

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: 2008-HICIL-40
Proof of Claim Number: INTL 700695-38
Claimant Name: Unionamerica Insurance Company
Limited
Policyholder Account: Various

CENTURY INDEMNITY COMPANY'S
SUMMARY OF POSITION REGARDING THE
APPOINTMENT OF AN ENGLISH LAW EXPERT

Pursuant to the Order Regarding Appointment of Expert on English Law, dated November 17, 2009, Century Indemnity Company ("CIC") submits its summary of position regarding the appointment of an English law expert.

I. The Claims Protocol

1. The June 15, 2009 Structuring Conference Order provides, among other things, that "[t]he parties will confer regarding their recommendation for an expert on English law to be appointed to consult with the Referee." This direction, however, should be read in the context of the August 6, 2004 Claims Protocol between CIC and the Liquidator (the "Protocol"), which "put in place mechanisms and processes to ensure the due, proper, orderly and consistent handling of Claims," including the claims involved in this disputed claim proceeding. (A copy of the Protocol is attached for the Referee's convenience as Exhibit A.)

2. According to the Protocol, if the disputed claim is governed by English law, "the Referee shall appoint an expert...with knowledge of the law of insurance and reinsurance in England as well as industry custom and practice." The Protocol

specifically lays out the expert's required background ("either a retired English judge or a Queen's Counsel of the English bar") and provides:

HICIL and CIC shall attempt to jointly propose a person to be appointed as such expert by the Referee, provided that, if HICIL and CIC do not agree on a person to be jointly proposed, HICIL and CIC shall each be entitled to submit to the Referee the names of three candidates fulfilling the above requirement.

(Ex. A, ¶2.15; emphasis added). The Superior Court approved the Protocol on November 12, 2004 as "reasonable, prudent and in full accordance with the law," concluding that "[t]he interests of the claimants are well protected" by the Protocol's procedures. (A copy of the Superior Court's order is attached for the Referee's convenience as Exhibit B.)

II. The Proposed Expert

3. CIC and the Liquidator have agreed to recommend that Mr. Colin Edelman, a Queen's Counsel who has been previously appointed as the English law expert in other HICIL disputed claim proceedings (including 2005-HICIL-7, 2006-HICIL-18 and 21,¹ and 2006-HICIL-26), be appointed as the English law expert here. We communicated that choice to counsel for Unionamerica Insurance Company Limited ("Unionamerica"), who proposed three different candidates.²

4. Mr. Edelman more than satisfies the criteria enumerated in the Protocol, as he is a QC whose principal areas of practice include insurance and reinsurance. He has specialized in these areas for over 20 years and has developed a detailed understanding of

¹ Like this proceeding and its companion, 2008-HICIL-42, 2006-HICIL 18 and 21 were submitted as a single proceeding.

² Mr. Brian Green of the New York office of Edwards, Angell, the same law firm that represents Unionamerica here, agreed to Mr. Edelman's appointment in 2006-HICIL-18, 21 and 26. (See Joint Reports filed June 30, 2006 and February 5, 2007, respectively.)

of Mr. Edelman's CV is attached as Exhibit C.) And, importantly, Mr. Edelman has been "jointly proposed" by CIC and HICIL. Under the Protocol, therefore, the burden shifts to Unionamerica to explain why Mr. Edelman should not be appointed.

III. Unionamerica's Objection to Mr. Edelman

5. During the conference call on November 13, 2009, Unionamerica conceded that Mr. Edelman has the professional qualifications to be appointed as the English law expert. Unionamerica's only objection appeared to be that Mr. Edelman may have an "institutional alignment" with the HICIL claim process as a result of his prior appointments. There is, however, no basis for the veiled suggestion that Mr. Edelman may not be a "person disinterested" in the subject matter of the claim, as required by ¶2.15 of the Protocol, simply by virtue of his earlier appointments. The contrary is true, as appointing Mr. Edelman helps further the Protocol's stated goal of putting "in place mechanisms and processes to ensure the...*consistent* handling of Claims." (Ex. A, p. 1; emphasis added).

IV. Conclusion

6. Nothing in the Scheduling Conference Order suggests that the Protocol – which has been in effect for over 5 years – is somehow suspended or overridden. Rather, the Scheduling Conference Order gives effect to the procedures in the Protocol, which have specifically been held to "protect the interests" of claimants like Unionamerica. CIC submits, therefore, that the Protocol governs this question and that Mr. Edelman – who has been "jointly proposed" by CIC and the Liquidator and has previously served as an English law expert in other HICIL proceedings – is the presumptive candidate. In the absence of substantive objections by Unionamerica, he should be appointed.

7. CIC has consulted with the Liquidator, who joins in the position taken by CIC in this Summary.

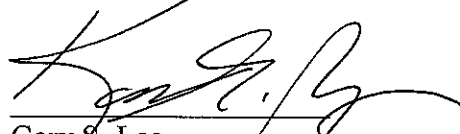
Wherefore, for all the foregoing reasons, CIC respectfully requests that Colin Edelman be appointed as the English law expert to assist the Referee in this disputed claim proceeding.

Dated: December 4, 2009

Respectfully submitted,

CENTURY INDEMNITY COMPANY

By its attorneys,



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Of Counsel

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Company

CERTIFICATE OF SERVICE

I, Kathleen E. Schaaf, hereby certify that, on December 4, 2009, a copy of the foregoing Century Indemnity Company's Summary of Position Regarding the Appointment of an English Law Expert has been electronically forwarded to the following counsel:

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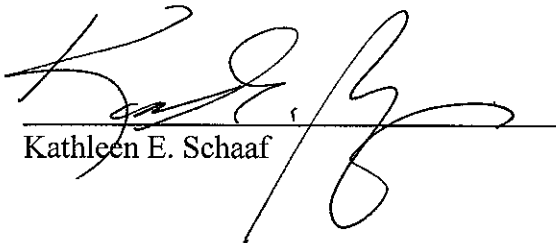

Kathleen E. Schaaf

EXHIBIT A

**THE HOME
INSURANCE
COMPANY**
In Liquidation



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August 6, 2004

VIA COURIER

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**Re: The Home Insurance Company ("Home" or "HICIL") – Administration of AFIA
Business**

Dear Tom:

This letter sets out our proposals for the establishment of a protocol for the ongoing handling by Century Indemnity Company ("CIC") of claims in respect of AFIA Liabilities, as defined in an Insurance and Reinsurance Assumption Agreement dated 31 January 1984 (the "I & R Assumption Agreement") between, inter alia, HICIL and Insurance Company of North America (the predecessor of CIC) and in respect of AFIA Licence Business, as defined in a Reinsurance Treaty and Management Agreement dated 31 January 1984 (the "Treaty Management Agreement") between, inter alia, HICIL and Insurance Company of North America (the "Agreements"). Pursuant to the Agreements, CIC undertook certain management, administrative and service obligations in respect of AFIA Liabilities and AFIA Licence Business (each as defined below).

The insolvency of Home creates a number of administrative issues that need to be addressed and this letter is intended to describe the process for the continued performance by CIC of its obligations under the Agreements. The Liquidator recognizes that to the extent CIC provides or causes the provision of services beyond those required under the Agreements, CIC should receive reasonable compensation for such additional services.

In view of the foregoing, and having due regard to the New Hampshire liquidation statutes and the Claims Procedures Order (as defined below), it is desirable to put in place mechanisms and processes to ensure the due, proper, orderly and consistent handling of Claims (as defined below) by and among HICIL and CIC.

Thomas J. Wamser, Esq.
August 6, 2004
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This letter, therefore, seeks agreement between HICIL and CIC on the above mechanisms and processes. Following such agreement, as confirmed by signature for CIC below, this letter will be presented to the Court (as defined below) for approval, upon which it will be effective. For the avoidance of doubt, except as may be subsequently agreed by CIC and Home, the terms of this letter will apply solely to paid losses that have been presented pursuant to a POC (as defined below) in the HICIL liquidation and determined in accordance with the Claims Procedures Order (as defined below) and not to any loss reserves (including reserves for losses that are incurred but not reported) that the claimants have established, except as may otherwise be required by law.

1. Definitions

In this letter, the following terms shall have the following meanings:

"ACE-INA" means ACE INA Services U.K. limited or such other agent appointed by CIC that is reasonably acceptable to HICIL;

"AFIA Liabilities" means AFIA Liabilities as defined in the I & R Assumption Agreement and the assumed liabilities of HICIL under AFIA Licence Policies as defined in the Treaty Management Agreement;

"AFIA Licence Business" has the meaning given in the Treaty Management Agreement;

"Agreements" means the I & R Assumption Agreement and the Treaty Management Agreement;

"CIC" means Century Indemnity Company, including its predecessors or successors in title;

"CIRC" means Century International Reinsurance Company, including its predecessors or successors in title;

"Claim" means an inward reinsurance claim against HICIL in respect of an AFIA Liability presented in a POC;

"Claimant" means a person submitting a Claim in the HICIL liquidation;

"Claims Procedures Order" means the order establishing procedures regarding claims entered in the HICIL liquidation made by the Court on December 19, 2003, as otherwise amended and in effect from time to time;

"Court" means the New Hampshire Superior Court for Merrimack County;

"HICIL" or "Home" means The Home Insurance Company, including its predecessors or successors in title;

"Liquidator" means the New Hampshire Insurance Commissioner, acting solely in his capacity as liquidator of HICIL appointed by the Court, the Special Deputy Liquidator and his and their agents and representatives;

"POC" means a proof of claim properly filed pursuant to N.H. RSA 402-C:37 and C:38; and

"Notice of Determination", "Notice of Disputed Claim", "Notice of Redetermination", "Objection", "Request for Review" and "Disputed Claim proceeding" have the meanings given in the Claims Procedures Order.

2. Submission, Adjustment and Adjudication of AFIA Liabilities

- 2.1 CIC shall make available such personnel as are reasonably necessary to perform effectively the management, administration and service obligations undertaken by CIC pursuant to the Agreements. HICIL agrees and confirms that, if, and to the extent that, CIC incurs costs (including internal costs) in providing services pursuant to this letter agreement that are in excess of those incurred by CIC in the fulfillment of CIC's obligations under the Agreements prior to the liquidation of HICIL, such additional costs reasonably incurred by CIC in such management, administration and/or servicing shall (and the Liquidator agrees that they shall) be chargeable by CIC to HICIL, and payable to CIC as an administration cost pursuant to N.H. RSA 402-C:44, I. CIC shall present such additional costs to the Liquidator for determination pursuant to the Claims Procedures Order and RSA 402-C:41.
- 2.2 With respect to Claims that are submitted through the filing by a claimant of a POC in the HICIL estate, HICIL shall provide CIC with a copy thereof and all supplements thereto. In the event that an amendment to the Claims Procedures Order or RSA 402-C materially alters the procedures for the determination of Claims that are submitted by the filing of a POC in the HICIL estate, either party shall have the right to terminate this letter agreement upon written notice to the other party. This provision shall not have and shall not be construed to have any effect on the parties' obligations under the Agreements.
- 2.3 Upon receipt of the POC, CIC (through ACE-INA) shall administer and service the Claim in accordance with the relevant Agreement. HICIL shall determine the order in which Claims are to be administered and serviced. HICIL shall defend and hold harmless CIC (and ACE-INA) against any action or proceeding brought by a Claimant arising from CIC's (or ACE-INA's) compliance with HICIL's determination as to the order in which Claims are to be administered and serviced. Following adjustment of a Claim, CIC (through ACE-INA) shall, within ten (10) business days and in writing, notify HICIL of its recommendations with respect to the agreement or rejection, in whole or in part, of the Claim, together with the reasons for such recommendations.
- 2.4 If the Liquidator concurs with the recommendations of CIC, he shall issue a Notice of Determination to the relevant Claimant, with a copy to CIC. CIC shall effect remittance to HICIL in respect of the Claim to the extent allowed on the Notice of Determination in accordance with paragraphs 3.3 and 3.4.
- 2.5 If the Liquidator disagrees with the recommendations of CIC, he shall notify CIC thereof in writing, and give his reasons for so disagreeing. The Liquidator and CIC shall thereafter promptly confer to attempt mutual resolution of their disagreement. If the parties do not reach such mutual resolution within ten (10) business days, the matter shall be referred (by either party) to a single arbitrator ("Arbitrator") agreed upon by the parties.

- 2.6 Where the contract underlying the Claim at issue is not governed by English law, the Arbitrator shall be chosen from the panel of arbitrators maintained by ARIAS (US). If the parties cannot agree on the identity of the Arbitrator within five (5) business days, each party shall submit the names of three (3) candidates, each of whom shall be chosen from the panel of arbitrators maintained by ARIAS (US). Within three (3) business days of the exchange of the lists of candidates, the parties shall either agree on the Arbitrator from the six (6) candidates selected or each party shall delete two (2) of the other party's candidates and the Arbitrator shall be chosen by lot from the remaining two (2) candidates. The Arbitrator shall resolve the disagreement between the parties as to whether the Claim should be agreed or rejected, in whole or in part, on written submissions by the parties, which the parties shall be entitled to supplement with information and documentation relating to the Claim, and shall issue a ruling promptly after receiving such submissions; provided that, if the Arbitrator considers that the decision required of him cannot be made on the basis of the written submissions provided, the Arbitrator shall be entitled to call for such other submissions as he considers necessary in order for him to reach a decision.
- 2.7 Where the contract underlying the Claim at issue is governed by English law, the Arbitrator shall have the qualifications required by Rule 6.3 of the Arias (UK) Arbitration Rules, 2ed 1997. If the parties cannot agree on the identity of the Arbitrator within five (5) business days, the Arbitrator shall be chosen by the Chairman of ARIAS (UK). The Arbitrator appointed shall have the qualifications required by Rule 6.3. The parties agree that the Arbitrator is entitled and bound to resolve and determine by declaration any disagreement between the parties as to whether the Claim should be agreed or rejected, in whole or in part. The Arbitrator's award shall be based on written submissions by the parties, which the parties shall be entitled to supplement with information and documentation relating to the Claim. The Arbitrator shall issue his award promptly after receiving such submissions. If, however, the Arbitrator considers that he cannot make an award on the basis of such submissions, he shall be entitled to call for such additional submissions and information that he considers necessary in order for him to make his award. In resolving the disagreement between the parties, the Arbitrator will solely interpret the terms and conditions of the contract entered into between Home and the Claimant. The Arbitrator will apply the proper law of the contract, without regard to the law of any other legal system, in resolving the disagreement between the parties.
- 2.8 The cost of the Arbitration shall be apportioned equally between the parties. The Liquidator shall issue a Notice of Determination in accordance with the Arbitrator's ruling, and shall not, unless the ruling is subject to being vacated on a ground specified in N.H. RSA 542:8, in any proceeding before the Court take a position contrary to the Arbitrator's ruling. The Liquidator will seek approval to seal the ruling to prevent disclosure to any third party. CIC shall thereafter effect remittance to HICIL in respect of the Claim, to the extent allowed on the Notice of Determination, in accordance with paragraphs 3.3 and 3.4.
- 2.9 The parties acknowledge that, should a Claimant disagree with a Notice of Determination, the Claimant may, at its option, submit a Request for Review to the Liquidator in accordance with the Claims Procedures Order. In such event, the Liquidator

- shall promptly provide CIC with a copy of the Request for Review and within twenty (20) business days thereafter, CIC shall in writing notify HICIL of its recommendations in relation to that AFIA Liability, together with the reasons for such recommendations.
- 2.10 If the Liquidator concurs with the recommendations of CIC, he shall issue a Notice of Redetermination to the relevant Claimant consistent with those recommendations, with a copy to CIC. CIC shall effect remittance to HICIL in respect of the Claim to the extent allowed on the Notice of Redetermination in accordance with paragraphs 3.3 and 3.4
- 2.11 If the Liquidator disagrees with the recommendations of CIC, he shall notify CIC thereof in writing, and give his reasons for disagreeing. The parties shall thereafter promptly confer to attempt mutual resolution of their disagreement.
- 2.12 If the parties are unable to reach such mutual resolution within ten (10) business days, the matter shall be referred (by either party) to an Arbitrator and the provisions of paragraphs 2.5 to 2.8 inclusive shall apply; provided that in the event that the parties have, pursuant to paragraphs 2.6 or 2.7, as the case may be, already arbitrated specific issues raised in the Request for Review, the parties shall not be entitled to re-arbitrate such issues and the rulings rendered with respect thereto shall have a preclusive effect and shall be and remain binding on the parties.
- 2.13 The parties further acknowledge that, should a Claimant disagree with a Notice of Determination, the Claimant is not obliged to submit a Request for Review but may, at its option, file an Objection with the Court in accordance with the Claims Procedures Order. A Claimant that disagrees with a Notice of Redetermination may also file an Objection with the Court in accordance with the Claims Procedures Order. In either event, the Liquidator shall promptly provide CIC with a copy of the Objection so filed and shall provide CIC with a copy of the Notice of Disputed Claim sent by the Liquidation Clerk to the claimant in response to the filing of the Objection, so as to avail CIC of its right under the Agreements to interpose defenses in the ensuing Disputed Claim proceeding. If CIC elects to interpose defenses in the Disputed Claim proceeding it shall, at its own cost and expense, seek leave to so participate by filing a Motion to Participate with the Referee no later than thirty (30) days after the date of mailing to the claimant of the Notice of Disputed Claim, identifying the contract in question and stating that it has a contractual right to interpose defenses. The Liquidator agrees that CIC has the right to participate in Disputed Claims proceedings and to raise any defense or defenses available to HICIL, and shall assent to CIC's participation.
- 2.14 The Disputed Claim proceedings procedures shall be governed by New Hampshire law. Questions of contractual construction and interpretation with respect to the Disputed Claim shall be governed by applicable law in accordance with the express terms of the contract, without regard to the law of any other legal system. Where the contract is silent as to its governing law and English law may apply, the Referee shall appoint an expert (with the qualifications and in the manner provided for below) and consult with such expert to determine which law is applicable. The Referee's decision on choice of law shall be final and binding on the parties.

- 2.15 The Disputed Claim proceedings shall be conducted by the Referee, who may appoint an expert to assist the Referee. Where the law applicable to the contract is English law (or where it has been determined as above stated that the contract is to be construed in accordance with English law), the Referee shall appoint an expert (or, as applicable, retain and be assisted by the expert appointed as stated above) with knowledge of the law of insurance and reinsurance in England as well as industry custom and practice. Such expert shall be either a retired English judge or a Queen's Counsel of the English bar and, in either case, shall be a person disinterested in the subject matter of the Disputed Claim proceeding. HICIL and CIC shall attempt to jointly propose a person to be appointed as such expert by the Referee, provided that, if HICIL and CIC do not agree on a person to be jointly proposed, HICIL and CIC shall each be entitled to submit to the Referee the names of three candidates fulfilling the above requirements. The Referee shall choose the expert. The Referee may prescribe such further reasonable procedures and provisions as the Referee, in the exercise of discretion, deems appropriate to assist in the adjudication of Disputed Claims. The foregoing includes, but is not limited to, the receipt of documents and other information relating to the Disputed Claim and the taking of evidence. The expert shall issue a Report and Recommendation to the Referee after the evidence has closed whereupon the Referee shall provide a copy of the Report and Recommendation to each of the Claimant, HICIL and CIC. The Referee may use the Report and Recommendation as the Referee deems appropriate and shall attach a copy of the Report and Recommendation as an exhibit to the Referee's Report to the Court. The costs of the Referee and the expert shall be chargeable against HICIL as part of the expense of the HICIL liquidation.
- 2.16 Should CIC participate in Disputed Claim proceedings, it shall, at its own cost and expense, interpose any defense or defenses that it may deem available to HICIL, although the cost or expense so incurred shall be (and the Liquidator acknowledges and agrees that they shall be) chargeable, subject to approval by the Court, against HICIL as part of the expense of the HICIL liquidation as an administration cost pursuant to N.H. RSA 402-C:44, I, to the extent of the pro rata share of the benefit which may accrue to HICIL solely as a result of the defense undertaken by CIC and to the extent not otherwise received by CIC under paragraph 2.17.
- 2.17 The Referee shall make an award of costs in every Disputed Claim proceeding in which CIC participates involving a contract governed by English law. If an order for costs is made against CIC, CIC shall bear those costs without recourse to HICIL. If an order for costs is made against the claimant, CIC, to the extent that CIC has incurred those costs, shall (and the Liquidator acknowledges and agrees that CIC shall) be entitled to the benefit of such order, and to receive and retain payment of such costs in full without diminution or set-off of any kind whatsoever, as administration costs pursuant to N.H. RSA 402-C:44, I.
- 2.18 The Liquidator and/or HICIL and CIC shall fully cooperate with each other (including in this ACE-INA) in relation to the matters covered by this letter and in particular information relating to notices, Requests for Review and/or Objections and the defense of Claims. Once CIC has commenced administering and servicing a Claim, the Liquidator and/or HICIL shall provide CIC with a copy of any written communication between the Liquidator and/or HICIL and the Claimant concerning the Claim and shall share the

substance of any other communication between the Liquidator and/or HICIL and the Claimant concerning the Claim with CIC.

- 2.19 If a Disputed Claim proceeding results in a final determination of the relevant AFIA Liability adverse to HICIL, CIC shall effect remittance on the basis of such determination to HICIL in accordance with paragraphs 3.3 and 3.4.

3. Reports, Remittances and Inspection of Records

- 3.1 CIC (through ACE-INA) shall within ten (10) business days after the end of each three month period, provide to HICIL copies of the *brokers' forms* relating to each Claim being handled by CIC or, where the details of the Claim are not the subject of a *broker's form*, copies of the relative *cedant's form*, supplemented, where those *forms* are not adequate for the purpose, by information from CIC, disclosing, on a by-cedent basis (a) the name of the underlying insured; (b) the nature and amount of each Claim; (c) the date each Claim was presented to CIC; (d) the adjustment status of each Claim, and where a Claim is the subject of legal action, details of (i) the nature of the action; (ii) the forum in which it is being conducted; (iii) the amount at issue; and (iv) material developments (if any) in it since the previous such report; and (f) a summary of Claims adjusted in the preceding three month period indicating for each Claim (i) the amount agreed; (ii) the amount disputed; and (iii) the reason for the amount disputed; and (g) a summary of all payments made by CIC to HICIL in that three month period.
- 3.2 The reasonable costs incurred by CIC (and/or ACE-INA) in collecting and compiling the reports called for by paragraph 3.1 (including the internal and staff costs of CIC and/or ACE-INA) and of providing the same to HICIL shall (and the Liquidator agrees that they shall) be chargeable by CIC to HICIL, and payable to CIC as an administration cost pursuant to N.H. RSA 402-C:44, I. CIC will not charge HICIL for any systems enhancements necessary to produce any report required by paragraph 3.1.
- 3.3 Within thirty (30) business days after the end of each month, CIC shall (a) provide HICIL with a statement showing (i) all amounts payable by CIC to HICIL pursuant to paragraphs 2.4, 2.8, 2.10, 2.19 and 3.7 for the preceding month; (ii) the amount of funds paid by CIC with respect to such payables; and (iii) any amounts claimed in offset in accordance with paragraph 3.4 against amounts due to HICIL, together with sufficient detail and an explanation as to the basis for the asserted offset; and (b) subject to the proviso to this paragraph, effect a wire transfer to such account as may, from time to time, be designated by the Liquidator for the balance. CIC agrees and acknowledges that the Liquidator fully reserves all rights in relation to any offset asserted. CIC reserves (and the Liquidator acknowledges that CIC so reserves) all rights in respect of any payments made, including as to amount and as to the obligation of CIC to make the same; PROVIDED THAT, where the Claimant has submitted a request for Review or an Objection in respect of a Claim disputing the quantum of the Claim or elements of it, CIC shall make remittance in respect of any portions of the Claim allowed in full or agreed between CIC and the Claimant. CIC shall not be obliged to make remittance in respect of the disputed amount unless and until the relevant proceedings settle the disputed amount or it is negotiated and agreed between the claimant and CIC with the concurrence of the

Liquidator, in which event remittance will be made in such amount within thirty (30) business days after the month next following such settlement or agreement.

- 3.4 Notwithstanding anything herein to the contrary, payments to HICIL shall be net of set-off in compliance with N.H. RSA 402-C:34 or otherwise allowed by New Hampshire law.
- 3.5 CIC will not be liable to make payment in respect of any AFIA Liability unless the relevant Claim has been allowed in the HICIL liquidation. The Liquidator will consent to CIC's standing to object to the Liquidator's decision to permit a late filed Claim to receive dividends pursuant to N.H. RSA 402-C:37, II or III. Where on such objection the late filed Claim is not permitted to receive dividends pursuant to N.H. RSA 402-C:37, II or III, CIC shall be entitled to recover the amount in fact paid by it in respect of any such Claim, whether by way of deduction from subsequent payments or otherwise.
- 3.6 In the event that HICIL considers that CIC has ceased to administer and service a Claim, including failing to notify HICIL of its recommendations in accordance with paragraphs 2.3 and/or 2.9, the Liquidator shall give written notice to CIC specifying and giving details of the failure complained of and the actions that the Liquidator considers required of CIC to cure the alleged failure and requesting CIC to effect such action within twenty (20) business days from receipt by CIC of the notice. If CIC disputes that there is a failure on its part or that the steps specified in the notice are necessary and appropriate, CIC shall so advise HICIL in writing within twenty (20) business days of its receipt of the notice. If CIC considers that the notice does disclose a failure on its part, CIC shall cure the same within twenty (20) business days of its receipt of the notice.
- 3.7 If CIC fails to timely file a Motion to Participate as described in paragraph 2.13 or, having timely filed a Motion to Participate, CIC fails to participate in a Disputed Claim proceeding (CIC having previously administered and serviced the Claim and notified HICIL of its recommendations in accordance with paragraph 2.3 and, if applicable, notified HICIL of its recommendations in accordance with paragraph 2.9), the Liquidator shall not be obliged to defend the Claim and shall be entitled, at his sole discretion, to consent to the entry of judgment in relation to it. This consent will be final and binding on CIC. Should the Liquidator decide to defend the AFIA Liability notwithstanding the election of CIC to refrain from participating in the Disputed Claim proceeding or the failure of CIC to file in timely fashion a Motion to Participate therein and a determination of the relevant AFIA Liability at issue is, in the first instance, determined adverse to HICIL, the Liquidator shall not be obliged to appeal the determination. That determination will then be final and binding on CIC.
- 3.8 Upon reasonable advance notice and at all reasonable times, CIC shall confer with and place at the disposal of HICIL, either directly or through its authorized representatives, the financial and business records, books of account and documents maintained by CIC (or ACE-INA) relative to AFIA Liabilities and AFIA Licence Business. HICIL shall have the right at its own cost to inspect and copy any such records and books of account.

4. Commutations

- 4.1 CIC acknowledges that inwards reinsurance commutations involving AFIA Liabilities and AFIA Licence Business are constrained by the Claims Procedures Order. As a result, while CIC may negotiate inwards commutations with Home's AFIA cedents, CIC may consummate no commutation agreements with any such cedent absent the Liquidator's express written authority to that effect. In that regard, CIC shall advise HICIL of the details of any commutation discussions in progress and shall provide such assistance and cooperation as the Liquidator may reasonably deem necessary or expedient to assess the propriety of any commutation proposal and, where appropriate, to obtain Court approval for it.

5. Rutty Pool Business

- 5.1 CIC (through ACE-INA) shall, at the sole cost of CIC, to the extent determined through litigation, arbitration or an agreement approved by HICIL with each affected Rutty Pool member (a) administer and service the inwards liabilities of each affected Rutty Pool member, including the investigation, appraisal and adjustment of such liabilities; (b) effect timely notification to each affected Rutty Pool member and HICIL of the results of such investigation, appraisal and adjustment; and (c) pay on HICIL's behalf such unallocated loss adjustment expenses that are determined as the obligations of HICIL related to the inwards liabilities of each affected Rutty Pool member.

6. Role of ACE-INA

- 6.1 The parties acknowledge that ACE-INA is the agent of CIC. CIC undertakes that it will procure that ACE-INA will at all times perform CIC's obligations hereunder or, in the alternative, CIC will perform those obligations itself.

7. Reservation of Rights

- 7.1 Nothing in this letter shall be construed so as to prejudice, negate or otherwise interfere with the rights of HICIL under the Agreements or any other contractual arrangements involving or relating to Home's AFIA business as against any other party thereto (including their successors or assigns). In particular, but without derogating from the generality of the foregoing, the Liquidator reserves the right to assert that each or both of CIC and CIRC and/or any other person or entity having contractual obligations to indemnify HICIL with respect to Home's AFIA business are liable to indemnify HICIL thereunder.
- 7.2 Nothing in this letter shall be construed so as to prejudice, negate or otherwise interfere with the rights of CIC, CIRC or any other company within the ACE group of insurance undertakings as against HICIL whether under the Agreements or otherwise including the right to assert that neither CIC nor CIRC has any contractual obligation to indemnify HICIL with respect to AFIA Liabilities or AFIA Licence Business, and in particular, but without derogating from the generality of the foregoing: (i) if and to the extent that HICIL takes any action (or fails to take any action) the effect of which, subject to paragraph 2.8, is to undermine or interfere with defenses raised by CIC to a Claim, CIC reserves all of its rights in relation to any reinsurance or other indemnity or payment obligation (including pursuant to this letter agreement) regarding that Claim; and (ii) the payment

obligations stated in this letter agreement are predicated upon (and are not separate and independent from) a payment obligation under the Agreements and, accordingly, CIC reserves all its rights to argue that any action taken (or not taken) by HICIL and/or the Liquidator that would vitiate the payment obligation under the relevant Agreement does vitiate that obligation and such shall apply equally to vitiate the corresponding obligation under this letter agreement.

8. CIRC Reinsurance Recovery

- 8.1 Unless CIC invokes paragraph 7.2 and provided that CIC performs its obligations under this letter agreement, including without limitation paragraph 3.3 (b), HICIL agrees not to seek reinsurance recovery from CIRC.

9. No variation

No amendment, variation or supplement to this letter or the agreements contained in it shall be effective unless made in writing and signed on behalf of HICIL and CIC and approved by the Court.

10. Material Breach

In the event that either party considers that the other party has materially breached this letter agreement, the party shall give written notice to the other party specifying and giving details of the matter complained of and the actions that it considers required to cure the alleged material breach and requesting the other party to effect such action within twenty (20) business days from receipt of the notice. If the receiving party disputes that there is a material breach on its part or that the steps specified in the notice are necessary and appropriate, it shall so advise the notifying party in writing within twenty (20) business days of its receipt of the notice. If the receiving party considers that the notice does disclose a material breach on its part, it shall cure the same within twenty (20) business days of its receipt of the notice.

11. Notices

- 11.1 Any notice, consent or other communication ("notice") provided for under or given, made or served in connection with this letter shall be validly given, made or served if in writing and delivered personally or sent by registered or certified pre-paid first class post or by facsimile to the address or facsimile number (and marked for the attention of the person stated) below:

If to HICIL:

Home Insurance Company in Liquidation
59 Maiden Lane
New York, New York 10038
Attention: Jonathan Rosen
Facsimile Number: (212) 530 3100

If to CIC:

Thomas J. Wamser, Esq.
August 6, 2004
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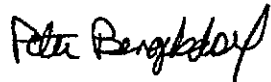
Century Indemnity Company
c/o ACE USA
Law Department
Routing TL35S
1601 Chestnut Street
Philadelphia, Pennsylvania 19101
Attention: Thomas Wamser
Facsimile Number: (215) 640 5571

11.2 A party may by written notice, served in accordance with this paragraph, change its address for the purpose of any subsequent notice.

* * *

If CIC is in agreement with the foregoing, please have a duly authorized representative confirm same by signing and returning to me a counterpart of this letter. I appreciate your consideration and assistance.

Sincerely,



Pete Bengelsdorf
Special Deputy Liquidator

AGREED AND ACCEPTED
CENTURY INDEMNITY COMPANY

By: 

Title: Assistant General Counsel

Date: 8/10/04

EXHIBIT B

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of
The Home Insurance Company

Docket No.: 03-E-0106

**ORDER APPROVING CLAIMS PROTOCOL
WITH CENTURY INDEMNITY COMPANY**

The Court held a hearing this date, at which all interested parties were represented, on the motion of Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of the Home Insurance Company ("Home") for an order approving a claims protocol (the "Protocol") with Century Indemnity Company. After considering the offers of proof and the supporting confidential affidavit of Peter A. Bengelsdorf, the Court concludes that:

1. The Protocol is reasonable, prudent and in full accordance with the law;
2. The Protocol is in the best interests of the liquidation of Home;
3. The Protocol is entered into in good faith; and
4. The interests of the claimants are well protected.

Accordingly, the Liquidator's Motion for Approval of Claims Protocol with Century Indemnity Company is **GRANTED**, and the Protocol is **APPROVED**.

So ordered.

Date

11/12/04



Kathleen A. McGuire
Presiding Justice

EXHIBIT C

CURRICULUM VITAE

COLIN EDELMAN Q.C.

Devereux Chambers,
Devereux Court,
London WC2R 3JJ.
020-7353 7534

1973-1976	Clare College, Cambridge. Law Tripos 1 - 2:1 Law Tripos 2 - First
1977	Called to the Bar
1979	Tenant of Devereux Chambers
1993	Appointed Assistant Recorder
1995	Appointed Queen's Counsel
1996	Appointed Recorder
2002	Elected Head of Chambers
2003	Elected Bencher of Middle Temple

Specialisation

Principal areas of practice are insurance and reinsurance, professional negligence (relating in particular to insurance and reinsurance brokers). Has specialised in these areas for over 20 years and developed a detailed understanding of the practices of the London and international insurance and reinsurance markets.

Arbitration/Mediation

Has acted as both advocate and arbitrator in insurance, reinsurance and other commercial arbitrations. Has advised and assisted solicitors in the mediation of cases. Has acted as a neutral evaluator.

Recent Reported Cases

These include:

Cape plc v. Iron Trades Employers Insurance [1999] PIQR Q212; [2004] Lloyd's Rep IR 75
Eagle Star v Creswell [2004] Lloyd's Rep IR 537
Gan Insurance v. Tai Ping Insurance [1999] Lloyd's Rep IR 472; [2001] Lloyd's Rep IR 667, [2002] Lloyd's Rep IR 612
GIO v. Liverpool & London Protection & Indemnity Assoc. [1999] 1 WLR 984
HIH Casualty & General Insurance v. Chase Manhattan Bank [2001] Lloyd's Rep IR 191, 703, [2003] Lloyd's Rep IR 230
Kennecott Utah Copper v. Cornhill Insurance [2000] Lloyd's Rep IR 179
Killick v. Rendall [2000] Lloyd's Rep IR 581
King v Brandywine [2004] Lloyd's Rep IR 554 [2005] Lloyd's Rep IR 509
Kler Knitwear v. Lombard General Insurance [2000] Lloyd's Rep IR 47
London Borough of Redbridge v. Municipal Mutual Insurance [2001] Lloyd's Rep IR 545
Martin v. Lancashire C. C. [2000] Lloyd's Rep IR 665
Norman v. Ali [2000] Lloyd's Rep IR 395
Norman v. Aziz [2000] Lloyd's Rep IR 52
R+V Versicherung v Risk Insurance & Reinsurance Solutions [2004] EWHC 2682 (Comm), EWHC 2586 (Comm)
R (Geologistics Ltd) v Financial Services Compensation Scheme [2003] 1 WLR 1696, [2004] 1 WLR 1719
Rendall v Combined Insurance [2005] EWHC 678 (Comm)
T&N v Royal Sun Alliance [2002] CLC 1342; [2004] Lloyd's Rep IR 102, 106

Publications etc.

Editor of "*The Law of Reinsurance*" (OUP, 2005) and is a contributor to "*Insurance Disputes*" (LLP, 2003). Has written articles for "*International Insurance Law Review*", "*British Insurance Law Association Journal*" and "*Commercial Liability Law Review*". Has frequently presented papers at seminars on insurance, reinsurance and professional negligence topics.

Professional Memberships

Member of Commercial Bar Association, London Common Law and Commercial Bar Association, Midland Circuit and Middle Temple.

For Middle Temple, has engaged in Advocacy Training programmes which have encompassed training students, pupils, new practitioners and new trainers during residential and non-residential weekend programmes and evening workshops.