

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: 2006-HICIL-18  
Proof of Claim Number: INTL278096  
Claimant Name: Winterthur Swiss Reinsurance Company

REFEREE'S RULING

The Referee initiated a conference call in this matter to provide the parties an opportunity to address the recently submitted Report and Recommendation of Colin Edelman, Q.C., the English law expert appointed by the Referee.

Mr. Edelman, under terms of the Protocol governing the processing of AFIA related claims and by mutual endorsement of the parties', was appointed on July 14, 2006 to apply his expertise to a review of the parties' disagreement over whether certain "representative fees" incurred by Winterthur Swiss Insurance Company ("Winterthur") are recoverable within the reinsurances at issue. Mr. Edelman's analysis of those reinsurances led him to conclude that the broad range of "general market services" as described within the Winterthur Witness Statement of Guy Boughton would not be recoverable under the Ultimate Nett Loss clauses of the reinsurances reviewed, unless some subset of those described fees "were an integral part of the adjustment of the claim or claims in question". Mr. Edelman's Report further narrowed any Winterthur potential for establishing entitlement to recovery of any such "fees" by noting that fees relating to a lawyer providing "legal input, rather than acting in the role of claims adjuster", would not qualify.

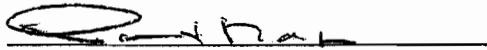
On the January 11, 2007 call, Winterthur's counsel indicated that while his client did not "wholeheartedly" agree with the Edelman Report and Recommendation, "we accept it." Attorney Green went on to indicate that his client is now engaged in a review of records for the purpose of determining what, if any portion of the fees incurred, would fall within the narrow descriptive opportunity for recovery described by Mr. Edelman. Counsel for Century Indemnity Company ("CIC"), as reinsurer on these claims, objects to any further inquiry, arguing that the Report and Recommendation has laid the matter of law at issue to rest. Attorney DeCristafaro argues that despite having ample opportunity to submit documentation regarding the representative fees component of these pending claims, Winterthur has failed to do so. And further, that it was understood by the parties that once the Report and Recommendation was in the hands of the Referee, a final disposition of the dispute would be in order.

CIC's counsel is correct in pointing out that the parties' believed, as reflected in the Joint Report dated July 5, 2006, that the submission to the English law expert of "a single point of law-- specifically whether under English law "London Representative Fees" are recoverable under contracts of reinsurance" would resolve the dispute over these claims. CIC is also correct that Winterthur had been afforded additional time to file its Section 14(b) mandatory disclosures back in June. While on the first point it is noted that the Referee, too, thought matters would now be ripe for disposition without further inquiry, as to the second, it cannot be overlooked that Mr. Edelman's Report left the door ajar for consideration of whether Winterthur might be able to establish that within its June submissions were fees that were integral to the adjustment of claims. Winterthur has requested such an opportunity.

The Referee has determined that in fairness and within certain constraints Winterthur should be provided that opportunity. Therefore, within the strict guidance on the limitations to recovery outlined by the Report and Recommendation of Colin Edelman, Q.C., which the Referee endorses, Winterthur is granted a thirty (30) day opportunity from the date of this ruling to complete its review of *previously filed* submissions; winnow from those submissions any that arguably qualify for recovery; and provide a detailed accounting to CIC for response to same. If disagreement remains, the parties shall contact the Liquidation Clerk and schedule a conference with the Referee, at which time the structure of a hearing on the matter will be addressed.

So ruled:

Dated: January 16 '07

  
Paula T. Rogers  
Referee