

To: Office of the Clerk,
Merrimack County Superior Court
163 N. Main Street, P.O. Box 2880
Concord, New Hampshire 03301-2880

Copy: Liquidator
Home Ins. Co. In Liquidation
P. O. Box 1720
Manchester, NH 03105-1720

2008-11-17 AM 11:34
RECEIVED
CLERK OF COURT
MERRIMACK COUNTY

Attention: The Home Docket No. 03-E-0106

SUPPLEMENT TO AND ADDENDUM TO OBJECTION TO DENIAL OF CLAIM
PREVIOUSLY SUBMITTED TO COURT ON DECEMBER 22, 2008

HOME INSURANCE COMPANY IN LIQUIDATION

CLAIMANT: HARRY L. BOWLES, 306 BIG HOLLOW LANE, HOUSTON, TX 77042

PROOF OF CLAIM NO. CLMN712396-01

AMOUNT OF CLAIM \$3.1 Million

AMOUNT ALLOWED NONE

Foreword

1. Bowles sought damages for legal malpractice pursuant to a professional liability policy issued by Home to the law firm Bishop, Peterson & Sharp, P.C., Houston, Texas. The claim was disallowed on the allegation that Bowles claims against the insured persons were adjudicated in insureds' favor. The following addendum to the original objection filed October 22, 2008 is the result of additional information developed recently.

Bowles' Added Response In Objection To Disallowance Of Claim

2. As stated in the previous pleading, the Liquidator has no standing to take judicial notice of rulings by the 151st District Court in Texas if the rulings by that court were the result of

officious intermeddling in Cause No. 1995-43235 by TPCIGA **in defense of Home Policy No. LPL-F871578.**

3. Bowles hereby alleges that the Liquidator's Notice of Determination was issued in violation of this Superior Court's ORDER OF LIQUIDATION dated June 13, 2003 under Docket No. 03-E-010. Pertinent portions of the ORDER violated include:

- The Liquidator shall cancel all in-force contracts of insurance and bonds effective as of 30 days after the date of this order.
- The Liquidator is directed to secure all of the assets, property, books, records, accounts and other documents oh the Home . . . without limitation . . .
- The Home and its directors, officers, employees, agents, and representatives are prohibited from proceeding with the business of the Home, except upon the express written authorization of the Liquidator.
- The Home and its directors, officers, employees, agents, and representatives, and any persons acting in concert with the Home are prohibited from disposing, using, transferring or removing any property of the Home, without the express written authorization of the Liquidator . . .
- All actions and all proceedings against the Home whether in this state or elsewhere shall be abated in accordance with RSA 402-C:28 and RSA 402-C:5 **except to the extent the Liquidator sees fit and obtains leave to intervene.**
- To the full extent of the jurisdiction of the Court and the comity to which the orders of the Court are entitled, all persons are hereby permanently enjoined and restrained from any of the following actions:

(1) commencing or continuing any judicial, administrative, or other action or proceeding against the Home or the Liquidator.

(6) any act to collect, assess, or recover a claim against the Home other than the filing of a proof of claim with the Liquidator.

3. So the situation on June 13, 2003 with regard to Home Policy No. LPL-F871578 was this: (a) Bowles had sued Bishop, et al in 1995 for legal malpractice in the 151st District Court in Texas; (b) Bishop had for years refused to answer discovery requests for his insurance coverage, partially because the suit was in abatement while Bishop was incarcerated in federal prison for conviction of income tax evasion (c) Home Insurance had never provided defense counsel for Bishop, et al; (d) any insurance contracts in force were cancelled by or on July 13, 2003; (e) Bowles was unaware that Home had at one time insured Bishop and others under Policy No. LPL-F871578; (f) Bowles had never filed a claim with Home; (g) All persons were permanently enjoined from commencing any action against Home or the Liquidator; (h) Home officials were prohibited from proceeding with Home business unless by written authorization from the Liquidator; (i) All Home records were secured by and became the property of the Liquidator and could not be transferred or removed without the Liquidator's authorization; (j) All persons acting in concert with Home officials were prohibited from using Home property without the Liquidator's authorization; (k) The Liquidator was prohibited from intervening in all actions and proceedings anywhere in the U.S. without obtain leave to do so.

4. In August 2003 Bowles sent a proof of claim to HICIL in New Hampshire requesting coverage of damages under a purported insurance policy issued to Bowles' landlord, a real estate management company. The claim referenced a shooting incident and lack of security at an office complex. HICIL apparently assigned a claim number to the proof of claim, but did not otherwise

acknowledge the claim until October 16, 2006 when HICIL's Ron Barta advised Bowles that he would recommend to the Liquidator that the claim be disallowed due to Home's having ceased writing liability policies in 1995. There was no accompanying notice of determination by the Liquidator rejecting the claim.

5. By letter to Mr. Barta dated October 11, 2006 Bowles (through his attorney) gave notice of his withdrawal of the claim (POC # CLMN 380570).

6. Despite the withdrawal notice, the Liquidator issued to Bowles a Notice of Determination dated October 22, 2008 rejecting POC # CLMN 380570 for reason it had no record of a policy issued to the referenced real estate management company.

7. However, as proven by two sworn statements from officials of HICIL and TPCIGA, at some point, probably in early 2005, certain Home officials in concert with certain officials of TPCIGA violated the restrictions placed against them by the ORDER OF LIQUIDATION. **Bowles alleges** that POC # CLMN 380570, the secured property of HICIL, was transmitted to TPCIGA without the Liquidator's express written authorization for the purpose and with the intent that Bowles' illegitimate claim be used as a basis for carrying on Home business by intervening in the ongoing legal proceeding in the 151st District Court in Texas.

8. **Bowles alleges** this intervention was carried out surreptitiously without the Liquidator's authorization and in violation of the Liquidator's duty to first obtain leave of the Texas court to intervene in Cause No. 1995-43235.

9. **Bowles alleges** that, wittingly or unwittingly, the Liquidator committed a fraud on the Texas court and on this New Hampshire court by falsely and fraudulently holding out that POC # CLMN 380570 authorized HICIL and TPCIGA to intervene as third-party defendants in Cause No. 1995-43235.

10. Bowles' February 2008 Proof of Claim No. CLMN 712396-01 was rejected based on the purported dismissal of Bowles' malpractice suit against Bishop by the court in Texas.

11. **This indicates that HICIL considers itself a prevailing third-party defendant in Cause No. 1995-43235.** Were this not so, HICIL's rejection of Bowles' February 2008 claim would be without reference to the alleged result of the proceeding in Texas courts involving Bowles' legal malpractice suits against George M. Bishop, George Bishop & Associates, BPS, et al. and Home Insurance Policy No. LPL-F871578.

12. This begs the critical question: Did the Liquidator act at his discretion to intervene in Cause No. 1995-43235 pursuant to the ORDER OF LIQUIDATION?

13. HICIL's Notice of Determination must therefore be considered in light of whether or not the Liquidator's decision was based on full and complete information. Apparently, all information came to the Liquidator from Mr. Barta in the New York office.

14. **It defies all logic to think or believe that the Liquidator would have chosen to become a third-party defendant in a lawsuit in Texas based on a proof of claim (by Bowles) that is in no way related to an insurance policy issued by Home Insurance Company, either with regard to the company named as the insured in the claim or as to the nature of the claim.**

15. Bowles hereby alleges that the court-appointed Liquidator, Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire (or his deputy) was suborned by HICIL's New York officials to issue the Notice of Determination rejecting Bowles' illegitimate August 2003 POF. Bowles alleges his was in the expectation that Bowles would accept the premise of the rejection without an appeal of the matter to the Superior Court.

16. Bowles alleges the HICIL officials and TPCIGA officials sought and obtained from the Liquidator needed protection from indictment and discipline for their transfer and use of HICIL property in violation of the ORDER OF LIQUIDATION. It was the Liquidator's duty to give written approval for HICIL's transfer of the Bowles' claim file to TPCIGA and permit its use by TPCIGA as a basis for intervention in Cause No. 1995-43235 in the Texas 151st District Court.

17. There was no such written authority given by the Liquidator, as proven by the fact that there was no request made to the Texas 151st District Court for leave to intervene in defense of Home Insurance Policy No. LPL-F871578.

18. Further proof that HICIL officials violated the ORDER OF LIQUIDATION lies in the fact that the Liquidator's rejection notice of Bowles' August 2003 POC was issued on October 22, 2008 even though HICIL officials had declared (in their attorney's March 2, 2007 letter to Bowles' attorney) that Bowles' claim file had been transferred to TPCIGA. The officials did not state that the Liquidator had given written authorization to the transfer of the file and its use by TPCIGA as a "possible covered claim".

19. The October 22, 2008 Notice of Determination rejecting Bowles' August 2003 POC No.380570 is affirmative proof that HICIL and TPCIGA officials engaged in a conspiracy against Bowles in violation of this Court's ORDER OF LIQUIDATION.

20. The October 22, 2008 Notice of Determination rejecting Bowles' August 2003 POC No. 380570 is affirmative proof that TPCIGA was without authority to employ defense counsel for any parties in Cause No. 1995-43235 based on their right to intervene as third-party defendants under Home Insurance Policy No. LPL-F871578.

21. The Liquidator, in order to exercise his right of determination of Bowles' POC No. 380570, must, at some point in 2006 or 2007 have acted to reclaim Bowles' claim file from TPCIGA.

22. In September 2006, the 151st Court rejected Bowles' MOTION TO SHOW AUTHORITY under Rule 12, Texas Rules of Civil Procedure. The court ruled that **TPCIGA had authority** to intervene in Cause No. 1995-43235 by employing defense counsel to represent Bishop, Peterson and Sharp, P.C. pursuant to a transfer of Bowles' POC No. 380570 by HICIL to TPCIGA for determination.

23. The Texas 151st District Court's rejection of Bowles' MOTION TO SHOW AUTHORITY was made without reference to this Court's ORDER OF LIQUIDATION.

24. The Liquidator's October 22, 2008 Notice of Determination rejecting Bowles' POC No. 712396 indicates that the Liquidator has taken judicial notice of the Texas 151st Court's purported judgment dismissing Bowles' lawsuit against Bishop, et al, Cause No. 1995-43235.

25. Apparently, HICIL's present position (and that of the Liquidator as well) is that the Texas 151st Court has dismissed all parties and issues in Cause No. 1995-43235 based on the intervention by TPCIGA and the success of its defense counsel in obtaining a summary judgment against Bowles.

26. Bowles would show this Court that all parties and issues in Cause No. 1995-43235 have definitely not been finally adjudicated by the Texas 151st District Court, as is evident from the following items:

- Attached Exhibit A is the 151st Court's Order Granting Summary Judgment.

- The Order states that underlying Cause No. 1991-25939-A was terminated by final judgment, in spite of the fact, as shown by **EXHIBIT B**, that the case was dismissed for want of prosecution in 1999.
- The Order fails to include a dismissal of one or more defendants in Cause No. 1995-43235, including George Bishop and Associates and David E. Sharp.
- The Order does not reflect the presence of HICIL or TPCIGA as third-party defendants, even though the Texas court was aware that TPCIGA had officiously intervened in the case in defense of Home Insurance Policy No. LPL-F871578.
- George Bishop and Associates, a defendant in Cause No. 1995-43235, was not an insured party under Home Policy No. LPL-F871578; nevertheless, TPCIGA employed defense counsel to defend that firm, purportedly pursuant to authority given to it by HICIL.
- The Order presents a “relevant chronology” of underlying Cause No. 1991-23935 listing that there was a “Final Summary Judgment” issued on February 12, 1996; the 151st Court designedly refused to recognize the legally overriding effect of a Transfer Order dated August 9, 1996 (Attached **EXHIBIT C**) by the Civil Administrative Judge stating that that Cause No. 1991-43235 remained “active” as of that date.
- The Order grants a summary judgment against Bowles based on *res judicata* despite the fact that *res judicata* cannot apply in a case in the absence of an appealable final judgment.

Conclusions

24. The evidence clearly and concisely shows that HICIL and TPCIGA officials conspired to fraudulently transfer and use Bowles’ August 2003 POC No. 380570 to intervene as third-party

defendants in Cause No. 1995-43235 in direct violation of this Court's ORDER OF LIQUIDATION.

25. The evidence clearly and concisely shows that HICIL and TPCIGA officials attempted to cover up their violation of the ORDER OF LIQUIDATION.

26. As proven by his rejection of POC No. 380570 in October 1998, the Liquidator never gave his or her approval in writing for HICIL and TPCIGA to intervene in Cause No. 1995-43235 as required by the ORDER OF LIQUIDATION.

27. Officials of HICIL and TPCIGA knowingly acted in contempt of this Court's ORDER OF LIQUIDATION by surreptitiously intervening in Cause No. 1995-43235, and by attempting to cover up their conspiracy and fraud.

28. It is the duty of this Court take jurisdiction of HICIL and TPCIGA officials and rule them guilty of conspiracy, fraud and contempt of court for their deliberate violations of the ORDER OF LIQUIDATION.

29. It is the duty of this Court to order HICIL and TPCIGA officials to purge themselves of their Contempt of Court by issuing joint statements addressed to all courts in Texas, federal or state, rescinding and recanting any and all claims made by said officials that HICIL and TPCIGA had authority (as third-party defendants or in any other capacity) to employ defense counsel in Texas in 2005 to defend any parties covered by Home Insurance Policy No. LPL-F871578 in Cause No. 1995-43235.

Request For Relief

30. Bowles requests relief from this Court as follows:

- That the Court take jurisdiction of HICIL and TPCIGA officials and rule them guilty of conspiracy, fraud and contempt of court for their deliberate violations of the ORDER OF LIQUIDATION.
- That the Court order HICIL and TPCIGA officials to purge themselves of their Contempt of Court by issuing joint statements addressed to all courts in Texas, federal and state, rescinding and recanting any and all claims made by said officials that HICIL and TPCIGA had authority (as third-party defendants or in any other capacity) to employ defense counsel in Texas in 2005 to defend any parties covered by Home Insurance Policy No. LPL-F871578 in Cause No. 1995-43235 in the 151st District Court in Harris County, Texas.
- To award to Bowles all other and further relief to which this Court may deem him justly entitled.

Respectfully submitted,




Harry L. Bowles
In his individual capacity and as
Attorney pro se and Attorney of record
306 Big Hollow Lane
Houston, Texas 77042
Tel 713-983-6779 Fax 713-983-6722

Attachments

Certificate of Service

I certify that on THIS 5 TH DAY OF January, 2009 a copy of the foregoing was forwarded by U.S. Mail by priority mail with delivery confirmation to the Office of the Clerk, Superior Court of Merrimack County, Concord, New Hampshire, and to the Liquidator, Home Insurance Company in Liquidation, P.O. Box 1720, Manchester, New Hampshire.


Harry L. Bowles

NO. 1995-43235
2007 JAN - 1 A M: 34

HARRY L. BOWLES §
VS. §
GEORGE M. BISHOP §
§
§
§

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS
151ST JUDICIAL DISTRICT

CHARLES L. E. D
District Clerk

ORDER

APR 12 2007

Came on to be heard Defendant George M. Bishop's Motion for Summary Judgment as to Plaintiff Harry L. Bowles' cause of action for legal malpractice. The Court, having considered the pleadings on file and the evidence, and having heard the arguments of counsel, finds the following:

A relevant chronology of this case is as follows:

- April 8, 1994: Bishop, Peterson, & Sharp, P.C. filed a Motion to Withdraw as counsel for Plaintiff Bowles in Cause No. 1991-25939
- April 11, 1994: The 190th District Court granted Bishop, Peterson & Sharp, P.C.'s Motion to Withdraw.
- April 19, 1994: Bishop, Peterson, & Sharp, P.C. filed a Third Party Intervention in Cause No. 1991-25939 for attorney's fees
- May 6, 1994: Plaintiff filed a Petition in Intervention in Cause No. 1991-25939 contesting Bishop, Peterson, & Sharp, P.C.'s legal costs. Plaintiff fails to file a counterclaim for legal malpractice or negligence
- July 18, 1994: Order granting Bishop, Peterson, & Sharp, P.C.'s Motion for Summary Judgment in Cause No. 1991-25939 is signed awarding attorney's fees
- April 10, 1995: Order granting Severance as requested by Defendants is signed and it is ordered that Summary Judgment in favor of Bishop, Peterson, & Sharp, P.C. be entered as Cause No. 1991-25939-A as final judgment
- May 15, 1995: April 10, 1995 Order of Severance is set aside

EXHIBIT A

- August 31, 1995: Harry Bowles filed Plaintiff's Original Petition in the 151st District Court naming George M. Bishop, Charles K. Peterson, and David E. Sharp individually as Defendants giving rise to Cause No. 1995-43235.
- November 1, 1995: George Bishop filed a Third Party Intervention in Cause No. 1991-25939 to recover attorney fees
- January 29, 1996: Answer filed by George M. Bishop individually to Cause No. 1995-43235.
- February 12, 1996: Final Summary Judgment signed in Cause No. 1991-25939 in the 334th District Court
- April 26, 1996: Order signed in Cause No. 1991-25939 stating that the Order of May 15, 1995 setting aside the severance order dated April 10, 1995 is vacated; the severance (Cause No. 1991-25939-A) is reinstated.
- August 30, 1996: Order for Disbursement of Funds is signed as to Cause No. 1991-25939-A; Ordered that the clerk issue from the registry of the Court to (1) George Bishop the sum of \$39,618.18 and (2) Bishop, Peterson & Sharp, P.C. c/o George Bishop \$186,781.19

This Court has taken under advisement Defendant's Motion for Summary Judgment. After careful consideration of the complex procedural history of this case as well as the applicable case law, this Court contacted counsel for the parties and requested additional briefing regarding the following specific question:

"If the February 12, 1996 order signed by the 334th District Court is a "final judgment" as to the 1991-25939 case, what effect, if any, does that order have on Mr. Bowles' malpractice claim filed on August 31, 1995, in a different Civil District Court (the 151st), since this claim was not made as a compulsory counter-claim in the main lawsuit in the 334th District Court?"

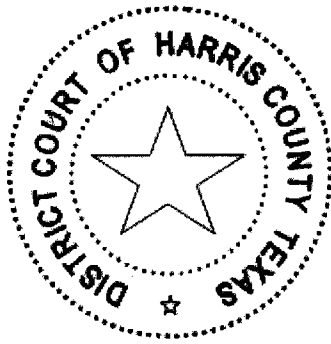
To date, counsel for neither party has filed any additional briefing specifically addressing this question posed by the Court. Since no additional briefing has been filed on this issue, this Court must rely on the record before it.

It is the opinion of this Court that Final Judgments have been entered in the underlying cases, Cause No. 1991-25939 and Cause No. 1991-25939-A; and, therefore, Plaintiff's cause of action for legal malpractice is barred by *res judicata*. In accordance with Texas Rule of Civil Procedure 97(a) and established case law, a cause of action for legal malpractice is a compulsory counterclaim that must be filed when a party files a cause of action contesting legal fees. Plaintiff failed to include his cause of action for legal malpractice in his cause of action contesting legal fees and, furthermore, failed to timely amend his pleadings to assert a cause of action for legal malpractice before a final judgment had been entered. Thus, because Plaintiff's cause of action for legal malpractice was a compulsory counterclaim that he failed to assert, he is now barred by *res judicata* from asserting it in this court. Accordingly, based on the pleadings, motions, and other evidence now before this Court, it is

ORDERED, ADJUDGED AND DECREED that Defendant's Motion for Summary Judgment is **GRANTED** in its entirety.

SIGNED this 12th day of April, 200~~8~~⁷.

Caroline Baker
Judge Presiding



I, Loren Jackson, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this December 19, 2008

Certified Document Number: 27997977 (Total Pages 3)

LOREN JACKSON, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com

P-2
(3)

Cause No. 199125939A

BISHOP PETERSON & SHARP P C

VS

BOWLES, HARRY L

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*
*
*

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

55TH JUDICIAL DISTRICT

ORDER OF DISMISSAL

For failure to comply with THE NOTICE DATED 03-25-1999/TRCP165A,
this cause is ordered DISMISSED FOR WANT OF PROSECUTION. Costs of court are
assessed against the plaintiff(s).

Signed

Sherry Radack

SHERRY RADACK
JUDGE, 55TH DISTRICT COURT
Generated on: APRIL 20, 1999

April 21, 1999

IMAGED

FILED
CHARLES BACARRESE
District Clerk

APR 21 1999

Harris County, Texas

By

Deputy

EXHIBIT B

GEORGE M BISHOP III
3000 SMITH ST
HOUSTON TX 77006

RECORDER'S MEMORANDUM
This instrument is of poor quality
and not satisfactory for photographic
recording, and/or alterations were
present at the time of imaging

02353000

STATE OF TEXAS
COUNTY OF HARRIS

I, Charles Bacarisse, District Clerk of Harris County, Texas, do hereby certify that the foregoing data is a true and correct copy of the original record, now in my lawful custody and possession as appears of record in my office and/or:

- a) filed on 4-21-99
b) recorded under Vol. _____ Page _____
in the Minutes of said Court
c) abstracted from the original record in my lawful possession, electronically, stored in digital form and pertaining to the _____ or
in reference to cause number _____
d) abstracted from the original record in my lawful possession, electronically, stored in digital form pertaining to _____
from _____ to the present date.

Witness my hand and seal of office this

DEC 06 2000
CHARLES BACARISSE, DISTRICT CLERK
Harris County, Texas

By [Signature] Deputy

F HEREDIA

P1
TDC

Bowles, Harry L.
v. Schwartz, Charles N. Jr.
|| IN THE DISTRICT COURTS OF
|| HARRIS COUNTY, TEXAS
|| 55
|| 324th JUDICIAL DISTRICT

TRANSFER ORDER

The above styled and numbered cause remains an active case under the jurisdiction of the Harris County District Courts Registry, and should be transferred to the court assigned cause number 91-25939-A. It is therefore

ORDERED that the District Clerk of Harris County transfer cause no. 91-25939 to the 55th District Court.

Signed Aug. 9 1996.

Sharolyn Wood
Administrative Judge, Harris County
SHAROLYN WOOD

RECORDER'S MEMORANDUM:
This instrument is of poor quality
and not satisfactory for photographic
recording; and/or alterations were
present at the time of filming.

EXHIBIT C