

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**

**AFFIDAVIT OF PETER A. BENGELSDORF,
SPECIAL DEPUTY LIQUIDATOR, IN SUPPORT OF
APPROVAL OF ZURICH FUNDS WITHHELD AGREEMENT**

I, Peter A. Bengelsdorf, hereby depose and say:

1. I was appointed as Special Deputy Liquidator of The Home Insurance Company ("Home") by the Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of Home, effective June 11, 2003. I submit this affidavit in support of the Liquidator's Motion for Approval of Zurich Funds Withheld Agreement.

2. In that motion, the Liquidator requests that the Court enter an order approving a Memorandum of Agreement dated November 7, 2003 (the "Agreement") between Home and Zurich American Insurance Company, as successor in interest to Zurich Insurance Company, United States Branch, Zurich American Insurance Company of Illinois and Steadfast Insurance Company (collectively, "Zurich"), concerning funds withheld and other matters under a Master Facultative Agreement between Home and Zurich. A copy of the Agreement is attached as Exhibit A to the motion.

3. Home and certain subsidiaries (which were subsequently merged into Home) and Zurich entered into the Master Facultative Agreement ("Master Fac Agreement") as of February 9, 1995. At that time, certain of Home's insureds were reluctant to accept Home's security for purposes of policy renewal, and as a means of

preserving Home's franchise, Zurich agreed to "front" (i.e., issue policies in its name that would be 100% reinsured with Home, net of facultative reinsurance purchased in Zurich's name by Home on Zurich's behalf) the affected business pending completion of Home's reorganization. Under the Master Fac Agreement, Zurich ceded to Home 100% of Zurich's obligations (net of the facultative reinsurance) with respect to the fronted policies and ceded to Home 100% of the premiums on the policies (net of ceding commission and certain other amounts). To secure Home's obligations to Zurich as reinsurer, and to provide Zurich with a funding mechanism for the payment of losses under the "fronted" policies, Home agreed in the Master Fac Agreement that premium received by Zurich and payable with respect to the Home reinsurance would be accounted for and held by Zurich on behalf of Home. These funds, together with interest, are referred to as the "Funds Withheld."

4. The amount of the Funds Withheld presently exceed the estimated claims liabilities under the fronted policies plus actuarially projected incurred but not reported reserves ("IBNR").

5. In order to provide for the release to Home of these excess funds and address issues concerning the future of the Funds Withheld, Home and Zurich have now entered the Agreement, subject to approval of the Court.

6. The Agreement provides that within seven days of approval by the Court, Zurich will remit \$25 million of the Funds Withheld to Home. Beginning on January 31, 2005 and annually thereafter through January 31, 2008, Zurich will perform a calculation of the estimated claims liabilities and actuarial IBNR to determine whether there remains an excess amount in the Funds Withheld. If so, Zurich will remit the excess amount to Home within seven days of the calculation. Home will have the right to inspect Zurich's

records, and may arbitrate with Zurich in the event that Home believes the excess amount was not correctly calculated and remitted. If Zurich fails to perform a calculation as required by the Agreement, Home has the right to perform the calculation at Zurich's expense, and that calculation will be binding on Zurich for purposes of determining whether there is an excess amount.

7. The Agreement provides that Zurich will take over the collection of facultative reinsurance for the policies and that Zurich will be responsible for the collection of retrospective premium or deductible recoveries from insureds under the "fronted" policies, with the exception of matters in litigation where both Home and Zurich policies are involved. The Agreement also provides that any retrospective premiums under the policies collected by Zurich (net of expenses) will be paid to Home, and not placed in the Funds Withheld, unless the estimated claims liabilities and actuarial IBNR exceed the Funds Withheld balance. Any return premium due to insureds will be paid from the Funds Withheld. Any deductible recoveries under the policies collected by Zurich (net of expenses) will be placed in the Funds Withheld.

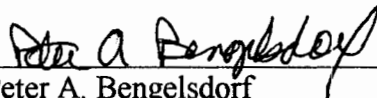
8. The Agreement further provides for a final commutation of the Master Fac Agreement in 2009. On January 31, 2009, Zurich will perform a final calculation of estimated claims liabilities and actuarial IBNR and advise Home of the calculation. If Zurich and Home agree on the calculation, there will be a commutation, including payment to Home and mutual releases, based on the calculation. If Home disagrees with Zurich's calculation, the dispute will be arbitrated. If Zurich fails to perform the calculation, Home may perform it on Zurich's behalf and at Zurich's expense.

9. The Agreement serves to bring assets within the control of the Liquidator immediately and over the next five years and to wind-up an arrangement that otherwise

would continue for an indeterminate period. It provides for the immediate payment to Home of \$25 million in excess funds presently included in the Funds Withheld, the determination and payment of excess amounts to Home in the future based on calculations of estimated claims liabilities and actuarial IBNR that are subject to review and challenge by Home, and the ultimate commutation of the Master Fac Agreement based upon calculations in 2009. It also resolves issues concerning the handling and collection of facultative reinsurance, retrospective premiums and deductible recoveries to reduce the administrative burden on Home.

10. For these reasons, I believe that the Agreement is fair and reasonable and that it is in the best interests of the policyholders and other creditors of Home.

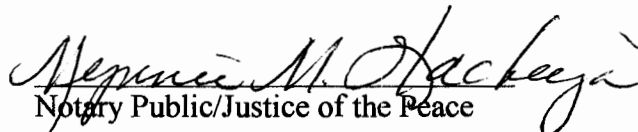
Signed under the penalties of perjury this 15TH day of November, 2003.



Peter A. Bengelsdorf
Special Deputy Liquidator of The Home Insurance
Company

STATE OF CALIFORNIA
COUNTY OF VENTURA

Subscribed and sworn to, before me, this 15 day of November, 2003



Notary Public/Justice of the Peace

