

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:09-CV-00060

COUNTY OF BRUNSWICK, )  
Plaintiff, )  
 )  
v. )  
 )  
LEXON INSURANCE COMPANY, )  
Defendant. )

ORDER

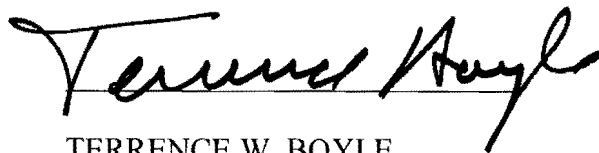
Considering the Defendant’s unopposed Motion for Approval of Supersedeas Bond, the Defendant’s Motion for Stay of Execution of Judgment and the attached supersedeas bond filed by Lexon Insurance Company, as principal;

IT IS HEREBY ORDERED that the supersedeas bond filed by Lexon Insurance Company [bond # 0145951] is approved.

IT IS FURTHER ORDERED that pursuant to F.R.C.P. 62, execution of the May 19, 2010 Judgment is STAYED pending disposition of the appeal to the United States Court of Appeals for the Fourth Circuit.

SO ORDERED.

This 14 day of October, 2010.



TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

C.A. No. 7:09-CV-00060

BOND# 0145951

COUNTY OF BRUNSWICK, )  
 )  
 )  
 Plaintiff, )  
 )  
 -vs- )  
 )  
 LEXON INSURANCE COMPANY, )  
 )  
 )  
 Defendant. )

**SUPERSEDEAS BOND**  
**For Stay of Proceedings to Enforce**  
**Judgment**  
**Rule 62 Fed.R.Civ.P.**

**Recitals**

WHEREAS, a judgment was entered in the above-captioned case on May 19, 2010, in the United States District Court, Eastern District of North Carolina, against Defendant Lexon Insurance Company and in favor of Plaintiff, County of Brunswick.

WHEREAS, Lexon Insurance Company, timely filed a notice of appeal of this judgment to the United States Court of Appeals for the Fourth Circuit and desires to suspend enforcement of the judgment pending determination of the appeal.

WHEREAS, on August 10, 2010, this Court entered its Order [Doc. 80] granting Lexon leave until August 30, 2010 to file a new Supersedeas Bond.

**Promise to Pay**

NOW THEREFORE, as a result of the facts just recited:

**Lexon Insurance Company**, as Principal, and **BERKLEY REGIONAL INSURANCE COMPANY**, as Surety, which has an office and usual place of business at 412 MT. KEMBLE AVE SUITE 310 N MORRISTOWN NJ 07960, each undertakes and promises to pay to the **County of Brunswick**, as Obligee, all damages, costs and interest that may be awarded to it

following the appeal of this matter up to the MAXIMUM amount of Four Million Fifty-Eight Thousand Eight Hundred Six and 43/100 Dollars (\$4,058,806.43), if:

- a. the judgment so appealed is affirmed;
- b. the appeal is dismissed; or
- c. Lexon Insurance Company fails to pay promptly all sums awarded against it in or following the appeal in this action.

Notwithstanding, if Lexon Insurance Company fulfills the obligations on appeal set forth above or the judgment is reversed or otherwise vacated, then this obligation will be null and void. Otherwise, the obligation will remain in full force and effect.

Signed on August 20, 2010.

Lexon Insurance Company.

Principal

By: Craig H. Kuhl

Its: SVP & COO

ATTEST:

Gregory E. Semson

Its: VICE PRESIDENT

BERKLEY REGIONAL INSURANCE COMPANY

Surety

By: [Signature]

Its: SAM H. NEWBERRY ATTORNEY-IN-FACT

APPROVED: October 21, 2010

[Signature]

Clerk, United States District Court,  
Eastern District of North Carolina

POWER OF ATTORNEY  
BERKLEY REGIONAL INSURANCE COMPANY BOND# 0145951  
WILMINGTON, DELAWARE

NOTICE: The warning found elsewhere in this Power of Attorney affects the validity thereof. Please review carefully.

KNOW ALL MEN BY THESE PRESENTS, that BERKLEY REGIONAL INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Delaware, having its principal office in Urbandale, Iowa, has made, constituted and appointed, and does by these presents make, constitute and appoint: *Sam H. Newberry, Traci O'Sullivan, Kelly M. McLeod, Brooke A. Knowles, Tanya T. Harrelson or Shawana G. Trammell of The Surety Group Agency, LLC of Atlanta, GA* its true and lawful Attorney-in-Fact, to sign its name as surety only as delineated below and to execute, seal, acknowledge and deliver any and all bonds and undertakings, with the exception of Financial Guaranty Insurance, providing that no single obligation shall exceed **Twenty-five Million and 00/100 Dollars (\$25,000,000.00)**, to the same extent as if such bonds had been duly executed and acknowledged by the regularly elected officers of the Company at its principal office in their own proper persons.

This Power of Attorney shall be construed and enforced in accordance with, and governed by, the laws of the State of Delaware, without giving effect to the principles of conflicts of laws thereof. This Power of Attorney is granted pursuant to the following resolutions which were duly and validly adopted at a meeting of the Board of Directors of the Company held on August 21, 2000:

"RESOLVED, that the proper officers of the Company are hereby authorized to execute powers of attorney authorizing and qualifying the attorney-in-fact named therein to execute bonds, undertakings, recognizances, or other suretyship obligations on behalf of the Company, and to affix the corporate seal of the Company to powers of attorney executed pursuant hereto; and further

RESOLVED, that such power of attorney limits the acts of those named therein to the bonds, undertakings, recognizances, or other suretyship obligations specifically named therein, and they have no authority to bind the Company except in the manner and to the extent therein stated; and further

RESOLVED, that such power of attorney revokes all previous powers issued on behalf of the attorney-in-fact named; and further

RESOLVED, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligation of the Company; and such signature and seal when so used shall have the same force and effect as though manually affixed. The Company may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Company, notwithstanding the fact that they may have ceased to be such at the time when such instruments shall be issued."

IN WITNESS WHEREOF, the Company has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 3 day of February, 2010.

Attest:  
  
(Seal) By [Signature]  
Ira S. Lederman  
Senior Vice President & Secretary

Berkley Regional Insurance Company  
By [Signature]  
Robert P. Cole  
Senior Vice President

WARNING: THIS POWER INVALID IF NOT PRINTED ON BLUE "BERKLEY" SECURITY PAPER.

STATE OF CONNECTICUT )  
 ) ss:  
COUNTY OF FAIRFIELD )

Sworn to before me, a Notary Public in the State of Connecticut, this 3 day of February, 2010, by Robert P. Cole and Ira S. Lederman who are sworn to me to be the ~~Senior Vice President~~ and the Senior Vice President and Secretary, respectively, of Berkley Regional Insurance Company.

NOTARY PUBLIC  
MY COMMISSION EXPIRES ON SEP 30, 2012  
Eileen Kuzem  
Notary Public, State of Connecticut

CERTIFICATE

I, the undersigned, Assistant Secretary of BERKLEY REGIONAL INSURANCE COMPANY, DO HEREBY CERTIFY that the foregoing is a true, correct and complete copy of the original Power of Attorney; that said Power of Attorney has not been revoked or rescinded and that the authority of the Attorney-in-Fact set forth therein, who executed the bond or undertaking to which this Power of Attorney is attached, is in full force and effect as of this date.

Given under my hand and seal of the Company, this 20 day of AUGUST, 2010.

(Seal) [Signature]  
Steven Coward