

TAB H

No. **03-0532**

OFFICIAL ORDER
of the
COMMISSIONER OF INSURANCE
of the
STATE OF TEXAS
AUSTIN, TEXAS

Date: JUN 26 2003

Subject Considered:

THE HOME INSURANCE COMPANY
NEW HAMPSHIRE

DESIGNATION AS AN IMPAIRED INSURER UNDER
TEXAS INSURANCE CODE 21.28-C

General remarks and official action taken:

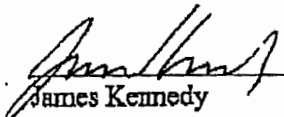
On this day came on for consideration by the Commissioner of Insurance the matter of The Home Insurance Company, organized under the laws of the State of New Hampshire, doing the business of insurance in the State of Texas. On June 13, 2003, the Superior Court of Merrimack County, New Hampshire entered an Order of Liquidation in Docket No. 03-E-0106 finding The Home Insurance Company to be insolvent.

Based upon the finding of insolvency by the Superior Court, and having considered the purposes of TEX. INS. CODE ANN. art. 21.28-C, the Commissioner of Insurance finds that The Home Insurance Company should be, and is hereby, designated as an impaired insurer as that term is defined in TEX. INS. CODE ANN. art. 21.28-C §5(9).

JOSÉ MONTEMAYOR
COMMISSIONER OF INSURANCE

By: 

Reviewed by:


James Kennedy

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Harry L. Bowles

(b) County of Residence of First Listed Plaintiff Harris
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Pro Se

DEFENDANTS

1. Home Ins. Co. In Liquidation (NH)
2. Tx Prop&Cas Ins Gunty Assoc

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

See Attached

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAXES <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC 1332

Brief description of cause:

Def Tortiously Interfered in Lawsuit Without Authority

VII. REQUESTED IN COMPLAINT:

- CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
- DEMAND \$ _____
- CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

Nov. 13, 2008

Harry L. Bowles

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Attachment To Civil Cover Sheet

Plaintiff – Pro Se

**Harry L. Bowles
306 Big Hollow Lane
Houston, Texas 77042
Tel 713-983-6779
Fax 713-983-6722**

Defendants

1.

Attorney For Home Insurance Co. In Liquidation

**Craig L. Reese
Fletcher & Springer, LLP
8750 N. Central Expressway, 16th Floor
Dallas, Texas 75231
Tel 214-987-9600
Fax 214-987-9866**

2.

Attorney For Texas Property & Casualty Insurance Guaranty Association

**Daniel Jordan
Jordan & Carmona, P. C.
4807 Spicewood Springs Road
Building One, Suite 1220
Austin, Texas 78759
Tel 512-482-9400
Fax 512-482-0515**

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HARRY L. BOWLES

§

Plaintiff

§

§

VS.

§ Cause No. 1:08-W-808

§

HOME INSURANCE COMPANY IN

§

LIQUIDATION (N.H.);

§

AND

§

TEXAS PROPERTY AND CASUALTY

§

INSURANCE GUARANTY ASSOCIATION

§

Defendants

§

PLAINTIFF'S SUIT FOR INJUNCTIVE RELIEF FROM FRAUD AND CONSPIRACY
INVOLVING AN EXPIRED AND VOID INSURANCE POLICY AND FOR DAMAGES
FOR OFFICIOUS INTERMEDDLING, TORTIOUS INTERFERENCE, PERJURY,
ABUSE OF PROCESS, OBSTRUCTION OF JUSTICE, DOCUMENT TAMPERING,
AND FABRICATION OF EVIDENCE IN LEGAL MALPRACTICE LITIGATION, AND
FOR CIVIL RIGHTS VIOLATIONS PURSUANT TO TITLE 42 U.S.C. § 1983, AND
TITLE 28, U.S.C. § 1343

COMES NOW PLAINTIFF HARRY L. BOWLES ("BOWLES") before this Court in complaint against Home Insurance Company in Liquidation (NH) ("HICIL"), Texas Property & Casualty Insurance Guaranty Association ("TPCIGA"), to seek injunctive relief and damages resulting from defendants' fraud, conspiracy, and above listed allegations in legal malpractice

litigation involving an expired and void insurance policy issued by Home Insurance Company in 1993. Bowles proceeds as follows:

I

NATURE OF THE COMPLAINT

1. This is a renewal of a complaint (with revisions) filed in August 2007 in the federal court in Austin. The complaint was non-suited by Bowles in December 2007, based on new information resulting from proceedings preliminary to a Rule 26(f) conference. Subsequently, Bowles has: (a) attempted to reach a settlement agreement with TPCIGA and HICIL, and (b) filed in February 2008 a claim with HICIL in New Hampshire requesting coverage of Bowles' 1995 malpractice lawsuit against George M. Bishop, et al. Although the claim filing was acknowledged, HICIL has refused all requests for status information. Bowles must therefore assume that HICIL has rejected the claim for reason that the insurance contract was breached and was voided by fraud.

2. This is a case of insurance company conspiracy and fraud orchestrated by Bishop to avoid the financial burden of personally employing defense counsel to defend against a legal malpractice lawsuit brought against him by Plaintiff Bowles.

3. The express purpose of this lawsuit is to obtain a judgment from this Court holding that Defendants HICIL and TPCIGA, in conspiracy with Bishop, officiously intermeddled in Bowles' underlying private legal malpractice lawsuit against Bishop and his law firm Bishop, Peterson & Sharp, P.C. ("BPS").

4. The underlying suit is an active legal malpractice case against Bishop and his now-defunct law firm, Bishop, Peterson & Sharp, P.C. ("BPS") in the 151st District Court in Harris County, Texas (Cause No. 1995-43235). Bowles alleges HICIL and TPCIGA tortiously

interfered in the case in 2005 by falsely representing that an expired insurance policy gave them authority to employ defense counsel to litigate against Bowles. Bowles sues for a permanent injunction to prohibit Defendants from continuing their activity as interlopers in Cause No. 1995-43235, and seeks money damages for fraud, conspiracy, tortious interference and document tampering.

II

JURISDICTION AND VENUE

5. Federal court jurisdiction of this case is proper under 28 U.S. Code Section 1332 based on diversity of citizenship inasmuch as Defendant HICIL is incorporated in New Hampshire.

6. Venue of this suit lies in the Western District of Texas, Austin Division pursuant to 28 U.S.C. Section 1391 (b) (2 &3) because a substantial portion of the events giving rise to Bowles' claims herein occurred in Austin, Texas. Further, the Texas Property and Casualty Guaranty Act requires suits against TPCIGA be filed in Travis County, Texas.

7. Jurisdiction is proper under 28 U.S.C. § 1331, pursuant to which federal district courts have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. Further Bowles invokes jurisdiction under 28 U.S.C. § 1343 providing for jurisdiction without regard to the amount in controversy in cases seeking redress from alleged infringement of civil rights under the United States Constitution, including rights granted by the First, Fifth, Sixth and Fourteenth Amendments pursuant to either 42 U.S.C. § 1983 or 42 U.S.C. § 1985. These provide a mechanism for seeking redress for deprivation of Bowles federal constitutional and federal statutory rights by defendants acting under color of law.

8. Bowles invokes the jurisdiction of the federal court over the defendants in this case as parties who engaged in joint actions under color of law in conspiracy with a state actor, either a state district judge or judges, or in conspiracy with an agent or agency of the state.

III

PARTIES

9. Plaintiff is a hard working respected businessman and employer, and a resident citizen of Harris County, Texas. He may be served at his home address at 306 Big Hollow Lane, Houston, Texas 77042. His business telephone is 713-983-6779, and his fax number is 713-983-6722.

10. Defendant HICIL is an insolvent insurance company incorporated in New Hampshire that is in court-ordered liquidation in New Hampshire. It may be served through its legal counsel in Texas: Craig L. Reese, Fletcher & Springer, L.L.P., 8750 North Central Expressway, 16th Floor, Dallas, Texas, 75231. The telephone number is 214-987-9600; the fax number is 214-987-9866; HICIL's senior manager in New York is Ronald F. Barta, 59 Maiden Lane, New York, New York 10038.

11. Defendant TPCIGA is a quasi-state agency under the Texas Insurance Department. TPCIGA may be served through attorney Daniel W. Jordan, Jordan & Carmona, P.C., 4807 Spicewood Springs Road, Building One, Suite 1220, Austin, Texas 78759. The telephone number is 512-482-9400; the fax number is 512-482-0515. The agency's executive director is Mr. Marvin Kelly and the TPCIGA office is at 9120 Burnet Road, Austin, Texas 78758.

IV

SUMMARY – BASIS FOR COMPLAINT

12. Bowles filed a claim with HICIL in February 2008 for coverage of a professional malpractice lawsuit he had filed in August 1995 in the 151st District Court in Harris County,

Texas against defendant Bishop and the law firm of which he was president, Bishop, Peterson & Sharp, P.C. ("BPS"). HICIL is the liquidating agency for Home Insurance Company, a firm that became insolvent and was placed in liquidation by a New Hampshire court on June 13, 2003.

13. The insurance policy for which Bowles' claim to HICIL applies is one sold by Home Insurance Company to Bishop and BPS in January 1992 that was renewed for one year on January 24, 1993. In December 1993, Bishop and BPS were notified that the policy (Home Policy No. LPL-F 871578) would expire on February 6, 1994, and that it would not be renewed due to "recent claim activity and past claim frequency". (See attached **APPENDIX - EXHIBIT A**).

14. While acknowledging Bowles' claim was received, HICIL has refused to inform Bowles regarding whether or not HICIL will consider the claim as a covered claim payable under Home Policy No. LPL-F871578. The New Hampshire Attorney General's office acted on a Bowles' complaint and stated that HICIL would respond to Bowles status request "in due course". (See attached **APPENDIX - EXHIBIT B**). HICIL has not done so over an eight-month period.

15. Bowles alleges HICIL has already rejected Bowles' claim based on Home's discovery of fraud by Bishop that voided the insurance contract. Bowles can prove he never made a legal malpractice complaint against Bishop prior to February 6, 1994. The facts negate as false and perjurious the sworn affidavits by HICIL and TPCIGA officials received by Bowles stating (a) that Home timely received written notice from Bishop of malpractice complaints by Bowles and a demand for coverage under the policy, and (b) that Home actually took steps to defend the insured lawyers as early as 1995 by employing Bishop to provide attorney services to satisfy the policy's \$10,000 deductible. These affidavits, one by HICIL's senior manager Ronald F. Barta

and the other by TPCIGA's Senior Claims Attorney Amber A. Walker are in the attached **APPENDIX** as **EXHIBIT C** and **EXHIBIT D**, respectively).

16. Bowles alleges HICIL has rejected Bowles' claim because HICIL recognizes as false and fraudulent the sworn statement by its Ronald F. Barta that Home Insurance Company was authorized to "voluntarily" defend against Bowles' lawsuit despite the fact that the legal malpractice policy had expired without a written claim for coverage having been submitted.

17. Insurance companies are business entities that cannot volunteer insurance coverage not provided for in the provisions of an insurance contract. HICIL's Ronald Barta's statement to the contrary indicates that he gave his approval to deem Bowles' lawsuit a covered claim based on some undisclosed agreement between himself and Bishop.

18. Bowles alleges that, in fact, there was such a clandestine agreement based on the following scenario:

- Bishop knew when he contracted to provide Bowles with legal services, or shortly thereafter, that he would betray his client and would be exposed to a malpractice lawsuit. Bishop assumed that he would be covered by Homes' malpractice policy even though the policy contained a False and Fraudulent Claims provision voiding the policy that states: **"If any insured shall commit fraud in proffering any claim as regards amount or otherwise, this insurance shall become void as to such insured from the date such a fraudulent claim is proffered"**.
- To assure coverage, Bishop did **proffer a claim** against the policy prior to February 6, 1994, even though Bowles had never made a malpractice complaint to Bishop or BPS.

- An investigation by Home disclosed Bishop's claim to be fraudulent, resulting in the insurance company's decision to cancel the policy effective February 6, 1994 for "recent claim activity and past claim frequency".
- Faced with a need for legal representation in Bowles' suit in 2005 after years of delaying tactics, Bishop called on HICIL and TPCIGA for assistance, knowing he had no insurance coverage.
- A fraudulent scheme was devised involving delivery of a Home claim file to TPCIGA and subsequent employment by TPCIGA in March 2005 of a Houston law firm (Marshall & McCracken, P.C. or "M&M") to enter the malpractice suit as defense counsel. M&M agreed to the conditions to be met:
 - (1) M&M would represent only the corporate defendant BPS without representing the individual shareholders despite the fact that this is not legally possible under the Texas Professional Corporation Act;
 - (2) Bowles' discovery requests, admissions deemed admitted, summary judgment motions and all pleadings filed in 2002 and thereafter involving George Bishop would be presumed without judicial effect against the corporation;
 - (3) Bowles would be deceived to believe that that TPCIGA had employed M&M in defense of Home Insurance Policy No. LPL-F871578 based on Bowles' having made a "covered claim" against the policy;
 - (4) a copy of the expired insurance policy would never be produced in response to Bowles' discovery requests;
 - (5) there would be no trial as dismissal by summary judgment was assured;

- (6) Immediately after summary judgment for BPS, a summary judgment for Bishop would be filed based on the prior judgment granted BPS.

19. Defendants could be assured that the 151st District Court would grant any motion for summary judgment presented to dismiss Bowles' suit because the 151st Court has, over a period of six years or more: (a) has refused to issue a docket control order setting the case for trial; (b) has refused to rule on or grant three motions for summary judgment filed by Bowles; (c) has refused to sanction Bishop for his refusal to respond to Bowles' discovery.

20. The 151st Court's bias may stem from the facts: (a) that Bishop's wife is a Harris County district judge, and (b) that Bishop is recognized in the legal community as the former gatekeeper who controlled who the Republican Party would support as candidates for positions as district court judges. His entertainment of judges (pheasant hunts, parties etc.) is well known.

21. Bishop's role as the Republican Party candidate gatekeeper was a critical factor in the case underlying Bowles' malpractice suit (Cause No. 1991-25939). There was a fraudulent transfer of the case to the 334th Court presided over by a judge whose wife was blackballed by Bishop. Revenge against Intervenor Bishop was the motive for that court's outrageous orders issued against Bowles (and Intervenor Bishop) in disregard of every fundamental legal principle.

22. Bowles' alleges Defendants intrusion into Bowles' suit was with their reliance on Bishop's ability to influence or control judicial process in Harris County.

23. M&M most certainly could not reveal that a Home insurance contract was involved. Bishop has refused for years and to the present day never answered Bowles' discovery requests for any insurance policies that would cover Bishop's possible liability under Bowles' malpractice action.

24. The intervention by Defendants resulted in summary dismissal of Bowles' malpractice action as to the professional corporation (BPS) only. That judgment was severed from the main case into Cause No. 1995-43235-A in the 151st Court.

25. The 151st Court's dismissal hinged on a *res judicata* ruling by the court declaring that the underlying case (Cause No. 1991-259329) was a "closed case", which it was not and is not. The Court ignored Bowles' evidence showing that an August 9, 1996 court order transferring the case requested by Bishop specifically stated the case to be "active". This nullified the opposition's contention that a February 12, 1996 summary judgment finalized the case.

27. **Most importantly, the 151st Court ignored Bishop's sworn affidavit stating that litigation of Cause No. 1991-25939 was suspended in March 1995 when Bowles gave notice of withdrawal from an October 1993 Settlement Agreement. (See APPENDIX – EXHIBIT E).** Bishop is aware that all subsequent litigation in the case, in which he participated, was of the kangaroo court variety in which Bowles' rights were totally disregarded and the result was a foregone conclusion. The facts prove that Cause No. 1991-25939 was never subjected to one appealable final judgment by due process of law and in compliance with Texas rules of court. Defendants' decision to interfere in Cause No. 1995-43235 was in disregard of the facts.

28. The 151st Court's summary judgment order dismissing Bowles' malpractice action as to for BPS was followed by M&M's motion to the court for a summary judgment for Bishop based on the same pleadings and on *res judicata*. The court refused to rule on the motion as Bishop did not sign the motion and did not appear at hearing.

29. The current status of Bowles' malpractice case against Bishop Cause No. 1995-43235 in the 151st State District Court is that Defendants continue to be interlopers in the case.

30. **Defendants wrongly assumed** that, once M&M entered the litigation, Bowles would not offer resistance that would result in exposure of HICIL and TPCIGA as third-party defendants that conspired to employ M&M to defend an invalid, void insurance contract.

31. It is right and proper and equitable that this Court enjoin HICIL and TPCIGA from all further activity in connection with Cause No. 1995-43235. The Court must issue a “*cease and desist order*”, to permit Bowles to prosecute his lawsuit against Bishop and BPS without Defendants’ unlawful and fraudulent intervention.

V

CONCLUSIONS - COMPLAINTS

32. Bowles complains that Defendants colluded to falsely allege that Bowles’ lawsuit constituted a “possible covered claim” against Policy No. LPL-F871578, knowing that the policy had been permanently cancelled effective February 6, 1994, some 18 months prior to when Bowles’ lawsuit was filed. Bishop could not have submitted a claim involving Bowles against the policy by the expiration date without voiding the policy per its Fraudulent Claim provision. Despite Bowles’ many demands, Defendants have absolutely refused to provide documentation to prove their contention that Bishop and BPS submitted a timely claim against the Home malpractice policy.

33. Bowles alleges that Bishop fraudulently notified Home in 1993 that Bowles might file a malpractice lawsuit without Bowles having complained of malpractice, and that this caused Home to cancel the policy without right of renewal.

34. Bowles alleges and complains that Defendants committed extrinsic fraud by hypothesizing (pretending) that a cancelled Home Insurance Company policy remained active and viable to cover liability in Bowles’ lawsuit against Bishop and BPS. This was the pretext for

TPCIGA's employment of M&M to intermeddle in Bowles' lawsuit as defense counsel. It is obvious that Defendants conspired, and cooperatively orchestrated a scheme to intermeddle in Bowles's suit without authority.

35. Bowles alleges and complains that Defendants intruded in Cause No. 1995-43235 to represent BPS solely without involving or representing any real parties in interest, the BPS shareholders. This was extrinsic fraud because, under Texas corporation law, the trial court had no jurisdiction to render a judgment against BPS as a separate entity. A Texas professional corporation does not render professional services in its' own name. The corporation's liability results only when professional services are rendered by the individual shareholders of the corporation (the parties in interest).

36. Bowles complains that the 151st Court's June 22, 2006 summary judgment dismissing Bowles' suit as to BPS is an unenforceable, void order for reason that BPS had no authority to litigate in its own name without the involvement of its shareholders.

37. Bowles complains that HICIL and TPCIGA at all times intended that M&M would obtain a dismissal judgment against Bowles for Bishop as well as for BPS. This is shown by M&M's filing a motion in the 151st Court for a summary judgment for Bishop and the entity George Bishop & Associates, purporting it to be a filing by Bishop as a pro se litigant, but signed by M&M without Bishop's signature appearing on the document.

38. TPCIGA official Amber Walker gave sworn testimony (see Exhibit D) that Home Insurance Company moved affirmatively to defend against Bowles' malpractice lawsuit by employing Bishop to represent the insureds pro se until the \$10,000 deductible was met. This is evidence that Home had determined that the suit was a "covered" claim", otherwise no defensive activity would have occurred.

39. Bowles complains that TPCIG'S Ms. Walker's statement that Bishop was retained by Home is fraudulent per se because Bishop at all times for five years refused to respond to discovery requests for insurance policy coverage of Bowles' lawsuit, and because Home would have employed outside counsel had it recognized its liability.

40. Bowles alleges and complains that TPCIGA had no authority to act to defend the Home policy unless Home itself had declared Bowles' lawsuit to be a "covered claim".

41. Bowles complains that TPCIGA, without ever informing Bowles of TPCIGA's involvement, proceeded to employ M&M to defend the Home policy three years after Home was declared insolvent and after TPCIGA purports to have obtained notice from HICIL of Bowles' claim against the policy.

42. Bowles complains that TPCIGA violated the law in the Texas Insurance Code requiring the Association to send Bowles a Summary of Rights and Obligations of Third-Party Claimants Under the Guaranty Act (Art. 21.28-C, Texas Insurance Code). TPCIGA admits Bowles was not notified as required by TPCIGA's Plan of Operation.

43. TPCIGA'S cap on claims is \$300,000, whereas Bowles' damage claim against Bishop is some \$10 Million. Where a claimant's claim exceeds the benefits payable by TPCIGA, the claimant has right to present the claim to the Liquidator of the insurer. Bowles complains that TPCIGA intentionally kept this information from Bowles until August 11, 2006 when the information was disclosed in a letter to Bowles' attorney by TPCIGA's Amber Walker.

44. TPCIGA'S Amber Walker's September 2006 sworn statement declares that: (a) Home's Insurance Company received a demand from Bishop that Home provide a defense and indemnity from Home for a malpractice claim made by Bowles to Bishop, (b) After Home's insolvency, the

Liquidator forwarded the demand or claim to TPCIGA as a "possible covered claim" in June 2003.

45. The Home Insurance Company has never issued a malpractice policy that defines a "**possible covered claim**". Only a "**covered claim**" is defined. Bowles complains that the term "possible covered claim" is fraudulent and could not provide a basis for TPCIGA's undertaking to defend the policy.

46. Bowles complains he was never given notice by Bishop, Home Insurance, HICIL or TPCIGA that a claim for coverage of his malpractice suit under Policy No. LPL-F871578 had been filed. To the contrary, Bishop for many years refused to answer discovery requests for his insurance coverage.

47. Bowles never filed a claim with TPCIGA requesting coverage of his malpractice lawsuit against Bishop under Home Policy No. LPL-F871578. Bowles complains that the existence of the policy was at all times kept secret from him until September 2006.

48. Bowles complains that Bowles' telephone conversations with HICIL's Ronald Barta regarding the coverage of Bowles' lawsuit were responded to with hostility and refusals to answer questions, causing Bowles to file a his federal court suit against HICIL and TPCIGA in August 2007.

49. Said federal lawsuit resulted in the sworn affidavit dated November 15, 2007 by HICIL's Ronald Barta (see Exhibit C) stating that Home Insurance Company undertook to provide a defense to Bowles' suit against Bishop soon after August 1995 based on: (a) purported "**letters from Bowles to the Insured Law Firm within the policy period expressing dissatisfaction with its work and demanding fee reductions**"; (b) notice from Bishop pursuant to the Discovery Clause of the insurance contract admitting that he had committed an act of legal

malpractice against Bowles and demanding coverage; and (c) Home's right to provide coverage voluntarily, even if a defense of the policy was not owed.

50. Bowles alleges that Bishop, at one point, agreed to fee reductions, thus that cannot be deemed a malpractice complaint.

51. Bowles complains that Defendants have not produced, and cannot produce, documentary proof that Bowles complained of legal malpractice prior to February 6, 1994. The attorney-client relationship unraveled in March 1994 when Bishop refused to object to the conduct of the receivership whereby Bowles' company was being sold at a price far below the best offer received.

52. Bowles complains that HICIL has not furnished, and cannot furnish, documents to show that Bishop timely gave written notice to Home pursuant to the Discovery Clause of Home Policy No. LPL-F871578.

53. A notice by Bishop to Home pursuant to the Discovery Clause of the policy would be an admission by Bishop that he knowingly entered into an employment contract with Bowles in bad faith.

54. Barta's affidavit states that Home "undertook to provide a defense subject to any reservations of rights raised by the pleadings".

55. Bowles complains that Barta in his affidavit admits that Home Insurance Company considered Bowles' lawsuit to be a "covered claim" under the policy and "undertook" to provide a defense. However, over a period from 1995 to 2003 the company never provided Bishop with defense council to defend the policy. HICIL has no proof that Home ever considered the Bowles' lawsuit to be a covered claim.

56. Barta, in an October 11, 2006 letter to Bowles' attorney, declared that Home Insurance Company "is not now and never has been a party to Cause No. 1995-43235 in Harris County" (see attached **EXHIBIT F**). This contradicts his November 2007 affidavit (Exhibit C). The statement also contradicts the testimony of TPCIGA'S Amber Walker (Exhibit D).

57. Barta forwarded Home's entire claim file to TPCIGA in 2003. This consisted solely of a proof of claim filed with HICIL filed by Bowles' attorney in August 2003 concerning a lessor's liability to provide security for his tenants. This was a claim based on false information. The lessor had no insurance with Home, so it was moot. Home had no reason to forward this claim to TPCIGA at all. Nevertheless, it was falsely inferred by TPCIGA's Ms. Walker that this proof of claim was in some way related to Bowles' malpractice lawsuit against Bishop.

58. Bowles complains that neither HICIL nor TPCIGA have furnished, and cannot furnish, documented proof that Bishop gave Home Insurance Company timely written notice on a Bowles complaint prior to the cancellation date of Home Policy No. LPL-F871578.

59. Bowles alleges and complains that both the sworn affidavits by HICIL and TPCIGA officials (Mr. Barta's and Ms. Walker's) are fabricated lies that falsely represent that HICIL and TPCIGA are as clothed with authority to litigate as third-party defendants in Bowles' malpractice action against Bishop. Particularly foul is Barta's claim that Home was authorized to **voluntarily provide coverage even if a defense of the policy was not owed.**

60. The fact that the Liquidator has refused for eight months to answer Bowles' demands for the status of his third-party claim is proof that the Liquidator considers the claim invalid. The Liquidator has no documented evidence that any insureds filed valid demands for coverage of Bowles' malpractice suit with Home prior to February 6, 1994 under Home Policy No. LPL-F87158.

61. Bowles alleges that HICIL cancelled the policy because investigation showed Bishop in violation of the false or fraudulent claim clause of the insurance contract.
62. Bowles alleges that Defendants violated §37.09 of the Texas Penal Code (Fabricating Evidence) by, knowing that an official proceeding is in progress, presenting a document known to be false with intent to affect the outcome of that proceeding.
63. Bowles complains that TPCIGA employed M&M as a defense council without notifying Bowles of his option to file a claim with either HICIL or with TPCIGA.
64. Bowles' filing of a proof of claim with HICIL in February 2008 was in exercise of a statutory right, of which right Bowles was intentionally deprived over a period of many years by TPCIGA'S failure to give Bowles notice of a claim received by TPCIGA from HICIL.
65. The current status of the Bowles' malpractice suit in the state court is that it is unresolved litigation in the 151st District Court in which HICIL and TPCIGA are officious intermeddlers without authority. They have not shown by any evidence that Policy No. LPL-F8771578 was applicable to cover the BPS and Bishop liability under Bowles' malpractice lawsuit.
66. Accordingly, under this condition, Bowles is entitled to injunctive relief from other and further unlawful interference by Defendants in Cause No. 1991-43235. Bowles is also entitled to damages for tortious interference and other causes of action.
67. It is estimated that TPCIGA's expense to employ M&M to litigate against Bowles was more than \$150,000. Bowles' litigation expense must be assumed as equally large for which he is due compensation from Defendants.
68. Further, Bowles has suffered damage caused by the 151st Court's rendition of a false summary judgment in Cause No. 1995-43235 that has adversely affected the status of the ongoing litigation in the underlying case, Cause No. 1991-25939. Bowles alleges that the

original purpose of Defendants' intervention was to obtain a judgment that would have the dual effect of depriving Bowles of access to justice in both Cause No. 1995-43235 and Cause No. 1991-25939. Bowles estimates the damage suffered as a result of Defendants' officious intermeddling without authority, conspiracy, fraud, tortious interference and document tampering totals more than ten million dollars (\$10,000,000). Bowles sues for this amount in actual and punitive and exemplary damages.

VI

REQUEST FOR RELIEF

69. Bowles requests the Court establish a trial docket for this case, and, following a trial on the merits before a jury, requests a finding that Defendants engaged in fraud and conspiracy, by officiously intermeddling and tortiously interfering in Cause No. 1995-43235 without legal authority.

70. Bowles requests a jury finding that Defendants violated Texas law by using a false document with intent to affect the course or outcome of an official proceeding.

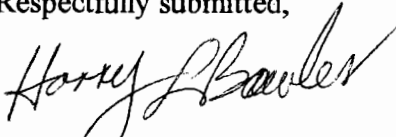
71. Bowles requests a jury finding that Defendant's committed perjury in a legal proceeding in attesting to fraudulent sworn affidavits for the purpose of aiding and abetting fraud on the court and against Plaintiff.

72. Bowles requests a permanent injunction be issued against Defendants prohibiting all further officious intermeddling in litigation involving Bowles or Cause No. 1995-43235.

73. Bowles requests the Court and jury assess damages against Defendants, actual and punitive or exemplary, in excess of \$10,000,000, and that he be awarded court costs and attorney expenses as well as pre-judgment interest.

74. Bowles requests all other and further relief to which this Court may deem him justly entitled.

Respectfully submitted,



Harry L. Bowles

Attorney Pro Se and of Record

306 Big Hollow Lane

Houston, TX. 77042

713-983-6779-Telephone

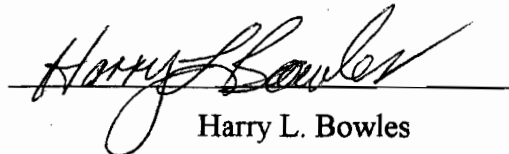
713-983-6722-TeleFax

Attachments: Affidavit, Appendix

CERTIFICATE OF SERVICE¹

I certify that on this **13th DAY OF November, 2008** a true and correct copy of the foregoing pleading and its appendix were forwarded by first class mail to the following persons with an attached Civil Cover Sheet, Notice of Lawsuit and Request For Waiver Of Service For Summons, and Waiver of Service form:

- Mr. Craig L. Reese, Fletcher & Springer, L.L.P., 8750 North Central Expressway, 16th Floor, Dallas, Texas 75231
- Mr. Daniel Jordan, Jordan & Carmona, 4807 Spicewood Springs Road, Building One, Suite 1220, Austin, Texas 78759
- Mr. Marvin Kelly, Exec. Director, TPCIGA, 9120 Burnet Road, Austin, Texas 78758.
- Liquidator, HICIL, P O Box 1720, Manchester, New Hampshire, 03105-1720. ²



Harry L. Bowles

¹ Note: This is a duplicate filing of the complaint first filed with the Court on October 22, 2008 to correct failure to include Notice of Lawsuit and to show case number.

² Attached to Acknowledgement of Receipt of Notice of Determination for Proof of Claim CLMN712396-01

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HARRY L. BOWLES
Plaintiff

VS.
HOME INSURANCE COMPANY IN LIQUIDATION
(N H); AND TEXAS PROPERTY AND CASUALTY
INSURANCE GUARANTY ASSOCIATION;
Defendants

§
§
§ CAUSE NO. _____
§
§
§

VERIFICATION

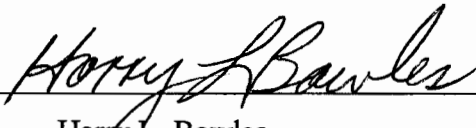
STATE OF TEXAS §

COUNTY OF HARRIS §

COMES HARRY L. BOWLES to make this affidavit of truth:

I am Harry L. Bowles, a resident of Harris County, Texas. I am over the age of 18 years and am fully qualified, capable and competent to make the following declaration concerning the allegations presented in the foregoing complaint.

I affirm that I primarily prepared the complaint. I attest that I have personal knowledge of the matters contained therein. I certify that supporting documents are authentic copies of original documents and that all information is true and correct.

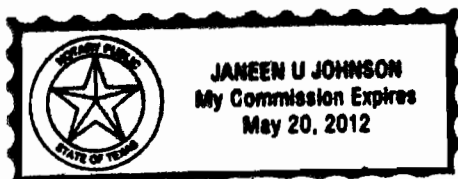


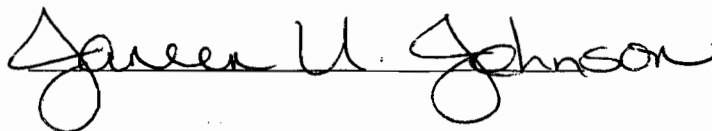
Harry L. Bowles

ATTESTATION

SWORN AND SUBSCRIBED TO BEFORE ME, the undersigned authority, on this

24 Day of OCTOBER 2008 in Harris County, Texas.





Janeen U. Johnson

APPENDIX

Renewal Certificate

Policy Number: LPL-FB71578-1

Professional Liability Insurance Policy
 Attach to your expiring declarations.



This is a claims made Policy. Please review the Policy carefully.

The Policy is limited to liability for only those claims that are first made against the Insured during the policy period.

Insured by the stock company below and hereinafter called the company	
THE HOME INSURANCE COMPANY OF INDIANA INDIANAPOLIS, INDIANA	
Item 1. Named Insured and Address (Number, Street, Town or City, County, State, Zip Code) BISHOP, PETERSON & SHARP, P. C. 3000 SMITH HOUSTON HARRIS TX 77006	Producer Name DANIELS-HEAD INSURANCE AGENCY INC.
Item 2. Policy Period From (Day-Mon-Yr) To (Day-Mon-Yr) 24-Jan-1993 24-Jan-1994	
12:01 A.M. Standard Time at the address of the Named Insured as stated herein.	
Item 3. Form of Named Insured's Business Insured is CORPORATION	
And Those Professionals Listed on the Application.	
Item 4. Limit of Liability Each Claim \$ 2,000,000 Aggregate \$ 2,000,000	Item 5. Deductible Per Claim \$ 10,000
Item 6. Premium PREMIUM \$12,244.00	
NO. OF PROFESSIONALS 3	
Item 7. Policy Changes and Endorsements (The endorsements noted below are part of this policy and either became effective at the inception of or during the preceding Policy Period(s), or will become effective at the inception of the Renewal Period.) H36581 05/86 LPL POLICY JACKET H37530 07/92 CANCEL/NONRENEW H37683 10/88 ARBITRATION ENDST H37973 07/91 REG ENDORSEMENT H40552 05/92 POLICYHOLDER NOTICE H35385 01/89 SPEC CLAIM EXCL H35497 03/87 PRIOR ACTS EXCLUSION	
Do Not Write In This Box	Remarks
Countersigned at AUSTIN, TX	
Issue Date 21-Jan-1993	
Authorized Representative [Signature]	
Countersign Date 1-21-93	



NOTICE OF CANCELLATION OR NON-RENEWAL

POLICY NUMBER	TYPE OF POLICY	TERMINATION EFFECTIVE	PRODUCER NO.-OPC	DATE OF MAILING
LPL F871578-1	Lawyers Prof. Liab.	February 6, 1994 12:01 AM	39754 - 351	12/3/93

INSURED'S NAME AND ADDRESS

PRODUCER

THIS
NOTICE
MAILED
TO

Bishop, Peterson, & Sharp, P. C.
3000 Smith
Houston, Texas 77006

Daniels-Head Insurance
Agency, Inc.
P. O. Box 160730
Austin, Texas 78716-0730

Applicable item marked with an "X"

HOME Insurance Co. of Indiana

CANCELLATION

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above.

If the premium has been paid, premium adjustment will be made as soon as practicable after cancellation becomes effective. If the premium has not been paid, a bill for the premium earned to the time of cancellation will be forwarded in due course.

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above due to nonpayment of premium.

A bill for the premium earned to the time of cancellation will be forwarded in due course.

X NON-RENEWAL

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will NOT be renewed.

activity and past claim frequency.

Due to recent claim

To LIENHOLDER OR LOSS PAYEE

You are hereby notified that the agreement under the Loss Payment Clause to you, as Lienholder, which is part of the above policy, issued to the above insured, is hereby cancelled (or terminated) in accordance with the conditions of the policy, said cancellation (or termination) to be effective on and after the hour and date mentioned above.

To MORTGAGEE

You are hereby notified that the above mentioned policy and the Mortgagee Agreement is hereby cancelled. Your interest under the said policy is cancelled on (a) the termination date shown above or (b) 13 days from "Date of Mailing", whichever is later.

NAME AND ADDRESS OF LIENHOLDER, LOSS PAYEE OR MORTGAGEE

GNL 6630F (C) 6/91

Ronda Ceramini
AUTHORIZED REPRESENTATIVE

CANCELLATION			EFFECTIVE DATE:
FLAT _____	MAJOR LINE	AMOUNT	FACTOR
P/R _____			REASON
S/R _____			CASH RETURN
SUBJECT TO AUDIT _____	TOTAL \$		FUTURE INSTALLMENTS

GNL 6630F (C) 6/91

COMPANY COPY

CERTIFICATION

I hereby certify that I personally mailed to the Insured, and if named above, to the lienholder, loss payee or mortgagee, on the date hereon a notice of cancellation or non-renewal, an exact carbon of which appears above.

Date 12-3-93

Signature *[Signature]*

Professional Liability Insurance Policy
Lawyers

THE HOME INSURANCE COMPANIES



H38581F Ed. 5-88

Provisions

(A stock insurance company, hereinafter called the Company)

In consideration of the undertaking of the Named Insured to pay, when due, the premium and the deductible as described herein and in the amounts stated in the Declarations, and in reliance upon the statements in the application attached hereto and made a part hereof, and subject to the limits of liability shown in the Declarations, and subject to all of the terms of this insurance, the company agrees with the Named Insured as follows:

This is a Claims Made Policy — Please Read Carefully

Section A — Insured

I. **The Insured:** The word "insured," whenever used in this policy, means:

(a) The Named Insured firm or persons named in the Declarations, or any lawyer or professional legal corporation who during the policy period becomes a partner, officer, director or employee of the firm;

(b) any lawyer or professional legal corporation who was a former partner, officer, director or employee of the firm or predecessor firm(s) solely while acting in a professional capacity on behalf of such firms;

(c) any lawyer or professional legal corporation who was a partner, officer, director or employee of the firm or predecessor firm(s) who has retired from the practice of law, but only for those professional services rendered prior to the date of retirement from the Insured firm;

(d) any non-lawyer who was, is now, or hereinafter becomes an employee of the firm or predecessor firm(s) solely while acting within the scope of such person's duties as an employee;

(e) as respects to the liability of each Insured as is otherwise covered herein, the heirs, executors, administrators, assigns and legal representatives of each Insured in the event of death, incapacity or bankruptcy;

(f) any lawyer acting as "of counsel," but only while performing services on behalf of the Insured, any employed lawyer or any other employee.

II. **Firm Changes:** Any material change among the partners or stockholders of the Named Insured during the policy period should be reported to the Company immediately, and the Company given the right to decline to continue coverage or to charge an additional premium therefor.

Section B — Coverage

I. **Professional Liability and Claims Made Clause:** To pay on behalf of the Insured all sums in excess of the deductible amount stated in the Declarations which the Insured shall become legally obligated to pay as damages as a result of **CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD** caused by any act, error or omission for which the Insured is legally responsible, and arising out of the rendering or failure to render professional services for others in the Insured's capacity as a lawyer or notary public.

It is a condition precedent to coverage under this policy that all claims be reported in compliance with the Section F CLAIMS I. NOTICE OF CLAIMS.

PROVIDED ALWAYS THAT such act, error or omission happens:

(a) during the policy period; or,

(b) prior to the policy period, provided that prior to the effective date of the first Lawyers Professional Liability Insurance Policy issued by this Company to the Named Insured or predecessor law firm and continuously renewed and maintained in effect to the inception of this policy period:

1) The Insured did not give notice to any prior insurer of any such act or error, and

2) the Named Insured, any partner, shareholder, employee, or where appropriate the Named Insured's management committee or any member thereof, had no reasonable basis to believe that the Insured had breached a professional duty or to foresee that a claim would be made against the Insured; and

3) there is no prior policy or policies which provide insurance for such liability or claim, unless the available limits of liability of such prior policy or policies are insufficient to pay any liability or claim, in which event this

policy will be excess over any such prior coverage, subject to this policy's terms, limits of liability, exclusions and conditions.

When the Insured renders or fails to render services as an administrator, conservator, receiver, executor, guardian, trustee, or in any similar fiduciary capacity, the Insured's acts and omissions in such capacity shall be deemed for the purpose of this section to be the performance of professional services for others in the Insured's capacity as a lawyer, provided that this coverage shall not apply to any loss sustained by the Insured as the beneficiary or distributee of any trust or estate.

Services performed by the Insured in a lawyer-client relationship on behalf of one or more clients shall be deemed for the purpose of this section to be the performance of professional services for others in the Insured's capacity as a lawyer, although such services could be performed wholly or in part by non-lawyers.

It is a condition precedent to coverage under this policy that all claims be reported in compliance with the Section F CLAIMS I. NOTICE OF CLAIMS.

Claim, whenever used in this policy, means a demand received by the Insured for money or services, including the service of suit or institution of arbitration proceedings against the Insured.

Damages, whenever used in this policy, means a monetary judgement or settlement, including any such judgement or settlement for personal injury, and does not include fines or statutory penalties, or sanctions whether imposed by law or otherwise, nor the return of or restitution of legal fees, costs and expenses.

Predecessor Firms, whenever used in this policy, means any lawyer, law firm or professional legal corporation engaged in the practice of law to whose financial assets and liabilities the firm listed as Named Insured in the Declarations is the majority successor in interest.

Policy Period, whenever used in this policy, means the period from the inception date of this policy to the policy expiration date as set forth in the Declarations or its earlier termination date, if any.

II. Consent to Settle, Defense: With respect to the insurance afforded by this policy, the Company shall defend any claim against the Insured including the appeal thereof seeking damages to which this insurance applies even if any of the allegations of the suit are groundless, false, or fraudulent. The Company shall not settle any claim without the consent of the Insured unless otherwise agreed between the Insured and the

Company. If the Insured shall refuse to consent to any settlement or compromise recommended by the Company and acceptable to the claimant and shall elect to contest the claim or proceeding, then the Company's liability under this policy shall not exceed and shall be limited to the amount for which the claim or proceedings could have been settled or compromised. It is further agreed that the Company may make such investigation of any claim as it deems expedient, but the Company shall not be obligated to pay any claim or judgement or to defend or to continue to defend any claim after the limits of the Company's liability have been exhausted. Thus, when the claims expenses equal the amount for which the case could have been settled or compromised, the Company shall have the right to withdraw from the further investigation and/or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition of the issuance of this policy, to accept such tender.

III. Discovery Clause: If, during the policy or any optional Reporting Period purchased hereunder, the Insured first becomes aware that an Insured has committed a specific act, error or omission in professional services for which coverage is otherwise provided hereunder, and if the Insured shall during the policy period or the optional Reporting Period purchased hereunder give notice to the Company of:

- (a) the specific act, error or omission; and
- (b) the injury or damage which has or may result from such act, error or omission; and
- (c) the circumstances by which the Insured first becomes aware of such act, error or omission

then any claim that may subsequently be made against the Insured arising out of such act, error or omission shall be deemed for the purposes of this insurance to have been made during the policy period or the optional Reporting Period purchased hereunder. The Insured shall cooperate fully with the Company as provided in Section F CLAIMS I. and II. and any investigation conducted by the Company or its representatives shall be subject to the terms set forth in this policy.

IV. Options to Extend Claims Reporting Period: If the Named Insured does not renew this policy after complying with all the terms and conditions thereof, including the payment of all premiums and/or deductibles when due, or if the Company shall cancel or refuse to renew the policy for reasons other than the Named Insured's non-payment of premiums and/or deductibles or non-compliance with the terms and conditions of

this policy, then the Named Insured upon payment of an additional premium as set forth herein shall have the option to extend the Insurance afforded by this policy subject otherwise to its terms, limit of liability, exclusions and conditions, to apply to CLAIMS FIRST MADE AGAINST THE INSURED DURING (a) 12 MONTHS, (b) 24 MONTHS, or (c) 36 MONTHS, as elected by the Named Insured, following immediately upon the effective date of such termination, but only by reason of any act, error or omission in professional services rendered before such effective termination date and otherwise covered by this insurance.

The extension of coverage for claims made subsequent to termination of the policy shall be endorsed hereto, if purchased, and shall hereinafter be referred to as the OPTIONAL REPORTING PERIOD.

The premium for the optional Reporting Period elected by the Named Insured shall be (a) 100% for 12 MONTHS, (b) 150% for 24 MONTHS, or (c) 185% for 36 MONTHS, of the full annual premium for this policy.

This coverage will be renewable annually at the expiration of the optional Reporting Period at the option of the Insured upon payment of an additional premium determined by the Company in accordance with the rates in effect at each annual renewal date.

At the commencement of any optional Reporting Period, the entire premium therefor shall be deemed earned, and in the event the Insured terminates the optional Reporting Period before its term for any reason, the Company shall not be liable to return to the Insured any portion of the premium for the optional Reporting Period.

The fact that the period during which claims must be first made against the Insured under this policy is extended by virtue of the optional Reporting Period shall not in any way increase the limits of liability of this policy.

V. Option to Purchase Non-Practicing Reporting Period: If any Insured retires or otherwise ceases the private practice of law during the policy period, then upon payment of an additional premium as set forth herein, the Insured shall have the option to extend the insurance afforded by this policy to apply to CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING (a) 12 MONTHS, (b) 24 MONTHS, (c) 36 MONTHS or (d) an unlimited period immediately following the expiration date of this policy as stated in the Declarations, but only by reason of any act, error or omission in professional services

rendered before the Insured's date of retirement or termination of private practice and otherwise covered by the insurance, PROVIDED there is no other insurance procured on or after the Insured's date of retirement or termination of practice which covers the Insured for such liability or claim. Such other insurance shall render this coverage inapplicable, even though the limits of liability of such other insurance may be inadequate to pay all losses and claim expenses and/or the deductible amount and deductible provisions of such other insurance may be different from those of this policy.

The extension of coverage elected by the Insured for claims made subsequent to the Insured's date of retirement or termination of private practice shall be endorsed hereto, if purchased, and shall hereinafter be referred to as the NON-PRACTICING REPORTING PERIOD.

The premium for the Non-Practicing Reporting Period elected by the Insured shall be (a) 100% for 12 MONTHS, (b) 150% for 24 MONTHS, (c) 185% for 36 MONTHS, or (d) 225% for an unlimited period of the full annual premium for this policy.

The deductible amount and deductible provisions of this policy will be waived with respect to claims first made against the Insured during the Non-Practicing Reporting Period purchased by the Insured.

The limits of liability stated in the Declarations and described in Section E LIMITS OF LIABILITY I. and II. shall not apply to the optional reporting period available herein. The limits of liability stated in the following schedule shall apply to claims first made against the Insured during the Non-Practicing Reporting Period, if purchased and shall apply as described in said schedule.

The limits of liability in effect at the inception of this policy as stated in the Declarations shall be used to compute the limits of liability provided during the Non-Practicing Reporting Period if purchased.

In the event of the death of an Insured or for those Insureds with three consecutive full years of coverage by the Company who become permanently, totally disabled preventing further practice of an Insured as defined by Item (a) in Section A INSURED I. THE INSURED, such Insured shall be entitled, at no additional premium, to a Non-Practicing Reporting Period for all claims first made after the termination of the policy period arising out of any act, error or omission occurring prior to the termination of the policy period and otherwise covered by this policy. However, those

Identified by Items (b) thru (f) of Section A INSURED I. THE INSURED are specifically excluded from exercising this option.

"Totally and permanently disabled" means that the Insured has become so disabled as to be wholly prevented from rendering professional services for others in the capacity as a lawyer or notary public provided that such disability:

- A. has existed continuously for not less than 6 months; and
- B. is expected to be continuous and permanent.

"Totally and permanently disabled" shall not include any condition which:

- A. is a result of war or acts of war, whether or not declared;
- B. occurred during active service in the armed forces of any country; or
- C. results from:
 - 1. intentionally self-inflicted injuries;
 - 2. actual or attempted suicide, whether or not sane; or

3. the abuse or misuse of addictive chemical compounds or alcohol.

If the Insured exercises the Non-Practicing Reporting Period option:

(a) The liability of the Company for each claim FIRST MADE AGAINST THE INSURED DURING THE NON-PRACTICING REPORTING PERIOD purchased by the Insured shall not exceed the amount(s) stated in the applicable schedule for "each claim"; and

(b) Subject to the limits of liability for "each claim," the liability of the Company for all claims FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD INCLUDING THE NON-PRACTICING REPORTING PERIOD shall not exceed the amount(s) stated in the schedule below as "policy aggregate."

If any "aggregate" or "policy aggregate" limit of liability becomes exhausted by payment of claims expenses, judgments and/or settlements, this policy, including the Non-Practicing Reporting Period, may be cancelled by the Company. The Company also shall not be obligated to defend or continue to defend any claim for which the applicable "aggregate" or "policy aggregate" has been exhausted by payment of claims expenses, judgments or settlements.

V (SCHEDULE)

- 1. \$100,000 each claim/\$300,000 aggregate, then Column I of the following schedule applies.
- 2. \$200,000 each claim/\$600,000 aggregate, then Column II of the following schedule applies.
- 3. Other than those indicated in 1 or 2, then such limits as shown in the Declarations shall also apply during the total Non-Practicing Reporting Period purchased and the "aggregate" limit shall be deemed the "policy aggregate" as referred to in subparagraph (b) above.

Effective as of
and applicable to
CLAIMS FIRST MADE
AGAINST THE INSURED DURING

	I	II
A. Each Claim:	\$100,000	\$ 200,000
Policy Aggregate:	300,000	600,000
B. Each Claim:	110,000	220,000
Policy Aggregate:	350,000	600,000
C. Each Claim:	120,000	240,000
Policy Aggregate:	400,000	600,000
D. Each Claim:	130,000	260,000
Policy Aggregate:	500,000	600,000
Each Claim:	140,000	280,000
Policy Aggregate:	500,000	600,000

- First 12 month period immediately following expiration, if a 12 month extension is purchased;
- Second 12 month period immediately following expiration, if a 24 month extension is purchased (Also subject to A);
- Third 12 month period immediately following expiration, if a 36 month extension is purchased (Also subject to A and B);
- Fourth 12 month period immediately following expiration;
- and thereafter, if the unlimited extension is purchased (Also subject to A, B and C).

VI. Exercising The Options: As a condition precedent to the Insured's right to exercise these options, the full annual premium of this policy and any deductibles that are due must have been paid. Neither the Optional Reporting Period nor the Non-Practicing Reporting Period shall be available when any Insured's license or right to practice his profession is revoked, suspended by or surrendered at the request of any regulatory authority.

The Insured's right to purchase any extension option must be exercised by notice in writing not later than thirty (30) days after the cancellation or termination date of this policy. Effective notice must indicate the total extension period desired **AND MUST INCLUDE PAYMENT OF PREMIUM FOR SUCH EXTENSION PERIOD** as well as all deductibles due the Company.

If such notice, premium and deductible payment are not so given to the Company, the Insured shall not at a later date be able to exercise such rights.

Section C — Exclusions

I. This policy does not apply:

(a) to any judgement or final adjudication based upon or arising out of any dishonest, deliberately fraudulent, criminal, maliciously or deliberately wrongful acts or omissions committed by the Insured;

(b) to any claim made by or against any business enterprise not named in the Declarations which is owned by the Insured or in which the Insured is a partner or employee, or which is controlled, operated or managed by the Insured, either individually or in a fiduciary capacity, including the ownership, maintenance or use of any property in connection therewith, or to any claim made against the Insured solely because the Insured is a partner, officer, director, stockholder employee or employee of any firm or corporation not named in the Declarations;

(c) to liability arising out of the Insured's services and/or capacity as:

1) an officer, director, partner, trustee, or employee of a business enterprise or charitable organization or pension, welfare, profit sharing, mutual or investment fund or trust;

2) a public official, or an employee of a governmental body, subdivision, or agency;

3) a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto, except if an Insured is deemed to be a fiduciary solely by reason of legal advice rendered with respect to an employee benefit plan;

(d) to any liability for bodily injury, sickness, disease or death of any person, or injury to or destruction of any tangible property or loss of use resulting therefrom;

(e) to any claims arising out of notarized certification or acknowledgement of a signature without the physical appearance before such notary public as Insured hereunder of the person who is or claims to be the person signing said instrument;

(f) to any claim made by a present, former or prospective partner, officer, director, stockholder employee or employee of the Insured unless such claim arises out of the professional services of the Insured in a lawyer-client relationship except as otherwise excluded under Exclusion (h);

(g) to any claim based upon or arising out of discrimination by the Insured on the basis of race, creed, age, sex or marital status;

(h) to any claim based upon or arising out of the work performed by the Insured, with or without compensation, with respect to any corporation, fund, trust, association, partnership, limited partnership, business enterprise or other venture, be it charitable or otherwise, of any kind or nature in which any Insured has any pecuniary or beneficial interest, irrespective of whether or not an attorney-client relationship exists, unless such entity is named in the Declarations. For purposes of this policy, ownership or shares in a corporation shall not be considered a "pecuniary or beneficial interest" unless one Named Insured or members of the immediate family of the Named Insured own(s) 10% of the issued and outstanding shares of such corporation;

(i) to any claim for property damage arising out of Insured's act, error or omission while acting as attorney, officer, director, partner, trustee or employee of a business enterprise which is liable or may be held liable for the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon

land, the atmosphere or any water course or body of water.

II. Waiver of Exclusion and Breach of Conditions: Whenever coverage under any provision of this policy would be excluded, suspended or lost

(a) because of exclusion (a) relating to any judgment or final adjudication based upon or arising out of any dishonest, deliberately fraudulent, criminal, malicious or deliberately wrongful acts or omissions by any Insured, or

(b) because of noncompliance with Section F CLAIMS I. NOTICE OF CLAIMS relating to the giving of notice to the Company with respect to which any other Insured shall be in default solely because of the default or concealment of such default by one or more partners or employees responsible for the loss or damage otherwise insured hereunder,

the Company agrees that such insurance as would otherwise be afforded under this policy shall apply with respect to each and every Insured who did not personally commit or personally participate in committing one or more of the acts, errors or omissions described in any such exclusion or condition; provided that if the condition be one with which such Insured can comply, after receiving knowledge thereof, the Insured entitled to the benefit of the Waiver of Exclusions and Breach of Conditions shall comply with such condition promptly after obtaining knowledge of the failure of any other Insured or employee to comply therewith. However, related acts, errors or omissions shall be treated as a single claim, and suits brought by more than one person or organization shall not operate to increase the Company's limit of liability.

With respect to provision II. (a) above, the Company's obligation to pay in the event of such waiver shall be in excess of the deductible and in the excess of the full extent of any assets in the firm of any Insured who is not a beneficiary to the waiver.

Section D — Territory

The insurance afforded applies worldwide.

Section E — Limits of Liability

I. Limits of Liability — Each Claim: The liability of the Company for each claim FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD, including the Optional Reporting Period, if such is purchased, shall not exceed the amount stated in the Declaration for each claim, and shall include

all claim expenses. If the limits of liability are exhausted prior to settlement or judgment of any pending claim or suit, the Company shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition to the issuance of this policy, to accept such tender.

II. Limits of Liability/Aggregate: Subject to Section E I. LIMITS OF LIABILITY — EACH CLAIM, the liability of the Company shall not exceed the amount stated in the Declarations as aggregate as a result of all claims FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD including the Optional Reporting Period, if such is purchased.

III. Deductible: The deductible amount stated in the Declarations shall be paid by the Named Insured and shall be applicable to all damages and claim expenses, for each and every claim, whether or not loss payment is made for claims first made during the policy period. The deductible shall be deemed to be applied first to the damages and/or claim expenses.

If the Optional Reporting Period is purchased, the deductible will be applicable in the full amount shown in the Declarations and shall be applicable to all damages and claim expenses, for each and every claim whether or not loss payment is made, for all claims first made during the Optional Reporting Period.

Such amounts shall upon written demand by the Company be paid by the Named Insured within thirty (30) days regardless of the number of claims first made during the policy period.

The determination of the Company as to the reasonableness of the claim expenses shall be conclusive on the Named Insured.

IV. Multiple Insureds, Claims and Claimants: The inclusion herein of more than one Insured or the making of claims or the bringing of suits by more than one person or organization shall not operate to increase the Company's limit of liability. Related acts, errors or omissions shall be treated as a single claim. All such claims, whenever made, shall be considered first made during the policy period or optional Reporting Period in which the earliest claim arising out of such act, error or omission was first made, and all such claims shall be subject to the same limits of liability.

V. Payment and Apportionment of Claim Expenses: All claim expenses shall first be

subtracted from the limit of liability with the remainder, if any, being the amount available to pay as damages. If the limits of liability are exhausted prior to settlement or judgment of any pending claim or suit, the Company shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition to the issuance of this policy, to accept such tender.

Claim expenses, whenever used in this policy, means:

- (a) fees charged by any lawyer designated by the Company;
- (b) all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a claim, if incurred by the Company.

However, "claim expenses" does not include salary charges of regular employees or of the officials of the Company or any supervisory counsel retained by the Company.

Section F — Claims

I. Notice of Claims: As a condition precedent to the right to the protection afforded by this insurance, the Insured shall, as soon as practicable, give to the Company written notice of any claim made against the Insured.

In the event suit is brought against the Insured, the Insured shall immediately forward to the Company every demand notice, summons or other process received directly or by the Insured's representatives.

II. Assistance and Cooperation of the Insured: The Insured shall cooperate with the Company and upon the Company's request shall submit to examination and interrogation by a representative of the Company, under oath if required, and shall attend hearings, depositions and trials, and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits, as well as in the giving of a written statement or statements to the Company's representatives and meeting with such representatives for the purpose of investigation and/or defense, all without charge to the Company. The Insured shall further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the Insured may have. The Insured shall exercise the Insured's right to either reject or demand the arbitration of any claim made against the Insured in accordance with the written instructions of the

Company. The Insured shall not, except at the Insured's own cost, make any payment, admit any liability, settle any claims, assume any obligation or incur any expense without the written consent of the Company.

III. Subrogation: In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization, and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing to prejudice such rights.

The Company shall not exercise any such rights against any persons, firms or corporations included in the definition of Insured. Notwithstanding the foregoing, however, the Company reserves the right to exercise any rights of subrogation against an Insured with respect to any claim brought about or contributed to by the intentional, dishonest, fraudulent, criminal or malicious act or omission of such Insured.

Any amount so recovered shall be apportioned as follows:

Any recovery shall first be used for the repayment of expenses incurred toward subrogation; second, to loss and/or claim expenses paid by the Company; third, to any loss and expense payment by the Insured in excess of any deductible(s); fourth, to any loss and expense payments by an excess carrier on behalf of the Insured; fifth, to any loss and expense payments by any primary carrier on behalf of the Insured; and last, to repayment of the Insured's deductible.

IV. Action Against the Company: No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been fully and finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the Claimant and the Company.

Nothing contained in this policy shall give any person or organization the right to join the Company as a co-defendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

V. False or Fraudulent Claims: If any Insured shall commit fraud in proffering any claim as regards

amount or otherwise, this insurance shall become void as to such Insured from the date such fraudulent claim is proffered.

Section G — Conditions

I. Application: By acceptance of this policy, the Insured agrees that the statements in the application are personal representations, that they shall be deemed material and that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between the Insured and the Company, or any of its agents, relating to this insurance.

II. Other Insurance: Subject to the limitation of coverage as set forth in Section B COVERAGE I. (b) for prior insurance, and Section B COVERAGE V. for insurance procured subsequent to termination of practice, this insurance shall be in excess of the amount of the applicable deductible of this policy and any other valid and collectible insurance available to the Insured whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the limits of liability provided in the policy.

III. Changes: Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Company shall not affect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of the policy, nor shall the terms of the policy be waived or changed, except by written endorsement issued to form a part of this policy.

IV. Assignment: Assignment of interest under this policy shall not bind the Company unless its consent is endorsed in writing hereon.

V. Cancellations: This policy may be cancelled by the Named Insured by surrender thereof to the

Company or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. If cancelled by the Insured, the Company shall retain the customary short rate proportion of the premium.

This policy may be cancelled by the Company by mailing to the Named Insured in the Declarations written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. Such notice shall be conclusive on all Named Insureds.

However, if the Company cancels the policy because the Insured has failed to pay a premium or deductible when due, this policy may be cancelled by the Company by mailing a written notice of cancellation to the Insured stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice as aforementioned shall be sufficient notice and the effective date of cancellation stated in any notices shall become the end of the policy period. Delivery of such written notice by the Named Insured or the Company shall be the equivalent to mailing.

If cancelled by the Company, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter.

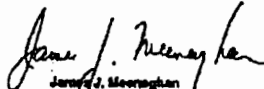
Definitions-Reference

Certain words are specifically defined for the policy and the definitions are to be found in the sections set forth below:

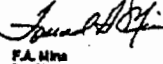
(a) Claim, damages, policy period — see Section B COVERAGE I.

(b) Claim expenses — see Section E LIMITS OF LIABILITY V.

IN WITNESS WHEREOF, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly authorized representative of the Company.


James J. Mooneyhan
President
THE HOME INSURANCE COMPANY
OF WISCONSIN


William L. Thurston
President
THE HOME INDEMNITY COMPANY


F.A. Mina
President
CITY INSURANCE COMPANY


Arthur Phelps
President
THE HOME INSURANCE COMPANY
OF INDIANA
THE HOME INSURANCE COMPANY
OF ILLINOIS


Roger M. Meek
Corporate Secretary
THE HOME INSURANCE COMPANY
OF INDIANA
THE HOME INDEMNITY COMPANY
CITY INSURANCE COMPANY
THE HOME INSURANCE COMPANY
OF INDIANA
THE HOME INSURANCE COMPANY
OF ILLINOIS
THE HOME INSURANCE COMPANY
OF WISCONSIN

**Nuclear Energy Liability
Exclusion Endorsement (BROAD FORM)**

This endorsement modifies the provisions of this policy.

It is agreed that:

I. This policy does not apply:

(A) Under any Liability Coverage, to bodily injury or property damage

1) with respect to which an Insured under this Policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; or

2) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

(B) Under any Medical Payments Coverage, or any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

(C) Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous properties of nuclear material, if

1) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of an Insured or (b) has been discharged or dispersed therefrom;

2) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or

3) the bodily injury or property damage arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if

such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to property damage to such nuclear facility and any property thereat.

II. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or by-product material;

"source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than twenty-five (25) grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH
DEPUTY ATTORNEY GENERAL

July 1, 2008

Harry L. Bowles
306 Big Hollow Lane
Houston, TX 77008

Re: Complaint dated 6/2/08 filed with NH Insurance Department
against Home Insurance Company in Liquidation

Dear Mr. Bowles:

The above complaint has been referred to this Office, which represents the New Hampshire Insurance Department, for a response.

The complaint says that the Home Insurance Company in Liquidation (HICIL) has refused to respond to your request for the status of a proof of claim you filed with HICIL on February 4, 2008. The Department forwarded your complaint to the Chief Claims Officer of HICIL. He reports that your claim is being reviewed and will be responded to in due course.

Note that the Department's consumer complaint procedure under which you filed your complaint does not apply to an insurance company in liquidation. The Consumer Services Division may mediate disputes between an insured and department licensees, but not disputes that are before the courts. Ins. Reg. 102.08(a). HICIL operates under court supervision pursuant to RSA ch. 402-B. In determining claims, HICIL follows court-approved procedures, information on which is available at the HICIL website, www.hicilclerk.org. Thus, your claim against HICIL is a dispute that is already before the courts and will be addressed through the claims review procedures without involvement by the Consumer Services Division.

Very truly yours,

A handwritten signature in black ink that reads "J. Christopher Marshall".

J. Christopher Marshall
Assistant Attorney General

JCM/sd
280234

EXHIBIT B

Renewal Certificate

Professional Liability Insurance Policy
 Attach to your expiring declarations.

Policy Number: LPL-FB71578-1



This is a claims made Policy. Please review the Policy carefully.

The Policy is limited to liability for only those claims that are first made against the Insured during the policy period.

Insured by the stock company below and hereinafter called the company

THE HOME INSURANCE COMPANY OF INDIANA INDIANAPOLIS, INDIANA

Item 1. Named Insured and Address (Number, Street, Town or City, County, State, Zip Code) BISHOP, PETERSON & SHARP, P. C. 3000 SMITH HOUSTON HARRIS TX 77006		Producer Name DANIELS-HEAD INSURANCE AGENCY INC.	
Item 2. Policy Period From (Day-Mon-Yr) To (Day-Mon-Yr) 24-Jan-1993 24-Jan-1994		12:01 A.M. Standard Time at the address of the Named Insured as stated herein.	
And Those Professionals Listed on the Application.		Item 3. Form of Named Insured's Business Insured is CORPORATION	

Item 4. Limit of Liability Each Claim \$ 2,000,000 Aggregate \$ 2,000,000	Item 5. Deductible Per Claim \$ 10,000	NO. OF PROFESSIONALS 3
Item 6. Premium PREMIUM \$12,244.00		

Item 7. Policy Changes and Endorsements (The endorsements noted below are part of this policy and either became effective at the inception of or during the preceding Policy Period(s), or will become effective at the inception of the Renewal Period.)

- H36581 05/86 LPL POLICY JACKET
- H37530 07/92 CANCEL/NONRENEW
- H37683 10/88 ARBITRATION ENDST
- H37973 07/91 REG ENDORSEMENT
- H40552 05/92 POLICYHOLDER NOTICE
- H35385 01/89 SPEC CLAIM EXCL
- H35497 03/87 PRIOR ACTS EXCLUSION

Do Not Write in This Box	Remarks	Countersigned at AUSTIN, TX	Issue Date 21-Jan-1993
		Authorized Representative <i>[Signature]</i>	Countersign Date 1/21/93



NOTICE OF CANCELLATION OR NON-RENEWAL

POLICY NUMBER	TYPE OF POLICY	TERMINATION EFFECTIVE	PRODUCER NO.-OPC	DATE OF MAILING
LPL F871578-1	Lawyers Prof. Liab.	February 6, 1994 12:01 AM	39754 - 351	12/3/93

INSURED'S NAME AND ADDRESS

PRODUCER

THIS
NOTICE
MAILED
TO

Bishop, Peterson, & Sharp, P. C.
3000 Smith
Houston, Texas 77006

Daniels-Head Insurance
Agency, Inc.
P. O. Box 160730
Austin, Texas 78716-0730

Applicable item marked with an "X"

HOME Insurance Co. of Indiana

CANCELLATION

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above.

If the premium has been paid, premium adjustment will be made as soon as practicable after cancellation becomes effective. If the premium has not been paid, a bill for the premium earned to the time of cancellation will be forwarded in due course.

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that your insurance will cease at and from the hour and date mentioned above due to nonpayment of premium.

A bill for the premium earned to the time of cancellation will be forwarded in due course.

X NON-RENEWAL

You are hereby notified in accordance with the terms and conditions of the above mentioned policy that the above mentioned policy will expire effective at and from the hour and date mentioned above and the policy will NOT be renewed.

Due to recent claim activity and past claim frequency.

To LIENHOLDER OR LOSS PAYEE

You are hereby notified that the agreement under the Loss Payment Clause to you, as Lienholder, which is part of the above policy, issued to the above insured, is hereby cancelled (or terminated) in accordance with the conditions of the policy, said cancellation (or termination) to be effective on and after the hour and date mentioned above.

To MORTGAGEE

You are hereby notified that the above mentioned policy and the Mortgagee Agreement is hereby cancelled. Your interest under the said policy is cancelled on (a) the termination date shown above or (b) 13 days from "Date of Mailing", whichever is later.

NAME AND ADDRESS OF LIENHOLDER, LOSS PAYEE OR MORTGAGEE

GNL 6630F (C) 6/91

Ronda Cesarani
 AUTHORIZED REPRESENTATIVE

CANCELLATION			EFFECTIVE DATE:
FLAT _____	MAJOR LINE	AMOUNT	FACTOR
P/R _____			REASON
S/R _____			CASH RETURN
SUBJECT TO AUDIT _____	TOTAL \$		FUTURE INSTALLMENTS

CERTIFICATION

I hereby certify that I personally mailed to the insured, and if named above, to the lienholder, loss payee or mortgagee, on the date hereon a notice of cancellation or non-renewal, an exact carbon of which appears above.

Date 12-3-93

Signature *[Signature]*

GNL 6630F (C) 6/91

COMPANY COPY

Professional Liability Insurance Policy
Lawyers

THE HOME INSURANCE COMPANIES



H38581F Ed. 5-86

Provisions

(A stock insurance company, hereinafter called the Company)

In consideration of the undertaking of the Named Insured to pay, when due, the premium and the deductible as described herein and in the amounts stated in the Declarations, and in reliance upon the statements in the application attached hereto and made a part hereof, and subject to the limits of liability shown in the Declarations, and subject to all of the terms of this insurance, the company agrees with the Named Insured as follows:

This is a Claims Made Policy — Please Read Carefully

Section A — Insured

I. **The Insured:** The word "insured," whenever used in this policy, means:

(a) The Named Insured firm or persons named in the Declarations, or any lawyer or professional legal corporation who during the policy period becomes a partner, officer, director or employee of the firm;

(b) any lawyer or professional legal corporation who was a former partner, officer, director or employee of the firm or predecessor firm(s) solely while acting in a professional capacity on behalf of such firms;

(c) any lawyer or professional legal corporation who was a partner, officer, director or employee of the firm or predecessor firm(s) who has retired from the practice of law, but only for those professional services rendered prior to the date of retirement from the insured firm;

(d) any non-lawyer who was, is now, or hereinafter becomes an employee of the firm or predecessor firm(s) solely while acting within the scope of such person's duties as an employee;

(e) as respects to the liability of each Insured as is otherwise covered herein, the heirs, executors, administrators, assigns and legal representatives of each Insured in the event of death, incapacity or bankruptcy;

(f) any lawyer acting as "of counsel," but only while performing services on behalf of the Insured, any employed lawyer or any other employee.

II. **Firm Changes:** Any material change among the partners or stockholders of the Named Insured during the policy period should be reported to the Company immediately, and the Company given the right to decline to continue coverage or to charge an additional premium therefor.

Section B — Coverage

I. **Professional Liability and Claims Made Clause:** To pay on behalf of the Insured all sums in excess of the deductible amount stated in the Declarations which the Insured shall become legally obligated to pay as damages as a result of **CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD** caused by any act, error or omission for which the Insured is legally responsible, and arising out of the rendering or failure to render professional services for others in the Insured's capacity as a lawyer or notary public.

It is a condition precedent to coverage under this policy that all claims be reported in compliance with the Section F CLAIMS I. NOTICE OF CLAIMS.

PROVIDED ALWAYS THAT such act, error or omission happens:

(a) during the policy period; or,

(b) prior to the policy period, provided that prior to the effective date of the first Lawyers Professional Liability Insurance Policy issued by this Company to the Named Insured or predecessor law firm and continuously renewed and maintained in effect to the inception of this policy period:

1) The Insured did not give notice to any prior insurer of any such act or error, and

2) the Named Insured, any partner, shareholder, employee, or where appropriate the Named Insured's management committee or any member thereof, had no reasonable basis to believe that the Insured had breached a professional duty or to foresee that a claim would be made against the Insured; and

3) there is no prior policy or policies which provide insurance for such liability or claim, unless the available limits of liability of such prior policy or policies are insufficient to pay any liability or claim, in which event this

policy will be excess over any such prior coverage, subject to this policy's terms, limits of liability, exclusions and conditions.

When the Insured renders or fails to render services as an administrator, conservator, receiver, executor, guardian, trustee, or in any similar fiduciary capacity, the Insured's acts and omissions in such capacity shall be deemed for the purpose of this section to be the performance of professional services for others in the Insured's capacity as a lawyer, provided that this coverage shall not apply to any loss sustained by the Insured as the beneficiary or distributee of any trust or estate.

Services performed by the Insured in a lawyer-client relationship on behalf of one or more clients shall be deemed for the purpose of this section to be the performance of professional services for others in the Insured's capacity as a lawyer, although such services could be performed wholly or in part by non-lawyers.

It is a condition precedent to coverage under this policy that all claims be reported in compliance with the Section F CLAIMS I. NOTICE OF CLAIMS.

Claim, whenever used in this policy, means a demand received by the Insured for money or services, including the service of suit or institution of arbitration proceedings against the Insured.

Damages, whenever used in this policy, means a monetary judgement or settlement, including any such judgement or settlement for personal injury, and does not include fines or statutory penalties, or sanctions whether imposed by law or otherwise, nor the return of or restitution of legal fees, costs and expenses.

Predecessor Firms, whenever used in this policy, means any lawyer, law firm or professional legal corporation engaged in the practice of law to whose financial assets and liabilities the firm listed as Named Insured in the Declarations is the majority successor in interest.

Policy Period, whenever used in this policy, means the period from the inception date of this policy to the policy expiration date as set forth in the Declarations or its earlier termination date, if any.

II. Consent to Settle, Defense: With respect to the insurance afforded by this policy, the Company shall defend any claim against the Insured including the appeal thereof seeking damages to which this insurance applies even if any of the allegations of the suit are groundless, false, or fraudulent. The Company shall not settle any claim without the consent of the Insured unless otherwise agreed between the Insured and the

Company. If the Insured shall refuse to consent to any settlement or compromise recommended by the Company and acceptable to the claimant and shall elect to contest the claim or proceeding, then the Company's liability under this policy shall not exceed and shall be limited to the amount for which the claim or proceedings could have been settled or compromised. It is further agreed that the Company may make such investigation of any claim as it deems expedient, but the Company shall not be obligated to pay any claim or judgement or to defend or to continue to defend any claim after the limits of the Company's liability have been exhausted. Thus, when the claims expenses equal the amount for which the case could have been settled or compromised, the Company shall have the right to withdraw from the further investigation and/or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition of the issuance of this policy, to accept such tender.

III. Discovery Clause: If, during the policy or any optional Reporting Period purchased hereunder, the Insured first becomes aware that an Insured has committed a specific act, error or omission in professional services for which coverage is otherwise provided hereunder, and if the Insured shall during the policy period or the optional Reporting Period purchased hereunder give notice to the Company of:

- (a) the specific act, error or omission; and
- (b) the injury or damage which has or may result from such act, error or omission; and
- (c) the circumstances by which the Insured first becomes aware of such act, error or omission

then any claim that may subsequently be made against the Insured arising out of such act, error or omission shall be deemed for the purposes of this insurance to have been made during the policy period or the optional Reporting Period purchased hereunder. The Insured shall cooperate fully with the Company as provided in Section F CLAIMS I. and II. and any investigation conducted by the Company or its representatives shall be subject to the terms set forth in this policy.

IV. Options to Extend Claims Reporting Period: If the Named Insured does not renew this policy after complying with all the terms and conditions thereof, including the payment of all premiums and/or deductibles when due, or if the Company shall cancel or refuse to renew the policy for reasons other than the Named Insured's non-payment of premiums and/or deductibles or non-compliance with the terms and conditions of

this policy, then the Named Insured upon payment of an additional premium as set forth herein shall have the option to extend the insurance afforded by this policy subject otherwise to its terms, limit of liability, exclusions and conditions, to apply to CLAIMS FIRST MADE AGAINST THE INSURED DURING (a) 12 MONTHS, (b) 24 MONTHS, or (c) 36 MONTHS, as elected by the Named Insured, following immediately upon the effective date of such termination, but only by reason of any act, error or omission in professional services rendered before such effective termination date and otherwise covered by this insurance.

The extension of coverage for claims made subsequent to termination of the policy shall be endorsed hereto, if purchased, and shall hereinafter be referred to as the OPTIONAL REPORTING PERIOD.

The premium for the optional Reporting Period elected by the Named Insured shall be (a) 100% for 12 MONTHS, (b) 150% for 24 MONTHS, or (c) 185% for 36 MONTHS, of the full annual premium for this policy.

This coverage will be renewable annually at the expiration of the optional Reporting Period at the option of the Insured upon payment of an additional premium determined by the Company in accordance with the rates in effect at each annual renewal date.

At the commencement of any optional Reporting Period, the entire premium therefor shall be deemed earned, and in the event the Insured terminates the optional Reporting Period before its term for any reason, the Company shall not be liable to return to the Insured any portion of the premium for the optional Reporting Period.

The fact that the period during which claims must be first made against the Insured under this policy is extended by virtue of the optional Reporting Period shall not in any way increase the limits of liability of this policy.

V. Option to Purchase Non-Practicing Reporting Period: If any Insured retires or otherwise ceases the private practice of law during the policy period, then upon payment of an additional premium as set forth herein, the Insured shall have the option to extend the insurance afforded by this policy to apply to CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING (a) 12 MONTHS, (b) 24 MONTHS, (c) 36 MONTHS or (d) an unlimited period immediately following the expiration date of this policy as stated in the Declarations, but only by reason of any act, error or omission in professional services

rendered before the Insured's date of retirement or termination of private practice and otherwise covered by the insurance, PROVIDED there is no other insurance procured on or after the Insured's date of retirement or termination of practice which covers the Insured for such liability or claim. Such other insurance shall render this coverage inapplicable, even though the limits of liability of such other insurance may be inadequate to pay all losses and claim expenses and/or the deductible amount and deductible provisions of such other insurance may be different from those of this policy.

The extension of coverage elected by the Insured for claims made subsequent to the Insured's date of retirement or termination of private practice shall be endorsed hereto, if purchased, and shall hereinafter be referred to as the NON-PRACTICING REPORTING PERIOD.

The premium for the Non-Practicing Reporting Period elected by the Insured shall be (a) 100% for 12 MONTHS, (b) 150% for 24 MONTHS, (c) 185% for 36 MONTHS, or (d) 225% for an unlimited period of the full annual premium for this policy.

The deductible amount and deductible provisions of this policy will be waived with respect to claims first made against the Insured during the Non-Practicing Reporting Period purchased by the Insured.

The limits of liability stated in the Declarations and described in Section E LIMITS OF LIABILITY I. and II. shall not apply to the optional reporting period available herein. The limits of liability stated in the following schedule shall apply to claims first made against the Insured during the Non-Practicing Reporting Period, if purchased and shall apply as described in said schedule.

The limits of liability in effect at the inception of this policy as stated in the Declaration shall be used to compute the limits of liability provided during the Non-Practicing Reporting Period if purchased.

In the event of the death of an Insured or for those Insureds with three consecutive full years of coverage by the Company who become permanently, totally disabled preventing further practice of an Insured as defined by Item (a) in Section A INSURED I. THE INSURED, such Insured shall be entitled, at no additional premium, to a Non-Practicing Reporting Period for all claims first made after the termination of the policy period arising out of any act, error or omission occurring prior to the termination of the policy period and otherwise covered by this policy. However, those

Identified by Items (b) thru (f) of Section A INSURED I. THE INSURED are specifically excluded from exercising this option.

"Totally and permanently disabled" means that the Insured has become so disabled as to be wholly prevented from rendering professional services for others in the capacity as a lawyer or notary public provided that such disability:

- A. has existed continuously for not less than 6 months; and
- B. is expected to be continuous and permanent.

"Totally and permanently disabled" shall not include any condition which:

- A. is a result of war or acts of war, whether or not declared;
- B. occurred during active service in the armed forces of any country; or
- C. results from:
 - 1. intentionally self-inflicted injuries;
 - 2. actual or attempted suicide, whether or not sane; or

3. the abuse or misuse of addictive chemical compounds or alcohol.

If the Insured exercises the Non-Practicing Reporting Period option:

(a) The liability of the Company for each claim FIRST MADE AGAINST THE INSURED DURING THE NON-PRACTICING REPORTING PERIOD purchased by the Insured shall not exceed the amount(s) stated in the applicable schedule for "each claim"; and

(b) Subject to the limits of liability for "each claim," the liability of the Company for all claims FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD INCLUDING THE NON-PRACTICING REPORTING PERIOD shall not exceed the amount(s) stated in the schedule below as "policy aggregate."

If any "aggregate" or "policy aggregate" limit of liability becomes exhausted by payment of claims expenses, judgments and/or settlements, this policy, including the Non-Practicing Reporting Period, may be cancelled by the Company. The Company also shall not be obligated to defend or continue to defend any claim for which the applicable "aggregate" or "policy aggregate" has been exhausted by payment of claims expenses, judgments or settlements.

V (SCHEDULE)

- 1. \$100,000 each claim/\$300,000 aggregate, then Column I of the following schedule applies.
- 2. \$200,000 each claim/\$600,000 aggregate, then Column II of the following schedule applies.
- 3. Other than those indicated in I or II, then such limits as shown in the Declarations shall also apply during the total Non-Practicing Reporting Period purchased and the "aggregate" limit shall be deemed the "policy aggregate" as referred to in subparagraph (b) above.

Effective as of
and applicable to
CLAIMS FIRST MADE
AGAINST THE INSURED DURING

	I	II
A. Each Claim:	\$100,000	\$ 200,000
Policy Aggregate:	300,000	600,000
B. Each Claim:	110,000	220,000
Policy Aggregate:	350,000	600,000
C. Each Claim:	120,000	240,000
Policy Aggregate:	400,000	600,000
D. Each Claim:	130,000	260,000
Policy Aggregate:	500,000	600,000
Each Claim:	140,000	280,000
Policy Aggregate:	500,000	600,000

First 12 month period immediately following expiration, if a 12 month extension is purchased;

Second 12 month period immediately following expiration, if a 24 month extension is purchased (Also subject to A);

Third 12 month period immediately following expiration, if a 36 month extension is purchased (Also subject to A and B);

Fourth 12 month period immediately following expiration;
and thereafter, if the unlimited extension is purchased (Also subject to A, B and C).

VI. Exercising The Options: As a condition precedent to the Insured's right to exercise these options, the full annual premium of this policy and any deductibles that are due must have been paid. Neither the Optional Reporting Period nor the Non-Practicing Reporting Period shall be available when any Insured's license or right to practice his profession is revoked, suspended by or surrendered at the request of any regulatory authority.

The Insured's right to purchase any extension option must be exercised by notice in writing not later than thirty (30) days after the cancellation or termination date of this policy. Effective notice must indicate the total extension period desired **AND MUST INCLUDE PAYMENT OF PREMIUM FOR SUCH EXTENSION PERIOD** as well as all deductibles due the Company.

If such notice, premium and deductible payment are not so given to the Company, the Insured shall not at a later date be able to exercise such rights.

Section C — Exclusions

I. This policy does not apply:

(a) to any judgement or final adjudication based upon or arising out of any dishonest, deliberately fraudulent, criminal, maliciously or deliberately wrongful acts or omissions committed by the Insured;

(b) to any claim made by or against any business enterprise not named in the Declarations which is owned by the Insured or in which the Insured is a partner or employee, or which is controlled, operated or managed by the Insured, either individually or in a fiduciary capacity, including the ownership, maintenance or use of any property in connection therewith, or to any claim made against the Insured solely because the Insured is a partner, officer, director, stockholder employee or employee of any firm or corporation not named in the Declarations;

(c) to liability arising out of the Insured's services and/or capacity as:

1) an officer, director, partner, trustee, or employee of a business enterprise or charitable organization or pension, welfare, profit sharing, mutual or investment fund or trust;

2) a public official, or an employee of a governmental body, subdivision, or agency;

3) a fiduciary under the Employee Retirement Income Security Act of 1974 and its amendments or any regulation or order issued pursuant thereto, except if an Insured is deemed to be a fiduciary solely by reason of legal advice rendered with respect to an employee benefit plan;

(d) to any liability for bodily injury, sickness, disease or death of any person, or injury to or destruction of any tangible property or loss of use resulting therefrom;

(e) to any claims arising out of notarized certification or acknowledgement of a signature without the physical appearance before such notary public as Insured hereunder of the person who is or claims to be the person signing said instrument;

(f) to any claim made by a present, former or prospective partner, officer, director, stockholder employee or employee of the Insured unless such claim arises out of the professional services of the Insured in a lawyer-client relationship except as otherwise excluded under Exclusion (h);

(g) to any claim based upon or arising out of discrimination by the Insured on the basis of race, creed, age, sex or marital status;

(h) to any claim based upon or arising out of the work performed by the Insured, with or without compensation, with respect to any corporation, fund, trust, association, partnership, limited partnership, business enterprise or other venture, be it charitable or otherwise, of any kind or nature in which any Insured has any pecuniary or beneficial interest, irrespective of whether or not an attorney-client relationship exists, unless such entity is named in the Declarations. For purposes of this policy, ownership or shares in a corporation shall not be considered a "pecuniary or beneficial interest" unless one Named Insured or members of the immediate family of the Named Insured own(s) 10% of the issued and outstanding shares of such corporation;

(i) to any claim for property damage arising out of Insured's act, error or omission while acting as attorney, officer, director, partner, trustee or employee of a business enterprise which is liable or may be held liable for the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon

land, the atmosphere or any water course or body of water.

II. Waiver of Exclusion and Breach of Conditions: Whenever coverage under any provision of this policy would be excluded, suspended or lost

(a) because of exclusion (a) relating to any judgment or final adjudication based upon or arising out of any dishonest, deliberately fraudulent, criminal, malicious or deliberately wrongful acts or omissions by any Insured, or

(b) because of noncompliance with Section F CLAIMS I. NOTICE OF CLAIMS relating to the giving of notice to the Company with respect to which any other Insured shall be in default solely because of the default or concealment of such default by one or more partners or employees responsible for the loss or damage otherwise Insured hereunder,

the Company agrees that such insurance as would otherwise be afforded under this policy shall apply with respect to each and every Insured who did not personally commit or personally participate in committing one or more of the acts, errors or omissions described in any such exclusion or condition; provided that if the condition be one with which such Insured can comply, after receiving knowledge thereof, the Insured entitled to the benefit of the Waiver of Exclusions and Breach of Conditions shall comply with such condition promptly after obtaining knowledge of the failure of any other Insured or employee to comply therewith. However, related acts, errors or omissions shall be treated as a single claim, and suits brought by more than one person or organization shall not operate to increase the Company's limit of liability.

With respect to provision II. (a) above, the Company's obligation to pay in the event of such waiver shall be in excess of the deductible and in the excess of the full extent of any assets in the firm of any Insured who is not a beneficiary to the waiver.

Section D — Territory

The insurance afforded applies worldwide.

Section E — Limits of Liability

I. Limits of Liability — Each Claim: The liability of the Company for each claim FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD, including the Optional Reporting Period, if such is purchased, shall not exceed the amount stated in the Declaration for each claim, and shall include

all claim expenses. If the limits of liability are exhausted prior to settlement or judgment of any pending claim or suit, the Company shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition to the issuance of this policy, to accept such tender.

II. Limits of Liability/Aggregate: Subject to Section E I. LIMITS OF LIABILITY — EACH CLAIM, the liability of the Company shall not exceed the amount stated in the Declarations as aggregate as a result of all claims FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD including the Optional Reporting Period, if such is purchased.

III. Deductible: The deductible amount stated in the Declarations shall be paid by the Named Insured and shall be applicable to all damages and claim expenses, for each and every claim, whether or not loss payment is made for claims first made during the policy period. The deductible shall be deemed to be applied first to the damages and/or claim expenses.

If the Optional Reporting Period is purchased, the deductible will be applicable in the full amount shown in the Declarations and shall be applicable to all damages and claim expenses, for each and every claim whether or not loss payment is made, for all claims first made during the Optional Reporting Period.

Such amounts shall upon written demand by the Company be paid by the Named Insured within thirty (30) days regardless of the number of claims first made during the policy period.

The determination of the Company as to the reasonableness of the claim expenses shall be conclusive on the Named Insured.

IV. Multiple Insureds, Claims and Claimants: The inclusion herein of more than one Insured or the making of claims or the bringing of suits by more than one person or organization shall not operate to increase the Company's limit of liability. Related acts, errors or omissions shall be treated as a single claim. All such claims, whenever made, shall be considered first made during the policy period or optional Reporting Period in which the earliest claim arising out of such act, error or omission was first made, and all such claims shall be subject to the same limits of liability.

V. Payment and Apportionment of Claim Expenses: All claim expenses shall first be

subtracted from the limit of liability with the remainder, if any, being the amount available to pay as damages. If the limits of liability are exhausted prior to settlement or judgment of any pending claim or suit, the Company shall have the right to withdraw from the further investigation or defense thereof by tendering control of such investigation or defense to the Insured, and the Insured agrees, as a condition to the issuance of this policy, to accept such tender.

Claim expenses, whenever used in this policy, means:

- (a) fees charged by any lawyer designated by the Company;
- (b) all other fees, costs and expenses resulting from the investigation, adjustment, defense and appeal of a claim, if incurred by the Company.

However, "claim expenses" does not include salary charges of regular employees or of the officials of the Company or any supervisory counsel retained by the Company.

Section F -- Claims

I. Notice of Claims: As a condition precedent to the right to the protection afforded by this insurance, the Insured shall, as soon as practicable, give to the Company written notice of any claim made against the Insured.

In the event suit is brought against the Insured, the Insured shall immediately forward to the Company every demand notice, summons or other process received directly or by the Insured's representatives.

II. Assistance and Cooperation of the Insured: The Insured shall cooperate with the Company and upon the Company's request shall submit to examination and interrogation by a representative of the Company, under oath if required, and shall attend hearings, depositions and trials, and shall assist in effecting settlement, securing and giving evidence, obtaining the attendance of witnesses, and in the conduct of suits, as well as in the giving of a written statement or statements to the Company's representatives and meeting with such representatives for the purpose of investigation and/or defense, all without charge to the Company. The Insured shall further cooperate with the Company and do whatever is necessary to secure and effect any rights of indemnity, contribution or apportionment which the Insured may have. The Insured shall exercise the Insured's right to either reject or demand the arbitration of any claim made against the Insured in accordance with the written instructions of the

Company. The Insured shall not, except at the Insured's own cost, make any payment, admit any liability, settle any claims, assume any obligation or incur any expense without the written consent of the Company.

III. Subrogation: In the event of any payment under this policy, the Company shall be subrogated to all the Insured's rights of recovery therefor against any person or organization, and the Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Insured shall do nothing to prejudice such rights.

The Company shall not exercise any such rights against any persons, firms or corporations included in the definition of Insured. Notwithstanding the foregoing, however, the Company reserves the right to exercise any rights of subrogation against an Insured with respect to any claim brought about or contributed to by the intentional, dishonest, fraudulent, criminal or malicious act or omission of such Insured.

Any amount so recovered shall be apportioned as follows:

Any recovery shall first be used for the repayment of expenses incurred toward subrogation; second, to loss and/or claim expenses paid by the Company; third, to any loss and expense payment by the Insured in excess of any deductible(s); fourth, to any loss and expense payments by an excess carrier on behalf of the Insured; fifth, to any loss and expense payments by any primary carrier on behalf of the Insured; and last, to repayment of the Insured's deductible.

IV. Action Against the Company: No action shall lie against the Company unless, as a condition precedent thereto, the Insured shall have fully complied with all the terms of this policy, nor until the amount of the Insured's obligation to pay shall have been fully and finally determined either by judgment against the Insured after actual trial or by written agreement of the Insured, the Claimant and the Company.

Nothing contained in this policy shall give any person or organization the right to join the Company as a co-defendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured or of the Insured's estate shall not relieve the Company of any of its obligations hereunder.

V. False or Fraudulent Claims: If any Insured shall commit fraud in proffering any claim as regards

amount or otherwise, this insurance shall become void as to such Insured from the date such fraudulent claim is proffered.

Section G — Conditions

I. Application: By acceptance of this policy, the Insured agrees that the statements in the application are personal representations, that they shall be deemed material and that this policy is issued in reliance upon the truth of such representations and that this policy embodies all agreements existing between the Insured and the Company, or any of its agents, relating to this insurance.

II. Other Insurance: Subject to the limitation of coverage as set forth in Section B COVERAGE I. (b) for prior insurance, and Section B COVERAGE V. for insurance procured subsequent to termination of practice, this insurance shall be in excess of the amount of the applicable deductible of this policy and any other valid and collectible insurance available to the Insured whether such other insurance is stated to be primary, pro rata, contributory, excess, contingent or otherwise, unless such other insurance is written only as a specific excess insurance over the limits of liability provided in the policy.

III. Changes: Notice to any agent or knowledge possessed by any agent or other person acting on behalf of the Company shall not affect a waiver or a change in any part of this policy or estop the Company from asserting any right under the terms of the policy, nor shall the terms of the policy be waived or changed, except by written endorsement issued to form a part of this policy.

IV. Assignment: Assignment of interest under this policy shall not bind the Company unless its consent is endorsed in writing hereon.

V. Cancellations: This policy may be cancelled by the Named Insured by surrender thereof to the

Company or by mailing to the Company written notice stating when thereafter such cancellation shall be effective. If cancelled by the Insured, the Company shall retain the customary short rate proportion of the premium.

This policy may be cancelled by the Company by mailing to the Named Insured in the Declarations written notice stating when, not less than thirty (30) days thereafter, such cancellation shall be effective. Such notice shall be conclusive on all Named Insureds.

However, if the Company cancels the policy because the Insured has failed to pay a premium or deductible when due, this policy may be cancelled by the Company by mailing a written notice of cancellation to the Insured stating when not less than ten (10) days thereafter such cancellation shall be effective. The mailing of notice as aforementioned shall be sufficient notice and the effective date of cancellation stated in any notices shall become the end of the policy period. Delivery of such written notice by the Named Insured or the Company shall be the equivalent to mailing.

If cancelled by the Company, earned premium shall be computed pro rata. Premium adjustment may be made at the time cancellation is effected or as soon as practicable thereafter.

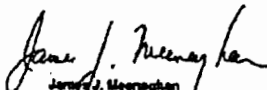
Definitions-Reference

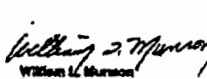
Certain words are specifically defined for the policy and the definitions are to be found in the sections set forth below:

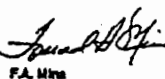
(a) Claim, damages, policy period — see Section B COVERAGE I.


(b) Claim expenses — see Section E LIMITS OF LIABILITY V.

IN WITNESS WHEREOF, the Company has caused this policy to be executed and attested, but this policy shall not be valid unless countersigned by a duly authorized representative of the Company.


James J. Moenaghan
President
THE HOME INSURANCE COMPANY
OF WISCONSIN


William L. Murson
President
THE HOME INDEMNITY COMPANY


F.A. Mize
President
CITY INSURANCE COMPANY


Arthur Phillips
President
THE HOME INSURANCE COMPANY
OF INDIANA
THE HOME INSURANCE COMPANY
OF ILLINOIS


Roy M. Meek
Corporate Secretary
THE HOME INSURANCE COMPANY
THE HOME INDEMNITY COMPANY
CITY INSURANCE COMPANY
THE HOME INSURANCE COMPANY
OF INDIANA
THE HOME INSURANCE COMPANY
OF ILLINOIS
THE HOME INSURANCE COMPANY
OF WISCONSIN

**Nuclear Energy Liability
Exclusion Endorsement (BROAD FORM)**

This endorsement modifies the provisions of this policy.

It is agreed that:

I. This policy does not apply:

(A) Under any Liability Coverage, to bodily injury or property damage

1) with respect to which an Insured under this Policy is also an Insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an Insured under any such policy but for its termination upon exhaustion of its limit of liability; or

2) resulting from the hazardous properties of nuclear material and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or (b) the Insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.

(B) Under any Medical Payments Coverage, or any Supplementary Payments provision relating to first aid, to expenses incurred with respect to bodily injury resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organization.

(C) Under any Liability Coverage, to bodily injury or property damage resulting from the hazardous properties of nuclear material, if

1) the nuclear material (a) is at any nuclear facility owned by, or operated by or on behalf of an Insured or (b) has been discharged or dispersed therefrom;

2) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an Insured; or

3) the bodily injury or property damage arises out of the furnishing by an Insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if

such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to property damage to such nuclear facility and any property thereat.

II. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties;

"nuclear material" means source material, special nuclear material or by-product material;

"source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor;

"waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organization of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof;

"nuclear facility" means

(a) any nuclear reactor,

(b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,

(c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the Insured at the premises where such equipment or device is located consists of or contains more than twenty-five (25) grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,

(d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"property damage" includes all forms of radioactive contamination of property.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HARRY L. BOWLES

Plaintiff,

VS.

HOME INSURANCE COMPANY
IN LIQUIDATION (NY); AND TEXAS
PROPERTY & CASUALTY INSURANCE
GUARANTY ASSOCIATION

Defendants.

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§
§
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§

CIVIL ACTION NO. 1:07CV740

AFFIDAVIT OF RONALD F. BARTA

STATE OF NEW YORK §
 §
COUNTY OF NEW YORK §

BEFORE ME, the undersigned authority, on this date personally appeared RONALD F. BARTA, personally known to me, who, being by me first duly sworn upon his oath, deposed and stated the following:

1. My name is RONALD F. BARTA. I am a Senior Manager for The Home Insurance Company in Liquidation (improperly named as Home Insurance Company in Liquidation (NY)) ("HICIL"). I am over the age of eighteen (18) years, have never been convicted of a felony, and am fully competent to make this affidavit.

2. On June 11, 2003, The Home Insurance Company ("Home") was declared insolvent and an Order of Liquidation was entered by the Superior Court for the State of New Hampshire,

EXHIBIT C

Merrimack County, said order having been vacated and superseded by Order of Liquidation dated June 13, 2003.

3. Home is a New Hampshire corporation with its statutory offices in Manchester, New Hampshire and its principal office in New York. Home is a New Hampshire insurance company subject to regulation by the New Hampshire Insurance Department.

4. In my capacity as Senior Manager for HICIL, I have responsibility for the files relating to the Professional Liability Insurance Policy issued by Home to Bishop Peterson & Sharp, P.C. (the "Insured Law Firm") effective January 24, 1992 to January 24, 1994, Policy No. LPL-F871578 ("Professional Liability Policy"). Additionally, in my capacity as Senior Manager for HICIL, I have responsibility for the files relating to the lawsuit filed against HICIL by Harry L. Bowles ("Bowles"). Included within the scope of the files for which I was and am responsible, are all materials relating to the claims of Bowles in the above-entitled and numbered cause. All the statements herein are within my personal knowledge, are derived from the file records of Home and/or HICIL and my review thereof, and are all true and correct.

5. I am one of the custodians of the claim file records of HICIL. Attached hereto are 7 pages of records from HICIL. These said 7 pages of records are kept by HICIL in the regular course of business, and it was the regular course of business of HICIL for an employee or representative of HICIL, with knowledge of the act, event, condition, opinion, or diagnosis, recorded to make the record or to transmit information thereof to be included in such record; and the record was made at or near the time or reasonably soon thereafter. The records attached hereto are the original or exact duplicates of the original.

6. Home issued a Professional Liability Policy to the Insured Law Firm. The Professional Liability Policy is a claims made and reported policy. Under the Professional Liability Policy, a "claim" was defined as a "demand received by the insured for money or services, including the service of a suit..." (Professional Liability Policy, Sec. B).

7. Prior to the expiration of the Professional Liability Policy reporting period, Bowles forwarded letters to the Insured Law Firm expressing dissatisfaction with its work and demanding fee reductions.

8. The Insured Law Firm then notified Home regarding same within the policy period set forth above.

9. For purposes of the Professional Liability Policy and pursuant to its Discovery Clause, a claim was timely reported alleging acts or omissions that potentially invoked coverage under the Professional Liability Policy. Since the Professional Liability Policy is a third-party liability policy providing the Insured Law Firm with defense and indemnity benefits where coverage is otherwise afforded, this was all that was necessary to potentially invoke coverage under the policy at issue.

10. Although a lawsuit was not filed by Bowles against the Insured Law Firm until August of 1995, potential coverage had been invoked by notice of the claim and Home undertook to provide a defense subject to any reservation of rights raised by the pleadings.

11. Even if a defense had not been owed, which Home believed it was, Home was within its rights to afford same even if voluntarily.

12. Home was designated as an impaired insurer by the Texas Commissioner of Insurance on June 26, 2003, by Official Order in Case No. 03-0532.

13. Pursuant to the provisions of Subchapter G of the Texas Property and Casualty Insurance Guaranty Act (the "Act"), Home forwarded its entire claim file to the Guaranty Association because the pending lawsuit potentially constituted a covered claim under the Act.

14. Pursuant to the Act, the Guaranty Association undertook to discharge its statutory obligation to defend the Insured Law Firm.

15. Having forwarded the claim file to the Guaranty Association as it was required to do under the Act, Home has had no further direct involvement with the lawsuit by Bowles against the Insured Law Firm.

16. By virtue of paragraph (n) of the Order of Liquidation, "all persons are hereby permanently enjoined and restrained from...any act to collect, assess, or recover a claim against The Home, other than the filing of a proof of claim with the Liquidator...."

17. On or about August 13, 2003, Bowles filed a Proof of Claim form as a third-party claimant against a purported insured of Home. A true and correct copy of the Proof of Claim is attached hereto as Exhibit 1. The Proof of Claim alleged that Home's purported insured was an entity named Houston Real Estate a/k/a ETS Interests. Bowles alleged that he was a tenant of the policy holder and was shot on the policy holder's property.

18. On October 5, 2006, Bowles sent a letter to Thomas Kober with HICIL requesting an update on his Proof of Claim filed in 2003. A true and correct copy of the October 5, 2006 letter is attached hereto as Exhibit 2 and incorporated herein by reference.

19. On October 11, 2006, I sent a letter to Mr. Farmer, counsel for Plaintiff. Mr. Farmer was provided with a copy of the Order of Liquidation and advised that Bowles was enjoined from commencing or continuing any litigation against Home and if Bowles wished to make a claim

against Home, he would need to file a Proof of Claim. A true and correct copy of the October 11, 2006 letter is attached hereto as Exhibit 3 and incorporated herein by reference.

20. On October 16, 2006, I sent another letter to Mr. Farmer responding to Bowles's October 5, 2006 letter to Mr. Kober. A true and correct copy of the October 16, 2006 letter is attached hereto as Exhibit 4 and incorporated herein by reference. Mr. Farmer was advised that since Home had ceased writing liability policies in 1995 and there was no information that suggested that the entity identified in the Proof of Claim was an insured under a Home policy, HICIL was recommending to the Liquidator that the Proof of Claim be disallowed.

21. Bowles has never filed a Proof of Claim with respect to the Professional Liability Policy and the Insured Law Firm, although that is the only remedy available under the Order of Liquidation.

FURTHER, AFFIANT SAYETH NOT.



RONALD F. BARTA

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned authority, on this

15th day of November, 2007.



Notary Public, State of New York

My Commission Expires:

4-30-2011

THOMAS W. KOBER
Notary Public, State of New York
No. 43-4642498
Qualified in Richmond County
Commission Expires April 30, 2011

AFFIDAVIT

THE STATE OF TEXAS §
 §
 §
COUNTY OF TRAVIS §

BEFORE ME, the undersigned authority, a Notary Public in and for the aforesaid jurisdiction, on this day personally appeared Amber A. Walker, known to me to be the person whose name is subscribed hereto, and who, being by me first duly sworn, on her oath deposes and says:

My name is Amber A. Walker. I am a licensed attorney in the State of Texas and am employed as a Senior Claims Attorney for the Texas Property and Casualty Insurance Guaranty Association ("TPCIGA"). I am over the age of twenty-one (21), have never been convicted of a felony or crime of moral turpitude, and am fully competent to testify. Except as otherwise specifically set forth herein, I have personal knowledge of the facts stated herein. All such facts are true and correct.

In my capacity as a Senior Claims Attorney for TPCIGA, I am well acquainted with Tex. Ins. Code art. 21.28-C (the "Guaranty Act") and the Guaranty Association. Moreover, I am familiar with the nature and history of Plaintiff's claim against Bishop, Peterson & Sharp, P.C.

Home Insurance Company ("Home") issued a legal liability policy to the law firm of Bishop, Peterson & Sharp, P.C. At some point after Mr. Bowles asserted his claim against Bishop, Peterson & Sharp, P.C. and related insureds, the insureds demanded a defense and indemnity from Home in accordance with the terms and conditions of the Home policy.

A New Hampshire court placed Home in liquidation on June 13, 2003. Thereafter, the Texas Commissioner of Insurance designated The Home Insurance Company an "impaired insurer" on June 26, 2003. In accordance with the provisions of Tex. Ins. Code Ann. art. 21.28-C, TPCIGA handles certain claims by and against insureds of impaired insurers.

Shortly after insolvency and the subsequent impairment, the Liquidator of Home Insurance Company forwarded this claim to TPCIGA for review as a possible "covered claim," as that term is defined in the Guaranty Act. The claim was assigned to claims examiner Barbara Marsh for handling. Ms. Marsh first reviewed the claim for TPCIGA on or about July 29, 2003. I first reviewed the claim for possible coverage issues on or about October 14, 2004. Because our investigation indicated that this claim might present a "covered claim," TPCIGA undertook to handle this claim on behalf of the now-dissolved insured law firm,

D-1

while expressly reserving its rights to assert and rely upon any policy provisions or terms in the Guaranty Act that might limit coverage.

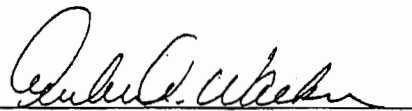
Prior to its insolvency, the Home Insurance Company had an agreement with George M. Bishop, a former partner of Bishop, Peterson & Sharp, P.C., that he would represent the named insured and related insureds in *Bowles v. George M. Bishop, et al.* until the amount of the policy deductible had been met. Once the insured's deductible had been met, TPCIGA secured the services of counsel in the Houston area to assume the defense of Bishop, Peterson & Sharp, P.C. Accordingly, TPCIGA retained the firm of Marshall & McCracken, P.C. to represent the named insured in this litigation.

By letter of August 11, 2006, I advised attorney James D. Farmer, counsel of record for Harry Bowles in the above-styled suit, that TPCIGA had been aware of Mr. Bowles' claim since shortly after the Home Insurance Company's demise and that it had retained Marshall & McCracken, P.C. to defend the Bishop, Peterson & Sharp, P.C. In that same letter, I also attempted to correct and explain a variety of other misstatements and/or misunderstandings apparent in correspondence received from Mr. Farmer, Mr. Bowles' attorney. A copy of that four-page letter is attached hereto as Exhibit "A."

Furthermore, any suggestion by Plaintiff that he was denied the opportunity to file a proof of claim is incorrect (see Exhibit E to Motion to Show Authority). A representative of Home Insurance Company, in liquidation, advised me on September 1, 2006 that the Liquidator sent Mr. Bowles notice of his right to file a proof of claim with the liquidation estate. Indeed, Mr. Bowles filed a proof of claim with the estate, although it referenced a shooting incident that was apparently unrelated to The Home Insurance Company and Bishop, Peterson & Sharp, P.C. Please note that a claim against the assets of the liquidation estate and a "covered claim" under the Guaranty Act are separate and distinct claims against separate entities.

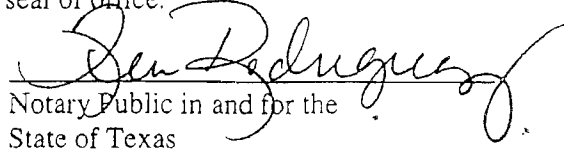
Like most liability policies, the Home policy provided that Home Insurance Company had the right and duty to defend claims that fell within the coverage of the policy. Section 8(b) of the Guaranty Act provides that TPCIGA "shall undertake to discharge the policy obligations of the impaired insurer, including the duty to defend insureds under a liability policy, to the extent that the policy obligations are covered claims under the Act." Accordingly, pursuant to the terms and conditions of the policy and the Guaranty Act, Marshall & McCracken, P.C. has complete and full authority to represent Defendant Bishop, Peterson & Sharp, P.C. in the above-captioned lawsuit.

Further affiant sayeth not.



Amber A. Walker

SUBSCRIBED and SWORN TO, before me, on this the 7th day of September, 2006, to certify which witness my hand and seal of office.


Notary Public in and for the
State of Texas

My Commission Expires:



TR-41

NO. 91-025939

HARRY L. BOWLES, and	§	IN THE DISTRICT COURT OF
QUALITY SEAL COMPANY, a Texas	§	
Corporation,	§	
	§	
Plaintiffs,	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
CHARLES N. SCHWARZ, JR.,	§	
ROSALIE SCHWARZ, AND	§	
JOANN LANE	§	
	§	
Defendants.	§	334TH JUDICIAL DISTRICT

CLERK OF DISTRICT COURT
 HARRIS COUNTY, TEXAS
 OCT 25 1993
 334TH JUDICIAL DISTRICT

**BISHOP PETERSON & SHARP, P.C.'S RESPONSE
TO MOTION FOR SUMMARY JUDGMENT**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Bishop Peterson & Sharp, P.C., Intervenor, (hereinafter referred to as "BPS"), the owner of an undivided forty percent (40%) interest in the funds due from Charles N. Schwarz, Jr. (hereinafter referred to as "Schwarz"), pursuant to the Settlement Agreement dictated in open court in this cause on October 23, 1993, and the written Settlement Agreement signed October 25, 1993, and filed November 1, 1993, requiring payment by Schwarz of fifty percent (50%) of all legal fees and expenses incurred by Keck, Mahin & Cate through 3:30 p.m. on October 25, 1993, less \$22,000.00, and further requiring that such payment be made jointly to Plaintiff Harry L. Bowles and his attorney, George M. Bishop. BPS has intervened in this case and has an undivided forty percent (40%) interest in these funds as a result of the Order Granting the Summary Judgment of BPS dated July 18, 1994, and the Order Severing that cause of action, signed April 10, 1995.

BPS files this as its Response to the Motion for Summary Judgment of Defendants Charles N. Schwarz, Jr., Rosalie Schwarz, and JoAnn Lane.

I.

BPS would show that the Settlement Agreement dictated into the record in this cause required the Receiver Joe Reynolds, appointed by the Court, to sell the property owned by National Parts System, Inc. (hereinafter referred to as "NPS"), or its stock to the highest bidder for cash at the earliest possible date. The Defendant Schwarz had the right to match the best offer for either the assets of NPS or the stock of that corporation. The property was not sold to the highest bidder for cash and the so-called matching offer of Schwarz did not in fact match the best offer of Randy Pennington since it allowed Schwarz to retain control of the company from the time his offer was made matching the offer of Randy Pennington and obtain the profits from the operations of the company, without having to pay for the company since the Receiver delayed in closing the transaction until after April 10, 1995. Schwarz was allowed to purchase the real estate owned by NPS for \$250,000.00, even though the Receiver had hired an appraiser who determined that the reasonable market value of the property was \$310,000.00. The issue of whether that sale was reasonable has not yet been decided by this or any other Court.

II.

The Receiver allowed an amendment of the Sales Agreement to lower the purchase price for NPS for an amount less than the bid

of Randy Pennington, allegedly on the condition that the Defendant Schwarz would assume the liabilities of a lawsuit which he would have to assume anyway as owner of NPS. There was no determination that the lawsuit would, in fact, result in a favorable judgment for the person seeking recovery against NPS or the amount of that recovery. The issue of whether the sale was equal to the best offer of Randy Pennington has not yet been decided and remains a disputed fact in this case.

III.

The Settlement Agreement signed by Plaintiff Bowles and the Schwarz parties, including those seeking summary judgment here, required the following to occur at the closing of the sale:

1. A Judgment of Dismissal would be entered in this case;
2. A Joint Mutual Release would be executed and filed in this cause;
3. If a claim for breach of the Settlement Agreement occurred, the "ultimate winner" would recover for breach of settlement;
4. At the time of the closing, Harry Bowles, will sign a Motion to Dismiss with Prejudice those claims presently pending of Harry Bowles against Charles N. Schwarz, Jr.;
5. At the closing, Charles N. Schwarz, Jr. would pay the difference between 50% of the fees charged to NPS by Keck, Mahin & Cate, less \$22,000.00;
6. All money in the Registry of the Court would be distributed to Harry L. Bowles upon entry of a Judgment;

7. The parties would split the proceeds placed in the registry of the Court for a bond in the amount of \$10,000.00;
8. No fees would be paid out of NPS to any attorney; and
9. Each party would bear their own costs.

These conditions have not fully occurred, particularly conditions 1, 3, 5, 6, 7, 8 and 9. Prior to the sale, the Plaintiff Harry L. Bowles, notified all parties concerned that he was withdrawing his agreement to the settlement, as he was authorized to do by the Supreme Court cases of Quintero v. Jim Walter Homes, Inc., 654 S.W.2d 442 (Tex. 1983) and S&A Restaurant Corp. d/b/a Steak & Ale Restaurant v. Leal, No. 94-0844, (2/16/95). BPS would show that they have previously requested of Grant Cook, attorney for Schwarz, to pay the funds required by the Settlement Agreement, but Mr. Cook and his client have failed and refused to pay such funds. True and correct copies of requests for payment of such funds are attached as Exhibits A - C. The attached affidavit of George M. Bishop, President of Bishop Peterson & Sharp, P.C., disputes that \$18,000.00 charged by Mr. Cook was reasonable and/or necessary. BPS would show that none of the \$18,000.00 was spent enforcing the Settlement Agreement, as the actions of Mr. Bowles were taken to either discharge or disqualify the Receiver when he failed and refused to close the sale to the highest bidder and delayed in closing the sale while Schwarz received the profits from NPS without having to pay any amount of money for the one-half interest in that corporation that he did not already own, and the

sale was delayed so as to allow Schwarz to maximize his profits from that sale.

IV.

The accounts receivable and inventory of NPS was manipulated by Schwarz and by the Receiver's counsel, Brent Baker, to reduce the value of the accounts receivable and the inventory so that the offer of Randy Pennington was not met by Schwarz since he was not required to pay fair consideration for either the accounts receivable or the inventory as that inventory and accounts receivable had been listed on the books of NPS prior to the sale. A fact issue exists as to whether the reduction in value of the accounts receivable and inventory was reasonable.

V.

There are numerous fact questions involved in this case and chief among them is whether or not Charles N. Schwarz, Jr. has "become the ultimate winner" and has, in fact, recovered for breach of the Settlement Agreement. Schwarz has not sued Harry L. Bowles for breach of the Settlement Agreement, has not proven himself to be the "ultimate winner" as required in the Settlement Agreement which was disavowed by Plaintiff Harry L. Bowles, and there is a substantial fact issue concerning whether or not the \$18,000.00 in attorney's fees sought to be deducted from the money due to Harry L. Bowles and Bishop Peterson & Sharp, P.C. is, in fact, reasonable or necessary. No suit has been filed by the Schwarz parties to enforce the Settlement Agreement.

VI.

This court has before it the case in which the Settlement Agreement has been nullified by the Plaintiff Harry L. Bowles, there are numerous fact issues involved in this case, and Bishop Peterson & Sharp, P.C., the owner of an undivided forty percent interest in the funds which Schwarz refuses to pay to Harry L. Bowles and George M. Bishop as required by the Settlement Agreement would request that this Court set this case for trial and upon trial, after verdict by a jury, render a judgment in accordance with that verdict.

WHEREFORE, PREMISES CONSIDERED, Bishop Peterson & Sharp, P.C. prays that the Court deny the Motion for Summary Judgment of Charles N. Schwarz, Jr., Rosalie Schwarz, and JoAnn Lane, and set this matter for trial at the earliest possible date so that all issues involved in this case may be resolved before a Judge and jury.

Respectfully submitted,

GEORGE M. BISHOP & ASSOCIATES



George M. Bishop
State Bar No. 02353000
3000 Smith
Houston, Texas 77006
Telephone: (713) 521-9797
Telecopier: (713) 521-3125

Attorney for
Bishop Peterson & Sharp, P.C.

CERTIFICATE OF SERVICE

I hereby certify that on this the 25th day of _____, 1995, a true and correct copy of the foregoing was forwarded by U.S. Mail and fax (951-0987) to Mr. Grant Cook, Keck Mahin & Cate, 1021 Main Street, Suite 2800, Houston, Texas 77002-6606.

George M. Bishop
George M. Bishop

NO. 91-025939

HARRY L. BOWLES, and	§	IN THE DISTRICT COURT OF
QUALITY SEAL COMPANY, a Texas	§	
Corporation,	§	
	§	
Plaintiffs,	§	
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
CHARLES N. SCHWARZ, JR.,	§	
ROSALIE SCHWARZ, AND	§	
JOANN LANE	§	
	§	
Defendants.	§	334TH JUDICIAL DISTRICT

AFFIDAVIT OF GEORGE M. BISHOP

STATE OF TEXAS	§
	§
COUNTY OF HARRIS	§

BEFORE ME, the undersigned authority, on this day personally appeared George M. Bishop, 3000 Smith Street, Houston, Texas 77006, who first being duly sworn, on his oath deposed and stated the following:

1. My name is George M. Bishop. I am over 18 years of age and have never been convicted of a felony or misdemeanor in this or any other State.
2. I am President of Bishop Peterson & Sharp, P.C., a Texas corporation. Bishop Peterson & Sharp, P.C. has a Final Judgment in Cause No. 91-025939-A determining that it has a forty percent (40%) interest in any funds due to Harry L. Bowles from this case, less expenses of the Receivership.
3. I sent the letters marked and attached hereto as Exhibit A, B, and C to Grant Cook requesting payment of the funds due from

his client Charles N. Schwarz, Jr. on the dates stated on the letters. The attached letters are true and correct copies of the originals mailed to Grant Cook with correct address and postage affixed to the envelopes. After acknowledging receipt of the third letter, Mr. Cook advised me that his client would not pay the funds due pursuant to the Settlement Agreement, but would accept service of a lawsuit filed by Bishop Peterson & Sharp, P.C. for breach of the Settlement Agreement and then request that such claim be transferred to the 334th District Court.

4. I have reviewed the Affidavit of Grant Cook and would state under oath that none of the \$18,000.00 being sought by Mr. Cook were reasonable or necessary to enforce the Settlement Agreement, as neither Mr. Schwarz, nor NPS, has filed any action to enforce the Settlement Agreement dictated to the Court Reporter on October 23, 1993, or signed on October 25, 1993, and Mr. Schwarz himself has refused to comply with the Settlement Agreement.
5. I have been licensed to practice law in this State since 1966. I am Board Certified by the Texas Board of Legal Specialization in Civil Trial Law and Civil Appellate Law, and am familiar with this case, as well as with the attorney's fees charged in this case. I made numerous attempts to close the sale before Mr. Bowles withdrew his approval of the Settlement. The sale was not closed despite my numerous requests, nor were the funds due to be paid by Mr. Schwarz

paid before Mr. Bowles canceled his approval of the Settlement.

6. I am familiar with attorney's fees normally charged by attorneys in cases of this type and do not believe that \$18,000.00 is reasonable for seeking to enforce the Settlement Agreement since no suit was ever filed to enforce the Settlement Agreement and no person has been determined the "ultimate winner" of any dispute regarding the Settlement Agreement as required by the provisions of the written Settlement Agreement.

Further Affiant Sayeth Not.

George M. Bishop
George M. Bishop

On this 25 day of May, 1995, came on a person known to me as George M. Bishop and stated to me upon his oath that the above statements in the Affidavit and in the Response to the Motion for Summary Judgment were true and correct, that he had personal knowledge of same, and that Exhibits A, B, and C attached to his Response to Motion for Summary Judgment were true and correct copies of the originals.

Sworn to and subscribed before me on this 25 of May, 1995.

Terrri F. Raybourn
NOTARY PUBLIC IN AND FOR THE STATE OF TEXAS

My commission expires:

12-10-98



THE HOME
INSURANCE
COMPANY IN
LIQUIDATION



59 Maiden Lane
New York, New York 10038

Ronald F. Barta
Senior Manager
Telephone: 212-530-4054
Fax: 212-299-3772
ron.barta@homeinsco.com

October 11, 2006

James D. Farmer, Esq.
Attorney at Law
P. O. Box 19798
Houston, TX 77224

Re: Harry L. Bowles v. George M. Bishop et al.
District Court, Harris County, Texas # 1995-43235

Dear Mr. Farmer:

We recently received from your office copies of various filings you and/or your client have made in the above entitled action.

This will confirm that The Home Insurance Company ("Home") is not now and never has been a party to the above referenced action and, accordingly, will not be responding to said filings.

Be advised that pursuant to an Order of Liquidation, entered by the Merrimack County, New Hampshire Superior Court, Docket No.03-E-0106 June 11, 2003 (revised by Order dated June 13, 2003) (*copy attached*), all persons are permanently enjoined and restrained from commencing or continuing any litigation against Home. If your client wishes to make a claim in the Home liquidation proceeding he should file a Proof of Claim with Home's Liquidator. Proof of Claim forms and instructions for filing can be found on the website, www.hicilclerk.org.

Also, please be advised that I recently received a call from your client together with Ray Ditmar who identified himself as a paralegal in your office. Inasmuch as you are representing Mr. Bowles, we assume that you would prefer to speak for

EXHIBIT F

F-1

THE HOME
INSURANCE
COMPANY IN
LIQUIDATION



your client, hence, we will anticipate that any further communications regarding this matter will be with your office directly.

Sincerely,

A handwritten signature in cursive script that reads "R. Barta".

Ronald F. Barta