

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: 2005-HICIL-16
Proof of Claim Number: RAHM 700632
Claimant Name: Century Indemnity Reinsurance Company Ltd.

LIQUIDATOR'S OBJECTION TO NATIONWIDE'S MOTION
TO PARTICIPATE IN THE DISPUTED CLAIM PROCEEDING

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby objects to the motion to participate in this disputed claim proceeding filed by Nationwide General Insurance Company and Nationwide Mutual Insurance Company (collectively, "Nationwide"). The motion should be denied because Nationwide is not directly affected by the disputed claim proceeding over the claim of Century Indemnity Reinsurance Company ("CIRC").

1. The Restated and Revised Order Establishing Procedures Regarding Claims Filed with the Home Liquidation dated January 19, 2005 (the "Claims Procedures Order") governs these proceedings. As pertinent here, it provides that persons or entities "who are directly affected by the Disputed Claim proceeding" may seek leave to intervene by filing a motion to participate. Claims Procedures Order § 9(b) (emphasis added). This language is drawn from the provision of the Act requiring that notice of a hearing on a claimant's objection be given to the claimant "and to other persons directly affected." RSA 402-C:41, II. The Claims Procedures Order specifically identifies guaranty funds (who might have to pay a claimant if a claim were allowed) and reinsurers (who have a contractual right to interpose defenses and might have to

pay reinsurance if a claim were allowed) as entities “directly affected” by disputed claims.

Claims Procedures Order § 9(b).

2. Nationwide is not “directly affected” by CIRC’s claim. Unlike a guaranty fund or a reinsurer, it is not potentially liable for the claim. Nationwide only contends that the outcome of this disputed claim proceeding may affect (through offset) the amount which the Liquidator can collect from ACE, which will in turn affect the payments to AFIA Cedents – including Nationwide – under the Agreement that was the subject of the Court’s September 22, 2005 Order. See Motion to Participate ¶¶ 4-6. Such an indirect effect does not support participation.

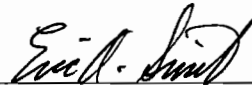
3. Nationwide’s position amounts to the assertion that participation is appropriate whenever a disputed claim proceeding can affect amounts ultimately to be paid by the Liquidator to creditors. On Nationwide’s theory, all AFIA Cedents would be entitled to participate. Indeed, since amounts collected by the Liquidator from ACE will also be distributed to Class II creditors, those creditors would also have an interest warranting participation. The Claims Procedures Order restricts participation to those “directly affected” to promote efficient disputed claim proceedings. Nationwide’s interpretation of that phrase would open up participation to anyone in a broad class, thus increasing the costs of disputed claim proceedings to the detriment of the liquidation as a whole. Nationwide does not have a direct interest supporting participation. See Crawford v. American Standard Life & Acc. Ins. Co., 37 P.3d 971, 974 (Okla. Civ. App. 2001); Trosper v. Ingham, 292 N.W. 360, 361 (Mich. 1940). As Nationwide concedes, the Liquidator is charged with representing all creditors. Motion to Participate ¶ 7.

WHEREFORE, the Liquidator respectfully requests that the Referee deny Nationwide's Motion to Participate and grant such other and further relief as the Referee deems proper.

Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER OF
INSURANCE OF THE STATE OF NEW HAMPSHIRE
SOLELY AS LIQUIDATOR OF THE HOME
INSURANCE COMPANY,

By his attorneys,

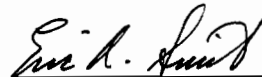


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February 16, 2006

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Objection to Nationwide's Motion to Participate was sent, this 16th day of February, 2006, by email to all persons on the attached service list.



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