

EXHIBIT B

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ASSIGNED TO THE HONORABLE MARY I. YU

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY

JOY ANN GARDNER, and ROBERT
BLANGERES, individually and on behalf of a
class of persons similarly situated,

Plaintiffs,

vs.

STIMSON LUMBER COMPANY, an Oregon
corporation,

Defendant.

NO. 00-2-17633-3 SEA

DECLARATION OF JOAN C. FOLEY IN
SUPPORT OF DEFENDANT'S MOTION
FOR STAY

HEARING DATE: Thursday, March 20,
2003

I, Joan C. Foley, hereby certify and declare as follows:

1. I am an attorney with the law firm of Gordon, Thomas, Honeywell, Malanca, Peterson & Daheim, P.L.L.C., and counsel for the defendant in this litigation.

2. **Exhibit A** to this declaration is a true and correct copy of the Order Appointing Rehabilitator dated March 5, 2003.

3. In a telephone conference with Alexander K. Feldvebel, Deputy Commissioner of the State of New Hampshire Insurance Department, on March 11, 2003, Mr. Feldvebel informed me that The Home Insurance Company is a New Hampshire corporation.

DECL OF FOLEY - 1 of 2
(00-2-17633-3 SEA)
[84492 v03.doc]

LAW OFFICES
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EXHIBIT A

STATE OF NEW HAMPSHIRE
Merrimack County Superior Court

163 N. Main Street
P. O. Box 2880
Concord, NH 03301 2880
603 225-5501

STATE OF NH
DEPT OF JUSTICE
03 MAR -6 PM 7:07

NOTICE OF DECISION

SUZANNE M GORMAN ESQ
ATTORNEY GENERAL'S OFFICE
33 CAPITOL STREET
CONCORD NH 03301-6397

03-E-0106 In the Matter of Rehabilitation of Home Insurance Company

Enclosed please find a copy of the Court's Order dated 3/05/2003
relative to:

Proposed Decree

03/05/2003

William McGraw
Clerk of Court

cc: Paula T. Rogers, Esq.
Martin P. Honigberg, Esq

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Rehabilitation of
The Home Insurance Company

PROPOSED ORDER APPOINTING REHABILITATOR

After having heard and considered the facts set forth in the Commissioner's Verified Petition for Rehabilitation, the Court finds that the law and facts are as the Commissioner of Insurance of the State of New Hampshire (the "Commissioner") has alleged in the Petition and that there exists a present necessity for the immediate entry of this order.

WHEREFORE, it is hereby ordered as follows:

- (a) Sufficient cause exists for an order of rehabilitation of The Home Insurance Company ("The Home") and appointment of the Commissioner as Rehabilitator;
- (b) Paula T. Rogers, Commissioner of Insurance for the State of New Hampshire, and her successors in office, is appointed Rehabilitator of The Home;
- (c) The Rehabilitator may consult with and obtain the assistance and advice of insurance experts, including, without limitation, actuaries, accountants, attorneys and consultants, and authorizing the Rehabilitator to continue at her sole discretion to retain the services of Risk Enterprise Management Limited, and providing that the Rehabilitator shall have all the powers of the officers and managers of The Home, whose authority shall be suspended, except as they are specifically re-delegated by the Rehabilitator;
- (d) The Rehabilitator is to secure all of the assets, property, books, records, accounts and other documents of The Home (including, without limitation, all data processing information and records comprised of all types of electronically stored information, master tapes, or any other recorded information relating to The Home);

(e) The officers, directors, agents, employees, and representatives of The Home, any persons acting in concert with The Home, are prohibited from disposing, using, transferring, removing or concealing any property of The Home, without the express written authority of the Rehabilitator, or in any way (i) interfering with the conduct of the Rehabilitation or (ii) interfering with the Rehabilitator's possession and rights to the assets and property of The Home;

(f) Any bank, savings and loan association or other financial institution or other legal entity are prohibited from disposing of, allowing to be withdrawn or concealing in any manner property or assets of The Home, except under the express authorization of the Rehabilitator or by the further order of this Court;

(g) Any of the following actions are stayed:

(1) The commencement or continuation of a judicial, administrative, or other action or proceeding against The Home or any insured of The Home that was or could have been commenced before the commencement of this case, or to recover a claim against The Home that arose before the commencement of the Rehabilitation, for ninety (90) days, except as may be modified by further order of the Court;

(2) The enforcement, against The Home or its property, of a judgment obtained before the commencement of the Rehabilitation;

(3) Any act to obtain possession of property of The Home or to exercise control over property of The Home;

(4) Any act to create, perfect, or enforce any lien against property of The Home;

(5) Any act to create, perfect or enforce against property of The Home any lien to the extent that such lien secures a claim that arose before the commencement of the Rehabilitation;

(6) Any act to collect, assess, or recover a claim against The Home that arose before the commencement of the Rehabilitation; and

(7) The setoff of any debt owing to The Home that arose before the commencement of this case against any claim against The Home;

(h) The Rehabilitator is authorized, in her discretion, to pay any and all claims for losses, in whole or in part, under policies and contracts of insurance and associated loss adjustment expenses including, but not limited to, claims for losses which, as of the date of the Order, have been previously settled and approved for payment in the normal course of business;

(i) The Rehabilitator, in her discretion, is authorized to pay expenses incurred in the ordinary course of The Home's business in rehabilitation, including the actual, reasonable, and necessary costs of preserving or recovering the assets of The Home and the costs of goods and services provided to The Home's estate. Such costs shall include, but not be limited to: (i) reasonable professional fees for accountants, actuaries, attorneys and consultants with other expertise retained by the State of New Hampshire Insurance Department, the Commissioner or the Rehabilitator to perform services relating to the Rehabilitation of The Home or the feasibility, preparation, implementation, or operation of a rehabilitation plan; (ii) compensation and other costs related to representatives and employees of The Home or its affiliates who perform services for The Home; and (iii) a reasonable allocation of costs and expenses associated with time spent by Department personnel in connection with the Rehabilitation of The Home;

(j) The actual, reasonable and necessary costs of preserving or recovering assets of The Home and the costs of goods or services provided to and approved by The Home, under paragraph (i) of this Order, during the period of Rehabilitation will be treated as "costs and expenses of administration," pursuant to RSA 402-C:44 I.;

(k) The amounts recoverable by the Rehabilitator from any reinsurer of The Home shall not be reduced as a result of this Rehabilitation proceeding or by reason of any partial payment or distribution on a reinsured policy, contract or claim, and each such reinsurer of The Home is, without first obtaining leave of this Court, hereby enjoined and restrained from terminating, canceling, failing to extend or renew, or reducing or changing coverage under any reinsurance policy or contract with The Home. The Rehabilitator may, in her discretion, commute any contract with a reinsurer or reinsurers;

(l) This Order shall not be deemed a finding or declaration of insolvency such as would activate the provisions of the New Hampshire Guaranty Association, RSA 404-B, or the provisions of similar acts of any other state or territory;

(m) The Rehabilitator shall have full powers and authority given the Rehabilitator under RSA 402-C of Title XXXVII, and under provisions of all other applicable laws, as are reasonable and necessary to fulfill the duties and responsibilities of the Rehabilitator under RSA 402-C of Title XXXVII, and under this Order.

Date: 3/5/03
Time: 1:45 p.m.

By: *John A. McQuinn*
Residing Justice

New Hampshire Insurance Department
56 Old Suncook Road, Concord, NH 03301
603-271-2261, Consumer Hotline 800-852-3416
FAX 603-271-0248

CONTACT: Alex Feldvebel

INSURANCE DEPARTMENT PRESS RELEASE

For Immediate Release
March 5, 2003

The New Hampshire Insurance Department announced that, on March 5, 2003, Commissioner Paula T. Rogers obtained an Order of Rehabilitation appointing her as Rehabilitator of The Home Insurance Company, a New Hampshire domestic company that has not written any new business since 1995 and that has been operating under an Insurance Department Order of Supervision since 1997.

Commissioner Rogers has stepped up the level of regulatory oversight in response to the impact on The Home of recent developments in the property and casualty insurance industry, including the recent adverse development in asbestos exposures for insurers that wrote commercial casualty insurance coverages in the 1970s and prior. As a consequence of these developments and because The Home is in runoff with no access to additional assets, the Directors of The Home have agreed with Commissioner Rogers to place The Home in rehabilitation on a voluntary basis. The Order of Rehabilitation gives the Commissioner direct oversight of The Home, including control over the company's remaining assets, claims payments, and reinsurance collections.

Risk Enterprise Management Limited ("REM"), which has managed The Home since it was placed into runoff in 1995 under the direction of the New Hampshire Insurance Department, will continue to provide services to The Home under the direction of the Rehabilitator. The Order of Rehabilitation supercedes the Insurance Department Order of Supervision that The Home has been operating under since 1997 and the Department's Consent Order of 1995.

II. Injunctions Elsewhere. -- The receiver may apply to any court outside of this state for the relief described in paragraph I.

HISTORY: 1969, 272:1, eff. June 23, 1969.

LIBRARY REFERENCES

CJS

Insurance § 132.

USER NOTE: For more generally applicable notes, see notes under the first section of this heading: subpart, part, article, chapter or title.

Source: [Legal](#) > [States Legal - U.S.](#) > [New Hampshire](#) > [Statutes & Regulations](#) > **NH - LEXIS New Hampshire Revised Statutes Annotated** ⓘ

TOC: [New Hampshire Revised Statutes Annotated](#) > [/.../](#) > [CHAPTER 402-C. INSURERS REHABILITATION AND LIQUIDATION](#) > **§ 402-C:5. Injunctions and Orders**

View: Full

Date/Time: Wednesday, March 12, 2003 - 1:16 PM EST

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