

**THE STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS.**

**SUPERIOR COURT**

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

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

**LIQUIDATOR'S MOTION FOR ORDER OF NOTICE  
REGARDING MOTION FOR APPROVAL OF CLAIM AMENDMENT DEADLINE**

John R. Elias, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home"), hereby moves that the Court issue an order of notice in the form submitted herewith providing for notice of the Liquidator's Motion for Approval of Claim Amendment Deadline and setting a deadline for any objection to the motion. As reasons therefor, the Liquidator states as follows:

1. Background. In the Order of Liquidation entered June 13, 2003, the Court declared Home insolvent and appointed the Insurance Commissioner as Liquidator to liquidate the company pursuant to the New Hampshire Insurers Rehabilitation and Liquidation Act, RSA 402-C. The Order of Liquidation established June 13, 2004 as the deadline for the filing of claims.

2. The Court approved notice of the liquidation and the claim filing deadline in its Order Approving Notice entered June 11, 2003. The Order Approving Notice provided for notice by mailings and publication. As described in the Liquidator's First, Second and Third Reports, the Liquidator gave notice of the liquidation and claim filing deadline in 2003 by mail to approximately 334,000 policyholders, reinsureds, tort claimants, vendors and other potential claimants, by email to insurance regulators and insurance guaranty associations, by posting notice on the Home liquidation website, and by publication in 94 newspapers and a trade

publication. See Liquidator's First Report ¶¶ 5, 9 (July 3, 2003); Liquidator's Second Report ¶ 4 (August 11, 2003); Liquidator's Third Report ¶ 4 (September 12, 2003). The Order Approving Notice held that the notice was reasonably calculated to advise potential claimants of the liquidation and claim filing deadline and constituted adequate notice as a matter of law pursuant to RSA 402-C:26. Order Approving Notice, Finding 5.

3. Since 2004, the Liquidator has been investigating and determining claims and presenting claim resolutions to the Court for approval in reports of claims and recommendations and motions for approval of settlements. As described in the Liquidator's Seventy-Third Report, 19,695 proofs of claim have been finally determined by approval of a Liquidator's report of claims and recommendations or approval of a settlement. Liquidator's Seventy-Third Report ¶ 5 & n. 2. There are 1,090 open proofs of claim now pending in the Home liquidation, as well as 304 proofs of claim determined only as to priority. *Id.* ¶ 5 & n. 4.<sup>1</sup>

4. The motion for approval of claim amendment deadline. The Liquidator has concluded that to move this proceeding to closure and protect the interests of the creditors with allowed Class II claims it is now necessary to establish a deadline by which claimants with open proofs of claim must finally amend their claims. The Liquidator has accordingly filed the Motion for Approval of Claim Amendment Deadline seeking to establish a deadline for the amendment of claims. As described in that motion, claims filed after the claim amendment deadline and potential claims (claims that cannot be specifically identified by the deadline) will be barred if the Motion for Approval of Claim Amendment Deadline is granted. That motion has been served on the service list concurrently with this motion for order of notice and is being posted to the Home Liquidation Clerk website, [www.hicilclerk.org](http://www.hicilclerk.org).

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<sup>1</sup> This does not include proofs of claim where the determination provided that the claimant could submit further claims. Such claimants will receive notice of the Motion for Approval of Claim Amendment Deadline as set forth in paragraph 5(v) of this motion.

5. The proposed order of notice. The Liquidator requests that the Court issue an order of notice concerning the Motion for Approval of Claim Amendment Deadline in the form submitted herewith. The requested order of notice (a) sets a deadline of 90 days from the date of the order (or the next business day if the 90th day is a Saturday, Sunday or holiday) for objection to the Motion for Approval of Claim Amendment Deadline, and (b) directs the Liquidator to provide notice of the motion and the deadline for objections within 30 days by mail to all claimants with open proofs of claim at any priority class in the liquidation. For purposes of this notice motion, open proofs of claim means those on which (i) there has been no determination, (ii) there has been only a partial determination or determinations, (iii) there has been a determination that has not yet been approved by the Court, (iv) there has been a determination as to priority but deferral as to amount, or (v) there has been a determination that provided that the claimant could submit further claims.

6. The notices will be mailed to the latest mailing addresses provided to the Liquidator by the claimant. Where a claimant has counsel, the notice will be sent to both claimant and counsel. The form of notice is an exhibit to the proposed order of notice. The mailing will be by first class mail, except that notice to addresses outside the United States will be by air mail, postage prepaid. This motion, the order of notice, and the notice will also be posted on the Home Liquidation Clerk website and emailed to the U.S. Department of Justice.

7. Claimants whose proofs of claim have been finally determined (a) by the Court's approval of a Liquidator's report of claims and recommendations or (b) by the Court's approval of a Liquidator's motion for approval of settlement will not be mailed notice as their proofs of claim have been finally resolved.

8. Notice to persons who have filed proofs of claim that are still open is appropriate and sufficient. The Liquidator already gave the statutorily required notice of the liquidation and the June 13, 2004 claim filing deadline to potential claimants in 2003. That notice was broad, and it is conclusive. See RSA 402-C:26, III (“If notice is given in accordance with this section, the distribution of the assets of the insurer under this chapter shall be conclusive with respect to all claimants, whether or not they received notice.”); Order Approving Notice ¶ 10 (“Notice provided in accordance with this Order shall be deemed to satisfy the requirements of RSA 402-C:26.”). The claim amendment deadline requested by the Liquidator is a means to bring the claim determination process for the remaining open proofs of claim to closure so that a final distribution may be made. While it bars the submission of new proofs of claim as well as further amendment of existing proofs of claim, it is not a general call for claims, which was already made through the notice of the claim filing deadline provided in 2003.

WHEREFORE, the Liquidator requests that the Court:

- A. Issue an Order of Notice in the form submitted herewith directing the Liquidator to provide notice of the Motion for Approval of Claim Filing Deadline to claimants with open proofs of claim and requiring that any objection to that motion be filed with the Court and served on counsel for the Liquidator on or before a date 90 days from the Order of Notice (or, if that day is a Saturday, Sunday or holiday, the next business day); and
- B. Grant such other and further relief as justice may require.

Respectfully submitted,

JOHN R. ELIAS, INSURANCE COMMISSIONER  
OF THE STATE OF NEW HAMPSHIRE,  
SOLELY AS LIQUIDATOR OF THE HOME  
INSURANCE COMPANY,

By his attorneys,

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Dated: July 31, 2019

**Certificate of Service**

I hereby certify that a copy of the foregoing Liquidator's Motion for Order of Notice Regarding Motion for Approval of Claim Amendment Deadline and the proposed order of notice was sent this 31st day of July, 2019 by first class mail, postage prepaid to all persons on the attached service list.



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Eric A. Smith  
NH Bar ID No. 16952

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