

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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|---------------------------------|---|-----------------------------------|
| In re |) | Jointly Administered at |
| |) | Case No. 10-26576-TPA |
| |) | |
| RAY ANTHONY INTERNATIONAL, LLC, |) | Chapter 11 |
| |) | |
| Debtor. |) | |
| |) | |
| RAY ANTHONY INTERNATIONAL, LLC, |) | Related to Doc. No. 1034 and 1035 |
| |) | |
| Movant, |) | |
| |) | |
| v. |) | |
| |) | |
| LIBERTY SURPLUS LINES INSURANCE |) | |
| COMPANY, |) | |
| |) | |
| Respondent. |) | |
| |) | |

**OBJECTION OF LIBERTY SURPLUS LINES
INSURANCE COMPANY TO MOTION TO DISMISS
BANKRUPTCY CASE PURSUANT TO BANKRUPTCY CODE
SECTIONS 305(a)(1) AND 1112(d), AND RESERVATION OF RIGHTS**

Liberty Surplus Lines Insurance Company (“Liberty”), by its attorneys, objects to the *Motion To Dismiss Chapter 11 Bankruptcy Case Pursuant To Bankruptcy Code Sections 305(a)(1) And 1112 (b)* (the “Motion”), and requests that this case be converted to a case under Chapter 7 of the Bankruptcy Code.

Background

1. On September 15, 2010 (the “Filing Date”), Ray Anthony International, LLC (“Debtor”) filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (the “Bankruptcy Code”).

2. Before liquidating substantially all its assets, Debtor owned and operated a crane rental/leasing company.

3. Prior to the Petition Date, Liberty issued to Debtor certain insurance policies (collectively, the “Policies”). Significantly, the Policies include a self-insured retention provision (“SIR”), pursuant to which Debtor agreed to self-insure the first \$25,000 or \$100,000 (depending on the specific policy) of any claim. As such, Liberty’s contractual obligations to pay any claims that are tendered to Liberty for coverage are not triggered unless and until Debtor pays the applicable SIR in connection with the defense and/or indemnification in connection with each such claim.

4. Prior to and since the Filing Date, seven claimants have asserted various tort claims against Debtor (collectively, the “Tort Claims”) that have been tendered to Liberty for coverage under the Policies. Upon information and belief, only one of the holders of a Tort Claim has sought relief from the automatic stay to pursue its claims against Debtor in a non-bankruptcy forum to the extent of any available insurance proceeds.

Objection to Dismissal

5. Liberty objects to dismissal of this case because the “best interests of the creditors and the bankruptcy estate” will be best served if this case is instead converted to a case under Chapter 7. *See* 11 U.S.C. § 1112(b)(1). Indeed, dismissal of the Chapter 11 case will significantly prejudice Liberty, as well as other creditors, because:

- Only conversion of this case to a case under Chapter 7 would preserve certain enhanced rights in bankruptcy (*e.g.*, the ability to collect proceeds to satisfy outstanding SIR obligations) that would otherwise be lost if the case were dismissed;
- Without a Chapter 7 fiduciary in place, there would be no means by which cooperation in the defense of the Tort Claims, including, without limitation, access to Debtor’s records, could be effected; and

- Only conversion of this case to a case under Chapter 7 would permit an orderly liquidation of Tort Claims and an equitable distribution to the extent of Debtor's finite insurance assets.

Reservation of Rights

6. Liberty expressly reserves, and does not waive, all of its defenses, limitations and/or exclusions in connection with its contractual rights under the Policies, any contractual obligations of any party under the Policies, applicable law or otherwise. Liberty further reserves all rights to assert any and all such rights, defenses, limitations and/or exclusions in any appropriate manner or forum whatsoever (including, without limitation, any of its right to have any non-core matter relating to the interpretation of its contractual rights and Debtor's contractual obligations adjudicated by the appropriate United States District Court). Nothing contained in this Objection shall be deemed to expand any coverage that may otherwise be available under any insurance policies or any rights to payment under any settlements.

7. Liberty further reserves all of its rights to object to any claim for coverage under any of the Policies and/or any claim for payment under any settlement agreements, and/or to seek declaratory and/or injunctive relief to the extent that treatment of the contractual rights and obligations violates any terms or conditions of any of the Policies and/or settlements or gives rise to any claims or defenses on behalf of Liberty.

8. Nothing in these Objections shall be construed as an acknowledgment that any of the Policies or pre-petition settlement agreements, if any, cover or otherwise apply to any claims, losses or damages on account of any claims or otherwise, or that any such claims or causes of action are eligible for payment. Liberty reserves the right to seek an adjudication that Debtor has waived or forfeited any available coverage under the Policies.

9. Finally, Liberty reserves its right to amend, modify or supplement its objection to the Motion in response to, or as a result of any investigation and/or discovery being conducted in connection with the Motion or otherwise in this case filed by any creditor or party-in-interest. Liberty also reserves the right to adopt any other objections to approval of the Motion filed by any other creditor or party in interest.

Conclusion

For the foregoing reasons, Liberty respectfully requests the entry of an order denying the Motion; converting this case to a case under Chapter 7; and for such other and further relief that this Court deems necessary and just.

Dated: November 22, 2011

Respectfully submitted,

/s/ Ronald B. Roteman

Ronald B. Roteman

PA ID 66809

Stonecipher Law Firm

125 First Avenue

Pittsburgh, PA 15222

ph. 412-391-8510, x-828

fax. 412-391-8522

rroteman@stonecipherlaw.com

and

Leonard P. Goldberger

John C. Kilgannon

STEVENS & LEE, P.C.

1818 Market Street

29th Floor

Philadelphia, PA 19103-1702

Telephone: (215) 575-0100

Fax: (610) 371-7376

Email: lpg@stevenslee.com

*Attorneys for Liberty Surplus Lines
Insurance Company*