

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, <u>ex rels</u>	
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.	§

SECOND DIRECTIVE OF DEPUTY RECEIVER IMPOSING
SUSPENSION AND MORATORIUM

1. Upon commencement of receivership proceedings, HOW Insurance Company, a Risk Retention Group, Home Warranty Corporation, and Home Owners Warranty Corporation (collectively the "Companies") were ordered to suspend the payment of all claims so that a financial analysis could be undertaken; this analysis was necessary to establish a claims payment plan that would treat all claimants fairly and ratably, and would not result in an improper preference being given to any creditor.

2. The Deputy Receiver's staff undertook a financial analysis of the Companies and recommended a claims payment plan that is set forth in that DIRECTIVE OF DEPUTY RECEIVER IMPOSING SUSPENSION AND MORATORIUM, signed by the Deputy Receiver of the Companies, Steven T. Foster, on November 29, 1994 (the "First Directive").

3. In the First Directive, the Deputy Receiver established a claims payment plan under which partial payments are being made

on Direct Claims, and no payments are being made on Indirect Claims. Direct Claims are claims approved by the Deputy Receiver's staff for the amount of the reasonable cost of repairing defects which arise out of, and are within the coverage and subject to the limits of, the Insurance/Warranty Documents issued by the Companies, less any applicable deductible. Indirect Claims are claims approved by the Deputy Receiver's staff for amounts of extra contractual obligations, non-economic damages, litigation costs and attorneys' fees.

4. Indirect Claims are subordinate to Direct Claims; that is, Indirect Claims may be paid only after all Direct Claims are paid in full. The sum of a claimant's Direct Claim and Indirect Claim equals his or her total liquidated claim against the Companies.

5. The Deputy Receiver 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").

6. In the First Directive, the Deputy Receiver directed that 40% be paid on each Direct Claim, which was the amount that the Deputy Receiver's staff then estimated could reasonably be paid to all similarly situated claimants without preference.

7. The Deputy Receiver's staff has continued to evaluate the financial condition of the Companies, and has reasonably concluded that their financial condition is such that the best interest of

insureds, policyholders and creditors would be served by increasing the amount being paid on Direct Claims from 40% to 50%, the latter being an amount that the Deputy Receiver's staff currently estimates can reasonably be paid to all similarly situated claimants without preference.


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

(a) That the Companies increase the amount being paid on Direct Claims from 40% to 50%, the latter being an amount that the Deputy Receiver's staff currently estimates can reasonably be paid to all similarly situated claimants without preference.

(b) That each claimant who has previously been paid 40% on his or her Direct Claim be paid an additional 10% on that Direct Claim, subject to a case-by-case determination by the Deputy Receiver's staff that the additional payment would be proper and fair under the circumstances.

(c) That the payment of Indirect Claims remain suspended, and that the moratorium on Indirect Claims be continued pending further Orders or Directives.

SIGNED this 23rd day of January, 1996.


Steven T. Foster, Deputy Receiver of
Home Warranty Corporation, Home
Owners Warranty Corporation and HOW
Insurance Company, a Risk Retention
Group, in Receivership