THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS. SUPERIOR COURT

2004 APR -5 A 10: 51

Docket No. 03-E-0106

In the Matter of the Liquidation of
The Home Insurance Company

LIQUIDATOR'S MOTION FOR APPROVAL OF COMPENSATION PLANS

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("The Home"), by his attorneys, the Office of the Attorney General, hereby moves that the Court enter an order approving several integrated compensation plans for the employees of The Home consisting of a Retention Incentive Plan, an Annual Incentive Plan and a Collection Incentive Sharing Plan (the "Plans"). Summaries of the Plans are attached as Exhibits A-C. The Plans are intended to reward performance and reinforce retention of essential employees through the completion of the liquidation process. The Plans have been reviewed with the National Conference of Insurer Guaranty Fund's Subcommittee on The Home, which has indicated its non-objection to this Motion. In support hereof, the Liquidator respectfully represents as follows:

1. The Hiring of Staff for The Home. Shortly after the liquidation proceeding began in June 2003, the Liquidator determined that the most efficient way to organize the liquidation process was to terminate the existing Risk Enterprise Management Ltd. ("REM") management arrangement and have The Home, with REM's consent, hire the most critical REM employees. This step permitted the Liquidator to benefit from the continued involvement of experienced former REM employees without

the related REM overhead expense. As described in the Liquidator's status reports, the Liquidator hired ninety-three employees to handle the liquidation of The Home (and of USI Re), 82% of whom are located at The Home's former headquarters in New York City and 18% in Manchester, New Hampshire. The Liquidator has also appointed the Special Deputy Liquidator to manage the operations of the liquidation. The Special Deputy Liquidator is a consultant to the Liquidator, not an employee of The Home, and is not covered by the proposed Plans. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Compensation Plans ("Bengelsdorf Aff.") ¶ 4.

2. The Retention of Experienced Employees Benefits Creditors. The Home operated internationally and specialized in affording complex forms of insurance to large enterprises. Due to the sophisticated nature of The Home's insurance products, operations and supporting reinsurance programs, an experienced and stable liquidation staff will materially contribute to the efficient collection of assets. This is illustrated by the increase in The Home's liquid assets from the day the Order of Rehabilitation was entered, approximately $3 million, to approximately $612 million at March 29, 2004. Most of this increase is attributable to a combination of reinsurance recoveries and other financial settlements negotiated by The Home's experienced staff. Maximizing the prompt collection of assets is one of the principal statutory goals of the liquidation. RSA 402-C:25 (VI). The Liquidator believes that this objective can be facilitated through an alignment of creditor interests with the interests of The Home's employees. Bengelsdorf Aff. ¶ 5.

3. Performance Based Compensation Plans Are Appropriate for Large Insurer Receiverships. The Liquidator engaged two nationally recognized compensation

consultants to assist in the design of employee compensation plans -- Ernst & Young LLP and Rodeghero Consulting Group, Inc. Each consultant has extensive experience in the design of compensation plans for large insurers, like The Home, in liquidation. Initially, each consultant was provided with the same data and asked to independently develop proposed compensation plans. Neither consultant at that point was informed of the engagement of the other. This process was intended to facilitate the offering of independent advice which could be promptly tested and reviewed by key creditors and the Court. Both consultants agreed on the present relative level (compared to similar companies) of The Home's employee compensation and recommended adoption of the same types of incentive/retention plans.[1] The Home's present base salaries are approximately at the 50th percentile among comparable companies. Both consultants also recommended that total direct compensation (base salary and incentive bonuses) range between the 50th and 75th percentile. Bengelsdorf Aff. ¶ 6.

4. <u>The Three Proposed Compensation Programs Are Designed to Achieve Integrated Objectives</u>. The Home's present base salaries are at the 50th percentile. Because Home is a company in liquidation, its employees have less career potential than they would if they were to leave Home and become employed with a "healthy" insurance company. Further, previously available perquisites and company-sponsored portions of benefits plans have been restructured or reduced. The Home has no retirement plan or

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[1] Ernst & Young performed a market competitiveness study by reviewing executive and employee compensation in healthy insurance companies of similar size and scope to The Home. ("Based upon our experience and market studies, companies in liquidation target base salaries at median (50th percentile) market levels and total cash compensation (or TCC, defined as base salary plus annual incentives) at or above median market levels of "healthy" companies within their specific and broader industry segments.) Rodeghero Consulting's analyses of the relative competitiveness of The Home's current and recommended annual cash compensation practices relied on independent published survey sources. ("We also calibrate 'company scope' of survey data to the relative size of The Home in relation to ongoing insurers and other

company-matched 401(k) plan. The present severance benefit program is in place only until June 30, 2005. (Eligible employees, depending on length of service, may receive from three to six months of severance benefits under that program.) To address these issues, the Liquidator proposes that all of The Home's employees be made eligible for some form of incentive/retention compensation. Each of the three proposed plans would be annually renewable and is therefore subject to prospective modification or termination by the Liquidator. Bengelsdorf Aff. ¶ 7.

The Retention Incentive Plan ("Retention Plan") would provide a cash incentive to The Home's fourteen non-exempt (Federal Wage and Hour Law) full time employees as of January 1, 2004 to stay with The Home. Subject to continuing employment, these employees would receive three additional payroll checks a year -- June 1, September 1 and December 1. If an employee voluntarily leaves or is terminated for cause, then no Retention Plan payment would be made. In the event of death, disability or an involuntary termination, the employee will be entitled to the pro rata portion of the payment that would next be made. The estimated 2004 cost for the Retention Plan is $79,000. Bengelsdorf Aff. ¶ 8.

All seventy-eight exempt (Federal Wage and Hour Law) full time employees as of January 1, 2004, would be eligible to participate in the Annual Incentive Plan ("Annual Plan"). This plan is designed to provide additional cash compensation based on the overall performance of The Home's liquidation and the individual employee during the annual plan cycle. The Liquidator will determine the annual goals, performance measures and payouts. Annual cash payments will be made after the close of the

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financial services companies with similar operating practices. Our analyses are also linked to the labor market norms for New York, NY based on The Home's primary locus of operations."

performance year. If an employee voluntarily leaves or is terminated for cause, then no Annual Plan payment would be made. In the event of death, disability or an involuntary termination, the employee will be entitled to a pro rata share of any Annual Plan payment. The estimated 2004 cost for the Annual Plan is $3.2 million. Bengelsdorf Aff. ¶ 9.

At the discretion of the Liquidator, the nine senior executives of The Home would be eligible to participate in the Collection Incentive Plan ("Collection Plan"). The Collection Plan is designed to provide focused incentives for the collection of assets. Awards under this plan will be based on the accomplishment of annual financial cash collection targets but may also vary, at the discretion of the Liquidator, based on achievement of individual performance goals. The twin goals of the Collection Plan are to maximize the collection of assets and retain senior and experienced executives as long as deemed necessary by the Liquidator. Therefore, any compensation based on annual performance will be deferred and funded into a trust account. The employee will actually receive those funds only upon the termination of the liquidation proceeding, involuntary termination of employment other than for cause, or at the discretion of the Liquidator if an interim payout is deemed appropriate. If an employee voluntarily terminates or is terminated for cause, then all Collection Plan amounts are forfeited. In the event of death or disability, the Collection Plan amounts will be distributed. The estimated 2004 cost for the Collection Plan is $1.4 million. Bengelsdorf Aff. ¶ 10.

5. <u>The Liquidator's Consultants Advise That The Proposed Plans are Appropriate and Prudent</u>. The Liquidator's consultants advise that the proposed plans represent best practices with respect to compensation in insurance company liquidations,

provide competitive annual and long-term earnings opportunities and balance performance-based rewards with short term and long-term retention. The individual programs are integrated across employee levels and will provide, if performance goals are met or exceeded, total direct compensation between the 50th and 75th percentile market levels. This is the level of compensation recommended by the Liquidator's consultants in order to retain experienced employees. The advisory letters of Ernst & Young and Rodeghero Consulting Group are attached as Exhibits D and E. Bengelsdorf Aff. ¶ 11.

6. The Liquidator believes that without the adoption of these three plans that the liquidation effort would be harmed because key employees would seek better, more long-term career opportunities elsewhere. Bengelsdorf Aff. ¶ 12.

7. The Liquidator has authority under RSA 402-C: 25(II) and paragraph r of the Liquidation Order entered June 13, 2003, to engage employees and set the terms of their compensation "subject to the control of the court." The Liquidator also has authority pursuant to RSA 402-C: 25(IV) to use the property of The Home and to defray the costs of collecting its assets and liquidating its property and business.

8. For the reasons described above and in the Bengelsdorf Affidavit, the Liquidator submits that the Plans are fair and reasonable and in the best interests of the liquidation and of the policyholders and other creditors of The Home.

WHEREFORE, the Liquidator requests that the Court enter an order in the form submitted herewith approving the Plans and grant such other and further relief as may be just.

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

PETER W. HEED, ATTORNEY GENERAL

Peter C L Roth

Peter C.L. Roth
Senior Assistant Attorney General
Environmental Protection Bureau
NEW HAMPSHIRE DEPARTMENT OF JUSTICE
33 Capitol Street
Concord, N.H. 03301-6397
(603) 271-3679

Of Counsel:
J. David Leslie
Eric A. Smith
Rackemann, Sawyer & Brewster
One Financial Center
Boston, MA 02111
(617) 542-2300

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