

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PLATINUM UNDERWRITERS BERMUDA, LTD.,:

Petitioner,

v.

EXCALIBUR REINSURANCE CORPORATION
(f/k/a PMA CAPITAL INSURANCE CO.),

Respondent.

CIVIL ACTION NO.

2:12-MC-00070-PD

FILED

JUL 18 2013

MICHAEL E. KUNZ, Clerk
By _____ **Dep. Clerk**

JUDGMENT

Having come before the Court upon the following cross motions:

1. Petition of Platinum Underwriters Bermuda, Ltd. to Confirm Arbitration Award; and,
2. Cross-Petition of Excalibur Reinsurance Corporation to Vacate Arbitration Award;

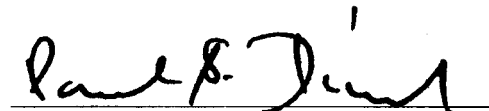
it is now ORDERED, ADJUDGED AND DECREED that Judgment is entered on the Final Award issued by a majority of the Panel on February 14, 2012 in favor of Platinum Underwriters Bermuda, Ltd. (Platinum) and against Excalibur Reinsurance Corporation (Excalibur) regarding the validity and interpretation of an Accident Year Aggregate Excess of Loss Reinsurance Agreement effective January 1, 2003 (2003 Contract) between Platinum and Excalibur. It is further ORDERED, ADJUDGED AND DECREED as follows:

1. The 2003 Contract remains in full force and effect and is not rescinded.
2. There is no language in the 2003 Contract which either excludes or specifically states that Platinum's 25% participation in the contract does not have the benefit of the deficit from the 1999-2001 contract. This is further supported by evidence that Arch Re (also a new reinsurer for the 2003 underwriting year) was approached by Excalibur's broker and gave their agreement to the deletion of subparagraph 1 (deficit carry forward from the 1999-2001 contract) in article 15 of the contract. No agreement to this proposed change in

Article 15 was ever given by Platinum, and both parties executed the contract with this provision contained in the wording.

3. The contract wording specifically mentions that the deficit from the 1999-2001 contract is to be carried forward into the 2003 Contract. There is no provision in the contract that provides for the adjustment of this December 31, 2001 deficit based upon the experience of the 2002 contract.
4. Upon Commutation of the 2003 Contract, Platinum is entitled to retain 25 percent of the amount of the deficit under the 1999-2001 contract (as valued at December 31, 2001) before the remainder of the Experience Account under the 2003 Contract is relinquished to Excalibur. Because the Experience Account under the 2003 Contract is maintained by Excalibur but is an asset of the reinsurers, including Platinum, Excalibur will effectuate Platinum's retention of 25 percent of the amount of the deficit under the 1999-2001 contract by paying that amount of money to Platinum.
5. Until Commutation of the 2003 Contract, Excalibur must pay when due all annual maintenance fees to Platinum as required by Article 10 of the 2003 Contract, Excalibur must also pay Platinum within 30 days of this Judgment any maintenance fees to which Platinum is entitled under the 2003 Contract that PMA has not already paid to Platinum.

SO ORDERED, ADJUDGED AND DECREED, this 18th day of July, 2013.


Paul S. Diamond, J.