

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-12
Proof of Claim Number: INTL 700616
Claimant Name: Century Indemnity Company

**CENTURY INDEMNITY COMPANY'S
REQUEST FOR EVIDENTIARY HEARING REGARDING CLAIM
RELATING TO RUTTY POOL**

Century Indemnity Company ("CIC"), by its attorneys Lovells, hereby submits the following request for evidentiary hearing, pursuant to Section 11 of the Restated and Revised Order Establishing Procedures Regarding Claims Filed with The Home Insurance Company in Liquidation ("Home"), dated January 19, 2005 (the "Claims Procedures"), in connection with the dispute (the "Claim Dispute") concerning proof of claim number INTL 700616 (the "Claim"), and respectfully states as follows.¹

I.
SUMMARY OF RELIEF REQUESTED

1. An evidentiary hearing is necessary if the Court is to efficiently adjudicate Home's denial of the Claim. The Claim arises out of CIC's administration of a complicated reinsurance pool, involving multiple parties and several underlying disputes, which have led to several arbitrations and litigations. The documentation supporting the Claim comprises over 4,000 pages. Home has asserted several arguments in support of its denial of the Claim-- consideration of each of which will require testimony from representatives of CIC and Home. In

¹ CIC reserves all rights to change or supplement the evidence discussed herein in all respects, including witness identity and coverage and scope of anticipated testimony.

light of the complexity of the issues and facts underlying the Claim, an evidentiary hearing provides the Referee with the most economical means to resolve the Claim Dispute.

II. **BRIEF BACKGROUND**

2. Pursuant to the Insurance and Reinsurance Assumption Agreement (the "Assumption Agreement"), CIC reinsured Home for Home's liabilities as reinsurer of four members of the M.E. Ruddy Pool (the "Ruddy Pool"). Due to disputes with Ruddy Pool members regarding the scope of Home's liability, CIC determined that it should, for Home's benefit, pay to the Ruddy Pool members amounts sufficient to cover Home's additional liability in the event the Ruddy Pool members prevailed in such disputes. In some instances, CIC, through its agent ACE INA Services U.K. Ltd. ("AISUK"), made payments on Home's behalf that ultimately were in excess of Home's actual liability. Because those payments have been or will be applied for Home's benefit, Home is liable to CIC in corresponding amounts.²

III. **CURRENT PROCEDURAL POSTURE**

3. CIC timely filed the Claim. In response, Jonathan Rosen, as Chief Operating Officer of Home and on behalf of Roger A. Sevigny, Commissioner of Insurance of the State of New Hampshire, Liquidator of Home (the "Liquidator"), ultimately sent a Notice of Determination to CIC, dated August 23, 2005 (the "NOD"), in which he rejected the Claim and valued it at \$0.

4. In its Request for Review, dated September 20, 2005 (the "RFR"), CIC rejected Mr. Rosen's position as stated in the NOD. Thereafter, on September 29, 2005, Mr. Rosen issued

² A more detailed background of the Claim is contained in CIC's Objection to Denial of Claim Relating to Ruddy Pool, filed on Home's Disputed Claims Docket on November 28, 2005 (the "Objection"), which is incorporated herein in its entirety.

his Notice of Redetermination (the "NOR"). Like the NOD, the NOR rejected the Claim and valued it at \$0. CIC timely filed the Objection and disputes the NOR in its entirety.

5. On November 28, 2005, the Liquidation Clerk filed its Notice of Disputed Claim in respect of the Claim. On December 23, 2005, the Liquidator mailed the Case File (as defined in the Claims Procedures) to counsel for CIC.

6. Concurrently with this request for evidentiary hearing, CIC is filing its mandatory disclosures in respect of this Claim Dispute.

IV.
BASIS FOR RELIEF REQUESTED

7. Consideration of testimony would be much more efficient than exclusive reliance on documents, especially because the documentation supporting the Claim is voluminous. The payments out of which the Claim arose number in the thousands. Already, CIC has provided Home with 4,147 pages of documentation to support the Claim, and it is expected that the volume of documentation will only increase. An evidentiary hearing would allow the Referee to distill the significance and meaning of such documentation without analyzing each page.

8. The chief means for streamlining the process would be deposition and hearing testimony. Testimony would be particularly helpful here because of the complexity of the Ruddy Pool. Administration of the Ruddy Pool by AISUK on behalf of CIC necessitated complex accounting procedures and consideration of the interests and liabilities of multiple parties with respect to any one transaction. Similarly, many of the payments out of which the Claim arose were made in connection with existing and potential litigation or arbitrations, and the complexity of those disputes merits testimony.

9. Moreover, unlike documentary evidence and affidavits, hearing testimony permits cross-examination, and thus is indispensable to the narrowing of the issues and consideration of the credibility of the witness.

10. CIC intends to call the AISUK employees who managed and processed the Ruddy payments in question on a day-to-day basis (collectively, the "Claim Managers"), as well as others with knowledge of the payments out of which the Claim arose. CIC anticipates that the testimony of the Claim Managers and others will at least shed light on the following relevant subjects:

- a. The administration of the Ruddy Pool business;
- b. The underlying litigations and arbitrations in connection with which some Ruddy-related payments were made;
- c. The relationship between CIC and AISUK;
- d. The reasons(s) CIC paid the amounts it did; and
- e. Home's conduct and representations in connection with the Ruddy Pool and the payments in question.

11. CIC also intends to call Mr. Rosen to testify about, among other things, the facts and evaluation process at Home that led to the denial of the Claim.

12. Because of the volume of the documentation and the complexity of the issues and facts underlying the Claim, an evidentiary hearing is the most helpful, efficient mechanism for resolving the Claim Dispute.

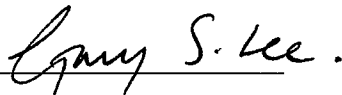
V. CONCLUSION

13. For the reasons stated above, CIC respectfully submits that an evidentiary hearing will greatly assist the Referee and the parties in connection with this Claim Dispute and should therefore be granted.³

WHEREFORE, CIC respectfully requests that an evidentiary hearing be granted in this Claim Dispute pursuant to Section 11 of the Claims Procedures.

Dated: January 23, 2006

Respectfully submitted,



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³ Prior to filing this request, CIC's counsel contacted the Liquidator's counsel by e-mail to see if they would support the relief requested herein. In response to that e-mail, the Liquidator's counsel suggested that CIC's Request for Evidentiary Hearing should be considered at the scheduling conference.