

THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2005-0740

IN THE MATTER OF THE LIQUIDATION OF
THE HOME INSURANCE COMPANY

**MOTION OF REINSURANCE ASSOCIATION OF AMERICA
FOR LEAVE TO FILE REPLY BRIEF AS AMICUS CURIAE**

NOW COMES the Reinsurance Association of America (“RAA”) and moves pursuant to Rule 30 for leave to file the attached amicus curiae brief in support of Appellant ACE Companies’ and Benjamin Moore’s reply to the briefs filed by the Commissioner of Insurance as Liquidator of The Home Insurance Company (“Liquidator”), and those filed by National Conference of Insurance Guaranty Funds (“NCIGF”) and National Association of Insurance Commissioners (“NAIC”). RAA further states:

1. RAA is a non-profit trade association of reinsurers principally engaged in the business of assuming property and casualty reinsurance. Its members are either domestic U.S. companies or the U.S. branches of foreign reinsurers authorized by at least one state. Fifteen of RAA’s members are licensed or authorized in the State of New Hampshire.

2. RAA was previously allowed to file an amicus curiae brief in support of the positions taken by ACE Companies and Benjamin Moore in the first appeal of this matter to this Court (docket no. 2004-0319). It had done so because the ruling in this case will have direct ramifications on the reinsurance agreements of its member companies, and because significant deviations from standard law and practice could disrupt the administration of receiverships and liquidations outside New Hampshire given the interconnected nature of the insurance and reinsurance industries, and commonality of law amongst different jurisdictions.

3. RAA did not seek to file an amicus brief in support of the Appellants' main briefs for two reasons: the issues raised at the final hearing concerning the fairness and reasonableness of the proposed Agreement between the Liquidator and AFIA cedents did not implicate any issues beyond those addressed in RAA's first amicus curiae brief, and because RAA believed that its positions were adequately addressed in that brief including the public policy benefits of having reinsurance, the complex and global reinsurance network that forms the industry backdrop for The Home liquidation, the fact that the Agreement provides an incentive for the AFIA cedents to file improper claims, and the "ends justify the means" approach taken by the Liquidator in circumventing the NH statutory distribution scheme.

4. The Liquidator and NAIC, however, have raised a new issue on appeal not addressed below, in justification for the Liquidator's actions. Namely, they rely on the Insurer Receivership Model Act ("IRMA") adopted by NAIC in December 2005 after the final hearing on the Proposed Agreement. The adoption of this Model Act and its provisions are outside the record, and therefore presumably outside the scope of issues to be addressed by this Court in considering the appeal.

5. In the event this Court does not strike the arguments raised by the Liquidator and NAIC based on the Model Act, RAA requests the opportunity to address them to make it clear to the Court that (a) the Liquidator and the NAIC have misstated the significance and effect of the IRMA provision they cite and omitted critical details regarding the NAIC process; (b) the Liquidator's and NAIC's reading of IRMA is contrary to the current New Hampshire law governing this liquidation; and (c) allowing the Liquidator the power to circumvent the statutory order of priority by classifying claims payments as administrative expenses would negatively

impact the global reinsurance market that has been structured around laws like those in effect in New Hampshire.

6. Counsel for the Liquidator does not concur in the relief requested, although counsel for ACE Companies and Benjamin Moore do concur in the relief requested.

WHEREFORE, the Reinsurance Association of America respectfully requests that the Court:

A. Grant it leave to file an amicus curiae brief replying to the arguments raised by the Liquidator and NAIC in their respective briefs, and in support of Appellants ACE Companies and Benjamin Moore,

B. Accept RAA's amicus curiae brief filed herewith; and

C. Grant such other relief as the Court deems just.

Respectfully submitted,

REINSURANCE ASSOCIATION
OF AMERICA

By its attorneys,

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March 2, 2006

By:



Lisa Snow Wade

Certificate of Service

I, Lisa Snow Wade, Esq., hereby certify that on this 2nd day of March, 2006, I have caused a copy of the foregoing MOTION OF REINSURANCE ASSOCIATION OF AMERICA FOR LEAVE TO FILE REPLY BRIEF AS AMICUS CURIAE to be forwarded by first class US mail to:

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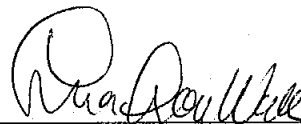
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