

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

No. 03-E-0106

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

**LIQUIDATOR'S SUBMISSION ADDRESSING ONE ISSUE
RAISED AT HEARING ON SWAN'S MOTION TO RECOMMIT**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby responds to one issue raised for the first time at the September 23, 2011 hearing on the Motion to Recommit of claimant Swan Transportation Company f/b/o Swan Asbestos and Silica Settlement Trust (collectively "Swan").

1. At the hearing, the parties discussed the September 18, 2003 Order on Inspiration/Phelps Dodge's motion seeking to have a \$2.5 million pre-liquidation settlement with Home paid in full. The September 18, 2003 Order is attached as Exhibit C to the Liquidator's Objection to Swan Transportation Company's Motion to Recommit (filed July 28, 2009). The September 18, 2003 Order denied Inspiration/Phelps Dodge's motion and assigned the settlement debt to policy claim priority.

2. At the hearing, Swan contended, for the first time, that notwithstanding the September 18, 2003 Order, the Liquidator had allowed the Inspiration/Phelps Dodge claim in the amount of \$15 million, not the settlement amount of \$2.5 million. Swan cited to the Order Approving Settlement Agreement with Freeport-McMoRan dated March 21, 2011, as basis for this assertion. A copy of that order is attached hereto as Exhibit 1.

3. The Liquidator has now investigated, and Swan's assertion is erroneous. The Liquidator did not allow the claim for more than the settlement amount. The pre-liquidation

2003 settlement at issue in the September 18, 2003 Order was recommended for allowance as a Class II claim of Inspiration Consolidated Copper Co. c/o Terra Industries, Inc. in the amount of \$2,400,100 in the Liquidator's Report of Claims and Recommendations dated June 6, 2005 (filed June 17, 2005), which was approved by Order dated June 24, 2005. A copy of the pertinent page of the claims report is attached hereto as Exhibit 2. (The \$2,400,100 amount is less than the \$2.5 million because the Arizona Property and Casualty Guaranty Association paid the claimant \$99,900 on the settlement, which represented that Association's \$100,000 limit less a \$100 deductible.)

4. The 2011 Freeport-McMoRan settlement to which Swan referred does not address the claims settled by the 2003 Inspiration/Phelps Dodge settlement. It resolved (a) different environmental claims under the Phelps Dodge policies, and (b) additional environmental claims under another line of policies issued to a separate company, Kennecott Copper Corporation. The 2003 settlement agreement was attached as Exhibit D to Inspiration Consolidated Copper Company, Phelps Dodge Corporation and Phelps Dodge Miami, Incorporated's Petition to Intervene (filed June 5, 2003). By its terms, the 2003 settlement agreement resolved all claims regarding environmental contamination at the Pinal Creek Site under policies issued to either Inspiration or Phelps Dodge (2003 Settlement Agreement § 4), but it generally released other environmental claims only under policies issued to Inspiration (2003 Settlement Agreement § 5.3). It thus left open non-Pinal Creek environmental claims by Phelps Dodge.

5. The 2011 settlement agreement was attached as Exhibit A to the Liquidator's Motion for Approval of Settlement Agreement with Freeport-McMoRan (filed March 14, 2011). The 2011 settlement agreement addressed environmental claims both under policies issued to Phelps Dodge and under policies issued to another predecessor of Freeport-McMoRan,

Kennecott Copper Corporation (2011 Settlement Agreement, first and third unnumbered Whereas Clauses). The 2011 settlement agreement resolved non-Pinal Creek Phelps Dodge environmental claims left open by the 2003 settlement agreement as well as claims under policies issued to Kennecott, which is only involved because Freeport-McMoRan succeeded to the interests of both Phelps Dodge and Kennecott.

6. Swan's assertions regarding the Liquidator's treatment of the 2003 settlement are thus incorrect. The 2011 settlement referred to at the hearing involved different claims and additional policies from the 2003 settlement, which was allowed in the 2003 settlement amount less guaranty association payment. For these reasons, in addition to those presented in the Liquidator's Objection and at argument, the Liquidator requests that the Referee's Order on the Merits be sustained.

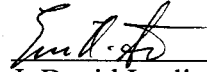
Respectfully submitted,

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

By his attorneys,

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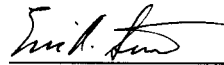


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September 26, 2011

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Submission Addressing one Issue Raised at Hearing on Swan's Motion to Recommit was sent, this 26th day of September, 2011, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith
NH Bar ID No. 16952

THE STATE OF NEW HAMPSHIRE

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The Home Insurance Company
Docket No. 03-E-0106

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[PROPOSED]

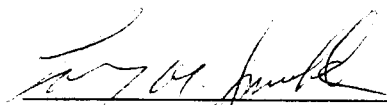
ORDER APPROVING SETTLEMENT AGREEMENT
WITH FREEPORT-MCMORAN

On consideration of the motion of Roger A. Sevigny, Insurance Commissioner for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), for an order approving a Settlement Agreement and Mutual Release ("Settlement Agreement") between Freeport-McMoRan Corp., for itself and as successor to Phelps Dodge Corporation and certain interests of Kennecott Copper Corporation ("Freeport-McMoRan") and the Liquidator, and the supporting Affidavit of Peter A. Bengelsdorf, it is hereby found and ORDERED as follows:

1. The Settlement Agreement is reasonable, prudent, and in the best interests of the liquidation of Home;
2. The Liquidator's Motion for Approval of Settlement Agreement with Freeport-McMoRan is granted, and the Settlement Agreement is approved; and
3. The Liquidator's recommendation concerning the allowance of Freeport-McMoRan's proofs of claim is approved, and Freeport-McMoRan's claims are allowed as a Class II claim in the aggregate amount of \$15,000,000.

Approved
So Ordered.

Dated: 3/21/11


Presiding Justice

THE HOME INSURANCE CO. IN LIQUIDATION
Liquidator's Report of Claims and Recommendations as of June 6, 2005

POC Number	Claimant Name	Address	BROOKLYN	NY	11241	Brief Description of POC / Determination	NET AMOUNT RECOMMENDED	NOO CLASS
INSU168334-01	ABRAHAM M DUBINO	16 COURT ST.				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU163379-01	ALAN I. BOOCKVAR	120 FRONT STREET				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
CLMN474257-01	ALICE FORRE	1034 WEST 4250 SOUTH				Claim was outside of The Home's coverage period.	0.00	II
CLMN474875-01	ANNE CONLEY	C/O WILLIAM CONLEY				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU138356-01	BENTON-GEORGIA, INC STEVE L ZEIS, VP	PO BOX 838				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU66154-01	BOOCKVAR, ALAN I.	P.O. BOX 30				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU241485-01	CERTIFIED APPRAISAL	2210 N. CHARLES ST.				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU240878-01	CERTIFIED APPRAISAL SERVICE, I	2210 N. CHARLES ST.				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU135593-01	CHECKER GLASS CORPORATION	P.O. BOX 7242				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU236536-01	CLARENCE A. CRIDER	3907 CHAH DRIVE				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU700790-01	CORE FURNACE SYSTEMS CORP., FORMERLY DIBA TECHINT TECHNOLOGIES, I	CHERRINGTON CORPORATE CENTER				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU700791-01	CORE FURNACE SYSTEMS CORP., FORMERLY DIBA TECHINT TECHNOLOGIES I	CHERRINGTON CORPORATE CENTER				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU700792-01	CORE FURNACE SYSTEMS CORP., FORMERLY DIBA TECHINT TECHNOLOGIES I	CHERRINGTON CORPORATE CENTER				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU700793-01	CORE FURNACE SYSTEMS CORP., FORMERLY DIBA TECHINT TECHNOLOGIES I	CHERRINGTON CORPORATE CENTER				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU700789-01	CORE FURNACE SYSTEMS CORP., FORMERLY DIBA TECHINT TECHNOLOGIES.	CHERRINGTON CORPORATE CENTER				Policyholder claim is excluded by The Home coverage.	0.00	II
INSU700038-01	CRAIG LEE CORREN	5345 N EL DORADO STREET				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU138573-01	CROWN C SUPPLY CO INC	5130 MANCHESTER				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
GOVT700049-01	DELAWARE INSURANCE GUARANTY ASSOCIATION	220 CONTINENTAL DR STE 309				Guaranty Association partial allowance of paid loss and loss recoveries from 06/13/03 to 11/30/04. Additional amount to prior exhibit.	20,000.00	II
INSU124292-01	EDWIN M CULBERTSON	109 E PIKE ST				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU39018-01	EDWIN M CULBERTSON	109 E PIKE ST				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
INSU242255-01	ELSGA BAILEY INC	C/O ABB INC.				Policyholder has no pending claim and has not identified any potential claims.	0.00	II
VEND348341-01	ERAN V FIGUEROA	37401 CHERRY STREET #H				Claim is not covered by a Home policy	0.00	II
GOVT700052-01	HAWAII INSURANCE GUARANTY ASSOCIATION	PO BOX 4660				Guaranty Association partial allowance of paid loss and loss recoveries from 06/13/04 to 11/30/04.	248,336.38	II
EMTL387811-01	INSPIRATION CONSOLIDATED COPPER CO C/O TERRA INDUSTRIES, INC.	ATTN: MARK A. KALAFUT, V.P. AND GENERAL COUNSEL				Policyholder has settled all claims, with a policy buy back.	2,400,100.00	II
INSU183379-01	KEVIN S FRIEDMAN	6507 MYRTLE AVE				Policyholder has no pending claim and has not identified any potential claims.	0.00	II