

## 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 ANSWERS AND OBJECTIONS  
TO THE ACE COMPANIES' INTERROGATORIES**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby responds to the ACE Companies' First Set of Interrogatories to Liquidator dated October 4, 2004 ("ACE Interrogatories").

**Preliminary Statement**

The Liquidator responds to the ACE Interrogatories in accordance with the Order on Remand entered October 8, 2004. The Court there directed that, in the present circumstances and pending clarification of the New Hampshire Supreme Court's order entered September 13, 2004, "the parties may conduct discovery limited to the necessity, reasonableness, and fairness of the agreement." Order on Remand at 13. See *id.* at 14 ("The parties may conduct discovery limited to the necessity, fairness, and reasonableness of the compromise and agreement.").

**General Objections**

Each response below is made subject to the following general objections even though the objections are not specifically referred to therein:

another AFIA Cedent, Continental Insurance Company ("Continental"), subsequently indicated that, if the scheme of arrangement contemplated by the Agreement does not proceed, they will certainly revisit this issue.

4. Do you contend that the "side arrangements" referred in paragraph 7 of the Motion are/were permitted under the terms of any applicable contract(s) or law? If so, identify and describe in detail the basis for your contention.

Answer: No. As set forth in the letter of September 26, 2003 to the ACE Companies, it is the Liquidator's and Joint Provisional Liquidators' position that such side arrangements are unlawful.

5. Identify and describe in detail all communications you have had regarding the Agreement with:

- (a) the AFIA Cedents, and
- (b) any other creditors.

Answer: The Liquidator objects to this interrogatory as overbroad and unduly burdensome insofar as it asks for a description of all communications. The negotiation of the Agreement was a three month process beginning after the first Informal Creditors' Committee meeting on October 21, 2003 and running through the circulation of the final Agreement for signature on January 23, 2004. It involved representatives and/or counsel for the nine members of the Committee, the Joint Provisional Liquidators, and the Liquidator and many written and oral communications. Documents concerning the negotiations are being produced in response to the ACE Document Request as described in the Liquidator's response to that request.

The Liquidator also objects to this interrogatory insofar as it could be construed to seek communications after February 11, 2004, when the Motion was served, as not relevant to the necessity, reasonableness, and fairness of the Agreement, beyond the scope of discovery permitted by the Order on Remand, overbroad and unduly

burdensome. The Liquidator has previously provided the ACE Companies (and Benjamin Moore & Co. (“BMC”)) with a copy of the Joint Provisional Liquidators’ filing with the English Court requesting permission to convene a meeting of scheme creditors, which included the final version of the scheme of arrangement.

Notwithstanding these objections, the Liquidator answers this interrogatory with a synopsis of the principal communications.

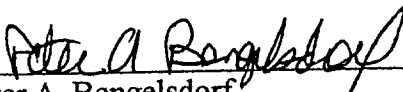
(a) The Liquidator and Joint Provisional Liquidators attended the first meeting of the Informal Creditors’ Committee on October 21, 2004. Nine AFIA Cedents served on the Committee. At that meeting, among other things, the Liquidator and Joint Provisional Liquidators sought to obtain the agreement of the Committee members to provide information concerning their claims under the AFIA Treaties so that the Liquidator and Joint Provisional Liquidators could better consider an approach to the ACE Companies concerning some form of potential commercial resolution. The Committee members asked about their potential recovery in the Home liquidation, and were informed that as class V creditors they were unlikely to receive any distributions. The Committee members were reluctant to provide information about their claims, and certain Committee members indicated they would not file claims in such circumstances (except to preserve offset rights). The issue of a separate UK proceeding was also discussed.

The Joint Provisional Liquidators, in consultation with the Liquidator, subsequently prepared a draft proposal for the members of the Committee to consider. A draft was provided to Equitas, as chair of the Committee, on November 10, 2003. Among other things, the draft proposed that AFIA Cedents provide information to Home for specified purposes and agree to a scheme of arrangement under English law under

The facts and information set forth above are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge, information and belief.

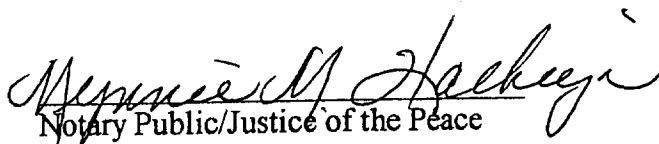
Signed under the penalties of perjury this 23<sup>rd</sup> day of November, 2004.



  
Peter A. Bengelsdorf  
Special Deputy Liquidator of The Home Insurance  
Company

STATE OF CALIFORNIA  
COUNTY OF VENTURA


Subscribed and sworn to, before me, this 23 day of November, 2004

  
Notary Public/Justice of the Peace

As to objections:

KELLY A. AYOTTE  
ATTORNEY GENERAL

Suzanne M. Gorman  
Senior Assistant Attorney General  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, N.H. 03301-6397  
(603) 271-3650

  
J. David Leslie, pro hac vice  
Eric A. Smith, pro hac vice  
Rackemann, Sawyer & Brewster  
One Financial Center  
Boston, MA 02111  
(617) 542-2300

November 24, 2004