

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

AFFIDAVIT OF PIETER VAN TOL

PIETER VAN TOL, being duly sworn, deposes and says:

1. I am an attorney at Lovells, counsel for respondents Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company and ACE American Reinsurance Company (collectively, the "ACE Companies") in the above matter.
2. I submit this affidavit, which is based on my personal knowledge and a review of the files in the possession of my firm, in support of the ACE Companies' motion for reconsideration of the Order on Remand.
3. Attached hereto as Exhibit 1 is a true and correct copy of the statement submitted by the New Hampshire Department of Insurance (the "Department") on February 2, 2005 in connection with the consideration of Senate Bill 74.
4. Attached hereto as Exhibit 2 is a true and correct copy of a partial transcript for the hearing before the Senate Committee on Banks and Insurance (the "Committee") regarding Senate Bill 74 and the amendment (the "Proposed Amendment") introduced by the Department.
5. The transcript attached as Exhibit 2 is partial only because of an equipment failure. (See Ex. 2 at 29.) In the portion of the hearing that is not transcribed, Jonathan Rosen

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of The Home Insurance Company also testified before the Committee. I was present at the hearing for all of Mr. Rosen's testimony.

6. Among other things, Mr. Rosen stated that the Proposed Amendment in Senate Bill 74 would have an effect on the pending litigation regarding the Liquidator's proposed agreement with the AFIA Cedents (the "Proposed Agreement"). Counsel for the Liquidator testified to the same effect and said that the amendment would apply to this litigation.

7. When Mr. Rosen was asked why the Legislature should not simply let the New Hampshire Supreme Court decide the litigation over the Proposed Agreement, Mr. Rosen stated that the Supreme Court would be interpreting RSA 402-C:44 and there was very little legislative history on the issue of intent. The Proposed Amendment, according to Mr. Rosen, would fill the alleged gap for the Supreme Court by providing direction on the Legislature's intent in passing RSA 402-C:44.

Signed under the penalties of perjury this 22nd day of March, 2005.

Pieter Van Tol

Pieter Van Tol

Subscribed and sworn to, before me,
this 22 day of March, 2005.

Jessica Nieves
Notary Public

JESSICA NIEVES
Notary Public, State of New York
No. 31-5082117
Qualified in New York County
Commission Expires 12-5-05