

REINSURANCE COLLECTIONS AND COMMUTATIONS IN THE LIQUIDATION ESTATE OF SOUTHERN AMERICAN INSURANCE COMPANY, STATE OF UTAH

The “largest” reinsurer of Southern American Insurance Company in Liquidation (“SAIC”) was National Reinsurance Corporation (“NatRe”). NatRe wrote the largest number of reinsurance contracts (treaty only) and assumed the highest value of loss reserves of any other reinsurer.

General Reinsurance Corporation (“GenRe”) also assumed reinsurance from SAIC on facultative contracts but at a much smaller scale than NatRe.

NatRe and GenRe were eventually acquired by Berkshire Hathaway and a commutation agreement was complete in May, 2006 between SAIC and GenRe and included the Cologne Reinsurance Company of America and NatRe reinsurance coverage.

NatRe had a history of examining the SAIC claim files and conducted periodic audits up to 2004. NatRe was informed shortly after the Liquidation Order of SAIC in March, 1992 that SAIC was interested in commuting the reinsurance treaties. There were no further discussions until 1999 when case reserves and IBNR were established by SAIC for policy losses.

As claims were determined in the SAIC estate, reinsurance billings were sent to the applicable reinsurers. NatRe was very slow in paying its obligations to SAIC taking six to eight months of past due notices, telephone calls and e-mail contacts before collection of the reinsurance proceeds.

The commutation discussions began in earnest in late 1999. Visits were made to the Stamford, CT office of GenRe and New York City by the Deputy Liquidator and the Reinsurance Coordinator of SAIC, audits of SAIC’s claims files were conducted at SAIC’s office, numerous phone calls, and e-mails exchanged ~~with~~ resulting in empty promises of a forthcoming commutation agreement until March, 2006 when SAIC discovered our contact at GenRe had retired the previous year. Subsequently, SAIC was provided a new contact at GenRe and in May, 2006 the commutation agreement was executed. SAIC receive a wire transfer of the commutation funds on May 31, 2006 concluding an extremely long seven-year period of negotiations.

Another fairly large reinsurer of SAIC was Gerling Global Reinsurance Corporation of America (“GGRC”). GGRC also acquired another reinsurer of SAIC in 2000, Constitution Reinsurance Corporation.

In 1999, SAIC began to send reinsurers Notices of Claims and billings on determined claims. Immediately GGRC began setting defenses of late and inadequate notice and requested extensive claim information. A claims audit was scheduled and rescheduled several times at SAIC’s office. SAIC also proposed a commutation agreement in 2000.

During 2001 through 2003, GGRC underwent significant management changes and was very slow in paying SAIC's reinsurance billings. Between 2003 and mid-2005, intense negotiations were pursued. In early December, 2005 a commutation agreement was executed between Global Reinsurance Corporation – US Branch and SAIC. Receipt of commutation funds were received by wire transfer to SAIC on December 21, 2005.

Although all reinsurers were skeptical of paying their obligations to an insurance company in liquidation, there were numerous differences and excuses from reinsurers. Many reinsurers had merged with other companies, changed names, relocated, been placed under State supervision, etc. Some reinsurers have TPAs handle their assumed claims and others are pool participants handled by a pool manager. Each of these items result in further delays in collecting the reinsurance justly owing to an insurance company in liquidation.

The only outstanding reinsurance due to SAIC was \$58,000 owed by Aetna Insurance Company whose claims are handled by Resolute Management, Mid-Atlantic Division. Aetna Insurance Company was a participant under the Excess Casualty Reinsurance Association pool. The \$58,000 had been outstanding since November, 2007. The funds were received today so there is no outstanding reinsurance balances due to SAIC from active reinsurers.

Since reinsurance is usually the largest asset of an insurance liquidation estate, it is very important to keep in contact with reinsurers and keep good control of the reinsurance data. Once SAIC developed a reinsurance coverage and billing system (seven years into the liquidation proceedings before completion) most other assets had been liquidated. It took another seven years to collect and/or commute most of the reinsurance. As a result of the collections and commutations, SAIC has been able to make distributions to policy loss claimants of 90% of their allowed and Court-approved claims.

If you need additional names and/or details on reinsurance collections/commutations, please let me know.

Rheta Beach, Special Deputy Liquidator
Southern American Insurance Company in Liquidation
215 South State Street, Suite 300
Salt Lake City, UT 84111
Direct Phone: 801 799 7401
rbeach@utah.gov