

Proposed Stipulation And Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re : **Chapter 11**
RCN CORPORATION, : **Case No. 04-13638 (RDD)**
Debtor. :
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**STIPULATION AND ORDER REGARDING THE ALLOWANCE
AND SATISFACTION OF CLAIM NO. 1264 OF ST. PAUL FIRE
AND MARINE INSURANCE COMPANY AND ITS AFFILIATES**

This Stipulation and Order dated as of February 2, 2005 is entered into between St. Paul Fire and Marine Insurance Company and its affiliates (“St. Paul”) and RCN Corporation (“RCN”), the reorganized debtor in the above captioned chapter 11 case.

RECITALS

A. For the policy period beginning October 1, 1997 through March 1, 2000 and from August 26, 2000 through October 15, 2004, St. Paul issued to RCN and certain of its affiliates certain workers compensation, general and commercial automobile liability, inland marine and errors and omissions insurance policies (“Policies”) as further described in the exhibit to St. Paul’s Claim (defined below).

B. RCN and certain solvent non-debtor subsidiaries (the “Non-Debtor Subsidiaries”) have payment obligations under the Policies and the related premium payment agreements between RCN, the Non-Debtor Subsidiaries and St. Paul (together with the Policies, and related documents, the “Insurance Program”), which prescribe calculation and payment of premium and reimbursement obligations. Payment obligations under certain Policies are based on actual loss experience of RCN and certain of its affiliates as insureds. For those coverages, RCN initially paid an estimated premium and then was required to make

payments to St. Paul based on actual losses and expenses and reimbursement of deductible amounts, subject to contractual limitations.

C. As required under the Insurance Program, St. Paul is the beneficiary of an irrevocable letter of credit issued by JP Morgan Chase, no. P22677, in the amount of \$500,000 (“LOC”). The LOC, a cash deposit in the amount of \$100,000 (“Deposit”), and a loss fund (“Loss Fund”) in the amount of \$100,000 support the obligations of RCN to St. Paul under the Insurance Program.

D. On May 27, 2004, RCN and certain of its affiliates filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (“Bankruptcy Code”).

E. St. Paul filed a Proof of Claim, No. 1264, dated August 9, 2004 (“Claim”), asserting a claim against RCN Corporation for obligations under the Insurance Program in an unliquidated amount.

F. By Order dated December 8, 2004, the Bankruptcy Court entered an order confirming the Joint Plan of Reorganization of RCN Corporation and Certain Subsidiaries (the “Plan”).

G. On December 21, 2004 (the “Effective Date”), RCN and certain of its debtor affiliates consummated various transactions contemplated by the Plan, including funding of the exit facility, and formally emerged from chapter 11.

H. The parties have exchanged information and held discussions regarding the calculation of the Claim. St. Paul and RCN have agreed to the allowed amount and payment of the Claim, the return of the LOC undrawn, and to exchange releases on the terms described in this Stipulation. Approval of this Stipulation will avoid litigation regarding the

calculation and allowance of St. Paul's Claim and terminate the LOC, with a corresponding release of collateral to RCN which currently supports RCN's reimbursement obligations to the LOC issuer.

THEREFORE, subject to Bankruptcy Court approval, the parties agree as follows (including and incorporating the recitals set forth above):

1. St. Paul's Claim. St. Paul's Claim is hereby reduced and allowed in the amount of \$245,772 ("Allowed Claim Amount").

2. Satisfaction of St. Paul's Claim. St. Paul's Allowed Claim Amount will be satisfied by (a) the application of the Deposit and the monies in the Loss Fund and (b) the payment by RCN of \$45,772, on behalf of itself and the Non-Debtor Subsidiaries in immediately available funds within three (3) business days after Final Approval of this Stipulation. Promptly upon receipt of the payment from RCN, St. Paul will return the LOC to the issuer undrawn and, if requested, with instructions to cancel or terminate the LOC.

3. Release by RCN. Effective upon Final Approval (defined below), RCN, on behalf of itself and its estate, and its affiliates as insureds, hereby releases and discharges St. Paul and their parents, subsidiaries, and affiliates and their present and former officers, directors, shareholders, administrators, agents, and employees, and their representatives, predecessors, successors, and assigns ("St. Paul Released Parties") from all causes of action, claims, liabilities, and demands of every kind and nature, whether known or unknown, asserted or unasserted, that RCN and its estate and its affiliates as insureds and each of their representatives, successors, and assigns ever had, now have, or may have, against the St. Paul Released Parties or any of them by reason of any act, omission, transaction, or occurrence, arising out of or related to the administration, reserving, underwriting, pricing,

billing, or calculation and collection of premium or other charges under the Insurance Program.

4. Release by St. Paul. Effective upon Final Approval, St. Paul hereby releases and discharges RCN and its estate, its parents, subsidiaries (including the Non-Debtor Subsidiaries) and affiliates, and their present and former officers, directors, shareholders, administrators, agents, and employees, and their representatives, predecessors, successors, and assigns (“RCN Released Parties”) from all causes of action, claims, liabilities, and demands of every kind of nature, whether known or unknown, asserted or unasserted, that St. Paul and their representatives, successors, and assigns ever had, now have, or may have, against the RCN Released Parties or any of them by any act, omission, transaction, or occurrence, arising out of or related to the administration, reserving, underwriting, pricing, billing, or calculation and payment of premium or other charges under the Insurance Program.

5. Limitation of Release. Notwithstanding the terms of this Stipulation, including the releases provided in paragraphs 3 and 4 of this Stipulation, (a) St. Paul shall continue to investigate, administer, and, if required, pay claims covered by the Policies, and the rights of holders of covered claims shall not be impaired or modified by this Stipulation; (b) RCN and its affiliates as insureds and their estates if any, and their representatives, successors, and assigns, shall cooperate in such actions and continue to perform their non-financial obligations as provided under the Policies; (c) St. Paul’s obligation to provide reports and other information to RCN and its affiliates as insureds shall terminate; and (d) St. Paul’s rights, defenses, and obligations concerning claims and coverage shall remain as provided in the Insurance Program.

6. Additional Documents. Each party shall execute and deliver such additional documents and instruments and take such actions as are reasonably necessary to effect the intent and purposes of this Stipulation.

7. Entire Agreement. This Stipulation constitutes the entire agreement between and among the parties and there are no other understandings, representations, or agreements, oral or otherwise, concerning the subject matter of this Stipulation.

8. Authorization. Each person executing the Stipulation on behalf of a party represents that such person is duly authorized and empowered to execute the Stipulation on behalf of such party. Upon Final Approval, the Stipulation will be binding upon and will inure to the benefit of the parties and their respective representatives, successors, and assigns, including any trustee, examiner, or other similar person appointed in this or any subsequent bankruptcy case.

9. Only Written Amendments. This Stipulation cannot be changed or terminated orally.

10. No Admission. Neither this Stipulation nor any statement made, action or position taken, or document prepared in connection with the negotiation, execution, or implementation of this Stipulation is, or will be deemed to be or construed as, an admission by any party to this Stipulation of any liability, act, or matter or that any claim or defense has or lacks merit.

11. Bankruptcy Court Approval. This Stipulation will be of no force or effect unless it is approved by a final, non-appealable order of the Bankruptcy Court (“Final Approval”). RCN agrees to promptly seek approval of this Stipulation on appropriate notice.

12. Counterparts. This Stipulation may be signed by the parties in counterpart originals with the same force and effect as if fully and simultaneously signed on a single original document, facsimile signatures will be treated as originals for all purposes.

MILBANK, TWEED, HADLEY & McCLOY
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SO ORDERED:

THIS ____ DAY OF _____ 2005

UNITED STATES BANKRUPTCY JUDGE