

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

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

Docket No. 03-E-0112

**In the Matter of the Liquidation of
US International Reinsurance Company**

**LIQUIDATOR'S SECOND MOTION FOR APPROVAL
OF DISPOSAL OF CERTAIN RECORDS**

NOW COMES Roger A. Sevigny, Commissioner of Insurance for the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("Home") and U.S. International Reinsurance Company ("USI Re") (collectively, the "Companies"), and moves that the Court enter an order pursuant to RSA 402-C:50 approving the destruction of certain categories of records of the Companies that are no longer useful. As reasons therefor, the Liquidator states as follows:

1. As set forth in the Liquidator's first motion for approval of disposal of certain records filed November 24, 2004, Home and USI Re stopped the disposal of records under their record retention policy in 1995. The Companies have not conducted new or renewal business since 1995, and they are now in liquidation. As a result of these circumstances, the Companies presently have numerous documents that are no longer needed, and the estates continue to incur the expense of storing those documents. Disposal of the unnecessary records could potentially produce substantial savings. Liquidation staff have accordingly sought to identify categories of unnecessary documents for disposal, and the Court approved the disposal of a number of categories of documents in its Order Approving Disposal of Certain Categories of Documents

issued on December 16, 2004. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Disposal of Certain Records (“Bengelsdorf Aff.”) ¶ 2.

2. Since that time, liquidation staff have identified further categories of documents that are no longer needed. These documents are presently stored both on-site and with off-site vendors. The off-site vendors include Iron Mountain and Joyce Records, and on-site locations include the basement of Home’s offices at 59 Maiden Lane in New York City. Disposal of records now stored with Iron Mountain and Joyce Records would result in cost savings to the Companies in direct proportion to the number of boxes eliminated. Savings attributable to on-site locations will vary depending on when and if the Companies can vacate the space and sublet it to another tenant. Bengelsdorf Aff. ¶ 3.

3. The New Hampshire Insurers Rehabilitation and Liquidation Act provides that “[w]hensoever it appears to the commissioner that the records of any insurer in process of liquidation . . . are no longer useful, he or she may recommend to the court what records should be retained for future reference and what should be disposed of.” RSA 402-C:50, as amended by 2003 N.H. Laws 144:3.

4. Based on the review by liquidation staff, the Liquidator has determined that the categories of files being stored by the Companies and specified below are no longer useful. The Liquidator will retain files in these categories if they are involved in a pending dispute or concern a proof of claim.

- a. Accounting department records for 2000 and earlier periods – These records include general accounting files, microfiche, cash journals and folders, expense accounts, expense drafts, municipal tax files, trial balances, monthly and quarterly reports of premiums, cash received, cash disbursed, bad debt write-offs and calculation of non-

admitted assets. They also include files concerning general account payables, transmittals, paid invoices, purchase orders, account receivables, and expenses.

- b. Personal lines records – These records consist of the files regarding personal lines insurance business, which includes auto, homeowners, dwelling, mobile home, personal accident, personal effects, personal theft, personal umbrella, condominium unit owners, personal excess, personal excess medical, and personal yacht and craft policies. The records also include trial balances, check registers, cancellation notices and listings, copies of checks in payment of assigned risk policies, microfiche, reports of monthly premium and cash activity, and other accounting and underwriting files related to these policies. The Home Insurance Company discontinued writing personal lines business in 1992.
- c. Closed collection files - These are files regarding closed retrospective premium and/or deductible programs that have had no activity for at least 2 years. Files include records of premiums, deductibles, paid loss and incurred loss retrospective premiums, legal collections and subrogation, correspondence, copies of checks in payment of amounts due the Home, copies of disbursements and expense payments and related underwriting files.
- d. Cancelled and returned security records – These records consist of files related to security instruments for accounts where the security was cancelled or returned. The files include trust account statements and correspondence files.
- e. Closed bankruptcy files - These files concern bankruptcy proceedings for policyholders in bankruptcy where Home filed a proof of claim and received a final distribution.

- f. Third party administrator records for periods prior to 2000 – These records of Home’s third party claim administrators include accounting files, loss runs, bank statements and bank reconciliations dated prior to 2000.
- g. Producer files – The files regarding Home’s brokers and other producers include producer agreements, termination of agreements, audits of producers’ records, correspondence files, commission statements and copies of payments.
- h. Closed security deposit files – These are the files regarding securities on deposit returned to the Companies prior to 2003. Files will be retained for the states where securities on deposit still remain and for the states where security deposits were returned to the Liquidator.
- i. Loss control reports – These are the reports that were used to evaluate potential risks and recommend programs in order for insureds to minimize losses.
- j. Data processing department reports for 2000 and earlier periods – These data processing reports address matters such as premiums, cash, lines of insurance, pooling results, losses, surcharges, trial balances, bank listings, residual markets, state filings, statistical reports, agents receivables and payments, asset listings, bad debts, bank reconciliations, captive accounts, deductibles, and payments.
- k. Field office administrative files – These files regarding the Companies’ field offices consist of budgets and various operating reports including, but not limited to premium and loss results.
- l. Field office policy copies – These are the copies of policies and bonds maintained by the Companies’ field offices. Home office copies of policies will be retained unless otherwise approved for destruction.

- m. Closed retrospective rating adjustment files – These files contain the annual calculations that determine the additional premium due from the insured or the return premium due the insured on retrospectively rated policies. Files also include claim exhibits, retrospective rating endorsements and premium agreements. Closed files are those that have reached the maximum chargeable premium allowed by contract or where annual calculations have been performed for seven years and there are currently no new or reopened claims.
- n. RMS input forms – These are the internal forms used to establish an account on the mainframe Risk Management Services database.
- o. Staff counsel files – These files contain material relating to legal issues with claims including depositions, medical reports, summonses and complaints, and correspondence from outside counsel. This material is often duplicative in nature of items in the full claims file.
- p. Treasury department files for 2000 and earlier periods – These files include paid invoices, bank statements, deposit tickets, reconciliations, paid drafts, cash books, debt folders, cancelled bonds, license and fees, vouchers, voided checks, budget information, relocation files, and awards.
- q. Human resource department files – Files for years beyond any statutorily required retention period consisting of files for non vested employees terminated prior to 1995, files relating to reductions in force, files relating to employee relocations, payroll records, benefit records (COBRA, Home Savings Plan, Prudential Registers, health and welfare benefit contracts), affirmative action files, and EEO files.

- r. THICO Premium Finance files – These files include copies of cancellations, requests for disbursements, and copies of checks issued by THICO, the former premium finance company of The Home. The Home sold the THICO subsidiary in 1986.
- s. Closed claim files on policies identified for destruction in item a of the Schedule to the December 16, 2004 Order or item 4(b) above.

Bengelsdorf Aff. ¶ 4.

5. The Liquidator recommends pursuant to RSA 402-C:50 that records of the Companies in the categories described above should be disposed of. The Liquidator will retain documents in the above categories if they are involved in a pending dispute or concern a proof of claim. Documents being disposed of that the Liquidator identifies as confidential or commercially sensitive will be shredded. Bengelsdorf Aff. ¶ 5.

6. Liquidation staff continues to evaluate the documents in storage to identify additional categories of unnecessary documents. To the extent such categories are identified, the Liquidator will seek the Court's approval for their destruction. Bengelsdorf Aff. ¶ 6.

7. For the reasons described above and in the Bengelsdorf Affidavit, the Liquidator submits that the disposal of these records is fair and reasonable and in the best interests of the liquidation and of the policyholders and other creditors of the Companies. Bengelsdorf Aff. ¶ 7.

WHEREFORE, the Liquidator respectfully requests that this Court:

- A. Grant this Second Motion for Approval of Disposal of Certain Records;
- B. Enter an Order in the form submitted herewith approving such Motion; and
- C. Grant such other and further relief as justice may require.

Respectfully submitted,

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

By his attorneys,

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July 15, 2005

Certificate of Service

I hereby certify that a copy of the foregoing Second Motion for Approval of Disposal of Certain Records and the Proposed Order Approving the Disposal of Certain Records and the accompanying Affidavit were sent, this 15th day of July, 2005, by first class mail, postage prepaid to all persons on the attached service list.

A handwritten signature in black ink, appearing to read "Eric A. Smith", written over a horizontal line.

Eric A. Smith

THE STATE OF NEW HAMPSHIRE

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