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ALM



\$7.25M for Actuarial Malpractice

Suter v. PricewaterhouseCoopers: A Seattle actuary that advises insurers paid \$7.25 million to the N.J. Banking and Insurance Department on March 11 to settle a claim that it worsened the state's cost of bailing out a bankrupt carrier, the state's outside counsel says.

David Mazie of Roseland's **Nagel Rice & Mazie** says the complaint alleged that in 1993 Home State Insurance Co. relied on its outside actuaries at Milliman & Robertson to

calculate how much to set aside for property and casualty reserves. But the calculations were too low, and as a result, the company kept operating, racking up more losses. When it finally went bankrupt in 1997, it was about \$40 million in the red.

Had the correct calculation been made in 1993, the state would have found out then that the company was shaky and acted to liquidate immediately, when the loss was only \$4.2 million, Mazie says.

The settlement funds will be used to pay creditors, including claimants with suits against Home State insureds.

The case settled on Feb. 11 after mediation with **Frederic Becker** of Woodbridge's **Wilentz Goldman & Spitzer**, Mazie says.

Mazie says the defense gathered expert evidence that the actuaries made reasonable judgments and didn't breach the standard of duty. Milliman & Robertson's counsel, **Thomas Rafferty** of New York's **Cravath, Swaine & Moore**, did not return a reporter's call.

An accounting malpractice case against Home State's outside auditors, PricewaterhouseCoopers, is continuing. **Diana Weiss** in the Washington office of **Orrick, Herrington & Sutcliffe** represents PricewaterhouseCoopers.

-- By Henry Gottlieb