

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS**

**SUPERIOR COURT**

**Docket No. 03-E-0106**

**In the Matter of the Liquidation of  
The Home Insurance Company**

**LIQUIDATOR'S REPORT ON ISSUES  
FOR MAY 12 STATUS CONFERENCE**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), submits this report concerning depositions and witness identification in advance of the May 12, 2005 status conference in this matter.

1. Deposition schedule. On April 14, 2005, Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company, and ACE American Reinsurance Company (the "ACE Companies") advised the Liquidator of the individuals that they seek to depose, and the Liquidator's counsel consulted with the deponents in the New Hampshire and UK liquidation teams and at Equitas and Zurich concerning their availability. The ACE Companies and the Liquidator have agreed on the following deposition schedule, which we understand is also agreeable to Benjamin Moore & Co. ("BMC"):

- Peter Bengelsdorf – May 24, 2005 in New York;
- Rhydian Williams – June 3, 2005 in London;
- Jonathan Rosen – June 14, 2005 in New York;
- Gernot Warmuth – June 28, 2005 in London;
- Gareth Hughes – June 29, 2005 in London; and
- Sarah Ellis – June 30, 2005 in London.

2. The ACE Companies have also issued a notice of deposition for "Paula Rogers, Liquidation Clerk." This notice is puzzling in that Ms. Rogers left the Insurance Department on

August 15, 2003, and had no involvement with the Agreement with AFIA Cedents. The requested deposition is beyond the discovery permitted by the Order on Remand, and the Liquidator will file a motion for protective order against any deposition of Ms. Rogers.

3. BMC has not yet responded to the Liquidator's May 3, 2005 request for confirmation that it does not seek to depose any individuals other than those specified above.

4. Scope of depositions. During the discussion of the offer of proof procedure at the March 4, 2005 conference, counsel for the ACE Companies noted that an offer of proof would "very much limit the scope of the depositions." Transcript of March 4, 2005 hearing at 18 (attached as Exhibit A). The Liquidator's Offer of Proof, which sets forth the evidence the Liquidator intends to submit in support of the motion for approval of the Agreement, was filed on April 29, 2005. The Offer of Proof included verifications by Peter Bengelsdorf, Gareth Hughes, Jonathan Rosen, Rhydian Williams, and Gernot Warmuth, each of whom verified certain paragraphs and each of whom is to be deposed. In order to avoid delay and disputes during the depositions, the scope of the depositions should be limited to matters covered by the Offer of Proof.<sup>1</sup>

5. ACE/BMC witnesses. On April 29, 2005, the Liquidator asked the ACE Companies and BMC to confirm that they do not intend to call any witnesses at the evidentiary hearing in this matter or, if there are any such witnesses, to identify them and provide a summary of their testimony so the Liquidator may object to their being called or depose them in an orderly fashion. At this point, neither has responded. As the Liquidator filed the Offer of Proof on April 29, 2005, the ACE Companies and BMC should be required to respond to the Liquidator's

---

<sup>1</sup> The Liquidator will serve requests for admissions drawn from the Liquidator's Offer of Proof to facilitate and expedite these proceedings by identifying areas of dispute in advance of the hearing in this matter.

inquiry as expeditiously as possible to permit depositions or objections to proceed without disruption to the present schedule.

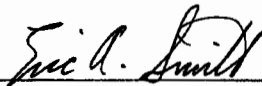
Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE  
COMMISSIONER OF THE STATE OF NEW  
HAMPSHIRE, AS LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

KELLY A. AYOTTE  
ATTORNEY GENERAL

Suzanne M. Gorman  
Senior Assistant Attorney General  
Civil Bureau  
33 Capitol Street  
Concord, New Hampshire 03301-6397  
(603) 271-3650



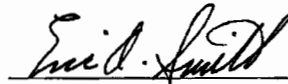
---

J. David Leslie, pro hac vice  
Eric A. Smith, pro hac vice  
Rackemann, Sawyer & Brewster  
One Financial Center  
Boston, MA 02111  
(617) 542-2300

May 9, 2005

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Report On Issues For May 12 Status Conference was sent, this 9th day of May, 2005, by first class mail, postage prepaid to all persons on the attached service list.

A handwritten signature in cursive script, appearing to read "Eric A. Smith", is written above a horizontal line.

Eric A. Smith

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

SERVICE LIST

Ronald L. Snow, Esq.  
Orr & Reno  
One Eagle Square  
P.O. Box 3550  
Concord, New Hampshire 03302-3550

Gary Lee, Esq.  
Pieter Van Tol, Esq.  
Lovells  
16<sup>th</sup> Floor  
900 Third Avenue  
New York, New York 10022

Gail M. Goering, Esq.  
Adam Goodman, Esq.  
Eric Haab, Esq.  
Lovells  
One IBM Plaza  
330 N. Wabash Avenue, Suite 1900  
Chicago, Illinois 60611

Andre Bouffard, Esq.  
Eric D. Jones, Esq.  
Downs Rachlin Martin PLLC  
199 Main Street  
P.O. Box 190  
Burlington, Vermont 05402-0190

Peter G. Callaghan, Esq.  
Preti, Flaherty, Beliveau, Pachos & Haley, PLLP  
57 North Main Street  
P.O. Box 1318  
Concord, New Hampshire 03302-1318

Martin P. Honigberg, Esq.  
Suloway & Hollis, P.L.L.C.  
9 Capitol Street  
P.O. Box 1256  
Concord, New Hampshire 03302-1256

George T. Campbell, III, Esq.  
Robert A. Stein, Esq.  
Robert A. Stein & Associates, PLLC  
One Barberry Lane  
P.O. Box 2159  
Concord, New Hampshire 03302-2159

David M. Spector, Esq.  
Dennis G. LaGory, Esq.  
Kristy L. Allen, Esq.  
Schiff Hardin LLP  
6600 Sears Tower  
Chicago, Illinois 60606

Jack B. Gordon, Esq.  
Fried, Frank, Harris, Shriver  
& Jacobson, LLP  
1001 Pennsylvania Avenue  
Washington, D.C. 20004

Andrew W. Serell, Esq.  
Rath, Young and Pignatelli  
One Capital Plaza  
P.O. Box 1500  
Concord, New Hampshire 03302-1500