

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

03-E-0106

In the Matter of the Rehabilitation of  
The Home Insurance Co.

LIMITED OBJECTION OF REHABILITATOR TO  
INTERNATIONAL PAPER COMPANY AND MASONITE CORPORATION'S  
MOTION TO WITHDRAW AS INTERVENING PARTY

Paula Rogers, Commissioner of the New Hampshire Insurance Department and rehabilitator of The Home Insurance Company, pursuant to Order of this Court dated March 5, 2003, by her attorneys, the Office of the Attorney General, hereby objects to International Paper Company and Masonite Corporation's Motion to Withdraw as Intervening Party. The Rehabilitator objects on a limited basis because she believes that IP&MC's Motions should be denied or withdrawn with prejudice.

IP&MC have asked to withdraw their IP&MC Motions without prejudice because the issues raised therein have become moot. Regardless of when the issues became moot, it would appear that IP&MC now agree with the Rehabilitator that the issues IP&MC raised are moot.

Because the facts cannot undo themselves, IP&MC's moot issues should not become un-moot in the future. Additionally, either stay relief is necessary or it is not; but IP&MC should make up their minds about it one way or the other. Their indecision about it is burdensome to the rehabilitation and perhaps also to the Court. Thus, it is appropriate for this Court to indicate the withdrawal of the IP&MC Motions as "with prejudice" or simply to deny them altogether. Such a result would

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be fair to the Rehabilitator, would be in the best interests of The Home and the rehabilitation, and would prevent IP&MC from misusing this Court's jurisdiction. *See In re MacDonald*, 489 U.S. 180, 184 (1989) (court can enter orders to ensure that its resources are allocated in a way that promotes the interests of justice); RSA 402-C:5, I, (c), (d) & (k) (court can grant orders that protect rehabilitation, insurer and its assets); *accord* RSA 402-C:6 (court can order costs and fees in favor of rehabilitator). Obviously, if IP&MC encounter some new issue that they could not bring up in their Motions, they should be free to seek to intervene again and raise them. But as far as the clarification issues and the stay relief requested in the IP&MC Motions, further pleading on those questions should be barred.

WHEREFORE, the Rehabilitator prays that this Court enter an Order either denying the IP&MC Motions or allowing their withdrawal, "with prejudice", and granting such other and further relief as may be just.


Respectfully submitted,

PAULA T. ROGERS, COMMISSIONER  
THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF INSURANCE

By her attorneys,

PETER W. HEED  
ATTORNEY GENERAL

Dated: April 23, 2003

By:   
Peter C.L. Roth  
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CERTIFICATE OF SERVICE

I, Peter C.L. Roth, do hereby certify that on April 23, 2003 I served a true copy of the foregoing upon Sherilyn Burnett Young, Esq., Rath, Young & Pignatelli, 1 Capital Plaza, Concord, NH 03301, and Martin Honigberg, Esq., Sulloway & Hollis, 9 Capitol Street, Concord, NH 03301, by first class mail, postage prepaid.

Dated: April 23, 2003

  
Peter C.L. Roth