

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

2010 SEP 17 P 3:57

**In the Matter of the Liquidation of
The Home Insurance Company**

**LIQUIDATOR'S MOTION FOR SCHEDULING
ORDER OR CONFERENCE TO ADDRESS REMAND ORDER**

NOW COMES Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), and moves that the Court issue a scheduling order or set a scheduling conference to address the further proceedings directed by the New Hampshire Supreme Court in its order of September 13, 2004 (the "Order"). In the Matter of the Liquidation of The Home Insurance Company, Case No. 2004-0319. As reasons therefore, the Liquidator states as follows:

1. In the Order, the Supreme Court directed that the Court consider five issues on remand:
 - (1) whether the New Hampshire liquidation proceedings should be stayed pending the completion of the regulatory and judicial proceedings in the United Kingdom;
 - (2) whether the New Hampshire court has an independent obligation to assess the fairness of the agreement with the AFIA Cedents;
 - (3) whether the intervenors have standing to contest the agreement;
 - (4) whether the 'Necessity of Payment Doctrine' or some other equitable doctrine authorizes the Liquidator or court to vary the mandatory priorities set forth in RSA 402-C:44 (Supp. 2003); and
 - (5) whether the payment to the AFIA Cedents qualifies as an administrative expense under RSA 402-C:44, I.

Order at 2.

2. The Supreme Court also directed that the Court “support its determinations on these issues with factual findings, as appropriate.” Order at 2. The Supreme Court expressly specified that the Court “may resolve these issues through offers of proof, unless it determines that a full evidentiary hearing is necessary.” Id.

3. To provide for expeditious proceedings on remand in accordance with the Order, the Liquidator proposes that the Court issue a scheduling order directing that the Liquidator and the ACE Companies and Benjamin Moore & Co. make filings on or before October 1, 2004 consisting of (a) a memorandum of law addressing the five issues specified by the Supreme Court, and (b) a written offer of proof by affidavit. The Court may then consider whether a full evidentiary hearing is necessary and direct further proceedings as the Court deems appropriate.

4. In the alternative, the Liquidator requests that the Court set a scheduling conference to address the proceedings on remand at the earliest date convenient for the Court.

WHEREFORE, the Liquidator respectfully requests that this Court:

A. Grant this Motion for Scheduling Order or Conference to Address Remand Order;

B. Enter a scheduling order directing the Liquidator and the ACE Companies and Benjamin Moore & Co. to make filings on or before October 1, 2004 consisting of (a) a memorandum of law addressing the five issues specified by the Supreme Court, and (b) a written offer of proof by affidavit; or, in the alternative, set a scheduling conference at the earliest date convenient for the Court; and

C. Grant such other and further relief as justice may require.

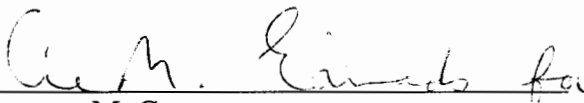
Respectfully submitted,

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

By his attorneys,

KELLY A. AYOTTE
ATTORNEY GENERAL

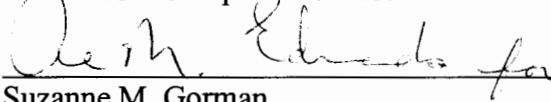
September 17, 2004


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Certification Pursuant to Superior Court Rule 57-A

Counsel for the ACE Companies and Benjamin Moore & Co. were contacted about this motion. Benjamin Moore & Co. and the ACE Companies do not assent.


Suzanne M. Gorman

Certificate of Service

I hereby certify that a copy of the foregoing Motion for Scheduling Order or Conference to Address Remand Order was sent, this day, by first class mail, postage prepaid to all persons on the attached service list.


Suzanne M. Gorman

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