

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 MOTION FOR APPROVAL OF LEASE AGREEMENT
WITH 61 BROADWAY OWNER LLC**

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

1. I was appointed Special Deputy Liquidator of the Home Insurance Company (“Home”), by the Insurance Commissioner for the State of New Hampshire, as Liquidator (“Liquidator”) of Home. I submit this affidavit in support of the Liquidator’s Motion for Approval of Lease Agreement with 61 Broadway Owner LLC (the “Landlord”). The facts and information set forth are either within my own knowledge gained through my involvement with this matter, in which case I confirm that they are true, or are based on information provided to me by others, in which case they are true to the best of my knowledge, information and belief.

2. The motion seeks approval for the Lease Agreement (the “Lease”) between the Liquidator and the Landlord for space to house the liquidation’s principal operations at 61 Broadway, New York, New York commencing in the fall of 2010. The Lease was negotiated under my supervision. A copy of the Lease is attached as Exhibit A to the Liquidator’s motion.

3. Home’s current lease for 37,719 square feet of space on the fifth floor of 59 Maiden Lane, New York, New York expires on December 31, 2010. The Liquidator accordingly has sought to identify options and obtain a lease on reasonable commercial terms at the favored option as described below. I supervised this process, and the Lease is the outcome. The Lease is subject to approval by the Court. Lease Article 46. If Court approval is obtained

by May 1, 2010, the Landlord has committed to deliver the premises to the Liquidator by August 31, 2010. Lease Article 4. Either party may cancel the Lease if Court approval is not obtained by May 15, 2010. Lease Article 46.

4. As an initial matter, the Liquidator determined that it is appropriate to maintain the principal operations of the liquidation in New York City. Home and, subsequently, the principal operations of the Home liquidation have been located in successive buildings at 59 Maiden Lane for over eighty-five years. Approximately two-thirds of the 61 members of the liquidation staff who work at the Maiden Lane office have been working at that location for over twenty years. They commute to work from various locations in the New York, New Jersey area. Significantly, these employees include senior staff whose experience and training are essential to the successful liquidation of Home. In light of the likely loss of personnel and consequent disruption to the orderly liquidation of Home that would be caused by moving the liquidation's principal operations out of the financial district, I concluded that it was necessary to keep those operations in lower Manhattan.

5. The Liquidator anticipates that it will require ten to fifteen years to complete the liquidation of Home. The essential task of determining claims takes time. Approximately 21,092 proofs of claim have been filed in the Home estate. To date, the liquidation has finally addressed approximately 7,512 of these proofs (as well as making partial determinations on an additional 1,468 proofs) and has also addressed 1,206 of the 5,209 proofs of claim that are incomplete because they do not include the executed release required by RSA 402-C:40, I; 35 proofs have been withdrawn. The remaining 12,339 proofs of claim (including those only partially determined to date) are expected to include many of the more difficult claims, including pollution, asbestos claims and other mass tort claims. I expect it will take more than ten years to determine the claims (at approximately 1,000 per year), to collect assets (including reinsurance

on allowed claims), and close out the estate. It is anticipated that liquidation staff will be reduced as these tasks are gradually accomplished and the workload decreases.

6. In these circumstances, the Liquidator engaged a New York real estate broker, Cushman & Wakefield, to identify properties in lower Manhattan that would potentially meet the needs of the liquidation. The broker identified eleven such properties, including the current space at 59 Maiden Lane, and representatives of the Liquidator visited each of them.

7. Based on the visits, initial indications of the likely financial terms available for each building, and consultation with the broker, I determined to present non-binding offer letters for lower floor space to the owners or operators of three of the buildings. One was a pre-World War II building, and the other two were built in the 1960s. Each of the term sheets provided for a build out of the space to building standard. That is, to the basic standard of the building with no upgrades.

8. The liquidation team, including myself, and the broker then analyzed the responses of the three potential landlords for the most likely occupancy period of ten years. The proposal for 23,750 square feet of sixth floor space at 61 Broadway, the pre-World War II building, was economically most favorable, both on an aggregate and on a net present value basis. The Liquidator accordingly entered into negotiations with the owner for a lease at that location.

9. The Lease is the result of those negotiations. It is tailored to the needs of the liquidation, in accommodating the eventual downsizing of liquidation staff and the potential closure of the liquidation between ten and fifteen years. It provides for a flexible downsizing of the space at the option of the Liquidator. The Lease has a term of fifteen years four months to commence upon substantial completion of the premises by the Landlord but no earlier than September 1, 2010. Lease Article 1.A.(IV); Lease Article 1.A.(XIX). However, the Liquidator

has a right to terminate the Lease in ten years. Lease Article 44. Further, the Liquidator has the option to return to the Landlord two portions of the premises each totaling 7,500 square feet, the first in years eight or nine of the Lease and the second in years eleven or twelve. Lease Article 45.

10. The annual base rent under the Lease commences at \$30 per rentable square foot for years one through seven, \$33 per square foot for years eight through ten, and \$36 per square foot for years eleven through the end of the term, subject to a fixed 2% annual cumulative increase in the base rent in lieu of operating expense escalations. The Lease provides for an abatement of rent for sixteen months, with four months free rent applied at lease commencement and the remaining twelve months amortized over months five through forty-eight of the Lease. If, as is likely, the Liquidator relinquishes space in year eight and elects to terminate the lease at year ten, the total undiscounted rent would be \$6,212,881. If the Liquidator were to terminate the lease after ten years, without having exercised the right to relinquish a portion of the premises, the total undiscounted rent would be \$7,074,090. If the Liquidator were to occupy the entire space for the entire fifteen year four month term of the Lease, the total undiscounted rent would be \$12,748,303.


11. Based on advice from the broker, I believe that (a) the rental provided for in the Lease is consistent with fair market rent in the New York financial district for buildings of like class with leases of similar duration, and (b) the terms of the Lease are consistent with generally accepted commercial lease terms in the New York financial district.

12. The cost of refitting the new space to meet the needs of the liquidation operation is included in the rental under the Lease. The liquidation will in addition incur the cost of moving the operation. That cost is estimated to be approximately \$200,000 for the movers plus additional costs including the expense of an architect to assist in the preparation of a proposed

floor plan and office product consultation, the expense to purchase and install a security system for the premises, and the expense for electrical/network cabling required in connection with the installation of the information technology infrastructure. I considered these costs in evaluating whether or not to stay in the current space. Since the Liquidator seeks to reduce the size of the space from 37,719 square feet to 23,750 square feet, the costs of renovating the existing space (which was last fitted out over thirty years ago), preparing a new floor plan, and updating security and electrical cabling would have been incurred in any event. Renovation of the space while occupied would also entail significant disruption of the liquidation's operations.

13. I believe that the Lease is fair and reasonable and in the best interests of the policyholders and creditors of Home.

Signed under the penalties of perjury this 31st day of March, 2010.



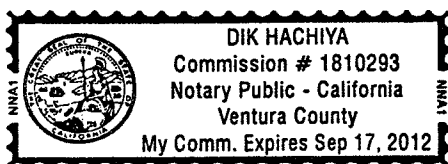
Peter A. Bengelsdorf
Special Deputy Liquidator of The Home Insurance
Company

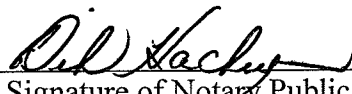
STATE OF CALIFORNIA
COUNTY OF VENTURA

On March 31, 2010 before me, DIK HACHIYA, Notary Public, personally appeared Peter A. Bengelsdorf, Special Deputy Liquidator of The Home Insurance Company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature 
Signature of Notary Public