

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

**Docket No. 03-E-0106
In the Matter of the Liquidation of
The Home Insurance Company**

**LIQUIDATOR'S OPPOSITION TO ACE COMPANIES' MOTION
TO STRIKE AFFIDAVIT AND VERIFICATION OF RHYDIAN WILLIAMS**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby opposes the ACE Companies' Motion to Strike Affidavit and Verification of Rhydian Williams. The ACE Companies appear to seek to avoid taking Mr. William's deposition based on an unsubstantiated suspicion that Equitas Limited ("Equitas") has not produced all documents called for in light of the Court's direction at the May 12, 2005 hearing. This does not support a motion to strike. Equitas has informed the ACE Companies that it has complied with the Court's direction. The deposition of Mr. Williams should proceed, and the ACE Companies may ask any questions they may have concerning the production. The present motion should be denied.

1. It is the Liquidator's understanding that on May 19, 2005, after the May 12 hearing on motions to compel, Equitas provided the ACE Companies with additional documents and advised the ACE Companies that the production, together with Equitas' prior productions, included all responsive documents within the scope of the Court's May 12, 2005 Guidance re: Scope of Discovery and Order. (Equitas produced an additional document on May 26, 2005.)

2. The ACE Companies' May 26, 2005 motion suggests that Equitas' counsel had not confirmed that the documents produced in fact complied with the Court's direction. As acknowledged in the Supplement to the ACE Companies' Motion to Strike Affidavit and Verification of Rhydian Williams ("Supplement") filed later in the day, however, counsel for

Equitas reiterated by email on May 26, 2005 that Equitas has produced all documents called for by the Order/Guidelines. Supplement ¶ 4.

3. In the Supplement, the ACE Companies assert that notwithstanding the email they do not believe that Equitas has produced all such documents.

4. The ACE Companies' apparent disbelief is not sufficient to support the motion to strike. The appropriate procedure is for the ACE Companies to take Mr. Williams' deposition as scheduled and cover document issues during the course of the deposition. The issue can then be addressed with facts in hand. At present, the motion is at best premature.

5. The testimony of Mr. Williams is expected to cover areas of significance to the necessity, reasonableness and fairness of the Agreement with AFIA Cedents. His deposition has been scheduled for almost a month. Any change would disrupt the already tight schedule of nine depositions before July 4. In these circumstances, the Court should defer the ACE Companies motion until after the deposition has been completed and facts that may bear on the motion are available. It is not appropriate to address important matters that may bear significantly on the July 25, 2005 evidentiary hearing on a rush basis without a developed record.

CONCLUSION

For the foregoing reasons, the ACE Companies' motion should be denied.

Respectfully submitted,

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

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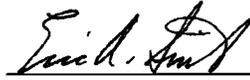


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May 27, 2005

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Opposition to ACE Companies' Motion to Strike Affidavit and Verification of Rhydian Williams was sent, this 27th day of May, 2005, by first class mail, postage prepaid to all persons on the attached service list.



Eric A. Smith

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