

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK
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In re

Chapter 11

PRUDENTIAL LINES, INC.,

Case No.: 86-B-11773 (AJG)

Confirmed Debtor.

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**ORDER DENYING ASBESTOS CLAIMANTS' MOTION TO EXTEND THE
TERM OF THE PLI DISBURSEMENT TRUST AND FOR OTHER RELIEF**

Upon consideration of the motion of the Asbestos Claimants, by their attorneys, the Maritime Asbestosis Legal Clinic, a division of the Jaques Admiralty Law Firm, P.C., to extend the term of the PLI Disbursement Trust (the "Trust") for five (5) years or, in the alternative, to affirm the authority, powers and discretion of the PLI Disbursement Trustee (the "Trustee") after the Trust is terminated, and to permit the current Trustee to resign (the "Motion"); and upon consideration of the objections to the Motion timely received from the Trustee and a creditor, American Steamship Owners Mutual Protection and Indemnity Association, Inc. (the "Objections") and a hearing having been held before this Court on May 12, 2010 to consider the Motion and the Objections; and the Court

having heard all interested parties; and sufficient cause having been shown therefore, for the reasons set forth on the record as modified and corrected by the Court in Exhibit "A" attached hereto, it is hereby

ORDERED that the Motion is DENIED in all respects.

Dated: New York, New York

May 17, 2010

s/Arthur J. Gonzalez

HONORABLE ARTHUR J. GONZALEZ

CHIEF UNITED STATES BANKRUPTCY JUDGE

EXHIBIT “A”

The Court presumes the parties’ familiarity with the facts of this case. An extension of the 20-year term for the existence of the PLI Disbursement Trust (the “Trust”) is a modification of the confirmed plan. The Trust was created under the plan and it is governed by the plan. The rights and obligations of the Trust and its trustee (the “Trustee”) are governed by the plan as well. The plan clearly states that the Trust shall exist for no more than 20 years. A 5-year extension beyond the agreed upon termination date would constitute a significant alteration to the rights and obligations of the Trust and other interested parties. Having determined that a 5-year extension of the life of the Trust is a plan modification, MALC, as neither the plan proponent nor the reorganized debtor, lacks standing to move for this extension under Section 1127(b).

Further, to the extent Rule 9006 were applicable, which the Court believes it is not, Rule 9006 does not authorize the Court to approve the extension of time requested by MALC. Using Rule 9006 to modify the length of the term of the Trust that has been agreed upon and included in a confirmed plan would be improper. The term of the Trust is not mentioned in the plan confirmation order. Rule 9006 applies to deadlines or time limits for a party to take an action. The expiration of the term of a trust does not qualify as an act to be carried out by anyone. The Court reads Rule 9006 to apply to time limits established in the Bankruptcy Rules or time limits to take some specific action under an order of the court.

Even if one were to apply Rule 9006 in this case, MALC has not established the requisite “excusable neglect.” The expiration date of the Trust has been established and well-known to all parties since the confirmation of the plan. MALC does not present any

valid reason that these issues could not have been resolved during the 20-year period of the Trust. The fact that the settlement agreement referenced by MALC was not reached in time to resolve all the remaining claims prior to the expiration of the Trust is a function of the strategies that the parties pursued over the past 20 years. That fact does not lead to a finding of excusable neglect, but simply reflects the consequences that flow from the terms of the plan and the actions taken by the parties. All interested parties have been long-aware of the termination date of the Trust and knew that there was a limited amount of time to resolve claims either by litigation or settlement.

Having found that a 5-year extension is a plan modification and that MALC lacks the requisite standing, the motion to extend the life of the PLI Disbursement Trust is denied. Further, the Court finds that Rule 9006 is not applicable to the expiration of the Trust and that even if Rule 9006 did apply, relief under that rule would not be warranted.

MALC's proposed alternative of an affirmation of the Trustee's authority to resolve claims and conclude insurance disputes after the Trust is terminated would require the Court to issue either an advisory opinion or a declaratory judgment about the scope of the Trustee's role after the expiration of the term of the Trust. Thus, procedurally, this issue is not properly before this Court. Even if the Court were to accept MALC's invitation to rule on this issue, the proposal is based on a misunderstanding of Article 8 of the Trust Agreement. Article 8 grants the Trustee the authorization to make final distributions after termination of the Trust. It does not grant the Trustee the power to continue to consider the validity or value of unresolved claims. The principles of contract law apply here, and under New York law, a court should seek a sensible meaning for the words of a contract. *Kass v. Kass*, 91 N.Y.2d 554, 566 (quoting

Atwater & Co. v. Panama R.R. Co., 246 NY 519, 524, 159 N.E. 418 (1927)). In this instance, it would not be sensible to give the words of Article 8 of the Trust Agreement a meaning that would effectively render the provisions calling for the termination date of the Trust meaningless. However, as previously stated, the issue is not properly before the Court. Therefore, the Court declines to rule on that part of the motion that seeks the alternative relief regarding the scope of the Trustee's authority.