

**THE STATE OF NEW HAMPSHIRE
MERRIMACK S.S. SUPERIOR COURT**

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

DISPUTED CLAIMS DOCKET

In Re Liquidator Number: 2008-HICIL-41

Proof Of Claim Number: CLMN712396-01

Claimant: Harry L. Bowles

**CLAIMANT’S RESPONSE TO LIQUIDATOR’S OBJECTIONS TO
BOWLES’ MOTION TO APPOINT AUDITOR AND TO BOWLES’
MOTION FOR SUMMARY JUDGMENT**

Comes Claimant Bowles to respond as follows to Liquidator’s November 24, 2009 Objections to Bowles’ Motion for Appointment of Auditor and to Bowles’ Motion for Summary Judgment, both filed on November 18, 2009:

**Bowles’ Motion for Appointment of an Auditor is not
Proscribed by Appointment of Referee**

1. The appointment of an auditor to aid in determining the critical issue of whether or not the insured parties were provided with representation in the earliest stage of Bowles’ legal malpractice action against BPS is not prohibited or proscribed by the appointment of the Referee.

2. It is the Referee's duty to determine the facts in the case, and, for that purpose, the Referee has the judicial power to secure an auditor who will independently investigate a matter in dispute involving accounts, transfers of funds, etc.

3. In fact, parties unwilling to appear to provide the required information may be held to be recalcitrant per RSA 519.5 by the auditor. This is to be noted in the record.

4. Here, the Liquidator openly refuses to supply any information about the \$10,000 deductible in the insurance policy. Auditor or no auditor, that is recalcitrance on the Liquidator's part that this Referee must take note of in her report to the Court.

**The Liquidator's Objection to the Motion for Summary Judgment Requires A Response
Supported by Countervailing Evidence Supported by an Affidavit**

5. New Hampshire Code Section 491:8-a (IV) states that summary judgment shall be rendered in accordance with the facts if affidavits are not filed by the party opposing the summary judgment within 30 days.

6. Here, Bowles' Motion for Partial Summary Judgment is based on the fact that Bowles' lawsuit was primarily an action against George M. Bishop & Associates, a solo law practice that was not named in the Declarations of Home Policy No. LPL-F871578

7. By the EXCLUSION CLAUSE in the policy, the inclusion of George M. Bishop & Associates as a defendant in Cause No. 1995-3235 along with BPS, the insured law firm, made the policy inapplicable to cover Bowles' lawsuit for the shareholders of BPS.

8. Bowles' Motion for Partial Summary Judgment is supported by Bowles' sworn affidavit and supporting evidentiary documents.

9. The Liquidator's November 24th objection fails to rebut Bowles' sworn Motion in any respect: (a) the EXCLUSION CLAUSE is not referred to, and it is not disputed as to its effect to

make the policy inapplicable to cover Bowles' lawsuit; an (b) there is no sworn rebuttal with fact documents to raise a genuine issue of material fact why Bowles' Motion should not be granted.

11. The Liquidator obviously cannot obtain a document and a sworn statement from a Home official showing that Home Insurance gave BPS and George M. Bishop (aka George M. Bishop & Associates) a commitment of coverage or an "assumption certificate" whereby the EXCLUSION CLAUSE of Policy No. LPL-F871578 was voided or nullified as to Bowles' lawsuit in Texas.

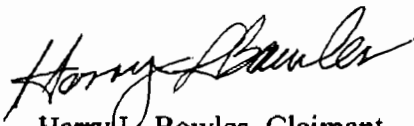
Conclusion

11. The Liquidator's objection is without substance in law or in fact, and the Referee must consider it a false pleading.

Request for Relief

12. Bowles requests the Liquidator's objection be disregarded to permit a proper and just determination of the issue of applicability of the policy to cover Bowles' lawsuit.

Respectfully submitted,



Harry L. Bowles, Claimant

306 Big Hollow Lane

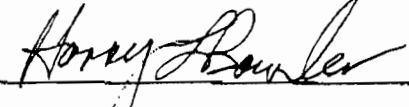
Houston, Texas 77042

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CERTIFICATE OF SERVICE

Harry L. Bowles, certify that on this TWENTY FIFTH DAY OF NOVEMBER, 2009 a true and correct copy of the foregoing was sent by FAX to Mr. Eric A. Smith, Rackemann, Sawyer & Brewster, 160 Federal Street, Boston, MA 02110-1700; to Mr. J. Christopher Marshall, Civil Bureau, NH Dept. Of Justice, 33 Capitol Street, Concord, New Hampshire 03301-6397; to Ms. Melinda S. Gehris, 501 Hall Street, Bow, New Hampshire 03304; and to Daniel Jordan, Law Office of Daniel Jordan, 4807 Spicewood Springs Road, Building One, Suite 1220, Austin, Texas 78759. Copies were also transmitted to the Liquidation Clerk, HICIL, Merrimack County Superior Court, P.O. Box 2880, Concord, NH 03302-2880 by FAX and mail.



Harry L. Bowles