

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: 2008-HICIL-41

Proof of Claim Number: CLMN712396-01

Claimant Name: Harry L. Bowles

LIQUIDATOR'S RESPONSE TO ORDER REGARDING DISCOVERY

Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby responds to the part of the Referee's Order of June 15, 2009 ("Order") regarding discovery.

1. In the Order, the Referee directed that the Liquidator provide documents responsive to four of the Claimant's requests for documents. The Liquidator's responses to the four requests are set forth below. The responsive documents will be provided to Mr. Bowles under separate cover.

2. The Liquidator notes that the claim file regarding Mr. Bowles was sent to the Texas Property and Casualty Insurance Guaranty Association ("TPCIGA") in or around June 2003. As described in the Liquidator's Second Report dated August 11, 2003, after the Order of Liquidation, the Liquidator arranged for transfer of claim files that would likely be subject to guaranty association protection to the appropriate guaranty associations for handling. Liquidator's Second Report ¶ 5.¹ Approximately 6,500 claim files had been transferred to forty-one guaranty associations by early August 2003. *Id.*

¹ The Liquidator's reports are filed in the Home liquidation proceeding, No. 03-E-0106, and are posted in their own section of the Office of the Liquidation Clerk's website, www.hicilclerk.org.

3. The Liquidator did not make copies of all of the claim files that were transferred to the guaranty associations. The Liquidator did not make a copy of the claim file in this matter, but only has copies of certain documents, some of which were provided to the Liquidator by TPCIGA. The Liquidator will produce responsive documents from these available documents in response to the four requests as described below. The Liquidator has requested that the TPCIGA provide copies of any additional responsive documents, and will supplement this response if and when any responsive documents are received.

4. Request b:

Copies of any claims made by Bowles against BPS and related insureds.

The Liquidator will produce available responsive documents consisting of letters from Mr. Bowles to Mr. Bishop dated December 12, 14, 22 and 23, 1993, and July 6, 1994.

5. Request c:

Copies of any POCs or demands for defense and indemnity from Home made by any 'insureds' in Home Insurance Policy No. LPL-F871578.

The Liquidator construes this request to refer to POCs or demands regarding Mr. Bowles. The Liquidator will produce available responsive documents consisting of a letter from George Bishop to Home dated December 29, 1993, a letter from Julie Houck of Daniels-Head Insurance Agency to Home dated December 30, 1993, a letter from Mr. Bishop to Darlene Bugaj of John R. Ray & Sons dated December 29, 1993, a letter from Charles Peterson to Home dated April 18, 1994, and a letter from David Sharp to Home dated July 8, 1994. There are no responsive proofs of claim.

6. Request 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.

The Liquidator will produce available responsive documents consisting of in internal shipping record. Due to the volume of claim files being transferred, individual transmittal letters were not sent.

7. Request j:

A copy of the employment contract or agreement whereby TPCIGA retained Houston law firm Marshall & McCracken P.C. to intervene in defense of Home Policy No. LPL-F871578 in Cause No. 1995-43235 pursuant to authority from the Liquidator to do so.

The Liquidator objects to the request's assertions that the firm was retained to "intervene" in the litigation (on information and belief TPCIGA would have retained the firm to provide a defense to the insureds) and that any retainer was pursuant to authority from the Liquidator (no such authority was required, requested or given as TPCIGA operates pursuant to its own statutory authority). Construing the request to seek any retainer agreement between TPCIGA and the firm regarding Cause No. 1995-43235, the documents available to the Liquidator do not include any responsive documents.

Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER
OF INSURANCE OF THE STATE OF
NEW HAMPSHIRE, SOLELY AS
LIQUIDATOR OF THE HOME
INSURANCE COMPANY,
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June 30, 2009

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Response to Order Regarding Discovery was sent by email to Claimant on June 30, 2009. A hard copy enclosing the documents being produced was also sent by first class mail on June 30, 2009.



Eric A. Smith
NH Bar ID No. 16952