

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 SETTLEMENT AGREEMENT
WITH HYDRITE CHEMICAL**

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 Settlement Agreement with Hydrite Chemical. 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 Settlement Agreement and Mutual Release (“Settlement Agreement”) between Hydrite Chemical Company, including its predecessor North Central Chemicals, Inc., and Avganic Industries, Inc., (collectively, “Hydrite Chemical”) and the Liquidator. The Settlement Agreement was negotiated under my supervision. A copy of the Settlement Agreement is attached as Exhibit A to the Liquidator’s motion.

3. Home issued fifteen insurance policies under which Hydrite Chemical Company, Avagenics Industries, Inc., or North Central Chemicals, Inc. is the named insured for various policy periods between October 1, 1965 and April 1, 1977. Settlement Agreement, first Whereas clause. Upon Home’s placement in liquidation, Hydrite Chemical filed proofs of claim in the

Home liquidation regarding environmental claims under the policies. Settlement Agreement, fourth Whereas clause. The Settlement Agreement resolves the proofs of claim and the “Environmental Claims” under the policies, a defined term that includes all environmental claims under the policies but excludes two specifically identified potential future claims. Settlement Agreement, fifth, six, and seventh Whereas clauses.

4. The Liquidator and Hydrite Chemical have negotiated a Settlement Agreement reflecting a resolution of the proofs of claim and all matters under the policies regarding Environmental Claims (except for the two potential claims). The Settlement Agreement is subject to approval by the Court. Settlement Agreement ¶ 1.

5. The Settlement Agreement provides that the Liquidator will recommend allowance of the proofs of claim in the aggregate amount of \$4,425,000 as a Class II priority claim of Hydrite Chemical under RSA 402-C:44. Allowance of the recommended amount as a Class II claim will fully and finally resolve the proofs of claim and all Environmental Claims Hydrite Chemical has under the policies. Distributions based on that allowance will be made at the same intervals and at the same percentages as distributions to other Class II creditors of Home. Settlement Agreement ¶ 2.

6. The Settlement Agreement is intended to resolve the proofs of claim and all Environmental Claims under the policies (leaving open the possibility of the two potential claims). See Settlement Agreement seventh Whereas clause, ¶¶ 2, 5. To that end, the Settlement Agreement provides for mutual releases of all Environmental Claims among the Liquidator, Home and Hydrite Chemical arising from or related to the proofs of claim or the policies. Id. ¶¶ 3, 4. The Liquidator also agrees not to pursue claims respecting the underlying matters covered by the proofs of claim against other insurers of Hydrite Chemical that agree not to pursue such claims against Home. Id. ¶ 6.

7. The Liquidator is not aware of any third party claimants asserting claims under the policies. However, in resolving all proofs of claim and Environmental Claims relating to the policies, the Settlement Agreement contemplates denial of any third party claimants' Environmental Claims under the policies in the Home liquidation without prejudice to their claims against Hydrite Chemical. Accordingly, Hydrite Chemical acknowledges in the Settlement Agreement that it is intended to resolve all matters between Hydrite Chemical and the Liquidator/Home relating to the proofs of claim and Environmental Claims under the policies, including asserted rights of third party claimants under the policies. Settlement Agreement ¶ 5. Hydrite Chemical agrees to address, at its sole cost, the claims of claimants asserting Environmental Claims against Hydrite Chemical as if Hydrite Chemical had no insurance coverage from Home under the policies. Id. Hydrite Chemical agrees to indemnify the Liquidator and Home against Environmental Claims arising from the policies up to the amounts ultimately distributed to Hydrite Chemical. Id.

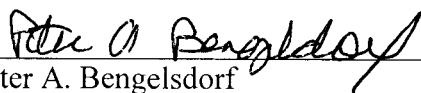
8. The denial of any third party claimants' proofs of claim without prejudice to their claims against Hydrite Chemical will not harm the third party claimants, who will continue to have their full claims against Hydrite Chemical. As noted above, Hydrite Chemical has agreed to address these claims as if it had no insurance coverage from Home under the policies. Settlement Agreement ¶ 5. Third party claimants' proofs of claim against the insolvent Home, if not denied with this agreement, would release Hydrite Chemical from those claims up to the limits of the policies but only entitle the third party claimants (assuming their claims were allowed) to a presently undetermined percentage distribution at the future date when a distribution is made. It is not expected that the allowed claims of any third party claimants (or other Class II creditors) will be paid in full. Under the Settlement Agreement, Hydrite Chemical

will continue to be fully responsible for any third party claimants' claims against it. See Settlement Agreement ¶ 5.

9. The Settlement Agreement reflects a compromise of the claims asserted in the proofs of claim. It is the result of negotiations involving the Claims Department, under my supervision, which has extensive experience in assessing the exposure presented by environmental clean-up costs and damages under Home's insurance policies. The agreed settlement amount is based on careful evaluation and negotiation of coverage obligations under Home's policies respecting the underlying liabilities of Hydrite Chemical. The Liquidator accordingly recommends approval of the Settlement Agreement and allowance of the \$4,425,000 settlement amount as a Class II claim of Hydrite Chemical in accordance with RSA 402-C:45 and RSA 402-C:44.

10. I believe that the Settlement Agreement is fair and reasonable and in the best interests of the policyholders and creditors of Home.

Signed under the penalties of perjury this 31 day of May, 2011.



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


STATE OF CALIFORNIA
COUNTY OF VENTURA

On May 31, 2011 before me, Tina Trinh Le, 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