

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of
The Home Insurance Company

Docket No.: 03-E-0106

ORDER

The Court presented the parties with a document entitled "Guidance re: Scope of Discovery" at the outset of the May 12, 2005 hearing on pending discovery motions. The purpose of the guide was to facilitate agreements among the parties as to various discovery issues. The parties reached agreements regarding most issues, and the Court made an order as to others. Subsequent to the Court's order of May 12, 2005, the parties have run into further difficulties over the permissible scope of discovery. In reviewing its guide and recent pleadings, the Court notes that clarification is necessary. The guide is rewritten as follows:

The purpose of the July 25, 2005 hearing is to present relevant evidence regarding whether the proposed agreement and compromise dated April 2, 2004 between the Liquidator and AFIA Cedents is necessary, fair and reasonable. Accordingly, discovery is limited to evidence relevant to that issue. Discovery is further limited to information to which the Liquidator and Joint Provisional Liquidator were privy in reaching and/or approving the agreement. When considering what documents are privileged, the parties should bear in mind that the rationales of the JPL and Liquidator in reaching and/or approving the agreement are focuses of the July 25 hearing.

ACE Companies are entitled to production of all documents and information relied upon in developing the affidavits filed by Gareth

Howard Hughs, Rhydian Williams and Gernot Warmuth in support of the agreement.


Consistent with this clarification, and to facilitate the completion of discovery, the Referee, Paula Rogers, shall conduct an in camera review of the documents contained in Appendix 4 and rule as to which are discoverable. The documents contained in Appendix 4 shall be submitted to the Court on or before June 3, 2005. To this extent, ACE Companies' Motion to Compel Production of In Camera Review of Documents is **GRANTED**.

ACE Companies' Motion to Strike Affidavit and Verification of Rhydian Williams is **DENIED**. Based on the Court's clarification, Equitas shall review its files and provide all documents and information relied upon by Rhydian Williams in developing the affidavit he filed with the Court in support of the AFIA Cedents' agreement and compromise of April 2, 2004. In this regard, the Court notes that "nonprivileged" was stricken from the guide. Mr. Williams shall provide this information prior to his deposition on June 3, 2005.

ACE Companies' Emergency Motion to Strike Liquidator's Offer of Proof continues to be **HELD IN ABEYANCE** until the final hearing at which time the Court will determine the evidentiary issues contained therein.

SO ORDERED.

6/1/05
Date


Kathleen A. McGuire
Presiding Justice