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March 1, 2005

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**Re: *In The Matter Of The Liquidation Of The Home Insurance
Company
Docket No. 03-E-0106***

Dear Mr. Warmuth:

We write in response to your letter of February 23, 2005.

As a threshold matter, we disagree with your contention that neither you nor Zurich has an obligation to respond to ACE's document requests. Zurich has submitted a claim in this insolvency proceeding, filed an affidavit before the Court, and participated in the negotiation of the Proposed Agreement, and thus may not jettison its discovery obligations.

With regard to your attorney-client privilege, work product, and "joint-defense agreement" claims, your letter misses the point. ACE's Document Request No. 1 called for documents regarding the Proposed Agreement, not regarding the arbitration proceedings referenced in your letter. Those arbitration proceedings are, in themselves, irrelevant to the matter before the Court. If Zurich has withheld documents responsive to Document Request No. 1 on grounds of privilege, it is Zurich's burden to provide ACE with a privilege log.

ACE disagrees with your contention that documents containing or relating to communications with other AFIA Cedents are protected by a "common interest privilege." Under applicable New Hampshire law, the common interest privilege would only extend to communications between Zurich and an attorney or attorney representative of another AFIA Cedent. N.H. Sup. Ct. R. 35 (b)(2). Even if the withheld communications were between Zurich and other AFIA Cedents' attorneys, no privilege attaches because the AFIA Cedents do not share the type

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of common interest that would trigger the privilege under New Hampshire law. To the extent that your "joint defense agreement" claim encompasses communications with other AFIA Cedents regarding the Proposed Agreement, such communications are subject to production as well.

Zurich also has objected to ACE's Document Requests to the extent that compliance with them would require Zurich to review all documents pertaining to Agrippina's Ruddy Pool Participation and produce documents which Zurich alleges are already in the possession of ACE. For the avoidance of any doubt, ACE is not now, nor was it ever, seeking documents relating to the Ruddy Pool. ACE's requests relate solely to your affidavit and the Proposed Agreement. The Proposed Agreement was negotiated within a discrete time frame by a small number of individuals, so the volume of documents directly relating to the Proposed Agreement cannot be extensive. Moreover, it would not impose an undue burden for Zurich to be required to review documents relating to matters that Zurich itself has raised by relying upon them in your affidavits. Zurich also may not withhold documents merely because of its unilateral suspicion that such documents are already in ACE's possession.

In light of your threat of sanctions (which we believe has no merit), it is apparent that ACE and Zurich are unable to reach agreement with regard to these matters. Accordingly, a motion to compel appears to be necessary.

Very truly yours,



Ronald L. Snow

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