

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel \$  
STATE CORPORATION COMMISSION \$

and \$

STEVEN T. FOSTER, \$  
COMMISSIONER OF INSURANCE \$  
Applicants \$

v. \$

CASE NO. INS 940218 \$

HOW INSURANCE COMPANY, \$  
HOME WARRANTY CORP., AND \$  
HOME OWNERS WARRANTY CORP. \$  
Respondents. \$

DIRECTIVE OF DEPUTY RECEIVER IMPOSING  
SUSPENSION AND MORATORIUM

1. Upon commencement of receivership proceedings, Respondents (the "Companies") were directed to suspend the payment of all claims in order to permit the Deputy Receiver's staff to ascertain their financial condition so that such payments would not be made in a manner that would result in improper preferences of creditors. At the same time, the Deputy Receiver's staff has begun an analysis of the prospect for the rehabilitation of the Companies. However, that analysis is not yet complete and may take substantial time to reach a conclusion.

2. It is apparent from information made available to the Deputy Receiver's staff that there are a substantial number of home owners whose houses are covered by the Companies' warranties or insurance contracts and who have presented apparently meritorious claims to the Companies or the Deputy Receiver's staff for the repair of major structural defects that require prompt or immediate attention. Further, it is the conclusion of the Deputy Receiver's

staff that the continued suspension of all payments on claims against the Companies has a substantial probability of undermining any reasonable prospects that may exist for their rehabilitation and may impair the ability of the Deputy Receiver's staff to ascertain whether or not the Companies can be rehabilitated.

3. It is desirable, therefore, and in the best interest of insureds and policyholders of the Companies, that claims payment, even if only in part, resume as soon as possible. However, the total amount estimated as the Companies' liabilities appears to exceed by a substantial amount the total of assets available to meet those liabilities, including losses expected to arise in the future under warranties and contracts already in effect.


4. The Deputy Receiver's staff has concluded that if payment on amounts claimed to be owed for extra contractual obligations, non-economic damages, consequential damages (such items being referred to collectively as "indirect claims"), litigation costs and attorneys' fees remains suspended pending further determination of the Companies' financial condition and prospects for rehabilitation, substantial payment can be made on those portions of the claims presented against the Companies which consist of the reasonable costs of repairing losses which arise out of, are within the coverage of, and are subject to the limits of any applicable warranty or policy of insurance issued by Respondents (referred to as "direct claims").

5. It is the conclusion of the Deputy Receiver that the best interest of insureds, policyholders and creditors would be served

by resuming partial payment for direct claims covered by the Companies' warranties and insurance contracts, suspending until such further determinations referred to above the payment of indirect claims.

THEREFORE, the Deputy Receiver hereby directs that the Companies resume the payment of direct claims covered by the Companies' insurance contracts and warranties, but in no event, shall such payment exceed an amount which the Deputy Receiver's staff reasonably concludes can be paid to all similarly situated claimants without preference, that amount being currently estimated at 40%. The Deputy Receiver further directs that payment remain suspended and that a moratorium be imposed on indirect claims, the same being deferred for payment until such time as payment in full has been made on all approved proper direct claims sustained by homes insured by the Companies to the extent that the Companies' contracts and warranties provide coverage for them.

SIGNED this 29<sup>th</sup> day of November, 1994.

  
Steven T. Foster, Deputy Receiver  
of Home Warranty Corporation, Home  
Owners Warranty Corporation and  
HOW Insurance Company