

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

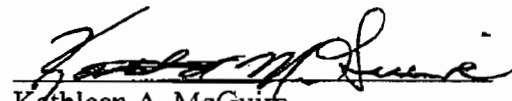
In Re Liquidator Number: 2005-HICIL-6
Proof of Claim Number: EMPL16717
Claimant Name: Theodore C. Witting

Theodore Witting claims a \$10,000 retiree life insurance benefit for term life insurance premiums he paid as a 41 year employee of the Home Insurance Company. The Liquidator denied the claim because: 1) retiree life insurance plans are welfare benefit plans under the Employee Retirement Income Security Act (ERISA) and such plans can be terminated at will by the employer (29 U.S.C. §1051(1); ERISA Section 201(1); Curtis-Wright Corporation v. Schoonejongen, 514 U.S. 73, 78 (1994)); and 2) even if the claim were allowed, it would be designated as a Class V residual classification pursuant to RSA 402-C:44.

Mr. Witting appealed the denial of his claim. Mr. Witting does not dispute the Liquidator's arguments but appears to base his claim on fairness. While Mr. Witting's fairness argument is appealing, it is not the law. If the Court could waive a magic wand, Mr. Witting would get his \$10,000 benefit, but the Court is bound to follow the law. For the reasons contained in the Liquidator's brief, the decision denying Mr. Witting's appeal is AFFIRMED.

SO ORDERED.

2/7/06
Date


Kathleen A. McGuire
Presiding Justice