn Treaty agent regarding the Rehabilitator's Application.

10. Penn Treaty is not in liquidation, and the suspension of commissions is drastic, unwarranted, and premature.

11. NHA intends to pursue financial data regarding Penn Treaty in discovery, retain an expert to evaluate the data acquired, and submit a memorandum addressing the financial statistics presented by the Rehabilitator.

12. NHA intends to fully brief and litigate the legal aspects of the Rehabilitator's Application and Memorandum. NHA's positions are generally set forth in its Objections filed with the Court.

WHEREFORE National Health Administrators, Inc. respectfully requests that the Court grant this Petition, and permit NHA to intervene in the matter and oppose the Application of the Rehabilitator to suspend payment of commissions to agents of Penn Treaty Network America Insurance Company.

McNEES WALLACE & NURICK LLC

By _____

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