

Court File No. 01-CL-4313

**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**

**(Motions for (i) Advice and Directions in respect of
Post-Liquidation Interest, and (ii) Preliminary Motion for
Appointment of Representative Counsel and Directions for Service)**

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

January 5, 2009

I. THE MOTIONS

1. This Report is respectfully filed in support of two motions by KPMG Inc., the Liquidator (“Liquidator”) of the insurance business in Canada of Reliance Insurance Company (“Reliance Canada”). The main motion (the “Post-liquidation Interest Motion”) is for advice and directions with respect to whether post-liquidation interest is payable on claims in the estate of Reliance Canada and, if so, on which claims and on what basis. The secondary motion (the “Preliminary Directions Motion”) is a preliminary motion for

the appointment of representative counsel and directions for service in respect of the Post-liquidation Interest Motion.

2. The Liquidator may file a further Report, or Reports, as advisable and as may be appropriate in light of any responding materials that may be filed.

II. BACKGROUND

General Background - Canada's Branch Regime for Foreign Insurers

3. Canadian legislation sets out a regime, and imposes specific requirements, for the carrying on of business of a Canadian branch of a foreign insurance company. For example, pursuant to Part XIII of the *Insurance Companies Act*, S.C. 1991, c. 47, a Canadian branch of a foreign insurer is required, among other things, to:

- be approved by the Superintendent of Financial Institutions Canada ("Superintendent") to insure, in Canada, risks;
- appoint as chief agent a person ordinarily resident in Canada;
- maintain an adequate margin of assets in Canada over liabilities in Canada;
- vest in a trust in Canada, with a Canadian financial institution, assets of a prescribed value to ensure the branch's policy liabilities can be met;
- maintain accounting records respecting its insurance business in Canada;
- appoint an auditor for its insurance business in Canada;
- maintain records for each customer in Canada or claimant under a policy in Canada, the amount owing to the insurer and the nature of its liabilities to the customer or claimant; and
- prepare and file an annual return of the condition and affairs in respect of the insurance business in Canada.

4. The Office of the Superintendent of Financial Institutions Canada ("OSFI") issues Guidelines with respect to financial institutions under its regulatory scope. In respect of Canadian branches of foreign insurance companies, these include Guideline E-4A ("Role of the Chief Agent and Record Keeping Requirement") and Guideline A-2 ("Branches of Foreign Property and Casualty Insurance Companies"), copies of which are respectively attached as Schedules "A" and "B" hereto.
5. These Guidelines elaborate on the requirement that Canadian branches of foreign insurers maintain adequate records of the Canadian businesses so as to, among other things, enable OSFI to administer the branch's business should the Superintendent take control of the branch's assets (Schedule "A" hereto, at p. 4), and elaborate on OSFI's expectation that a branch's assets in Canada be maintained at a targeted 150% of branch liabilities (Schedule "B" hereto, at p. 2).
6. The legislative regime provides for the regulator's taking control of a Canadian branch of a foreign insurer and/or for its liquidation in certain circumstances.
7. In particular, under the *Insurance Companies Act*, where circumstances exist that threaten the interests of the policyholders and creditors of the Canadian branch, the Superintendent may take control of the branch's assets and may do all things necessary or expedient to protect the rights and interests of the policyholders and creditors in Canada.
8. Where the Superintendent has taken control of the assets, the Superintendent may request the Attorney-General to apply for an order to wind-up the branch business under the *Winding-up and Restructuring Act*.

9. The *Winding-up and Restructuring Act* in turn gives the Court the power to order the winding-up of the branch insurance business in Canada.

The Reliance Canada Branch

10. Reliance Insurance Company is a property and casualty insurer incorporated in the early 1800's in the Commonwealth of Pennsylvania, in the United States of America ("U.S.").
11. In 1918, Reliance Insurance Company established Reliance Canada as a branch in the City of Toronto to carry on specific insurance business in Canada. Reliance Canada then carried on business in Canada as a branch of a foreign insurance company under the predecessor legislation to the *Insurance Companies Act*, and ultimately under that *Act*.
12. As noted in the overview above, in order to insure risks in Canada, Reliance Canada required authorization from the Canadian regulator to carry on specified classes of insurance business. Under the current legislation, Part XIII of the *Insurance Companies Act*, this authorization takes the form of an Order issued by the Superintendent. Attached as Schedule "C" hereto is a copy of the Superintendent's most recent Order in respect of Reliance Canada, which authorizes specific insurance business to be conducted in Canada.
13. Reliance Canada's chief agent and office have always been located in the City of Toronto, Canada. Reliance Canada used (and continues to use), the computerized claims system administered by Reliance Insurance Company's head office in the U.S., however Reliance Canada's business, including claims administration, has always been run by a separate employee force in the City of Toronto.

14. Reliance Canada maintained its own records in respect of its policyholders, as required under the legislation and the Guidelines, and Reliance Canada's assets were held in Canada to back its reported liabilities under its insurance policies.

Liquidation of Reliance Insurance Company/Winding-up of Reliance Canada

15. Reliance Insurance Company began experiencing financial difficulties in the U.S. in 2000, and suffered a series of rating downgrades.
16. In January 2001, the Insurance Commissioner for the Commonwealth of Pennsylvania ("Pennsylvania Commissioner") put Reliance Insurance Company into formal supervision status. By this point, Reliance Canada had stopped issuing new policies and had begun winding-down its business by "running off" its liabilities under the policies it had issued.
17. In May 2001, at the request of the Pennsylvania Commissioner, the Commonwealth Court of Pennsylvania ("Pennsylvania Court") issued an Order of Rehabilitation in respect of Reliance Insurance Company.
18. The Pennsylvania Commissioner then determined that Reliance Insurance Company was insolvent and that there would be insufficient assets to pay all policyholders in full.
19. The Pennsylvania Commissioner accordingly sought an Order from the Pennsylvania Court for the liquidation of Reliance Insurance Company.
20. Reliance Insurance Company was ordered to be liquidated by the Pennsylvania Court on October 3, 2001, pursuant to Pennsylvania's *Insurance Department Act of 1921*. The

Pennsylvania Commissioner was appointed liquidator of Reliance Insurance Company ("U.S. Liquidator"). A copy of this Order is attached as Schedule "D" hereto.

21. On October 5, 2001, pursuant to the *Insurance Companies Act*, the Superintendent took control of the assets in Canada of Reliance Canada, including assets held in Canada under the control of its chief agent.
22. By Notice of Application dated November 8, 2001, upon the Superintendent's recommendation, the Attorney-General sought an Order for the winding-up of Reliance Canada from this Court.
23. By Orders of this Court made December 3, 2001, the insurance business of Reliance Canada was ordered to be wound-up pursuant to the *Winding-up and Restructuring Act*, and the Liquidator was appointed as liquidator of Reliance Canada. The Court did not make a finding as to the insolvency of the Reliance Canada branch. A copy of the Order for the winding-up of Reliance Canada is attached as Schedule "E" hereto. A copy of the appointment order ("Appointment Order") is attached as Schedule "F" hereto.
24. Pursuant to these two Orders, and the *Winding-up and Restructuring Act*, the assets of Reliance Canada are held by the Liquidator for the benefit of claimants of Reliance Canada, separate and apart from the assets of Reliance Insurance Company, and there are two distinct estates in liquidation.

III. STATUS OF THE RELIANCE CANADA ESTATE

(i) Overview of Payments on Allowed Claims

25. All policy loss claims that had been settled prior to the commencement of the winding-up were paid, prior to the commencement of the winding-up, by Reliance Canada.

26. From the beginning of the winding-up of Reliance Canada, this Honourable Court permitted payment of various policy loss claims within certain thresholds (“Authorized Policy Payments”) as these claims were allowed (settled) during the course of the liquidation.

27. Further, as the liquidation progressed, and upon the Liquidator’s recommendations, this Court has approved distributions (“Interim Dividend Payments”) as follows: (i) various interim dividend payments on all policy loss claims in the estate of Reliance Canada, culminating with this Court’s Order of April 8, 2008 bringing the total authorized level of distributions to 100% of the principal amount of policy loss claims, as well as (ii) a 100% distribution on ordinary creditor claims by this Court’s Order made December 17, 2008, a copy of which is attached as Schedule “G” hereto.

28. The respective types of payments are described in further detail below.

Authorized Policy Payments

29. Since the commencement of the liquidation of Reliance Canada in 2001, pursuant to the Appointment Order and subsequent extension Orders of this Court, the Liquidator paid the following policy benefits by way of Authorized Policy Payments:

- a) defence costs;
- b) valid policy loss claims up to the \$250,000 limit of the voluntary compensation payment of the Property and Casualty Insurance Compensation Corporation ("PACICC") that may be paid under its Memorandum of Operations; and
- c) valid policy loss claims, not covered by PACICC, up to \$25,000.

Interim Dividend Payments on Policy Loss Claims/Payment of Ordinary Creditor Claims

30. This Court's Orders authorizing the Interim Dividend Payments on allowed policy loss claims (to the extent such claims had not already been paid in full by way of the Authorized Policy Payments), and the respective distribution amounts, were as follows:

Date of Order	Authorized Dividend on Policy Loss Claims
June 26, 2003	25%
September 2, 2004	25%
December 21, 2005	15%
December 15, 2006	15%
April 8, 2008	20%

- 31. Copies of the Court's five Orders authorizing these Interim Dividend Payments are attached as Schedules "H", "I", "J", "K" and "L" hereto, respectively.
- 32. Pursuant to this Court's Order of June 24, 2008, a copy of which is attached as Schedule "M" hereto, a call for ordinary (i.e., non-policy) claims was made.
- 33. Only one claim was filed in response to the call for claims, with an approximate value of (U.S.) \$5,800. The Court, by its Order of December 17, 2008 (Schedule "G" hereto),

provided authority to pay that claim, and other proper, allowed ordinary claims up to a total of \$100,000.

(ii) Effect of the Two Types of Payments

34. As a consequence of the two types of payments on claims as described above (the Authorized Policy Payments and the Interim Dividend Payments), as of December 31, 2007 approximately 18,240 policy loss claims (with a total value of approximately \$66 million) in the winding-up of Reliance Canada were paid in full as they were settled and allowed (i.e., at the same time as they would have been paid in the ordinary course of business, absent a liquidation).
35. In particular, since the beginning of the liquidation all of the policy loss claims falling within the allowed thresholds for Authorized Policy Payments were paid in full, contemporaneously with their being settled and allowed. In addition, all of the policy loss claims that were settled and allowed following the Court's Order of April 8, 2008 (bringing the authorized level of distributions to 100%) were paid in full, contemporaneously with their being settled and allowed. (Policy loss claims that are allowed in the future likewise will be paid in full as they are settled and allowed.)
36. However, several reinsurance claims and 64 policy loss claims (with a combined total value of approximately \$65 million) could not be paid in full contemporaneously with their being settled and allowed, since they did not qualify for payment in full under the allowed thresholds for the Authorized Policy Payments and since they were settled and allowed prior to the cumulative Interim Dividend Payments level reaching 100%. These policy loss claims, therefore, were not paid at the same time as they would have been in

the ordinary course (i.e., absent a liquidation). Rather, distributions were made on them over time by way of the Interim Dividend Payments authorized by the Court, resulting ultimately in a cumulative 100 cents on the dollar distribution. (Similarly, the allowed ordinary creditor claim was not paid until following the Order of December 17, 2008, rather than in the ordinary course (i.e., absent a liquidation).

37. By virtue of the nature of Reliance Canada's property and casualty insurance business, in the normal course, absent a liquidation, policy loss claims would only become contractually payable pursuant to the respective policies once they are adjusted and determined (settled and allowed). Thus, those policy loss claims that the Liquidator was able to pay in full under the Authorized Policy Payments as they were settled and allowed, and those which were (or, in the future, will be) settled and allowed following the authorization of the 100% Interim Dividend Payments level, ended up being (or will be) paid in full at the same time as they would have been paid in the ordinary course (i.e., absent a liquidation). The holders of these policy loss claims will be referred to as the "Under-limits Claimants" in this Report.
38. As mentioned above, various policy loss claimants were not paid in full as their policy loss claims were allowed in the liquidation. These claimants did not receive payment of 100 cents on the dollar as their respective policy loss claims were settled and allowed. Instead, these claimants had to wait for distributions that ultimately culminated to 100 cents on the dollar. The holders of these policy loss claims, and any ordinary creditor claims that were payable at the commencement of the liquidation, will collectively be referred to as the "Over-limits Claimants" in this Report. There is also a holder of a policy loss claim that was in litigation which has been decided in favour of the claimant.

That claimant's claim, and any other alleged policy loss claims in litigation that may ultimately be determined in favour of the claimant (collectively, "Disputed Claims") would, but for the liquidation, have been eligible for pre-judgment interest, and are also included in the Over-limits Claimants.

Surplus in the Canadian Estate

39. Under Section 161 of the *Winding-up and Restructuring Act*, the priority scheme for relevant claims in the winding-up of Reliance Canada is:

- costs of liquidation;
- policyholder loss claims;
- claims of ordinary creditors of the branch.

40. With the progress in the winding-up of Reliance Canada to this point, the Liquidator is now in a position to conclude that there will be a surplus of assets: i.e., total assets with a value in excess of (i) the total of the costs of liquidation plus (ii) the principal amount of the claims payable in the Canadian estate.

41. Although the nature of Reliance Canada's remaining liabilities are such that the exact amount of the ultimate surplus of assets over the total liabilities cannot be calculated now, the Liquidator currently forecasts a surplus in the Canadian estate, based on its valuation of liabilities, in the approximate amount of \$95.8 million.

Status of the Estate of Reliance Insurance Company

42. The U.S. Liquidator has advised that it currently estimates that there will be a deficit of approximately (U.S.) \$3.6 billion in that liquidation, so that policy loss claims in the estate of Reliance Insurance Company will receive dividends at significantly less than 100 cents on the dollar.

IV. DISPOSITION OF THE SURPLUS UNDER CANADIAN WINDING-UP LAW

Winding-up Interest Principles and the *Winding-up and Restructuring Act's* Surplus Provisions

43. It is an established principle in Canadian winding-up law that no interest continues to accrue on claims from the commencement of a winding-up: this is often referred to as the "interest stops" rule or similar nomenclature. However, in winding-ups of Canadian companies, in the event of there ultimately being a surplus of assets over the amount of allowed claims in a winding-up, post-liquidation interest may be payable at common law from the surplus on allowed claims.
44. Until amendments that came into force in 1996, the *Winding-up and Restructuring Act* was silent on the issue of post-liquidation interest. The 1996 amendments added subsection (2) to Section 95 in Part I of the *Winding-up and Restructuring Act*, so that Section 95 came to provide as follows:

(1) The court shall distribute among the persons entitled thereto any surplus that remains after the satisfaction of the debts and liabilities of the company and the winding-up charges, costs and expenses, and unless otherwise provided by law or by the Act, charter or instrument of incorporation of the company, any property or assets remaining after the satisfaction shall be

distributed among the members or shareholders according to their rights and interests in the company.

(2) Any surplus referred to in subsection (1) shall first be applied in payment of interest from the commencement of the winding-up at the rate of five per cent per annum on all claims proved in the winding-up and according to their priority.

45. Section 95 of the *Winding-up and Restructuring Act* is contained in Part I of the Act.

Section 9 of the Act provides:

In the case of insurance companies, the provisions of this Part are subject to the provisions of Part III.

46. The current Part III of the *Winding-up and Restructuring Act* also came into force with the 1996 amendments. It does not refer to the application of a surplus to post-liquidation interest.

47. Under subsection 161(10) in Part III of the *Winding-up and Restructuring Act*, the Liquidator may, with the approval of the Court, release to the foreign company (i.e., in this case, Reliance Insurance Company, as represented by the U.S. Liquidator) any balance of the assets remaining in the estate of Reliance Canada after payment of claims in the order of priority prescribed.

The Need for Advice and Directions

48. The Court's advice and directions are respectfully sought to determine the issue whether post-liquidation interest is payable in the case of a surplus in the winding-up of a Canadian branch of a foreign insurance Company, in priority to the potential release of any balance of assets to the foreign company and, if it is payable, what methodology and criteria apply.

49. The disposition of the various issues that arise will affect the ultimate amounts payable from the Reliance Canada estate to its claimants and, therefore, the amount available to be released to the U.S. Liquidator if and when a release of the Canadian branch assets is authorized.
50. Accordingly, pursuant to paragraph 39 of the Appointment Order, the Liquidator respectfully seeks this Court's advice and directions to determine the various issues that arise from possible competing constructions of the legislation and the lack of determinative judicial authority. (The Liquidator is not seeking or recommending authority for a specific distribution to claimants of Reliance Canada at this time.)
51. In particular, the Liquidator will respectfully submit the following questions for the advice and direction of this Court on the Post-liquidation Interest Motion:

Question 1:

Does subsection 95(2) of the *Winding-up and Restructuring Act* apply to the winding-up of Reliance Canada, so that interest on allowed claims in the winding-up of Reliance Canada is payable pursuant to subsection 95(2), in the case where there is a surplus, in priority to any release to Reliance Insurance Company (represented by the U.S. Liquidator) of the balance of any assets that the Court may ultimately approve under subsection 161(10) of the *Winding-up and Restructuring Act*?

Question 2:

If the answer to Question 1 is yes, on what basis is post-liquidation interest to be determined? That is, on which type of claims is it payable, at what rate, is it simple or compounded, from what date(s) does it run, and are interim payments that were made on claims to be first applied toward the interest payable on the claim and then to the principal amount of the claim or first toward the principal amount of the claim?

Question 3:

If the answer to Question 1 is no, is interest payable in the winding-up of Reliance Canada on allowed claims on some basis other than subsection 95(2) of the *Winding-up and Restructuring Act*, in the case where there is a surplus, in priority to any release to Reliance Insurance Company of the balance of any assets that

the Court may approve under subsection 161(10) of the *Winding-up and Restructuring Act*?

Question 4: If the answer to Question 1 is no, and the answer to Question 3 is yes, on what basis is post-liquidation interest to be determined?

V. THE LIQUIDATOR'S RECOMMENDATION ON THE POST-LIQUIDATION INTEREST MOTION

52. The spectrum of potential outcomes on the post-liquidation interest question ranges from there being no entitlement to post-liquidation interest for any claimant of Reliance Canada (i.e., for either Under-limits or Over-limits Claimants) at one end and, at the other end, an entitlement to post-liquidation interest for all claimants (i.e., both Under-limits and Over-limits Claimants) on their claims from the date of the commencement of the liquidation, with various potential outcomes falling between these.
53. The Liquidator has determined that it is appropriate to recommend to the Court how the questions ought to be answered. The Liquidator respectfully recommends that subsection 95(2) of the *Winding-up and Restructuring Act* be held to apply to the winding-up, and be construed so as to entitle only the Over-limits Claimants – i.e., those whose payments have been delayed or otherwise affected as a result of the liquidation - to post-liquidation interest, and only for the period that payment to each qualified claimant was delayed beyond the date that claimant would have been paid in full in the ordinary course (absent a liquidation) or, in the case of a Disputed Claim that is ultimately determined in favour of the policyholder, only for the period that pre-judgment interest would (absent a liquidation) have otherwise run on the Disputed Claim during the liquidation. The Liquidator accordingly further respectfully recommends that subsection 95(2) be construed so that any post-liquidation interest due to Over-limits claimants is calculated

from the date that a claim would otherwise have been payable (absent a liquidation) or, in the case of a Disputed Claim that is ultimately determined in favour of the policyholder, the date from which pre-judgment interest would (absent a liquidation) have otherwise run on the Disputed Claim during the liquidation, but in either case from no earlier than the date of commencement of the liquidation.

54. The Liquidator views the recommended conclusion as most closely putting the various claimants of Reliance Canada in the respective position in which each of them would have been had there been no liquidation of Reliance Canada.
55. In particular, in terms of the proposed questions, the Liquidator's recommendation is summarized as follows:

Question 1: The recommended answer is 'yes'.

Question 2: The recommended answer is that the proper construction and application of subsection 95(2) results in: (i) payment of post-liquidation interest to the Over-limits Claimants, but not to the Under-limits Claimants, (ii) calculated as simple interest (i.e., not compounded), at an annual rate of 5%, on the unpaid portion of each Over-limits Claimant's allowed claim from the time such claim was settled and allowed (or, (a) in the case of a Disputed Claim, from the time since the commencement of the winding-up that it would have been eligible for pre-judgment interest, but for the winding-up, but not earlier than the commencement of the winding-up, and (b) in the case of an ordinary creditor claim that was already payable as of the commencement of the winding-up, from the commencement of the winding-up) until such portion was paid.

The Liquidator further recommends that any payments made to Over-limits Claimants by way of Interim Dividend Payments and/or Authorized Policy Payments during the course of the winding-up are to be treated as being allocated first toward any post-liquidation interest payable on the claim of an Over-limits Claimant, and then to the principal portion of such claim.

Question 3-4: The recommended answers above would render answers to questions 3-4 not necessary. The Liquidator through its counsel will make any appropriate submissions on these questions in its factum and at the hearing.

56. If there is a final determination that the Liquidator's recommendations are the correct approach to the question of post-liquidation interest then, given the anticipated amount of the surplus, the Liquidator anticipates being able to seek authority to make the post-liquidation interest payments some time in 2009.

VI. RECOMMENDATIONS ON THE PRELIMINARY MOTION FOR THE APPOINTMENT OF REPRESENTATIVE COUNSEL AND DIRECTIONS FOR SERVICE

The U.S. Liquidator's Interest

57. If any post-liquidation interest is payable, on any basis, this will reduce the assets available for any release that the Court may ultimately order to be made to Reliance Insurance Company (represented by the U.S. Liquidator).
58. The interests of Reliance Insurance Company and its stakeholders are represented by the U.S. Liquidator and his counsel in this winding-up, and the U.S. Liquidator and his counsel will be served with the Liquidator's motion materials in respect of the Post-liquidation Interest Motion.

Reliance Canada Claimants' Interests

59. Of the potential outcomes of the question of entitlement to post-liquidation interest, the one recommended by the Liquidator in paragraph 55 above would result in a favourable outcome for the Over-limits Claimants (because the Over-limits Claimants will be

entitled to post-liquidation interest), but would result in no entitlement to post-liquidation interest for the Under-limits Claimants.

60. The Under-limits Claimants therefore may seek to assert, for example, that their claims should bear post-liquidation interest under subsection 95(2), or otherwise, contrary to the Liquidator's recommendation in paragraph 55 above. Also, the Over-limits Claimants may assert that all their claims should be entitled to post-liquidation interest calculated from the commencement of the liquidation, rather than from the time in respect of each claim that the Liquidator is recommending in paragraph 55 above.
61. If post-liquidation interest is determined to run on claims of both Over-limits Claimants and Under-limits Claimants from the commencement of winding-up, the quantum of each group's entitlement would be uncertain until the end, or near the end, of the liquidation, so that it is anticipated the Liquidator would not be in a position to seek and recommend authority to actually distribute the post-liquidation interest until significantly later in the liquidation. The currently projected surplus would be entirely payable to post-liquidation interest in this scenario. Under the Liquidator's recommendation, there is more than sufficient surplus to pay out post-liquidation interest to the Over-limits Claimants in the near future.
62. The *Winding-up and Restructuring Act* authorizes the Court's nomination and appointment of representative counsel to represent a class where appropriate. In this case, the Liquidator respectfully recommends the appointment of separate counsel to represent, as classes, the Under-limits Claimants and the Over-limits Claimants of Reliance Canada on the Post-liquidation Interest Motion.

63. The Liquidator recommends the appointment of Ms Elizabeth Pillon as representative counsel in respect of the Under-limits Claimants of Reliance Canada, and James Grout as representative counsel in respect of the Over-limits Claimants of Reliance Canada. The proposed representative counsel have agreed to act in such capacity if appointed by this Honourable Court.

Public Notice

64. The Liquidator also proposes to give public notice of the Post-liquidation Interest Motion (i) by service of its materials on the service list maintained by counsel for the Liquidator in this proceeding, and (ii) by way of a notice to be published in the national edition of *The Globe and Mail*, and published on the Liquidator's website for the winding-up at www.reliancecanada.ca, substantially in the form attached hereto a Schedule "N", on or before January 28, 2009.

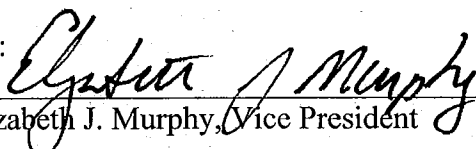
65. The Liquidator is of the view, and respectfully recommends, that the foregoing appointment of representative counsel, and the proposed service and public notice of the Post-liquidation Interest Motion, and the proposed directions for the proceeding, will result in the fair and full submission to this Court on the issues arising in the Post-liquidation Interest Motion.

DATED the 5th day of January, 2009

ALL OF WHICH IS RESPECTFULLY
SUBMITTED,

KPMG INC., LIQUIDATOR OF THE
INSURANCE BUSINESS IN CANADA OF
RELIANCE INSURANCE COMPANY

Per:


Elizabeth J. Murphy, Vice President

THE ATTORNEY GENERAL OF CANADA

And

RELIANCE INSURANCE COMPANY

Applicant

Respondent

Commercial List Court File No: 01-CL-4313

ONTARIO

**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

REPORT OF THE LIQUIDATOR

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Solicitors for KPMG Inc., Liquidator
Reliance Canada

Schedule "A"



Guideline

Subject: Role of the Chief Agent and Record Keeping Requirements

No: E-4A

Date: November 1992

Revised: November 2005

Introduction

This guideline describes OSFI's expectations with respect to the role of the Chief Agent (CA) of a foreign company¹. The guideline applies to the Canadian branch operations of foreign life and property and casualty insurance companies, and foreign fraternal benefit societies. For the purposes of this guideline, these entities will be referred to collectively as foreign company branches (FCBs). It also discusses OSFI's expectations with respect to records and documents to be maintained at the chief agency. The guideline does not address all legislative and regulatory obligations and requirements; therefore, CAs are expected to refer to relevant provisions in the legislation and regulations. Reference should also be made to a number of other guidelines applicable to FCBs.²

As part of its risk-based supervisory framework, OSFI evaluates FCBs against the expectations of this guideline and other guidelines applicable to FCBs.

¹ Pursuant to subsection 2(1) of the *Insurance Companies Act* (ICA), a foreign company means a body corporate incorporated elsewhere than in Canada under the laws of a foreign country, and an association or an exchange, the insurance of risks in Canada by which has been approved by order of the Superintendent under Part XIII of the ICA.

² Refer to OSFI's Internet Web site at http://www.osfi-bsif.gc.ca/osfi/index_e.aspx?ArticleID=526 for other guidelines.



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