

# CLYDE & CO

US LLP

The Chrysler Building  
405 Lexington Avenue  
New York, New York 10174  
Telephone: 212 710 3900  
Facsimile: 212 710 3950  
www.clydeco.us  
Stephen.Kennedy@clydeco.us

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OCT 09 2015	ELECTRONICALLY FILED
CHAMBERS OF HONORABLE PAULA A. CROTTY U.S.D.J.	DOC #:
	DATE FILED: 10-9-15

October 8, 2015

*10/9/15  
Odyssey's objections to Peter Recka are overruled. He meets the qualifications of Art. VIII Ex. A & B. Reinsurers request to address Phil. Miller*

**VIA ECF and FEDEX**

Hon. Paul A. Crotty  
United States District Court  
Southern District of New York  
500 Pearl Street, Chambers 1350  
New York, NY 10007

**Re: Odyssey Reinsurance Company ("OdysseyRe") v. Certain Underwriters at Lloyd's London Syndicate 53 and Reliastar Reinsurance Group (DK), a division of Reliastar Life Insurance Company (collectively, "Reinsurers") – Index No.: 13 CV 9014 (PAC)**

Dear Judge Crotty:

We represent Odyssey Reinsurance Company ("OdysseyRe") in the above-referenced litigation. We write to provide you with a brief update regarding this matter following the September 30, 2015 conference with Your Honor and to request Your Honor's assistance in resolving an impasse between the parties.

As Your Honor knows, the arbitration agreements at issue call for the underlying dispute to be heard by an arbitration panel consisting of three arbitrators who possess certain employment credentials. (See, e.g., Exhibit 1 at 6). Each member of the Panel must be an officer of a U.S. authorized insurance or reinsurance company writing workers' compensation business.

Last week, Reinsurers advised OdysseyRe for the first time that they had replaced their arbitrator, Robert Miller, with a new arbitrator – Peter A. Recka. (See Exhibit 2). Reinsurers

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represented to OdysseyRe that Mr. Recka is the President of LDG Reinsurance Corporation.  
(*Id.*).

Following the September 30, 2015 conference with Your Honor, the parties discussed sending out an updated questionnaire to umpire candidates asking them to disclose their relationships with the parties, party arbitrators and counsel. In connection with those discussions, OdysseyRe prepared and sent to Reinsurers on Friday, October 2, 2015 a proposed questionnaire that included Mr. Recka as their new arbitrator. Later that day, however, after OdysseyRe had determined that Mr. Recka is an officer of a broker and not an insurance or reinsurance company writing workers' compensation business in the U.S., OdysseyRe wrote to Reinsurers and advised that Mr. Recka did not appear to qualify and asked Reinsurers to explain the basis for their appointment of him. (*Id.* at 3).

Not having heard from Reinsurers, OdysseyRe followed up with them on Monday, October 5, 2015 requesting that they explain the basis for their appointment of Mr. Recka by the close of business on October 6, 2015 in light of the tight time constraints the parties were working under to send out the umpire questionnaires. (*Id.* at 2-3). OdysseyRe noted that if Mr. Recka did not qualify to serve on the panel, then it did not make any sense to send out umpire questionnaires asking umpire candidates to disclose their relationships with him. (*Id.* at 3). OdysseyRe then called Reinsurers' counsel on the evening of October 6, 2015 and left a voicemail asking to discuss the situation with counsel.

Reinsurers finally responded to OdysseyRe on October 7, 2015, five days after OdysseyRe sent its initial email concerning Mr. Recka's qualifications. In their response, Reinsurers took the position that Mr. Recka was qualified to serve because he was an officer of a company that had corporate affiliates that wrote workers' compensation business in the U.S. (*Id.* at 2). As an initial matter, that position was the same one that Reinsurers took with respect

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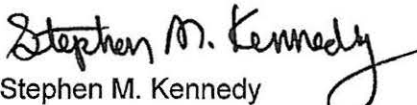
to Messrs. Turley and Loring as their umpire candidates. Given that fact, there was no justifiable reason why Reinsurers took five days to respond to OdysseyRe's email of October 2, 2015. In any event, Reinsurers' position finds absolutely no support in the arbitration agreements which expressly and unambiguously state the arbitrators must be officials of an insurance or reinsurance company to serve on the panel: "The arbitrators and umpire shall be officials of Insurance and or Reinsurance companies authorized to transact business in one or more states of the United States of America and writing the kind of business about which the difference has arisen [i.e., workers' compensation business]." (Ex. 1 at 6).

By appointing a replacement arbitrator who does not qualify under the plain terms of the arbitration agreements, Reinsurers have again caused further unnecessary delay in this arbitration. Moreover, their refusal to appoint a qualified arbitrator will result in an expensive, wasteful arbitration proceeding that subsequently would be vacated and then repeated.

In light of the foregoing, we respectfully request that Your Honor direct Reinsurers to appoint an arbitrator who meets the qualification requirements in the arbitration agreements so that the parties may proceed with sending out umpire questionnaires that identify party arbitrators who, unlike Mr. Recka, are qualified to serve on the panel.

We are available for a telephonic or in-person conference with Your Honor to discuss this matter. Thank you for Your Honor's time and consideration.

Respectfully submitted,

  
Stephen M. Kennedy

cc: William Maher, Esq. (via ECF and FedEx)  
Michael C. Ledley, Esq. (via ECF and FedEx)