

**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 REQUEST PER TITLE LIII, CHAPTER 519:1, RSA, FOR
APPOINTMENT OF AN AUDITOR TO EXAMINE HOME ACCOUNTS TO VERIFY
ALLEGATION THAT \$10,000 DEDUCTIBLE APPLICABLE TO POLICY NO. LPL-
F871578 WAS PAID BY BPS WITHIN 30 DAYS UPON WRITTEN DEMAND FROM
HOME INSURANCE COMPANY PURSUANT TO THE TERMS OF THE POLICY**

1. Pursuant to Section 10 b of the Claims Procedures Order, "all Disputed Claims shall be conducted by the Referee according to the rules of equity or law, as the case may be, pursuant to New Hampshire Revised Statutes Annotated ("NHRSA") 519:10, and shall be governed by the New Hampshire Superior Court Rules and the New Hampshire Rules of Evidence"
2. Section 519:1 states that, "Whenever in an action pending in the superior court an investigation of accounts or an examination of vouchers is necessary or the issues as to damages are complex and intricate, one or more auditors may be appointed to hear the parties, examine

their vouchers and evidence, state the account or damages and report upon such matters therein as may be ordered by the court.

3. In this claim proceeding, the Liquidator alleges that Home Insurance provided BPS and George M. Bishop with a defense prior to the June 13, 2003 date of liquidation.

4. Bowles declares the Liquidator's allegation is a deliberate falsehood based on the fact that for 10 years from August 1995 through August 2005 neither Bishop nor BPS was represented by counsel and that, during that period, Bishop, acting pro se, refused to respond to all of Bowles' numerous requests for insurance coverage in contempt of Texas Rules of Civil Procedure.

5. Bowles declares the Liquidator's allegation is a deliberate falsehood is further proven by the information received from the Daniels-Head Insurance Agency stating that it had no information showing that there was an extension of benefits applicable to Home Policy No. LPL-F871578 after its cancellation in February 1994 that required the agency to give notice of the liquidation to affected policy holders.

6. Among the discovery requests Claimant Bowles made upon the Liquidator on April 24, 2009 (attached as EXHIBIT A) were Requests for Admission concerning the payment of the \$10,000 deductible by BPS upon a demand made by Home under the terms of the policy, and a Request for Production of Documents consisting of an alleged agreement between Home and George M. Bishop whereby he represented himself and the other insureds until the amount of the deductible had been met.

7. Bowles discovery requests were designed to make the Liquidator prove his contention that Home provided defense counsel for George M. Bishop and BPS prior to June 1, 2003.

8. This information is directly related to Bowles' claim that the TPCIGA's employment of defense counsel for BPS in August 2005 was without basis in previous litigation, and constituted totally unwarranted tortious abuse of process and tortious interference with the litigation in conspiracy with Home and others, resulting in severe financial and ancillary damage to Bowles that would not have occurred but for such interference.

9. Referee Gehris, at the Liquidator's request and in violation of RSA 519:10, has refused to permit discovery (in Bowles' discovery requests) concerning the Liquidator's allegation that Home provided BPS and Bishop with a defense prior to Home's liquidation in June 2003.

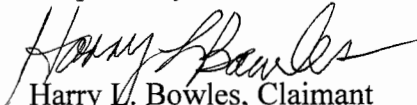
10. Proof that Home defended the policy prior to the date of liquidation requires a showing that the \$10,000 deductible was used up and collected by the company pursuant to the terms of the policy.

11. RSA 519:1 provides Bowles with a means of discovering whether or not the policy was defended through an auditor appointed to examine the company records to determine the presence of a \$10,000 payment to Home to cover the expense of initial representation..

Request for Relief

12. Above considered, Claimant requests the Court appoint, subject to Bowles' approval, a qualified independent auditor to determine whether or not Home Insurance Company billed BPS for the \$10,000 policy deductible, and whether BPS paid the billing within 30 days according to the terms of the policy.

Respectfully submitted,


Harry L. Bowles, Claimant

306 Big Hollow Lane

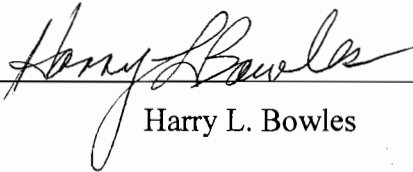
Houston, Texas 77042

Tel 713-983-6779 Fax 713-983-6722

Attachment

CERTIFICATE OF SERVICE

Harry L. Bowles, certify that on this 18TH DAY OF NOVEMBER, 2009 a true and correct copy of the foregoing was sent by priority mail 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; and to the Liquidation Clerk, HICIL, Merrimack Co. Superior Court, P O Box 2880, Concord, NH 02110-2880.



Harry L. Bowles

**THE STATE OF NEW HAMPSHIRE
MERRIMACK S.S. 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-41
Proof Of Claim Number: CLMN712396-01
Claimant: Harry L. Bowles**

**CLAIMANTS FIRST DISCOVERY REQUESTS PURSUANT TO ORDER
OF PROCEDURES REGARDING CLAIMS AND PER N.H. SUPERIOR
COURT RULES 35-45-A**

April 24, 2009

**To: Mr. Eric A. Smith
Rackemann, Sawyer & Brewster
160 Federal Street
Boston MA 02110-1700**

**To: Mr. Christopher Marshall
Civil Bureau, N H Dept/Justice
33 Capitol Street
Concord NH 03301-6397**

Comes Plaintiff Harry L. Bowles ("Bowles") to submit the following discovery requests on the Liquidator to serve as evidence for the resolution of the above-styled litigation by the appointed Referee:

A. Requests For Admissions

1. Admit or deny that the basis of dispute in this case involves Home Insurance Policy No. LPL-F871578.

Reply:

EXHIBIT A

2. Admit or deny that an affidavit dated November 15, 2007 by Mr. Ron Barta, an official of The Home Insurance Company in Liquidation ("HICIL"), states that a claim against Home Insurance Policy No. LPL-F871578 was timely filed by one of the insureds under the policy prior to the February 6, 1994 date of cancellation of the policy.

Reply:

3. Admit or deny that Mr. Barta has testified on personal knowledge that Bowles forwarded letters to the insured law firm Bishop, Peterson & Sharp, P.C. prior to February 1994 expressing dissatisfaction with its work and demanding fee reductions.

Reply:

4. Admit or deny that a claim under Home Insurance Policy No. LPL-F871578 means "a demand received by the insured for money or services, including the services of suit or institution of arbitration proceedings against the insured".

Reply:

5. Admit or deny that a dispute over fees is not a matter that would qualify as a professional or legal malpractice complaint covered by Home Insurance Policy No. LPL-F871578.

Reply:

6. Admit or deny that as a condition precedent to the right of protection afforded by Home Insurance Policy No. LPL-F871578, an insured party was required to give written notice to The Home Insurance Company of any claim made against the insured.

Reply:

7. Admit or deny that The Home Insurance Company records include no notice of a claim by Bowles in writing from any party insured under Home Insurance Policy No. LPL-F871578 dated prior to February 6, 1994.

Reply:

8. Admit or deny that, when Bowles filed suit against the insureds in August 1995, it was required that the insureds immediately forward to The Home Insurance Company every demand notice, summons or other process received directly or by the insured's representative.

Reply:

9. Admit or deny that the insureds under Home Insurance Policy No. LPL-F871578 never forwarded to The Home Insurance Company any demand notice, summons or other process received directly or by the insured's representative in Cause No. 1995-43235 in the time period from August 1, 1995 through June 13, 2005.

Reply:

10. Admit or deny that HICIL's Mr. Barta in his sworn affidavit invoked the **Discovery Clause** of Home Insurance Policy No. LPL-F871578 whereby, at some point prior to February 6, 1994, an insured informed The Home Insurance Company that an insured became aware that an insured had committed a specific act, error or omission in providing professional services for which coverage is afforded, and gave the Company notice of : (a) the specific act, error or omission; and (b) the injury or damage which had or might result from such act, error or omission; and (c) the circumstances by which the insured first became aware of such act, error or omission.

Reply:

11. Admit or deny that the records of The Home Insurance Company include no documentary evidence of a Discovery Clause notice by an insured under Home Insurance Policy No. LPL-F871578..

Reply:

12. Admit or deny that Home Insurance Policy No. LPL-F871578 carried a deductible in the amount of \$10,000.

Reply:

13. Admit or deny that the deductible under Home Insurance Policy No. LPL-F871578 was payable by the insured within thirty days by the insured upon written demand by The Home Insurance Company.

Reply:

14. Admit or deny that, by Section C – Exclusions, Home Insurance Policy No. LPL-F871578 did not apply to any claim made against any business enterprise not named in the Declarations which is owned by the insured or in which an insured is a partner or employee, or which is controlled, operated or managed by an insured.

Reply:

15. Admit or deny that Bowles' lawsuit against the insureds in Home Insurance Policy No. LPL-F871578 included an action against a firm titled **George Bishop and Associates** that is not listed in the Declarations page for Home Insurance Policy No. LPL-F871578.

Reply:

16. Admit or deny that any judgment secured solely for Bishop, Peterson & Sharp, P.C. in a Texas court in defense of Home Insurance Policy No. LPL-F871578 could not be constitute *res judicata* regarding Bowles' lawsuit against the business enterprise George Bishop & Associates.

Reply:

17. Admit or deny that The Home Insurance Company never acted to defend Home Insurance Policy No. LPL-F871578 in Cause No. 1995-43235 in the 151st District Court in Texas.

Reply:

18. Admit or deny that Home Insurance Company never contracted with George Bishop to defend Home Insurance Policy No. LPL-F871578 for all the insureds for the sum of \$10,000, that being the amount of the deductible.

Reply:

19. Admit or deny that Home Insurance Company never made a demand on the insureds under Home Insurance Policy No. LPL-F871578 for payment of the deductible.

Reply:

20. Admit or deny that any and all statements by HICIL official Ron Barta that Home Insurance Company participated in the litigation of Cause No. 1995-43235 in the 151st District Court in Texas in the period from August 1, 1995 through June 13, 2005 are false.

Reply:

21. Admit or deny that all activities concerning Home Insurance Policy No. LPL-F871578 after June 13, 2003 are governed by the Order of Liquidation.

Reply:

22. Admit or deny that on June 13, 2003, Home Insurance Policy No. LPL-F871578 was no longer in force and no action was pending in any court involving Bowles' malpractice lawsuit against the insureds involving The Home Insurance Company.

Reply:

23. Admit or deny that, even if Home Insurance Policy No. LPL-F871578 had remained in force and was being defended in Texas on June 13, 2003, the action would have been abated on that date in accordance with the Order of Liquidation and Section 402-C:28 of the Insurance Code.

Reply:

24. Admit or deny that, even if Home Insurance Policy No. LPL-F871578 had remained in force and was being defended in Texas on June 13, 2003, the Liquidator had no authority to intervene in the ongoing action without applying to the court for leave to defend or be substituted for the Company.

Reply:

25. Admit or deny that the Liquidator, after June 13, 2003, never made application to the court to intervene in Cause No. 1995-43235 in the 151st District Court in Texas.

Reply:

26. Admit or deny that an intervention in August 2003 in Cause No. 1995-43235 in the 151st District Court in Texas in defense of Home Insurance Policy No. LPL-F871578 by either HICIL or TPCIGA would have required the approval of the Superior Court.

Reply:

27. Admit or deny that the Superior Court never issued an order authorizing either HICIL or TPCIGA to intervene in Cause No. 1995-43235 in the 151st District Court in Texas in defense of Home Insurance Policy No. LPL-F871578.

Reply:

28. Admit or deny that neither the Liquidator nor HICIL had reason to believe or suspect that the Bowles' POC submitted to the Liquidator in August 2003 was a claim against Home Insurance Policy No. LPL-F871578.

Reply:

29. Admit or deny that the Superior Court could not have approved an intervention in Cause No. 1995-43235 in the 151st District Court in Texas in defense of Home Insurance Policy No. LPL-F871578 in August 2005 because this would have been barred by the Statute of Limitations under Section 402-C:28.

Reply:

30. Admit or deny that the intervention by TPCIGA in August 2005 in Cause No. 1995-43235 in the 151st District Court in Texas in defense of Home Insurance Policy No. LPL-F871578 was totally unauthorized under the Order of Liquidation and under New Hampshire law concerning liquidation of insurance companies.

Reply:

31. Admit or deny that the action by TPCIGA to employ defense counsel to litigate in Cause No. 1995-43235 in the 151st District Court in Texas in defense of Home Insurance Policy No. LPL-F871578 was without the knowledge of the Liquidator and without his or the court's express approval.

Reply:

B. Requests For Production of Documents

Bowles requests production of the following items:

All documents and information referred to in and related to that affidavit executed by HICIL's Ron Barta dated November 15, 2007 attached hereto as **EXHIBIT A**. Said documents and information shall include, but shall not be limited to, the following:

- a. Copies of any and all documents of any kind related to Home Insurance Company Policy No. LPL-F871578 that concern claims by any of the insureds related to Harry L. Bowles.
- b. Copies of any claims made by Bowles against BPS and related insureds.
- c. Copies of any POCs or demands for defense and indemnity from Home made by any "insureds" in Home Insurance Policy No. LPL-F871578.
- d. Copies of any documents issued by the Liquidator to any insureds in Home Insurance Policy No. LPL-F871578 in determination of, or related to, a POC submitted to the Liquidator by an insured after June 13, 2003.
- e. Copies of all documents whereby the Liquidator of Home Insurance Company forwarded a Bowles' claim to TPCIGA for handling under provisions of Home Insurance Policy No. LPL-F871578.
- f. Copies of all documents related in any way to an alleged Discovery Clause notice sent to The Home Insurance Company by an insured under Home Policy No. LPL-F871578 prior to February 6, 1994.
- g. Copies of all documents related in any way to the allegation that The Home Insurance Company agreed to provide insurance coverage to the insureds under

Home Insurance Policy No. LPL-F871578 on a voluntary basis even though no coverage was owed.

- h. Copies of an alleged agreement between Home Insurance Company and George M. Bishop whereby he would represent the "named insured and related insureds" in Cause No. 1995-43235 until the amount of the deductible had been met.
- i. Copies of any documents accounting for expunction of the deductible in Home Insurance Policy No. LPL-F871578 by payments made to George M. Bishop or any other person by Home or by TPCIGA.
- j. A copy of the employment contract or agreement whereby TPCIGA retained the Houston law firm Marshall & McCracken, P.C. to intervene in defense of Home Insurance Policy No. LPL-F871578 in Cause No. 1995-43235 pursuant to authority from the Liquidator to do so.

END

Respectfully submitted,



Harry L. Bowles, Claimant

306 Big Hollow Lane

Houston, Texas 77042

Tel 713-983-6779

Fax 713-983-6722