

TAB A

SUMMARY OF THE FACTS ¹

On June 11, 2003, The Home Insurance Company (“Home”) was declared insolvent and an Order of Liquidation was entered by the Superior Court for the State of New Hampshire, Merrimack County, said order having been vacated and superseded by Order of Liquidation dated June 13, 2003.

Home is a New Hampshire corporation with its statutory offices in Manchester, New Hampshire and its principal office in New York. Home is a New Hampshire insurance company subject to regulation by the New Hampshire Insurance Department.

Home issued a Professional Liability Policy to Bishop Peterson & Sharp, P.C. (the “Insured Law Firm”). The Professional Liability Policy is a claims made and reported policy. Under the policy, a “claim” was defined as a “demand received by the insured for money or services, including the service of a suit....” Prior to the expiration of the Professional Liability Policy reporting period, Bowles forwarded letters to the Insured Law Firm expressing dissatisfaction with its work and demanding fee reductions. The Insured Law Firm then notified Home regarding same within the policy period. For purposes of the Professional Liability Policy and pursuant to its Discovery Clause, a claim was timely reported alleging acts or omissions that potentially invoked coverage under the Professional Liability Policy. Since the Professional Liability Policy is a third-party liability policy providing the Insured Law Firm with defense and indemnity benefits where coverage is otherwise afforded, this was all that was necessary to potentially invoke coverage under the policy at issue.²

¹All references to acts or events prior to the Order of Liquidation refer to The Home Insurance Company and all references to acts or events post the Order of Liquidation refer to HICIL.

²Although a lawsuit was not filed by Bowles against the Insured Law Firm until August of 1995, potential coverage had been invoked by notice of the claim and Home undertook to provide a defense subject to any reservation of rights raised by the pleadings. Even if a defense had not been owed, which Home believed it was, Home was within its rights to afford same even if voluntarily.

Home was designated as an impaired insurer by the Texas Commissioner of Insurance on June 26, 2003.

Pursuant to the provisions of Subchapter G of the Texas Property and Casualty Insurance Guaranty Act (the "Act"), Home forwarded its entire claim file to the Texas Property and Casualty Guaranty Association ("TPCIGA") because the lawsuit potentially constituted a covered claim under the Act. Pursuant to the Act, TPCIGA undertook to discharge its statutory duty to defend the Insured Law Firm.

Having forwarded the claim file to TPCIGA as it was required to do under the Act, Home has had no further direct involvement with the lawsuit by Bowles against the Insured Law Firm. By virtue of paragraph (n) of the Order of Liquidation, "all persons are hereby permanently enjoined and restrained from...any act to collect, assess, or recover a claim against The Home, other than the filing of a proof of claim with the Liquidator...."

On or about August 13, 2003, Bowles filed a Proof of Claim form as a third-party claimant against a purported insured of Home ("2003 Houston Real Estate Proof of Claim"). The 2003 Houston Real Estate Proof of Claim alleged that Home's purported insured was an entity named Houston Real Estate a/k/a ETS Interests. Bowles alleged that he was a tenant of the policy holder and was shot on the policy holder's property.

On October 5, 2006, Bowles sent a letter to Thomas Kober with HICIL requesting an update on his 2003 Houston Real Estate Proof of Claim filed in 2003.

On October 11, 2006, Ronald Barta, Senior Manager for HICIL, sent a letter to Mr. Farmer, counsel for Plaintiff. Mr. Farmer was provided with a copy of the Order of Liquidation and advised that Bowles was enjoined from commencing or continuing any litigation against

Home and if Bowles wished to make a claim against Home, he would need to file a Proof of Claim.

On October 16, 2006, Ronald Barta sent another letter to Mr. Farmer responding to Bowles's October 5, 2006 letter to Mr. Kober. Mr. Farmer was advised that since Home had ceased writing liability policies in 1995 and there was no information that suggested that the entity identified in the 2003 Houston Real Estate Proof of Claim was an insured under a Home policy, HICIL was recommending to the Liquidator that the 2003 Houston Real Estate Proof of Claim be disallowed.

Prior to filing suit against HICIL in August of 2007, Bowles had never filed a Proof of Claim with respect to the Professional Liability Policy and the Insured Law Firm, although that is the only remedy available under the Order of Liquidation.

On or about February 4, 2008, Bowles finally filed a Proof of Claim with respect to the Professional Liability Policy and the Insured Law Firm ("2008 Bishop Peterson Proof of Claim"). Filed along with 2008 Bishop Peterson Proof of Claim was Claimant's Explanation of Late Filing of Claim with Liquidator.

On October 22, 2008, HICIL's Liquidator sent a Notice of Determination with respect to the 2003 Houston Real Estate Proof of Claim filed in 2003 regarding Home's purported insured Houston Real Estate a/k/a ETS Interests. The Liquidator disallowed this Proof of Claim on the basis that there was no record that Home ever issued a policy to said entity.

On October 22, 2008, HICIL's Liquidator sent a Notice of Determination with respect to the 2008 Bishop Peterson Proof of Claim filed in 2008 regarding the Professional Liability Policy and the Insured Law Firm. The Liquidator disallowed this Proof of Claim on the basis

that Bowles' claims had been previously adjudicated in the insureds' favor and Bowles had not been awarded any damages against the insureds.

Each Notice of Determination set forth the steps Bowles would need to take if he wanted to dispute the determination. These steps are part of the only remedy available under the Order of Liquidation.

On or about October 27, 2008, Bowles filed the present suit against HICIL.

On or about December 20, 2008, Bowles filed an Objection to the Notice of Determination made with respect to the 2008 Bishop Peterson Proof of Claim regarding the Professional Liability Policy and the Insured Law Firm. This Objection will be heard by a court-appointed referee pursuant to the Order Establishing Procedures Regarding Claims, with review available of any decision made by the referee in the Merrimack County Superior Court and the New Hampshire Supreme Court. That Order and other pertinent information regarding the Liquidation are available on the website for the Liquidation Clerk at www.hicilclerk.org.