

EDWARDS ANGELL PALMER & DODGE LLP

111 Huntington Avenue Boston, MA 02199 617.239.0100 fax 617.227.4420 eapdlaw.com

Joshua W. Gardner

617.951.2259

fax 888.325.9417

jgardner@eapdlaw.com

February 4, 2008

VIA FEDEX AND EMAIL

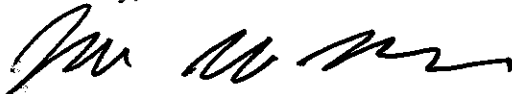
Office of the Liquidation Clerk
286 Commercial Street, 3d Floor
Manchester, NH 03105-1210
help@hicilclerk.org

Re:	In Re Liquidator Number:	2007-HICIL-32
	Proof of Claim Number:	INTL 278090
	Claimant Name:	Unione Italiana (UK) Reinsurance Company Limited
	Claimant Number:	Class V
	Insured or Reinsured Name:	Unione
	Date of Loss:	7/18/88

Dear Disputed Claims Clerk:

Enclosed please find Claimant Unione Italiana (UK) Reinsurance Company Limited's Position Statement Regarding Finality of the Liquidator's Allowance of Nod 15 and the Re-Determination of Nod 16 (The Preliminary Point Set Out in the Claimant's Written Submission Dated 9 January 2008) for filing.

Sincerely,



Joshua W. Gardner

Enclosures

cc: J. David Leslie, Esq. (via mail)
Eric A. Smith, Esq. (via mail)
Lisa Snow Wade, Esq. (via mail)
Gary S. Lee, Esq. (via mail)

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

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

DISPUTED CLAIMS DOCKET

In Re Liquidator Number: 2007-HICIL-32
Proof of Claim Number: INTL 278090
**Claimant Name: Unione Italiana (UK) Reinsurance
Company Limited**
Policyholder Account: Unione

**CLAIMANT UNIONE ITALIANA (UK) REINSURANCE COMPANY LIMITED'S
POSITION STATEMENT REGARDING FINALITY OF THE LIQUIDATOR'S
ALLOWANCE OF NOD 15 AND THE RE-DETERMINATION OF NOD 16 (THE
PRELIMINARY POINT SET OUT IN THE CLAIMANT'S WRITTEN SUBMISSION
DATED 9 JANUARY 2008)**

Pursuant to the Order of the Court-Appointed Referee ("Referee"), made at the January 25, 2008 Structuring Conference, Claimant Unione Italiana (UK) Reinsurance Company Limited ("Unione Italiana") respectfully submits this Position Statement. Unione Italiana respectfully requests that the Referee issue an Order that the Liquidator for The Home Insurance Company in Liquidation ("The Home") has no authority under New Hampshire law, the Claims Protocol or the Restated Claims Procedures Order dated January 19, 2005 (the "Restated Order") to alter the amount of the claim submitted by Unione Italiana for \$556,758 that the Liquidator previously allowed in full, and for which it issued Notice of Determination ("NOD") #15 that was subsequently approved by the Liquidation Court, by attempting to "offset" amounts against separate subsequent claims, including Unione Italiana's claim for \$216,429 submitted in connection with NOD #16. The January 11, 2008 Written Submission of Unione Italiana, with annexed exhibits, is incorporated herein by reference.

RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

The Home reinsured Unione Italiana pursuant to a contract covering a specific insurance account. In connection with certain losses sustained by Unione Italiana under that account, Unione Italiana submitted to ACE (CIC), the entity with responsibility for claims management for The Home, a claim for reinsurance in the amount of \$556,758. On December 21, 2006, the Liquidator issued NOD #15 and agreed to pay Unione Italiana \$556,758; the entire amount of the claim. Thus, there was no need for Unione Italiana to file a request for review, and the Liquidation Court approved NOD #15 in March 2007.

Six months later, the Liquidator for The Home issued NOD #16, notifying Unione Italiana that it was "offsetting" \$236,740 (part of the \$556,758 in NOD #15) from an entirely different claim for reinsurance made by Unione Italiana in the amount of \$216,429 submitted in connection with NOD #16. The Liquidator did not and does not take issue with the amount of the separate and subsequent claim for reinsurance in the amount of \$216,429 that Unione Italiana submitted in connection with NOD #16. Rather, the purported basis for the Liquidator's "offset" is the Liquidator's belief that he should not have agreed to pay Unione Italiana's claim for reinsurance in the amount of \$556,758, despite having reviewed the claim and having issued NOD #15 (with the express approval of ACE) that the Liquidation Court approved.

ARGUMENT

A. The Liquidator Has No Right To Disturb a NOD Approved by the Liquidation Court.

The Liquidator has no authority under New Hampshire law, the Claims Protocol or the Restated Order to alter the amount of the claim for reinsurance submitted by Unione Italiana in the amount of \$556,758 that the Liquidator previously allowed in full, and for which it issued NOD #15 that was subsequently approved by the Liquidation Court, by attempting to "offset" amounts against Unione Italiana's separate and subsequent claim for reinsurance in the amount of \$216,429 submitted in connection with NOD #16.

Pursuant to RSA 402-C:45, the Liquidator is to "review all claims duly filed," and "shall present to the court reports of claims against the insurer with his recommendations," and "the court may approve, disapprove or modify any report on claims by the liquidator." The Restated Order similarly circumscribes the power and authority of the Liquidator in connection with the claims process. The Restated Order, at ¶ 6(b), "Process for Determining Claims," provides that that the Liquidator shall review and investigate claims, and may compound, compromise and/or negotiate claims before determination, or allow the claim, in whole or in part, or disallow it. Thus, the Restated Order also does not provide for any "second-guessing," alteration or appeal by the Liquidator of a claim once he has made a determination that has been approved by the Liquidation Court.

B. Even If The Liquidator Could Somehow Appeal Its Own Determination, The Liquidator Failed To Do So.

Even if the Liquidator were allowed somehow to appeal its own determination after approval by the Liquidation Court, the Liquidator has failed to do so with respect to NOD #15. Thus, the Liquidator is bound by NOD #15.

RSA 402-C:45 and the Restated Order are clear on this point: claim determinations are binding on the parties. Under RSA 402-C:41(I) “written notice of the determination” must be given to the claimant. Id. The claimant then has 60 days to file objections with the Court. However, “If no such filing is made, the claimant may not further object to the determination.” Id.¹ The Restated Order includes a similar provision.²

In this case, NOD #15 was not timely appealed. Accordingly, the Liquidator is bound by NOD #15.

CONCLUSION

For all the foregoing reasons, Unione Italiana requests that the Referee issue an Order that the determinations in NOD #15 are final and that the Liquidator must pay Unione Italiana the full \$556,758 it agreed to pay. In addition, and consequentially, because the Liquidator has not taken issue with any other aspect of NOD #16, if the Referee rules in favor of Unione Italiana on the issue of the finality of NOD #15, Unione Italiana also requests that the Referee issue an Order

¹ “When a claim is denied in whole or in part by the liquidator, written notice of the determination shall be given to the claimant and his attorney by first class mail at the address shown in the proof of claim. Within 60 days from the mailing of the notice, the claimant may file his objections with the court. If no such filing is made, the claimant may not further object to the determination.” RSA 402-C:41(I).

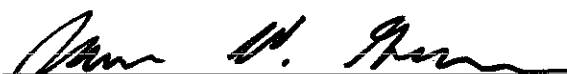
² “When a claim is denied in whole or in part in a Notice of Determination, the Claimant may file an Objection with the Court within (60) days from the mailing of the notice. If a timely Request for Review is filed with the Liquidator under Section 7(a) above then the Claimant shall have sixty (60) days from the mailing of the Notice of Redetermination to file an Objection with the Court. The Claimant shall mail a copy of the Objection to the Liquidator. If no timely objection is filed, the Claimant may not further object to the Determination.” Restated Order, ¶ 8.

that Unione Italiana is entitled to the full \$216,429 it submitted in connection with NOD #16. In short, Unione Italiana requests that the Referee issue an order:

1. (As requested in Unione Italiana's formal Objection to Notice of Re-determination of NOD #16) that the Referee effect (i) a reversal of the Determination that there is an offset due to The Home against Unione Italiana in the sum of \$236,740.60; and (ii) a reinstatement of the original Determination of the claim in the sum of \$236,740.60; and
2. That Unione Italiana is therefore entitled to the full sum of \$773,187 (being the claims submitted which together comprise the sums determined in NOD #15 and NOD #16, namely \$556,758 and \$216,429).

UNIONE ITALIANA (UK)
REINSURANCE COMPANY LIMITED
By its attorneys,

Dated: February 4, 2008


Joshua Gardner (N.H. Bar No. 16170)
Edwards Angell Palmer & Dodge LLP
111 Huntington Avenue
Boston, MA 02199

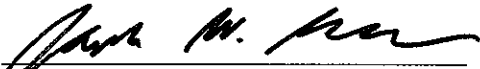
Of Counsel:

Mark Everiss
Edwards Angell Palmer & Dodge UK LLP
One Fetter Lane
London, EC4A 1JB
United Kingdom

Certification

I, Joshua Gardner, hereby certify that on this 4th day of February, 2008, I caused to be served a copy of the foregoing via regular mail, postage prepaid to:

J. David Leslie (dleslie@rackemann.com) Eric A. Smith (esmith@rackemann.com) Rackemann, Sawyer & Brewster P.C. 160 Federal Street Boston, MA 02110-1700	Lisa Snow Wade ORR & RENO, PA One Eagle Square P.O. Box 3550 Concord, NH 03302-3550 Tel: (603) 224-2381 Gary S. Lee Kathleen E. Schaaf James J. DeCristofaro Morrison & Foerster LLP 1290 Avenue of the Americas New York, NY 10104 Tel: (212) 468-8000
--	---



Joshua Gardner