

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

ACE COMPANIES' SUR-REPLY TO LIQUIDATOR'S
OPPOSITION TO ACE COMPANIES' JUNE 9, 2005
MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Century Indemnity Company, ACE Property and Casualty Insurance Company, Pacific Employers Insurance Company and ACE American Reinsurance Company (collectively, the "ACE Companies"), by their attorneys, Orr & Reno P.A., submit this Sur-Reply to the Liquidator's Opposition to ACE Companies' June 9, 2005 Motion to Compel Production of Documents.

1. The ACE Companies respectfully urge this Court to review the statement made to the Court by Attorney Roth regarding the commutation agreement entered into between the Home Insurance Company and Equitas, and compare that to the document itself. That alone should convince the Court that the agreement reached between Equitas and Home to effectively cap Equitas' AFIA related set-off at \$20 million or require money to be paid over to the Home inextricably links the commutation to AFIA. Why else is it in the same document?

2. The agreed offset was, plain and simply, part of the quid pro quo for the commutation between Home and Equitas. The ACE Companies relied on what Mr. Roth said to the Court and did not press the issue with Equitas in seeking discovery from them.

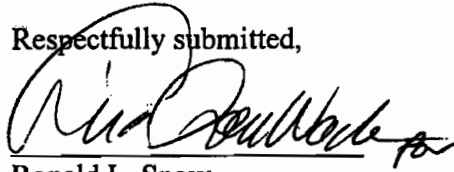
The ACE Companies are entitled to know why Equitas agreed to cap its set-off at \$20 million and what it got in return from the Home.

3. The fact remains that all the ACE Companies had to go on until after the Williams' deposition and after Referee Rogers discovery rulings was incomplete knowledge of the deal Home has struck with Equitas (apparently not the only one). That in and of itself is sufficient reason to grant the ACE companies Motion.

4. It is equally readily apparent that Equitas continues to shield documents from the ACE Companies – as set forth in our reply, Equitas continues to take the position that this Court did not mean what it said about the production of internal Equitas documents, and communications between AFIA Cedents. Equally, Equitas disbelieves the Court's statement at the discovery hearing that the privilege was overcome here.

5. Accordingly, the ACE companies respectfully request that the Court strike the Williams Affidavit and verification of the paragraphs in the Offer of Proof, or in the alternative, state that (a) Equitas must produce the documents or portions of documents identified or the Williams Affidavit and verification will be stricken; and (b) Mr. Williams must appear in New York for a continuation of his deposition.

Respectfully submitted,



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June 24, 2005

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CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing pleading has been served on Roger A. Sevigny, Commissioner of Insurance, Peter Bengelsdorf, Special Deputy, and the following counsel via First Class mail on June 24, 2005:

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