

THE STATE OF NEW HAMPSHIRE

MERRIMACK, S.S.

2004 MAR 17
SUPERIOR COURT

Docket No. 03-E-0106

In the Matter of the Liquidation of
The Home Insurance Company

**JOINDER OF HSBC BANK USA, AS INDENTURE TRUSTEE,
TO OPPOSITION OF 59 MAIDEN LANE ASSOCIATES TO
LIQUIDATOR'S MOTION FOR APPROVAL OF NEW YORK TAX SETTLEMENT**

HSBC Bank USA ("HSBC"), as successor Indenture Trustee, in connection with the above-captioned case, by and through its undersigned counsel, Kelley Drye & Warren LLP and Shaheen & Gordon, P.A., joins (the "Joinder") in the opposition (the "Opposition") of 59 Maiden Lane Associates ("59 Maiden Lane"), dated February 26, 2004, to the Liquidator's motion for approval of a New York State tax certiorari settlement, dated February 3, 2004 (the "Settlement Motion").¹ In support of its Joinder, HSBC respectfully represents as follows:

BACKGROUND

1. On February 3, 2004, Home filed the Settlement Motion, seeking, *inter alia*, authorization for the Liquidator to enter into the Proposed Settlement. Among other things, the Proposed Settlement resolves the Tax Proceedings for the years 1991/92 through 1995/96 (the "Tax Years").

2. HSBC (f/k/a Marine Midland Bank) is the Indenture Trustee for the holders (the "Noteholders") of the 10 3/8% Secured Notes due 1995 of Olympia & York Maiden Lane Finance Corp. ("O&Y") issued pursuant to the Indenture, dated as of December 23, 1985,

¹ Terms not otherwise defined herein shall have the meanings ascribed to them in the Opposition.

between O&Y and HSBC, as successor Indenture Trustee. As such, HSBC represents the interests of the Noteholders in connection with the Proposed Settlement.

3. As described in the Opposition, HSBC is a party to the Settlement Agreement which was approved by the Bankruptcy Court for the Southern District of New York ("Bankruptcy Court"), and thereafter incorporated into the Joint Plan of Liquidation of Olympia & York Maiden Lane Company LLC and Olympia & York Maiden Lane Finance Corp., dated June 30, 1998 (the "Plan").

4. The Plan was approved by the Bankruptcy Court on November 24, 1998.

5. Pursuant to the terms of the Settlement Agreement, the Noteholders are entitled to a portion of the benefits of the tax certiorari proceedings for the tax years following the Tax Years up until the Closing of the sale of the Premises in 1999.

6. On February 26, 2004, 59 Maiden Lane filed the Opposition. As set forth in the Opposition, the Proposed Settlement adversely impacts the Owner's interest, and the Noteholders' interests.

HSBC'S JOINDER

7. HSBC agrees with the arguments set forth in the Opposition, and accordingly, files this Joinder in support of the Opposition.

CONCLUSION

For all of the foregoing reasons, HSBC respectfully requests that the Court enter an order (i) denying the Settlement Motion, and (ii) granting such other and further relief as the Court deems just and proper.

Dated: Concord, New Hampshire
March 1, 2004

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CERTIFICATE OF SERVICE

I hereby certify that I have on this 1st day of March 2004 forwarded a copy of the within Joinder of HSBC Bank USA, As Indenture Trustee, to Opposition of 59 Maiden Lane Associates to Liquidator's Motion for Approval of New York Tax Settlement to the following:

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