

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

Proceeding:	2005-HICIL-14
Proof of Claim Nos.	AMBC 465096 AMBC 464386 INTL 277878 AMBC 465074
Claimant	Century Indemnity Company ("CIC")
Account:	Kentile Floors, Inc. ("Kentile")

JOINT REPORT

Metex Mfg. Corporation, debtor-in-possession ("Metex"), Century Indemnity Company ("CIC"), and Roger A. Sevigny, Insurance Commissioner for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company, submit this joint report in accordance with the Interim Order on Metex' Motion to Intervene and Participate in Dispute Regarding Kentile ("Interim Order"), and the Referee's orders extending time for the joint report. Metex, CIC and the Liquidator report as follows:

In accordance with the direction of the Interim Order, counsel for Metex, CIC and the Liquidator have conferred, including telephone conferences on October 8 and October 17, 2013. As a result of those calls, on a "without prejudice" basis and in an attempt to compromise the parties' dispute regarding whether and/or under what conditions documents would be disclosed to Metex should Metex be allowed to intervene in this Disputed Proceeding, CIC provided Metex with certain spreadsheets on October 21, 2013.

The parties had another conference call on October 28, 2013. As a result of that call, also on a "without prejudice" basis and solely for purposes of attempting to compromise the parties'

dispute regarding whether and/or under what conditions documents would be disclosed, CIC provided Metex with copies of the redacted briefs with certain portions unredacted on November 8, 2013. CIC, the Liquidator and Metex reserve any and all rights, and CIC's provision of any documents and/or portions of any documents in connection with the process shall not be deemed a waiver of CIC's (or the Liquidator's or Metex's) rights.

The parties had a call on November 18, 2013 to discuss the redacted briefs and the process going forward.

**Metex separately reports the following information to the Referee:**

Metex reports that, while it has not received everything it has sought from CIC and reserves the right to seek additional information in the future, it has received sufficient unredacted information from CIC to enable it, should it be granted the right to intervene in the Claims Proceeding and to participate fully therein, to present its opposition to CIC's claim. In its separate statement, CIC seems to be seeking to reargue Metex's motion to intervene which has already been argued. We believe the Referee should grant that motion at this time with no further delay, allow Metex to submit its opposition to CIC's Contribution and Set-off claim and then decide this matter on the merits with no further delay.

Metex's Chapter 11 is moving forward and we expect a Plan to be confirmed within the next six months. As such, the Chapter 11 could be completed before this matter is decided. If Metex is not permitted to intervene, we intend to seek to impose the stay on this proceeding.

**CIC separately reports the following information to the Referee:**

As the Referee is aware, CIC has objected to both Metex's request for claim evaluation materials and the scope of Metex's proposed intervention in this proceeding. Among other things, CIC objects to Metex's intervention into this claim proceeding because Metex's participation would expose CIC's claim evaluation material to Metex while Metex remains adverse to CIC with respect to the Kentile claim. As part of the meet and confer process ordered by the Referee, CIC provided a significant amount of additional information to Metex in a good faith attempt to reach a compromise on Metex's request for documents and information. The information provided by CIC included detailed spreadsheets listing each expense and indemnity payment that CIC has made on Home's behalf for the Kentile account. In response, Metex did not request any additional information regarding those spreadsheets. In addition, CIC unredacted significantly larger portions of the pre-hearing briefs, which provided Metex with additional information about the merits and scope of CIC's and the Liquidator's arguments regarding the Kentile claim. During the meet and confer process, Metex did not seek additional portions of the briefs.

At the end of the meet and confer process, Metex indicated that, notwithstanding the information provided by CIC, Metex still seeks to participate in these proceedings. However, the issue of whether and to what extent Metex will be permitted to participate is the very issue still pending before the Referee. The meet and confer process did not resolve that issue and there has been no resolution of what role, if any, Metex can properly have in this disputed claim proceeding, particularly because the disputed claim is between CIC and the Home, and the Home's Liquidator, who is the proper party to this proceeding, is already disputing CIC's contribution claim.

Given the ongoing adversity of interests between CIC and Metex, CIC remains concerned about Metex's potential participation in these proceedings, for reasons above and beyond the concerns over the disclosures that were the subject of the meet and confer. While Metex had previously indicated during the September 10, 2013 hearing before the Referee that it was going to have its settlement with CIC approved by the bankruptcy court --which would have extinguished the adversity between CIC and Metex as to Kentile -- that settlement agreement has not been approved as of this date. In the absence of an approved settlement agreement, the serious potential harm to CIC from the disclosure of claim materials to Metex remains the same. Short of adopting the proposal that CIC made in CIC's Opposition to Metex's Motion to Intervene and Participate, filed on August 12, 2013, CIC sees no practical way to allow Metex to participate in the Kentile claim proceeding without Metex gaining access to claim evaluation material and there is no way to prevent such information from being widely circulated and improperly used against CIC in other matters (indeed Metex reports that it still "reserves the right to seek additional information in the future"). The potential harm to CIC far outweighs Metex's desire to participate.

In light of the fact that the meet and confer process did not resolve the issue of Metex's participation in this disputed claim proceeding, CIC respectfully requests that the Referee hold a hearing on the issue of whether and to what extent Metex may participate. Since the parties have already briefed the issue of Metex's participation, CIC respectfully requests that the Referee hold a hearing without further briefing.

**The Liquidator separately reports the following information to the Referee:**

The Interim Order directed CIC, Metex and the Liquidator to confer regarding access to documents and pleadings. The result is set forth in the Metex statement above. There has already

been argument on the motion to intervene, so the matter is ripe for decision. In the Liquidator's view, the Referee should issue a decision Metex's motion and if Metex is allowed to intervene, set a schedule for it to make a submission and for CIC and the Liquidator to respond; otherwise the case should be scheduled for argument on the merits.

Respectfully submitted,

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


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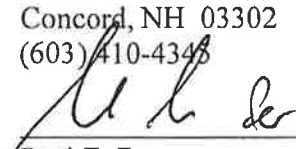
  
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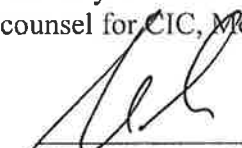
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Certificate of Service

I, Michael S. Lewis, hereby certify on this 20<sup>th</sup> day of November, 2013, I have provided a copy of the foregoing document electronically to counsel for CIC, Metex, and the Liquidator.

  
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Michael S. Lewis