

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS.**

**SUPERIOR COURT**

**BEFORE THE COURT-APPOINTED REFEREE  
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY  
DISPUTED CLAIMS DOCKET**

In re Liquidator Number: 2006-HICIL-26  
Proof of Claim Number: INTL278096  
Claimant Name: Winterthur Swiss Insurance Company

**JOINT PROGRESS REPORT**

Pursuant to the Structuring Conference Order (the “Order”) issued in the above-captioned disputed claim proceedings (the “Disputed Claims”), dated January 26, 2007, Winterthur Swiss Reinsurance Company (“Winterthur”), Roger A Sevigny, Commissioner of Insurance of the State of New Hampshire, as Liquidator (“Liquidator”) of The Home Insurance Company (the “Home”) and Century Indemnity Company (“CIC” and, together with Winterthur and the Liquidator, the “Parties”), by their undersigned counsel, hereby submit this Joint Progress Report and address the issues raised by the Referee in the Order.

1. English law. The Parties have considered the specific points of English law that must be addressed to resolve the Disputed Claims. The reinsurance contracts at issue are governed by English law and the Parties believe that consideration of a principle point of law—specifically, whether prejudgment interest (“PJI”) is recoverable as “settlement of losses” under the Ultimate Net Loss clause of the relevant contracts alone or whether an Extracontractual Obligation (“ECO”) clause or clause of similar effect is required—will resolve the Disputed Claims. To the extent that the Parties determine that any material factual issues are present, the parties will attempt to resolve such issues by stipulation. The parties have not identified any such issues to date. To the extent the Parties are unable to resolve factual issues, if any, by

stipulation, the Parties reserve their rights to seek document and deposition discovery regarding such facts and to request an evidentiary hearing thereon.

With reference to the Parties' Stipulation Regarding Issues, dated October 31, 2006, the Parties have previously agreed that Winterthur's objection in the Disputed Claims regarding the excess point with respect to Witco Chemical shall be resolved by the ultimate decision in 2005-HICIL-7. To the extent that objection is not resolved in 2005-HICIL-7, the parties shall inform the Referee of additional issue(s) for consideration and a proposed briefing schedule thereon.

2. Referral to English law expert. The Referee has previously appointed Colin Edelman, QC, as the English law expert required to be appointed under Section 2.15 of the Court-ordered Claims Protocol to assist the Referee where the law applicable to the relevant contract(s) is English Law. Given that the only identified question to be resolved in the Disputed Claims is the interpretation and construction of the relevant contracts under English law, the Disputed Claims in their entirety should be referred to Mr. Edelman to make a Report and Recommendation to the Referee.

3. Procedure. The Parties propose that Mr. Edelman be promptly informed (either by the Referee or jointly by the Parties, as the Referee deems appropriate) that the Disputed Claims are referred to him. The Case File and Winterthur's Mandatory Disclosures should be delivered to Mr. Edelman by the Liquidator and Winterthur, respectively, shortly following such notification. The Parties also propose that Winterthur's written submissions be served upon Mr. Edelman, the Liquidator and CIC and filed with the Liquidation Clerk within forty-five (45) days of entry of this Referee's Order based on this Joint Progress Report, and that the Liquidator's and CIC's responsive submissions, if any, be served upon Mr. Edelman and Winterthur and filed with the Liquidation Clerk within forty-five (45) days following delivery of Winterthur's written

with the Liquidation Clerk within forty-five (45) days following delivery of Winterthur's written submissions. The Parties shall petition the Referee for permission to submit reply or other pleadings beyond those identified above. The Parties will provide Mr. Edelman with other documentation relevant to the Disputed Claims as he may require, and agree that any such documentation provided will also be contemporaneously served upon the other Parties. The Parties further propose that oral argument be held as directed by the Referee.


Dated: February 5, 2007

Respectfully submitted,

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