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THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT

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IN THE MATTER OF )  
 )  
THE LIQUIDATION OF THE ) MERRIMACK SS  
HOME INSURANCE COMPANY ) DOCKET NO. 03-E-0106  
 )  
 )

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DEPOSITION OF RHYDIAN WILLIAMS  
Friday, June 3, 2005  
AT: 10.00 am

Taken at:  
Lovells  
Atlantic House  
50 Holborn Viaduct  
London EC1A 2FG  
United Kingdom

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1 point 9, that you've written the word "no" in answer to the  
2 question:  
3 "Is there any set-off counterclaim or other  
4 defense which should be deducted by the Home from your  
5 claim?"  
6 What did you mean by that?  
7 A. I meant that in terms of that particular  
8 question, no was an appropriate answer. There is additional  
9 information in point 8 that has been redacted.  
10 Q. Okay. And who redacted the information in  
11 point 8?  
12 A. My counsel?  
13 MR. GORDON: Do you know who did it?  
14 A. No.  
15 Q. Okay, well can you tell me, do you recall what  
16 was in point 8, if you didn't redact it and your counsel  
17 didn't redact it?  
18 A. There's a reference to the set-off arrangement  
19 that had been created through a commutation contract.  
20 Q. Can you explain what that arrangement was?  
21 A. (Discussion with counsel) The Equitas had  
22 been in negotiation with the Home prior to Home's  
23 liquidation. That negotiation continued after the Home's  
24 liquidation carried out by the counterparty managers, and as  
25 part of that negotiation, an amount of set-off allowed

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1 within the estate was determined, and that formed part of  
2 the commutation contract, and is subject to the presentation  
3 of various claims and conditions.  
4 Q. What was the amount of the set-off that was  
5 agreed?  
6 A. 20 million.  
7 Q. Is that in relation to AFIA liabilities or  
8 non AFIA?  
9 A. AFIA liabilities principally. Actually,  
10 20 million is AFIA liabilities.  
11 Q. Just so that I'm clear, you and Home have  
12 established that the amount of Home's claim against Equitas  
13 is \$20 million?  
14 A. Home's claim against --  
15 Q. Sorry, Equitas's claim against Home is  
16 \$20 million for set-off purposes?  
17 A. For set-off purposes.  
18 Q. Who negotiated that agreement?  
19 A. That would be Karen Amos.  
20 Q. Other than in relation to set-off, is there  
21 any other aspect of the commutation contract that deals with  
22 AFIA related liabilities?  
23 A. Not to my knowledge.  
24 Q. Have you provided a copy of that commutation  
25 contract to your counsel?

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1 A. I can't recall.  
2 Q. And how did you fix the claim at \$20 million  
3 for set-off purposes?  
4 A. I didn't fix it.  
5 Q. Okay, do you know how it was fixed?  
6 A. Through negotiation.  
7 Q. Okay. Do you know whether there are any  
8 documents that reflected that negotiation?  
9 A. I haven't seen any.  
10 Q. And if there were, who would have had them?  
11 A. It would be Karen Amos.  
12 Q. Okay. Did you ask Miss Amos to provide those  
13 documents to Mr. Gordon?  
14 A. I can't recall.  
15 MR. GORDON: Note for the record that counsel for  
16 Lovells agreed that we would not be producing documents  
17 relating to the commutation or the set-off.  
18 MR. LEE: I think we'll have to agree to disagree  
19 on that one again.  
20 MR. GORDON: Counsel for ACE, I meant.  
21 Q. When was that commutation entered into?  
22 A. The commutation contract was signed  
23 January 04.  
24 MR. BOUFFARD: I'm sorry, what was the answer  
25 again?

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1 A. I think the commutation contract was signed  
2 January 04.  
3 Q. Is that before you executed the agreement  
4 that's referred to in your affidavit?  
5 A. I'd have to be reminded of the date of --  
6 before I executed the agreement? I can't recall when the  
7 agreement was signed.  
8 Q. Do you know whether Equitas sought to set off  
9 larger than \$20 million from Home?  
10 A. Yes, it did.  
11 Q. Do you recall what you were initially seeking  
12 by way of set-off?  
13 A. I believe 40 million plus.  
14 Q. Is there a document that would reflect what  
15 you were originally seeking?  
16 A. Probably.  
17 Q. Is the \$20 million a crystalized number, in  
18 other words is it a hard number?  
19 A. Yes, it is.  
20 Q. Does Home have any claims against Equitas?  
21 A. No.  
22 Q. Just to be clear, Home is not a creditor in  
23 any way of any Equitas syndicate?  
24 A. No, it isn't, because we've commuted our  
25 liabilities.

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1 transpired that any benefit arising out of that ringfencing  
2 would have to be shared with creditors worldwide anyway.  
3 Q. Well, are there any -- I'll use this term  
4 because you used this term: are there any UK creditors other  
5 than AFIA cedents that you're aware of?  
6 A. Not to my knowledge.  
7 Q. So the committee in this case that was formed  
8 in the UK joint provisional liquidation was formed for the  
9 purpose of protecting the interests of the AFIA cedents?  
10 A. Its initial thrust was, yes.  
11 Q. Did that ever change?  
12 A. When the ringfence idea -- from the ringfence  
13 idea, where it seemed as though that was not viable and  
14 there would be a remission of the assets to the US, and  
15 a sole single liquidation, then the opportunity to look --  
16 to be more introverted, to look for the benefits of purely  
17 the AFIA cedents, I think that changed at that stage.  
18 Q. What was the force that brought about the  
19 change, or what were the forces that brought about the  
20 change, or the developments that brought about the change?  
21 A. Well, if we weren't going to deal with the UK  
22 branch as a separate liquidation, then even though we would  
23 still want some contribution from our efforts to protect  
24 claims over and above offset, then clearly we would be  
25 sharing that benefit with US and worldwide creditors.

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1 (Exhibit Williams 16 marked for identification)  
2 Q. Mr. Williams, do you recognize exhibit 16?  
3 A. No, I do not.  
4 Q. Take a look at the last page, if you would,  
5 page 16.  
6 A. Yes.  
7 Q. Does the document bear the signature of  
8 Jeremy Heap?  
9 A. Yes, it does.  
10 Q. Is this the reinsurance commutation agreement  
11 between the Home and Equitas that you referred to earlier in  
12 your testimony today?  
13 A. I've never seen the document before, insofar  
14 as it appears to be -- and signed by Jeremy Heap, then yes,  
15 it is.  
16 Q. Well, I want you to take the time that you  
17 need to to just confirm that.  
18 MR. GORDON: I'm going to object, the witness said  
19 he's never seen the document before, how can he confirm it?  
20 Q. Well, you work under Mr. Heap in reinsurance  
21 recovery at Equitas, is that correct?  
22 A. That's correct, yes.  
23 Q. Did you work on the reinsurance commutation  
24 agreement between --  
25 A. (Shakes head).

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1 Q. You did not?  
2 MR. GORDON: You need to say no.  
3 A. Sorry, no.  
4 Q. That was Miss Amos that did that, is that your  
5 understanding?  
6 A. That's correct.  
7 Q. So if I had questions about aspects of this  
8 that were redacted, such as paragraph 6 and paragraph 10,  
9 I believe, Miss Amos would be the person to ask about that?  
10 MR. GORDON: Or the liquidator.  
11 Q. Well, on Equitas's side.  
12 A. I believe Karen Amos would be familiar with  
13 this document.  
14 Q. Is there anyone else at the company besides  
15 Miss Amos and Mr. Heap that would be familiar with the  
16 document and could testify about that?  
17 A. Robert Fleming probably.  
18 MR. GORDON: I'm going to object to the form of  
19 the question when you say "could testify about that".  
20 Q. Would have knowledge about the contents of the  
21 document, how about that?  
22 A. Yes.  
23 MR. LESLIE: Mr. Bouffard, I can represent on  
24 behalf of the liquidator that Mr. Rosen will be prepared to  
25 testify when you depose him as to the set-off provisions

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1 that are contained in this agreement.  
2 MR. BOUFFARD: Fair enough.  
3 MR. LEE: But for the sake of the record,  
4 Equitas's understanding of the set-off provisions up to the  
5 time that it executed this reinsurance agreement are highly  
6 relevant to our questioning of Mr. Williams, and his  
7 assertions relating to offset and prosecuting the claim up  
8 to offset.  
9 MR. GORDON: For the sake of the record, you said  
10 earlier there was an agreement as to the scope of discovery  
11 which excluded commutation and set-off, and to the extent  
12 it's relevant to Mr. Williams' affidavit, you've asked him  
13 everything.  
14 MR. BOUFFARD: Let me just say, I'm not party to  
15 any agreement about scope of discovery. You may have had  
16 some sort of an agreement with counsel for ACE, but I'm here  
17 deposing this witness and I haven't agreed to any limitation  
18 on examination concerning commutation.  
19 MR. GORDON: And I haven't stopped you from asking  
20 any question yet, but if you go too far afield -- because  
21 the commutation agreement is not relevant to this  
22 proceeding -- I will object.  
23 In any event, Mr. Williams was questioned  
24 extensively this morning about his knowledge of the  
25 commutation and the set-off, and what he knew and what he