

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 OBJECTION TO CLAIMANT'S
MOTION TO RECOMMIT REGARDING
DISPUTED CLAIM**

Docket No. 2006-HICIL-22

Roger A. Sevigny, Insurance Commissioner for the State of New Hampshire, solely in his capacity as Liquidator of The Home Insurance Company ("Liquidator"), by and through counsel, hereby objects to Claimant, Henry Lenz's ("Claimant") Motion to Recommit and in support thereof states as follows:

1. The Referee's September 11, 2006 Ruling fully and accurately captures the factual history of this disputed claim. Likewise, the Referee's Ruling properly applied the law applicable to the facts presented by Claimant. Claimant's Motion to Reconsider [sic] is based, upon his assertion that his "agreement is not labeled Deferred Compensation and that is why [he] feel[s] it is not a retirement benefit but interest money under loss claim – Class II." (*Claimant's Exhibit No. 2 annexed to his moving papers.*) Claimant's present position, however, is inconsistent with how he previously characterized his claim. Furthermore, regardless of how Claimant characterizes his

claim, the Liquidator properly classified it as Class V, the Referee affirmed, and this Court should affirm.

2. Claimant presented a Proof of Claim (“POC”) dated June 28, 2003 to the Liquidator. In his POC, Claimant described his claim as “Payments . . . for Deferred Compensation Agreement. Money was taken from salary of H.P. Lenz.” (*Copy of POC is included as Exhibit 5 in the Case File which is attached for ease of reference.*) Thereafter, by letter dated April 19, 2006 he described his bitterness over the loss emanating from his “Deferred Compensation Plan” for which he sought “Class 1 – Administrative Cost” classification. (*Case File Exhibit 1.*) He has similarly described the funds at issue as “. . . my Retirement Money. Money that [he] paid into the Home,” (*Case File Exhibit 3*) a “retirement differential,” (*February 2, 1996 letter, Case File Exhibit 6*) “retirement benefits [for] my own money that I paid in,” (*August 29, 2003 letter, Case File Exhibit 6*) and “a Deferred Compensation Agreement, not . . . supplemental retirement benefits.” (*Undated letter marked ‘Copy’, Case File Exhibit 6.*)

3. Regardless of Claimant’s various characterizations of his claim, the Liquidator properly designated Claimant’s submission as a Class V - Residual Classification and the Referee properly affirmed his decision. Claimant’s June 19, 1981 deferred compensation agreement (*Case File Exhibit 5*) is clearly not a cost or expense of the administration of the Home estate as defined by RSA § 402-C:44 I and hence is not eligible for Class I classification. Similarly, Claimant’s POC does not fall within any of the defining criteria for RSA § 402-C:44 II designation:

II. POLICY RELATED CLAIMS. All claims by **policyholders**, including claims for unearned premiums in excess of \$50, beneficiaries, and insureds **arising from and within the coverage** of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims. . . . All claims under life insurance contracts issued by the company. . . . All claims under life **insurance and annuity policies**, whether for death proceeds, annuity proceeds or investment values, shall be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class. . . . (*Emphasis added.*)

4. By no stretch of interpretive logic could Claimant's claim be deemed to have evolved from an "insurance or annuity policy" issued in the normal course of the Home's business operations thereby affording him Class II status in the distribution order prescribed in the liquidation statute.

5. Claimant now takes issue with the "18 year old Iowa case" the Referee referenced in her Ruling. Referee Rogers, however, properly relied upon the Iowa Supreme Court's decision in *State of Iowa ex rel. William B. Hager, etc. v. Iowa National Mutual Insurance Company, et al.*, 430 N.W.2d 420 (1988) (*Copy of the decision is included in Liquidator's Written Submission which is attached for ease of reference.*) As noted in the Referee's Ruling, the Iowa court "drew clear distinction between an insolvent insurance company's obligations to its insureds under policies of insurance and other obligations that such insurer might have to its employees." (Referee's Ruling at 2.) Bound by controlling statutory language and a fact pattern nearly identical to that which is at issue herein, the *Iowa National Mutual* court properly

found that a residual (i.e., akin to RSA § 402-C:44 V) classification was the only proper designation of claimant's claims.

6. *Iowa National Mutual*, fully supports the Liquidator's determination that Claimant should be given Class V designation. In the case, the Iowa Supreme Court considered the assertion of more than thirty senior executives of the involved carrier that their deferred compensation claims should be treated – for the purpose of priority classification – as “annuity policies or as annuity proceeds.” The Iowa priority statute at issue defined a Class 3 priority (i.e., the class senior to that of general or residual creditors) as including “[c]laims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims...” (Iowa Code § 507C.42 (3) (1985)).

7. Not coincidentally, the New Hampshire priority statute, Rev. Stat. § 402-C:44 II, is identical to § 507C.42(3) of the Iowa insurer's insolvency priority statute. As noted by the Iowa Supreme Court, “[s]ection 507C.42 is modeled after section 42 of the 1977 Insurers Supervision, Rehabilitation and Liquidation Model Act,” which at the time of the Iowa court determination had seen adoption of its priority provisions by approximately thirteen jurisdictions, including New Hampshire. *Iowa National*, 430 N.W.2d at 422.

8. In *Iowa National*, the executive employees asserted that the Iowa legislature used the terms “annuity” and “annuity policy” interchangeably thereby showing an intention to give the words the same meaning and thus arguing that their

claims for deferred compensation should be given Class 3 priority. The Iowa Supreme Court rejected this argument:

The statute refers to annuities issued by the insurer in the ordinary course of business. We reach a similar conclusion with respect to the use of the words “annuity policies” or “annuity proceeds” in section 507C.42(3). The third priority class includes claims made under policies of insurance, third-party claims against insureds of the company under liability policies, and claims made against statutory guaranty plans for risks of the insolvent insurer. This strongly suggests that this particular priority status is aimed at the insolvent insurance company’s obligations to its insureds and not to employee claims.

430 N.W.2d at 422.

9. The *Iowa National* court addressed the legislative history of this section of the insurer’s insolvency statute as well as the commentary to the Wisconsin Insurers Rehabilitation and Liquidation Act (Wis. Stat. §§ 645.01-645.90 (1975)), which formed the basis for the Model Act (and thus applies equally to the New Hampshire priority statute).

The official comments to the Wisconsin act give an explanation of the purposes behind the particular classification of claims selected by the drafters of that act. According to the comments accompanying section 645.68 of the Wisconsin act, governing priority of distribution, the system of priority was chosen “based on the relative social and economic importance of the claims likely to be asserted against an insurer . . . to carry out sound public policy by minimizing the damage done to the insured community when an insurer fails.”

430 N.W.2d at 422, 423.

10. Having considered the foregoing, the court noted that “[i]n contrast to the type of claims included in the third priority status, i.e., those involving the company’s obligation to its insureds [akin to New Hampshire’s Class II priority],

appellants' claims arise from their status as employees of the company." Employee claims were relegated to a lower priority status, similar to New Hampshire's Class IV classification, and similarly specified that "[o]fficers and directors are not entitled to the benefit of this priority." The court concluded that it could discern no legislative intent to "accord any other priority status to excluded employee claims and therefore found that a general or residual creditor classification was appropriate under the circumstances. 430 N.W.2d at 423.

11. Claimant's position is identical to that of the executives who asserted an "annuity level" priority in the *Iowa National* litigation. As the Iowa Supreme Court held, "we are required to identify the category of claimants to which the legislature accorded third party priority status. If the legislature had intended to accord third priority status to amounts owed employees under deferred compensation plans we do not believe it would have required us to infer that intention from general language which appears to be directed at an entirely different group of claimants." 430 N.W.2d at 423. As such, "this strongly suggests that [Class 3] priority status is aimed at the insolvent insurance company's obligations to its insureds and not to employee claims." 430 N.W.2d at 422. Based on the rationale articulated by the Iowa Supreme Court, Mr. Lenz's claim for proceeds under his 1982 Agreement was properly accorded a Class V (general/residual) creditor status.

WHEREFORE, the Liquidator objects to the Motion to Recommit and respectfully requests that this Court enter judgment on the Referee's Ruling of September 11, 2006 pursuant to N.H. Rev. Stat. Ann. § 519:12.

Respectfully submitted,


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

By his attorneys,

Kelly A. Ayotte
Attorney General

J. Christopher Marshall
Civil Bureau
New Hampshire Department of Justice
33 Capitol Street
Concord, NH 03301-6397
(603) 271-3650

October 16, 2006

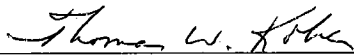

Jonathan Rosen, Esq. (N.H. Bar # 16951)
Thomas W. Kober, Esq. (admitted *pro hac vice*)
The Home Insurance Company in Liquidation
59 Maiden Lane
New York, New York 10038
(212) 530-4001

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Objection to Claimant's Motion has been forwarded via First Class Mail this 16th day of October, 2006 to:

Claimant Henry P. Lenz at 25 E. Madison Avenue, Florham Park, NJ 07932-2605 and Office of the Clerk, Merrimack County Superior Court, 4 Court Street, Concord, New Hampshire 03301, Attention: Home Docket, No. 03-E-0106 and via First Class Mail and e-mail this 16th day of October, 2006 to:

Ms. Brooke Holton, Liquidation Clerk at brooke.holton@hicilclerk.org and The Home Insurance Company in Liquidation, Office of Disputed Claims, P.O. Box 1720, Manchester, New Hampshire 03105-1720 and



Thomas W. Kober

CASE FILE

THE HOME
INSURANCE
COMPANY IN
LIQUIDATION



286 Commercial Street, 3rd Floor
Manchester, NH 03109

May 26, 2006

Mr. Henry P. Lenz
25 E. Madison Avenue
Florham Park, NJ 07932-2605

Re: In Re The Liquidation of The Home Insurance Company
Disputed Claim Docket Number: 2006-HICIL-22
Proof of Claim Number: EMPL17440
Claimant Name: Henry P. Lenz

Dear Mr. Lenz,

Pursuant to the January 19, 2005 *Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation* attached is a copy of The Home Insurance Company in Liquidation's Case File. A copy is being sent today to the Office of the Liquidation Clerk.

As previously advised, please note that this is a Class V Claim afforded a "Residual Classification" pursuant to the Order of Distribution set forth in NH RSA 402-C:44.

Sincerely,

Sally Goldberg
Vice President, Human Resources and Administration
The Home Insurance Company in Liquidation

cc: Ms. Brooke Holton, Liquidation Clerk (w/encl)
The Home Insurance Company in Liquidation
Office of the Liquidation Clerk
286 Commercial Street, 3rd Floor
Manchester, NH 03101-1210
Tel. 603.641.1211

Thomas W. Kober, Esq.
The Home Insurance Company in Liquidation

TABLE OF CONTENTS

1. Claimant, Henry P. Lenz', ("Claimant") Notice of Objection dated April 19, 2006 regarding the Liquidator of The Home Insurance Company's ("Liquidator") Notice of Redetermination ("NOR").
2. Liquidator's NOR dated April 12, 2006 directed to Claimant regarding Proof of Claim # EMPL17440 ("POC").
3. Claimant's Acknowledgement of Receipt and Request For Review received March 15, 2006.
4. Liquidator's Notice of Determination dated February 22, 2006.
5. Claimant's POC and supporting data.
6. Miscellaneous correspondence dated December 23, 2003 (includes N.H. RSA Section 402-C:44 – Order of Distribution); November 26, 2003 (hand written); October 31, 2003; August 29, 2003; August 4, 2003; undated "Copy" from Henry P. Lenz; June 27, 2003; June 11, 2003(hand written) and February 2, 1996.
7. August 8, 2003 memo entitled "Termination of Home's Welfare Benefit Plans/Benefits."

HENRY P. LENZ
25 E. MADISON AVENUE
FLORHAM PARK, NJ 07932-2605
973-377-2949

COPY

SCANNED

APR 24 2006

April 19, 2006

~~Office of the Clerk, Merrimack County Superior Court
163 N. Main Street, P.O. Box 2880
Concord, New Hampshire 03301-2880~~

RECEIVED

APR 24 2006

HICIL

Attention The Home Docket No. 03-E-0106

Gentlemen:

Attached is copy of letter dated April 12, 2006 from Peter Bengelsdorf, Special Deputy Liquidator for The Home Insurance Company in Liquidation. This was in response to my request to re-evaluate my Class V designation. I believe I received a form letter, not a re-evaluation. Therefore, this appeal to you per his instructions.

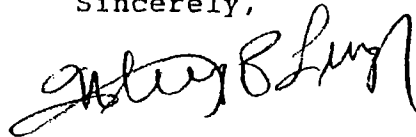
I truly am very bitter about losing my \$689.72 monthly pension under my Deferred Compensation Plan. This was salary that was retained by The Home. I worked for The Home for over 25 years and retired in 1985.

Attached is copy of letter dated 2/2/96 which I wrote to Mr. Albert Morton, Executive Vice President of Risk Enterprise Management Limited and copy of his reply dated 2/21/96. Currently The Home has \$15,863.56 of my money. Mr. Morton does not refer to it as a claim but an obligation. I feel I should be Class 1 - Administration Cost. The current liquidation employees, I believe, are being paid with part of my money.

I also return a copy of the forms requested by Mr. Bengelsdorf and he is receiving the original of same via this letter.

Thank you for your attention.

Sincerely,



Henry P. Lenz

HPL:KK
Enc.

Empl 17446

CC: Mr. Peter Bengelsdorf, Special Deputy Liquidator
The Home Insurance Company in Liquidation
P.O. Box 1720
Manchester, New Hampshire 03105-1720

To: Mr. Peter Bealsdorf, Special Deputy Liquidator

THE HOME INSURANCE COMPANY IN LIQUIDATION
P.O. Box 1720
Manchester, New Hampshire 03105-1720
Tel: (800) 347-0014

POC #:EMPL17440

Amount Allowed: Deferred

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of the Notice of Redetermination as a Class V Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Redetermination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the Redetermination.

I have not assigned any part of this claim.

I have not made any other recoveries with respect to this claim.

I have not sought and do not intend to seek any other recoveries with respect to this claim.

I have made recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

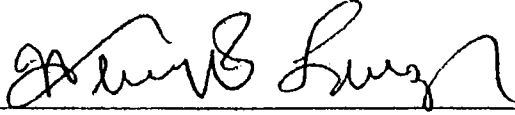
Same name as above.

New name _____

Same address as above

New address _____

This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: 

Printed Name: HENRY P. LEHZ

Title: Retired Executive Vice President & Director of The Home*

Date: APRIL 20, 2006

and President of The Home's subsidiaries

HENRY P. LENZ
25 E. MADISON AVE.
FLORHAM PARK, NJ 07932-2605

070
DVID KEARNEY NJ 070
20 APR 2005 PM 3 L



MR Peter Bengel's DART

The Home Insurance Company in

Liquidation

RECEIVED

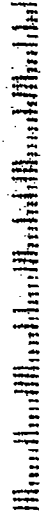
P. O. Box 1720

Manchester, NH 03105

APR 24 2006

17 APRIL

03105+1720



THE HOME INSURANCE COMPANY IN LIQUIDATION

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: April 12, 2006

Class V

Henry P. Lenz
25 E. Madison
Florham Park, NJ 07932

RE: NOTICE OF REDETERMINATION
Proof of Claim No.: EMPL17440

Redetermination Summary

Gross Amount of Claim : Unknown
Amount Allowed by Liquidation : Deferred

This is in response to your March 15, 2006 "Acknowledgment of Receipt" of the Notice of Determination ("NOD") issued on behalf of the Liquidator of the Home Insurance Company ("Liquidator") regarding your Proof of Claim ("POC") numbered above. With your acknowledgement you rejected the NOD and filed a Request for Review seeking reconsideration of "the Determination of [your] claim as CLASS V."

By virtue of this Re-determination we will elaborate on the reasons why the Class V determination was, and remains, the appropriate classification for your POC. The Home Liquidation is supervised by the Superior Court of Merrimack County, New Hampshire and is subject to NH RSA §402-C relating to Insurers Rehabilitation and Liquidation. Specifically, NH RSA §402-C:44 prescribes the order of distribution of all claims in an insurer's estate. Your POC was determined to fall within the class "V-Residual Classification" category which includes "All other claims including claims of any state or local government, not falling within other classes under this section..." It was correctly determined that your claim could not be characterized as a "Administration Cost" (Class I); "Policy Related Claim" i.e., a Home Insurance Company policy (Class II); "Claim of the Federal Government" (Class III); or "Wage" claim (Class IV). Hence, the lowest possible priority for your claim was that which was assigned, namely, a Class V-Residual Classification.

Accordingly, on behalf of the Liquidator, this Notice of Re-determination affirms the NOD classification of your POC as a Class V claim.

Please review the Notice of Redetermination below as it sets forth your rights and obligations concerning your proof of claim.

The purpose of this letter is to respond to your Request for Review and provide you with a Redetermination set forth above of claims you have presented to The Home Insurance

Company in Liquidation ("The Home"), under the Proof(s) of Claim specified above. The Home expects to present notice of this redetermination to the Superior Court for Merrimack County, New Hampshire (the "Court") for approval in accordance with New Hampshire Revised Statute, RSA 402-C: 45. Read this Notice of Redetermination carefully as it sets forth your rights and obligations in detail.

The Home has reviewed your request for review and made a Re-determination on the claims as set forth above in accordance with The Home Claim Procedures (the "Procedures")¹ approved by the Court. If the claim has been allowed, in whole or in part, it has been assigned a Class V priority as a "residual claim" pursuant to the Order of Distribution set forth in RSA 402-C:44 and will be placed in line for distribution as directed by the Court from the assets of The Home. The first \$50 of the amount allowed on each claim in this class shall be deducted from the amount distributed as specified in RSA 402-C:44.

You may have other claims against The Home for which you may receive other Notices of Determination or Redetermination. You will have a separate right to dispute each Notice of Determination or Redetermination. If your claim has been allowed in whole or in part, this Notice of Redetermination does not mean that your claim will immediately be paid, or that it will be paid in full or at all. Pursuant to order of the Court, The Home may make distributions of its assets as a percentage of all allowed claims in a particular priority class in The Home estate as approved by the Court. The amount of the final payment for allowed claims will be determined by the final ratio of assets to liabilities and the applicable priority. Please be advised that the final percentage of payment you receive from The Home, at the time The Home estate is finally closed, is the total payment amount that you will be entitled to for this claim.

The Liquidator does not expect there to be assets sufficient to make a distribution to creditors in classes below Class II.

Any and all distributions of assets may be affected and/or reduced by any payments you have received on this claim from any other sources not listed on the Notice of Distribution. Any such distributions by The Home are based on The Home's knowledge and/or understanding of the amounts you have received in settlement and/or reimbursement of this claim from all other sources at the time of the allowance or thereafter. Should The Home subsequently become aware of prior recoveries from other sources The Home has the right to reduce its future distribution payments to you to the extent of such other recoveries or to seek and obtain repayment from you with respect to any previous distributions that were made to you.

Further, if you seek or receive any future payment from any other source on this claim after you receive a distribution payment from The Home you must notify The Home at the

¹ A copy of the January 19, 2005 Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation may be obtained from the website of the Office of the Liquidation Clerk for The Home Insurance Company in Liquidation and US International Reinsurance Company in Liquidation, www.hicilclerk.org.

address below and The Home has the right to recover from you the distribution payments in whole or in part, to the extent of any such other future recoveries.

As a condition to receipt of any distributions, The Home shall be entitled to any rights to subrogation you may have against any third party and you shall be deemed to have assigned to The Home such rights upon receipt of any distributions. You shall also be obliged to reimburse The Home for any legal fees or other costs associated with The Home recovering from you any distribution payments to which you are not entitled.

The following instructions apply to this Notice of Redetermination:

Claim Allowed

1. If this claim has been allowed in whole or in part and you agree with the re-determination, sign and date the enclosed Acknowledgment of Receipt of the Notice of Redetermination and mail the completed Acknowledgment to The Home.

Claim Disallowed

2. If the Redetermination is to disallow your claim in whole or in part, you may still file an Objection with the Court at

Office of the Clerk, Merrimack County Superior Court
163 N. Main Street, P.O. Box 2880
Concord, New Hampshire 03301-2880
Attention: The Home Docket No. 03-E-0106

within sixty (60) days from the mailing of the Notice of Redetermination. **You have sixty (60) days from the mailing of the Notice of Redetermination to file your Objection.** Please also sign and return the Acknowledgment of Receipt form and mail a copy of the Objection to the Liquidator while maintaining copies of all documents for your reference.

IF YOU DO NOT FILE AN OBJECTION WITH THE COURT WITHIN SIXTY (60) DAYS FROM THE MAILING OF THIS NOTICE OF REDETERMINATION, YOU MAY NOT FURTHER OBJECT TO THE DETERMINATION.

A timely filed Objection will be treated as a Disputed Claim and will be referred to the Liquidation Clerk's Office for adjudication by a Referee in accordance with the Procedures.

3. You must notify The Home of any changes in your mailing address. This will ensure your participation in future distributions, as applicable. For purposes of keeping The Home informed of your current address, please notify us at the address given on the letterhead above.

Sincerely yours,

Peter Bengelsdorf, Special Deputy Liquidator
For Roger A. Sevigny, Liquidator
of The Home Insurance Company in Liquidation

Should you wish to speak with someone regarding this Notice of Redetermination, please contact:

Sally Goldberg
Vice President, Human Resources & Administration
The Home Insurance Company in Liquidation
603 634-0147

THE HOME INSURANCE COMPANY IN LIQUIDATION

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

POC #:EMPL17440

Amount Allowed: Deferred

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of the Notice of Redetermination as a Class V Creditor claim and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Redetermination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the Redetermination.

I have not assigned any part of this claim.

I have not made any other recoveries with respect to this claim.

I have not sought and do not intend to seek any other recoveries with respect to this claim.

I have made recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I have sought or intend to seek recovery from others with respect to this claim (full details must be included with this Acknowledgement).

I request that The Home mail further correspondence to:

Same name as above.

New name _____

Same address as above

New address _____

This Acknowledgment of Receipt must be completed, signed and returned to The Home in order to be eligible for distributions from The Home estate as directed by the Court.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

THE HOME INSURANCE COMPANY IN LIQUIDATION
P.O. Box 1720
Manchester, New Hampshire 03105-1720
Tel: (800) 347-0014

RECEIVED
MAR 15 2006
HICIL

POC #: EMPL17440

Amount Allowed: \$ "Deferred"
Classification: Class V

Henry P. Lenz
~~42 Edgemoor Ave.~~
~~Chatham, NJ 07928~~

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of the Notice of Determination of classification as a Class V Creditor claim, and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Determination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the determination.

I reject the determination and want to file a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I reject the determination and intend to file a separate Objection with the Court, without filing a Request for Review.

I request that The Home mail further correspondence to:

Same name as above.
New name _____

Same address as above

New address 25 E. MADISON AVE.
FLORENCE PARK NJ 07932

This Acknowledgment of Receipt must be completed, signed and returned to The Home.

Signature: *Henry P. Lenz*

Printed Name: HENRY P. LENZ

Title: FORMER Exec Vice Pres & Director Home Insurance Co.

Date: 03/13/2006

POG # EHP 17440

CLASSIFICATION CLASS V
Amount Allowed Deferred

From www.hicilclerk.org I could not determine who falls into CLASS V - but since CLASS II is the last Hope I DON'T UNDERSTAND why MY CLAIM should be on the bottom of the list. The money that I have been promised with is MY Retirement Money. Money that I paid into the Home. I WAS ASSURED in writing that the Home would meet its obligation to me. Doesn't seem to do me much good now - but I'M still Hoping.

James P. Gray

03/13/2006

HENRY P. LENZ
25 E. MADISON AVE.
FLORHAM PARK, NJ 07932-2805

RECEIVED THE HOME INSURANCE COMPANY IN LIANOAKIM

MAR 15 2006

HICIL

P.O. Box 1720

MANCHESTER, NH 03105-1720

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PAID
MANCHESTER, NH
PERMIT NO. 108
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0310641720-20 8516

Manchester, NH 03105-1720



THE HOME INSURANCE COMPANY IN LIQUIDATION

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

Date: February 22, 2006

Class V

Henry P. Lenz
42 Edgehill Ave.
Chatham, NJ 07928

RE: NOTICE OF DETERMINATION
Proof of Claim No.: EMPL17440

Determination Summary

Classification Determination: Class V
Amount Allowed: Deferred

Explanation: A partial determination of your claim has been made assigning it a "Class V Residual Classification" under New Hampshire Revised Statute 402-C:44. A determination of the amount of your claim will be made only if it is later concluded that there will be sufficient assets to permit a distribution to Class V claimants. If you disagree with the classification of your claim as Class V, you must request review or file an objection as described below.

Dear Claimant:

The purpose of this letter is to provide you with a determination set forth above of claims you have presented to The Home Insurance Company in Liquidation ("The Home"), under the Proof(s) of Claim specified above. The Home expects to present notice of this determination to the Superior Court for Merrimack County, New Hampshire (the "Court") for approval in accordance with New Hampshire Revised Statute, RSA 402-C:45. Read this Notice of Determination carefully as it sets forth your rights and obligations in detail.

The Home has now made a Determination on the claims as set forth above in accordance with The Home Claim Procedures (the "Procedures")* approved by the Court. The claim has been assigned a Class V priority as a "residual claim" pursuant to the Order of Distribution set forth in RSA 402-C:44.

You may have other claims against The Home for which you may receive other Notices of Determination. You will have a separate right to dispute each Notice of Determination. Pursuant to order of the Court, The Home may make distributions of its assets as a

* A copy of the January 19, 2005 Restated and Revised Order Establishing Procedures Regarding Claims Filed with The Home Insurance Company in Liquidation may be obtained from the website of the Office of the Liquidation Clerk for The Home Insurance Company in Liquidation and US International Reinsurance Company in Liquidation, www.hicilclerk.org.

percentage of all allowed claims in a particular priority class in The Home estate as approved by the Court. The amount of the final payment for allowed claims will be determined by the final ratio of assets to liabilities and the applicable priority. Please be advised that the final percentage of payment you receive from The Home, at the time The Home estate is finally closed, is the total payment amount that you will be entitled to for this claim.

The Liquidator does not expect there to be assets sufficient to make a distribution to creditors in classes below Class II. In the event it is later concluded that there will be sufficient assets to make a distribution to on Class V claims, the Liquidator will address the merits of your claim and issue a further Notice of Determination.

The following instructions apply to this Notice of Determination:

Claim Classification

1. If you agree with the determination, sign and date the enclosed Acknowledgment of Receipt of the Notice of Determination and mail the completed Acknowledgment to The Home.
2. A. If you wish to dispute the determination of a Class V creditor classification for any reason, you may file a Request for Review with the Liquidator. The Request for Review is the first of two steps in the process of disputing a claim determination. The Request for Review must be received by The Home within thirty (30) days from the date of this Notice of Determination.

REQUEST FOR REVIEW FILING REQUIREMENTS:

- (a) Sign and return the attached Acknowledgment of Receipt form.
- (b) On a separate page, state specifically the reasons(s) you believe that the determination is in error and how it should be modified. Please note the Proof of Claim number on that page and sign the page.
- (c) Mail the Request for Review to:
The Home Insurance Company in Liquidation
P.O. Box 1720
Manchester, NH 03105-1720

You should keep a copy of this Notice of Determination, Acknowledgment of Receipt and Request for Review, then mail the Original Request for Review to us by U.S. Certified Mail.

- (d) The Request for Review must be received by The Home within thirty (30) days from the date of this Notice of Determination. The Request for Review must be in writing.
- (e) The Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination.

IF A REQUEST FOR REVIEW IS NOT FILED WITH THE HOME WITHIN THE THIRTY (30) DAY PERIOD, YOU MAY NONETHELESS DIRECTLY FILE AN OBJECTION WITH THE COURT WITHIN SIXTY (60) DAYS FROM THE MAILING OF THIS NOTICE. You do not have to file the Request for Review as a prerequisite to dispute the Notice of Determination. Please see Section 2B (below) for the Objections to Denial of Claims.

B. If you disagree with the determination of a Class V creditor classification you may file an Objection with the Court at

Office of the Clerk, Merrimack County Superior Court
163 N. Main Street, P.O. Box 2880
Concord, New Hampshire 03301
Attention: The Home Docket No.03-E-0106

within sixty (60) days from the mailing of the Notice of Determination and bypass the Request for Review procedures as noted in Section 2A (above). If the Request for Review is timely filed, as outlined in Section 2A, the Liquidator will inform you of the outcome of the review and issue to you a Notice of Redetermination. If the redetermination is to affirm the determination, you may still file an Objection with the Court. You have sixty (60) days from the mailing of the Notice of Redetermination to file your Objection. Please also sign and return the Acknowledgment of Receipt form and mail a copy of the Objection to the Liquidator.

IF YOU DO NOT FILE AN OBJECTION WITH THE COURT WITHIN EITHER SIXTY (60) DAYS FROM THE MAILING OF THIS NOTICE OF DETERMINATION OR SIXTY (60) DAYS FROM THE MAILING OF ANY NOTICE OF REDETERMINATION, YOU MAY NOT FURTHER OBJECT TO THE DETERMINATION.

A timely filed Objection will be treated as a Disputed Claim and will be referred to the Liquidation Clerk's Office for adjudication by a Referee in accordance with the Procedures.

3. You must notify The Home of any changes in your mailing address. For purposes of keeping The Home informed of your current address, please notify us at the address given on the letterhead above.

Sincerely yours,

Peter Bengelsdorf, Special Deputy Liquidator
For Roger A. Sevigny, Liquidator
of The Home Insurance Company

If you wish to speak to someone regarding this Notice of Determination, please contact:

Sally Goldberg
Vice President, Human Resources and Administration
The Home Insurance Company in Liquidation
603-634-0147

THE HOME INSURANCE COMPANY IN LIQUIDATION

P.O. Box 1720

Manchester, New Hampshire 03105-1720

Tel: (800) 347-0014

POC #: EMPL17440

Amount Allowed: \$ "Deferred"

Classification: **Class V**

Henry P. Lenz
42 Edgehill Ave.
Chatham, NJ 07928

ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge receipt of the Notice of Determination of classification as a **Class V Creditor claim** and confirm that I understand the content thereof. I further acknowledge and confirm that I understand the Instructions regarding the Notice of Determination of my Claim against The Home Insurance Company in Liquidation and in that regard advise as follows:

(Check off all applicable items.)

I agree to the determination.

I reject the determination and want to file a Request for Review (specific reasons must be included along with return of the signed Acknowledgment).

I reject the determination and intend to file a separate Objection with the Court, without filing a Request for Review.

I request that The Home mail further correspondence to:

Same name as above.

New name _____

Same address as above

New address _____

This Acknowledgment of Receipt must be completed, signed and returned to The Home.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

PROOF OF CLAIM

The Home Insurance Company,

Merrimack County Superior Court, State of New Hampshire 03-E-0106

Read Carefully Before Completing This Form

Please print or type

FOR LIQUIDATION

RECEIVED

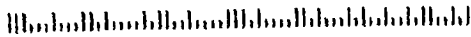
DATE PROOF OF CLAIM RECEIVED JUL 03 2003

HICIL

POC #: Vend354250

EMPL7440

Henry P. Lenz
42 Edgehill Avenue
Chatham NJ 07928-1937



The Deadline for Filing this Form is June 13, 2004.

You should file this Proof of Claim form if you have an actual or potential claim against The Home Insurance Company of any of its former subsidiaries* ("The Home") even if the amount of the claim is presently uncertain. To have your claim considered by the Liquidator, this Proof of Claim must be postmarked no later than June 13, 2004. Failure to timely return this completed form will likely result in the DENIAL OF YOUR CLAIM. You are advised to retain a copy of this completed form for your records.

1. Claimant's Name: HENRY P. LENZ
2. Claimant's Address: 42 EDGEHILL AVENUE
CHATHAM NJ 07928-1937
3. Claimant's Telephone Number: (973) 635-8920
Fax Number: (973) 701-0272
Email address: HLENZ42@aol.com
4. Claimant's Social Security Number, Tax ID Number or Employer ID Number: 149-14-4585
5. Claim is submitted by (check one):
 a) Policyholder or former policyholder
 b) Third Party Claimant making a claim against a person insured by The Home
 c) Employee or former employee
 d) Broker or Agent
 e) General Creditor, Reinsurer, or Reinsured
 f) State or Local Government Entity
 g) Other; describe: _____

If your name, address, e-mail address, or telephone number set forth above are incorrect, or if they change, you must notify the Liquidator so she can advise you of new information.

Describe in detail the nature of your claim. You may attach a separate page if desired. Attach relevant documentation in support of your claim, such as copies of outstanding invoices, contracts, or other supporting documentation.

1. Copy of Agreement Dated June 19, 1981 between The Home and Henry P. Lenz
2. Copy of Invoice Dated 04/24/2003 for \$689.72 Last Monthly Payment Received
3. Copy of FY Letter Dated 04/02/02 to A.W. MORROW - No Reply Received.

6. Indicate the total dollar amount of your claim. If the amount of your claim is unknown, write the word "unknown", BUT be sure to attach sufficient documentation to allow for determination of the claim amount.

\$ UNKNOWN (if amount is unknown, write the word "unknown"). \$ 689.72/Month - Lifetime

7. If you have any security backing up your claim, describe the nature and amount of such security. Attach relevant documentation.

None

8. If The Home has made any payments towards the amount of the claim, describe the amount of such payments and the dates paid:

HOME HAS MADE MONTHLY PAYMENTS SINCE 01/01/86 LAST WAS 04/29/03
COPY 4. MY LETTER OF 02/02/96 REQUESTING LUMP SUM PAYMENT COPY OF MR. HARTMAN'S
LETTER DTD 02/21/96 - DECLINING SAME.

9. Is there any setoff, counterclaim, or other defense which should be deducted by The Home from your claim?

No

10. Do you claim a priority for your claim? If so, why: YES. PAYMENTS ARE FOR DEFERRED
COMPENSATION AGREEMENT. MONEY WAS TAKEN FROM SALARY OF H.P. LENZ

11. Print the name, address and telephone number of the person who has completed this form.

Name: HENRY P. LENZ
Address: 42 EDGEHILL AVENUE
CHATHAM NJ 07928-1937
Phone Number: (973) 635-8920
Email address: HLENZ42@aol.com

* The Home Indemnity Company, The Home Insurance Company of Indiana, City Insurance Company, Home Lloyds Insurance Company of Texas, The Home Insurance Company of Illinois, and The Home Insurance Company of Wisconsin.

12. If represented by legal counsel, please supply the following information:
- a. Name of attorney: NONE
 - b. Name of law firm: _____
 - c. Address of law firm: _____
 - d. Attorney's telephone: _____
 - e. Attorney's fax number: _____
 - f. Attorney's email address: _____

13. If using a judgment against The Home as the basis for this claim:
- a. Amount of judgment NONE
 - b. Date of judgment _____
 - c. Name of case _____
 - d. Name and location of court _____
 - e. Court docket or index number (if any) _____

14. If you are completing this Proof of Claim as a Third Party Claimant against an insured of The Home, you must conditionally release your claim against the insured by signing the following, as required by N.H. Rev. Stat. Ann. § 402-C:40 I:

I, N/A (insert claimant's name), in consideration of the right to bring a claim against The Home, on behalf of myself, my officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives hereby release and discharge _____ (insert name of defendant(s) insured by The Home), and his/her/its officers, directors, employees, successors, heirs, assigns, administrators, executors, and personal representatives, from liability on the cause(es) of action that forms the basis for my claim against The Home in the amount of the limit of the applicable policy provided by The Home; provided, however, that this release shall be void if the insurance coverage provided by The Home is avoided by the Liquidator.

Claimant's signature

Date

15. All claimants must complete the following:

I, HENRY P. LENZ (insert individual claimant's name or name of person completing this form for a legal entity) subscribe and affirm as true, under the penalty of perjury as follows: that I have read the foregoing proof of claim and know the contents thereof, that this claim in the amount of UNKNOWN dollars (\$ 689.72 Monthly) against The Home is justly owed, except as stated in item 9 above, and that the matters set forth in this Proof of Claim are true to the best of my knowledge and belief. I also certify that no part of this claim has been sold or assigned to a third party.

Any person who knowingly files a statement of claim containing any false or misleading information is subject to criminal and civil penalties.

Henry P. Lenz
Claimant's signature

June 28, 2003
Date

16. Send this completed Proof of Claim Form, postmarked by June 13, 2004, to:

The Home Insurance Company in Liquidation
P.O. Box 1720
Manchester, New Hampshire 03105-1720

You should complete and send this form if you believe you have an actual or potential claim against The Home even if the amount of the claim is presently uncertain.

U.S. POSTAGE
PAID
CHATHAM, NJ
07024
JUN 30, 03
AMOUNT

\$4.88
00048223-01



9264

93105



7002 3150 0000 2729 2671



7002 3150 0000 2729 2671

THE HOME INSURANCE COMPANY IN LIQUIDATION
P.O. Box 1720
MANCHESTER New Hampshire 03105-1720

RECEIVED

JUL 03 2003

HICIL

U.S. POSTAL SERVICE **CERTIFICATE OF MAILING**

MAY BE USED FOR DOMESTIC AND INTERNATIONAL MAIL. DOES NOT PROVIDE FOR INSURANCE — POSTMASTER

Received From:

Home Ins. Co. in Liquidation
P.O. Box 1720

Manchester, NH 03105-1720

One piece of ordinary mail addressed to:

Henry P. Lenz
42 Edgemoor Avenue
Chatham, N.J. 07928

U.S. POSTAGE
PAID
CHATHAM, NH
03105
JUN 30, 03
AMOUNT



\$0.90
00076555-06

0000

COPY

AGREEMENT

1

Agreement dated June 19, 1981 between The Home Insurance Company (the "Home") and Henry P. Lenz ("Lenz").

1. Lenz is currently employed by the Home as Executive Vice President and hereby elects to defer \$2,269.23 each pay period of any base salary compensation which shall become payable to him. The deferral shall commence with the pay period beginning June 22, 1981. Lenz may also elect to defer all or any part of the amount that may be payable under the Incentive Bonus Plan of the Home or any additional salary by giving written notice to the Home on or before December 15 of the year prior to the year in which the incentive bonus or salary is earned.

2. Home shall credit Lenz with all amounts deferred under paragraph 1 above and, in addition, shall credit his account with interest on the deferred amount. The Retirement Plan Committee of The Home Insurance Company Retirement Plan (the "Committee") shall, in its sole discretion, determine from time to time, the amount of interest credit. Lenz shall not be entitled to receive the amounts credited to his account during the deferral period.

3. Home will pay to Lenz the following amounts on the dates indicated:

A. Commencing on the first day of the month following his termination from employment at the Home, in 120 monthly installments, an amount each month equal to 1/120 of the amount held in the Deferred Compensation Account on the date of such termination, appropriately increased annually to reflect the interest credit provided in paragraph 2; and

B. Monthly payments equal to the difference between (a) Lenz's monthly retirement income as computed under "The Home Insurance Company Retirement Plan" (adjusted to reflect any elections thereunder) and based on his total salary, including amounts paid to him on a then current basis and amounts deferred under this Agreement and (b) Lenz's monthly retirement income computed on the same basis under "The Home Insurance Company Retirement Plan" and based solely on that portion of his salary paid on a then current basis. Monthly payments under this subparagraph 3 B shall commence with the first,

and terminate with the last, monthly installment of retirement income payable to Lenz under "The Home Insurance Company Retirement Plan."

4. If Lenz's employment is terminated by reason of death, or in the event of his death during the 120 month payment period referred to in paragraph 3, the unpaid balance in the Deferred Compensation Account shall be paid in one lump sum payment to his estate. On his death, Lenz's spouse, if she survives him, shall also receive monthly payments equal to the difference between (a) the monthly retirement income she would receive as a surviving spouse computed under "The Home Insurance Company Retirement Plan" (adjusted to reflect any adjustments thereunder) and based on Lenz's total salary, including amounts paid to Lenz on a current basis and amounts deferred under this Agreement and (b) the monthly retirement income she would receive as a surviving spouse computed on the same basis under "The Home Insurance Company Retirement Plan" and based solely on that portion of Lenz's salary paid on a then current basis. Monthly payments under this paragraph 4 shall commence with the first, and terminate with the last, monthly installment of retirement income payable to Lenz's surviving spouse under "The Home Insurance Company Retirement Plan."

5. The Committee shall have full power and authority to interpret and construe this agreement and the Committee's interpretations and construction thereof shall be binding and conclusive on all parties.

6. The Committee shall have the right, for good cause, and in the sole discretion, to vary the manner and time of making the installment distributions provided in paragraph 3 A of this agreement.

7. The rights of Lenz or any other person to the payment of benefits under this agreement shall not be assigned, transferred, pledged or encumbered except by will or by the laws of descent and distribution and except for assignments by Lenz to his spouse or members of his immediate family or to a trust established by him for such family members.

8. Nothing contained herein shall be construed as conferring upon Lenz the right to continue in the employ of the Home.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the date first above written.

THE HOME INSURANCE COMPANY

Attest Tuesday Plow
Secretary

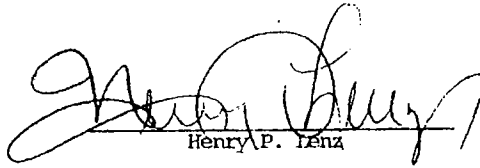
Dated June 19, 1981

BY [Signature]

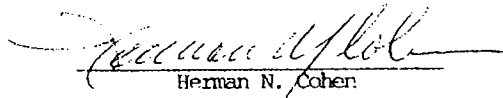
[Signature]
Henry R. Lenz

The Agreement made on June 19, 1981 between The Home Insurance Company (The "Home") and Henry P. Lenz ("Lenz") is hereby amended as follows:

Home will pay to Lenz the installments indicated in clause 3A beginning January 1, 1988 or thereafter.


Henry P. Lenz

4/3/85
Date


Herman N. Cohen

The Home Insurance Company

COPY

069603

2.

VENDOR ID	Vendor Name	Payment #	Check Date	Check #
LENZH	HENRY P. LENZ	00000000000025502	04/29/2003	69603

Our Voucher #	Invoice #	Invoice Date	Invoice Amount	Amount Paid	Discount	Write-off	Check Amount
00000000000010507061	LENZ 05/2003	04/28/2003	\$689.72	\$689.72	\$0.00	\$0.00	\$689.72
COMMENTS			\$689.72	\$689.72	\$0.00	\$0.00	\$689.72

REM

Risk Enterprise
Management
Limited

ALBERT W. MORTON
Executive Vice President
212-530-7282

February 21, 1996

Henry P. Lenz
Lenz Enterprises Ltd.
42 Edgehill Avenue
Chatham, N.J. 07928

Re: Retirement Differential
\$ 689.72 Monthly - Lifetime

Dear Hank:

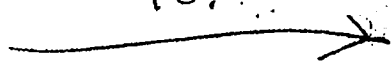
Please be advised that Risk Enterprise Management Limited (REM) has been appointed to manage the business of The Home Insurance Companies. It recognizes the Home's obligation to you and will continue the payments as is.

I hope all is going well with you.

Sincerely yours,

A. W. Morton

Albert W. Morton
Executive Vice President
Human Resources

To: 

JUNE 11, 2003

Dear Al:

I have not received the \$ 689.72 Payment for
May 2003. Would you please check into this

for me. Thanks,

Regards
Frank Luzzi

REM

*Risk Enterprise
Management
Limited*

ALBERT W. MORTON
Executive Vice President
212-530-7282

February 21, 1996

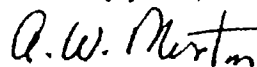
Henry P. Lenz
Lenz Enterprises Ltd.
42 Edgehill Avenue
Chatham, N.J. 07928

Dear Hank:

Please be advised that Risk Enterprise Management Limited (REM) has been appointed to manage the business of The Home Insurance Companies. It recognizes the Home's obligation to you and will continue the payments as is.

I hope all is going well with you.

Sincerely yours,



Albert W. Morton
Executive Vice President
Human Resources

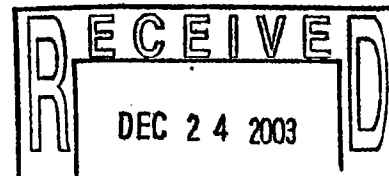
**THE HOME
INSURANCE
COMPANY IN
LIQUIDATION**



59 Maiden Lane
New York, New York 10038

December 23, 2003

VIA OVERNIGHT MAIL



Mr. Henry Lenz
25 E. Madison Ave.
Florham Park, New Jersey 07932-2605

Re: The Home Insurance Company in Liquidation (the "Company")

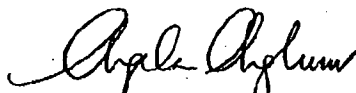
Dear Mr. Lenz:

I am writing in response to your inquiry dated November 26, 2003 with regard to the termination of your retirement benefits.

In your letter you have asked why you did not receive a payment for your supplemental retirement benefits for the month of June, 2003. On May 8, 2003, a Verified Petition for Liquidation of The Home Insurance Company (the "Petition") was filed with the Superior Court for Merrimack County, New Hampshire by Paula T. Rogers, Commissioner of Insurance State of New Hampshire in her capacity as Rehabilitator of The Home Insurance Company (copy of Petition is enclosed). As the Petition states, the Commissioner has determined that The Home is insolvent and that further attempts to rehabilitate the Company would be futile. With the filing of the Petition, the Company stopped making payments, with the exception of certain claims payments and, as a result, was unable to make any further payments for your supplemental retirement benefits.

As I noted in my previous correspondence, your Proof of Claim form has been received and will be considered in due course. Per your request, enclosed is a copy of the statute you requested, specifically N.H. RSA Section 402-C:44 - Order of Distribution, which statute sets forth the order of priority in which assets of the estate shall be distributed.

Very truly yours,


Angela Anglum, Esq.

AA:ng
Enclosures

cc: Mr. Pete Bengelsdorf

TITLE XXXVII INSURANCE

CHAPTER 402-C INSURERS REHABILITATION AND LIQUIDATION

Formal Proceedings

Section 402-C:44

402-C:44 Order of Distribution. – The order of distribution of claims from the insurer's estate shall be as stated in this section. The first \$50 of the amount allowed on each claim in the classes under paragraphs II, V, and VI except claims of the guaranty associations as defined in RSA 404-B, 404-D, and 408-B shall be deducted from the claim. Claims may not be cumulated by assignment to avoid application of the \$50 deductible provision. Subject to the \$50 deductible provision, every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. No subclasses shall be established within any class.

I. ADMINISTRATION COSTS. The costs and expenses of administration, including but not limited to the following: the actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees.

II. POLICY RELATED CLAIMS. All claims by policyholders, including claims for unearned premiums in excess of \$50, beneficiaries, and insureds arising from and within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company, and liability claims against insureds which claims within the coverage of and not in excess of the applicable limits of insurance policies and insurance contracts issued by the company and claims of the New Hampshire Insurance Guaranty Association, the New Hampshire Life and Health Insurance Guaranty Association and any similar organization in another state. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds or investment values, shall be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employee shall be treated as a gratuity.

III. CLAIMS OF THE FEDERAL GOVERNMENT.

IV. WAGES.

(a) Debts due to employees for services performed, not to exceed \$1,000 to each employee which have been earned within one year before the filing of the petition for liquidation. Officers shall not be entitled to the benefit of this priority.

(b) Such priority shall be in lieu of any other similar priority authorized by law as to wages or compensation of employees.

V. RESIDUAL CLASSIFICATION. All other claims including claims of any state or local government, not falling within other classes under this section. Claims, including those of any non-federal governmental body, for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction or proceeding out of which the penalty or forfeiture arose with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under paragraph VIII.

VI. JUDGMENTS. Claims based solely on judgments. If a claimant files a claim and bases it both on the judgment and on the underlying facts, the claim shall be considered by the liquidator who shall give the judgment such weight as he deems appropriate. The claim as allowed shall receive the priority it would receive in the absence of the judgment. If judgment is larger than the allowance on the underlying claim, the remaining portion of the judgment shall be treated as if it were a claim based solely on a judgment.

VII. INTEREST ON CLAIMS ALREADY PAID. Interest at the legal rate compounded annually on all claims in the classes under paragraphs I through VI from the date of the petition for liquidation or the date on which the claim

becomes due, whichever is later, until the date on which the dividend is declared. The liquidator, with the approval of the court, may make reasonable classifications of claims for purposes of computing interest, may make approximate computations and may ignore certain classifications and time periods as de minimis.

VIII. MISCELLANEOUS SUBORDINATED CLAIMS. The remaining claims or portions of claims not already

(), with interest, as in paragraph VII:

- (a) Claims under RSA 402-C:39, II;
- (b) Claims subordinated by RSA 402-C:61;
- (c) Claims filed late;
- (d) Portions of claims subordinated under paragraph V;
- (e) Claims or portions of claims payment of which is provided by other benefits or advantages recovered or recoverable by the claimant.

IX. PREFERRED OWNERSHIP CLAIMS. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Interest at the legal rate shall be added to each claim, as in paragraphs VII and VIII.

X. PROPRIETARY CLAIMS. The claims of shareholders or other owners.

Source. 1969, 272:1. 1975, 348:14. 1977, 499:1, eff. Sept. 12, 1977. 1998, 99:1, eff. July 19, 1998.

THE HOME
INSURANCE
COMPANY IN
LIQUIDATION

To: ANGELA ANGLUM ESQ
VICE President Legal AFFAIRS



Date: Nov 26 2003

59 Maiden Lane
New York, New York 10038

October 31, 2003

FROM

Mr. Henry Lenz
42 Edgehill Avenue
Chatham, New Jersey 07928

Henry Lenz
25 E. Madison Ave.
Florham Park, NJ 07932-2605

Re: The Home Insurance Company in Liquidation ("The Home")

Dear Mr. Lenz:

I am writing in response to your letter to Mr. Peter Bengelsdorf, Special Deputy Liquidator of The Home Insurance Company in Liquidation dated August 29, 2003 relative to the termination of your retirement benefits.

As you are aware, an Order of Liquidation for The Home was issued by the Superior Court for Merrimack County, New Hampshire on June 11, 2003. Under the laws of liquidation, The Home no longer functions as a viable insurer providing benefits to claimants or retirees.

The Proof of Claim form which you completed and returned to us has been received and will be considered in due course. In response to your question concerning REM, as the manager of The Home pursuant to contract, REM acted on behalf of The Home but did not assume obligations of The Home. Thus, your retirement benefits which were terminated as a result of the liquidation of The Home are not recoverable from REM.

Under the liquidation laws of New Hampshire, your claim pursuant to statute is subordinate to those claims which have been given a higher classification. Thus, payment of your claim may only be made in the future in the event that sufficient assets are available to pay higher priority claimants in accordance with the law.

If you have any further questions, please let me know.

Very truly yours,

Angela Anglum
Angela Anglum, Esq.
Vice President Legal Affairs

cc: Pete Bengelsdorf
Special Deputy Liquidator

I would appreciate an answer regarding the ? in my second paragraph. Should I have not been paid June 1st the sum of \$ 689,72. The liquidation order was not sent June 13th.

Also I would appreciate a copy of the statute that pertains to claims given a "higher classification", I can't imagine anything higher than my own money.

Thanks for your help. *A. Anglum*

Thank you for your letter.
It must be standard procedure - no matter to whom the letter is

addressed - it is passed on for someone else to answer. But - so be it.

**THE HOME
INSURANCE
COMPANY IN
LIQUIDATION**



59 Maiden Lane
New York, New York 10038

October 31, 2003

Mr. Henry Lenz
42 Edgehill Avenue
Chatham, New Jersey 07928

Re: The Home Insurance Company in Liquidation ("The Home")

Dear Mr. Lenz:

I am writing in response to your letter to Mr. Peter Bengelsdorf, Special Deputy Liquidator of The Home Insurance Company in Liquidation dated August 29, 2003 relative to the termination of your retirement benefits.

As you are aware, an Order of Liquidation for The Home was issued by the Superior Court for Merrimack County, New Hampshire on June 11, 2003. Under the laws of liquidation, The Home no longer functions as a viable insurer providing benefits to claimants or retirees.

The Proof of Claim form which you completed and returned to us has been received and will be considered in due course. In response to your question concerning REM, as the manager of The Home pursuant to contract, REM acted on behalf of The Home but did not assume obligations of The Home. Thus, your retirement benefits which were terminated as a result of the liquidation of The Home are not recoverable from REM.

Under the liquidation laws of New Hampshire, your claim pursuant to statute is subordinate to those claims which have been given a higher classification. Thus, payment of your claim may only be made in the future in the event that sufficient assets are available to pay higher priority claimants in accordance with the law.

If you have any further questions, please let me know.

Very truly yours,

Angela Anglum, Esq.
Vice President Legal Affairs

cc: Pete Bengelsdorf
Special Deputy Liquidator

HENRY P. LENZ
42 EDGEHILL AVENUE
CHATHAM. NJ 07928-1937

TEL: 973 635-8920

August 29, 2003

Mr. Peter Bengelsdorf, Special Deputy Liquidator
The Home Insurance Company in Liquidation
59 Maiden Lane
New York, NY 10038

Re: The Home

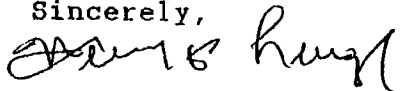
Thank you for letter of June 4, 2003, although your message is disturbing.

Attached is copy of the last payment invoice # 069603 for \$689.72. Should I not have received a payment for June since the liquidation order was effective until June 11, 2003? Also, I do not understand my position as a general creditor for retirement benefits when the money owed is my own money that I paid in?

Attached also is copy of letter dated February 21, 1996 from Mr. Albert W. Morton. Does this letter carry any weight to collect from REM?

I have received the August 8, 2003 memorandum from Commissioner Paula T. Rogers regarding "Termination of Home's Welfare Benefit Plans/Benefits".

Sincerely,



Henry P. Lenz

HPL:K

cc: Commissioner Paula T. Rogers

**THE HOME
INSURANCE
COMPANY IN
LIQUIDATION**



59 Maiden Lane
New York, New York 10038

PETER A. BENGELSDORF
SPECIAL DEPUTY LIQUIDATOR
TEL: 212 530 3741
FAX: 212 530 6143

August 4, 2003

Mr. Henry P. Lenz
42 Edgehill Avenue
Chatham, N.J. 07928 1937

Re: The Home Insurance Company in Liquidation ("The Home")

Dear Mr. Lenz:

Commissioner Paula T. Rogers, Liquidator of The Home, has referred your letter concerning her letter of June 27, 2003 to me for a response. In accordance with the Order of Liquidation for The Home entered June 13, 2003, the Liquidator has appointed me Special Deputy Liquidator of The Home.

Pursuant to the laws of the state of New Hampshire, your claim would classify you as a general creditor of the estate, regardless of whether the claim is for supplemental retirement benefits or deferred compensation. We will consider your claim in due course and you will be advised accordingly.

Very truly yours,

Pete Bengelsdorf
Peter Bengelsdorf

HENRY P. LENZ
42 EDGEHILL AVENUE
CHATHAM, NJ 07928-1937

PHONE NO. 973-635-8920

COPY

Paula T. Rogers, Commissioner of Insurance
The State of New Hampshire
56 Old Suncook Road
Concord, New Hampshire 03301-5151

Re: Liquidation of The Home Insurance Company

Dear Commissioner Rogers:

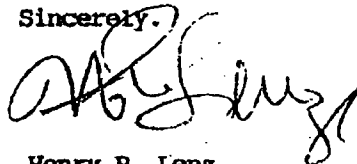
Please reconsider the position outlined in your letter of June 27, 2003. I did not consider the payment I received from The Home as a supplemental retirement benefit.

I have already returned the Proof of Claim form to your office. It was dated June 28, 2003. My agreement with The Home was a Deferred Compensation Agreement, not for supplemental retirement benefits.

During my 25 year career with The Home I visited your office several times when Frank Whaland was Commissioner of Insurance on occasions that were not trouble spots. Now Frank and I are history.

Thank you for your reconsideration.

Sincerely,



Henry P. Lenz

HPL:K



**THE STATE OF NEW HAMPSHIRE
INSURANCE DEPARTMENT**

56 OLD SUNCOOK ROAD
CONCORD, NEW HAMPSHIRE 03301-5151

**Paula T. Rogers
Commissioner**

**Notice to Persons Receiving Supplemental
Retirement Benefits from The Home**

June 27, 2003

Henry P. Lenz
42 Edgehill Avenue
Chatham, New Jersey 07928

Dear Former Employee of The Home:

On June 11, 2003, The Home Insurance Company ("The Home") was ordered liquidated by the Superior Court for Merrimack County, New Hampshire, and I was appointed Liquidator. As a result of the Order of Liquidation, The Home is unfortunately not able to continue funding supplemental retirement payments to former employees under The Home Insurance Company Supplemental Retirement Plans.

This letter will notify you that the payment of your retirement differential benefit by The Home will be discontinued immediately.

A Proof of Claim form, and instructions on completing it, will be mailed to you in the near future. To preserve your right to any future payment from the assets of The Home you should file that form as instructed before the claim filing deadline of June 13, 2004.

If you have any questions, please call 1-800-347-0014.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula T. Rogers".

Paula T. Rogers,
New Hampshire Commissioner of Insurance,
as Liquidator of The Home Insurance Company

007 207 2000
REM

**Risk Enterprise
Management
Limited**

**ALBERT W. MORTON
Executive Vice President
212-530-7282**

February 21, 1996

FROM: Henry P. Lenz
Lenz Enterprises Ltd.
42 Edgemoor Avenue
Chatham, N.J. 07928

Re: Retirement Differential.
\$ 689.72 Monthly - Lifetime

Dear Hank:


Please be advised that Risk Enterprise Management Limited (REM) has been appointed to manage the business of The Home Insurance Companies. It recognizes the Home's obligation to you and will continue the payments as is.

I hope all is going well with you.

Sincerely yours,

A. W. Morton

Albert W. Morton
Executive Vice President
Human Resources

To: 

JUNE 11, 2003

Dear Al:

I have not received the \$ 689.72 Payment for
May 2003. Would you please check into this
for me. Thanks, Regards

Hank Lenz

59 Maiden Lane, New York, New York 10038



LENZ ENTERPRISES LTD.

~~(201) 635-7707~~
(201) 635-8920

42 Edgehill Avenue
Chatham, NJ 07928

February 2, 1996

Mr. Albert W. Morton, Executive Vice President
Risk Enterprise Management Limited
59 Maiden Lane - 28th Floor
New York, NY 10038

Re: Henry P. Lenz (Date of Birth 11/24/25)
Retirement Differential - \$689.72 monthly -lifetime
Deferred Compensation Agreement expires 12/01/97

Dear Mr. Morton:

With regard to the retirement differential, would you consider the payment of same as a lump sum for the lifetime value or the payment in installments during 1996 and 1997 so that payment ends with the deferred compensation on 12/01/97 ?

Thank you.

Sincerely,

HPL:K

Henry P. Lenz

To: Retired Employees of
The Home Insurance Company ("Home")

From: Paula T. Rogers
Liquidator

Date: August 8, 2003

Re: The Home Liquidation/Change in Retiree Benefits

Termination of Home's Welfare Benefit Plans/Benefits

Effective June 11, 2003 the Superior Court of the State of New Hampshire (Merrimack County) found Home to be insolvent and ordered its liquidation. As a result of this action Home is unable to continue to pay the employer portion of retiree life insurance and medical premiums and administrative costs. In order to provide you with an opportunity to explore options for obtaining coverage from another source, Home will fund premiums or other costs through **September 30, 2003** but will not pay premiums or costs for any period after that date.

To preserve your right to any future payment from the assets of Home, you should file the Proof of Claim that was recently mailed to you before the claim filing deadline of June 13, 2004.

The Home Insurance Company Life Insurance Plan and Medical Plan provides that benefits may be amended or terminated at any time for any reason.

Accordingly, the retiree life insurance and medical coverage will terminate effective September 30, 2003. However, you may be able to

convert your current retiree life insurance and/or retiree medical coverages to individual policies as described below:

LIFE INSURANCE is provided by Aetna Life Insurance Company and **will terminate on September 30, 2003**. If you are age 95 or younger, you may convert this coverage to an individual policy for any amount up to and including the amount of coverage in force on September 30, 2003. Your application and payment of the first premium must be made no later than **OCTOBER 30, 2003**.

If you are covered under this policy you will be receiving a **CONVERSION FORM** separately. Please call Aetna at **1-800-523-5065** regarding your premium cost and any additional questions you may have. If you do not receive a conversion form, you do not have life insurance coverage through the Home.

MEDICAL COVERAGE for **Early Retirees and/or their dependents under age 65** is provided by United Healthcare and various HMO providers (Aetna and HIP). **This group health insurance coverage will terminate on September 30, 2003**. Any medical expense or service provided after this date will not be covered under your current plan.

Please note that if you participate in the United Healthcare plan, claim forms for medical services or expenses incurred on or before September 30, 2003 must be submitted to United Healthcare no later than September 30, 2005. If a claim form is submitted after September 30, 2005, the claim will not be considered or paid.

The HMO Medical conversion forms are provided directly by each carrier. You will be separately receiving information concerning your carrier and your current coverage. If you do not receive such information, you do not have medical coverage in force. For conversion information please call:

Aetna (Under Age 65)	Policy # 002432 AOO	1-800-323-9930
HIP (Under Age 65)	Policy # 1009147 Prime	1-800-447-8255

If you participate in the United Healthcare program, you will separately receive a conversion form. If you do not receive a UHC conversion form, you do not have UHC medical coverage. For conversion information please call the number below.

UHC – Insured Plan

Policy # 192962 - 0016

1-800-843-5914

Conversion rights for medical coverage are not available to retirees and/or their dependents who are age 65 and over. However, you may purchase Medicare Supplemental coverage through your insurance broker or AARP. Also, check with your local HMO provider to learn about the coverage offered to Medicare eligible retirees in your area.

Please note, if you pay direct, Travers O'Keefe will stop billing after the September 2003 bills are sent. Payment must be submitted timely or coverage could be cancelled earlier for non-payment of premium. If your premiums are deducted from your retirement check your last payment will be made from your September check.

If you have any questions about the benefits discussed in this memorandum, please call Margaret Brady at (212) 530-6972.

LIQUIDATOR'S WRITTEN SUBMISSION

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

BEFORE THE COURT-APPOINTED REFEREE
IN RE THE LIQUIDATION OF THE HOME INSURANCE COMPANY
DISPUTED CLAIMS DOCKET

In Re Liquidator Number: 2006-HICIL-22
Proof of Claim Number: EMPL17440
Claimant Name: HENRY P. LENZ

LIQUIDATOR'S WRITTEN SUBMISSION

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, acting solely in his capacity as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), by and through counsel, hereby submits this written submission as directed by the Ruling of Referee Paula T. Rogers dated August 4, 2006.

Claimant, Henry P. Lenz ("Claimant"), submitted a Proof of Claim to Liquidator dated June 28, 2003 asserting a claim against Home for "[p]ayments . . . for deferred compensation agreement." (Case file tab 5, Response to POC Question 10.)

Pursuant to §§ 6b and 6c of the *Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation* (the "Procedures"), the Liquidator duly reviewed the claim submitted by Claimant and issued a Notice of Determination dated February 22, 2006 assigning Claimant's claim a "Class V Residual Classification under New Hampshire Revised Statute 402-C:44." (Case file tab 4.) Claimant took issue with Liquidator's determination and filed a "Request for Review." (Case file tab 3.) In reaffirming his determination, Liquidator stated:

Your POC was determined to fall within the class “V-Residual Classification” category which includes “All other claims including claims of any state or local government, not falling within other classes under this section. . . .” It was correctly determined that your claim could not be characterized as an “Administrative Cost” (Class I); “Policy Related Claim” i.e., a Home Insurance Company policy (Class II); “Claim of the Federal Government” (Class III); or “Wage” claim (Class IV). Hence the lowest possible priority for your claim was that which was assigned, namely, a Class V-Residual Classification. (Case file tab 2.)

Claimant objected to Liquidator’s Notice of Re-Determination by filing an Objection with the Court asserting that he was “very bitter about losing [his] \$689.72 monthly pension under [his] Deferred Compensation Plan” and that he felt he “should be Class I – Administrative Cost.” (Case file tab 1.)

The matter came on for a Structuring Conference before Referee Rogers on August 4, 2006. After giving due consideration to oral presentations of Claimant and Liquidator, Referee Rogers directed that the parties provide written submissions.

FACTUAL BACKGROUND

Claimant was a long time executive officer of The Home Insurance Company and several subsidiary companies before his retirement on March 1, 1985. (Exhibits attached to Claimant’s August 5, 2006 Submission.) By Agreement dated June 19, 1982 (“Agreement”), Home contracted to pay Claimant, upon his termination of employment, sums held in a deferred compensation account ratably apportioned over ten (10) years. (Case file tab 5, Ex. 1, ¶3.A.) The Agreement further provided that Home would pay Claimant:

B. Monthly payments equal to the difference between (a) Lenz’s monthly retirement income as computed under “The Home Insurance Company Retirement Plan” (adjusted to reflect any elections thereunder) and based on his total salary, including

amounts paid to him on a then current basis and amounts deferred under this Agreement and (b) Lenz's monthly retirement income computed on the same basis under "The Home Insurance Company Retirement Plan" and based solely on that portion of his salary paid on a then current basis. Monthly payments under this subparagraph 3B shall commence with the first, and terminate with the last, monthly installment of retirement income payable to Lenz under "The Home Insurance Company Retirement Plan." (Case file tab 5, Ex. 1, ¶ 3B.)

Claimant acknowledges that Home's obligations under paragraph 3A of the Agreement were fully satisfied as of December 31, 1997. (Claimant's August 5, 2006 Submission.) The remainder of Home's obligations to Claimant, occasioned by the terms of paragraph 3B of the Agreement, forms the basis for Claimant's Proof of Claim. Having now conceded that his prior assertion for Class I priority entitlement was erroneous, Claimant asserts that his claim "should be considered Class II not Class V" because "annuity proceeds or investment values shall be treated as loss claims" and he believes the payments made to him by Home to constitute annuity proceeds owed under an annuity policy and thus entitled to Class II priority. (Claimant's August 5, 2006 Submission.)

ARGUMENT

CLAIMANT'S ATTEMPT TO CHARACTERIZE HIS CLAIM AS AN ANNUITY POLICY IS WITHOUT MERIT AND LIQUIDATOR IS BOUND BY N.H. REV. STAT. § 402-C:44 TO ASSIGN A CLASS V-RESIDUAL CLASSIFICATION TO CLAIMANT'S CLAIM

N.H. Rev. Stat. § 402-C:44 governs the order in which an insolvent insurer must pay the claims of its creditors. Section 402-C:44 mandates that "every claim in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment," and then defines and sets the class priorities as follows:

- I. ADMINISTRATION COSTS. The costs and expenses of administration. . . .

- II. POLICY RELATED CLAIMS. All claims by policyholders. . . . All claims under life insurance and **annuity policies**, whether for death proceeds, **annuity proceeds** or investment values, shall be treated as loss claims. . . . (Emphasis added.)
- III. CLAIMS OF THE FEDERAL GOVERNMENT.
- IV. WAGES. (a) Debts due to employees for services performed, not to exceed \$1,000 . . . earned within one year before the filing of the petition for liquidation. **Officers shall not be entitled to the benefit of this priority.** (Emphasis added.)
- V. RESIDUAL CLASSIFICATION. All other claims . . . not falling within other classes under this section.
- VI. JUDGMENTS.
- VII. INTEREST ON CLAIMS ALREADY PAID.
- VIII. MISCELLANEOUS SUBORDINATED CLAIMS.
- IX. PREFERRED OWNERSHIP CLAIMS.
- X. PROPRIETARY CLAIMS.

Claimant's attempt to characterize the 1982 Agreement such that it qualifies for Class II priority status as "annuity proceeds" is misplaced and legally unsupportable. While Liquidator is unaware of any New Hampshire case law on this issue, the Supreme Court of Iowa ruled – in a case remarkably similar to the claim before the Referee – that deferred compensation (akin to Claimant's present claim) payable by an insurance company (which subsequently was placed in insolvency proceedings) to executive officers of that insurance company was not subject to treatment as an annuity for priority determination purposes. *State of Iowa ex rel. William B. Hager, etc. v. Iowa National Mutual Insurance Company, et al.*, 430 N.W. 2d 420 (1988). (Copy annexed as Exhibit A).

In *Iowa National Mutual Insurance Company*, the Iowa Supreme Court considered the assertion of more than thirty senior executives of the involved carrier that their deferred compensation claims should be treated – for the purpose of priority classification – as “annuity policies or as annuity proceeds.” The Iowa priority statute at issue defined a Class 3 priority (*i.e.*, the class senior to that of general or residual creditors) as including “[c]laims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. . . .” (Iowa Code § 507C.42 (3) (1985)).

Not coincidentally, the New Hampshire priority statute, Rev. Stat. § 402-C:44 II, is identical to § 507C.42(3) of the Iowa insurer’s insolvency priority statute. As noted by the Iowa Supreme Court, “[s]ection 507C.42 is modeled after section 42 of the 1977 Insurers Supervision, Rehabilitation and Liquidation Model Act,” which at the time of the Iowa court determination had seen adoption of its priority provisions by approximately thirteen jurisdictions, including New Hampshire. *Iowa National*, 430 N.W.2d at 422.

In *Iowa National*, the executive employees asserted that the Iowa legislature used the terms “annuity” and “annuity policy” interchangeably thereby showing an intention to give the words the same meaning and thus arguing that their claims for deferred compensation should be given Class 3 priority. The Iowa Supreme Court rejected this argument:

The statute refers to annuities issued by the insurer in the ordinary course of business. We reach a similar conclusion with respect to the use of the words “annuity policies” or “annuity proceeds” in section 507C.42(3). The third priority class includes claims made under policies of insurance, third-party claims against insureds of the company under liability policies, and claims made against statutory guaranty plans for risks of the insolvent insurer. This strongly suggests that this particular priority status is aimed at the

insolvent insurance company's obligations to its insureds and not to employee claims.

430 N.W.2d at 422.

The *Iowa National* court addressed the legislative history of this section of the insurer's insolvency statute as well as the commentary to the Wisconsin Insurers Rehabilitation and Liquidation Act (Wis. Stat. 645.01-645.90 (1975)), which formed the basis for the Model Act (and thus applies equally to the New Hampshire priority statute). Having considered the foregoing, the court noted that "[i]n contrast to the type of claims included in the third priority status, i.e., those involving the company's obligation to its insureds [*akin to New Hampshire's Class II priority*], appellant's claims arise from their status as employees of the company." Employee claims were relegated to a lower priority status, similar to New Hampshire's Class IV classification, and similarly specified that "[o]fficers and directors are not entitled to the benefit of this priority." The *Iowa National* court concluded that it could discern no legislative intent to "accord any other priority status to excluded employee claims and therefore found that a general or residual creditor classification was appropriate under the circumstances. 430 N.W.2d at 423.

Claimant's position is identical to that of the executives who asserted an annuity level priority in the *Iowa National* litigation. As the Iowa Supreme Court held, "we are required to identify the category of claimants to which the legislature accorded third party priority status. If the legislature had intended to accord third priority status to amounts owed employees under deferred compensation plans we do not believe it would have required us to infer that intention from general language which appears to be directed at an entirely different group of claimants." 430 N.W.2d at 423. As such, "this strongly suggests that [Class 3] priority status is aimed at the insolvent insurance company's

obligations to its insureds and not to employee claims.” 430 N.W.2d at 422. In accord with the rationale articulated by the Iowa Supreme Court, Mr. Lenz’s claim for proceeds under his 1982 Agreement was properly classified as a Class V (general/residual) creditor claim.

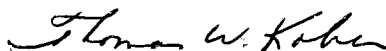
CONCLUSION

For the reasons set forth herein, Liquidator respectfully requests that the Referee: (1) dismiss Claimant’s Objections to Liquidator’s Notice of Re-Determination and (2) rule that Liquidator’s Re-Determination, as set forth in the notice of Re-Determination, be allowed as stated; and (3) grant such other and further relief as is deemed appropriate in the circumstances.

Respectfully submitted,

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

By his attorneys,

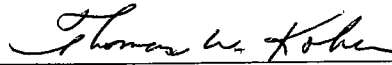


Jonathan Rosen, Esq. (N.H. Bar #16951)
Thomas W. Kober, Esq. (*admitted pro hac vice*)
The Home Insurance Company in Liquidation
59 Maiden Lane
New York, New York 10038
(212) 530-4001

August 18, 2006

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Liquidator's Written Submission has been forwarded via First Class mail this 18th day of August, 2006 to Claimant at the address identified below.

A handwritten signature in cursive script, reading "Thomas W. Kober", is written over a horizontal line.

Thomas W. Kober

Henry P. Lenz
25 E. Madison Avenue
Florham Park, New Jersey 07932-2605

LEXSEE 430 NW2D 420

STATE OF IOWA ex rel. WILLIAM B. HAGER, Commissioner of Insurance of the State of Iowa, Appellee, v. IOWA NATIONAL MUTUAL INSURANCE COMPANY, Defendant MARGARET L. ADAMS, NORBERT G. BRASSER, EUGENE J. CONNOR, DONLAD CUTLER, JAMES A. DUNN, FRANK ELIAS, GARY E. FISHER, GENE GALLAGHER, RAYMOND HIGGINS, DONALD J. KAMINS, DONALD A. KONSDORF, DUANE H. KURRELMEYER, RONALD E. McDONAUGHY, JOHN H. McCORMICK, JR., JOHN H. GILL, C.G. McLOUD, DARREL D. MESTDAH, WILLIAM MURRAY, ARTHUR POPE, EUGENE C. PUGH, RICHARD ROSE, FRED RUST, ARTHUR J. SCHMIT, WILLIAM W. TICE, ROBERT VAN AUKEN, ROBERT WIESE, M. LUCILLE GROBSTICK, WILLIAM J. ROGERS, JANE L. RICE, ALLAN W. THOMPSON, and JEROME R. WALSH, Appellants

No. 87-1099

Supreme Court of Iowa

430 N.W.2d 420; 1988 Iowa Sup. LEXIS 275

October 19, 1988, Filed

PRIOR HISTORY: [**1] On review from the Iowa Court of Appeals.

Appeal from the Iowa District Court for Polk County, Glenn E. Pille, Judge. Senior executives of insolvent insurance company who sought priority status for their deferred compensation benefits in statutory liquidation proceedings appeal from order classifying their claims as those of general creditors. The court of appeals reversed the district court's order and accorded priority status to the claimants.

DISPOSITION:

DECISION OF COURT OF APPEALS VACATED; DISTRICT COURT JUDGMENT AFFIRMED.

COUNSEL:

David A. Elderkin and Jolene J. Sobotka of Elderkin, Pirnie, Von Lackum & Elderkin, Cedar Rapids, and T. Scott Bannister and Mark S. Lagomarcino of Hanson, Bjork & Russell, Des Moines, for Appellants.

Philip Ostien of Davis, Grace, Harvey, Horvath, Gonnerman & Rouwenhorst, Des Moines, for Appellee.

JUDGES:

McGiverin, C.J., and Carter, Lavorato, Snell, and Andreasen, JJ.

OPINIONBY:

CARTER

OPINION:

[*421] This appeal requires us to consider an issue of first impression involving the interpretation of *Iowa Code section 507C.42(3)* (1985). More than thirty senior executives of Iowa National Mutual Insurance Company, an insolvent mutual insurance company involved in statutory liquidation [**2] proceedings, seek priority status under that statute for claims involving their deferred compensation benefits. They urge that their claims arise under "annuity policies" or as "annuity proceeds" as those terms are employed in section 507C.42(3).

The district court disagreed with these claimants' contention and accorded them the status of general creditors. On appeal, the court of appeals concluded that the claims in question did arise under "annuity policies" and accorded appellants the priority status which they requested. We granted further review of the court of appeals decision. On the controlling issue of statutory interpretation, we agree with the district court's assessment of appellants' claims and disagree with the conclusion of the court of appeals. Consequently, we vacate the deci-

sion of the court of appeals and affirm the judgment of the district court.

The claims at issue involve thirty-six employees or their survivors and aggregate more than \$ 1,900,000. The insurance commissioner, acting as statutory liquidator, classified all of these claims as general creditor claims which are assigned a fourth priority status. The deferred compensation claimants objected to this [**3] classification on the ground that they should be accorded a third priority status senior to that of general creditors under the provisions of subsection 3 of section 507C.42. The deferred compensation claimants' objections were heard by the court as "disputed claims" pursuant to *Iowa Code section 507C.39* and, as previously stated, were disallowed.

The claims to which section 507C.42(3) grants third-priority status include the following:

Class 3. Claims under policies for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and claims of a guaranty association or foreign guaranty association. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds [**4] of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

All parties agree that the deferred compensation claimants' entitlement to third-priority status turns on whether their claims arise under "annuity policies" or as "annuity proceeds" as those terms are used in section 507C.42(3). The issue thus presented is one of statutory interpretation. The court of appeals assigned the claims third-priority status based on its belief that the generally accepted meaning of the term "annuity" is of broad generic application and includes any agreement which establishes a fixed sum payable at intervals or at some stated period.

In challenging the conclusions of the court of appeals the insurance commissioner argues that the deferred compensation payments in question do not fall within a generally recognized definition of the term "an-

nunity." We do not find it necessary to resolve this question in order to decide the appeal. We will assume, as did the district court, that the deferred compensation plans in question fall within a generally accepted definition of the term "annuity." Notwithstanding that assumption, we share the district court's conclusion that [**5] the third-priority class as defined in section 507C.42(3) does not include claimants owed unpaid installments under the company's deferred compensation plan.

[*422] Certain general principles of statutory interpretation are called into play in resolving the present dispute. In seeking legislative intent, the subject matter, effect, reason for the statute, and consequences of the proposed interpretations must all be considered. *In re Girdler*, 357 N.W.2d 595, 597 (Iowa 1984); *Newgirk v. Black*, 174 Iowa 636, 643, 156 N.W. 708, 710 (1916). In interpreting a statute for the first time, a court must attempt to discern in a general way its legislative purpose and then consider all parts of the legislation as an integrated whole in order to determine how each part was designed to accomplish this general purpose. *Hanover Ins. Co. v. Alamo Motel*, 264 N.W.2d 774, 778 (Iowa 1978). In this interpretative process, undue importance should not be accorded to single or isolated portions of the statute taken out of context. *Ferguson v. Brick*, 248 Iowa 839, 845, 82 N.W.2d 849, 853 (1957).

The insurance commissioner argues that it is significant that the statute upon which appellants rely refers [**6] to "annuity policy" rather than "annuity." He suggests that an insurance company's liability on annuity policies would, under normal expectations, arise with respect to policies sold by the company in the ordinary course of business. The claimants respond by arguing that there is no legal difference in meaning between the terms "annuity" and "annuity policy" because an annuity policy is simply the written instrument creating an annuity.

Claimants urge that the legislature has used the terms "annuity" and "annuity policy" interchangeably, showing an intention to give the words the same meaning. In support of this contention, they point to *Iowa Code section 507B.2(3)*, which provides that, when used in chapter 507B, governing insurance trade practices, the terms insurance policy and insurance contract "shall mean any contract of insurance, indemnity, subscription, membership, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any person."

We do not believe that section 507B.2(3) aids claimants' argument. That statute refers to annuities issued by the insurer in the ordinary course of business. We reach a similar conclusion with respect to the use of the [**7] words "annuity policies" or "annuity proceeds" in section 507C.42(3). The third priority class

includes claims made under policies of insurance, third-party claims against insureds of the company under liability insurance policies, and claims made against statutory guaranty plans for risks of the insolvent insurer. This strongly suggests that this particular priority status is aimed at the insolvent insurance company's obligations to its insureds and not to employee claims. The Tennessee Supreme Court, interpreting the priority provisions of similar legislation, concluded that the purpose motivating the enactment of priority provisions for claims against insolvent insurers is to protect the typical insurance consumer. *Neff v. Cherokee Ins. Co.*, 704 S.W.2d 1, 6 (Tenn. 1986).

Section 507C.42 is modeled after section 42 of the 1977 Insurers Supervision, Rehabilitation and Liquidation Model Act, promulgated by the National Association of Insurance Commissioners (NAIC). The priority provisions of the Model Act, with various alterations, have been adopted in approximately thirteen jurisdictions. n1 The Model Act, with some adaptations, was based on the Wisconsin Insurers Rehabilitation [**8] and Liquidation Act (*Wis. Stat. 645.01-645.90* (1975)). The official comments to the Wisconsin act give an explanation of the purposes behind the particular classification of claims selected by the drafters of that act. According to the comments accompanying section 645.68 of the Wisconsin act, governing priority of distribution, the system of priority was chosen "based on the relative social and economic importance [*423] of the claims likely to be asserted against an insurer . . . to carry out sound public policy by minimizing the damage done to the insured community when an insurer fails."

n1 Conn. Gen. Stat. § 38-462 (1987); *Idaho Code* § 41-3342 (Supp. 1988); *Ind. Code* § 27-9-3-40 (1986); *Iowa Code* § 507C.42 (1985); *Ky. Rev. Stat. Ann.* § 304.33-430 (Baldwin 1987); *Minn. Stat.* § 60B.44 (1986 & West Supp. 1987); *Mont. Code Ann.* § 33-2-1371 (1987); *N.H. Rev. Stat. Ann.* § 402-C:44 (1983); *Ohio Rev. Code Ann.* § 3902.42 (Page Supp. 1987); *Pa. Stat. Ann. tit. 40, § 221.44* (Purdon Supp. 1988); *S.C. Code Ann.* § 38-27-610 (Supp. 1987); *Utah Code Ann.* § 31A-27-335 (1986); *Wis. Stat.* § 645.68 (1985-86).

The deferred compensation claimants argue that their claims are of a social importance equal [**9] to or exceeding those of claimants who bought insurance from the company. The legal issue presented in this case does not depend on this court's independent assessment of the relative priority of these societal interests. We are required to identify the category of claimants to which the legislature accorded third priority status. If the legislature had intended to accord third priority status to amounts owed employees under deferred compensation plans we do not believe it would have required us to infer that intention from general language which appears to be directed at an entirely different group of claimants.

In contrast to the type of claims included in the third priority status, *i.e.*, those involving the company's obligations to its insureds, appellants' claims arise from their status as employees of the company. Employee claims are included in the second priority class set forth in section 507C.42. That class includes:

Debts due to employees for services performed to the extent that they do not exceed one thousand dollars and represent payment for services performed within one year before the filing of the petition for liquidation. Officers and directors are not entitled [**10] to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.

All of the present claimants are officers of the company who are expressly excluded from this second priority status. We are unable to discern any intention in the statutory scheme to accord any other priority status to excluded employee claims. The district court correctly determined appellants' status to be that of general creditors. We vacate the judgment of the court of appeals and affirm the judgment of the district court.

DECISION OF COURT OF APPEALS
VACATED; DISTRICT COURT JUDGMENT
AFFIRMED.