

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA *ex rel.*
STATE CORPORATION COMMISSION

and

ALFRED W. GROSS,
COMMISSIONER OF INSURANCE,

Applicants,

v.

CASE NO. INS-1994-00218

HOW INSURANCE COMPANY,
HOME WARRANTY CORP., and
HOME OWNERS WARRANTY CORP.,

Respondents.

SIXTH DIRECTIVE OF DEPUTY RECEIVER

1. On November 29, 1994, the Deputy Receiver of HOW Insurance Company, a Risk Retention Group (“HOWIC” or the “Company”), directed that 40% be paid on each Direct Claim, and imposed a suspension and moratorium on the payment of Indirect Claims pursuant to the powers granted by the Circuit Court of the City of Richmond, Virginia, in its Final Order Appointing Receiver for Rehabilitation or Liquidation dated October 14, 1994 (the “Final Order”). In that Directive, Direct Claims were those claims approved by the Deputy Receiver for the reasonable costs of repairing defects which arose out of, and were within the coverage and subject to the limits of, the warranty/insurance documents (the “Warranty/Insurance Documents”) issued by the Company, less any applicable deductible. Indirect Claims were those claims approved by the Deputy Receiver for amounts of extra contractual obligations, non-economic damages, consequential damages, and litigation costs and attorneys’ fees.

2. On January 23, 1996, the Deputy Receiver directed that the amount being paid on Direct Claims be increased from 40% to 50%, and continued the suspension and moratorium on the payment of Indirect Claims.

3. On December 28, 1998, the Deputy Receiver directed that the amount being paid on Direct Claims be increased from 50% to 60%, and that the following Indirect Claims be reclassified as Direct Claims: (i) claims approved by the Deputy Receiver for damages determined to be extra contractual obligations of the Company, as well as claims approved for non-economic damages, consequential damages, litigation costs, or attorneys' fees incurred by a Home Owner (a "Home Owner" being an owner of a home which is covered by a certificate of insurance evidencing the coverages of the Warranty/Insurance Documents) or Member Builder (a "Member Builder" being a member of Home Warranty Corporation and policyholder of the Company) in asserting a claim against the Company before receivership, and (ii) claims approved by the Deputy Receiver for litigation costs, and attorneys' fees incurred by a Member Builder in an action brought against the Member Builder to recover under the Major Structural Defect Insurance Coverage provided by HOWIC. The suspension and moratorium on the payment of all other Indirect Claims, and claims of lesser priority, was continued pending further Orders or Directives.

4. On August 13, 1999, the Deputy Receiver directed that the amount being paid on Direct Claims be increased from 60% to 70%, and continued the suspension and moratorium on the payment of Indirect Claims, and claims of lesser priority, pending further Orders or Directives.

5. On July 16, 1999, the Deputy Receiver approved the payment of 8% per annum simple interest on all deferred direct claim amounts accrued since October 14, 1994, to be paid only after full satisfaction of all other claims of higher priority.

6. On November 14, 2000, the Deputy Receiver directed that the amount being paid on Direct Claims be increased from 70% to 100%, and continued the suspension and moratorium on the payment of Indirect Claims, and claims of lesser priority, pending further Orders or Directives. The Deputy Receiver also directed that payments of interest accrued on all deferred direct claim amounts be suspended pending further Orders and Directives, and that after direct claim payments made pursuant to that Directive, simple interest continue to accrue at 8% per annum on interest previously accrued on deferred claims.

7. The Deputy Receiver has determined that the best interests of the Home Owners, Member Builders, and creditors would be served by changing the rate of interest paid from 8% per annum simple interest to 6% per annum simple interest.

THEREFORE, in accordance with the powers granted to the Deputy Receiver in the Final Order, THE DEPUTY RECEIVER HEREBY DIRECTS:

(a) That the rate of interest to be paid on all deferred direct claim amounts will be 8% through September 30, 2005, the effective date (the "Effective Date") of this directive, and the rate of interest will be 6% on all deferred direct claim amounts after the Effective Date.

(b) That this Directive supersedes all prior directives and policies adopted by the Deputy Receiver regarding claims against the Company in receivership. To the extent of any conflict or inconsistency between this Directive and any such prior directive or policy, this Directive shall govern and control, pending further Orders and Directives.

SIGNED this 5th day of August 2005.

Alfred W. Gross, Deputy Receiver of Home Warranty Corporation, Home Owners Warranty Corporation, and HOW Insurance Company, a Risk Retention Group, in Receivership


