

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**

**RESPONDENTS ACE COMPANIES' FIRST SET OF  
INTERROGATORIES TO LIQUIDATOR**

Respondents Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company, and ACE American Reinsurance Company (collectively, the "ACE Companies") hereby request, pursuant to Rule 36 of the Rules of the Superior Court of the State of New Hampshire, that Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator of The Home Insurance Company ("Home"), answer, within thirty (30) days after service or within any other period ordered by the Court, the interrogatories set forth below in accordance with the following definitions and instructions.

**Definitions**

A. "Identify" shall mean:

(1) As to an individual, providing his or her: (i) full and customarily used name; (ii) present or last known residence and business address and telephone number; and (iii) business, profession(s), office(s), title(s), and/or position(s) held during the relevant time period.

(2) As to any entity other than an individual, providing: (i) its legal name and any other names used by it; (ii) the form or manner of its organization (e.g., partnership, corporation); (iii) the state or country of its incorporation (if it is incorporated); and (iv) the address and telephone number of its principal place of business.

(3) As to a document, providing: (i) the type of document (e.g., letter, memorandum); (ii) its general subject matter; (iii) the date of its creation, execution, and receipt; (iv) the purpose for which the document was made, prepared, signed, delivered, or taken; (v) its author(s), signatory(ies), addressee(s), and recipient(s); (vi) the name and present or last known residence or business address and telephone number of each person who has custody of or knowledge of the whereabouts of the original and/or copies of the document; and (vii) the description of the document in sufficient detail to enable it to be specifically identified and to be the subject of a request to produce. If any document, the identification of which is sought, has been lost or destroyed, state in addition to the information required above whether such document was (a) lost or (b) destroyed, and if lost, state the circumstances under which such document was lost, and if destroyed, identify each person responsible for or participating in such document's destruction.

(4) As to an event, transaction, representation, conversation, occurrence, or presentation, providing: (i) its date; (ii) the location where it took place and the manner of its occurrence (e.g., face-to-face meeting of participants, telephone calls); (iii) the identification of all its participants and eyewitnesses to its occurrence; (iv) its purpose and subject matter; and (v) a complete description of the substance of the event, transaction, representation, conversation, occurrence, or presentation.

(5) As to a thing or an object, providing: (i) a complete description of the thing or object; (ii) the identification of who owns, controls, or possesses the thing or object; and (iii) the location of the thing or object.

B. "Communications" shall mean the transmittal of information in the form of facts, ideas, inquiries or otherwise.

C. The terms "concerning," "relating to," "refer to," "containing" and "regarding" are used in their broadest sense and shall include in their meaning each such terms as well as constituting, embodying, comprising, stating, dealing with, summarizing, recording, noting, mentioning, studying, setting forth, discussing, evaluating, commenting on, responding to, describing, analyzing, containing information concerning, and containing information that is in any way pertinent to the subject matter, directly or indirectly.

D. The term "document" or "documents" is used in the broadest possible sense and shall mean, without limitation, any written, typed, printed, recorded, computer-stored, visual or graphic material, however produced, reproduced, copied or stored (including, but not limited to, any audio tapes, video tapes or magnetic recording tapes, microfilm, microfiche, computer hard drives, recording discs, computer disks or any other computer storage mechanisms whether temporary or permanent, or computer back-up storage media and/or mechanisms), of any type or description, whether in draft or final form, and each non-identical copy or otherwise, regardless of origin or location, in your actual or constructive possession, custody or control, and includes, without limitation, all electronic data (as the term is defined herein), correspondence, communications, records, notebooks, plans, minutes, agendas, lists, summaries, expressions, statements, opinions, instruments, accounts, invoices, ledgers, logs, accounting records, worksheets, estimating sheets, computation sheets, forms, tables, charts, analyses, graphs, forecasts, statistical statements, photographs, slides, recordings, schedules, reports, memoranda, lists, outlines, instructions, notes, calendars, diaries, telexes, telegrams, facsimile transmissions, electronic mail (e-mail), instant computer messaging, voice mail messages and other messages

(including, but not limited to, reports, summaries or other records of telephone conversations and conferences), studies, books, periodicals, magazines, booklets, circulars, brochures, pamphlets, press releases, bulletins (including, but not limited to, inter- and intra-office communications), questionnaires, contracts, agreements, reports and/or summaries of investigations, reports and/or summaries of interviews, expressions or statements of policy, records, reports or summaries of negotiations, agendas for meetings or conferences, minutes or records of meetings or conferences, lists of persons attending any meetings or conferences, opinions or reports of consultants, and drafts and revisions of drafts of any documents, and all other instruments conveying information by written, pictorial, mechanical, electronic or other means. If a document has been prepared in several copies, or additional copies have been made, or copies are not identical (or, because of subsequent modifications or addition of notations or other marginalia, are no longer identical), each non-identical copy is a separate document. The term "document" also includes and refers to the file or any container holding, or which once held, any documents and any writing or printing which might appear on such file or container.

E. "You" or "Liquidator" shall mean Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator of Home, and his predecessors, successors, assigns, employees, agents, accountants, attorneys and any other persons acting or purporting to act on his behalf, including, but not limited to, the Special Deputy Liquidator.

F. "Liquidation" shall mean the liquidation of Home, which was commenced by the filing of a petition to liquidate on or about May 8, 2003.

G. "Motion" shall mean the Liquidator's Motion for Approval of Agreement and Compromise with AFIA Cedents filed in the Liquidation on or about February 11, 2004.

H. "Home UK Branch" shall mean Home's unincorporated branch operation in the United Kingdom.

I. "INA Agreement" shall mean the Insurance and Reinsurance Assumption Agreement, dated January 31, 1984, which is referred to in paragraph 3 of the Motion.

J. "Agreement" shall mean the Agreement with the AFIA Cedents that is the subject of the Motion.

K. "UK scheme of arrangement" shall mean the proposed scheme of arrangement referred to in paragraphs 12 through 17 of the Motion.

L. "AFIA" shall mean the American Foreign Insurance Association, an unincorporated association of American insurers, through which the Home UK Branch wrote insurance and reinsurance business in the United Kingdom.

M. "AFIA Cedents" shall mean those insurers who ceded insurance risk to Home through the Home UK Branch.

N. "AFIA Treaties" shall mean those reinsurance treaties through which certain insurers ceded insurance risk to Home through the Home UK Branch.

O. "Bengelsdorf" or "Special Deputy Liquidator" shall mean Peter A. Bengelsdorf, as Special Deputy Liquidator of Home, and his predecessors, successors, assigns, employees, agents, accountants, attorneys and any other persons acting or purporting to act on his behalf.

P. "Joint Provisional Liquidators" shall mean the Joint Provisional Liquidators appointed by the High Court of Justice in London, on or about May 8, 2003, in the English provisional liquidation proceeding for the Home UK Branch.

Q. "Informal Creditors' Committee" or "Committee" shall mean the committee of certain AFIA Cedents, which is described in paragraph 8 of the Motion.

R. The terms "all" and "each" shall be construed as all and each.

S. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the requests below all responses that might otherwise be construed to be outside of its scope.

T. The use of the singular form of any word includes the plural and vice versa.

### **Instructions**

A. In answering these interrogatories, furnish all information that is known or available to you regardless of whether this information is possessed directly by you or your agents, employees, representatives, accountants or other persons acting or appearing to act on your behalf and, unless privileged, by your attorneys.

B. Each interrogatory listed below shall be continuing in nature and shall be modified or supplemented to include any additional information, knowledge or data that is later discovered by you or your agents. If you do not have all the information that you need to make a complete response to an interrogatory, provide all of the information that you do have, state that your information is incomplete, identify the information you would need to make a complete response, and provide a supplemental response when you obtain more information.

C. Each interrogatory, including all subparts, must be answered separately, fully, completely, and under oath. If you do not respond to part of an interrogatory as objectionable, respond to the remaining parts of the interrogatory to which you do not object. If you object to any interrogatory, you must note your objection and state the reason therefore.

D. With respect to each interrogatory, identify all documents that were used or referred to in any manner in drafting or preparing the answer and identify all persons who participated or were consulted in any regard in the drafting or preparation of the answer.

E. Where information is not produced on the grounds that it would reveal a privileged communication, you shall provide:

(1) For documents: (i) the type of document; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) such other information as is sufficient to identify the document including, where appropriate, the author of the document, the addressees of the document, any other recipients of the document, and, where not apparent, the relationship of the author, addressees, and recipients to each other.

(2) For communications: (i) the name of the person making the communication and the names of the persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of the communication; and (iii) the general subject matter of the communication.

F. You must return the original and one copy of your answers to these interrogatories within thirty (30) days of the date of service (or within any other period ordered by the Court) to Respondents' counsel. If you fail to return your answers within thirty (30) days (or within any other period ordered by the Court), Respondents may inform the court, and the court shall make such orders as justice requires, including the entry of a conditional default against you.

### **Interrogatories**

1. Identify and describe in detail the basis for your contention on page 1 of the Motion that entering into the Agreement will "avoid costly, uncertain and protracted multi-jurisdictional litigation." In particular, identify and describe in detail the "litigation" that you contend will be avoided as a result of the Agreement.

2. Identify and describe in detail: (a) the “significant assets related to the Home UK Branch” that you refer to in Paragraph 1 of the Motion; (b) the “assets located in the United Kingdom,” the “UK assets,” and the "significant assets" that you refer to in paragraph 7 of the Motion; and (c) “Home's UK assets” and “Home’s assets in England and Wales” that you refer to in paragraph 11 of the Motion.

3. Identify and describe in detail the basis for your contention in Paragraph 7 of the Motion that “changes to the pre-liquidation arrangements have created disputes and uncertainty over the filing, handling and payment of AFIA Cedents’ claims and payment of amounts under the INA Agreement.”

4. Identify and describe in detail the basis for your contention in Paragraph 7 of the Motion that “certain of the AFIA Cedents have been exploring alternative means of realizing recovery with respect to the business protected by the AFIA Treaties, including possible circumvention of Home by entering into side arrangements with ACE Group.” Also, identify the particular AFIA Cedents at issue.

5. Identify and describe in detail the basis for your contention in Paragraph 7 of the Motion that “[c]ertain AFIA Cedents have also questioned the application of the New Hampshire claims and distribution procedures to claims and assets located in the United Kingdom.” Also, identify the particular AFIA Cedents at issue.

6. Identify and describe in detail the basis for your contention in Paragraph 7 of the Motion that “certain AFIA Cedents have previously suggested that UK assets arguably should be ‘walled off’ from United States creditors and distributed only to Home UK Branch creditors;” and identify any “presentations and further documentation” or any other information presented to AFIA Cedents by the Liquidator and Joint Provisional Liquidators (or anyone else) regarding the



"walling off" approach. In particular, identify all AFIA Cedents who have raised the "walling off" issue and when they did so.

7. Identify and describe in detail the basis for your contention in paragraph 7 of the Motion that there is "the prospect of costly and time-consuming litigation over whether there should be separate US and UK liquidations or a global New Hampshire proceeding."

8. Describe in detail the basis for the distribution of 50% of the "net 'Proceeds'" and other amounts referred to in paragraph 14 of the Motion and described as "Net Recoveries."

9. Describe in detail the basis for your contention in paragraph 14 of the Motion that "the Net Recoveries payable to the AFIA Cedents and the net amounts paid to Home are each estimated to be in excess of \$50 million."

10. Identify and describe in detail the basis for your contention in Paragraph 21 of the Motion that "it is appropriate to agree that the AFIA Cedents may receive a portion of the net proceeds" because it "is in essence a cost of obtaining and collecting an asset of the Home estate for the benefit of the policyholders and other creditors of Home."

11. Identify any person with knowledge relevant to Interrogatories numbers 1 and 3 through 9.

Dated: March \_\_\_\_\_, 2004

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