

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS.**

**SUPERIOR COURT**

**Docket No. 217-2003-EQ-00106**

**In the Matter of the Liquidation of  
The Home Insurance Company**

**LIQUIDATOR'S MOTION TO SCHEDULE HEARING ON MOTION FOR APPROVAL  
OF CLAIM AMENDMENT DEADLINE BY VIDEO OR TELECONFERENCE**

Christopher R. Nicolopoulos, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court schedule a hearing on the Liquidator's Motion for Approval of Claim Amendment Deadline ("Claim Amendment Deadline Motion") to be held by videoconference or, if the Court prefers, telephonic conference. As reasons therefor, the Liquidator states as follows:

1. The Claim Amendment Deadline Motion is a critical step in moving this seventeen year old proceeding toward closure. The Claim Amendment Deadline Motion requests that the Court establish a deadline five months after the date of the Court's approval order for the final filing or amendment of claims in the Home liquidation. This is a necessary step to identify the universe of remaining claims so that the Liquidator may determine the claims, collect related assets, make a final distribution to creditors and close the liquidation. Without a claim amendment deadline, the Liquidator cannot identify and determine claims, which is a necessary step before a final distribution can be made. The existing policyholder-level creditors holding approximately \$2.87 billion in allowed claims are prejudiced by delay in addressing the Claim Amendment Deadline Motion because they are not receiving the fullest possible distribution on their claims and, as the Liquidator cannot pay interest, the value of their claims is eroding over time.

2. The Liquidator requests that this important motion be heard by videoconference (or telephonic conference if the Court prefers) so that it can be resolved and the liquidation move forward. In light of the ongoing COVID-19 pandemic, it appears that an in-person hearing will not be possible for a long time. The Liquidator believes that a videoconference hearing can be structured so that all objectors and the Liquidator can be heard in an orderly and efficient manner so that the Court may rule on the Claim Amendment Deadline Motion

### **Background**

3. On August 1, 2019, the Liquidator filed the Claim Amendment Deadline Motion along with a motion for an order of notice. On August 19, 2019, the Court issued an Order of Notice establishing November 18, 2019 as the deadline for objections to the Claim Amendment Deadline Motion. A number of objections were submitted by the deadline, and the Liquidator submitted responses to the objections on December 13 and 31, 2019.

4. On February 28, 2020, the Court held a status conference concerning the Claim Amendment Deadline Motion. At the status conference, the Court set a June 23, 2020 date for the hearing on the Claim Amendment Deadline Motion and issued an Order scheduling the hearing and setting deadlines for further submissions. A copy of the order is attached as Exhibit A. Certain objectors made submissions and the Liquidator filed a comprehensive response. All filings were made by May 1, 2020 in accordance with the schedule. The Claim Amendment Deadline Motion is fully briefed.

5. On May 27, 2020, due to concerns about the COVID-19 pandemic, the Court issued a *sua sponte* Order continuing the hearing originally set for June 23, 2020 and providing that the hearing “shall be rescheduled as the docket allows after September 1, 2020.” The Court at that time expressed the view that conducting the hearing by video and/or telephone would not

be appropriate. A copy of the Order is attached as Exhibit B. However, in view of the continuing state of emergency and the prospects for future, indefinite delay, the Liquidator submits that the Court should reconsider and conduct the hearing by video or telephonic conference.

### **Request for Videoconference Hearing**

6. The Liquidator now requests that the Court schedule a date in the fall of 2020 for a hearing and, in light of the ongoing COVID-19 pandemic, conduct the hearing by videoconference (or telephonic conference if the Court prefers). The Claim Amendment Deadline Motion is fully briefed, an in-person hearing appears unlikely to be held anytime in 2020 or even early 2021, the hearing can be conducted by videoconference, and a ruling approving the motion will benefit creditors and advance the closure of the Home liquidation.

7. As an initial matter, it appears to the Liquidator that an in-person hearing is unlikely to be possible in 2020 and or even early 2021. In light of COVID-19, the New Hampshire Supreme Court initially suspended in-person hearings (subject to limited exceptions not applicable here) by its Order Suspending In-Person Court Proceedings dated March 16, 2020. The suspension continues. On September 4, 2020, the New Hampshire Supreme Court issued its Eighth Renewed and Amended Order Suspending In-Person Court Proceedings Related to New Hampshire Superior Court (“Eighth Suspension Order”). The order suspended in-person proceedings through September 28, 2020 and/or the last day of a Declared State of Emergency. Eighth Suspension Order ¶ 5. It seems likely that this order will be renewed and amended again and that an in-person hearing in this matter will not be possible for a long time.

8. An in-person hearing is made more unlikely by the involvement of objectors and counsel from states outside New England. On August 21, 2020, the New Hampshire Supreme

Court issued an Order directing that people who travel to New Hampshire from outside New England can enter courthouses only after completing a 14-day self-quarantine. It thus appears that certain objectors and counsel would be subject to a self-quarantine period that would require them to travel to New Hampshire significantly in advance of any scheduled in-person hearing.

9. In these circumstances, the Liquidator requests that the Court schedule a hearing to be held by videoconference in the fall. In the Eighth Suspension Order, the New Hampshire Supreme Court urged all judges and court clerks to use videoconferencing and teleconferencing. Eighth Suspension Order ¶ 10. The Liquidator believes such a hearing is feasible in this case.

### **Proposed Structure for Hearing**

10. The Liquidator believes that the hearing on the Claim Amendment Deadline Motion can be held in four parts, each addressing objections that present discrete issues. This will facilitate the orderly presentation of the issues and resolution of the motion.

11. As summarized in greater detail in the Liquidator's May 1, 2020 filing, the objections to the Claim Amendment Deadline Motion fall into four categories:<sup>1</sup>

- a. Former employee objection. One former Home employee, Linda Faye Peoples, has filed an objection.
- b. Workers' compensation claimant objections. There are three objections by workers' compensation claimants, Patricia Erway, Edward Crosby, and Howard Campbell.
- c. Policyholder-type objections. There are two remaining policyholder objections, those of Johnson & Johnson and Maryknoll, as well as an

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<sup>1</sup> The Liquidator uses terms as defined in the Liquidator's earlier filings concerning the Claim Amendment Deadline Motion.

objection by the New York Liquidation Bureau that presents issues similar to the Maryknoll objection.<sup>2</sup>

- d. AFIA objectors. There are objections by four insurers or groups of insurers that ceded to Home through AFIA: Zurich and Wurttembergische, Resolute, Nationwide, and Catalina.

12. In the Liquidator's view, the objections in each category present distinct issues and can be heard separately. The former employee's objection concerns her particular claim and is unrelated to any other objection. Similarly, the workers' compensation claimant objections concern their claims and are separate from the other categories of objections. Two of the policyholder-type objections, those of the New York Liquidation Bureau and Maryknoll, present issues regarding "revival" statutes not raised by others. The Johnson & Johnson objection presents more general policyholder issues. Finally, the AFIA objections present concerns of a particular group of reinsured cedents, although some issues may overlap with issues raised by Johnson & Johnson.

13. In these circumstances, the Liquidator proposes that the Court establish a schedule for a videoconference hearing with separate times for the objections raising similar issues. The Liquidator does not anticipate that argument on any category of objections, except perhaps the AFIA objections, would exceed one hour. Thus, the Court could schedule an hour each, at separate times, for argument on the objections of the former employee claim (for example, at 10:00), the workers' compensation claimants (11:00), the Maryknoll and New York Liquidation Bureau objections and the Johnson & Johnson objection (1:30), and then the AFIA objections (2:30). Any objector can listen to argument on other objections and refer to it in their own argument.

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<sup>2</sup> Policyholders MWCP Custom Papers and U.S. Steel Corporation have withdrawn their objections.

14. Based upon the absence of post-objection filings and participation, it appears that some of the objectors (*e.g.*, the *pro se* workers' compensation claimants and Catalina) may not intend to participate in the hearing. The Liquidator proposes that the Court direct that objectors wishing to participate in the hearing give notice in advance. If an objector does not wish to participate, the Court need not schedule a conference on the objection unless it would like to hear from the Liquidator. This would allow for a more efficient videoconference schedule.

15. In order to facilitate an orderly hearing, the Liquidator suggests that the Court direct objectors and the Liquidator to confer and identify in advance the filings or sections of filings pertinent to each objection that the objector or Liquidator anticipates citing at the hearing. In the event that the papers relevant to any objection or group of objections are voluminous and dispersed, and the Court thinks it would be useful, the Liquidator is prepared to assemble the papers identified by the objectors and Liquidator into bookmarked pdfs that can be provided to the relevant objectors and the Court so that there will be a more orderly set of papers before the Court on each category of objections.

16. The Liquidator submits a proposed form of order with this motion. The proposed order sets a date for a videoconference hearing, directs objectors to advise within 14 days if they intend to participate in the hearing, identifies four groups of objections that may be heard separately, directs the participating objectors and the Liquidator to consult and propose a schedule for times for the parts of the videoconference hearing, and directs objectors and the Liquidator to identify the filings they propose to cite so that the Court may decide whether to direct the Liquidator to prepare a pdf to assist in orderly presentations at the videoconference hearing.

17. Request for concurrence. On September 8, 2020, counsel for the Liquidator requested the objectors' assent to the relief sought by this motion by email directed to the *pro se* objectors (except the three *pro se* workers compensation claimants without known email addresses) and to counsel for the other objectors attaching the motion and proposed order and requesting a response by close of business on September 10, 2020. Counsel for the New York Liquidation Bureau advised it assents; counsel for Maryknoll advised it had no objection; and counsel for Johnson & Johnson advised that it does not object to the Liquidator seeking to schedule a hearing date. No other responses were received.

### CONCLUSION

For these reasons, the Liquidator requests that the Court issue an order:

- A. Setting a date in the fall of 2020 for a videoconference hearing on the Liquidator's Motion for Approval of Claim Amendment Deadline;
- B. Directing the objectors to provide notice whether they wish to participate in the hearing within 14 days of the Court's order;
- C. Directing the objectors and Liquidator to submit a proposed schedule for times on the hearing date at which categories of objections will be heard;
- D. Directing the objectors and Liquidator to identify the filings that they anticipate citing to so that, in the event the filings are voluminous and dispersed, the Court may decide to direct the Liquidator prepare a bookmarked pdf to be provided to the relevant objector(s) and the Court; and
- E. Granting such other relief as is equitable.

Respectfully submitted,

CHRISTOPHER R. NICOLOPOULOS, INSURANCE  
COMMISSIONER OF THE STATE OF NEW  
HAMPSHIRE, AS LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

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September 11, 2020

Certificate of Service

I hereby certify that copies of the foregoing Liquidator's Motion to Schedule Hearing on Motion for Approval of Claim Amendment Deadline by Video or Teleconference and the proposed order were sent this 11th day of September, 2020, by first class mail, postage prepaid to all persons on the attached service list.



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Eric A. Smith  
NH Bar ID # 16952



THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 217-2003-EQ-00106

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**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT**

Merrimack County

Merrimack Superior Court

**In the Matter of Rehabilitation of The Home Insurance Company**

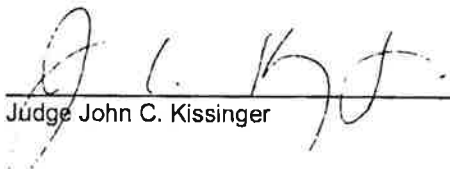
**217-2003-EQ-00106**

ORDER

A status conference was held to set a hearing date on the Liquidator's motion for approval of claim amendment deadline, as well as deadlines for further submissions by Objecting Creditors and the Liquidator. The Court shall give any of the creditors who have already submitted objections until April 1, 2020, to file further memoranda in support of their objections. The Liquidator shall have until May 1, 2020, to file responsive memoranda to those submissions. The hearing on the motion and objections is set for June 23, 2020. So ordered.

February 28, 2020

Date

  
\_\_\_\_\_  
Judge John C. Kissinger

Ex. B

THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT

Merrimack County

Merrimack Superior Court

**In the Matter of Rehabilitation of The Home Insurance Company**

**217-2003-EQ-00106**

ORDER

The hearing presently set for June 23, 2020 on the Liquidator's motion for approval of claim amendment deadline is continued and shall be rescheduled as the docket allows after September 1, 2020. The Court is continuing the hearing due to ongoing concerns about the Covid 19 pandemic. The hearing on this motion was scheduled to last an entire day and involves many out of state counsel. Given the nature and importance of the issues as well as the number of involved parties, the Court does not believe that conducting the hearing by video and/or telephone is appropriate. So ordered.

May 27, 2020  
Date

\_\_\_\_\_  
Judge John C. Kissinger