

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

**LIQUIDATOR'S MOTION FOR
APPROVAL OF LEASE MODIFICATION AGREEMENT**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("The Home"), by his attorneys, hereby moves that the Court enter an order approving a Partial Surrender and Extension of Term Agreement (the "Lease Modification") between the Liquidator and Mitchell E. Rudin, as Receiver for Olympia & York Maiden Lane Company, LLC (the "Landlord"), concerning The Home's operational headquarters at 59 Maiden Lane, New York, New York. As reasons therefor, the Liquidator states as follows:

1. The Home entered into a lease with the Landlord, dated as of December 1998 (as amended, the "Lease"), for office space and storage space located at 59 Maiden Lane, New York, New York. Pursuant to the Lease, The Home currently leases the entire 5th floor (37,719 rentable square feet), the entire but smaller 17th floor (16,368 rentable square feet), and a portion of the basement storage space of 59 Maiden Lane (the "Premises") for a term expiring December 31, 2006. The Premises were the operational headquarters of The Home and U.S. International Reinsurance Company ("USI Re") (collectively, the "Companies") prior to entry of the Orders of Liquidation. The liquidation has continued to use the 5th floor of the Premises since entry of the liquidation orders, but the 17th floor has been gradually vacated as operations have been reduced and

centralized on the 5th floor and Risk Enterprises Management Ltd. (“REM”) has relocated personnel to other offices. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of the Liquidator’s Motion for Approval of Lease Modification Agreement (“Bengelsdorf Affidavit”) ¶¶ 3-4.

2. As set forth in the Bengelsdorf Affidavit and in the Liquidator’s reports, the Liquidator has worked to organize a stand-alone operation to conduct the liquidation of the Companies. The Liquidator has sought to benefit from the experience and knowledge of personnel previously employed at The Home’s operational headquarters in New York City by engaging those personnel as part of the liquidation staff. The Liquidator also has sought to take advantage of the existing New York facilities in establishing an operational base for the liquidation. The Liquidator anticipates that the liquidation will continue to have operations in New York City after the existing Lease term expires on December 31, 2006. However, the liquidation operation is much reduced compared to the pre-liquidation operations of the Companies, and the liquidation does not need the 17th floor space included within the Lease. Bengelsdorf Aff. ¶ 5.

3. In these circumstances, the Liquidator engaged in discussions with the Landlord to seek to surrender the smaller 17th floor space and extend the Lease of the 5th floor space after December 31, 2006. Subject to approval by the Court, the Liquidator and the Landlord have now entered the Lease Modification. The Lease Modification provides that The Home will surrender all of the space on the 17th floor on October 31, 2003, leaving certain furniture, fixtures and equipment estimated to have a value less than the cost of its removal in the space, and pay to the Landlord a lump sum of \$143,775 representing the rent and additional rent that would have been due for that space through

December 31, 2003. In return, the Landlord will release The Home from any obligations attributable to the space on the 17th floor. The Landlord and The Home also agreed to otherwise extend the term of the existing Lease until December 31, 2008 at the current rental rate. Bengelsdorf Aff. ¶ 6.

5. According to its original terms, the Lease obligated The Home to pay \$1.86 million per year through December 31, 2006 (\$5.89 million over the remaining term -- November 1, 2003 through December 31, 2006). The Lease Modification, by contrast, would obligate The Home to pay \$1.3 million per year through December 31, 2008 (\$6.95 million over the remaining term -- November 1, 2003 through December 31, 2008). Bengelsdorf Aff. ¶ 7. The other provisions of the Lease Modification are set forth in the copy of the Lease Modification attached as Exhibit A hereto.

6. While the Liquidator potentially could disaffirm the Lease in its entirety pursuant to RSA 402-C:25, XI, a relocation of the liquidation operations from the Premises would be extremely disruptive. Further, the liquidation needs to retain its presence in New York, where its operations and staff presently work and reside, to assure continuity of its operations. In addition, the terms and conditions of the Lease Modification are consistent with commercial real estate transactions of a similar type. The Lease Modification is the result of extensive arms-length negotiations with the Landlord. It provides for the surrender of certain space, which the liquidation no longer requires, and an extension of the term regarding the space that is necessary for the liquidation's current and future operations, as now contemplated. Bengelsdorf Aff. ¶ 8.

7. The Liquidator submits that the Lease Modification is fair and reasonable and that it is in the best interests of the policyholders and other creditors of The Home

and USI Re. The Modification will provide for continuity of the liquidation's affairs, allowing it to maintain its operations and necessary staff in its New York office, while simultaneously permitting it to surrender leased space it no longer requires, all on commercially reasonable terms. See Bengelsdorf Aff. ¶¶ 8-9.

For these reasons, the Liquidator requests that his motion be granted and that the Court enter an Order in the form submitted herewith approving the Lease Modification.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF NEW
HAMPSHIRE, SOLELY IN HIS CAPACITY AS
LIQUIDATOR OF THE HOME INSURANCE
COMPANY,

By his attorneys

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October 8, 2003

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

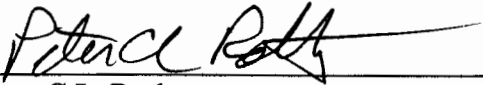
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CERTIFICATE OF SERVICE

I, Peter C.L. Roth, do hereby certify that on October 8, 2003, I served a true copy of the foregoing, upon the attached Service List, by first class mail, postage prepaid.

Dated: October 8, 2003



Peter C.L. Roth

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