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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  
 )  
 )  
-----

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 A. I believe so.

2 Q. Am I right that Equitas did not file a proof  
3 of claim for its non AFIA related claims?

4 A. Yes, that's correct.

5 Q. Has anybody at Equitas discussed its set-off  
6 position with any AFIA cedent?

7 A. Not to my knowledge.

8 Q. Have you discussed filing a proof of claim in  
9 the Home liquidation with any AFIA cedent?

10 A. Yes.

11 Q. Okay, with whom?

12 A. With other AFIA cedents. Sorry, the precise  
13 number and names I can't recall, all of them, but it would  
14 have included the XS, Unionamerica and English & American.

15 Q. Do you have any notes that reflect those  
16 conversations?

17 A. Yes.

18 Q. Have those been provided to your counsel?

19 A. Yes.

20 Q. Who were your discussions with at XS?

21 A. Who with at XS?

22 Q. Yes.

23 A. I can't recall the precise names, names are  
24 not my strong point. I'd need to look at attendance lists.

25 Q. Okay. Were those discussions in

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1 meetings or --

2 A. Yes.

3 Q. Did the AFIA cedents meet independently of  
4 meetings with Ernst & Young?

5 A. Yes.

6 Q. Okay. And were there attendance notes made of  
7 those meetings?

8 A. There would be notes made, what they would --  
9 I can't recall formal notes or minutes being published, no.

10 Q. Do you recall how many such meetings there  
11 were?

12 A. Not precisely, no.

13 Q. More than five?

14 A. I would have said a handful of meetings.

15 Q. And beyond Unionamerica, XS and English &  
16 American, who else would have been present at those  
17 meetings?

18 A. If we can go through -- have you got some  
19 lists there? It's part of the pack that --

20 Q. Was Zurich present?

21 A. Oh yes, sorry, Agrippina and Wurttembergische  
22 were represented by Gernot Warmuth; G-e-r-m-a-n-o-t  
23 W-a-r-m-u-t-h, I think.

24 Q. And all of your attendance notes of those  
25 meetings were provided to Mr. Gordon?

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1 A. Yes.

2 Q. And any meeting notes that were prepared for  
3 the group were provided to Mr. Gordon?

4 A. Yes.

5 Q. Do you recall when the first such meeting took  
6 place?

7 A. Precisely no, it would have been early  
8 October 03.

9 Q. So prior to early October 03, there were not  
10 any meetings of the AFIA cedents that you were aware of?

11 A. I can't recall there being formal meetings

12 Q. Did you have telephone conversations with any  
13 of the AFIA cedents prior to that date?

14 A. I can't recall.

15 Q. In relation to proofs of claim, what did you  
16 discuss with them at the first such meeting, if you can  
17 recall?

18 A. Whether we should embark upon presenting any  
19 proofs of claim.

20 Q. And who raised that suggestion?

21 A. I can't recall.

22 Q. Was there a consensus at that first meeting?

23 A. A consensus on what?

24 Q. On whether or not to file proofs of claim.

25 A. I think there was, there was a feeling that if

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1 the estate wasn't going to produce a dividend for class V  
2 creditors, that few people could see any benefit, if any at  
3 all, to present claims beyond offset.

4 Q. What was Equitas's offset in October of 2003?

5 MR. GORDON: Asked and answered.

6 A. As I've said before, my understanding was  
7 upwards of 40 million.

8 Q. Did you have any discussions with anybody at  
9 KPMG regarding whether or not English & American were going  
10 to file a proof of claim in the Home liquidation?

11 A. I might have, yes.

12 Q. Do you recall with whom?

13 A. Probably Sarah Ellis.

14 Q. Do you recall what was discussed?

15 A. I was under the impression that English &  
16 American's claim was of the order of 20 million, quite  
17 significant, but then I also learned that there was  
18 a counterclaim of 20 million back to them, so it would have  
19 been discussed in that context, that they were likely to  
20 present a proof of claim because they would want to realize  
21 their maximum offset.

22 Q. Okay. Do you recall having a discussion with  
23 Andrew Brannon in relation to whether or not Mentor would  
24 file a proof of claim?

25 A. No, I can't recall that.

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1 Q. Do you recall having a discussion with anybody  
 2 at Riverstone regarding whether they would file a proof of  
 3 claim?  
 4 A. I can't recall precise discussions, but  
 5 Riverstone and XS and others who participated in meetings of  
 6 the AFIA creditors were quite vociferous in terms of the  
 7 amount of detail they wanted to hand over to the Home, and  
 8 what they would or would not do as far as presenting a proof  
 9 of claim was concerned.  
 10 Q. Was there any discussion of the length of time  
 11 it would take to file a proof of claim in any of those  
 12 meetings?  
 13 A. In the pure AFIA meetings?  
 14 Q. Yes.  
 15 A. I think there was a lot of comment that this  
 16 was not going to be an easy process, no one liked having to  
 17 present claims, especially with the detail, and difficulty  
 18 faced with presenting claims to ACE in the past.  
 19 Q. Did any AFIA cedent tell you they wouldn't  
 20 file a proof of claim?  
 21 A. I can't recall them saying that they wouldn't,  
 22 I think the positions were reserved.  
 23 Q. Did any AFIA cedent tell you that they would  
 24 file a proof of claim?  
 25 A. The comments in respect of filing proofs of

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1 claim were very much up to the level of offset, everyone was  
 2 very guarded as to what would happen beyond that.  
 3 Q. Did any AFIA cedent communicate to you their  
 4 set-off position?  
 5 A. I'd learned that English & American had  
 6 a significant offset position.  
 7 Q. When did you learn that?  
 8 A. One of the meetings.  
 9 Q. In relation to Equitas's offset position, do  
 10 you recall what -- whether there was a breakdown in the  
 11 \$40 million number between unpaid paid, outstandings and  
 12 IBNR?  
 13 A. I wasn't party to the detail, so no.  
 14 MR. LESLIE: Gary, if this is convenient, can we  
 15 take a quick break?  
 16 MR. LEE: Sure.  
 17 (11.31 am)  
 18 (A short break)  
 19 (11.45 am)  
 20 Q. So did you discuss whether Equitas would file  
 21 a proof of claim with anybody at Ernst & Young?  
 22 A. Yes, although I can't recall the precise  
 23 details.  
 24 Q. With whom did you discuss that?  
 25 A. With Sarah Ellis and Gareth Hughes.

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1 Q. Do you recall the first time you had that  
 2 discussion?  
 3 A. No.  
 4 Q. Do you recall what you said to Sarah Ellis  
 5 generally?  
 6 A. Generally, we were concerned about what  
 7 presenting a proof of claim would mean to ourselves; whether  
 8 it would be retractable, what our options were, whether it  
 9 limited us in some way.  
 10 Q. Did you have the same kind of conversations  
 11 with Gareth Hughes?  
 12 A. Yes.  
 13 Q. Do you recall when those discussions took  
 14 place generally?  
 15 A. Back end of 2003.  
 16 Q. Did you discuss whether Equitas would file  
 17 a proof of claim with anybody at Home -- at the Home?  
 18 A. Sorry, can you repeat the question?  
 19 Q. Did you discuss whether Equitas would file  
 20 a proof of claim with anybody at the Home?  
 21 A. I can't recall.  
 22 Q. Did you discuss it with Pete Bengelsdorf?  
 23 A. I honestly can't recall.  
 24 Q. Did you discuss it with Jonathan Rosen?  
 25 A. I can't recall.

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1 Q. I'd like to mark as Williams 4 for  
 2 identification five letters from Gareth Hughes care of you,  
 3 care of Rhydian Williams, I think they're Bates numbered  
 4 A521 through 525.  
 5 (Exhibit Williams 4 marked for identification)  
 6 Q. Do you recall receiving these letters?  
 7 A. Yes.  
 8 Q. Just turning to point 2, Mr. Hughes asks for  
 9 your advice as to whether or not you intend to file a proof  
 10 of claim in the Home estate.  
 11 A. Mm.  
 12 Q. Did you respond to Mr. Hughes?  
 13 A. I can't recall responding in writing.  
 14 Q. Did you respond orally?  
 15 A. We would have had a discussion about it.  
 16 Q. Do you recall how soon after July 31st 2003  
 17 you had that discussion?  
 18 A. No, I can't.  
 19 Q. What did you tell him?  
 20 A. That we would probably file a proof of claim  
 21 up to the amount of offset.  
 22 Q. Was that conversation, do you know, in August  
 23 of 2003?  
 24 A. I can't remember.  
 25 Q. Okay. Would you have recorded that

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1 but -- as I understand it, that's his estimate, it might  
 2 have been.

3 Q. Did you have any discussions with the other  
 4 AFIA cedents about what the ballpark set-off number would  
 5 be?

6 A. Yes, I might -- yes, I did. We tried to  
 7 elicit from the AFIA cedents what the respective positions  
 8 were.

9 Q. Was that during these meetings, or outside of  
 10 the meetings?

11 A. That would be in AFIA creditors' meetings  
 12 only, not in the Home liquidation meetings, not in the  
 13 informal creditors' committee meetings. Some were very coy  
 14 as to what the values were. We were aware of our particular  
 15 involvement, and we estimated it would be upwards of --  
 16 between 50 and 100 million.

17 Q. That was your involvement or the total value  
 18 of the set-off?

19 A. No, our involvement, as we said earlier, was  
 20 about 40 million, so with the others, it would be up to  
 21 100 million or so.

22 Q. Did anybody else tell you what their set-off  
 23 number was?

24 A. English & American were upfront about it.

25 Q. And they told you it was how much?

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1 A. 20 million.

2 Q. Did XS tell you?

3 A. No, I can't recall that.

4 Q. Did Gernot Warmuth tell you?

5 A. I can't recall him saying specifically  
 6 a number, no.

7 Q. Did he give you a range?

8 A. I can't recall a range, but I believe he said  
 9 that there was some set-off.

10 Q. Did anybody else tell you what their set-off  
 11 amount was?

12 A. If they did, I can't recall the precise  
 13 numbers.

14 Q. Okay. Did you do your own calculation of the  
 15 set-off, you personally?

16 A. No.

17 Q. I'd like to mark as Williams 7 for  
 18 identification a document with Bates numbers A813 through  
 19 844.  
 20 (Exhibit Williams 7 marked for identification)

21 Q. I'm not going to take you through the whole  
 22 thing.

23 A. Thank you.

24 Q. I just have a couple of questions. Who sent  
 25 you the original spreadsheets that are referred to in this

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1 e-mail?

2 A. Sarah Ellis of Ernst & Young.

3 Q. There is a reference in here to Home's  
 4 actuary, who's that?

5 A. I don't know.

6 Q. But is it right that the worksheets that are  
 7 encompassed by this e-mail were based on information  
 8 provided to you by Home's actuary?

9 A. According to Sarah Ellis, yes.

10 Q. So turn to page A817, and there's -- there are  
 11 a number of assumptions, but if you could just look at the  
 12 fifth assumption, which says:  
 13 "Cedents collective offset against Home."  
 14 Then it has a number, 100 million:  
 15 "Estimate for purposes of illustration."  
 16 Where did that \$100 million number come from?

17 A. That would have been presented as part of the  
 18 original pack from Sarah Ellis.

19 Q. Okay. And has that, to the best of your  
 20 knowledge, number changed?

21 A. Changed in what sense?

22 Q. Is that estimate still correct?

23 A. I've no idea.

24 Q. Have you had any subsequent discussions with  
 25 AFIA cedents regarding the total value of their offset?

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1 A. Subsequent to when?

2 Q. Subsequent to execution of the agreement.

3 A. No.

4 Q. Who is Simon Merrett?

5 A. Simon Merrett is a colleague who works for me.

6 Q. What's his job?

7 A. He assists me in the work associated with  
 8 insolvent companies.

9 Q. What is he responsible for?

10 A. Sorry?

11 Q. Is he responsible for anything specifically?

12 A. There are a number of insolvent estates that  
 13 he is specifically responsible for.

14 Q. Are any of them in the US?

15 A. No.

16 Q. Did he have any involvement in relation to the  
 17 Home liquidation on behalf of Equitas?

18 A. He assisted me on occasions to -- he's useful  
 19 for bouncing ideas off.

20 Q. Okay. What's Mr. Fleming's title at Equitas?

21 A. I think it's inhouse solicitor.

22 Q. Can I mark as Williams 8 for identification  
 23 a document with Bates numbers A531 through 543?  
 24 (Exhibit Williams 8 marked for identification)

25 Q. Have you seen this document before?