

**BEFORE THE SUPERIOR COURT
MERRIMACK COUNTY, NEW HAMPSHIRE
IN RE THE LIQUIDATION OF HOME INSURANCE COMPANY**

DISPUTED CLAIMS DOCKET

Docket No. 03-E-0106

In Re Liquidator Number: 2008-HICIL-41

Proof Of Claim Number: CLMN712396-01

Claimant: *Harry L. Bowles*

**CLAIMANT'S REQUEST FOR COURT'S DETERMINATION OF
CLAIMANT'S SECOND MOTION TO RECOMMIT**

1. Comes Claimant Harry L. Bowles to request a signed order by this Court of its final determination of Claimant's Second Motion to Recommit. Said motion was filed on or about February 22, 2011 and was objected to by Liquidator's counsel on March 8, 2011. Bowles' responded to the Liquidator's objection on April 4, 2011 and more substantively on April 29, 2011. Liquidator has failed to respond to Bowles' April 4th and April 29th filings.
2. Defendant Liquidator's defense is the same as those presented to this Court in Bowles' First Motion to Recommit, namely that the motion was untimely and that the Referee's Order on the Merits properly and decisively settled all matters in dispute based on the Referee's conclusion that the action by the court in Texas in issuing summary judgment dismissal of Bowles' malpractice litigation was legal and proper.

3. Bowles' Second Motion to Recommit irrefutably shows that the Referee and this Court had and have no jurisdiction to make judgments concerning alleged facts and law in the Texas malpractice litigation and in the case underlying that litigation.

4. The Second Motion to Recommit highlights the fraud on this Court and bad faith by the Liquidator in pleading (gaining the Referee's consent) that the Home insurance policy that TPCIGA elected to defend covered the professional services rendered by George M. Bishop & Associates, a solo law practice never named as a beneficiary in the policy.

5. Bowles' Second Motion to Recommit emphasizes that the absolute ultimate, decisive and final order constituting *res judicata* to bar any pleadings by the Liquidator that TPCIGA's defense of Home Policy No. LPL-F871578 was justified is this very Court's June 13, 2003 Order of Liquidation. This Court's sole jurisdiction with respect to this case is to take judicial notice of its own Order of Liquidation and rule that all post-June 13, 2003 litigation by TPCIGA, done without the Liquidator's and this Court's express written consent, was unauthorized. Accordingly, the Referee's Order on the Merits must be stricken. This Court cannot rationally disavow and disregard this basic order that has directly and fundamentally effects the liquidation procedure and the thousands of Proof of Claim filings processed through this Court..

6. Since December 2006 Bowles has filed numerous complaints of felony insurance fraud with the Fraud Unit of the Texas Department of Insurance. The most comprehensive of these were filed on June 8, 2010, on January 21, 2011, and, most recently, on July 5, 2011. Copies of these filings were distributed to law enforcement agencies that included the Texas Attorney General, the Harris County District Attorney, the New Hampshire Department of Justice and the Houston Division of the U.S. Department of Justice. Copies were sent to TPCIGA as well. All of the said agencies are fully aware of the felony conspiracy and fraud accompanying the

intervention by TPCIGA into the Bowles malpractice case in Texas in August 2005. All are aware that the purpose of the intervention was to obtain dismissal of the malpractice suit and, collaterally, the dismissal of all ongoing issues regarding the finality of the underlying litigation.

7. The Fraud Unit has at all times refused to indict or prosecute TPCIGA officials for felony Penal Code violations. The most recent and apparently the final refusal is a letter to Bowles from TDI Associate Commissioner Dennis Pompa dated July 21, 2011. It is attached as **EXHIBIT A**. It is obvious that the Fraud Unit will not bring charges against individuals working within or in close connection with the TDI. TPCIGA is such an agency.

8. However EXHIBIT A shows that the Fraud Unit does recognize the injustice complained of and advises that relief is available by civil, rather than criminal, litigation. The major aspect of such civil litigation is now before this Court, being the mandate issued by the federal court in Austin that this Court determine the issue of whether or not TPCIGA was authorized to initiate a defense of the Home policy in August 2005 pursuant to the June 13, 2003 Order of Liquidation.

9. The *res judicata* principle applies. The Order of Liquidation immediately suspended all litigation in defense of Home policies effective June 13, 2003, after which the sole remedy for policy holders was to file Proofs of Claim with the Liquidator. The basis for Bowles' civil litigation in the federal court in Austin was the fact that no beneficiary of Home Policy No. LPL-F871578 ever filed a Proof of Claim with the Liquidator. That fact alone, plus the fact that the Order of Liquidation prohibited TPCIGA's initiation of a defense of the policy in August 2005, leaves this Court no option other than to grant Claimant's Second Motion to Recommit.

Conclusion – Request for Relief

10. Claimant requests expedited grant of this Second Motion to Recommit by and through the attached proposed order.

11. Claimant requests all other and further relief to which this Court may deem him justly entitled, which relief may include ordering the Liquidator and TPCIGA to enter into good faith negotiations or mediation with Bowles for the purpose of arriving at monetary compensation for damages suffered by Bowles over the five-year period since the unauthorized intervention to defend the Home policy was first initiated.

.Respectfully submitted,

A handwritten signature in cursive script that reads "Harry L. Bowles".

Harry L. Bowles, Claimant, Pro Se

306 Big Hollow Lane,

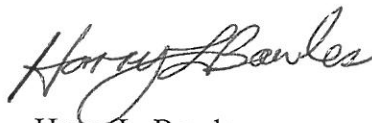
Houston, Texas 77042

Tel. 713-983-6779 Fax 713-983-6722

Attachments

Certificate of Service

I, Harry L. Bowles hereby certify that on this 20th Day of August, 2011 a true and correct copy of the foregoing was sent by U.S. Mail to the Liquidation Clerk, HICIL, Merrimack County Superior County, P.O. Box 2880, Concord New Hampshire, 03301; to Mr. Eric A. Smith, Rackemann, Sawyer and Brewster, 160 Federal Street, Boston, MA 02110-1700; to Mr. Marvin Kelly, Executive Director, TPCIGA, 9120 Burnet Road, Austin, TX 78758; Ms. Patricia Lykos, Harris County District Attorney, Criminal Courts Bldg., Houston, Texas 77002; to J. Christopher Marshall, New Hampshire Dept of Justice, 33 Capitol Street, Concord, NH 03301-6397; to Mr. Greg Abbott, Texas Attorney General, Insurance Practices Section, P.O. Box 12549, Austin, Texas 78711-2548; to U.S. Department of Justice, Houston Division, FBI Field Office, Special Agent in Charge, 1 Justice Park Drive, Houston, Texas 77092; to Mr. Dennis A. Pompa, TDI Fraud Unit, Mail Code Unit 109-3A, P.O. Box 149336, Austin, Texas 78714-9336; to Mr. Craig L. Reese, Fletcher, Farley, Lippman & Salinas, 8750 North Central Expressway, 16th Floor, Dallas, Texas 75231; to Ms. Joanna Lippman Salinas, Fletcher, Farley, Shipman & Salinas, 1717 West 6th Street, #300, Austin, Texas 78703, and to Ms. Maryalyce W. Cox, MehaffyWeber P.C., 500 Dallas Street, Houston, Texas 77002.



Harry L. Bowles



Texas Department of Insurance

Fraud Unit, Mail Code 109-3A

333 Guadalupe • P. O. Box 149336 • Austin, Texas 78714-9336
512-463-6492 telephone • 512-490-1001 fax • www.tdi.state.tx.us

July 21, 2011

Mr. Harry Bowles
306 Big Hollow Lane
Houston, Texas 77042

Via: Certified Mail

Re: TPCIGA/Home Insurance Company
Report and request for investigation

Dear Mr. Bowles:

The information you have provided to the Fraud Unit on July 5, 2011 has been reviewed and we have determined not to open a Chapter 701 Fraud Unit investigation. The issues you have presented are not appropriate for a Fraud Unit criminal investigation but are civil issues and a matter best handled by private litigation. The Department does not have the resources and cannot, pursuant to our statutory authority, provide the type of assistance you are requesting. This matter is closed and we will not reconsider opening an investigation on the facts you have presented.

You may want to consider other avenues such as federal, municipal, or private legal action.

A response to your open records request will be handled by a separate letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis Pompa", with a long horizontal line extending to the right.

Dennis Pompa,
Associate Commissioner
Director, Fraud Unit

cc: Margaret Jonon, Fraud Counsel

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ORDER

Came on to be heard the Motion to Recommit by Harry L. Bowles requesting that this Court recant and revoke its approval of the ruling by Referee Melinda S. Gehris dated January 4, 2010 denying Bowles' objections to the Liquidator's reasons for rejection of Bowles' Proof of Claim filed in February 2008. The Liquidator's rejection was based on the *res judicata* effect of litigation in the 151st District Court of Harris County, Texas initiated in August 2005 by the Texas Property and Casualty Insurance Guaranty Association ("TPCIGA") in defense of Home Insurance Policy No. LPL-F871578. In that litigation the Texas court dismissed Bowles' Rule 12 Motion to Show Authority, ruling that the Home policy filed in the court constituted proper authority for TPCIGA's intervention in the malpractice lawsuit.

Bowles' Proof of Claim was filed to challenge that ruling by the court in Texas, and the Liquidator agreed to adjudicate the question of the improper provision of defense counsel by TPCIGA and Home through a disputed claim proceeding before this Court. The proceeding was by an evidentiary hearing before Referee Gehris, whose ruling against Bowles failed to consider this Court's Order of Liquidation dated June 13, 2003 as prima facie evidence that the Order [by items (e), (j), (k), and (m) thereof] prohibited TPCIGA from proceeding with Home business in August 2005, more than two years after the Order was issued. Bowles alleged that the intervention in defense of the void Home policy was insurance fraud in furtherance of a

fraudulent scheme to obtain dismissal of his multi-million dollar malpractice case.

Ruling

Upon a review of the pleadings and the documentation supplied, this Court has determined that Claimant Bowles new Motion to Recommit should in all things be **GRANTED**. The Court rules that the actions taken by TPCIGA in August 2005 to intervene in Cause No. 1995-43235 in the 151st District Court were an unauthorized violation of this Court's Order of Liquidation.

IT IS ORDERED that all orders issued by the Referee be stricken and be held null, void and of no legal significance. It is this Court's ruling that Home Policy No. LPL-F871578 was fraudulently misrepresented and employed without authorization by the Liquidator and by this Court as required by items (j) and (m) of the Order of Liquidation.

Signed on this _____ day of _____, 2011

Judge Presiding