

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Friday, the 9th day of July, 2004.

Indiana Insurance Guaranty Association, et al., Appellants,

against Record No. 040497
S.C.C. Case No. INS-2003-00024

Alfred W. Gross, Deputy Receiver of Reciprocal of America and The Reciprocal Group, et al., Appellees.

Virginia Property and Casualty Insurance Guaranty Association, Appellant,

against Record No. 041045
S.C.C. Case No. INS-2003-00024

Alfred W. Gross, Deputy Receiver of Reciprocal of America and The Reciprocal Group, et al., Appellees.

Upon appeals of right from orders entered by the State Corporation Commission on November 12, 2003, and January 8, 2004.

Upon consideration of the record, briefs, and argument of counsel, the Court is of opinion that the motion to dismiss filed by the Deputy Receiver of Reciprocal of America and The Reciprocal Group, et al., should be granted.

This Court only considers appeals from orders of the State Corporation Commission (the Commission) that are final. Virginia Citizens Consumer Council v. C & P Tel. Co., 247 Va. 333, 334, 443 S.E.2d 157, 157 (1994); Va. Const. art. IX, § 4; Code § 12.1-39; Rule 5:21(g). An order is final and appealable when it disposes of

the whole subject, gives all the relief that is contemplated, and leaves nothing to be done in the case except to superintend ministerially the execution of the order. Daniels v. Truck Corporation, 205 Va. 579, 585, 139 S.E.2d 31, 35 (1964).

Conversely, an order is not final if further action is necessary in order to dispose of the entire subject matter. Brooks v. Sanitation Authority, 201 Va. 934, 936, 114 S.E.2d 758, 760 (1960); Mann v. Clowser, 190 Va. 887, 896, 59 S.E.2d 78, 82 (1950).

In the present case, the Commission has referred to a hearing examiner fundamental underlying issues, the resolutions of which are indispensable for the final disposition of the entire subject matter of the case. Indeed, the Commission stated in its January 8, 2004 order that "there remain fundamental issues underlying this matter yet to be determined by the Commission directly, or upon report by a Hearing Examiner." The Commission further stated that "[t]he decision now, therefore, is at most an interim step in the final disposition of the issues presented by the guaranty associations." The Commission also stated that "[t]his matter is continued."

This Court holds, therefore, that neither order appealed from in the present case is final. Accordingly, the appeals are hereby dismissed without prejudice.

Justice Lacy took no part in the consideration of these appeals.

This order shall be certified to the State Corporation Commission and shall be published in the Virginia Reports.

A Copy,

Teste:

Patricia H. Krueger, Clerk