

**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**

**Docket No. 03-E-0112**

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

**LIQUIDATOR'S MOTION FOR APPROVAL  
OF DISPOSAL OF IMAGED 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 US International Reinsurance Company ("USI Re")(collectively, the "Companies"), and moves that the Court issue an order pursuant to RSA 402-C:50 approving the disposal of an additional category of records of the Companies, that is, paper records that have been imaged and stored on Home's computer system ("Imaged Records"). As reasons therefor, the Liquidator respectfully states as follows:

1. By order entered December 16, 2004, this Court authorized the disposal of certain categories of records of the Companies, *see* Order Approving the Disposal of Certain Records ("Disposal Order"). In its motion for such Order, the Liquidator noted that the liquidation staff continues to identify additional categories of unnecessary documents, *see* Liquidator's Motion for Approval of Disposal of Certain Records, ¶ 6 (Nov. 24, 2004).

2. Home owns and operates a Laser Fiche Document Imaging & Management system. The system scans and creates digital copies of paper records and allows indexing, searching, retrieval, and printing of those records. Once documents

have been imaged, the images are stored electronically on servers and are backed up on computer tapes, which are stored off-site. Affidavit of Peter A. Bengelsdorf, Special Deputy Liquidator, in Support of Approval of Disposal of Imaged Records (“Bengelsdorf Aff.”) ¶ 2.

3. This electronic records system has several benefits to the liquidation operations. First, it makes the liquidation more efficient. Users in different locations are able to use the files simultaneously; for example, senior management and claims staff in New York City can work with the same records as collection staff in Manchester without costly duplication of paper files. Second, electronic records are more easily kept current than paper records. Third, unlike paper records, the chances of losing or misplacing electronic records are minimal. Fourth, in the event of a site disaster electronic records will allow relatively quick restoration of liquidation operations, whereas paper records would be irreplaceable. Finally, imaged documents are easy to retrieve and re-print (see, for instance, the imaged documents at the website for the Office of the Liquidation Clerk at [www.hicilclerk.org/](http://www.hicilclerk.org/)). Bengelsdorf Aff. ¶ 3.

4. Preservation of documents as electronic records is authorized both under federal law and under New Hampshire law. Under the federal Electronic Signature in Global and National Commerce Act, an “electronic record” is defined as “a contract or other record created, generated, sent, communicated, received, or stored by electronic means.” 15 U.S.C.A. § 7006(4). A legal requirement that a record be retained is met if the electronic record “(a) accurately reflects the information set forth in the contract or other record; and (b) remains accessible to all persons who are entitled to access by statute ... for the period required by such statute ... in a form that is capable of being accurately reproduced for later reference, whether by transmission, printing, or

otherwise.” 15 U.S.C.A. § 7001(d)(1). Any law that requires an original document is satisfied if an electronic record (as defined) is produced. *Id.* at § 7001(d)(3). New Hampshire’s statute is substantially similar. See RSA 294-E:12, I (a law requiring that a record be retained is satisfied by an electronic record which “(a) accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and (b) remains accessible and is capable of being accurately reproduced for later reference”). The electronic records created on Home’s system meet these standards. See Bengelsdorf Aff. ¶ 4.

5. The New Hampshire Insurers Rehabilitation and Liquidation Act provides that “[w]henver 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. The Liquidator proposes to dispose of the Companies’ Imaged Records. Despite the December 16, 2004 order authorizing disposal of certain classes of record, the Companies’ storage costs for existing files will continue. Numerous files, including files relating to policies, underwriting, litigation, claims, and reinsurance files, are not subject to the Disposal Order. In addition, Home estimates that the proof of claim process alone will generate an additional 2,000,000 pieces, and 3,000 cubic feet, of paper. Imaging the records will reduce the need for storage space. For instance, one DVD is able to record the same number of documents as twelve 4-drawer file cabinets, and one POC consisting of 32 boxes of 73,386 pieces of paper can be condensed to seven compact disks. As the Disposal Order is implemented and documents are converted to electronic records and Imaged Records are disposed of,

the Liquidator anticipates that the Companies will recognize significant savings from lower storage and retrieval costs. Bengelsdorf Aff. ¶ 5.

6. The Liquidator recommends pursuant to RSA 402-C:50 that Imaged Records of the Companies should be disposed of because they are no longer useful and over time their disposal will reduce the Companies' storage costs. The electronically stored images will be retained until further order of the Court. Imaged Records targeted for disposal and identified as confidential or commercially sensitive will be shredded. For these reasons, the Liquidator submits that the disposal of Imaged Records is fair and reasonable and in the best interests of the liquidation and of the policyholders and other creditors of the Companies. See Bengelsdorf Aff. ¶ 6.

WHEREFORE, the Liquidator respectfully requests that this Court:

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

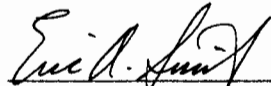
Respectfully submitted,

ROGER A. SEVIGNY, COMMISSIONER OF  
INSURANCE OF THE STATE OF NEW  
HAMPSHIRE, AS LIQUIDATOR OF THE HOME  
INSURANCE COMPANY AND  
US INTERNATIONAL REINSURANCE  
COMPANY,

By his attorneys,

KELLY A. AYOTTE  
ATTORNEY GENERAL

Suzanne M. Gorman  
Senior Assistant Attorney General  
Civil Bureau  
New Hampshire Department of Justice  
33 Capitol Street  
Concord, N.H. 03301-6397  
(603) 271-3650



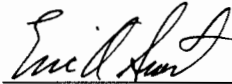
---

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

January 25, 2005

Certificate of Service

I hereby certify that a copy of the foregoing Liquidator's Motion for Approval of Disposal of Imaged Records, Affidavit of Peter A. Bengelsdorf, and Proposed Order was sent, this 25<sup>th</sup> day of January, 2005, by first class mail, postage prepaid to all persons on the attached service list.



---

Eric A. Smith

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

In the Matter of the Liquidation of  
The Home Insurance Company  
Docket No. 03-E-0106

In the Matter of the Liquidation of  
US International Reinsurance Company  
Docket No. 03-E-0112

SERVICE LIST

Ronald L. Snow, Esq.  
Orr & Reno  
One Eagle Square  
P.O. Box 3550  
Concord, New Hampshire 03302-3550

Gary Lee, Esq.  
Pieter Van Tol, Esq.  
Lovells  
16<sup>th</sup> Floor  
900 Third Avenue  
New York, New York 10022

Gail M. Goering, Esq.  
Adam Goodman, Esq.  
Eric Haab, Esq.  
Lovells  
One IBM Plaza  
330 N. Wabash Avenue, Suite 1900  
Chicago, Illinois 60611

Andre Bouffard, Esq.  
Eric D. Jones, Esq.  
Downs Rachlin Martin PLLC  
199 Main Street  
P.O. Box 190  
Burlington, Vermont 05402-0190