

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 RESPONSE TO
BENJAMIN MOORE & CO.'S DOCUMENT REQUESTS

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby responds to the Benjamin Moore & Co.'s First Set of Requests to Produce to Home Insurance Company in Liquidation dated October 13, 2004 ("BMC Document Request").

Preliminary Statement

The Liquidator responds to the BMC Document Request in accordance with the Order on Remand entered October 8, 2004. The Court there directed that, in the present circumstances and pending clarification of the New Hampshire Supreme Court's order entered September 13, 2004, "the parties may conduct discovery limited to the necessity, reasonableness, and fairness of the agreement." Order on Remand at 13. See *id.* at 14 ("The parties may conduct discovery limited to the necessity, fairness, and reasonableness of the compromise and agreement.").

General Objections

Each response below is made subject to the following general objections even though the objections are not specifically referred to therein:

1. The Liquidator incorporates the Liquidator's general objections to the definitions and instructions in Benjamin Moore & Co.'s First Set of Interrogatories to

Home Insurance Company in Liquidation as set forth in the Liquidator's Answers and Objections to Benjamin Moore & Co.'s Interrogatories ("Liquidator's BMC Answers").

2. The Liquidator objects to the BMC Document Request to the extent it seeks documents protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege.

3. The Liquidator objects to the additional definitions and instructions set forth in the BMC Document Request as they purport to impose obligations beyond those imposed by the New Hampshire Superior Court Rules.

4. Except as specified in the responses below, the Liquidator objects to producing documents created after February 11, 2004, as not relevant to the necessity, reasonableness, and fairness of the Agreement, beyond the scope of discovery permitted by the Order on Remand, overbroad and unduly burdensome. The Motion for approval of the Agreement was served on February 11, 2004, and litigation with the ACE Companies and BMC over the Motion began shortly thereafter.

5. Except as specified in the responses below, the Liquidator objects to producing documents created before September 1, 2003 as not relevant to the necessity, reasonableness, and fairness of the Agreement, beyond the scope of discovery permitted by the Order on Remand, overbroad and unduly burdensome.

6. With respect to electronic records, the Liquidator has printed out e-mails presently existing on the Home liquidation computer system and the New Hampshire Insurance Department computer system within the responses below and is investigating the availability of backup information from those systems. The Special Deputy Liquidator has provided his electronic records within the responses below. The

Liquidator has requested and the Joint Provisional Liquidators have printed out e-mails presently existing on the Ernst & Young computer system within the responses below. The Liquidator has been informed by the Joint Provisional Liquidators that further backup information is not available. The Liquidator objects to further attempts to retrieve electronic records as unduly burdensome.

Responses and Objections to Requests for Production

1. All documents that refer or relate to any alternatives to the Agreement identified in response to BMC's Interrogatory No. 1.

Response: The Liquidator reasonably construes this request to ask for documents concerning the two alternatives to the Agreement that were considered for recovery of indemnity or reinsurance with respect to claims under the AFIA Treaties as set forth in the Liquidator's answer to BMC's Interrogatory 1. The Liquidator will produce responsive documents.

2. All documents that refer or relate to any estimates of reinsurance recoverable by Home on the risk ceded to Home through the Home UK Branch.

Response: The Liquidator reasonably construes this request to ask about estimates of indemnity or reinsurance recoverable by the Liquidator or Joint Provisional Liquidators with respect to claims under the AFIA Treaties as set forth in the Liquidator's answer to BMC Interrogatory 4. The Liquidator will produce responsive documents, if any. For the sake of clarity, the Liquidator notes that information concerning the potential ultimate gross liabilities under the AFIA Treaties – and thus potential obligations of ACE – was received from ACE-INA Services U.K. Limited ("ACE-INA") in various forms, and that the information was reviewed and evaluated in considering the Liquidator's approach to the AFIA situation. That information assumed that the AFIA

Cedents would pursue claims as they had prior to Home's liquidation, and it did not constitute an estimate of reinsurance recoverable by the Liquidator or Joint Provisional Liquidators. The Liquidator objects to providing that information and evaluation as not relevant to the necessity, reasonableness, and fairness of the Agreement, beyond the scope of discovery permitted by the Order on Remand, and unduly burdensome.

3. All proofs of claim identified in response to BMC's Interrogatory No. 9.

Response: The Liquidator reasonably construes this request to refer to BMC's Interrogatory 8. The Liquidator objects to this request as not relevant to the necessity, reasonableness, and fairness of the Agreement, beyond the scope of discovery permitted by the Order on Remand, and unduly burdensome.

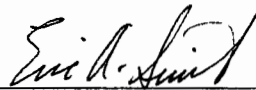
Respectfully submitted,

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

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Date: November 24, 2004

THE STATE OF NEW HAMPSHIRE

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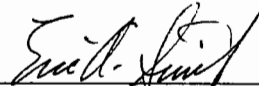
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CERTIFICATE OF SERVICE

I hereby certify that on November 24, 2004, a copy of the Liquidator's Response to Benjamin Moore & Co.'s Document Requests was served upon the persons named on the attached Service List, by first class mail, postage prepaid.

Dated: November 24, 2004



Eric A. Smith

THE STATE OF NEW HAMPSHIRE

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