

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 940218

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

FIFTH 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 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. The Deputy Receiver has determined that the best interests of the owners of homes which are covered by a certificate of insurance evidencing the coverages of the Warranty/Insurance Documents ("Home Owners"), Member Builders, and creditors would be served by paying 100% on Direct Claims, with 100% being an amount the Deputy Receiver 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 effective November 15, 2000, the Company pay 100% of the approved amounts on all Direct Claims, and that the suspension and moratorium on the payment of all Indirect Claims and claims of lesser priority, including general creditor claims and interest on deferred claims, be continued pending further Orders and Directives.


(b) That each claimant who has been paid 40% on an approved Direct Claim be paid the additional 60% deferred amount on that claim, that each claimant who has been paid 50% on an approved Direct Claim be paid the additional 50% deferred amount on that claim, that each claimant who has been paid 60% on an approved Direct Claim be paid the additional 40% deferred amount on that claim, and that each claimant who has been paid 70% on an approved Direct Claim be paid the additional 30% deferred amount on that claim.

(c) That payments on approved claims continue to be made subject to a case-by-case determination by the Deputy Receiver that the payments would be proper and fair under the circumstances.

(d) 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 this Directive, simple interest continue to accrue at 8% per annum on interest previously accrued for deferred claims.

(e) 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 11th day of November, 2000.



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