

**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 MOTION FOR APPROVAL OF  
SETTLEMENT AGREEMENT WITH WÜSTENROT & WÜRTTEMBERGISCHE AG  
("WÜRTTEMBERGISCHE")**

Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court enter an order in the form submitted herewith approving a Settlement Agreement (the "Agreement") between Home and Württembergische. As reasons for this motion, the Liquidator offers the Confidential Affidavit of Jonathan Rosen, Chief Operating Officer of Home, and further states as follows:

1. The Liquidator requests approval for the Agreement between Home and Württembergische pursuant to § 3 of the Agreement, which provides that the Agreement is subject to approval by the Court and will be null and void if approval is not obtained by March 31, 2006. A copy of the Agreement is attached as Exhibit A to the Confidential Affidavit of Jonathan Rosen in Support of Motion for Approval of Settlement Agreement with Wüstenrot & Württembergische AG ("Rosen Aff."). Century Indemnity Company ("Century") and ACE INA Services UK Limited ("AISUK") have agreed to the terms of the Agreement. See e-mail exchange attached as Exhibit B to the Rosen Aff. *Id.* ¶ 2.

2. Pursuant to agreements dated January 1, 1964 and January 6, 1967 (collectively, the "Agency Agreements"), Württembergische became a member of a group of companies known as the "Rutty Pool" that wrote insurance and reinsurance through M.E. Rutty

Underwriting Agency Limited (the “Rutty Agency”). Württembergische had two roles with respect to the Rutty Pool. It both fronted for the Rutty Pool (that is, wrote insurance or reinsurance that was then fully reinsured by the Rutty Pool) and reinsured a portion of the Rutty Pool risks, including policies fronted by itself and others. The Rutty Agency administered the Rutty Pool business, including handling claims by policyholders and reinsureds (“policyholders”) under policies or contracts written by Württembergische as a fronting company, billing the Rutty Pool for those policyholder claims, and administering and collecting reinsurance that protected the Rutty Pool members with respect to those policyholder claims. Rosen Aff. ¶ 3.

3. In 1977, Württembergische entered a reinsurance contract with Home known as “Treaty R” under which Home (through the Home UK Branch and the American Foreign Insurance Association (“AFIA”)) retrospectively reinsured Württembergische 100% with respect to Rutty Pool business. (Home also entered into several reinsurance contracts on almost identical terms with two other members of the Rutty Pool, namely, Nationwide Insurance Company (“Nationwide”) and Agrippina Vericherung Aktiengesellschaft (“Agrippina”), now known as Zurich Versicherung Aktiengesellschaft (Deutschland), the successor to Agrippina.) Under Treaty R, Home was entitled to the receipts from all reinsurances placed by the Rutty Agency on Württembergische’s behalf as well as any other income from any other source that would have been payable to Württembergische thereunder. On the other hand, Home was obligated to bear all expenses of whatever nature that would otherwise have been due from Württembergische to the Rutty Agency with respect to the Rutty Pool business, although the extent of these obligations was not precisely expressed. Rosen Aff. ¶ 4.

4. As part of the Insurance and Reinsurance Assumption Agreement (“Assumption Agreement”) entered in 1984 between Insurance Company of North America (“INA”) and members of AFIA, including Home, INA agreed, among other things, to assume Home’s obligations under Treaty R. Rosen Aff. ¶ 5.

5. In the mid 1990’s, the Rutty Agency ceased to perform its obligations to administer the Rutty Pool business, including the handling of policyholder claims under policies fronted by Württembergische and the handling of claims by Württembergische against the Rutty Pool. As INA (and/or its successor Century) was obligated under the Assumption Agreement to pay Home’s obligations for administrative costs under Treaty R, including costs of administering policyholders claims against Württembergische and billing the Rutty Pool, it was decided as a business matter that an affiliate of INA (and/or its successor Century) now known as AISUK would perform those obligations. Rosen Aff. ¶ 6.

6. Prior to 1999, AISUK (acting for Home) and Württembergische disputed whether, and if so how, Treaty R obligated Home to indemnify and pay administration costs for policyholders’ claims against Württembergische. The extent of those obligations was the subject of litigation before the High Court of Justice in London and arbitration proceedings that will be resolved by the Agreement. Rosen Aff. ¶¶ 7, 8 and 14.

7. The Agreement is the result of negotiations over the past year and a half with Württembergische and with representatives of Century and AISUK, in light of Century’s obligations under the Assumption Agreement with respect to Treaty R. Rosen Aff. ¶ 10.

8. The Agreement does not preclude or diminish in any way Century’s ability to assert offsets respecting Württembergische claims that may be allowed by the Court. Rosen Aff. ¶19.

9. Importantly, the Agreement clarifies the respective rights and obligations of Home and Württembergische under Treaty R and thereby avoids delay and uncertainty so as to permit the Liquidator to more effectively collect Century's obligations under the Assumption Agreement with respect to Treaty R. This is in the economic interest of the policyholders and other creditors of Home. The Liquidator will collect from Century under the Assumption Agreement (or from Century International Reinsurance Company Limited ("CIRC") under the BAFCO Agreements) with respect to Württembergische's allowed claims, subject to Century's and/or CIRC's rights of offset. Rosen Aff. ¶¶ 19, 24.

10. For the reasons described above, the Agreement is fair and reasonable and in the best interests of the liquidation and the policyholders and other creditors of Home. Rosen Aff. ¶ 23.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Motion for Approval of Settlement Agreement with  
Württembergische;
- B. Enter an Order in the form submitted herewith approving the Agreement;  
and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER OF  
INSURANCE OF THE STATE OF NEW HAMPSHIRE,  
AS LIQUIDATOR OF THE HOME INSURANCE  
COMPANY,

By his attorneys,

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March 1, 2006

Certificate of Service

I hereby certify that a copy of the foregoing Motion for Approval of Settlement Agreement with Württembergische and a proposed form of order were sent this 1st day of March, 2006, by first class mail, postage prepaid to all persons on the attached service list. The Confidential Affidavit of Jonathan Rosen in Support of Motion for Approval of Settlement Agreement with Württembergische was served only on counsel for Century Indemnity Company.

  
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J. David Leslie

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

In the Matter of the Liquidation of  
US International Reinsurance Company  
Docket No. 03-E-0112

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