

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

**In Re Liquidator Number: 2008-HICIL-36
Proof of Claim Number: INSU700277
Claimant Name: JOHN WALTERS**

**THE LIQUIDATOR'S REQUEST FOR IMMEDIATE HEARING AND
DISMISSAL OF CLAIMANT'S NOTICE OF OBJECTION**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, acting solely in his capacity as Liquidator (the "Liquidator") of The Home Insurance Company ("Home"), by and through counsel, hereby submits this request "for a hearing as soon as practicable" pursuant to N.H. RSA §402-C:41, II, and for an order dismissing Claimant's objection to Liquidator's Notice of Determination.

Without conceding that he is required to do so due to the defective nature of Claimant's Objection, Liquidator has submitted along with this brief, a "Case File" to provide the Referee, or court, as the case may be, with the procedural history of this matter. Included in the Case File is the Order of Justice Kathleen A. McGuire, dated April 17, 2006, in which she approved of the claim recommendations the Liquidator presented to the court as of March 10, 2006 (the "Claim Recommendations"). (*Case file tab A.*) The Liquidator issued a determination recommendation (*Case file tab C*) regarding Claimant's proof of claim ("POC") (*Case file tab K*), which was included within the Claim Recommendations.

Because the Court approved the Claim Recommendation, Claimant is not entitled to object to the Liquidator's determination recommendation. Rather, Claimant's remedy is to make a motion presenting a good faith rationale why the Court should vacate its

April 17, 2006 Order. Accordingly, Claimant's objection in front of the Referee should be dismissed as it is improperly filed in violation of the Restated and Revised Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company in Liquidation (the "Procedures").

Even assuming, *arguendo*, that Claimant filed a proper objection with the Referee his objection must be dismissed. Pursuant to §§6.b. and 6.c. of the Procedures, the Liquidator reviewed the Claimant's claim. The Liquidator then made several attempts to obtain documentation from Claimant that would support the claim submitted in the Home estate. (*Case file tab J.*) Only after Claimant failed to respond to the Liquidator's request for information did the Liquidator issue a Notice of Determination, mailed January 3, 2006, which disallowed Claimant's claim in its entirety while assigning it a Class II creditor priority status per NH RSA § 402-C: 44(II). (*Case file tab G.*) The Liquidator expressly told Claimant the basis for disallowing his claim:

Explanation: We received your handwritten Proof of Claim in which the description of the nature of your claim is illegible. The phone number you provided is disconnected and so we have sent you two letters requesting your cooperation to clarify the nature of your claim. We have received no response and since you have not proven you have a claim against The Home Insurance Company, no allowance will be made.

Claimant responded to the NOD via an "Acknowledgment of Receipt" wherein he **agreed** to the determination. (*Case file tab H.*) Claimant, thereafter, wrote to Liquidator and identified various policy numbers, none of which served to clarify or support Claimant's POC. (*Case file tab I.*)

Pertinent statutory provisions and §8 of the Procedures, clearly define the time frame within which an aggrieved Claimant must object to the liquidator's notice of determination. N.H. RSA §402-C:41(I) mandates:

“When a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant and his attorney by first class mail at the address shown in the proof of claim. Within 60 days from the mailing of the notice, the claimant may file his objections with the court. If no such filing is made, **the claimant may not further object** to the determination.” (*Emphasis supplied.*)

Here, not only did Claimant file his objection more than **two years** after the sixty day deadline, the Liquidator’s recommendation received Court approval over two years ago as well. Even if the objection had been timely filed, the Liquidator’s disallowance remains appropriate given Claimant’s failure to substantiate his “claim.”

In addition, the Liquidator acted appropriately given that Claimant ignored the Liquidator’s repeated attempts to obtain information needed in order to substantiate Claimant’s claim and then expressly agreed to the Liquidator’s disallowance. If the Court or the Referee permitted Claimant to now object based on these facts this would disrupt and prejudice the Liquidator’s orderly administration of Home’s estate to the detriment of creditors who have established valid claims in the estate.

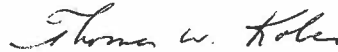
CONCLUSION

For the reasons set forth herein, the Liquidator respectfully requests that the Referee: (1) dismiss Claimant’s Objection to the Liquidator’s Notice of Determination; (2) rule that the Liquidator’s Determination Recommendation, as set forth in the Notice of Determination, and as previously approved by the Court, remain 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, as LIQUIDATOR OF
THE HOME INSURANCE COMPANY,**

By his attorneys,



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June 25, 2008

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Request for Hearing and Dismissal of Objection has been forwarded via First Class mail this 25th day of June, 2008 to Claimant at the address below.



Thomas W. Kober

Mr. John Walters
1716 10th Avenue
Tuscaloosa, AL 35401