

# Lovells

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January 7, 2005

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Jack B. Gordon, Esq.  
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1001 Pennsylvania Avenue, NW  
Washington, DC 20004-2505

**RE: IN THE MATTER OF THE LIQUIDATION OF THE HOME INSURANCE COMPANY  
DOCKET NO. 03-E-0106**

Dear Jack:

We write, at your invitation, on behalf of the ACE Companies ("ACE") in reply to your December 28, 2004 letter responding to ACE's First Request for Production of Documents by Rhydian Williams and Equitas Limited ("Document Requests").

At the outset, we respectfully disagree with your contention that Mr. Williams and Equitas are not under an obligation to respond to the Document Requests, particularly in light of the affirmative steps which both Mr. Williams and Equitas have taken to submit to the jurisdiction of the New Hampshire court in this proceeding. We disagree specifically with your claim that responses to the Document Requests are not required under New Hampshire Superior Court Rule 35 and the December 19, 2003 Order and your contention that service must be effected pursuant to the Hague Convention. Rather, it is ACE's position that the Document Requests are squarely within the scope of discovery mandated not only by the court in this proceeding, but also by the New Hampshire Supreme Court's order regarding the issues presented. Mr. Williams and Equitas thus have an obligation to respond in a timely and complete fashion.

Nonetheless, in the spirit of cooperation and for the sake of expediency, ACE will agree to certain terms of Equitas' proposed "voluntary" production, with ACE reserving all its rights in this regard and without prejudice to its right to object to the positions asserted in your letter at a later time.

Specifically, ACE will agree with the proposals set forth in paragraphs 1, 2, 4 and 6 of your December 28 letter. With regard to the proposal set forth in paragraph 2, however, ACE requests a confirmation that Equitas' production will include **all** documents reflecting communications with the Liquidator and the Joint Provisional Liquidators, subject to the objection set forth in paragraph 4 of your letter.

ACE cannot agree to the proposal set forth in paragraph 3. Internal Equitas communications are not protected by the attorney-client privilege unless they are between Equitas and its lawyers and are of a confidential legal nature. Specifically, under Rule 502(b) of the New Hampshire Rules of Evidence, such communications are protected by the attorney-client privilege only if directed to or by Equitas' attorney for the purpose of facilitating professional legal services to Equitas. Thus, any internal Equitas communication to which a lawyer is not a party, as well as any communication that does not involve professional legal services, are subject to production. For the same reasons, communications between Equitas and other AFIA Cedents are not protected by the attorney-client privilege. Further, these documents and/or communications do not qualify as protected "work product" unless they are shown to have been created in anticipation of litigation or for purposes of trial under New Hampshire Superior Court Rule 35(b)(2).


Finally, with regard to your proposal set forth in paragraph 5, ACE accepts your representation that there are no responsive documents. ACE would anticipate deposing Mr. Williams on the subject matter of paragraph 5, as well as his communications with the Liquidator, Joint Provisional Liquidators, members of the Informal Creditors' Committee and other AFIA Cedents.

Jack B. Gordon, Esq.

January 7, 2005

We look forward to your response. In the meantime, please do not hesitate to contact us if you need any clarification.

Very truly yours,



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Gary S. Lee