

**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 ASSENTED-TO MOTION FOR STAY OF CONSIDERATION  
OF UNITED STATES DEPARTMENT OF LABOR'S PROOF OF CLAIM**

NOW COMES Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), and moves that the Court enter an order staying consideration of all matters concerning the U.S. Department of Labor's Proof of Claim No. 700090-01 in this proceeding. As reasons therefor, the Liquidator states:

1. The United States Department of Labor ("DOL") filed a proof of claim (No. 700090-01) in the Home liquidation. The Liquidator issued a notice of determination and, after DOL requested review, a notice of redetermination. DOL then filed the U.S. Department of Labor's Notice of Pending Federal Action To Resolve Its Objection To Liquidator's Notice of Redetermination Regarding Proof Of Claim No. GOVT 700090-01 dated December 22, 2010 (the "Objection") (attached as Exhibit A) regarding its claim.

2. DOL has also filed a declaratory judgment action concerning the claim in the United States District Court for the District of New Hampshire, Hilda L. Solis, Secretary, United States Department of Labor v. The Home Insurance Company and Roger A. Sevigny, New Hampshire Insurance Commissioner, as Liquidator of The Home Insurance Company, C.A. No. 1:10-cv-572 (D. N.H.).

3. DOL has moved in the federal action for a preliminary injunction against proceedings in the state court regarding its proof of claim while the federal action (including any appeals) is pending. During a telephonic conference with the United States District Court on December 28, 2010, and in order to permit orderly proceedings, DOL agreed it would not rely on any stay in the state court in the federal action and the Liquidator agreed to move the state court to stay the state proceedings regarding DOL's claim during the pendency of the federal action. On entry of an order so staying the state proceedings, the DOL will withdraw its motion for a preliminary injunction in the federal action as moot.

4. The Liquidator accordingly requests that the Court enter an order staying consideration of all matters regarding DOL's proof of claim during the pendency of the federal action.

5. Counsel for the Liquidator and counsel for DOL have conferred, and DOL assents to the relief sought in this motion.

WHEREFORE, the Liquidator respectfully requests that this Court grant this Motion and enter an Order in the form submitted herewith staying consideration of all matters concerning DOL's proof of claim during the pendency of the federal action.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE  
COMMISSIONER OF THE STATE OF  
NEW HAMPSHIRE, SOLELY AS  
LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,  
By his attorneys,  
MICHAEL A. DELANEY  
ATTORNEY GENERAL

J. Christopher Marshall  
NH Bar ID No. 1619  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, NH 03301-6397  
(603) 271-3650



J. David Leslie  
NH Bar ID No. 16859  
Eric A. Smith  
NH Bar ID No. 16952  
Rackemann, Sawyer & Brewster  
160 Federal Street  
Boston, MA 02110  
(617) 542-2300

December 30, 2010

Certificate of Service

I hereby certify that a copy of the foregoing Assented-to Motion for Stay was sent, this 30th day of December, 2010, by first class mail, postage prepaid to all persons on the attached service list.



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

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**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**

**U.S. DEPARTMENT OF LABOR'S NOTICE OF PENDING FEDERAL ACTION TO  
RESOLVE ITS OBJECTION TO LIQUIDATOR'S NOTICE OF REDETERMINATION  
REGARDING PROOF OF CLAIM NO. GOVT 700090-01**

The United States Department of Labor (DOL) notifies this Court that Hilda L. Solis, Secretary of the United States Department of Labor, has filed an action against The Home Insurance Company (Home) and Roger A. Sevigny, New Hampshire Insurance Commissioner and Liquidator of Home (Liquidator), in the United States District Court for the District of New Hampshire.<sup>1</sup> The federal action seeks declaratory and injunctive relief to resolve DOL's dispute with the Liquidator and Home regarding the treatment of DOL's Proof of Claim No. GOVT 700090-01 (DOL's claim). DOL, as an agency of the "federal sovereign," has invoked its "virtually absolute right to litigate claims brought either by or against it in the federal, rather than the state, courts," and intends to resolve its dispute with the Liquidator and Home in the pending federal action. Hudson Sav. Bank v. Austin, 479 F.3d 102, 106 (1st Cir. 2007).

DOL has also moved in the federal action for a preliminary injunction to enjoin the Liquidator and Home from participating in any proceedings in this Court regarding DOL's claim until the conclusion of the pending federal action, including but not limited to, making any report or recommendation to this Court respecting DOL's claim, or in any other way seeking or prompting this Court to adjudicate the merits or priority of DOL's claim. (Dkt. No. 5, Dec. 22,

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<sup>1</sup> The federal action is styled Solis v. The Home Ins. Co., Case No. 1:10-cv-572 (D.N.H.).



2010, Solis v. The Home Ins. Co., Case No. 1:10-cv-572 (D.N.H.)). DOL's requested injunction would not prohibit the Liquidator and Home from moving in this Court to stay Home's insolvency proceeding with respect to DOL's claim or advising this Court of the status of the federal action.

DOL does not submit its dispute with the Liquidator and Home to be decided in this Court, nor does DOL intend to initiate the disputed claim proceedings described at N.H. RSA 402-C:41 and in this Court's January 19, 2005 "Restated and Revised Order Establishing Procedures Regarding Claims Filed with The Home Insurance Company in Liquidation." For purposes of preserving DOL's right to object to the Liquidator's October 28, 2010 Notice of Redetermination regarding DOL's claim, this Notice may be construed as an Objection to that Notice of Redetermination.

Respectfully submitted,

TONY WEST  
Assistant Attorney General  
J. CHRISTOPHER KOHN  
Director  
RUTH A. HARVEY  
Assistant Director



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KYLE A. FORSYTH  
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Civil Division  
United States Department of Justice  
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Tel. (202) 307-0452  
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Attorneys for the U.S. Department of Labor

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing "U.S. Department of Labor's Notice of Pending Federal Action to Resolve its Objection to Liquidator's Notice of Redetermination Regarding Proof of Claim No. Govt 700090-01" was served today on the following person(s) via First Class U.S. Mail, postage prepaid:

J. David Leslie  
Rackeman Sawyer & Brewster  
160 Federal Street  
Boston, MA 02100-1700

J. Christopher Marshall  
Department of Justice  
State of New Hampshire  
33 Capitol Street  
Concord, NH 03301-6397

Peter Bengelsdorf, Special Deputy Liquidator  
For Roger A. Sevigny, Liquidator  
of The Home Insurance Company  
P.O. Box 1720  
Manchester, NH 03105-1720

Dated: December 22, 2010

  
\_\_\_\_\_  
KYLE A. FORSYTH

**THE HOME INSURANCE COMPANY IN LIQUIDATION**

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

October 28, 2010

POC #: GOVT700090-01

Amount Allowed: \$2,672,527.00

US Department of Labor Longshore Special Fund  
200 Constitution Ave NW  
RM C 4315  
Washington, DC 20210

**ACKNOWLEDGMENT OF RECEIPT**

I hereby acknowledge receipt of the Notice of Redetermination as a Class III Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Redetermination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

☐ I agree to the Redetermination.

☒ I have not assigned any part of this claim.

☒ I have not made any other recoveries with respect to this claim.

☒ I have not sought and do not intend to seek any other recoveries with respect to this claim.

☐ I have made recovery from others with respect to this claim (full details must be included with this Acknowledgement).

☐ I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

☐ Same name as above.

New name Kyle A. Forsyth  
U.S. Dept. of Justice

\_\_\_\_ Same address as above  
New address P.O. Box 875  
Washington, DC 20044

This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: Kyle A. Forsyth

Print Name: Kyle A. Forsyth

Title: Trial Attorney, U.S. Dept. of Justice

Date: Dec. 22, 2010